

Senator Michael G. Waddoups proposes the following substitute bill:

COUNTY AND MUNICIPAL ZONING

REGARDING BILLBOARDS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael G. Waddoups

LONG TITLE

General Description:

This bill modifies provisions relating to billboards and outdoor advertising structures.

Highlighted Provisions:

This bill:

- ▶ modifies the county or municipal actions that constitute initiation of acquisition of a billboard by eminent domain;
- ▶ modifies the circumstances under which a county or municipality may remove a billboard without providing compensation;
- ▶ modifies the procedure a county or municipality must follow in order to be able to remove a billboard without providing compensation;
- ▶ requires counties and municipalities to allow billboards to be relocated under certain circumstances; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 AMENDS:

27 **10-9-408**, as last amended by Chapter 286, Laws of Utah 1993

28 **17-27-407**, as last amended by Chapter 12, Laws of Utah 1994

29

30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **10-9-408** is amended to read:

32 **10-9-408. Nonconforming uses and structures.**

33 (1) (a) Except as provided in this section, a nonconforming use or structure may be
34 continued.

35 (b) A nonconforming use may be extended through the same building, provided no
36 structural alteration of the building is proposed or made for the purpose of the extension.

37 (c) For purposes of this Subsection (1), the addition of a solar energy device to a
38 building is not a structural alteration.

39 (2) The legislative body may provide in any zoning ordinance or amendment for:

40 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or
41 substitution of nonconforming uses upon the terms and conditions set forth in the zoning
42 ordinance;

43 (b) the termination of all nonconforming uses, except billboards, by providing a
44 formula establishing a reasonable time period during which the owner can recover or amortize
45 the amount of his investment in the nonconforming use, if any; and

46 (c) the termination of a billboard that is a nonconforming use by acquiring the billboard
47 and associated property rights through:

- 48 (i) gift;
- 49 (ii) purchase;
- 50 (iii) agreement;
- 51 (iv) exchange; or
- 52 (v) eminent domain.

53 (3) ~~(a) [If a municipality prevents a billboard company from maintaining, repairing, or~~
54 ~~restoring a billboard structure damaged by casualty, act of God, or vandalism, the~~
55 ~~municipality's actions constitute initiation of] A municipality is considered to have initiated the~~
56 ~~acquisition of a billboard structure by eminent domain under Subsection (2)(c)(v)[:] if the~~

57 municipality prevents a billboard § [company] OWNER § from:

58 (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged
 59 by casualty, an act of God, or vandalism; or

60 (ii) except as provided in Subsection § [(4)] (3) § (b), relocating or rebuilding a billboard
 61 structure, or taking other measures, to correct a mistake in the placement or erection of a
 62 billboard for which the municipality has issued a permit § , IF THE PROPOSED RELOCATION,

62a REBUILDING, OR OTHER MEASURE IS CONSISTENT WITH THE INTENT OF THAT PERMIT § .

63 (b) A municipality's § [preventing] DENIAL OF § a billboard § [company from relocating or
 63a rebuilding] OWNER'S REQUEST TO RELOCATE OR REBUILD § a

64 billboard structure, or § [taking] TO TAKE § other measures, § IN ORDER § to correct a mistake in
 64a the placement or erection

65 of a billboard does not constitute the initiation of acquisition by eminent domain § UNDER
 65a SUBSECTION (3)(a) § if the mistake

66 in placement or erection of the billboard is determined by clear and convincing evidence to
 67 have resulted from an intentionally false or misleading statement:

68 (i) by the billboard applicant in the application; and

69 (ii) regarding the placement or erection of the billboard.

70 (4) Notwithstanding Subsections (2) and (3), a § [legislative body] MUNICIPALITY § may
 70a remove a billboard

71 without providing compensation if[;]:

72 (a) the § [legislative body] MUNICIPALITY § determines:

73 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
 74 false or misleading statement in the applicant's application regarding the placement or erection
 75 of the billboard; or

76 (ii) by substantial evidence that the billboard:

77 (A) is structurally unsafe;

78 (B) is in an unreasonable state of repair; or

79 (C) has been abandoned for at least 12 months;

80 (b) the § [legislative body] MUNICIPALITY § notifies the owner § IN WRITING § that the
 80a owner's billboard meets one or more

81 of the conditions listed in Subsections (4)(a)(i) and (ii);

82 (c) the owner fails to remedy the condition or conditions within:

83 (i) except as provided in Subsection (4)(c)(ii), 90 days following § THE BILLBOARD

83a OWNER'S RECEIPT OF WRITTEN § notice under

84 Subsection (4)(b); or

85 (ii) if the condition forming the basis of the municipality's intention to remove the

86 billboard is that it is structurally unsafe, § ~~seven~~ TEN BUSINESS § days § , OR A LONGER PERIOD

86a IF NECESSARY BECAUSE OF A NATURAL DISASTER, § following § THE BILLBOARD OWNER'S

86b RECEIPT OF WRITTEN § notice under Subsection (4)(b);

87 and

88 (d) following the expiration of the applicable period under Subsection (4)(c) and after
 89 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
 90 the ~~§ [legislative body]~~ MUNICIPALITY § finds:

91 (i) by clear and convincing evidence, that[:(a)] the applicant for a permit intentionally
 92 made a false or misleading statement in [his] the application[:(b)] regarding the placement or
 93 erection of the billboard; or

94 (ii) by substantial evidence that the billboard is structurally unsafe[:(c) the billboard],
 95 is in an unreasonable state of repair[;], or [(d) the billboard] has been abandoned for at least 12
 96 months.

97 (5) § [If a] A § municipality § [allows] MAY NOT ALLOW § a nonconforming billboard to be
 97a rebuilt for a reason other
 98 than § :

98a (a) § those specified in Subsections (3) and (4) § [or for a reason other than] :

98b (b) § those provided in Title

99 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, § [the municipality shall allow billboards to
 100 be relocated] ; AND

100a (c) THOSE SPECIFIED IN THE MUNICIPALITY'S ORDINANCE REQUIRING OR ALLOWING A
 100b BILLBOARD OWNER TO RELOCATE AND REBUILD AN EXISTING NONCONFORMING BILLBOARD TO
 100c AN AREA § within the municipality § [to an area] § where outdoor advertising is otherwise allowed
 101 under Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.

102 ~~[(5)] (6)~~ A municipality may terminate the nonconforming status of school district
 103 property when the property ceases to be used for school district purposes.

104 Section 2. Section **17-27-407** is amended to read:

105 **17-27-407. Nonconforming uses and structures.**

106 (1) (a) Except as provided in this section, a nonconforming use or structure may be
 107 continued.

108 (b) A nonconforming use may be extended through the same building, provided no
 109 structural alteration of the building is proposed or made for the purpose of the extension.

110 (c) For purposes of this Subsection (1), the addition of a solar energy device to a
 111 building is not a structural alteration.

112 (d) If any county acquires title to any property because of tax delinquency and the
 113 property is not redeemed as provided by law, the future use of the property shall conform with
 114 the existing provisions of the county ordinances equally applicable to other like properties
 115 within the district in which the property acquired by the county is located.

116 (2) The legislative body may provide in any zoning ordinance or amendment for:

117 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or
 118 substitution of nonconforming uses upon the terms and conditions set forth in the zoning

119 ordinance;

120 (b) the termination of all nonconforming uses, except billboards by providing a
121 formula establishing a reasonable time period during which the owner can recover or amortize
122 the amount of his investment in the nonconforming use, if any; and

123 (c) the termination of a billboard that is a nonconforming use by acquiring the billboard
124 and associated property rights through:

125 (i) gift;

126 (ii) purchase;

127 (iii) agreement;

128 (iv) exchange; or

129 (v) eminent domain.

130 (3) (a) ~~[If a county prevents a billboard company from maintaining, repairing, or~~
131 ~~restoring a billboard structure damaged by casualty, act of God, or vandalism, the county's~~
132 ~~actions constitute initiation of]~~ A county is considered to have initiated the acquisition of a
133 billboard structure by eminent domain under Subsection (2)(c)(v)[:-] if the county prevents a
134 billboard § [company] OWNER § from:

135 (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged
136 by casualty, an act of God, or vandalism; or

137 (ii) except as provided in Subsection (3)(b), relocating or rebuilding a billboard
138 structure, or taking other measures, to correct a mistake in the placement or erection of a
139 billboard for which the county has issued a permit § , IF THE PROPOSED RELOCATION,
139a REBUILDING, OR OTHER MEASURE IS CONSISTENT WITH THE INTENT OF THAT PERMIT § .

140 (b) A county's § [preventing] DENIAL OF § a billboard § [company from relocating or
140a rebuilding] OWNER'S REQUEST TO RELOCATE OR REBUILD § a billboard

141 structure, or § [taking] TO TAKE § other measures, § IN ORDER § to correct a mistake in the
141a placement or erection of a

142 billboard does not constitute the initiation of acquisition by eminent domain § UNDER SUBSECTION
142a (3)(a) § if the mistake in

143 placement or erection of the billboard is determined by clear and convincing evidence to have
144 resulted from an intentionally false or misleading statement:

145 (i) by the billboard applicant in the application; and

146 (ii) regarding the placement or erection of the billboard.

147 (4) Notwithstanding Subsections (2) and (3), a § [legislative body] COUNTY § may remove a
147a billboard

148 without providing compensation if[-];

149 (a) the § [legislative body] COUNTY § determines:

150 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
 151 false or misleading statement in the applicant's application regarding the placement or erection
 152 of the billboard; or

153 (ii) by substantial evidence that the billboard:

154 (A) is structurally unsafe;

155 (B) is in an unreasonable state of repair; or

156 (C) has been abandoned for at least 12 months;

157 (b) the § [legislative body] COUNTY § notifies the owner § IN WRITING § that the owner's
 157a billboard meets one or more

158 of the conditions listed in Subsections (4)(a)(i) and (ii);

159 (c) the owner fails to remedy the condition or conditions within:

160 (i) except as provided in Subsection (4)(c)(ii), 90 days following § THE BILLBOARD
 160a OWNER'S RECEIPT OF WRITTEN § notice under

161 Subsection (4)(b); or

162 (ii) if the condition forming the basis of the county's intention to remove the billboard
 163 is that it is structurally unsafe, § [seven] TEN BUSINESS § days § , OR A LONGER PERIOD IF
 163a NECESSARY BECAUSE OF A NATURAL DISASTER, § following § THE BILLBOARD OWNER'S
 163b RECEIPT OF WRITTEN § notice under Subsection (4)(b); and

164 (d) following the expiration of the applicable period under Subsection (4)(c) and after
 165 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
 166 the § [legislative body] COUNTY § finds:

167 (i) by clear and convincing evidence, that[;-(a)] the applicant for a permit intentionally
 168 made a false or misleading statement in [his] the application[;-(b)] regarding the placement or
 169 erection of the billboard; or

170 (ii) by substantial evidence that the billboard is § STRUCTURALLY § unsafe[;-(c) the
 170a billboard], is in an
 171 unreasonable state of repair[;], or [(d) the billboard] has been abandoned for at least 12
 172 months.

173 (5) § [If a] A § county § [allows] MAY NOT ALLOW § a nonconforming billboard to be
 173a rebuilt for a reason other than § :

173b (a) §

174 those specified in Subsections (3) and (4) § [or for a reason other than] :

174a (b) § those provided in Title 72,

175 Chapter 7, Part 5, Utah Outdoor Advertising Act § [; the county shall allow billboards to be
 176 relocated] ; AND

176a (c) THOSE SPECIFIED IN THE COUNTY'S ORDINANCE REQUIRING OR ALLOWING A
 176b BILLBOARD OWNER TO RELOCATE AND REBUILD AN EXISTING NONCONFORMING BILLBOARD §

176c § TO AN AREA § within the § [~~municipality to an area~~] COUNTY § where outdoor advertising is
176d otherwise allowed

177 under Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.

178 [~~5~~] (6) A county may terminate the nonconforming status of school district property
179 when the property ceases to be used for school district purposes.

180

Fiscal Note
Bill Number SB0053s01

County and Municipal Zoning Regarding Billboards

20-Feb-04

11:15 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst