

**PROPERTY RIGHTS RELATED TO OUTDOOR
ADVERTISING**

2014 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: Margaret Dayton

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to billboards and electronic or mechanical changeable message signs.

Highlighted Provisions:

This bill:

- ▶ prohibits a municipality or county from enacting or enforcing certain billboard ordinances relating to electronic or mechanical changeable message signs;
- ▶ prohibits a municipality or county from commencing eminent domain proceedings to prevent a billboard owner from upgrading a billboard to an electronic or mechanical changeable message sign;
- ▶ amends the definition of maintenance to include upgrading a sign for the purposes of outdoor advertising regulations;
- ▶ amends provisions related to an electronic or mechanical changeable message sign;
- and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **10-9a-511**, as last amended by Laws of Utah 2012, Chapter 289

31 **10-9a-513**, as last amended by Laws of Utah 2009, Chapters 170 and 233

32 **17-27a-510**, as last amended by Laws of Utah 2009, Chapter 170

33 **17-27a-512**, as last amended by Laws of Utah 2009, Chapters 170 and 233

34 **72-7-502**, as last amended by Laws of Utah 2011, Chapter 346

35 **72-7-505**, as last amended by Laws of Utah 2011, Chapter 346

36 **72-7-510**, as last amended by Laws of Utah 2008, Chapter 3



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

39 Section 1. Section **10-9a-511** is amended to read:

40 **10-9a-511. Nonconforming uses and noncomplying structures.**

41 (1) (a) Except as provided in this section, a nonconforming use or noncomplying
42 structure may be continued by the present or a future property owner.

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

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

47 (2) The legislative body may provide for:

48 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or
49 substitution of nonconforming uses upon the terms and conditions set forth in the land use
50 ordinance;

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

54 (c) the termination of a nonconforming use due to its abandonment.

55 (3) (a) A municipality may not prohibit the reconstruction or restoration of a
56 noncomplying structure or terminate the nonconforming use of a structure that is involuntarily
57 destroyed in whole or in part due to fire or other calamity unless the structure or use has been
58 abandoned.

59 (b) A municipality may prohibit the reconstruction or restoration of a noncomplying
60 structure or terminate the nonconforming use of a structure if:

61 (i) the structure is allowed to deteriorate to a condition that the structure is rendered
62 uninhabitable and is not repaired or restored within six months after written notice to the
63 property owner that the structure is uninhabitable and that the noncomplying structure or
64 nonconforming use will be lost if the structure is not repaired or restored within six months; or

65 (ii) the property owner has voluntarily demolished a majority of the noncomplying
66 structure or the building that houses the nonconforming use.

67 (c) (i) Notwithstanding a prohibition in its zoning ordinance, a municipality may
68 permit a billboard owner to relocate the billboard within the municipality's boundaries to a
69 location that is mutually acceptable to the municipality and the billboard owner.

70 (ii) If the municipality and billboard owner cannot agree to a mutually acceptable
71 location within 90 days after the owner submits a written request to relocate the billboard, the
72 provisions of Subsection [10-9a-513\(2\)\(a\)\(iv\)](#) apply.

73 (d) (i) Except as provided in Subsection (3)(e), a municipality may not enact or enforce
74 an ordinance that prevents an owner of an existing nonconforming or conforming billboard
75 from upgrading that billboard to an electronic or mechanical changeable message sign that
76 operates in conformance with Subsection [72-7-505\(1\)](#).

77 (ii) A municipality may not enact or enforce an ordinance that forces an owner of an
78 existing nonconforming or conforming billboard to forfeit any other billboard owned by the
79 same owner in order to upgrade the existing nonconforming or conforming billboard to an
80 electronic or mechanical changeable message sign that operates in conformance with
81 Subsection [72-7-505\(1\)](#).

82 (e) A municipality may, subject to Subsections (3)(f) and (g), impose a requirement
83 that for a period commencing 60 minutes after sunset until 6 a.m., the message on an electronic
84 changeable sign be turned off or not change.

85 (f) A municipality may not impose the requirement described in Subsection (3)(e)
86 unless:

87 (i) the face of the electronic changeable message sign:

88 (A) cannot be viewed from the interstate system; and

89 (B) is located on and oriented to be viewed primarily from a street where, as of May

90 13, 2014, the posted speed limit is 25 miles or less per hour; or

91 (ii) the face of the electronic changeable message sign:

92 (A) cannot be viewed from the interstate system;

93 (B) is within 150 feet of the outer edge of an existing residential dwelling structure that

94 is legally occupied and located on property zoned exclusively for residential purposes; and

95 (C) is oriented toward the structure described in Subsection (3)(f)(ii)(B).

96 (g) A municipality may not enforce a requirement imposed by the municipality in

97 accordance with Subsection (3)(e) if the message is a public safety or emergency

98 announcement, warning, or alert.

99 (4) (a) Unless the municipality establishes, by ordinance, a uniform presumption of
100 legal existence for nonconforming uses, the property owner shall have the burden of
101 establishing the legal existence of a noncomplying structure or nonconforming use.

102 (b) Any party claiming that a nonconforming use has been abandoned shall have the
103 burden of establishing the abandonment.

104 (c) Abandonment may be presumed to have occurred if:

105 (i) a majority of the primary structure associated with the nonconforming use has been
106 voluntarily demolished without prior written agreement with the municipality regarding an
107 extension of the nonconforming use;

108 (ii) the use has been discontinued for a minimum of one year; or

109 (iii) the primary structure associated with the nonconforming use remains vacant for a
110 period of one year.

111 (d) The property owner may rebut the presumption of abandonment under Subsection
112 (4)(c), and shall have the burden of establishing that any claimed abandonment under
113 Subsection (4)(b) has not in fact occurred.

114 (5) A municipality may terminate the nonconforming status of a school district or
115 charter school use or structure when the property associated with the school district or charter
116 school use or structure ceases to be used for school district or charter school purposes for a
117 period established by ordinance.

118 (6) A municipal ordinance adopted under Section [10-1-203.5](#) may not:

119 (a) require physical changes in a structure with a legal nonconforming rental housing
120 use unless the change is for:

- 121 (i) the reasonable installation of:
- 122 (A) a smoke detector that is plugged in or battery operated;
- 123 (B) a ground fault circuit interrupter protected outlet on existing wiring;
- 124 (C) street addressing;
- 125 (D) except as provided in Subsection (7), an egress bedroom window if the existing
- 126 bedroom window is smaller than that required by current state building code;
- 127 (E) an electrical system or a plumbing system, if the existing system is not functioning
- 128 or is unsafe as determined by an independent electrical or plumbing professional who is
- 129 licensed in accordance with Title 58, Occupations and Professions;
- 130 (F) hand or guard rails; or
- 131 (G) occupancy separation doors as required by the International Residential Code; or
- 132 (ii) the abatement of a structure; or
- 133 (b) be enforced to terminate a legal nonconforming rental housing use.
- 134 (7) A municipality may not require a change described in Subsection (6)(a)(i)(D) if the

135 change:

- 136 (a) would compromise the structural integrity of a building; or
- 137 (b) could not be completed in accordance with current building codes, including
- 138 set-back and window well requirements.
- 139 (8) A legal nonconforming rental housing use may not be terminated under Section
- 140 [10-1-203.5](#).

141 Section 2. Section **10-9a-513** is amended to read:

142 **10-9a-513. Municipality's acquisition of billboard by eminent domain -- Removal**
 143 **without providing compensation -- Limit on allowing nonconforming billboards to be**
 144 **rebuilt or replaced -- Validity of municipal permit after issuance of state permit.**

- 145 (1) As used in this section:
- 146 (a) "Clearly visible" means capable of being read without obstruction by an occupant of
- 147 a vehicle traveling on a street or highway within the visibility area.
- 148 (b) "Highest allowable height" means:
- 149 (i) if the height allowed by the municipality, by ordinance or consent, is higher than the
- 150 height under Subsection (1)(b)(ii), the height allowed by the municipality; or
- 151 (ii) (A) for a noninterstate billboard:

152 (I) if the height of the previous use or structure is 45 feet or higher, the height of the
153 previous use or structure; or

154 (II) if the height of the previous use or structure is less than 45 feet, the height of the
155 previous use or structure or the height to make the entire advertising content of the billboard
156 clearly visible, whichever is higher, but no higher than 45 feet; and

157 (B) for an interstate billboard:

158 (I) if the height of the previous use or structure is at or above the interstate height, the
159 height of the previous use or structure; or

160 (II) if the height of the previous use or structure is less than the interstate height, the
161 height of the previous use or structure or the height to make the entire advertising content of
162 the billboard clearly visible, whichever is higher, but no higher than the interstate height.

163 (c) "Interstate billboard" means a billboard that is intended to be viewed from a
164 highway that is an interstate.

165 (d) "Interstate height" means a height that is the higher of:

166 (i) 65 feet above the ground; and

167 (ii) 25 feet above the grade of the interstate.

168 (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a
169 street or highway that is not an interstate.

170 (f) "Visibility area" means the area on a street or highway that is:

171 (i) defined at one end by a line extending from the base of the billboard across all lanes
172 of traffic of the street or highway in a plane that is perpendicular to the street or highway; and

173 (ii) defined on the other end by a line extending across all lanes of traffic of the street
174 or highway in a plane that is:

175 (A) perpendicular to the street or highway; and

176 (B) (I) for an interstate billboard, 500 feet from the base of the billboard; or

177 (II) for a noninterstate billboard, 300 feet from the base of the billboard.

178 (2) (a) A municipality is considered to have initiated the acquisition of a billboard
179 structure by eminent domain if the municipality prevents a billboard owner from:

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

182 (ii) except as provided in Subsection (2)(c), relocating or rebuilding a billboard

183 structure, or taking other measures, to correct a mistake in the placement or erection of a
184 billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding,
185 or other measure is consistent with the intent of that permit;

186 (iii) structurally modifying or upgrading a billboard;

187 (iv) relocating a billboard into any commercial, industrial, or manufacturing zone
188 within the municipality's boundaries, if:

189 (A) the relocated billboard is:

190 (I) within 5,280 feet of its previous location; and

191 (II) no closer than:

192 (Aa) 300 feet from an off-premise sign existing on the same side of the street or
193 highway; or

194 (Bb) if the street or highway is an interstate or limited access highway that is subject to
195 Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act
196 between the relocated billboard and an off-premise sign existing on the same side of the
197 interstate or limited access highway; and

198 (B) (I) the billboard owner has submitted a written request under Subsection
199 [10-9a-511\(3\)\(c\)](#); and

200 (II) the municipality and billboard owner are unable to agree, within the time provided
201 in Subsection [10-9a-511\(3\)\(c\)](#), to a mutually acceptable location; or

202 (v) making the following modifications, as the billboard owner determines, to a
203 billboard that is structurally modified or upgraded under Subsection (2)(a)(iii) or relocated
204 under Subsection (2)(a)(iv):

205 (A) erecting the billboard:

206 (I) to the highest allowable height; and

207 (II) as the owner determines, to an angle that makes the entire advertising content of
208 the billboard clearly visible; and

209 (B) installing a sign face on the billboard that is at least the same size as, but no larger
210 than, the sign face on the billboard before its relocation.

211 (b) Notwithstanding Subsection (2)(a), a municipality may not commence eminent
212 domain proceedings to prevent a billboard owner from upgrading a billboard to an electronic or
213 mechanical changeable message sign.

214 ~~[(b)]~~ (c) A modification under Subsection (2)(a)(v) shall comply with Title 72, Chapter
215 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

216 ~~[(c)]~~ (d) A municipality's denial of a billboard owner's request to relocate or rebuild a
217 billboard structure, or to take other measures, in order to correct a mistake in the placement or
218 erection of a billboard does not constitute the initiation of acquisition by eminent domain under
219 Subsection (2)(a) if the mistake in placement or erection of the billboard is determined by clear
220 and convincing evidence to have resulted from an intentionally false or misleading statement:

- 221 (i) by the billboard applicant in the application; and
- 222 (ii) regarding the placement or erection of the billboard.

223 ~~[(d)]~~ (e) If a municipality is considered to have initiated the acquisition of a billboard
224 structure by eminent domain under Subsection (2)(a) or any other provision of applicable law,
225 the municipality shall pay just compensation to the billboard owner in an amount that is:

- 226 (i) the value of the existing billboard at a fair market capitalization rate, based on
227 actual annual revenue, less any annual rent expense;
- 228 (ii) the value of any other right associated with the billboard structure that is acquired;
- 229 (iii) the cost of the sign structure; and
- 230 (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the
231 billboard owner's interest is a part.

232 (3) Notwithstanding Subsection (2) and Section 10-9a-512, a municipality may remove
233 a billboard without providing compensation if:

- 234 (a) the municipality determines:
 - 235 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
236 false or misleading statement in the applicant's application regarding the placement or erection
237 of the billboard; or
 - 238 (ii) by substantial evidence that the billboard:
 - 239 (A) is structurally unsafe;
 - 240 (B) is in an unreasonable state of repair; or
 - 241 (C) has been abandoned for at least 12 months;
- 242 (b) the municipality notifies the owner in writing that the owner's billboard meets one
243 or more of the conditions listed in Subsections (3)(a)(i) and (ii);
- 244 (c) the owner fails to remedy the condition or conditions within:

245 (i) except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's
246 receipt of written notice under Subsection (3)(b); or

247 (ii) if the condition forming the basis of the municipality's intention to remove the
248 billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary
249 because of a natural disaster, following the billboard owner's receipt of written notice under
250 Subsection (3)(b); and

251 (d) following the expiration of the applicable period under Subsection (3)(c) and after
252 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
253 the municipality finds:

254 (i) by clear and convincing evidence, that the applicant for a permit intentionally made
255 a false or misleading statement in the application regarding the placement or erection of the
256 billboard; or

257 (ii) by substantial evidence that the billboard is structurally unsafe, is in an
258 unreasonable state of repair, or has been abandoned for at least 12 months.

259 (4) A municipality may not allow a nonconforming billboard to be rebuilt or replaced
260 by anyone other than its owner or the owner acting through its contractors.

261 (5) A permit issued, extended, or renewed by a municipality for a billboard remains
262 valid from the time the municipality issues, extends, or renews the permit until 180 days after a
263 required state permit is issued for the billboard if:

264 (a) the billboard requires a state permit; and

265 (b) an application for the state permit is filed within 30 days after the municipality
266 issues, extends, or renews a permit for the billboard.

267 Section 3. Section **17-27a-510** is amended to read:

268 **17-27a-510. Nonconforming uses and noncomplying structures.**

269 (1) (a) Except as provided in this section, a nonconforming use or a noncomplying
270 structure may be continued by the present or a future property owner.

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

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

275 (2) The legislative body may provide for:

276 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or
277 substitution of nonconforming uses upon the terms and conditions set forth in the land use
278 ordinance;

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

282 (c) the termination of a nonconforming use due to its abandonment.

283 (3) (a) A county may not prohibit the reconstruction or restoration of a noncomplying
284 structure or terminate the nonconforming use of a structure that is involuntarily destroyed in
285 whole or in part due to fire or other calamity unless the structure or use has been abandoned.

286 (b) A county may prohibit the reconstruction or restoration of a noncomplying structure
287 or terminate the nonconforming use of a structure if:

288 (i) the structure is allowed to deteriorate to a condition that the structure is rendered
289 uninhabitable and is not repaired or restored within six months after written notice to the
290 property owner that the structure is uninhabitable and that the noncomplying structure or
291 nonconforming use will be lost if the structure is not repaired or restored within six months; or

292 (ii) the property owner has voluntarily demolished a majority of the noncomplying
293 structure or the building that houses the nonconforming use.

294 (c) (i) Notwithstanding a prohibition in its zoning ordinance, a county may permit a
295 billboard owner to relocate the billboard within the county's unincorporated area to a location
296 that is mutually acceptable to the county and the billboard owner.

297 (ii) If the county and billboard owner cannot agree to a mutually acceptable location
298 within 90 days after the owner submits a written request to relocate the billboard, the
299 provisions of Subsection [17-27a-512\(2\)\(a\)\(iv\)](#) apply.

300 (d) (i) Except as provided in Subsection (3)(e), a county may not enact or enforce an
301 ordinance that prevents an owner of an existing nonconforming or conforming billboard from
302 upgrading that billboard to an electronic or mechanical changeable message sign that operates
303 in conformance with Subsection [72-7-505\(1\)](#).

304 (ii) A county may not enact or enforce an ordinance that forces an owner of an existing
305 nonconforming or conforming billboard to forfeit any other billboard owned by the same owner
306 in order to upgrade the existing nonconforming or conforming billboard to an electronic or

307 mechanical changeable message sign that operates in conformance with Subsection
308 72-7-505(1).

309 (e) A county may, subject to Subsections (3)(f) and (g), impose a requirement that for a
310 period commencing 60 minutes after sunset until 6 a.m., the message on an electronic
311 changeable sign be turned off or not change.

312 (f) A county may not impose the requirement described in Subsection (3)(e) unless:

313 (i) the face of the electronic changeable message sign:

314 (A) cannot be viewed from the interstate system; and

315 (B) is located on and oriented to be viewed primarily from a street where, as of May
316 14, 2013, the posted speed limit is 25 miles or less per hour; or

317 (ii) the face of the electronic changeable message sign:

318 (A) cannot be viewed from the interstate system;

319 (B) is within 150 feet of the outer edge of an existing residential dwelling structure that
320 is legally occupied and located on property zoned exclusively for residential purposes; and

321 (C) is oriented toward the structure described in Subsection (3)(f)(ii)(B).

322 (g) A county may not enforce a requirement imposed by the county in accordance with
323 Subsection (3)(e) if the message is a public safety or emergency announcement, warning, or
324 alert.

325 (4) (a) Unless the county establishes, by ordinance, a uniform presumption of legal
326 existence for nonconforming uses, the property owner shall have the burden of establishing the
327 legal existence of a noncomplying structure or nonconforming use.

328 (b) Any party claiming that a nonconforming use has been abandoned shall have the
329 burden of establishing the abandonment.

330 (c) Abandonment may be presumed to have occurred if:

331 (i) a majority of the primary structure associated with the nonconforming use has been
332 voluntarily demolished without prior written agreement with the county regarding an extension
333 of the nonconforming use;

334 (ii) the use has been discontinued for a minimum of one year; or

335 (iii) the primary structure associated with the nonconforming use remains vacant for a
336 period of one year.

337 (d) The property owner may rebut the presumption of abandonment under Subsection

338 (4)(c), and shall have the burden of establishing that any claimed abandonment under
339 Subsection (4)(c) has not in fact occurred.

340 (5) A county may terminate the nonconforming status of a school district or charter
341 school use or structure when the property associated with the school district or charter school
342 use or structure ceases to be used for school district or charter school purposes for a period
343 established by ordinance.

344 Section 4. Section 17-27a-512 is amended to read:

345 **17-27a-512. County's acquisition of billboard by eminent domain -- Removal**
346 **without providing compensation -- Limit on allowing nonconforming billboard to be**
347 **rebuilt or replaced -- Validity of county permit after issuance of state permit.**

348 (1) As used in this section:

349 (a) "Clearly visible" means capable of being read without obstruction by an occupant of
350 a vehicle traveling on a street or highway within the visibility area.

351 (b) "Highest allowable height" means:

352 (i) if the height allowed by the county, by ordinance or consent, is higher than the
353 height under Subsection (1)(b)(ii), the height allowed by the county; or

354 (ii) (A) for a noninterstate billboard:

355 (I) if the height of the previous use or structure is 45 feet or higher, the height of the
356 previous use or structure; or

357 (II) if the height of the previous use or structure is less than 45 feet, the height of the
358 previous use or structure or the height to make the entire advertising content of the billboard
359 clearly visible, whichever is higher, but no higher than 45 feet; and

360 (B) for an interstate billboard:

361 (I) if the height of the previous use or structure is at or above the interstate height, the
362 height of the previous use or structure; or

363 (II) if the height of the previous use or structure is less than the interstate height, the
364 height of the previous use or structure or the height to make the entire advertising content of
365 the billboard clearly visible, whichever is higher, but no higher than the interstate height.

366 (c) "Interstate billboard" means a billboard that is intended to be viewed from a
367 highway that is an interstate.

368 (d) "Interstate height" means a height that is the higher of:

- 369 (i) 65 feet above the ground; and
- 370 (ii) 25 feet above the grade of the interstate.
- 371 (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a
- 372 street or highway that is not an interstate.
- 373 (f) "Visibility area" means the area on a street or highway that is:
- 374 (i) defined at one end by a line extending from the base of the billboard across all lanes
- 375 of traffic of the street or highway in a plane that is perpendicular to the street or highway; and
- 376 (ii) defined on the other end by a line extending across all lanes of traffic of the street
- 377 or highway in a plane that is:
 - 378 (A) perpendicular to the street or highway; and
 - 379 (B) (I) for an interstate billboard, 500 feet from the base of the billboard; or
 - 380 (II) for a noninterstate billboard, 300 feet from the base of the billboard.
- 381 (2) (a) A county is considered to have initiated the acquisition of a billboard structure
- 382 by eminent domain if the county prevents a billboard owner from:
 - 383 (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged
 - 384 by casualty, an act of God, or vandalism;
 - 385 (ii) except as provided in Subsection (2)(c), relocating or rebuilding a billboard
 - 386 structure, or taking other measures, to correct a mistake in the placement or erection of a
 - 387 billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or
 - 388 other measure is consistent with the intent of that permit;
 - 389 (iii) structurally modifying or upgrading a billboard;
 - 390 (iv) relocating a billboard into any commercial, industrial, or manufacturing zone
 - 391 within the unincorporated area of the county, if:
 - 392 (A) the relocated billboard is:
 - 393 (I) within 5,280 feet of its previous location; and
 - 394 (II) no closer than:
 - 395 (Aa) 300 feet from an off-premise sign existing on the same side of the street or
 - 396 highway; or
 - 397 (Bb) if the street or highway is an interstate or limited access highway that is subject to
 - 398 Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act
 - 399 between the relocated billboard and an off-premise sign existing on the same side of the

400 interstate or limited access highway; and

401 (B) (I) the billboard owner has submitted a written request under Subsection

402 17-27a-510(3)(c); and

403 (II) the county and billboard owner are unable to agree, within the time provided in

404 Subsection 17-27a-510(3)(c), to a mutually acceptable location; or

405 (v) making the following modifications, as the billboard owner determines, to a

406 billboard that is structurally modified or upgraded under Subsection (2)(a)(iii) or relocated

407 under Subsection (2)(a)(iv):

408 (A) erecting the billboard:

409 (I) to the highest allowable height; and

410 (II) as the owner determines, to an angle that makes the entire advertising content of

411 the billboard clearly visible; and

412 (B) installing a sign face on the billboard that is at least the same size as, but no larger

413 than, the sign face on the billboard before its relocation.

414 (b) Notwithstanding Subsection (2)(a), a county may not commence eminent domain

415 proceedings to prevent a billboard owner from upgrading a billboard to an electronic or

416 mechanical changeable message sign.

417 [~~(b)~~] (c) A modification under Subsection (1)(a)(v) shall comply with Title 72, Chapter

418 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

419 [~~(c)~~] (d) A county's denial of a billboard owner's request to relocate or rebuild a

420 billboard structure, or to take other measures, in order to correct a mistake in the placement or

421 erection of a billboard does not constitute the initiation of acquisition by eminent domain under

422 Subsection (2)(a) if the mistake in placement or erection of the billboard is determined by clear

423 and convincing evidence to have resulted from an intentionally false or misleading statement:

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

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

426 [~~(d)~~] (e) If a county is considered to have initiated the acquisition of a billboard

427 structure by eminent domain under Subsection (1)(a) or any other provision of applicable law,

428 the county shall pay just compensation to the billboard owner in an amount that is:

429 (i) the value of the existing billboard at a fair market capitalization rate, based on

430 actual annual revenue, less any annual rent expense;

431 (ii) the value of any other right associated with the billboard structure that is acquired;
432 (iii) the cost of the sign structure; and
433 (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the
434 billboard owner's interest is a part.

435 (3) Notwithstanding Subsection (2) and Section 17-27a-511, a county may remove a
436 billboard without providing compensation if:

437 (a) the county determines:

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

441 (ii) by substantial evidence that the billboard:

442 (A) is structurally unsafe;

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

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

445 (b) the county notifies the owner in writing that the owner's billboard meets one or
446 more of the conditions listed in Subsections (3)(a)(i) and (ii);

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

448 (i) except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's
449 receipt of written notice under Subsection (3)(b); or

450 (ii) if the condition forming the basis of the county's intention to remove the billboard
451 is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a
452 natural disaster, following the billboard owner's receipt of written notice under Subsection
453 (3)(b); and

454 (d) following the expiration of the applicable period under Subsection (3)(c) and after
455 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
456 the county finds:

457 (i) by clear and convincing evidence, that the applicant for a permit intentionally made
458 a false or misleading statement in the application regarding the placement or erection of the
459 billboard; or

460 (ii) by substantial evidence that the billboard is structurally unsafe, is in an
461 unreasonable state of repair, or has been abandoned for at least 12 months.

462 (4) A county may not allow a nonconforming billboard to be rebuilt or replaced by
463 anyone other than its owner or the owner acting through its contractors.

464 (5) A permit issued, extended, or renewed by a county for a billboard remains valid
465 from the time the county issues, extends, or renews the permit until 180 days after a required
466 state permit is issued for the billboard if:

467 (a) the billboard requires a state permit; and

468 (b) an application for the state permit is filed within 30 days after the county issues,
469 extends, or renews a permit for the billboard.

470 Section 5. Section **72-7-502** is amended to read:

471 **72-7-502. Definitions.**

472 As used in this part:

473 (1) "Clearly visible" means capable of being read without obstruction by an occupant
474 of a vehicle traveling on the main traveled way of a street or highway within the visibility area.

475 (2) "Commercial or industrial activities" means those activities generally recognized as
476 commercial or industrial by zoning authorities in this state, except that none of the following
477 are commercial or industrial activities:

478 (a) agricultural, forestry, grazing, farming, and related activities, including wayside
479 fresh produce stands;

480 (b) transient or temporary activities;

481 (c) activities not visible from the main-traveled way;

482 (d) activities conducted in a building principally used as a residence; and

483 (e) railroad tracks and minor sidings.

484 (3) (a) "Commercial or industrial zone" means only:

485 (i) those areas within the boundaries of cities or towns that are used or reserved for
486 business, commerce, or trade, or zoned as a highway service zone, under enabling state
487 legislation or comprehensive local zoning ordinances or regulations;

488 (ii) those areas within the boundaries of urbanized counties that are used or reserved
489 for business, commerce, or trade, or zoned as a highway service zone, under enabling state
490 legislation or comprehensive local zoning ordinances or regulations;

491 (iii) those areas outside the boundaries of urbanized counties and outside the
492 boundaries of cities and towns that:

493 (A) are used or reserved for business, commerce, or trade, or zoned as a highway
494 service zone, under comprehensive local zoning ordinances or regulations or enabling state
495 legislation; and

496 (B) are within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured
497 from the nearest point of the beginning or ending of the pavement widening at the exit from or
498 entrance to the main-traveled way; or

499 (iv) those areas outside the boundaries of urbanized counties and outside the
500 boundaries of cities and towns and not within 8420 feet of an interstate highway exit, off-ramp,
501 or turnoff as measured from the nearest point of the beginning or ending of the pavement
502 widening at the exit from or entrance to the main-traveled way that are reserved for business,
503 commerce, or trade under enabling state legislation or comprehensive local zoning ordinances
504 or regulations, and are actually used for commercial or industrial purposes.

505 (b) "Commercial or industrial zone" does not mean areas zoned for the sole purpose of
506 allowing outdoor advertising.

507 (4) "Comprehensive local zoning ordinances or regulations" means a municipality's
508 comprehensive plan required by Section 10-9a-401, the municipal zoning plan authorized by
509 Section 10-9a-501, and the county master plan authorized by Sections 17-27a-401 and
510 17-27a-501. Property that is rezoned by comprehensive local zoning ordinances or regulations
511 is rebuttably presumed to have not been zoned for the sole purpose of allowing outdoor
512 advertising.

513 (5) "Directional signs" means signs containing information about public places owned
514 or operated by federal, state, or local governments or their agencies, publicly or privately
515 owned natural phenomena, historic, cultural, scientific, educational, or religious sites, and areas
516 of natural scenic beauty or naturally suited for outdoor recreation, that the department considers
517 to be in the interest of the traveling public.

518 (6) (a) "Erect" means to construct, build, raise, assemble, place, affix, attach, create,
519 paint, draw, or in any other way bring into being.

520 (b) "Erect" does not include any activities defined in Subsection (6)(a) if they are
521 performed incident to the change of an advertising message or customary maintenance of a
522 sign.

523 (7) "Highway service zone" means a highway service area where the primary use of the

524 land is used or reserved for commercial and roadside services other than outdoor advertising to
525 serve the traveling public.

526 (8) "Information center" means an area or site established and maintained at rest areas
527 for the purpose of informing the public of:

528 (a) places of interest within the state; or

529 (b) any other information that the department considers desirable.

530 (9) "Interchange or intersection" means those areas and their approaches where traffic
531 is channeled off or onto an interstate route, excluding the deceleration lanes, acceleration lanes,
532 or feeder systems, from or to another federal, state, county, city, or other route.

533 (10) "Maintain" means to allow to exist, subject to the provisions of this chapter.

534 (11) "Maintenance" means to repair, refurbish, repaint, upgrade, or otherwise [~~keep~~]
535 operate an existing or upgraded sign structure in a safe manner and in a state suitable for use in
536 any manner not otherwise prohibited by this part, including signs destroyed by vandalism or an
537 act of God.

538 (12) "Main-traveled way" means the through traffic lanes, including auxiliary lanes,
539 acceleration lanes, deceleration lanes, and feeder systems, exclusive of frontage roads and
540 ramps. For a divided highway, there is a separate main-traveled way for the traffic in each
541 direction.

542 (13) "Major sponsor" means a sponsor of a public assembly facility or of a team or
543 event held at the facility where the amount paid by the sponsor to the owner of the facility, to
544 the team, or for the event is at least \$100,000 per year.

545 (14) "Official signs and notices" means signs and notices erected and maintained by
546 public agencies within their territorial or zoning jurisdictions for the purpose of carrying out
547 official duties or responsibilities in accordance with direction or authorization contained in
548 federal, state, or local law.

549 (15) "Off-premise signs" means signs located in areas zoned industrial, commercial, or
550 H-1 and in areas determined by the department to be unzoned industrial or commercial that
551 advertise an activity, service, event, person, or product located on premises other than the
552 premises at which the advertising occurs.

553 (16) "On-premise signs" means signs used to advertise the major activities conducted
554 on the property where the sign is located.

555 (17) "Outdoor advertising" means any outdoor advertising structure or outdoor
556 structure used in combination with an outdoor advertising sign or outdoor sign within the
557 outdoor advertising corridor which is visible from a place on the main-traveled way of a
558 controlled route.

559 (18) "Outdoor advertising corridor" means a strip of land 350 feet wide, measured
560 perpendicular from the edge of a controlled highway right-of-way.

561 (19) "Outdoor advertising structure" or "outdoor structure" means any sign structure,
562 including any necessary devices, supports, appurtenances, and lighting that is part of or
563 supports an outdoor sign.

564 (20) "Point of widening" means the point of the gore or the point where the intersecting
565 lane begins to parallel the other lanes of traffic, but the point of widening may never be greater
566 than 2,640 feet from the center line of the intersecting highway of the interchange or
567 intersection at grade.

568 (21) "Public assembly facility" means a convention facility as defined under Section
569 [59-12-602](#) and that:

570 (a) includes all contiguous interests in land, improvements, and utilities acquired,
571 constructed, and used in connection with the operation of the public assembly facility, whether
572 the interests are owned or held in fee title or a lease or easement for a term of at least 40 years,
573 and regardless of whether the interests are owned or operated by separate governmental
574 authorities or districts;

575 (b) is wholly or partially funded by public money;

576 (c) requires a person attending an event at the public assembly facility to purchase a
577 ticket or that otherwise charges for the use of the public assembly facility as part of its regular
578 operation; and

579 (d) has a minimum and permanent seating capacity of at least 10,000 people.

580 (22) "Public assembly facility sign" means a sign located on a public assembly facility
581 that only advertises the public assembly facility, major sponsors, events, the sponsors of events
582 held or teams playing at the facility, and products sold or services conducted at the facility.

583 (23) "Relocation" includes the removal of a sign from one situs together with the
584 erection of a new sign upon another situs in a commercial or industrial zoned area as a
585 substitute.

586 (24) "Relocation and replacement" means allowing all outdoor advertising signs or
587 permits the right to maintain outdoor advertising along the interstate, federal aid primary
588 highway existing as of June 1, 1991, and national highway system highways to be maintained
589 in a commercial or industrial zoned area to accommodate the displacement, remodeling, or
590 widening of the highway systems.

591 (25) "Remodel" means the upgrading, changing, alteration, refurbishment,
592 modification, or complete substitution of a new outdoor advertising structure for one permitted
593 pursuant to this part and that is located in a commercial or industrial area.

594 (26) "Rest area" means an area or site established and maintained within or adjacent to
595 the right-of-way by or under public supervision or control for the convenience of the traveling
596 public.

597 (27) "Scenic or natural area" means an area determined by the department to have
598 aesthetic value.

599 (28) "Traveled way" means that portion of the roadway used for the movement of
600 vehicles, exclusive of shoulders and auxiliary lanes.

601 (29) (a) "Unzoned commercial or industrial area" means:

602 (i) those areas not zoned by state law or local law, regulation, or ordinance that are
603 occupied by one or more industrial or commercial activities other than outdoor advertising
604 signs;

605 (ii) the lands along the highway for a distance of 600 feet immediately adjacent to
606 those activities; and

607 (iii) lands covering the same dimensions that are directly opposite those activities on
608 the other side of the highway, if the department determines that those lands on the opposite side
609 of the highway do not have scenic or aesthetic value.

610 (b) In measuring the scope of the unzoned commercial or industrial area, all
611 measurements shall be made from the outer edge of the regularly used buildings, parking lots,
612 storage, or processing areas of the activities and shall be along or parallel to the edge of
613 pavement of the highway.

614 (c) All signs located within an unzoned commercial or industrial area become
615 nonconforming if the commercial or industrial activity used in defining the area ceases for a
616 continuous period of 12 months.

617 (30) "Urbanized county" means a county with a population of at least 125,000 persons.

618 (31) "Visibility area" means the area on a street or highway that is:

619 (a) defined at one end by a line extending from the base of the billboard across all lanes
620 of traffic of the street or highway in a plane that is perpendicular to the street or highway; and

621 (b) defined on the other end by a line extending across all lanes of traffic of the street
622 or highway in a plane that is:

623 (i) perpendicular to the street or highway; and

624 (ii) 500 feet from the base of the billboard.

625 Section 6. Section **72-7-505** is amended to read:

626 **72-7-505. Sign size -- Sign spacing -- Location in outdoor advertising corridor --**

627 **Limit on implementation.**

628 (1) (a) Except as provided in Subsection (2), a sign face within the state may not
629 exceed the following limits:

630 (i) maximum area - 1,000 square feet;

631 (ii) maximum length - 60 feet; and

632 (iii) maximum height - 25 feet.

633 (b) No more than two facings visible and readable from the same direction on the
634 main-traveled way may be erected on any one sign structure. Whenever two facings are so
635 positioned, neither shall exceed the maximum allowed square footage.

636 (c) Two or more advertising messages on a sign face and double-faced, back-to-back,
637 stacked, side-by-side, and V-type signs are permitted as a single sign or structure if both faces
638 enjoy common ownership.

639 ~~[(d) A changeable message sign is permitted if the interval between message changes is
640 not more frequent than at least eight seconds and the actual message rotation process is
641 accomplished in three seconds or less.]~~

642 ~~[(e) An illumination standard adopted by any jurisdiction shall be uniformly applied to
643 all signs, public or private, on or off premise:]~~

644 (d) An existing conforming or nonconforming sign, a newly constructed conforming
645 sign, or a relocated sign may be upgraded or constructed as an electronic changeable message
646 sign so long as the interval between message changes is not more frequent than at least eight
647 seconds and the actual message rotation process is accomplished in three seconds or less.

648 (e) The illumination of an electronic changeable message sign may not be limited,
649 except to prevent an electronic sign face from increasing ambient lighting levels by more than
650 0.3 footcandles when measured:

651 (i) after sunset and before sunrise;

652 (ii) perpendicular to the sign face; and

653 (iii) at a distance in feet calculated by taking the square root of the product of the
654 following:

655 (A) the area of the electronic changeable message sign face measured in square feet;

656 and

657 (B) 100.

658 (f) If a political subdivision adopts an electronic changeable message sign illumination
659 standard within the limitations described in Subsection (1)(e), and adopts a separate
660 illumination standard for any other sign, public or private, on or off premise, the political
661 subdivision shall allow an owner of an electronic changeable message sign to illuminate the
662 owner's sign at the brighter of the two standards.

663 (2) (a) An outdoor sign structure located inside the unincorporated area of a
664 nonurbanized county may have the maximum height allowed by the county for outdoor
665 advertising structures in the commercial or industrial zone in which the sign is located. If no
666 maximum height is provided for the location, the maximum sign height may be 65 feet above
667 the ground or 25 feet above the grade of the main traveled way, whichever is greater.

668 (b) An outdoor sign structure located inside an incorporated municipality or urbanized
669 county may have the maximum height allowed by the municipality or urbanized county for
670 outdoor advertising structures in the commercial or industrial zone in which the sign is located.
671 If no maximum height is provided for the location, the maximum sign height may be 65 feet
672 above the ground or 25 feet above the grade of the main traveled way, whichever is greater.

673 (3) Except as provided in Section 72-7-509:

674 (a) Any sign allowed to be erected by reason of the exceptions set forth in Subsection
675 72-7-504(1) or in H-1 zones may not be closer than 500 feet to an existing off-premise sign
676 adjacent to an interstate highway or limited access primary highway, except that signs may be
677 erected closer than 500 feet if the signs on the same side of the interstate highway or limited
678 access primary highway are not simultaneously visible.

679 (b) Signs may not be located within 500 feet of any of the following which are adjacent
680 to the highway, unless the signs are in an incorporated area:

681 (i) public parks;

682 (ii) public forests;

683 (iii) public playgrounds;

684 (iv) areas designated as scenic areas by the department or other state agency having and
685 exercising this authority; or

686 (v) cemeteries.

687 (c) (i) (A) Except under Subsection (3)(c)(ii), signs may not be located on an interstate
688 highway or limited access highway on the primary system within 500 feet of an interchange, or
689 intersection at grade, or rest area measured along the interstate highway or freeway from the
690 sign to the nearest point of the beginning or ending of pavement widening at the exit from or
691 entrance to the main-traveled way.

692 (B) Interchange and intersection distance limitations shall be measured separately for
693 each direction of travel. A measurement for each direction of travel may not control or affect
694 any other direction of travel.

695 (ii) A sign may be placed closer than 500 feet from the nearest point of the beginning
696 or ending of pavement widening at the exit from or entrance to the main-traveled way, if:

697 (A) the sign is replacing an existing outdoor advertising use or structure which is being
698 removed or displaced to accommodate the widening, construction, or reconstruction of an
699 interstate, federal aid primary highway existing as of June 1, 1991, or national highway system
700 highway; and

701 (B) it is located in a commercial or industrial zoned area inside an urbanized county or
702 an incorporated municipality.

703 (d) The location of signs situated on nonlimited access primary highways in
704 commercial, industrial, or H-1 zoned areas between streets, roads, or highways entering the
705 primary highway shall not exceed the following minimum spacing criteria:

706 (i) Where the distance between centerlines of intersecting streets, roads, or highways is
707 less than 1,000 feet, a minimum spacing between structures of 150 feet may be permitted
708 between the intersecting streets or highways.

709 (ii) Where the distance between centerlines of intersecting streets, roads, or highways

710 is 1,000 feet or more, minimum spacing between sign structures shall be 300 feet.

711 (e) All outdoor advertising shall be erected and maintained within the outdoor
712 advertising corridor.

713 (4) Subsection (3)(c)(ii) may not be implemented until:

714 (a) the Utah-Federal Agreement for carrying out national policy relative to control of
715 outdoor advertising in areas adjacent to the national system of interstate and defense highways
716 and the federal-aid primary system is modified to allow the sign placement specified in
717 Subsection (3)(c)(ii); and

718 (b) the modified agreement under Subsection (4)(a) is signed on behalf of both the state
719 and the United States Secretary of Transportation.

720 Section 7. Section 72-7-510 is amended to read:

721 **72-7-510. Existing outdoor advertising not in conformity with part -- Procedure**
722 **-- Eminent domain -- Compensation -- Relocation.**

723 (1) As used in this section, "nonconforming sign" means a sign that has been erected in
724 a zone or area other than commercial or industrial or where outdoor advertising is not
725 permitted under this part.

726 (2) (a) The department may acquire by gift, purchase, agreement, exchange, or eminent
727 domain, any existing outdoor advertising and all property rights pertaining to the outdoor
728 advertising which were lawfully in existence on May 9, 1967, and which by reason of this part
729 become nonconforming.

730 (b) If the department, or any town, city, county, governmental entity, public utility, or
731 any agency or the United States Department of Transportation under this part, prevents the
732 maintenance as defined in Section 72-7-502, or requires that maintenance of an existing sign be
733 discontinued, the sign in question shall be considered acquired by the entity and just
734 compensation will become immediately due and payable.

735 (c) Eminent domain shall be exercised in accordance with the provision of Title 78B,
736 Chapter 6, Part 5, Eminent Domain.

737 (3) (a) Just compensation shall be paid for outdoor advertising and all property rights
738 pertaining to the same, including the right of the landowner upon whose land a sign is located,
739 acquired through the processes of eminent domain.

740 (b) For the purposes of this part, just compensation shall include the consideration of

741 damages to remaining properties, contiguous and noncontiguous, of an outdoor advertising sign
742 company's interest, which remaining properties, together with the properties actually
743 condemned, constituted an economic unit.

744 (c) The department is empowered to remove signs found in violation of Section
745 72-7-508 without payment of any compensation.

746 (4) (a) Except as specifically provided in this section, Subsection 72-7-505(1)(d), or
747 Section 72-7-513, this part may not be construed to permit a person to place or maintain any
748 outdoor advertising adjacent to any interstate or primary highway system which is prohibited
749 by law or by any town, city, or county ordinance.

750 (b) Any town, city, county, governmental entity, or public utility which requires the
751 removal, relocation, alteration, change, or termination of outdoor advertising shall pay just
752 compensation as defined in this part and in Title 78B, Chapter 6, Part 5, Eminent Domain.

753 (5) Except as provided in Section 72-7-508, no sign shall be required to be removed by
754 the department nor sign maintenance as described in this section be discontinued unless at the
755 time of removal or discontinuance there are sufficient funds, from whatever source,
756 appropriated and immediately available to pay the just compensation required under this
757 section and unless at that time the federal funds required to be contributed under 23 U.S.C.[.]
758 Sec. 131, if any, with respect to the outdoor advertising being removed, have been appropriated
759 and are immediately available to this state.

760 (6) (a) If any outdoor advertising use, structure, or permit may not be continued
761 because of the widening, construction, or reconstruction along an interstate, federal aid primary
762 highway existing as of June 1, 1991, or national highway systems highway, the owner shall
763 have the option to relocate and remodel the use, structure, or permit to another location:

764 (i) on the same property;

765 (ii) on adjacent property;

766 (iii) on the same highway within 5280 feet of the previous location, which may be
767 extended 5280 feet outside the areas described in Subsection 72-7-505(3)(c)(i)(A), on either
768 side of the same highway; or

769 (iv) mutually agreed upon by the owner and the county or municipality in which the
770 use, structure, or permit is located.

771 (b) The relocation under Subsection (6)(a) shall be in a commercial or industrial zoned

772 area or where outdoor advertising is permitted under this part.

773 (c) The county or municipality in which the use or structure is located shall, if
774 necessary, provide for the relocation and remodeling by ordinance for a special exception to its
775 zoning ordinance.

776 (d) The relocated and remodeled use or structure may be:

777 (i) erected to a height and angle to make it clearly visible to traffic on the main-traveled
778 way of the highway to which it is relocated or remodeled;

779 (ii) the same size and at least the same height as the previous use or structure, but the
780 relocated use or structure may not exceed the size and height permitted under this part;

781 (iii) relocated to a comparable vehicular traffic count.

782 (7) (a) The governmental entity, quasi-governmental entity, or public utility that causes
783 the need for the outdoor advertising relocation or remodeling as provided in Subsection (6)(a)
784 shall pay the costs related to the relocation, remodeling, or acquisition.

785 (b) If a governmental entity prohibits the relocation and remodeling as provided in
786 Subsection (6)(a), it shall pay just compensation as provided in Subsection (3).

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