

**OUTDOOR ADVERTISING AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott D. Sandall**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions related to billboard and other signage and electronic or mechanical changeable message signs.

**Highlighted Provisions:**

This bill:

- ▶ prohibits a municipality or county from:
  - enacting or enforcing an ordinance that prevents an owner of certain signs from modifying or constructing an electronic or mechanical changeable message sign in certain circumstances; and
  - requiring a sign owner to forfeit one sign in order to upgrade or construct another electronic or mechanical changeable sign;
- ▶ allows a municipality or county to impose a curfew on the operation of certain signs;
- ▶ requires a municipality or county to pay attorney fees to an owner that successfully enforces the owner's right to upgrade a sign to an electronic or changeable message sign;
- ▶ amends provisions related to brightness of electronic changeable message signs; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **10-9a-511**, as last amended by Laws of Utah 2018, Chapter 239

33 **17-27a-510**, as last amended by Laws of Utah 2018, Chapter 239

34 **72-7-505**, as last amended by Laws of Utah 2015, Chapter 402

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

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

38 **10-9a-511. Nonconforming uses and noncomplying structures.**

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

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

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

45 (2) The legislative body may provide for:

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

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

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

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

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

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

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

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

70 (ii) If the municipality and billboard owner cannot agree to a mutually acceptable  
71 location within 180 days after the day on which the owner submits a written request to relocate  
72 the billboard, the billboard owner may relocate the billboard in accordance with Subsection  
73 [10-9a-513\(2\)](#).

74 (d) (i) Except as provided in Subsection (3)(e), a municipality may not enact or enforce  
75 an ordinance that prevents an owner of an existing nonconforming or conforming billboard  
76 from upgrading that billboard to an electronic or mechanical changeable message sign that  
77 operates in conformance with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.

78 (ii) A municipality may not enact or enforce an ordinance that forces an owner of an  
79 existing nonconforming or conforming billboard to forfeit any other billboard owned by the  
80 owner in order to upgrade the existing nonconforming or conforming billboard to an electronic  
81 or mechanical changeable message sign that conforms with Title 72, Chapter 7, Part 5, Utah  
82 Outdoor Advertising Act.

83 (e) Subject to Subsection (3)(f), a municipality may impose a curfew on the operation  
84 of an electronic or mechanical changeable message sign between midnight and 6 a.m.

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

86 (i) the electronic or mechanical changeable message sign is located outside of an area  
87 governed by the Highway Beautification Act of 1965, Pub. L. No. 89-285, 79 Stat. 1028, or the  
88 Utah-Federal Agreement, as defined in Section [72-7-515](#); and

89 (ii) the face of the electronic or mechanical changeable message sign is:

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

92 (B) oriented toward the structure described in Subsection (3)(f)(ii)(A).

93 (g) A municipality shall pay a billboard owner's attorney fees incurred if a billboard  
94 owner successfully challenges the owner's rights under this section to upgrade a billboard to an  
95 electronic or mechanical changeable message sign.

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

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

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

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

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

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

108 (d) The property owner may rebut the presumption of abandonment under Subsection  
109 (4)(c), and has the burden of establishing that any claimed abandonment under Subsection  
110 (4)(b) has not occurred.

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

115 Section 2. Section **17-27a-510** is amended to read:

116 **17-27a-510. Nonconforming uses and noncomplying structures.**

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

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

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

123 (2) The legislative body may provide for:

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

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

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

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

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

136 (i) the structure is allowed to deteriorate to a condition that the structure is rendered  
137 uninhabitable and is not repaired or restored within six months after the day on which written  
138 notice is served to the property owner that the structure is uninhabitable and that the  
139 noncomplying structure or nonconforming use will be lost if the structure is not repaired or  
140 restored within six months; or

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

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

146 (ii) If the county and billboard owner cannot agree to a mutually acceptable location  
147 within 180 days after the day on which the owner submits a written request to relocate the  
148 billboard, the billboard owner may relocate the billboard in accordance with Subsection  
149 [17-27a-512\(2\)](#).

150 (d) (i) Except as provided in Subsection (3)(e), a county may not enact or enforce an  
151 ordinance that prevents an owner of an existing nonconforming or conforming billboard from

152 upgrading that billboard to an electronic or mechanical changeable message sign that operates  
153 in conformance with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.

154 (ii) A county may not enact or enforce an ordinance that requires an owner of an  
155 existing nonconforming or conforming billboard to forfeit any other billboard owned by the  
156 owner in order to upgrade the existing nonconforming or conforming billboard to an electronic  
157 or mechanical changeable message sign that conforms with Title 72, Chapter 7, Part 5, Utah  
158 Outdoor Advertising Act.

159 (e) Subject to Subsection (3)(f), a county may, impose a curfew on the operation of an  
160 electronic or mechanical changeable message sign between midnight and 6 a.m.

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

162 (i) the electronic or mechanical changeable message sign is located outside of an area  
163 governed by the Highway Beautification Act of 1965, Pub. L. No. 89-285, 79 Stat. 1028, or the  
164 Utah-Federal Agreement, as defined in Section [72-7-515](#); and

165 (ii) the face of the electronic or mechanical changeable message sign is:

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

168 (B) oriented toward the structure described in Subsection (3)(f)(ii)(A).

169 (g) A county shall pay a billboard owner's attorney fees incurred if a billboard owner  
170 successfully challenges the owner's rights under this section to upgrade a billboard to an  
171 electronic or mechanical changeable message sign.

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

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

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

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

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

182 (iii) the primary structure associated with the nonconforming use remains vacant for a

183 period of one year.

184 (d) The property owner may rebut the presumption of abandonment under Subsection  
185 (4)(c), and has the burden of establishing that any claimed abandonment under Subsection  
186 (4)(c) has not occurred.

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

191 Section 3. Section **72-7-505** is amended to read:

192 **72-7-505. Sign size -- Sign spacing -- Location in outdoor advertising corridor --**  
193 **Limit on implementation.**

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

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

197 (ii) maximum length - 60 feet; and

198 (iii) maximum height - 25 feet.

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

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

205 (d) A changeable message sign is permitted if the interval between message changes is  
206 not more frequent than at least eight seconds and the actual message rotation process is  
207 accomplished in three seconds or less.

208 (e) An illumination standard adopted by any jurisdiction shall be uniformly applied to  
209 all signs, public or private, on or off premise.

210 (2) (a) An outdoor sign structure located inside the unincorporated area of a  
211 nonurbanized county may have the maximum height allowed by the county for outdoor  
212 advertising structures in the commercial or industrial zone in which the sign is located. If no  
213 maximum height is provided for the location, the maximum sign height may be 65 feet above

214 the ground or 25 feet above the grade of the main traveled way, whichever is greater.

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

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

221 (a) Any sign allowed to be erected by reason of the exceptions set forth in Subsection  
222 72-7-504(2) or in H-1 zones may not be closer than 500 feet to an existing off-premise sign  
223 adjacent to an interstate highway or limited access primary highway, except that signs may be  
224 erected closer than 500 feet if the signs on the same side of the interstate highway or limited  
225 access primary highway are not simultaneously visible.

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

228 (i) public parks;

229 (ii) public forests;

230 (iii) public playgrounds;

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

233 (v) cemeteries.

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

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

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

244 (A) the sign is replacing an existing outdoor advertising use or structure which is being

245 removed or displaced to accommodate the widening, construction, or reconstruction of an  
246 interstate, federal aid primary highway existing as of June 1, 1991, or national highway system  
247 highway; and

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

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

253 ~~[(i) Where the distance between centerlines of intersecting streets, roads, or highways~~  
254 ~~is less than 1,000 feet, a minimum spacing between structures of 150 feet may be permitted~~  
255 ~~between the intersecting streets or highways.]~~

256 ~~[(ii) Where the distance between centerlines of intersecting streets, roads, or highways~~  
257 ~~is 1,000 feet or more, minimum spacing between sign structures shall be 300 feet.]~~

258 ~~[(e) All outdoor advertising shall be erected and maintained within the outdoor~~  
259 ~~advertising corridor.]~~

260 (d) An existing conforming or nonconforming sign, a newly constructed conforming  
261 sign, or a relocated sign may be upgraded or constructed as an electronic changeable message  
262 sign if:

263 (i) the interval between message changes is not more frequent than eight seconds; and

264 (ii) the actual message rotation process is accomplished in three seconds or less.

265 (e) The illumination of an electronic changeable message sign may not be limited,  
266 except to prevent an electronic sign face from increasing ambient lighting levels by more than  
267 0.3 footcandles when measured:

268 (i) after sunset and before sunrise;

269 (ii) perpendicular to the sign face; and

270 (iii) at a distance in linear feet calculated by taking the square root of the product of the  
271 following:

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

273 and

274 (B) 100.

275 (f) If a political subdivision adopts an electronic changeable message sign illumination

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

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

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

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