

**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**

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**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

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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 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)(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.

63 (b) A municipality's preventing a billboard company from relocating or rebuilding a  
64 billboard structure, or taking other measures, to correct a mistake in the placement or erection  
65 of a billboard does not constitute the initiation of acquisition by eminent domain 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 may remove a billboard  
71 without providing compensation if[;]:

72 (a) the legislative body 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 notifies the owner that the 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 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 days following 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 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~~[(d) the billboard]~~, or ~~[(d) the billboard]~~ has been abandoned for at least 12  
96 months.

97 (5) If a municipality allows a nonconforming billboard to be rebuilt for a reason other  
98 than those specified in Subsections (3) and (4) or for a reason other than those provided in Title  
99 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the municipality shall allow billboards to  
100 be relocated 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 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.

140 (b) A county's preventing a billboard company from relocating or rebuilding a billboard  
141 structure, or taking other measures, to correct a mistake in the placement or erection of a  
142 billboard does not constitute the initiation of acquisition by eminent domain 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 may remove a billboard  
148 without providing compensation if[-];

149 (a) the legislative body 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 notifies the owner that the owner's 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 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 days following 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 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 unsafe~~[-(c) the billboard]~~, is in an  
171 unreasonable state of repair~~[-(d) the billboard]~~, or ~~[(d) the billboard]~~ has been abandoned for at least 12  
172 months.

173 (5) If a county allows a nonconforming billboard to be rebuilt for a reason other than  
174 those specified in Subsections (3) and (4) or for a reason other than those provided in Title 72,  
175 Chapter 7, Part 5, Utah Outdoor Advertising Act, the county shall allow billboards to be  
176 relocated within the municipality to an area where outdoor advertising is 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.

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