

COUNTY AND MUNICIPAL ZONING

REGARDING BILLBOARDS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael G. Waddoups

LONG TITLE

General Description:

This bill modifies county and municipal land use development and management provisions relating to billboards.

Highlighted Provisions:

This bill:

▶ prohibits counties and municipalities from allowing a nonconforming billboard to be rebuilt or replaced by anyone other than its owner; ~~H→~~ [and] ~~←H~~

▶ removes a limitation on the reasons for which counties and municipalities may allow nonconforming billboards to be rebuilt ~~H→~~ [-] ; and

▶ provides that, under certain circumstances, a county or municipal permit for a billboard remains valid for 180 days after a required state permit is issued. ~~←H~~

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9-408, as last amended by Chapter 138, Laws of Utah 2004

17-27-407, as last amended by Chapter 138, Laws of Utah 2004

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

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



28 **10-9-408. Nonconforming uses and structures.**

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

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

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

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

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

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

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

44 (i) gift;

45 (ii) purchase;

46 (iii) agreement;

47 (iv) exchange; or

48 (v) eminent domain.

49 (3) (a) A municipality is considered to have initiated the acquisition of a billboard
50 structure by eminent domain under Subsection (2)(c)(v) if the municipality prevents a billboard
51 owner from:

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

54 (ii) except as provided in Subsection (3)(b), relocating or rebuilding a billboard
55 structure, or taking other measures, to correct a mistake in the placement or erection of a
56 billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding,
57 or other measure is consistent with the intent of that permit.

58 (b) A municipality's denial of a billboard owner's request to relocate or rebuild a

59 billboard structure, or to take other measures, in order to correct a mistake in the placement or
60 erection of a billboard does not constitute the initiation of acquisition by eminent domain under
61 Subsection (3)(a) if the mistake in placement or erection of the billboard is determined by clear
62 and convincing evidence to have resulted from an intentionally false or misleading statement:

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

65 (4) Notwithstanding Subsections (2) and (3), a municipality may remove a billboard
66 without providing compensation if:

67 (a) the municipality determines:

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

71 (ii) by substantial evidence that the billboard:

- 72 (A) is structurally unsafe;
- 73 (B) is in an unreasonable state of repair; or
- 74 (C) has been abandoned for at least 12 months;

75 (b) the municipality notifies the owner in writing that the owner's billboard meets one
76 or more of the conditions listed in Subsections (4)(a)(i) and (ii);

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

78 (i) except as provided in Subsection (4)(c)(ii), 90 days following the billboard owner's
79 receipt of written notice under Subsection (4)(b); or

80 (ii) if the condition forming the basis of the municipality's intention to remove the
81 billboard is that it is structurally unsafe, ten business days, or a longer period if necessary
82 because of a natural disaster, following the billboard owner's receipt of written notice under
83 Subsection (4)(b); and

84 (d) following the expiration of the applicable period under Subsection (4)(c) and after
85 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
86 the municipality finds:

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

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

92 (5) A municipality may not allow a nonconforming billboard to be rebuilt [~~for a reason~~
 93 ~~other than:~~] or replaced by anyone other than its owner ~~§~~→ or the owner acting through its
 93a contractors ←~~§~~ .

94 [~~(a) those specified in Subsections (3) and (4);]~~

95 [~~(b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and]~~

96 [~~(c) those specified in the municipality's ordinance requiring or allowing a billboard~~
 97 ~~owner to relocate and rebuild an existing nonconforming billboard to an area within the~~
 98 ~~municipality where outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5,~~
 99 ~~Utah Outdoor Advertising Act.]~~

99a ~~§~~→ (6) A permit issued, extended, or renewed by a municipality for a billboard
 99b remains valid for a period of 180 days after a required state permit is issued for the billboard
 99c if:

99d (a) the billboard requires a state permit; and

99e (b) an application for the state permit is filed within 30 days after the municipality
 99f issues, extends, or renews a permit for the billboard.

100 [~~(6)~~ (7) ←~~§~~ A municipality may terminate the nonconforming status of school district
 100a property
 101 when the property ceases to be used for school district purposes.

102 Section 2. Section ~~17-27-407~~ is amended to read:

103 **17-27-407. Nonconforming uses and structures.**

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

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

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

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

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

115 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or

116 substitution of nonconforming uses upon the terms and conditions set forth in the zoning
117 ordinance;
118 (b) the termination of all nonconforming uses, except billboards by providing a
119 formula establishing a reasonable time period during which the owner can recover or amortize
120 the amount of his investment in the nonconforming use, if any; and

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

- 123 (i) gift;
- 124 (ii) purchase;
- 125 (iii) agreement;
- 126 (iv) exchange; or
- 127 (v) eminent domain.

128 (3) (a) A county is considered to have initiated the acquisition of a billboard structure
129 by eminent domain under Subsection (2)(c)(v) if the county prevents a billboard owner from:

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

132 (ii) except as provided in Subsection (3)(b), relocating or rebuilding a billboard
133 structure, or taking other measures, to correct a mistake in the placement or erection of a
134 billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or
135 other measure is consistent with the intent of that permit.

136 (b) A county's denial of a billboard owner's request to relocate or rebuild a billboard
137 structure, or to take other measures, in order to correct a mistake in the placement or erection of
138 a billboard does not constitute the initiation of acquisition by eminent domain under Subsection
139 (3)(a) if the mistake in placement or erection of the billboard is determined by clear and
140 convincing evidence to have resulted from an intentionally false or misleading statement:

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

143 (4) Notwithstanding Subsections (2) and (3), a county may remove a billboard without
144 providing compensation if:

145 (a) the county determines:

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

149 (ii) by substantial evidence that the billboard:

- 150 (A) is structurally unsafe;
- 151 (B) is in an unreasonable state of repair; or

152 (C) has been abandoned for at least 12 months;
 153 (b) the county notifies the owner in writing that the owner's billboard meets one or
 154 more of the conditions listed in Subsections (4)(a)(i) and (ii);

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

156 (i) except as provided in Subsection (4)(c)(ii), 90 days following the billboard owner's
 157 receipt of written notice under Subsection (4)(b); or

158 (ii) if the condition forming the basis of the county's intention to remove the billboard
 159 is that it is structurally unsafe, ten business days, or a longer period if necessary because of a
 160 natural disaster, following the billboard owner's receipt of written notice under Subsection
 161 (4)(b); and

162 (d) following the expiration of the applicable period under Subsection (4)(c) and after
 163 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
 164 the county finds:

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

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

170 (5) A county may not allow a nonconforming billboard to be rebuilt [~~for a reason other~~
 171 ~~than:~~] or replaced by anyone other than its owner ~~H~~→ **or the owner acting through its**
 171a **contractors ←H** .

172 [~~(a) those specified in Subsections (3) and (4);]~~

173 [~~(b) those provided in Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and]~~

174 [~~(c) those specified in the county's ordinance requiring or allowing a billboard owner to~~
 175 ~~relocate and rebuild an existing nonconforming billboard to an area within the county where~~
 176 ~~outdoor advertising is otherwise allowed under Title 72, Chapter 7, Part 5, Utah Outdoor~~
 177 ~~Advertising Act.]~~

177a ~~H~~→ **(6) A permit issued, extended, or renewed by a county for a billboard remains**
 177b **valid for a period of 180 days after a required state permit is issued for the billboard if:**

177c **(a) the billboard requires a state permit; and**

177d **(b) an application for the state permit is filed within 30 days after the county issues,**
 177e **extends, or renews a permit for the billboard.**

178 [~~(6)~~] ~~(7)~~ ←H A county may terminate the nonconforming status of school district
 178a property when

179 the property ceases to be used for school district purposes.

Legislative Review Note

as of 1-11-05 1:30 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0114

County and Municipal Zoning Regarding Billboards

24-Jan-05

8:58 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst