

1 **LOCAL GOVERNMENT REGULATION OF**
2 **BILLBOARDS**

3 2007 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Melvin R. Brown**

6 Senate Sponsor: Michael G. Waddoups

8 **LONG TITLE**

9 **General Description:**

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

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ provides that a county or municipality is considered to have initiated the acquisition
15 of a billboard structure by eminent domain if the county or municipality prevents a
16 billboard owner from structurally modifying or upgrading a billboard or relocating a
17 billboard to another specified location;
- 18 ▶ provides that a relocated billboard may be erected to a certain height and angle;
- 19 ▶ clarifies a provision allowing for a county or municipal issued billboard permit to
20 remain valid until a period after a required state permit is issued; and
- 21 ▶ makes technical changes

22 **Monies Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:

28 **10-9a-511**, as last amended by Chapters 7, 49 and renumbered and amended by Chapter
29 254, Laws of Utah 2005

30 **10-9a-513**, as enacted by Chapter 254, Laws of Utah 2005

31 **17-27a-510**, as last amended by Chapters 7, 49 and renumbered and amended by
32 Chapter 254, Laws of Utah 2005

33 **17-27a-512**, as enacted by Chapter 254, Laws of Utah 2005



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

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

37 **10-9a-511. Nonconforming uses and noncomplying structures.**

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

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

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

44 (2) The legislative body may provide for:

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

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

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

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

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

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

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

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

67 (ii) If the municipality and billboard owner cannot agree to a mutually acceptable
68 location within 60 days after the owner submits a written request to relocate the billboard, the
69 provisions of Subsection 10-9a-513(1)(a)(iv) apply.

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

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

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

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

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

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

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

85 (5) A municipality may terminate the nonconforming status of a school district or

86 charter school use or structure when the property associated with the school district or charter
87 school use or structure ceases to be used for school district or charter school purposes for a
88 period established by ordinance.

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

90 **10-9a-513. Municipality's acquisition of billboard by eminent domain -- Removal**
91 **without providing compensation -- Limit on allowing nonconforming billboards to be**
92 **rebuilt.**

93 (1) (a) A municipality is considered to have initiated the acquisition of a billboard
94 structure by eminent domain if the municipality prevents a billboard owner from:

95 (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged
96 by casualty, an act of God, or vandalism; ~~[or]~~

97 (ii) except as provided in Subsection (1)~~(b)~~(c), relocating or rebuilding a billboard
98 structure, or taking other measures, to correct a mistake in the placement or erection of a
99 billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding,
100 or other measure is consistent with the intent of that permit~~[-]~~;

101 (iii) structurally modifying or upgrading a billboard; or

102 (iv) relocating a billboard into any commercial, industrial, or manufacturing zone
103 within the municipality's boundaries, if the relocated billboard is:

104 (A) within 2,640 feet of its previous location;

105 (B) no closer than 500 feet from an off-premise sign existing on the same side of the
106 street or highway; and

107 (C) (I) the billboard owner has submitted a written request under Subsection
108 10-9a-511(3)(c); and

109 (II) the municipality and billboard owner are unable to agree, within the time provided
110 in Subsection 10-9a-511(3)(c), to a mutually acceptable location.

111 (b) A billboard owner structurally modifying or upgrading a billboard under Subsection
112 (1)(a)(iii) or relocating the billboard under Subsection (1)(a)(iv):

113 (i) may, as the owner determines:

- 114 (A) erect the billboard:
- 115 (I) to a height that is at least the same as, but no higher than, the previous use or
- 116 structure, unless the municipality's ordinances allow or the municipality consents to a higher
- 117 structure; and
- 118 (II) to a height and angle to make it clearly visible to traffic on the main traveled way
- 119 of the street or highway on which the billboard is located; and
- 120 (B) install a sign face on the billboard that is at least the same size as, but no larger
- 121 than, the sign face on the billboard before its relocation; and
- 122 (ii) shall comply with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, to the
- 123 extent applicable.

124 ~~[(b)]~~ (c) A municipality's denial of a billboard owner's request to relocate or rebuild a
125 billboard structure, or to take other measures, in order to correct a mistake in the placement or
126 erection of a billboard does not constitute the initiation of acquisition by eminent domain under
127 Subsection (1)(a) if the mistake in placement or erection of the billboard is determined by clear
128 and convincing evidence to have resulted from an intentionally false or misleading statement:

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

131 (2) Notwithstanding Subsection (1) and Section 10-9a-512, a municipality may remove
132 a billboard without providing compensation if:

- 133 (a) the municipality determines:
 - 134 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
 - 135 false or misleading statement in the applicant's application regarding the placement or erection
 - 136 of the billboard; or
 - 137 (ii) by substantial evidence that the billboard:
 - 138 (A) is structurally unsafe;
 - 139 (B) is in an unreasonable state of repair; or
 - 140 (C) has been abandoned for at least 12 months;
- 141 (b) the municipality notifies the owner in writing that the owner's billboard meets one

142 or more of the conditions listed in Subsections (2)(a)(i) and (ii);

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

144 (i) except as provided in Subsection (2)(c)(ii), 90 days following the billboard owner's
145 receipt of written notice under Subsection (2)(b); or

146 (ii) if the condition forming the basis of the municipality's intention to remove the
147 billboard is that it is structurally unsafe, ten business days, or a longer period if necessary
148 because of a natural disaster, following the billboard owner's receipt of written notice under
149 Subsection (2)(b); and

150 (d) following the expiration of the applicable period under Subsection (2)(c) and after
151 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
152 the municipality finds:

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

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

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

160 (4) A permit issued, extended, or renewed by a municipality for a billboard remains
161 valid ~~[for a period of]~~ from the time the municipality issues, extends, or renews the permit until
162 180 days after a required state permit is issued for the billboard if:

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

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

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

167 **17-27a-510. Nonconforming uses and noncomplying structures.**

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

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

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

174 (2) The legislative body may provide for:

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

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

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

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

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

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

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

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

196 (ii) If the county and billboard owner cannot agree to a mutually acceptable location
197 within 60 days after the owner submits a written request to relocate the billboard, the

198 provisions of Subsection 17-27a-512(1)(a)(iv) apply.

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

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

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

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

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

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

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

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

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

219 **17-27a-512. County's acquisition of billboard by eminent domain -- Removal**
220 **without providing compensation -- Limit on allowing nonconforming billboard to be**
221 **rebuilt.**

222 (1) (a) A county is considered to have initiated the acquisition of a billboard structure
223 by eminent domain if the county prevents a billboard owner from:

224 (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged
225 by casualty, an act of God, or vandalism; [or]

226 (ii) except as provided in Subsection (1)(~~(b)~~)(c), relocating or rebuilding a billboard
227 structure, or taking other measures, to correct a mistake in the placement or erection of a
228 billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or
229 other measure is consistent with the intent of that permit[-];

230 (iii) structurally modifying or upgrading a billboard; or

231 (iv) relocating a billboard into any commercial, industrial, or manufacturing zone
232 within the unincorporated area of the county, if the relocated billboard is:

233 (A) within 2,640 feet of its previous location;

234 (B) no closer than 500 feet from an off-premise sign existing on the same side of the
235 street or highway; and

236 (C) (I) the billboard owner has submitted a written request under Subsection
237 17-27a-510(3)(c); and

238 (II) the county and billboard owner are unable to agree, within the time provided in
239 Subsection 17-27a-510(3)(c), to a mutually acceptable location.

240 (b) A billboard owner structurally modifying or upgrading a billboard under Subsection
241 (1)(a)(iii) or relocating the billboard under Subsection (1)(a)(iv):

242 (i) may, as the owner determines:

243 (A) erect the billboard:

244 (I) to a height that is at least the same as, but no higher than, the previous use or
245 structure, unless the county's ordinances allow or the county consents to a higher structure; and

246 (II) to a height and angle to make it clearly visible to traffic on the main traveled way
247 of the street or highway on which the billboard is located; and

248 (B) install a sign face on the billboard that is at least the same size as, but no larger
249 than, the sign face on the billboard before its relocation; and

250 (ii) shall comply with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, to the
251 extent applicable.

252 [~~(b)~~] (c) A county's denial of a billboard owner's request to relocate or rebuild a
253 billboard structure, or to take other measures, in order to correct a mistake in the placement or

254 erection of a billboard does not constitute the initiation of acquisition by eminent domain under
255 Subsection (1)(a) if the mistake in placement or erection of the billboard is determined by clear
256 and convincing evidence to have resulted from an intentionally false or misleading statement:

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

259 (2) Notwithstanding Subsection (1) and Section 17-27a-511, a county may remove a
260 billboard without providing compensation if:

261 (a) the county determines:

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

265 (ii) by substantial evidence that the billboard:

266 (A) is structurally unsafe;

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

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

269 (b) the county notifies the owner in writing that the owner's billboard meets one or
270 more of the conditions listed in Subsections (2)(a)(i) and (ii);

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

272 (i) except as provided in Subsection (2)(c)(ii), 90 days following the billboard owner's
273 receipt of written notice under Subsection (2)(b); or

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

278 (d) following the expiration of the applicable period under Subsection (2)(c) and after
279 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,
280 the county finds:

281 (i) by clear and convincing evidence, that the applicant for a permit intentionally made

282 a false or misleading statement in the application regarding the placement or erection of the
283 billboard; or

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

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

288 (4) A permit issued, extended, or renewed by a [~~municipality~~] county for a billboard
289 remains valid [~~for a period of~~] from the time the county issues, extends, or renews the permit
290 until 180 days after a required state permit is issued for the billboard if:

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

292 (b) an application for the state permit is filed within 30 days after the [~~municipality~~]
293 county issues, extends, or renews a permit for the billboard.