

**Representative Melvin R. Brown** proposes the following substitute bill:

**LOCAL GOVERNMENT REGULATION OF  
BILLBOARDS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Melvin R. Brown**

Senate 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:

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

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an immediate effective date.



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  
112 Subsection (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) A county's denial of a billboard owner's request to relocate or rebuild a billboard  
253 structure, or to take other measures, in order to correct a mistake in the placement or erection of  
254 a billboard does not constitute the initiation of acquisition by eminent domain under Subsection  
255 (1)(a) if the mistake in placement or erection of the billboard is determined by clear and  
256 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.

294 Section 5. **Effective date.**

295 If approved by two-thirds of all the members elected to each house, this bill takes effect  
296 upon approval by the governor, or the day following the constitutional time limit of Utah  
297 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,  
298 the date of veto override.

---

---

**H.B. 352 4th Sub. (Green) - Local Government Regulation of Billboards**

**Fiscal Note**

2007 General Session

State of Utah

---

---

**State Impact**

Enactment of this bill will not require additional appropriations.

---

**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments. Involved businesses and individuals may be impacted by provisions of this bill.

---