

BILLBOARD AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Craig A. Frank

Senate Sponsor: Wayne L. Niederhauser

LONG TITLE

General Description:

This bill modifies provisions relating to billboards.

Highlighted Provisions:

This bill:

- ▶ modifies the criteria under which a county or municipality is considered to have initiated the acquisition of a billboard structure by eminent domain when the county or municipality prevents the billboard owner from relocating the billboard;
- ▶ modifies the height limitation applicable to a billboard erected by an owner who modifies, upgrades, or relocates a billboard;
- ▶ increases from 60 to 90 days the period during which a county or municipality and billboard owner have to agree to a mutually acceptable location before the county or municipality is considered to have initiated the acquisition of a billboard by eminent domain;
- ▶ modifies the allowable height of an outdoor advertising sign whose height is adjusted by the owner because of an obstruction due to state agency action; and
- ▶ adds definitions to county and municipal land use provisions and to the Utah Outdoor Advertising Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

30 AMENDS:

31 **10-9a-511**, as last amended by Laws of Utah 2007, Chapter 171

32 **10-9a-513**, as last amended by Laws of Utah 2007, Chapter 171

33 **17-27a-510**, as last amended by Laws of Utah 2007, Chapter 171

34 **17-27a-512**, as last amended by Laws of Utah 2007, Chapter 171

35 **72-7-502**, as last amended by Laws of Utah 2005, Chapter 254

36 **72-7-510.5**, as last amended by Laws of Utah 2006, Chapter 68

37

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

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

40 **10-9a-511. Nonconforming uses and noncomplying structures.**

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

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

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

47 (2) The legislative body may provide for:

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

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

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

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

58 abandoned.

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

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

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

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

70 (ii) If the municipality and billboard owner cannot agree to a mutually acceptable
71 location within [60] 90 days after the owner submits a written request to relocate the billboard,
72 the provisions of Subsection 10-9a-513[~~(1)~~](2)(a)(iv) apply.

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

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

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

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

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

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

85 (d) The property owner may rebut the presumption of abandonment under Subsection

86 (4)(c), and shall have the burden of establishing that any claimed abandonment under
87 Subsection (4)(c) has not in fact occurred.

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

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

93 **10-9a-513. Municipality's acquisition of billboard by eminent domain --**
94 **Removal without providing compensation -- Limit on allowing nonconforming**
95 **billboards to be rebuilt.**

96 (1) As used in this section:

97 (a) "Clearly visible" means capable of being read without obstruction by an occupant
98 of a vehicle traveling on a street or highway within the visibility area.

99 (b) "Highest allowable height" means:

100 (i) if the height allowed by the municipality, by ordinance or consent, is higher than
101 the height under Subsection (1)(b)(ii), the height allowed by the municipality; or

102 (ii) (A) for a noninterstate billboard:

103 (I) if the height of the previous use or structure is 45 feet or higher, the height of the
104 previous use or structure; or

105 (II) if the height of the previous use or structure is less than 45 feet, the height of the
106 previous use or structure or the height to make the entire advertising content of the billboard
107 clearly visible, whichever is higher, but no higher than 45 feet; and

108 (B) for an interstate billboard:

109 (I) if the height of the previous use or structure is at or above the interstate height, the
110 height of the previous use or structure; or

111 (II) if the height of the previous use or structure is less than the interstate height, the
112 height of the previous use or structure or the height to make the entire advertising content of
113 the billboard clearly visible, whichever is higher, but no higher than the interstate height.

114 (c) "Interstate billboard" means a billboard that is intended to be viewed from a
115 highway that is an interstate.

116 (d) "Interstate height" means a height that is the higher of:

117 (i) 65 feet above the ground; and

118 (ii) 25 feet above the grade of the interstate.

119 (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a
120 street or highway that is not an interstate.

121 (f) "Visibility area" means the area on a street or highway that is:

122 (i) defined at one end by a line extending from the base of the billboard across all
123 lanes of traffic of the street or highway in a plane that is perpendicular to the street or
124 highway; and

125 (ii) defined on the other end by a line extending across all lanes of traffic of the street
126 or highway in a plane that is:

127 (A) perpendicular to the street or highway; and

128 (B) (I) for an interstate billboard, 500 feet from the base of the billboard; or

129 (II) for a noninterstate billboard, 300 feet from the base of the billboard.

130 [(+) (2) (a) A municipality is considered to have initiated the acquisition of a
131 billboard structure by eminent domain if the municipality prevents a billboard owner from:

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

134 (ii) except as provided in Subsection [(+) (2)(c), relocating or rebuilding a billboard
135 structure, or taking other measures, to correct a mistake in the placement or erection of a
136 billboard for which the municipality has issued a permit, if the proposed relocation,
137 rebuilding, or other measure is consistent with the intent of that permit;

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

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

141 (A) within [~~2,640~~] 5,280 feet of its previous location;

142 (B) no closer than [500]:

143 (I) 300 feet from an off-premise sign existing on the same side of the street or
144 highway; or

145 (II) if the street or highway is an interstate or limited access highway that is subject to
146 Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act
147 between the relocated billboard and an off-premise sign existing on the same side of the
148 interstate or limited access highway; and

149 (C) (I) the billboard owner has submitted a written request under Subsection
150 10-9a-511(3)(c); and

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

153 (b) A billboard owner structurally modifying or upgrading a billboard under
154 Subsection [(+) (2)(a)(iii) or relocating the billboard under Subsection [(+) (2)(a)(iv):

155 (i) may[, as the owner determines]:

156 (A) erect the billboard:

157 (I) to the highest allowable height; and

158 (II) as the owner determines, to an angle that makes the entire advertising content of
159 the billboard clearly visible; and

160 [~~(F) to a height that is at least the same as, but no higher than, the previous use or~~
161 ~~structure, unless the municipality's ordinances allow or the municipality consents to a higher~~
162 ~~structure; and]~~

163 [~~(H) to a height and angle to make it clearly visible to traffic on the main traveled way~~
164 ~~of the street or highway on which the billboard is located; and]~~

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

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

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

170 billboard structure, or to take other measures, in order to correct a mistake in the placement or
171 erection of a billboard does not constitute the initiation of acquisition by eminent domain
172 under Subsection [~~(1)~~] (2)(a) if the mistake in placement or erection of the billboard is
173 determined by clear and convincing evidence to have resulted from an intentionally false or
174 misleading statement:

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

177 [~~(2)~~] (3) Notwithstanding Subsection [~~(1)~~] (2) and Section 10-9a-512, a municipality
178 may remove a billboard without providing compensation if:

179 (a) the municipality determines:

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

183 (ii) by substantial evidence that the billboard:

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

187 (b) the municipality notifies the owner in writing that the owner's billboard meets one
188 or more of the conditions listed in Subsections [~~(2)~~] (3)(a)(i) and (ii);

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

- 190 (i) except as provided in Subsection [~~(2)~~] (3)(c)(ii), 90 days following the billboard
191 owner's receipt of written notice under Subsection [~~(2)~~] (3)(b); or

192 (ii) if the condition forming the basis of the municipality's intention to remove the
193 billboard is that it is structurally unsafe, ten business days, or a longer period if necessary
194 because of a natural disaster, following the billboard owner's receipt of written notice under
195 Subsection [~~(2)~~] (3)(b); and

196 (d) following the expiration of the applicable period under Subsection [~~(2)~~] (3)(c) and
197 after providing the owner with reasonable notice of proceedings and an opportunity for a

198 hearing, the municipality finds:

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

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

204 [~~(3)~~] (4) A municipality may not allow a nonconforming billboard to be rebuilt or
205 replaced by anyone other than its owner or the owner acting through its contractors.

206 [~~(4)~~] (5) A permit issued, extended, or renewed by a municipality for a billboard
207 remains valid from the time the municipality issues, extends, or renews the permit until 180
208 days after a required state permit is issued for the billboard if:

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

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

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

213 **17-27a-510. Nonconforming uses and noncomplying structures.**

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

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

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

220 (2) The legislative body may provide for:

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

224 (b) the termination of all nonconforming uses, except billboards, by providing a
225 formula establishing a reasonable time period during which the owner can recover or amortize

226 the amount of his investment in the nonconforming use, if any; and

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

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

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

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

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

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

242 (ii) If the county and billboard owner cannot agree to a mutually acceptable location
243 within ~~[60]~~ 90 days after the owner submits a written request to relocate the billboard, the
244 provisions of Subsection 17-27a-512~~[(1)]~~(2)(a)(iv) apply.

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

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

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

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

254 (ii) the use has been discontinued for a minimum of one year; or
 255 (iii) the primary structure associated with the nonconforming use remains vacant for a
 256 period of one year.

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

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

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

265 **17-27a-512. County's acquisition of billboard by eminent domain -- Removal**
 266 **without providing compensation -- Limit on allowing nonconforming billboard to be**
 267 **rebuilt.**

268 (1) As used in this section:

269 (a) "Clearly visible" means capable of being read without obstruction by an occupant
 270 of a vehicle traveling on a street or highway within the visibility area.

271 (b) "Highest allowable height" means:

272 (i) if the height allowed by the county, by ordinance or consent, is higher than the
 273 height under Subsection (1)(b)(ii), the height allowed by the county; or

274 (ii) (A) for a noninterstate billboard:

275 (I) if the height of the previous use or structure is 45 feet or higher, the height of the
 276 previous use or structure; or

277 (II) if the height of the previous use or structure is less than 45 feet, the height of the
 278 previous use or structure or the height to make the entire advertising content of the billboard
 279 clearly visible, whichever is higher, but no higher than 45 feet; and

280 (B) for an interstate billboard:

281 (I) if the height of the previous use or structure is at or above the interstate height, the

282 height of the previous use or structure; or

283 (II) if the height of the previous use or structure is less than the interstate height, the
284 height of the previous use or structure or the height to make the entire advertising content of
285 the billboard clearly visible, whichever is higher, but no higher than the interstate height.

286 (c) "Interstate billboard" means a billboard that is intended to be viewed from a
287 highway that is an interstate.

288 (d) "Interstate height" means a height that is the higher of:

289 (i) 65 feet above the ground; and

290 (ii) 25 feet above the grade of the interstate.

291 (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a
292 street or highway that is not an interstate.

293 (f) "Visibility area" means the area on a street or highway that is:

294 (i) defined at one end by a line extending from the base of the billboard across all
295 lanes of traffic of the street or highway in a plane that is perpendicular to the street or
296 highway; and

297 (ii) defined on the other end by a line extending across all lanes of traffic of the street
298 or highway in a plane that is:

299 (A) perpendicular to the street or highway; and

300 (B) (I) for an interstate billboard, 500 feet from the base of the billboard; or

301 (II) for a noninterstate billboard, 300 feet from the base of the billboard.

302 [(†)] (2) (a) A county is considered to have initiated the acquisition of a billboard
303 structure by eminent domain if the county prevents a billboard owner from:

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

306 (ii) except as provided in Subsection [(†)] (2)(c), relocating or rebuilding a billboard
307 structure, or taking other measures, to correct a mistake in the placement or erection of a
308 billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or
309 other measure is consistent with the intent of that permit;

310 (iii) structurally modifying or upgrading a billboard; or
311 (iv) relocating a billboard into any commercial, industrial, or manufacturing zone
312 within the unincorporated area of the county, if the relocated billboard is:

313 (A) within ~~[2,640]~~ 5,280 feet of its previous location;

314 (B) no closer than ~~[500]~~;

315 (I) 300 feet from an off-premise sign existing on the same side of the street or
316 highway; or

317 (II) if the street or highway is an interstate or limited access highway that is subject to
318 Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act
319 between the relocated billboard and an off-premise sign existing on the same side of the
320 interstate or limited access highway; and

321 (C) (I) the billboard owner has submitted a written request under Subsection
322 17-27a-510(3)(c); and

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

325 (b) A billboard owner structurally modifying or upgrading a billboard under
326 Subsection ~~[(+)]~~ (2)(a)(iii) or relocating the billboard under Subsection ~~[(+)]~~ (2)(a)(iv):

327 (i) may~~[, as the owner determines]~~:

328 (A) erect the billboard:

329 (I) to the highest allowable height; and

330 (II) as the owner determines, to an angle that makes the entire advertising content of
331 the billboard clearly visible; and

332 ~~[(F) to a height that is at least the same as, but no higher than, the previous use or~~
333 ~~structure, unless the county's ordinances allow or the county consents to a higher structure;~~
334 ~~and]~~

335 ~~[(H) to a height and angle to make it clearly visible to traffic on the main traveled way~~
336 ~~of the street or highway on which the billboard is located; and]~~

337 (B) install a sign face on the billboard that is at least the same size as, but no larger

338 than, the sign face on the billboard before its relocation; and

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

341 (c) A county's denial of a billboard owner's request to relocate or rebuild a billboard
342 structure, or to take other measures, in order to correct a mistake in the placement or erection
343 of a billboard does not constitute the initiation of acquisition by eminent domain under
344 Subsection ~~[(1)]~~ (2)(a) if the mistake in placement or erection of the billboard is determined by
345 clear and convincing evidence to have resulted from an intentionally false or misleading
346 statement:

347 (i) by the billboard applicant in the application; and

348 (ii) regarding the placement or erection of the billboard.

349 ~~[(2)]~~ (3) Notwithstanding Subsection ~~[(1)]~~ (2) and Section 17-27a-511, a county may
350 remove a billboard without providing compensation if:

351 (a) the county determines:

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

355 (ii) by substantial evidence that the billboard:

356 (A) is structurally unsafe;

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

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

359 (b) the county notifies the owner in writing that the owner's billboard meets one or
360 more of the conditions listed in Subsections ~~[(2)]~~ (3)(a)(i) and (ii);

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

362 (i) except as provided in Subsection ~~[(2)]~~ (3)(c)(ii), 90 days following the billboard
363 owner's receipt of written notice under Subsection ~~[(2)]~~ (3)(b); or

364 (ii) if the condition forming the basis of the county's intention to remove the billboard
365 is that it is structurally unsafe, ten business days, or a longer period if necessary because of a

366 natural disaster, following the billboard owner's receipt of written notice under Subsection
367 [~~(2)~~] (3)(b); and

368 (d) following the expiration of the applicable period under Subsection [~~(2)~~] (3)(c) and
369 after providing the owner with reasonable notice of proceedings and an opportunity for a
370 hearing, the county finds:

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

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

376 [~~(3)~~] (4) A county may not allow a nonconforming billboard to be rebuilt or replaced
377 by anyone other than its owner or the owner acting through its contractors.

378 [~~(4)~~] (5) A permit issued, extended, or renewed by a county for a billboard remains
379 valid from the time the county issues, extends, or renews the permit until 180 days after a
380 required state permit is issued for the billboard if:

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

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

384 Section 5. Section **72-7-502** is amended to read:

385 **72-7-502. Definitions.**

386 As used in this part:

387 (1) "Clearly visible" means capable of being read without obstruction by an occupant
388 of a vehicle traveling on the main traveled way of a street or highway within the visibility area.

389 [~~(1)~~] (2) "Commercial or industrial activities" means those activities generally
390 recognized as commercial or industrial by zoning authorities in this state, except that none of
391 the following are commercial or industrial activities:

392 (a) agricultural, forestry, grazing, farming, and related activities, including wayside
393 fresh produce stands;

- 394 (b) transient or temporary activities;
 - 395 (c) activities not visible from the main-traveled way;
 - 396 (d) activities conducted in a building principally used as a residence; and
 - 397 (e) railroad tracks and minor sidings.
- 398 [~~(2)~~] (3) "Commercial or industrial zone" means only:
- 399 (a) those areas within the boundaries of cities or towns that are used or reserved for
 - 400 business, commerce, or trade, or zoned as a highway service zone, under enabling state
 - 401 legislation or comprehensive local zoning ordinances or regulations;
 - 402 (b) those areas within the boundaries of urbanized counties that are used or reserved
 - 403 for business, commerce, or trade, or zoned as a highway service zone, under enabling state
 - 404 legislation or comprehensive local zoning ordinances or regulations;
 - 405 (c) those areas outside the boundaries of urbanized counties and outside the
 - 406 boundaries of cities and towns that:
 - 407 (i) are used or reserved for business, commerce, or trade, or zoned as a highway
 - 408 service zone, under comprehensive local zoning ordinances or regulations or enabling state
 - 409 legislation; and
 - 410 (ii) are within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured
 - 411 from the nearest point of the beginning or ending of the pavement widening at the exit from or
 - 412 entrance to the main-traveled way; or
 - 413 (d) those areas outside the boundaries of urbanized counties and outside the
 - 414 boundaries of cities and towns and not within 8420 feet of an interstate highway exit,
 - 415 off-ramp, or turnoff as measured from the nearest point of the beginning or ending of the
 - 416 pavement widening at the exit from or entrance to the main-traveled way that are reserved for
 - 417 business, commerce, or trade under enabling state legislation or comprehensive local zoning
 - 418 ordinances or regulations, and are actually used for commercial or industrial purposes.
- 419 [~~(3)~~] (4) "Commercial or industrial zone" does not mean areas zoned for the sole
- 420 purpose of allowing outdoor advertising.
- 421 [~~(4)~~] (5) "Comprehensive local zoning ordinances or regulations" means a

422 municipality's comprehensive plan required by Section 10-9a-401, the municipal zoning plan
423 authorized by Section 10-9a-501, and the county master plan authorized by Sections
424 17-27a-401 and 17-27a-501. Property that is rezoned by comprehensive local zoning
425 ordinances or regulations is rebuttably presumed to have not been zoned for the sole purpose
426 of allowing outdoor advertising.

427 ~~[(5)]~~ (6) "Directional signs" means signs containing information about public places
428 owned or operated by federal, state, or local governments or their agencies, publicly or
429 privately owned natural phenomena, historic, cultural, scientific, educational, or religious
430 sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, that the
431 department considers to be in the interest of the traveling public.

432 ~~[(6)]~~ (7) (a) "Erect" means to construct, build, raise, assemble, place, affix, attach,
433 create, paint, draw, or in any other way bring into being.

434 (b) "Erect" does not include any activities defined in Subsection ~~[(6)]~~ (7)(a) if they are
435 performed incident to the change of an advertising message or customary maintenance of a
436 sign.

437 ~~[(7)]~~ (8) "Highway service zone" means a highway service area where the primary use
438 of the land is used or reserved for commercial and roadside services other than outdoor
439 advertising to serve the traveling public.

440 ~~[(8)]~~ (9) "Information center" means an area or site established and maintained at rest
441 areas for the purpose of informing the public of:

- 442 (a) places of interest within the state; or
- 443 (b) any other information that the department considers desirable.

444 ~~[(9)]~~ (10) "Interchange or intersection" means those areas and their approaches where
445 traffic is channeled off or onto an interstate route, excluding the deceleration lanes,
446 acceleration lanes, or feeder systems, from or to another federal, state, county, city, or other
447 route.

448 ~~[(10)]~~ (11) "Maintain" means to allow to exist, subject to the provisions of this
449 chapter.

450 [~~(11)~~] (12) "Maintenance" means to repair, refurbish, repaint, or otherwise keep an
451 existing sign structure safe and in a state suitable for use, including signs destroyed by
452 vandalism or an act of God.

453 [~~(12)~~] (13) "Main-traveled way" means the through traffic lanes, including auxiliary
454 lanes, acceleration lanes, deceleration lanes, and feeder systems, exclusive of frontage roads
455 and ramps. For a divided highway, there is a separate main-traveled way for the traffic in each
456 direction.

457 [~~(13)~~] (14) "Official signs and notices" means signs and notices erected and
458 maintained by public agencies within their territorial or zoning jurisdictions for the purpose of
459 carrying out official duties or responsibilities in accordance with direction or authorization
460 contained in federal, state, or local law.

461 [~~(14)~~] (15) "Off-premise signs" means signs located in areas zoned industrial,
462 commercial, or H-1 and in areas determined by the department to be unzoned industrial or
463 commercial.

464 [~~(15)~~] (16) "On-premise signs" means signs used to advertise the major activities
465 conducted on the property where the sign is located.

466 [~~(16)~~] (17) "Outdoor advertising" means any outdoor advertising structure or outdoor
467 structure used in combination with an outdoor advertising sign or outdoor sign.

468 [~~(17)~~] (18) "Outdoor advertising corridor" means a strip of land 350 feet wide,
469 measured perpendicular from the edge of a controlled highway right-of-way.

470 [~~(18)~~] (19) "Outdoor advertising structure" or "outdoor structure" means any sign
471 structure, including any necessary devices, supports, appurtenances, and lighting that is part of
472 or supports an outdoor sign.

473 [~~(19)~~] (20) "Point of widening" means the point of the gore or the point where the
474 intersecting lane begins to parallel the other lanes of traffic, but the point of widening may
475 never be greater than 2,640 feet from the center line of the intersecting highway of the
476 interchange or intersection at grade.

477 [~~(20)~~] (21) "Public assembly facility" means a convention facility as defined under

478 Section 59-12-602 and that:

479 (a) is wholly or partially funded by public moneys; and

480 (b) requires a person attending an event at the public assembly facility to purchase a
481 ticket or that otherwise charges for the use of the public assembly facility as part of its regular
482 operation.

483 [~~(21)~~] (22) "Relocation" includes the removal of a sign from one situs together with
484 the erection of a new sign upon another situs in a commercial or industrial zoned area as a
485 substitute.

486 [~~(22)~~] (23) "Relocation and replacement" means allowing all outdoor advertising signs
487 or permits the right to maintain outdoor advertising along the interstate, federal aid primary
488 highway existing as of June 1, 1991, and national highway system highways to be maintained
489 in a commercial or industrial zoned area to accommodate the displacement, remodeling, or
490 widening of the highway systems.

491 [~~(23)~~] (24) "Remodel" means the upgrading, changing, alteration, refurbishment,
492 modification, or complete substitution of a new outdoor advertising structure for one permitted
493 pursuant to this part and that is located in a commercial or industrial area.

494 [~~(24)~~] (25) "Rest area" means an area or site established and maintained within or
495 adjacent to the right-of-way by or under public supervision or control for the convenience of
496 the traveling public.

497 [~~(25)~~] (26) "Scenic or natural area" means an area determined by the department to
498 have aesthetic value.

499 [~~(26)~~] (27) "Traveled way" means that portion of the roadway used for the movement
500 of vehicles, exclusive of shoulders and auxiliary lanes.

501 [~~(27)~~] (28) (a) "Unzoned commercial or industrial area" means:

502 (i) those areas not zoned by state law or local law, regulation, or ordinance that are
503 occupied by one or more industrial or commercial activities other than outdoor advertising
504 signs;

505 (ii) the lands along the highway for a distance of 600 feet immediately adjacent to

506 those activities; and

507 (iii) lands covering the same dimensions that are directly opposite those activities on
508 the other side of the highway, if the department determines that those lands on the opposite
509 side of the highway do not have scenic or aesthetic value.

510 (b) In measuring the scope of the unzoned commercial or industrial area, all
511 measurements shall be made from the outer edge of the regularly used buildings, parking lots,
512 storage, or processing areas of the activities and shall be along or parallel to the edge of
513 pavement of the highway.

514 (c) All signs located within an unzoned commercial or industrial area become
515 nonconforming if the commercial or industrial activity used in defining the area ceases for a
516 continuous period of 12 months.

517 ~~[(28)]~~ (29) "Urbanized county" means a county with a population of at least 125,000
518 persons.

519 (30) "Visibility area" means the area on a street or highway that is:

520 (a) defined at one end by a line extending from the base of the billboard across all
521 lanes of traffic of the street or highway in a plane that is perpendicular to the street or
522 highway; and

523 (b) defined on the other end by a line extending across all lanes of traffic of the street
524 or highway in a plane that is:

525 (i) perpendicular to the street or highway; and

526 (ii) 500 feet from the base of the billboard.

527 Section 6. Section **72-7-510.5** is amended to read:

528 **72-7-510.5. Height adjustments for outdoor advertising signs.**

529 (1) If the view and readability of an outdoor advertising sign, including a sign that is a
530 nonconforming sign as defined in Section 72-7-510, a noncomplying structure as defined in
531 Sections 10-9a-103 and 17-27a-103, or a nonconforming use as defined in Sections 10-9a-103
532 and 17-27a-103 is obstructed due to a noise abatement or safety measure, grade change,
533 construction, directional sign, highway widening, or aesthetic improvement made by an

534 agency of this state, along an interstate, federal aid primary highway existing as of June 1,
535 1991, national highway systems highway, or state highway or by an improvement created on
536 real property subsequent to the department's disposal of the property under Section 72-5-111,
537 the owner of the sign may:

538 (a) adjust the height of the sign; or

539 (b) relocate the sign to a point within 500 feet of its prior location, if the sign complies
540 with the spacing requirements under Section 72-7-505 and is in a commercial or industrial
541 zone.

542 (2) A height adjusted sign under this section does not constitute a substantial change
543 to the sign.

544 (3) The county or municipality in which the outdoor advertising sign is located shall,
545 if necessary, provide for the height adjustment or relocation by ordinance for a special
546 exception to its zoning ordinance.

547 (4) (a) The height adjusted sign:

548 (i) may be erected;

549 (A) to a height [and angle] to make [it] the entire advertising content of the sign
550 clearly visible [to traffic on the main-traveled way of the highway and]; and

551 (B) to an angle to make the entire advertising content of the sign clearly visible; and

552 (ii) shall be the same size as the previous sign.

553 (b) The provisions of Subsection (4)(a) are an exception to the height requirements
554 under Section 72-7-505.