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**BILLBOARD REVISIONS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Melvin R. Brown**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions related to a billboard and electronic or mechanical changeable message sign.

**Highlighted Provisions:**

This bill:

- ▶ prohibits a municipality or county from enacting or enforcing certain billboard ordinances;
- ▶ requires a municipality or county to follow the requirements of Title 78B, Chapter 6, Part 5, Eminent Domain, when terminating a billboard owner's billboard or associated rights;
- ▶ prohibits a municipality or county from preventing a billboard owner from taking certain actions unless the municipality or county commences eminent domain proceedings;
- ▶ requires a municipality or county to pay fees and costs in an eminent domain proceeding in certain circumstances;
- ▶ prohibits a municipality or county from making certain requirements of a billboard owner or a person who has a lease with a billboard owner;
- ▶ defines terms;
- ▶ amends provisions related to an electronic or mechanical changeable message sign;
- ▶ enacts language related to the obstruction of an outdoor advertising sign;



28           ▶ prohibits a political subdivision from exercising the right of eminent domain to  
29 terminate a billboard owner's billboard structure or associated rights in certain  
30 circumstances; and

31           ▶ makes technical corrections.

32 **Money Appropriated in this Bill:**

33           None

34 **Other Special Clauses:**

35           None

36 **Utah Code Sections Affected:**

37 AMENDS:

38           **10-9a-511**, as last amended by Laws of Utah 2011, Chapter 210

39           **10-9a-512**, as renumbered and amended by Laws of Utah 2005, Chapter 254

40           **10-9a-513**, as last amended by Laws of Utah 2009, Chapters 170 and 233

41           **17-27a-510**, as last amended by Laws of Utah 2009, Chapter 170

42           **17-27a-511**, as renumbered and amended by Laws of Utah 2005, Chapter 254

43           **17-27a-512**, as last amended by Laws of Utah 2009, Chapters 170 and 233

44           **72-7-502**, as last amended by Laws of Utah 2011, Chapter 346

45           **72-7-505**, as last amended by Laws of Utah 2011, Chapter 346

46           **72-7-508**, as last amended by Laws of Utah 2011, Chapter 346

47           **72-7-510**, as last amended by Laws of Utah 2008, Chapter 3

48           **72-7-510.5**, as last amended by Laws of Utah 2009, Chapter 170

49           **78B-6-501**, as last amended by Laws of Utah 2011, Chapter 82



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

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

53           **10-9a-511. Nonconforming uses and noncomplying structures.**

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

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

58           (c) For purposes of this Subsection (1), the addition of a solar energy device to a

59 building is not a structural alteration.

60 (2) The legislative body may provide for:

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

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

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

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

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

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

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

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

83 (ii) If the municipality and billboard owner cannot agree to a mutually acceptable  
84 location within 90 days after the owner submits a written request to relocate the billboard, the  
85 ~~[provisions of]~~ municipality may not prevent the billboard owner from taking an action  
86 specified in Subsection 10-9a-513(2)(a)(iv) [apply] unless the municipality has commenced  
87 eminent domain proceedings in accordance with the provisions of Section 10-9a-512 within 90  
88 days after the day that the billboard owner submits a written request to relocate the billboard.

89 (d) (i) Except as provided in Subsection (3)(e), a municipality may not enact or enforce

90 an ordinance that prevents an owner of an existing nonconforming or conforming billboard  
91 from upgrading that billboard to an electronic or mechanical changeable message sign that  
92 operates in conformance with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.

93 (ii) A municipality may not enact or enforce an ordinance that forces an owner of an  
94 existing nonconforming or conforming billboard to forfeit any other billboard owned by the  
95 same owner in order to upgrade the existing nonconforming or conforming billboard to an  
96 electronic or mechanical changeable message sign that operates in conformance with Title 72,  
97 Chapter 7, Part 5, Utah Outdoor Advertising Act.

98 (e) A municipality may, subject to Subsection (3)(f), impose a midnight to 6 a.m.  
99 curfew on the operation of an electronic or mechanical changeable message sign.

100 (f) A municipality may not impose the curfew described in Subsection (3)(e) unless:

101 (i) the electronic or mechanical changeable message sign is located outside of an area  
102 governed by the Highway Beautification Act of 1965, Pub. L. No. 89-285, 79 Stat. 1028, or the  
103 Utah-Federal Agreement, as defined in Section 72-7-515; and

104 (ii) the face of the electronic or mechanical changeable message sign:

105 (A) is within 150 feet of the outer edge of an existing residential dwelling structure that  
106 is legally occupied and located on property zoned exclusively for residential purposes; and

107 (B) is oriented toward the structure described in Subsection (3)(f)(ii)(A).

108 (g) A municipality shall pay a billboard owner's attorney fees incurred in enforcing the  
109 billboard owner's right to upgrade a billboard to an electronic or mechanical changeable  
110 message sign.

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

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

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

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

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

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

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

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

130 (6) A municipal ordinance adopted under Section 10-1-203 may not:

131 (a) require physical changes in a structure with a legal nonconforming rental housing  
132 use unless the change is for:

133 (i) the reasonable installation of:

134 (A) a smoke detector that is plugged in or battery operated;

135 (B) a ground fault circuit interrupter protected outlet on existing wiring;

136 (C) street addressing;

137 (D) except as provided in Subsection (7), an egress bedroom window if the existing  
138 bedroom window is smaller than that required by current state building code;

139 (E) an electrical system or a plumbing system, if the existing system is not functioning  
140 or is unsafe as determined by an independent electrical or plumbing professional who is  
141 licensed in accordance with Title 58, Occupations and Professions;

142 (F) hand or guard rails; or

143 (G) occupancy separation doors as required by the International Residential Code; or

144 (ii) the abatement of a structure; or

145 (b) be enforced to terminate a legal nonconforming rental housing use.

146 (7) A municipality may not require a change described in Subsection (6)(a)(i)(D) if the  
147 change:

148 (a) would compromise the structural integrity of a building; or

149 (b) could not be completed in accordance with current building codes, including  
150 set-back and window well requirements.

151 (8) A legal nonconforming rental housing use may not be terminated under Section

152 10-1-203.

153 Section 2. Section **10-9a-512** is amended to read:

154 **10-9a-512. Termination of a billboard and associated rights -- Eminent domain.**

155 (1) A municipality may only require termination of a billboard and associated property  
156 rights through:

- 157 (a) gift;
- 158 (b) purchase;
- 159 (c) agreement;
- 160 (d) exchange; or
- 161 (e) subject to Subsection (3), eminent domain.

162 (2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent  
163 of the billboard owner.

164 (3) If a municipality terminates a billboard owner's billboard or associated rights  
165 through eminent domain, the municipality shall exercise the right of eminent domain in  
166 accordance with and subject to the requirements of Title 78B, Chapter 6, Part 5, Eminent  
167 Domain.

168 Section 3. Section **10-9a-513** is amended to read:

169 **10-9a-513. Municipality's acquisition of billboard by eminent domain -- Removal**  
170 **without providing compensation -- Limit on allowing nonconforming billboards to be**  
171 **rebuilt or replaced -- Validity of municipal permit after issuance of state permit -- Just**  
172 **compensation in eminent domain proceeding -- Municipal conditions on billboard**  
173 **prohibited.**

174 (1) As used in this section:

175 (a) "Clearly visible" means capable of being [~~read~~] viewed without obstruction by an  
176 occupant of a vehicle traveling on a street or highway within the visibility area.

177 (b) "Highest allowable height" means:

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

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

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

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

186 (B) for an interstate billboard:

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

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

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

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

195 (i) 65 feet above the ground; and

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

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

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

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

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

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

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

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

207 (2) (a) A municipality [~~is considered to have initiated the acquisition of a billboard~~

208 ~~structure by eminent domain if the municipality prevents a billboard owner from]~~ may not

209 prevent a billboard owner from taking one or any of the following actions unless the

210 municipality has first commenced, subject to Subsection (2)(b)(i), eminent domain proceedings  
211 as described in Section 10-9a-512:

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

214 (ii) except as provided in Subsection (2)~~(c)~~(d), relocating or rebuilding a billboard  
215 structure, or taking other measures, to correct a mistake in the placement or erection of a  
216 billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding,  
217 or other measure is consistent with the intent of that permit;

218 (iii) structurally modifying or upgrading a billboard;

219 (iv) relocating a billboard into any commercial, industrial, or manufacturing zone  
220 within the municipality's boundaries, if:

221 (A) the relocated billboard is:

222 (I) within 5,280 feet of its previous location; and

223 (II) no closer than:

224 (Aa) 300 feet from an off-premise sign existing on the same side of the street or  
225 highway; or

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

230 (B) (I) the billboard owner has submitted a written request under Subsection  
231 10-9a-511(3)(c); and

232 (II) the municipality and billboard owner are unable to agree, within the time provided  
233 in Subsection 10-9a-511(3)(c), to a mutually acceptable location; ~~or~~

234 (v) making the following modifications, as the billboard owner determines, to a  
235 billboard that is structurally modified or upgraded under Subsection (2)(a)(iii) or relocated  
236 under Subsection (2)(a)(iv):

237 (A) erecting the billboard:

238 (I) to the highest allowable height; and

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

241 (B) installing a sign face on the billboard that is at least the same size as, but no larger  
242 than, the sign face on the billboard before its relocation~~[-];~~ or

243 (vi) exercising a right granted to a billboard owner under the provisions of Title 72,  
244 Chapter 7, Part 5, Utah Outdoor Advertising Act.

245 (b) (i) Notwithstanding Subsection (2)(a), a municipality may not commence eminent  
246 domain proceedings to prevent a billboard owner from upgrading a billboard to an electronic or  
247 mechanical changeable message sign.

248 ~~[(b)]~~ (ii) A modification under Subsection (2)(a)(v) shall comply with Title 72, Chapter  
249 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

250 (c) A municipality shall pay a billboard owner's attorney fees incurred in obtaining a  
251 permit or other approval necessary for the billboard owner to take an action described in  
252 Subsection (2)(a) if the municipality:

253 (i) prevents the billboard owner from taking one or any of the actions described in  
254 Subsection (2)(a) by delaying or withholding a permit or other necessary approval; and

255 (ii) does not commence eminent domain proceedings within 90 days after the day the  
256 billboard owner submits a written request or application.

257 ~~[(c)]~~ (d) A ~~[municipality's denial of]~~ municipality may deny a billboard owner's request  
258 to relocate or rebuild a billboard structure, or to take other measures, in order to correct a  
259 mistake in the placement or erection of a billboard ~~[does not constitute the initiation of~~  
260 ~~acquisition by]~~ without commencing eminent domain proceedings under Subsection (2)(a) if  
261 the mistake in placement or erection of the billboard is determined by clear and convincing  
262 evidence to have resulted from an intentionally false or misleading statement:

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

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

265 ~~[(d)]~~ (e) If a municipality ~~[is considered to have initiated the acquisition of]~~ acquires a  
266 billboard structure by eminent domain under Subsection (2)(a) or any other provision of  
267 applicable law, the municipality shall pay just compensation to the billboard owner in an  
268 amount that is:

269 (i) the value of the existing billboard at a fair market capitalization rate, based on  
270 actual annual revenue, less any annual rent expense;

271 (ii) the value of any other right associated with the billboard structure that is acquired;

272 (iii) the cost of the sign structure; and

273 (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the  
274 billboard owner's interest is a part.

275 (3) Notwithstanding Subsection (2) and Section 10-9a-512, a municipality may

276 ~~[remove]~~ require that a billboard owner remove a billboard without providing compensation if:

277 (a) the municipality determines:

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

281 (ii) by substantial evidence that the billboard:

282 (A) is structurally unsafe;

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

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

285 (b) the municipality notifies the owner in writing that the owner's billboard meets one  
286 or more of the conditions listed in Subsections (3)(a)(i) and (ii);

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

288 (i) except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's  
289 receipt of written notice under Subsection (3)(b); or

290 (ii) if the condition forming the basis of the municipality's intention to remove the  
291 billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary  
292 because of a natural disaster, following the billboard owner's receipt of written notice under  
293 Subsection (3)(b); and

294 (d) following the expiration of the applicable period under Subsection (3)(c) and after  
295 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,  
296 the municipality finds:

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

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

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

304 (5) A permit issued, extended, or renewed by a municipality for a billboard remains  
305 valid from the time the municipality issues, extends, or renews the permit until 180 days after a  
306 required state permit is issued for the billboard if:

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

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

310 (6) In an eminent domain proceeding initiated by a municipal action to terminate a  
311 billboard, the municipality shall pay the billboard owner's court costs, attorney fees incurred in  
312 defending against the termination and in setting the value of the billboard, appraiser fees, and  
313 expert fees if:

314 (a) the amount recovered by the billboard owner exceeds the sum of any offer made by  
315 the municipality during negotiations described in Section 78B-6-505;

316 (b) if the court determines that the municipality initiated eminent domain proceedings  
317 for a purpose not authorized by law; or

318 (c) the court determines that the municipality did not initiate eminent domain  
319 proceedings within the time frame specified in Subsection 10-9a-513(2)(c)(ii).

320 (7) A municipality may not require a billboard owner to remove or alter a billboard, or  
321 require that a person who has a lease, easement, or other agreement with a billboard owner to  
322 terminate or fail to renew that lease, easement, or other agreement as a condition of issuing or  
323 approving:

324 (a) a permit;

325 (b) a license;

326 (c) a zone change;

327 (d) a variance;

328 (e) any land use entitlement; or

329 (f) any other land use approval or ordinance.

330 Section 4. Section **17-27a-510** is amended to read:

331 **17-27a-510. Nonconforming uses and noncomplying structures.**

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

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

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

338 (2) The legislative body may provide for:

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

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

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

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

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

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

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

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

360 (ii) If the county and billboard owner cannot agree to a mutually acceptable location  
361 within 90 days after the owner submits a written request to relocate the billboard, the  
362 [provisions of] county may not prevent the billboard owner from taking an action specified in  
363 Subsection 17-27a-512(2)(a)(iv) [apply] unless the county has commenced eminent domain  
364 proceedings in accordance with the provisions of Section 17-27a-511 within 90 days after the  
365 day that the billboard owner submits a written request to relocate the billboard.

366 (d) (i) Except as provided in Subsection (3)(e), a county may not enact or enforce an  
367 ordinance that prevents an owner of an existing nonconforming or conforming billboard from  
368 upgrading that billboard to an electronic or mechanical changeable message sign that operates

369 in conformance with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.

370 (ii) A county may not enact or enforce an ordinance that forces an owner of an existing  
371 nonconforming or conforming billboard to forfeit any other billboard owned by the same owner  
372 in order to upgrade the existing nonconforming or conforming billboard to an electronic or  
373 mechanical changeable message sign that operates in conformance with Title 72, Chapter 7,  
374 Part 5, Utah Outdoor Advertising Act.

375 (e) A county may, subject to Subsection (3)(f), impose a midnight to 6 a.m. curfew on  
376 the operation of an electronic or mechanical changeable message sign.

377 (f) A county may not impose the curfew described in Subsection (3)(e) unless:

378 (i) the electronic or mechanical changeable message sign is located outside of an area  
379 governed by the Highway Beautification Act of 1965, Pub. L. No. 89-285, 79 Stat. 1028, or the  
380 Utah-Federal Agreement, as defined in Section 72-7-515; and

381 (ii) the face of the electronic or mechanical changeable message sign:

382 (A) is within 150 feet of the outer edge of an existing residential dwelling structure that  
383 is legally occupied and located on property zoned exclusively for residential purposes; and

384 (B) is oriented toward the structure described in Subsection (3)(f)(ii)(A).

385 (g) A county shall pay a billboard owner's attorney fees incurred in enforcing the  
386 billboard owner's right to upgrade a billboard to an electronic or mechanical changeable  
387 message sign.

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

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

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

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

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

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

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

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

407 Section 5. Section 17-27a-511 is amended to read:

408 **17-27a-511. Termination of a billboard and associated rights -- Eminent domain.**

409 (1) A county may only require termination of a billboard and associated property rights  
410 through:

- 411 (a) gift;
- 412 (b) purchase;
- 413 (c) agreement;
- 414 (d) exchange; or
- 415 (e) subject to Subsection (3), eminent domain.

416 (2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent  
417 of the billboard owner.

418 (3) If a county terminates a billboard owner's billboard or associated rights through  
419 eminent domain, the county shall exercise the right of eminent domain in accordance with and  
420 subject to the requirements of Title 78B, Chapter 6, Part 5, Eminent Domain.

421 Section 6. Section 17-27a-512 is amended to read:

422 **17-27a-512. County's acquisition of billboard by eminent domain -- Removal**  
423 **without providing compensation -- Limit on allowing nonconforming billboard to be**  
424 **rebuilt or replaced -- Validity of county permit after issuance of state permit -- Just**  
425 **compensation in eminent domain proceeding -- County conditions on billboard**  
426 **prohibited.**

427 (1) As used in this section:

428 (a) "Clearly visible" means capable of being [~~read~~] viewed without obstruction by an  
429 occupant of a vehicle traveling on a street or highway within the visibility area.

430 (b) "Highest allowable height" means:

- 431 (i) if the height allowed by the county, by ordinance or consent, is higher than the  
432 height under Subsection (1)(b)(ii), the height allowed by the county; or
- 433 (ii) (A) for a noninterstate billboard:
- 434 (I) if the height of the previous use or structure is 45 feet or higher, the height of the  
435 previous use or structure; or
- 436 (II) if the height of the previous use or structure is less than 45 feet, the height of the  
437 previous use or structure or the height to make the entire advertising content of the billboard  
438 clearly visible, whichever is higher, but no higher than 45 feet; and
- 439 (B) for an interstate billboard:
- 440 (I) if the height of the previous use or structure is at or above the interstate height, the  
441 height of the previous use or structure; or
- 442 (II) if the height of the previous use or structure is less than the interstate height, the  
443 height of the previous use or structure or the height to make the entire advertising content of  
444 the billboard clearly visible, whichever is higher, but no higher than the interstate height.
- 445 (c) "Interstate billboard" means a billboard that is intended to be viewed from a  
446 highway that is an interstate.
- 447 (d) "Interstate height" means a height that is the higher of:
- 448 (i) 65 feet above the ground; and
- 449 (ii) 25 feet above the grade of the interstate.
- 450 (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a  
451 street or highway that is not an interstate.
- 452 (f) "Visibility area" means the area on a street or highway that is:
- 453 (i) defined at one end by a line extending from the base of the billboard across all lanes  
454 of traffic of the street or highway in a plane that is perpendicular to the street or highway; and
- 455 (ii) defined on the other end by a line extending across all lanes of traffic of the street  
456 or highway in a plane that is:
- 457 (A) perpendicular to the street or highway; and
- 458 (B) (I) for an interstate billboard, 500 feet from the base of the billboard; or
- 459 (II) for a noninterstate billboard, 300 feet from the base of the billboard.
- 460 (2) (a) A county [~~is considered to have initiated the acquisition of a billboard structure~~  
461 ~~by eminent domain if the county prevents a billboard owner from~~] may not prevent a billboard

462 owner from taking one or any of the following actions unless the county has first commenced,  
463 subject to Subsection (2)(b)(i), eminent domain proceedings as described in Section  
464 17-27a-511:

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

467 (ii) except as provided in Subsection (2)(~~e~~)(d), relocating or rebuilding a billboard  
468 structure, or taking other measures, to correct a mistake in the placement or erection of a  
469 billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or  
470 other measure is consistent with the intent of that permit;

471 (iii) structurally modifying or upgrading a billboard;

472 (iv) relocating a billboard into any commercial, industrial, or manufacturing zone  
473 within the unincorporated area of the county, if:

474 (A) the relocated billboard is:

475 (I) within 5,280 feet of its previous location; and

476 (II) no closer than:

477 (Aa) 300 feet from an off-premise sign existing on the same side of the street or  
478 highway; or

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

483 (B) (I) the billboard owner has submitted a written request under Subsection  
484 17-27a-510(3)(c); and

485 (II) the county and billboard owner are unable to agree, within the time provided in  
486 Subsection 17-27a-510(3)(c), to a mutually acceptable location; ~~or~~

487 (v) making the following modifications, as the billboard owner determines, to a  
488 billboard that is structurally modified or upgraded under Subsection (2)(a)(iii) or relocated  
489 under Subsection (2)(a)(iv):

490 (A) erecting the billboard:

491 (I) to the highest allowable height; and

492 (II) as the owner determines, to an angle that makes the entire advertising content of

493 the billboard clearly visible; and

494 (B) installing a sign face on the billboard that is at least the same size as, but no larger  
495 than, the sign face on the billboard before its relocation[-]; or

496 (vi) exercising a right granted to a billboard owner under the provisions of Title 72,  
497 Chapter 7, Part 5, Utah Outdoor Advertising Act.

498 (b) (i) Notwithstanding Subsection (2)(a), a county may not commence eminent  
499 domain proceedings to prevent a billboard owner from upgrading a billboard to an electronic or  
500 mechanical changeable message sign.

501 ~~[(b)]~~ (ii) A modification under Subsection ~~[(1)]~~ (2)(a)(v) shall comply with Title 72,  
502 Chapter 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

503 (c) A county shall pay a billboard owner's attorney fees incurred in obtaining a permit  
504 or other approval necessary for the billboard owner to take an action described in Subsection  
505 (2)(a) if the county:

506 (i) prevents the billboard owner from taking one or any of the actions described in  
507 Subsection (2)(a) by delaying or withholding a permit or other necessary approval; and

508 (ii) does not commence eminent domain proceedings within 90 days after the day the  
509 billboard owner submits a written request or application.

510 ~~[(c)]~~ (d) A ~~county's denial of~~ county may deny a billboard owner's request to relocate  
511 or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the  
512 placement or erection of a billboard ~~[does not constitute the initiation of acquisition by]~~  
513 without commencing eminent domain proceedings under Subsection (2)(a) if the mistake in  
514 placement or erection of the billboard is determined by clear and convincing evidence to have  
515 resulted from an intentionally false or misleading statement:

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

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

518 ~~[(d)]~~ (e) If a county ~~[is considered to have initiated the acquisition of]~~ acquires a  
519 billboard structure by eminent domain under Subsection ~~[(1)]~~ (2)(a) or any other provision of  
520 applicable law, the county shall pay just compensation to the billboard owner in an amount that  
521 is:

522 (i) the value of the existing billboard at a fair market capitalization rate, based on  
523 actual annual revenue, less any annual rent expense;

524 (ii) the value of any other right associated with the billboard structure that is acquired;  
525 (iii) the cost of the sign structure; and  
526 (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the  
527 billboard owner's interest is a part.

528 (3) Notwithstanding Subsection (2) and Section 17-27a-511, a county may ~~remove~~  
529 require that a billboard owner remove a billboard without providing compensation if:

530 (a) the county determines:

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

534 (ii) by substantial evidence that the billboard:

535 (A) is structurally unsafe;

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

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

538 (b) the county notifies the owner in writing that the owner's billboard meets one or  
539 more of the conditions listed in Subsections (3)(a)(i) and (ii);

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

541 (i) except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's  
542 receipt of written notice under Subsection (3)(b); or

543 (ii) if the condition forming the basis of the county's intention to remove the billboard  
544 is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a  
545 natural disaster, following the billboard owner's receipt of written notice under Subsection  
546 (3)(b); and

547 (d) following the expiration of the applicable period under Subsection (3)(c) and after  
548 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,  
549 the county finds:

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

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

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

557 (5) A permit issued, extended, or renewed by a county for a billboard remains valid  
558 from the time the county issues, extends, or renews the permit until 180 days after a required  
559 state permit is issued for the billboard if:

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

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

563 (6) In an eminent domain proceeding initiated by a county action to terminate a  
564 billboard, the county shall pay the billboard owner's court costs, attorney fees incurred in  
565 defending against the termination and in setting the value of the billboard, appraiser fees, and  
566 expert fees if:

567 (a) the amount recovered by the billboard owner exceeds the sum of any offer made by  
568 the county during negotiations described in Section 78B-6-505;

569 (b) the court determines that the county initiated eminent domain proceedings for a  
570 purpose not authorized by law; or

571 (c) the court determines that the county did not initiate eminent domain proceedings  
572 within the time frame specified in Subsection 17-9a-512(2)(c)(ii).

573 (7) A county may not require that a billboard owner remove or alter a billboard, or  
574 require that a person who has a lease, easement, or other agreement with a billboard owner  
575 terminate or fail to renew that lease, easement, or other agreement as a condition of issuing or  
576 approving:

577 (a) a permit;

578 (b) a license;

579 (c) a zone change;

580 (d) a variance;

581 (e) any land use entitlement; or

582 (f) any other land use approval or ordinance.

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

584 **72-7-502. Definitions.**

585 As used in this part:

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

589 (2) "Commercial or industrial activities" means those activities generally recognized as  
590 commercial or industrial by zoning authorities in this state, except that none of the following  
591 are commercial or industrial activities:

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

594 (b) transient or temporary activities;

595 (c) activities not visible from the main-traveled way;

596 (d) activities conducted in a building principally used as a residence; and

597 (e) railroad tracks and minor sidings.

598 (3) (a) "Commercial or industrial zone" means only:

599 (i) those areas within the boundaries of cities or towns that are used or reserved for  
600 business, commerce, or trade, or zoned as a highway service zone, under enabling state  
601 legislation or comprehensive local zoning ordinances or regulations;

602 (ii) those areas within the boundaries of urbanized counties that are used or reserved  
603 for business, commerce, or trade, or zoned as a highway service zone, under enabling state  
604 legislation or comprehensive local zoning ordinances or regulations;

605 (iii) those areas outside the boundaries of urbanized counties and outside the  
606 boundaries of cities and towns that:

607 (A) are used or reserved for business, commerce, or trade, or zoned as a highway  
608 service zone, under comprehensive local zoning ordinances or regulations or enabling state  
609 legislation; and

610 (B) are within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured  
611 from the nearest point of the beginning or ending of the pavement widening at the exit from or  
612 entrance to the main-traveled way; or

613 (iv) those areas outside the boundaries of urbanized counties and outside the  
614 boundaries of cities and towns and not within 8420 feet of an interstate highway exit, off-ramp,  
615 or turnoff as measured from the nearest point of the beginning or ending of the pavement  
616 widening at the exit from or entrance to the main-traveled way that are reserved for business,

617 commerce, or trade under enabling state legislation or comprehensive local zoning ordinances  
618 or regulations, and are actually used for commercial or industrial purposes.

619 (b) "Commercial or industrial zone" does not mean areas zoned for the sole purpose of  
620 allowing outdoor advertising.

621 (4) "Comprehensive local zoning ordinances or regulations" means a municipality's  
622 comprehensive plan required by Section 10-9a-401, the municipal zoning plan authorized by  
623 Section 10-9a-501, and the county master plan authorized by Sections 17-27a-401 and  
624 17-27a-501. Property that is rezoned by comprehensive local zoning ordinances or regulations  
625 is rebuttably presumed to have not been zoned for the sole purpose of allowing outdoor  
626 advertising.

627 (5) "Directional signs" means signs containing information about public places owned  
628 or operated by federal, state, or local governments or their agencies, publicly or privately  
629 owned natural phenomena, historic, cultural, scientific, educational, or religious sites, and areas  
630 of natural scenic beauty or naturally suited for outdoor recreation, that the department considers  
631 to be in the interest of the traveling public.

632 (6) (a) "Erect" means to construct, build, raise, assemble, place, affix, attach, create,  
633 paint, draw, or in any other way bring into being.

634 (b) "Erect" does not include any activities defined in Subsection (6)(a) if they are  
635 performed incident to the change of an advertising message or customary maintenance of a  
636 sign.

637 (7) "Highway service zone" means a highway service area where the primary use of the  
638 land is used or reserved for commercial and roadside services other than outdoor advertising to  
639 serve the traveling public.

640 (8) "Information center" means an area or site established and maintained at rest areas  
641 for the purpose of informing the public of:

642 (a) places of interest within the state; or

643 (b) any other information that the department considers desirable.

644 (9) "Interchange or intersection" means those areas and their approaches where traffic  
645 is channeled off or onto an interstate route, excluding the deceleration lanes, acceleration lanes,  
646 or feeder systems, from or to another federal, state, county, city, or other route.

647 (10) "Maintain" means to allow to exist, subject to the provisions of this chapter.

648 (11) "Maintenance" means to repair, refurbish, repaint, upgrade, or otherwise [~~keep~~]  
649 operate an existing or upgraded sign structure in a safe manner and in a state suitable for use in  
650 any manner not otherwise prohibited by this part, including signs destroyed by vandalism or an  
651 act of God.

652 (12) "Main-traveled way" means the through traffic lanes, including auxiliary lanes,  
653 acceleration lanes, deceleration lanes, and feeder systems, exclusive of frontage roads and  
654 ramps. For a divided highway, there is a separate main-traveled way for the traffic in each  
655 direction.

656 (13) "Major sponsor" means a sponsor of a public assembly facility or of a team or  
657 event held at the facility where the amount paid by the sponsor to the owner of the facility, to  
658 the team, or for the event is at least \$100,000 per year.

659 (14) "Official signs and notices" means signs and notices erected and maintained by  
660 public agencies within their territorial or zoning jurisdictions for the purpose of carrying out  
661 official duties or responsibilities in accordance with direction or authorization contained in  
662 federal, state, or local law.

663 (15) "Off-premise signs" means signs located in areas zoned industrial, commercial, or  
664 H-1 and in areas determined by the department to be unzoned industrial or commercial that  
665 advertise an activity, service, event, person, or product located on premises other than the  
666 premises at which the advertising occurs.

667 (16) "On-premise signs" means signs used to advertise the major activities conducted  
668 on the property where the sign is located.

669 (17) "Outdoor advertising" means any outdoor advertising structure or outdoor  
670 structure used in combination with an outdoor advertising sign or outdoor sign within the  
671 outdoor advertising corridor which is visible from a place on the main-traveled way of a  
672 controlled route.

673 (18) "Outdoor advertising corridor" means a strip of land 350 feet wide, measured  
674 perpendicular from the edge of a controlled highway right-of-way.

675 (19) "Outdoor advertising structure" or "outdoor structure" means any sign structure,  
676 including any necessary devices, supports, appurtenances, and lighting that is part of or  
677 supports an outdoor sign.

678 (20) "Point of widening" means the point of the gore or the point where the intersecting

679 lane begins to parallel the other lanes of traffic, but the point of widening may never be greater  
680 than 2,640 feet from the center line of the intersecting highway of the interchange or  
681 intersection at grade.

682 (21) "Public assembly facility" means a convention facility as defined under Section  
683 59-12-602 and that:

684 (a) includes all contiguous interests in land, improvements, and utilities acquired,  
685 constructed, and used in connection with the operation of the public assembly facility, whether  
686 the interests are owned or held in fee title or a lease or easement for a term of at least 40 years,  
687 and regardless of whether the interests are owned or operated by separate governmental  
688 authorities or districts;

689 (b) is wholly or partially funded by public money;

690 (c) requires a person attending an event at the public assembly facility to purchase a  
691 ticket or that otherwise charges for the use of the public assembly facility as part of its regular  
692 operation; and

693 (d) has a minimum and permanent seating capacity of at least 10,000 people.

694 (22) "Public assembly facility sign" means a sign located on a public assembly facility  
695 that only advertises the public assembly facility, major sponsors, events, the sponsors of events  
696 held or teams playing at the facility, and products sold or services conducted at the facility.

697 (23) "Relocation" includes the removal of a sign from one situs together with the  
698 erection of a new sign upon another situs in a commercial or industrial zoned area as a  
699 substitute.

700 (24) "Relocation and replacement" means allowing all outdoor advertising signs or  
701 permits the right to maintain outdoor advertising along the interstate, federal aid primary  
702 highway existing as of June 1, 1991, and national highway system highways to be maintained  
703 in a commercial or industrial zoned area to accommodate the displacement, remodeling, or  
704 widening of the highway systems.

705 (25) "Remodel" means the upgrading, changing, alteration, refurbishment,  
706 modification, or complete substitution of a new outdoor advertising structure for one permitted  
707 pursuant to this part and that is located in a commercial or industrial area.

708 (26) "Rest area" means an area or site established and maintained within or adjacent to  
709 the right-of-way by or under public supervision or control for the convenience of the traveling

710 public.

711 (27) "Scenic or natural area" means an area determined by the department to have  
712 aesthetic value.

713 (28) "Traveled way" means that portion of the roadway used for the movement of  
714 vehicles, exclusive of shoulders and auxiliary lanes.

715 (29) (a) "Unzoned commercial or industrial area" means:

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

719 (ii) the lands along the highway for a distance of 600 feet immediately adjacent to  
720 those activities; and

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

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

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

731 (30) "Urbanized county" means a county with a population of at least 125,000 persons.

732 (31) "Visibility area" means the area on a street or highway that is:

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

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

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

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

739 Section 8. Section **72-7-505** is amended to read:

740 **72-7-505. Sign size -- Sign spacing -- Location in outdoor advertising corridor --**

741 **Limit on implementation.**

742 (1) (a) Except as provided in Subsection (2), a sign face within the state may not  
743 exceed the following limits:

744 (i) maximum area - 1,000 square feet;

745 (ii) maximum length - 60 feet; and

746 (iii) maximum height - 25 feet.

747 (b) No more than two facings visible and readable from the same direction on the  
748 main-traveled way may be erected on any one sign structure. Whenever two facings are so  
749 positioned, neither shall exceed the maximum allowed square footage.

750 (c) Two or more advertising messages on a sign face and double-faced, back-to-back,  
751 stacked, side-by-side, and V-type signs are permitted as a single sign or structure if both faces  
752 enjoy common ownership.

753 ~~[(d) A changeable message sign is permitted if the interval between message changes is  
754 not more frequent than at least eight seconds and the actual message rotation process is  
755 accomplished in three seconds or less.]~~

756 ~~[(e) An illumination standard adopted by any jurisdiction shall be uniformly applied to  
757 all signs, public or private, on or off premise.]~~

758 (d) An existing conforming or nonconforming sign, a newly constructed conforming  
759 sign, or a relocated sign may be upgraded or constructed as an electronic changeable message  
760 sign so long as the interval between message changes is not more frequent than at least eight  
761 seconds and the actual message rotation process is accomplished in three seconds or less.

762 (e) The illumination of an electronic changeable message sign may not be limited,  
763 except to prevent an electronic sign face from increasing ambient lighting levels by more than  
764 0.3 footcandles when measured:

765 (i) after sunset and before sunrise;

766 (ii) perpendicular to the sign face; and

767 (iii) at a distance in feet calculated by taking the square root of the product of the  
768 following:

769 (A) the area of the electronic changeable message sign face measured in square feet;

770 and

771 (B) 100.

772 (f) If a political subdivision adopts an electronic changeable message sign illumination  
773 standard within the limitations described in Subsection (1)(e), and adopts a separate  
774 illumination standard for any other sign, public or private, on or off premise, the political  
775 subdivision shall allow an owner of an electronic changeable message sign to illuminate the  
776 owner's sign at the brighter of the two standards.

777 (2) (a) An outdoor sign structure located inside the unincorporated area of a  
778 nonurbanized county may have the maximum height allowed by the county for outdoor  
779 advertising structures in the commercial or industrial zone in which the sign is located. If no  
780 maximum height is provided for the location, the maximum sign height may be 65 feet above  
781 the ground or 25 feet above the grade of the main traveled way, whichever is greater.

782 (b) An outdoor sign structure located inside an incorporated municipality or urbanized  
783 county may have the maximum height allowed by the municipality or urbanized county for  
784 outdoor advertising structures in the commercial or industrial zone in which the sign is located.  
785 If no maximum height is provided for the location, the maximum sign height may be 65 feet  
786 above the ground or 25 feet above the grade of the main traveled way, whichever is greater.

787 (3) Except as provided in Section 72-7-509:

788 (a) Any sign allowed to be erected by reason of the exceptions set forth in Subsection  
789 72-7-504(1) or in H-1 zones may not be closer than 500 feet to an existing off-premise sign  
790 adjacent to an interstate highway or limited access primary highway, except that signs may be  
791 erected closer than 500 feet if the signs on the same side of the interstate highway or limited  
792 access primary highway are not simultaneously visible.

793 (b) Signs may not be located within 500 feet of any of the following which are adjacent  
794 to the highway, unless the signs are in an incorporated area:

795 (i) public parks;

796 (ii) public forests;

797 (iii) public playgrounds;

798 (iv) areas designated as scenic areas by the department or other state agency having and  
799 exercising this authority; or

800 (v) cemeteries.

801 (c) (i) (A) Except under Subsection (3)(c)(ii), signs may not be located on an interstate  
802 highway or limited access highway on the primary system within 500 feet of an interchange, or

803 intersection at grade, or rest area measured along the interstate highway or freeway from the  
804 sign to the nearest point of the beginning or ending of pavement widening at the exit from or  
805 entrance to the main-traveled way.

806 (B) Interchange and intersection distance limitations shall be measured separately for  
807 each direction of travel. A measurement for each direction of travel may not control or affect  
808 any other direction of travel.

809 (ii) A sign may be placed closer than 500 feet from the nearest point of the beginning  
810 or ending of pavement widening at the exit from or entrance to the main-traveled way, if:

811 (A) the sign is replacing an existing outdoor advertising use or structure which is being  
812 removed or displaced to accommodate the widening, construction, or reconstruction of an  
813 interstate, federal aid primary highway existing as of June 1, 1991, or national highway system  
814 highway; and

815 (B) it is located in a commercial or industrial zoned area inside an urbanized county or  
816 an incorporated municipality.

817 (d) The location of signs situated on nonlimited access primary highways in  
818 commercial, industrial, or H-1 zoned areas between streets, roads, or highways entering the  
819 primary highway shall not exceed the following minimum spacing criteria:

820 (i) Where the distance between centerlines of intersecting streets, roads, or highways is  
821 less than 1,000 feet, a minimum spacing between structures of 150 feet may be permitted  
822 between the intersecting streets or highways.

823 (ii) Where the distance between centerlines of intersecting streets, roads, or highways  
824 is 1,000 feet or more, minimum spacing between sign structures shall be 300 feet.

825 (e) All outdoor advertising shall be erected and maintained within the outdoor  
826 advertising corridor.

827 (4) Subsection (3)(c)(ii) may not be implemented until:

828 (a) the Utah-Federal Agreement for carrying out national policy relative to control of  
829 outdoor advertising in areas adjacent to the national system of interstate and defense highways  
830 and the federal-aid primary system is modified to allow the sign placement specified in  
831 Subsection (3)(c)(ii); and

832 (b) the modified agreement under Subsection (4)(a) is signed on behalf of both the state  
833 and the United States Secretary of Transportation.

834 Section 9. Section **72-7-508** is amended to read:

835 **72-7-508. Unlawful outdoor advertising -- Adjudicative proceedings -- Judicial**  
836 **review -- Costs of removal -- Civil and criminal liability for damaging regulated signs --**  
837 **Immunity for Department of Transportation.**

838 (1) Outdoor advertising is unlawful when:

839 (a) erected after May 9, 1967, contrary to the provisions of this chapter;

840 (b) a permit is not obtained as required by this part;

841 (c) a false or misleading statement has been made in the application for a permit that  
842 was material to obtaining the permit; or

843 (d) the sign for which a permit was issued is not in a reasonable state of repair, is  
844 unsafe, or is otherwise in violation of this part.

845 (2) The establishment, operation, repair, maintenance, or alteration of any sign contrary  
846 to this chapter is also a public nuisance.

847 (3) Except as provided in Subsection (4), in its enforcement of this section, the  
848 department shall comply with the procedures and requirements of Title 63G, Chapter 4,  
849 Administrative Procedures Act.

850 (4) (a) The district courts shall have jurisdiction to review by trial de novo all final  
851 orders of the department under this part resulting from formal and informal adjudicative  
852 proceedings.

853 (b) Venue for judicial review of final orders of the department shall be in the county in  
854 which the sign is located.

855 (5) If the department is granted a judgment, the department is entitled to have any  
856 nuisance abated and recover from the responsible person, firm, or corporation, jointly and  
857 severally:

858 (a) the costs and expenses incurred in removing the sign; and

859 (b) (i) \$500 for each day the sign was maintained following the expiration of 10 days  
860 after notice of agency action was filed and served under Section 63G-4-201;

861 (ii) \$750 for each day the sign was maintained following the expiration of 40 days after  
862 notice of agency action was filed and served under Section 63G-4-201;

863 (iii) \$1,000 for each day the sign was maintained following the expiration of 70 days  
864 after notice of agency action was filed and served under Section 63G-4-201; and

865 (iv) \$1,500 for each day the sign was maintained following the expiration of 100 days  
866 after notice of agency action was filed and served under Section 63G-4-201.

867 (6) (a) Any person, partnership, firm, or corporation who vandalizes, damages, defaces,  
868 destroys, or uses any sign controlled under this chapter without the owner's permission is liable  
869 to the owner of the sign for treble the amount of damage sustained and all costs of court,  
870 including a reasonable [attorney's] attorney fee, and is guilty of a class C misdemeanor.

871 (b) This Subsection (6) does not apply to the department, its agents, or employees if  
872 acting to enforce this part.

873 (7) The following criteria shall be used for determining whether an existing sign within  
874 an [~~interstate~~] outdoor advertising corridor has as its purpose unlawful off-premise outdoor  
875 advertising:

876 (a) whether the sign complies with this part;

877 (b) whether the premise includes an area:

878 (i) from which the general public is serviced according to normal industry practices for  
879 organizations of that type; or

880 (ii) that is directly connected to or is involved in carrying out the activities and normal  
881 industry practices of the advertised activities, services, events, persons, or products;

882 (c) whether the sign generates revenue:

883 (i) arising from the advertisement of activities, services, events, or products not  
884 available on the premise according to normal industry practices for organizations of that type;

885 (ii) arising from the advertisement of activities, services, events, persons, or products  
886 that are incidental to the principal activities, services, events, or products available on the  
887 premise; and

888 (iii) including the following:

889 (A) money;

890 (B) securities;

891 (C) real property interest;

892 (D) personal property interest;

893 (E) barter of goods or services;

894 (F) promise of future payment or compensation; or

895 (G) forbearance of debt;

896 (d) whether the purveyor of the activities, services, events, persons, or products being  
897 advertised:

898 (i) carries on hours of operation on the premise comparable to the normal industry  
899 practice for a business, service, or operation of that type, or posts the hours of operation on the  
900 premise in public view;

901 (ii) has available utilities comparable to the normal industry practice for an entity of  
902 that type; and

903 (iii) has a current valid business license or permit under applicable local ordinances,  
904 state law, and federal law to conduct business on the premise upon which the sign is located;

905 (e) whether the advertisement is located on the site of any auxiliary facility that is not  
906 essential to, or customarily used in, the ordinary course of business for the activities, services,  
907 events, persons, or products being advertised; or

908 (f) whether the sign or advertisement is located on property that is not contiguous to a  
909 property that is essential and customarily used for conducting the business of the activities,  
910 services, events, persons, or products being advertised.

911 (8) The following do not qualify as a business under Subsection (7):

912 (a) public or private utility corridors or easements;

913 (b) railroad tracks;

914 (c) outdoor advertising signs or structures;

915 (d) vacant lots;

916 (e) transient or temporary activities; or

917 (f) storage of accessory products.

918 (9) The sign owner has the burden of proving, by a preponderance of the evidence, that  
919 the advertised activity is conducted on the premise.

920 Section 10. Section **72-7-510** is amended to read:

921 **72-7-510. Existing outdoor advertising not in conformity with part -- Procedure**  
922 **-- Eminent domain -- Compensation -- Relocation.**

923 (1) As used in this section, "nonconforming sign" means a sign that has been erected in  
924 a zone or area other than commercial or industrial or where outdoor advertising is not  
925 permitted under this part.

926 (2) (a) The department may acquire by gift, purchase, agreement, exchange, or eminent

927 domain, any existing outdoor advertising and all property rights pertaining to the outdoor  
928 advertising which were lawfully in existence on May 9, 1967, and which by reason of this part  
929 become nonconforming.

930 (b) ~~[If the]~~ The department, or any town, city, county, governmental entity, public  
931 utility, or any agency or the United States Department of Transportation under this part[;  
932 ~~prevents]~~ may not prevent the maintenance as defined in Section 72-7-502, or [~~requires]~~  
933 require that maintenance of an existing sign be discontinued[;] unless the department, town,  
934 city, county, governmental entity, public utility, or agency acquires the sign in question [~~shall~~  
935 ~~be considered acquired by the entity and just compensation will become immediately due and~~  
936 ~~payable]~~ by eminent domain.

937 (c) Eminent domain shall be exercised in accordance with the [~~provision]~~ provisions of  
938 Title 78B, Chapter 6, Part 5, Eminent Domain.

939 (3) (a) Just compensation shall be paid for outdoor advertising and all property rights  
940 pertaining to the same, including the right of the landowner upon whose land a sign is located,  
941 acquired through the processes of eminent domain.

942 (b) For the purposes of this part, just compensation shall include the consideration of  
943 damages to remaining properties, contiguous and noncontiguous, of an outdoor advertising sign  
944 company's interest, which remaining properties, together with the properties actually  
945 condemned, constituted an economic unit.

946 (c) The department is empowered to remove signs found in violation of Section  
947 72-7-508 without payment of any compensation.

948 (4) (a) Except as specifically provided in this [~~section or Section 72-7-513]~~ part, Title  
949 10, Chapter 9a, Part 5, Land Use Ordinances, or Title 17, Chapter 27a, Part 5, Land Use  
950 Ordinances, this part may not be construed to permit a person to place or maintain any outdoor  
951 advertising adjacent to any interstate or primary highway system which is prohibited [~~by law~~  
952 ~~or]~~ by any town, city, or county ordinance.

953 (b) Any town, city, county, governmental entity, or public utility which requires the  
954 removal, relocation, alteration, change, or termination of outdoor advertising shall commence  
955 eminent domain proceedings and pay just compensation as defined in this part and in Title  
956 78B, Chapter 6, Part 5, Eminent Domain.

957 (5) Except as provided in Section 72-7-508, no sign shall be required to be removed by

958 the department nor sign maintenance as described in this section be discontinued unless at the  
959 time of removal or discontinuance there are sufficient funds, from whatever source,  
960 appropriated and immediately available to pay the just compensation required under this  
961 section and unless at that time the federal funds required to be contributed under 23 U.S.C.,  
962 Sec. 131, if any, with respect to the outdoor advertising being removed, have been appropriated  
963 and are immediately available to this state.

964 (6) (a) If any outdoor advertising use, structure, or permit may not be continued  
965 because of the widening, construction, or reconstruction along an interstate, federal aid primary  
966 highway existing as of June 1, 1991, or national highway systems highway, the owner shall  
967 have the option to relocate and remodel the use, structure, or permit to another location:

968 (i) on the same property;

969 (ii) on adjacent property;

970 (iii) on the same highway within 5280 feet of the previous location, which may be  
971 extended 5280 feet outside the areas described in Subsection 72-7-505(3)(c)(i)(A), on either  
972 side of the same highway; or

973 (iv) mutually agreed upon by the owner and the county or municipality in which the  
974 use, structure, or permit is located.

975 (b) The relocation under Subsection (6)(a) shall be in a commercial or industrial zoned  
976 area or where outdoor advertising is permitted under this part.

977 (c) The county or municipality in which the use or structure is located shall, if  
978 necessary, provide for the relocation and remodeling by ordinance for a special exception to its  
979 zoning ordinance.

980 (d) The relocated and remodeled use or structure may be:

981 (i) erected to a height and angle to make it clearly visible to traffic on the main-traveled  
982 way of the highway to which it is relocated or remodeled;

983 (ii) the same size and at least the same height as the previous use or structure, but the  
984 relocated use or structure may not exceed the size and height permitted under this part; or

985 (iii) relocated to a comparable vehicular traffic count.

986 (7) (a) The governmental entity, quasi-governmental entity, or public utility that causes  
987 the need for the outdoor advertising relocation or remodeling as provided in Subsection (6)(a)  
988 shall pay the costs related to the relocation, remodeling, or acquisition.

989 (b) If a governmental entity prohibits the relocation and remodeling as provided in  
990 Subsection (6)(a), it shall pay just compensation as provided in Subsection (3).

991 Section 11. Section **72-7-510.5** is amended to read:

992 **72-7-510.5. Height adjustments for outdoor advertising signs -- Sign obstruction.**

993 (1) If the view [~~and readability~~] of an outdoor advertising sign, including a sign that is  
994 a nonconforming sign as defined in Section 72-7-510, a noncomplying structure as defined in  
995 Sections 10-9a-103 and 17-27a-103, or a nonconforming use as defined in Sections 10-9a-103  
996 and 17-27a-103 is obstructed due to a noise abatement or safety measure, grade change,  
997 construction, directional sign, highway widening, or aesthetic improvement made by an agency  
998 or political subdivision of this state, along an interstate, federal aid primary highway existing as  
999 of June 1, 1991, national highway systems highway, or state highway or by an improvement  
1000 created on real property subsequent to the department's disposal of the property under Section  
1001 72-5-111, the owner of the sign may:

1002 (a) adjust the height of the sign; or

1003 (b) relocate the sign to a point within 500 feet of its prior location, if the sign complies  
1004 with the spacing requirements under Section 72-7-505 and is in a commercial or industrial  
1005 zone.

1006 (2) A height adjusted sign under this section does not constitute a substantial change to  
1007 the sign.

1008 (3) The county or municipality in which the outdoor advertising sign is located shall, if  
1009 necessary, provide for the height adjustment or relocation by ordinance for a special exception  
1010 to its zoning ordinance.

1011 (4) (a) The height adjusted sign:

1012 (i) may be erected:

1013 (A) to a height to make the entire advertising content of the sign clearly visible; and

1014 (B) to an angle to make the entire advertising content of the sign clearly visible; and

1015 (ii) shall be the same size as the previous sign.

1016 (b) The provisions of Subsection (4)(a) are an exception to the height requirements  
1017 under Section 72-7-505.

1018 (5) (a) A billboard owner may, at the owner's own expense and in accordance with  
1019 Subsection (5)(b), trim trees or other foliage without a permit if the trees or foliage:

1020 (i) obstruct, however slight, the view of any part of the face of the outdoor advertising  
1021 sign; and

1022 (ii) are growing on or encroaching over property owned by the state or a political  
1023 subdivision of the state.

1024 (b) A billboard owner shall perform the work described in Subsection (5)(a):

1025 (i) under the supervision of a certified arborist; and

1026 (ii) by employing a company licensed and insured in the state.

1027 Section 12. Section **78B-6-501** is amended to read:

1028 **78B-6-501. Eminent domain -- Uses for which right may be exercised -- Uses for**  
1029 **which right may not be exercised.**

1030 (1) Subject to the provisions of this part, the right of eminent domain may be exercised  
1031 on behalf of the following public uses:

1032 [~~(1)~~] (a) all public uses authorized by the federal government;

1033 [~~(2)~~] (b) public buildings and grounds for the use of the state, and all other public uses  
1034 authorized by the Legislature;

1035 [~~(3)~~-(a)] (c) (i) public buildings and grounds for the use of any county, city, town, or  
1036 board of education;

1037 [~~(b)~~] (ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water  
1038 for the use of the inhabitants of any county, city, or town, or for the draining of any county,  
1039 city, or town;

1040 [~~(c)~~] (iii) the raising of the banks of streams, removing obstructions from streams, and  
1041 widening, deepening, or straightening their channels;

1042 [~~(d)~~] (iv) bicycle paths and sidewalks adjacent to paved roads;

1043 [~~(e)~~] (v) roads, streets, and alleys for public vehicular use, excluding trails, paths, or  
1044 other ways for walking, hiking, bicycling, equestrian use, or other recreational uses, or whose  
1045 primary purpose is as a foot path, equestrian trail, bicycle path, or walkway; and

1046 [~~(f)~~] (vi) all other public uses for the benefit of any county, city, or town, or its  
1047 inhabitants;

1048 [~~(4)~~] (d) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads,  
1049 plank and turnpike roads, roads for transportation by traction engines or road locomotives,  
1050 roads for logging or lumbering purposes, and railroads and street railways for public

1051 transportation;

1052           ~~[(5)]~~ (e) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and

1053 pipes for the supplying of persons, mines, mills, smelters or other works for the reduction of

1054 ores, with water for domestic or other uses, or for irrigation purposes, or for the draining and

1055 reclaiming of lands, or for the floating of logs and lumber on streams not navigable, or for solar

1056 evaporation ponds and other facilities for the recovery of minerals in solution;

1057           ~~[(6)]~~ ~~(a)~~ (f) (i) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping

1058 places to access or facilitate the milling, smelting, or other reduction of ores, or the working of

1059 mines, quarries, coal mines, or mineral deposits including minerals in solution;

1060           ~~[(b)]~~ (ii) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or

1061 water from mills, smelters or other works for the reduction of ores, or from mines, quarries,

1062 coal mines or mineral deposits including minerals in solution;

1063           ~~[(c)]~~ (iii) mill dams;

1064           ~~[(d)]~~ (iv) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface

1065 stratum or formation in any land for the underground storage of natural gas, and in connection

1066 with that, any other interests in property which may be required to adequately examine,

1067 prepare, maintain, and operate underground natural gas storage facilities;

1068           ~~[(e)]~~ (v) solar evaporation ponds and other facilities for the recovery of minerals in

1069 solution; and

1070           ~~[(f)]~~ (vi) any occupancy in common by the owners or possessors of different mines,

1071 quarries, coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores,

1072 or any place for the flow, deposit or conduct of tailings or refuse matter;

1073           ~~[(7)]~~ (g) byroads leading from a highway to:

1074           ~~[(a)]~~ (i) a residence;

1075           ~~[(b)]~~ (ii) a development; or

1076           ~~[(c)]~~ (iii) a farm;

1077           ~~[(8)]~~ (h) telegraph, telephone, electric light and electric power lines, and sites for

1078 electric light and power plants;

1079           ~~[(9)]~~ (i) sewage service for:

1080           ~~[(a)]~~ (i) a city, a town, or any settlement of not less than 10 families;

1081           ~~[(b)]~~ (ii) a development;

1082           ~~[(e)]~~ (iii) a public building belonging to the state; or  
 1083           ~~[(f)]~~ (iv) a college or university;  
 1084           ~~[(10)]~~ (j) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying  
 1085 and storing water for the operation of machinery for the purpose of generating and transmitting  
 1086 electricity for power, light or heat;

1087           ~~[(11)]~~ (k) cemeteries and public parks, except for a park whose primary use is:  
 1088           ~~[(a)]~~ (i) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use;

1089 or

1090           ~~[(b)]~~ (ii) to connect other trails, paths, or other ways for walking, hiking, bicycling, or  
 1091 equestrian use;

1092           ~~[(12)]~~ (l) pipe lines for the purpose of conducting any and all liquids connected with  
 1093 the manufacture of beet sugar; and

1094           ~~[(13)]~~ (m) sites for mills, smelters or other works for the reduction of ores and  
 1095 necessary to their successful operation, including the right to take lands for the discharge and  
 1096 natural distribution of smoke, fumes, and dust, produced by the operation of works, provided  
 1097 that the powers granted by this section may not be exercised in any county where the  
 1098 population exceeds 20,000, or within one mile of the limits of any city or incorporated town  
 1099 nor unless the proposed condemner has the right to operate by purchase, option to purchase or  
 1100 easement, at least 75% in value of land acreage owned by persons or corporations situated  
 1101 within a radius of four miles from the mill, smelter or other works for the reduction of ores; nor  
 1102 beyond the limits of the four-mile radius; nor as to lands covered by contracts, easements, or  
 1103 agreements existing between the condemner and the owner of land within the limit and  
 1104 providing for the operation of such mill, smelter, or other works for the reduction of ores; nor  
 1105 until an action shall have been commenced to restrain the operation of such mill, smelter, or  
 1106 other works for the reduction of ores.

1107           (2) A political subdivision may not terminate a billboard owner's billboard structure or  
 1108 associated rights through eminent domain unless:

1109           (a) the political subdivision commences eminent domain proceedings for a proposed  
 1110 public use described in Subsection (1); and

1111           (b) the proposed public use would be located on:

1112           (i) the same property where the billboard is located if the billboard owner does not

1113 intend to relocate the billboard; or

1114 (ii) the property where a billboard owner intends to relocate or construct a billboard.

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**Legislative Review Note**  
as of 1-11-12 12:23 PM

**Office of Legislative Research and General Counsel**