

Senator Wayne L. Niederhauser proposes the following substitute bill:

BILLBOARD REVISIONS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Melvin R. Brown

Senate Sponsor: Wayne L. Niederhauser

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;
- ▶ amends provisions related to a municipal or county acquisition of a billboard;
- ▶ 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 the illumination of an electronic or mechanical changeable message sign;
- ▶ amends language related to existing outdoor advertising; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **10-9a-511**, as last amended by Laws of Utah 2011, Chapter 210

30 **10-9a-513**, as last amended by Laws of Utah 2009, Chapters 170 and 233

31 **17-27a-510**, as last amended by Laws of Utah 2009, Chapter 170

32 **17-27a-512**, as last amended by Laws of Utah 2009, Chapters 170 and 233

33 **72-7-502**, as last amended by Laws of Utah 2011, Chapter 346

34 **72-7-505**, as last amended by Laws of Utah 2011, Chapter 346

35 **72-7-508**, as last amended by Laws of Utah 2011, Chapter 346

36 **72-7-510**, as last amended by Laws of Utah 2008, Chapter 3

37 **72-7-510.5**, as last amended by Laws of Utah 2009, Chapter 170



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

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

41 **10-9a-511. Nonconforming uses and noncomplying structures.**

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

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

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

48 (2) The legislative body may provide for:

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

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

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

56 (3) (a) A municipality may not prohibit the reconstruction or restoration of a

57 noncomplying structure or terminate the nonconforming use of a structure that is involuntarily
58 destroyed in whole or in part due to fire or other calamity unless the structure or use has been
59 abandoned.

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

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

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

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

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

74 (d) (i) A municipality:

75 (A) may not enact or enforce an ordinance that prevents the owner of a nonconforming
76 or conforming billboard that is intended to be viewed from the interstate, as defined in Section
77 72-1-102, from installing and using an electronic or mechanical changeable message sign that
78 operates in conformance with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and

79 (B) may enact or enforce an ordinance that prevents the owner of a nonconforming or
80 conforming billboard that is not intended to be viewed from the interstate system, as defined in
81 Section 72-1-102, from installing and using an electronic or mechanical changeable message
82 sign that operates in conformance with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising
83 Act.

84 (ii) A municipality may not enact or enforce an ordinance that forces an owner of a
85 nonconforming or conforming billboard to forfeit any other billboard owned by the same owner
86 in order to install and use an electronic or mechanical changeable message sign that operates in
87 conformance with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.

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

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

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

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

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

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

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

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

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

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

110 (i) the reasonable installation of:

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

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

113 (C) street addressing;

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

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

119 (F) hand or guard rails; or
120 (G) occupancy separation doors as required by the International Residential Code; or
121 (ii) the abatement of a structure; or
122 (b) be enforced to terminate a legal nonconforming rental housing use.
123 (7) A municipality may not require a change described in Subsection (6)(a)(i)(D) if the
124 change:

125 (a) would compromise the structural integrity of a building; or
126 (b) could not be completed in accordance with current building codes, including
127 set-back and window well requirements.

128 (8) A legal nonconforming rental housing use may not be terminated under Section
129 10-1-203.

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

131 **10-9a-513. Municipality's acquisition of billboard by eminent domain -- Removal**
132 **without providing compensation -- Limit on allowing nonconforming billboards to be**
133 **rebuilt or replaced -- Validity of municipal permit after issuance of state permit -- Just**
134 **compensation in eminent domain proceeding -- Municipal conditions on billboard**
135 **prohibited.**

136 (1) As used in this section:

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

139 (b) "Highest allowable height" means:

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

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

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

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

148 (B) for an interstate billboard:

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

150 height of the previous use or structure; or

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

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

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

157 (i) 65 feet above the ground; and

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

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

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

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

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

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

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

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

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

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

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

177 (iii) structurally modifying or upgrading a billboard;

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

180 (A) the relocated billboard is:

181 (I) within 5,280 feet of its previous location; and
182 (II) no closer than:
183 (Aa) 300 feet from an off-premise sign existing on the same side of the street or
184 highway; or
185 (Bb) if the street or highway is an interstate or limited access highway that is subject to
186 Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act
187 between the relocated billboard and an off-premise sign existing on the same side of the
188 interstate or limited access highway; and
189 (B) (I) the billboard owner has submitted a written request under Subsection
190 10-9a-511(3)(c); and
191 (II) the municipality and billboard owner are unable to agree, within the time provided
192 in Subsection 10-9a-511(3)(c), to a mutually acceptable location; [~~or~~]
193 (v) making the following modifications, as the billboard owner determines, to a
194 billboard that is structurally modified or upgraded under Subsection (2)(a)(iii) or relocated
195 under Subsection (2)(a)(iv):
196 (A) erecting the billboard:
197 (I) to the highest allowable height; and
198 (II) as the owner determines, to an angle that makes the entire advertising content of
199 the billboard clearly visible; and
200 (B) installing a sign face on the billboard that is at least the same size as, but no larger
201 than, the sign face on the billboard before its relocation[~~;~~]; or
202 (vi) exercising a right granted to a billboard owner under the provisions of Title 72,
203 Chapter 7, Part 5, Utah Outdoor Advertising Act.
204 (b) (i) Notwithstanding Subsection (2)(a), a municipality may not prevent a billboard
205 owner from upgrading a billboard to an electronic or mechanical changeable message sign in
206 compliance with the provisions of Subsection 10-9a-511(3)(d).
207 [~~(b)~~] (ii) A modification under Subsection (2)(a)(v) shall comply with Title 72, Chapter
208 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.
209 (c) A municipality's denial of a billboard owner's request to relocate or rebuild a
210 billboard structure, or to take other measures, in order to correct a mistake in the placement or
211 erection of a billboard does not constitute the initiation of acquisition by eminent domain under

212 Subsection (2)(a) if the mistake in placement or erection of the billboard is determined by clear
213 and convincing evidence to have resulted from an intentionally false or misleading statement:

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

216 (d) If a municipality is considered to have initiated the acquisition of a billboard
217 structure by eminent domain under Subsection (2)(a) or any other provision of applicable law,
218 the municipality shall pay just compensation to the billboard owner in an amount that is:

- 219 (i) the value of the existing billboard at a fair market capitalization rate, based on
220 actual annual revenue, less any annual rent expense;
- 221 (ii) the value of any other right associated with the billboard structure that is acquired;
- 222 (iii) the cost of the sign structure; and
- 223 (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the
224 billboard owner's interest is a part.

225 (3) Notwithstanding Subsection (2) and Section 10-9a-512, a municipality may
226 ~~require~~ require that a billboard owner remove a billboard without providing compensation if:

- 227 (a) the municipality determines:
 - 228 (i) by clear and convincing evidence that the applicant for a permit intentionally made a
229 false or misleading statement in the applicant's application regarding the placement or erection
230 of the billboard; or
 - 231 (ii) by substantial evidence that the billboard:
 - 232 (A) is structurally unsafe;
 - 233 (B) is in an unreasonable state of repair; or
 - 234 (C) has been abandoned for at least 12 months;
- 235 (b) the municipality notifies the owner in writing that the owner's billboard meets one
236 or more of the conditions listed in Subsections (3)(a)(i) and (ii);
- 237 (c) the owner fails to remedy the condition or conditions within:
 - 238 (i) except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's
239 receipt of written notice under Subsection (3)(b); or
 - 240 (ii) if the condition forming the basis of the municipality's intention to remove the
241 billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary
242 because of a natural disaster, following the billboard owner's receipt of written notice under

243 Subsection (3)(b); and

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

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

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

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

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

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

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

260 (6) (a) A municipality shall give a billboard owner 30 days notice before requiring a
261 billboard owner to remove or alter a billboard, or require that a person who has a lease,
262 easement, or other agreement with a billboard owner to terminate or fail to renew that lease,
263 easement, or other agreement as a condition of issuing or approving:

264 (i) a permit;

265 (ii) a license;

266 (iii) a zone change;

267 (iv) a variance;

268 (v) any land use entitlement; or

269 (vi) any other land use approval or ordinance.

270 (b) (i) If a municipality fails to give notice in accordance with Subsection (6)(a), a
271 billboard owner may file an action in district court.

272 (ii) An action described in Subsection (6)(b)(i) is tolled after a billboard owner has
273 actual or constructive notice.

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

275 **17-27a-510. Nonconforming uses and noncomplying structures.**

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

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

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

282 (2) The legislative body may provide for:

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

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

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

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

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

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

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

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

304 (ii) If the county and billboard owner cannot agree to a mutually acceptable location

305 within 90 days after the owner submits a written request to relocate the billboard, the
306 provisions of Subsection 17-27a-512(2)(a)(iv) apply.

307 (d) (i) A county:

308 (A) may not enact or enforce an ordinance that prevents the owner of a nonconforming
309 or conforming billboard that is intended to be viewed from the interstate, as defined in Section
310 72-1-102, from installing and using an electronic or mechanical changeable message sign that
311 operates in conformance with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act; and

312 (B) may enact or enforce an ordinance that prevents the owner of a nonconforming or
313 conforming billboard that is not intended to be viewed from the interstate system, as defined in
314 Section 72-1-102, from installing and using an electronic or mechanical changeable message
315 sign that operates in conformance with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising
316 Act.

317 (ii) A county may not enact or enforce an ordinance that forces an owner of a
318 nonconforming or conforming billboard to forfeit any other billboard owned by the same owner
319 in order to install and use an electronic or mechanical changeable message sign that operates in
320 conformance with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.

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

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

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

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

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

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

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

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

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

341 **17-27a-512. County's acquisition of billboard by eminent domain -- Removal**
342 **without providing compensation -- Limit on allowing nonconforming billboard to be**
343 **rebuilt or replaced -- Validity of county permit after issuance of state permit -- Just**
344 **compensation in eminent domain proceeding -- County conditions on billboard**
345 **prohibited.**

346 (1) As used in this section:

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

349 (b) "Highest allowable height" means:

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

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

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

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

358 (B) for an interstate billboard:

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

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

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

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

367 (i) 65 feet above the ground; and
368 (ii) 25 feet above the grade of the interstate.
369 (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a
370 street or highway that is not an interstate.
371 (f) "Visibility area" means the area on a street or highway that is:
372 (i) defined at one end by a line extending from the base of the billboard across all lanes
373 of traffic of the street or highway in a plane that is perpendicular to the street or highway; and
374 (ii) defined on the other end by a line extending across all lanes of traffic of the street
375 or highway in a plane that is:
376 (A) perpendicular to the street or highway; and
377 (B) (I) for an interstate billboard, 500 feet from the base of the billboard; or
378 (II) for a noninterstate billboard, 300 feet from the base of the billboard.
379 (2) (a) A county is considered to have initiated the acquisition of a billboard structure
380 by eminent domain if the county prevents a billboard owner from:
381 (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged
382 by casualty, an act of God, or vandalism;
383 (ii) except as provided in Subsection (2)(c), relocating or rebuilding a billboard
384 structure, or taking other measures, to correct a mistake in the placement or erection of a
385 billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or
386 other measure is consistent with the intent of that permit;
387 (iii) structurally modifying or upgrading a billboard;
388 (iv) relocating a billboard into any commercial, industrial, or manufacturing zone
389 within the unincorporated area of the county, if:
390 (A) the relocated billboard is:
391 (I) within 5,280 feet of its previous location; and
392 (II) no closer than:
393 (Aa) 300 feet from an off-premise sign existing on the same side of the street or
394 highway; or
395 (Bb) if the street or highway is an interstate or limited access highway that is subject to
396 Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act
397 between the relocated billboard and an off-premise sign existing on the same side of the

398 interstate or limited access highway; and

399 (B) (I) the billboard owner has submitted a written request under Subsection
400 17-27a-510(3)(c); and

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

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

406 (A) erecting the billboard:

407 (I) to the highest allowable height; and

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

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

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

414 (b) (i) Notwithstanding Subsection (2)(a), a county may not prevent a billboard owner
415 from upgrading a billboard to an electronic or mechanical changeable message sign in
416 compliance with the provisions of Subsection 17-27a-510(3)(d).

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

419 (c) A county's denial of a billboard owner's request to relocate or rebuild a billboard
420 structure, or to take other measures, in order to correct a mistake in the placement or erection of
421 a billboard does not constitute the initiation of acquisition by eminent domain under Subsection
422 (2)(a) if the mistake in placement or erection of the billboard is determined by clear and
423 convincing evidence to have resulted from an intentionally false or misleading statement:

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

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

426 (d) If a county is considered to have initiated the acquisition of a billboard structure by
427 eminent domain under Subsection ~~[(+)]~~ (2)(a) or any other provision of applicable law, the
428 county shall pay just compensation to the billboard owner in an amount that is:

- 429 (i) the value of the existing billboard at a fair market capitalization rate, based on
- 430 actual annual revenue, less any annual rent expense;
- 431 (ii) the value of any other right associated with the billboard structure that is acquired;
- 432 (iii) the cost of the sign structure; and
- 433 (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the
- 434 billboard owner's interest is a part.

435 (3) Notwithstanding Subsection (2) and Section 17-27a-511, a county may ~~remove~~

436 require that a billboard owner remove a billboard without providing compensation if:

437 (a) the county determines:

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

439 false or misleading statement in the applicant's application regarding the placement or erection

440 of the billboard; or

441 (ii) by substantial evidence that the billboard:

442 (A) is structurally unsafe;

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

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

445 (b) the county notifies the owner in writing that the owner's billboard meets one or

446 more of the conditions listed in Subsections (3)(a)(i) and (ii);

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

448 (i) except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's

449 receipt of written notice under Subsection (3)(b); or

450 (ii) if the condition forming the basis of the county's intention to remove the billboard

451 is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a

452 natural disaster, following the billboard owner's receipt of written notice under Subsection

453 (3)(b); and

454 (d) following the expiration of the applicable period under Subsection (3)(c) and after

455 providing the owner with reasonable notice of proceedings and an opportunity for a hearing,

456 the county finds:

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

458 a false or misleading statement in the application regarding the placement or erection of the

459 billboard; or

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

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

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

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

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

470 (6) (a) A county shall give a billboard owner 30 days notice before requiring a
471 billboard owner to remove or alter a billboard, or require that a person who has a lease,
472 easement, or other agreement with a billboard owner terminate or fail to renew that lease,
473 easement, or other agreement as a condition of issuing or approving:

474 (i) a permit;

475 (ii) a license;

476 (iii) a zone change;

477 (iv) a variance;

478 (v) any land use entitlement; or

479 (vi) any other land use approval or ordinance.

480 (b) (i) If a county fails to give notice in accordance with Subsection (6)(a), a billboard
481 owner may file an action in district court.

482 (ii) An action described in Subsection (6)(b)(i) is tolled after a billboard owner has
483 actual or constructive notice.

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

485 **72-7-502. Definitions.**

486 As used in this part:

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

490 (2) "Commercial or industrial activities" means those activities generally recognized as

491 commercial or industrial by zoning authorities in this state, except that none of the following
492 are commercial or industrial activities:

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

495 (b) transient or temporary activities;

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

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

498 (e) railroad tracks and minor sidings.

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

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

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

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

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

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

514 (iv) those areas outside the boundaries of urbanized counties and outside the
515 boundaries of cities and towns and not within 8420 feet of an interstate highway exit, off-ramp,
516 or turnoff as measured from the nearest point of the beginning or ending of the pavement
517 widening at the exit from or entrance to the main-traveled way that are reserved for business,
518 commerce, or trade under enabling state legislation or comprehensive local zoning ordinances
519 or regulations, and are actually used for commercial or industrial purposes.

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

522 (4) "Comprehensive local zoning ordinances or regulations" means a municipality's
523 comprehensive plan required by Section 10-9a-401, the municipal zoning plan authorized by
524 Section 10-9a-501, and the county master plan authorized by Sections 17-27a-401 and
525 17-27a-501. Property that is rezoned by comprehensive local zoning ordinances or regulations
526 is rebuttably presumed to have not been zoned for the sole purpose of allowing outdoor
527 advertising.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

579 (20) "Point of widening" means the point of the gore or the point where the intersecting
580 lane begins to parallel the other lanes of traffic, but the point of widening may never be greater
581 than 2,640 feet from the center line of the intersecting highway of the interchange or
582 intersection at grade.

583 (21) "Public assembly facility" means a convention facility as defined under Section

584 59-12-602 and that:

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

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

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

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

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

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

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

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

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

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

614 (28) "Traveled way" means that portion of the roadway used for the movement of

615 vehicles, exclusive of shoulders and auxiliary lanes.

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

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

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

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

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

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

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

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

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

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

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

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

640 Section 6. Section **72-7-505** is amended to read:

641 **72-7-505. Sign size -- Sign spacing -- Location in outdoor advertising corridor --**
642 **Limit on implementation.**

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

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

646 (ii) maximum length - 60 feet; and

647 (iii) maximum height - 25 feet.

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

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

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

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

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

663 (e) The illumination of an electronic changeable message sign may not be limited,
664 except to prevent an electronic sign face from increasing ambient lighting levels by more than
665 0.3 footcandles when measured:

666 (i) after sunset and before sunrise;

667 (ii) perpendicular to the sign face; and

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

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

672 (B) 100.

673 (2) (a) An outdoor sign structure located inside the unincorporated area of a
674 nonurbanized county may have the maximum height allowed by the county for outdoor
675 advertising structures in the commercial or industrial zone in which the sign is located. If no
676 maximum height is provided for the location, the maximum sign height may be 65 feet above

677 the ground or 25 feet above the grade of the main traveled way, whichever is greater.

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

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

684 (a) Any sign allowed to be erected by reason of the exceptions set forth in Subsection
685 72-7-504(1) or in H-1 zones may not be closer than 500 feet to an existing off-premise sign
686 adjacent to an interstate highway or limited access primary highway, except that signs may be
687 erected closer than 500 feet if the signs on the same side of the interstate highway or limited
688 access primary highway are not simultaneously visible.

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

691 (i) public parks;

692 (ii) public forests;

693 (iii) public playgrounds;

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

696 (v) cemeteries.

697 (c) (i) (A) Except under Subsection (3)(c)(ii), signs may not be located on an interstate
698 highway or limited access highway on the primary system within 500 feet of an interchange, or
699 intersection at grade, or rest area measured along the interstate highway or freeway from the
700 sign to the nearest point of the beginning or ending of pavement widening at the exit from or
701 entrance to the main-traveled way.

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

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

707 (A) the sign is replacing an existing outdoor advertising use or structure which is being

708 removed or displaced to accommodate the widening, construction, or reconstruction of an
709 interstate, federal aid primary highway existing as of June 1, 1991, or national highway system
710 highway; and

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

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

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

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

721 (e) All outdoor advertising shall be erected and maintained within the outdoor
722 advertising corridor.

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

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

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

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

731 **72-7-508. Unlawful outdoor advertising -- Adjudicative proceedings -- Judicial**
732 **review -- Costs of removal -- Civil and criminal liability for damaging regulated signs --**
733 **Immunity for Department of Transportation.**

734 (1) Outdoor advertising is unlawful when:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

769 (7) The following criteria shall be used for determining whether an existing sign within

770 an interstate outdoor advertising corridor has as its purpose unlawful off-premise outdoor
771 advertising:

- 772 (a) whether the sign complies with this part;
- 773 (b) whether the premise includes an area:
 - 774 (i) from which the general public is serviced according to normal industry practices for
775 organizations of that type; or
 - 776 (ii) that is directly connected to or is involved in carrying out the activities and normal
777 industry practices of the advertised activities, services, events, persons, or products;
- 778 (c) whether the sign generates revenue:
 - 779 (i) arising from the advertisement of activities, services, events, or products not
780 available on the premise according to normal industry practices for organizations of that type;
 - 781 (ii) arising from the advertisement of activities, services, events, persons, or products
782 that are incidental to the principal activities, services, events, or products available on the
783 premise; and
 - 784 (iii) including the following:
 - 785 (A) money;
 - 786 (B) securities;
 - 787 (C) real property interest;
 - 788 (D) personal property interest;
 - 789 (E) barter of goods or services;
 - 790 (F) promise of future payment or compensation; or
 - 791 (G) forbearance of debt;
 - 792 (d) whether the purveyor of the activities, services, events, persons, or products being
793 advertised:
 - 794 (i) carries on hours of operation on the premise comparable to the normal industry
795 practice for a business, service, or operation of that type, or posts the hours of operation on the
796 premise in public view;
 - 797 (ii) has available utilities comparable to the normal industry practice for an entity of
798 that type; and
 - 799 (iii) has a current valid business license or permit under applicable local ordinances,
800 state law, and federal law to conduct business on the premise upon which the sign is located;

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

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

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

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

809 (b) railroad tracks;

810 (c) outdoor advertising signs or structures;

811 (d) vacant lots;

812 (e) transient or temporary activities; or

813 (f) storage of accessory products.

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

816 Section 8. Section **72-7-510** is amended to read:

817 **72-7-510. Existing outdoor advertising not in conformity with part -- Procedure**
818 **-- Eminent domain -- Compensation -- Relocation.**

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

822 (2) (a) The department may acquire by gift, purchase, agreement, exchange, or eminent
823 domain, any existing outdoor advertising and all property rights pertaining to the outdoor
824 advertising which were lawfully in existence on May 9, 1967, and which by reason of this part
825 become nonconforming.

826 (b) If the department, or any town, city, county, governmental entity, public utility, or
827 any agency or the United States Department of Transportation under this part, prevents the
828 maintenance as defined in Section 72-7-502, or requires that maintenance of an existing sign be
829 discontinued, the sign in question shall be considered acquired by the entity and just
830 compensation will become immediately due and payable.

831 (c) Eminent domain shall be exercised in accordance with the ~~[provision]~~ provisions of

832 Title 78B, Chapter 6, Part 5, Eminent Domain.

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

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

840 (c) The department is empowered to remove signs found in violation of Section
841 72-7-508 without payment of any compensation.

842 (4) (a) Except as specifically provided in this ~~[section or Section 72-7-513]~~ part, Title
843 10, Chapter 9a, Part 5, Land Use Ordinances, or Title 17, Chapter 27a, Part 5, Land Use
844 Ordinances, this part may not be construed to permit a person to place or maintain any outdoor
845 advertising adjacent to any interstate or primary highway system which is prohibited ~~[by law~~
846 ~~or]~~ by any town, city, or county ordinance.

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

850 (5) Except as provided in Section 72-7-508, no sign shall be required to be removed by
851 the department nor sign maintenance as described in this section be discontinued unless at the
852 time of removal or discontinuance there are sufficient funds, from whatever source,
853 appropriated and immediately available to pay the just compensation required under this
854 section and unless at that time the federal funds required to be contributed under 23 U.S.C.,
855 Sec. 131, if any, with respect to the outdoor advertising being removed, have been appropriated
856 and are immediately available to this state.

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

861 (i) on the same property;

862 (ii) on adjacent property;

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

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

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

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

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

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

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

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

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

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

884 Section 9. Section **72-7-510.5** is amended to read:

885 **72-7-510.5. Height adjustments for outdoor advertising signs -- Sign obstruction.**

886 (1) If the view [~~and readability~~] of an outdoor advertising sign, including a sign that is
887 a nonconforming sign as defined in Section 72-7-510, a noncomplying structure as defined in
888 Sections 10-9a-103 and 17-27a-103, or a nonconforming use as defined in Sections 10-9a-103
889 and 17-27a-103 is obstructed due to a noise abatement or safety measure, grade change,
890 construction, directional sign, highway widening, or aesthetic improvement made by an agency
891 or political subdivision of this state, along an interstate, federal aid primary highway existing as
892 of June 1, 1991, national highway systems highway, or state highway or by an improvement
893 created on real property subsequent to the department's disposal of the property under Section

894 72-5-111, the owner of the sign may:

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

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

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

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

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

905 (i) may be erected:

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

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

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

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