{deleted text} shows text that was in SB0136S01 but was deleted in SB0136S02.

inserted text shows text that was not in SB0136S01 but was inserted into SB0136S02.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Senator {Wayne L} Stephen H. {Niederhauser} Urquhart proposes the following substitute bill:

BILLBOARD AMENDMENTS

2012 GENERAL SESSION STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: -		-∧.	1 🔼	177110	D	L	3rov	71
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Cosponsors: Michael G. Waddoups

Scott K. Jenkins

LONG TITLE

General Description:

This bill {amends provisions} enacts language related to a billboard and electronic or mechanical changeable message sign and amends applicable land use provisions.

Highlighted Provisions:

This bill:

- <u>enacts definitions;</u>
- amends {language} provisions related to a municipal or county land use authority review of a land use application;

- \{\text{prohibits}\}\text{enacts language related to a curfew imposed on an electronic or mechanical changeable message sign imposed by a municipality or county\{\text{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);
 - enacts language related to {attorney fees;
 - prohibits}an obstruction of a billboard;
 - <u>enacts language related to just compensation paid to a billboard owner by</u> a municipality or {county from making certain requirements of a billboard owner or a person who has a lease with a billboard owner} a county;
 - <u>enacts language related to a municipal or county review of an application to convert</u> an existing interstate billboard;
 - enacts language related to an arbitration {between} regarding a billboard and a municipality or {a} county{ and a billboard owner};
 - ► {defines terms} enacts definitions;
- - {enacts language related to the obstruction of an outdoor advertising sign;
 - prohibits a political subdivision from exercising the right of eminent domain to
 terminate a billboard owner's billboard structure or associated rights} prohibits the

 Department of Transportation from issuing a permit in certain circumstances; and
 - makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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10-9a-103, as last amended by Laws of Utah 2011, Chapters 47, 92, 107, and 407
       10-9a-509.5, as last amended by Laws of Utah 2010, Chapter 378
       10-9a-511, as last amended by Laws of Utah 2011, Chapter 210
       {10-9a-512, as renumbered and amended by Laws of Utah 2005, Chapter 254
       10-9a-513, as last amended by Laws of Utah 2009, Chapters 170 and 233
       17-27a-103, as last amended by Laws of Utah 2011, Chapters 47, 92, 107, and 407
       17-27a-509.5, as last amended by Laws of Utah 2008, Chapter 112
       17-27a-510, as last amended by Laws of Utah 2009, Chapter 170
       17-27a-511, as renumbered and amended by Laws of Utah 2005, Chapter 254
}
       17-27a-512. as last amended by Laws of Utah 2009. Chapters 170 and 233
       72-7-502, as last amended by Laws of Utah 2011, Chapter 346
       72-7-505, as last amended by Laws of Utah 2011, Chapter 346
       <del>{72-7-508}</del><del>72-7-507</del>, as last amended by Laws of Utah <del>{2011, Chapter 346</del>}
       72-7-510, as last amended by Laws of Utah 2008, Chapter 3
       72-7-510.5, as last amended by Laws of Utah 2009, Chapter 170
       78B-6-501, as last amended by Laws of Utah 2011, Chapter 82
ENACTS:
₹2009, Chapter 183
ENACTS:
       10-9a-513.1, Utah Code Annotated 1953
       10-9a-513.5, Utah Code Annotated 1953
       17-27a-512.1, Utah Code Annotated 1953
       17-27a-512.5, Utah Code Annotated 1953
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Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-103 is amended to read:

10-9a-103. Definitions.

As used in this chapter:

(1) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal

cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, a property owner, a property owners association, or the Utah Department of Transportation, if:

- (a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
- (b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or
- (c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.
- (2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.
- (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.
 - (4) (a) "Charter school" means:
 - (i) an operating charter school;
- (ii) a charter school applicant that has its application approved by a chartering entity in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or
- (iii) an entity who is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.
 - (b) "Charter school" does not include a therapeutic school.
- (5) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.
- (6) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:
 - (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
 - (b) Utah Constitution Article I, Section 22.

- (7) "Convert" means to change the surface of a billboard sign face from an existing, non-digital surface to a digitally-controlled surface.
- [(7)] (8) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

[(8)] (9) "Development activity" means:

- (a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;
- (b) any change in use of a building or structure that creates additional demand and need for public facilities; or
- (c) any change in the use of land that creates additional demand and need for public facilities.
- [(9)] (10) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.
- (b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

[(10)] (11) "Educational facility":

- (a) means:
- (i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;
 - (ii) a structure or facility:
- (A) located on the same property as a building described in Subsection [(10)] (11)(a)(i); and
 - (B) used in support of the use of that building; and
- (iii) a building to provide office and related space to a school district's administrative personnel; and
 - (b) does not include:
 - (i) land or a structure, including land or a structure for inventory storage, equipment

storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

- (A) not located on the same property as a building described in Subsection [(10)] (11)(a)(i); and
- (B) used in support of the purposes of a building described in Subsection [(10)] (11)(a)(i); or
 - (ii) a therapeutic school.

[(11)] (12) "Elderly person" means a person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

[(12)] (13) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

[(13)](14) "Flood plain" means land that:

- (a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or
- (b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

[(14)] (15) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

[(15)] (16) "Geologic hazard" means:

- (a) a surface fault rupture;
- (b) shallow groundwater;
- (c) liquefaction;
- (d) a landslide;
- (e) a debris flow;
- (f) unstable soil;
- (g) a rock fall; or
- (h) any other geologic condition that presents a risk:
- (i) to life;

- (ii) of substantial loss of real property; or
- (iii) of substantial damage to real property.
- [(16)] (17) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.
 - [(17)] (18) "Identical plans" means building plans submitted to a municipality that:
 - (a) are clearly marked as "identical plans";
- (b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and
 - (c) describe a building that:
- (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
- (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
- (iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and
 - (iv) does not require any additional engineering or analysis.
- [(18)] (19) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.
- [(19)] (20) "Improvement assurance" means a surety bond, letter of credit, cash, or other security:
 - (a) to guaranty the proper completion of an improvement;
 - (b) that is required as a condition precedent to:
 - (i) recording a subdivision plat; or
 - (ii) beginning development activity; and
- (c) that is offered to a land use authority to induce the land use authority, before actual construction of required improvements, to:
 - (i) consent to the recording of a subdivision plat; or
 - (ii) issue a permit for development activity.
- [(20)] (21) "Improvement assurance warranty" means a promise that the materials and workmanship of improvements:

- (a) comport with standards that the municipality has officially adopted; and
- (b) will not fail in any material respect within a warranty period.
- [(21)] (22) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:
 - (a) runs with the land; and
- (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or
- (ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.
- [(22)] (23) "Land use application" means an application required by a municipality's land use ordinance.
- [(23)] (24) "Land use authority" means a person, board, commission, agency, or other body designated by the local legislative body to act upon a land use application.
- [(24)](25) "Land use ordinance" means a planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan.
 - [(25)] (26) "Land use permit" means a permit issued by a land use authority.
 - [(26)] (27) "Legislative body" means the municipal council.
- [(27)] (28) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.
- [(28)] (29) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.
- [(29)] (30) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.
- [(30)] (31) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:
 - (a) verifying that building plans are identical plans; and
- (b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.
 - [(31)] (32) "Noncomplying structure" means a structure that:

- (a) legally existed before its current land use designation; and
- (b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

[(32)] (33) "Nonconforming use" means a use of land that:

- (a) legally existed before its current land use designation;
- (b) has been maintained continuously since the time the land use ordinance governing the land changed; and
- (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.
- [(33)] (34) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:
- (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
- (b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and
 - (c) has been adopted as an element of the municipality's general plan.
- [(34)] (35) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.
- [(35)] (36) "Plan for moderate income housing" means a written document adopted by a city legislative body that includes:
- (a) an estimate of the existing supply of moderate income housing located within the city;
- (b) an estimate of the need for moderate income housing in the city for the next five years as revised biennially;
 - (c) a survey of total residential land use;
- (d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and
- (e) a description of the city's program to encourage an adequate supply of moderate income housing.

[(36)] (37) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.

[(37)] (38) "Potential geologic hazard area" means an area that:

- (a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or
- (b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[(38)] (39) "Public agency" means:

- (a) the federal government;
- (b) the state;
- (c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or
 - (d) a charter school.
- [(39)] (40) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.
- [(40)] (41) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.
- [(41)] (42) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.
- [(42)] (43) "Receiving zone" means an area of a municipality that the municipality's land use authority designates as an area in which an owner of land may receive transferrable development rights.
- [(43)] (44) "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that meets the requirements of Section 10-9a-516, but does not include a health care facility as defined by Section 26-21-2.

[(44)] (45) "Residential facility for persons with a disability" means a residence:

- (a) in which more than one person with a disability resides; and
- (b) (i) is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

- (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.
- [(45)] (46) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:
 - (a) parliamentary order and procedure;
 - (b) ethical behavior; and
 - (c) civil discourse.

[(46)] (47) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[(47)] (48) "Sending zone" means an area of a municipality that the municipality's land use authority designates as an area from which an owner of land may transfer transferrable development rights to an owner of land in a receiving zone.

[(48)] (49) "Specified public agency" means:

- (a) the state;
- (b) a school district; or
- (c) a charter school.

[(49)] (50) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[(50)] (51) "State" includes any department, division, or agency of the state.

[(51)] (52) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

[(52)] (53) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

- (b) "Subdivision" includes:
- (i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and
 - (ii) except as provided in Subsection [(52)] (53)(c), divisions of land for residential and

nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

- (c) "Subdivision" does not include:
- (i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;
- (ii) a recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:
 - (A) no new lot is created; and
 - (B) the adjustment does not violate applicable land use ordinances;
 - (iii) a recorded document, executed by the owner of record:
- (A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or
- (B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;
- (iv) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:
 - (A) no new dwelling lot or housing unit will result from the adjustment; and
 - (B) the adjustment will not violate any applicable land use ordinance; or
- (v) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels.
- (d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection [(52)] (53) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.
 - [(53)] (54) "Therapeutic school" means a residential group living facility:
 - (a) for four or more individuals who are not related to:
 - (i) the owner of the facility; or
 - (ii) the primary service provider of the facility;

- (b) that serves students who have a history of failing to function:
- (i) at home;
- (ii) in a public school; or
- (iii) in a nonresidential private school; and
- (c) that offers:
- (i) room and board; and
- (ii) an academic education integrated with:
- (A) specialized structure and supervision; or
- (B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[(54)] (55) "Transferrable development right" means the entitlement to develop land within a sending zone that would vest according to the municipality's existing land use ordinances on the date that a completed land use application is filed seeking the approval of development activity on the land.

[(55)] (56) "Unincorporated" means the area outside of the incorporated area of a city or town.

[(56)] (57) "Water interest" means any right to the beneficial use of water, including:

- (a) each of the rights listed in Section 73-1-11; and
- (b) an ownership interest in the right to the beneficial use of water represented by:
- (i) a contract; or
- (ii) a share in a water company, as defined in Section 73-3-3.5.

[(57)] (58) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 11-9a-509.5 is amended to read:

10-9a-509.5. Review for application completeness -- Substantive application review -- Reasonable diligence required for determination of whether improvements or warranty work meets standards -- Money damages claim prohibited.

- (1) (a) Each municipality shall, in a timely manner, determine whether an application is complete for the purposes of subsequent, substantive land use authority review.
- (b) After a reasonable period of time to allow the municipality diligently to evaluate whether all objective ordinance-based application criteria have been met, if application fees

have been paid, the applicant may in writing request that the municipality provide a written determination either that the application is:

- (i) complete for the purposes of allowing subsequent, substantive land use authority review; or
- (ii) deficient with respect to a specific, objective, ordinance-based application requirement.
- (c) Within 30 days of receipt of an applicant's request under this section, the municipality shall either:
- (i) mail a written notice to the applicant advising that the application is deficient with respect to a specified, objective, ordinance-based criterion, and stating that the application shall be supplemented by specific additional information identified in the notice; or
- (ii) accept the application as complete for the purposes of further substantive processing by the land use authority.
- (d) If the notice required by Subsection (1)(c)(i) is not timely mailed, the application shall be considered complete, for purposes of further substantive land use authority review.
- (e) (i) The applicant may raise and resolve in a single appeal any determination made under this Subsection (1) to the appeal authority, including an allegation that a reasonable period of time has elapsed under Subsection (1)(a).
- (ii) The appeal authority shall issue a written decision for any appeal requested under this Subsection (1)(e).
- (f) (i) The applicant may appeal to district court the decision of the appeal authority made under Subsection (1)(e).
- (ii) Each appeal under Subsection (1)(f)(i) shall be made within 30 days of the date of the written decision.
- (2) (a) Each land use authority shall substantively review a complete application and an application considered complete under Subsection (1)(d), and shall approve or deny each application with reasonable diligence.
- (b) After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.
 - (c) The land use authority shall take final action, approving or denying the application

within 45 days of the written request.

- (d) If the land use authority denies an application processed under the mandates of Subsection (2)(b), or if the applicant has requested a written decision in the application, the land use authority shall include its reasons for denial in writing, on the record, which may include the official minutes of the meeting in which the decision was rendered.
- (e) If the land use authority fails to [comply with] take an action required under Subsection (2)(c){[,] or (d):
- (i) the applicant may appeal this failure} and notwithstanding Section 10-9a-707, the land use authority is limited on appeal to the record created before the expiration of the 45 day period established under Subsection (2)(c).
 - (f) If the land use authority fails to take action under Subsection (2)(c), the applicant:
 - (i) may appeal [this failure] to district court within 30 days of {:
 - (A) the written decision; or
- (B) the date on which the land use authority is required to take final action under Subsection (2)(c)[-]: $\{or\}$ and
- (ii) {if an applicant is an owner of a billboard, the applicant may elect to pursue the provisions of Section 10-9a-513.5.
 - (f) If a billboard owner files an appeal under Subsection (2)(e)(i):
- (i) the district court may consider only those reasons for denial that have been issued in writing by the land use authority;
- (ii) the land use authority may not advance or argue any reason why the application should be denied other than a reason set forth in Subsection (2)(d);
- (iii) the district court shall enter a judgment approving or denying the application; and
- (iv) if the district court enters a judgment approving the application, the court shall award the applicant attorney fees, costs, and expenses incurred on appeal} notwithstanding Section 10-9a-801, is not required to exhaust administrative remedies available to the applicant.
- (3) (a) With reasonable diligence, each land use authority shall determine whether the installation of required subdivision improvements or the performance of warranty work meets the municipality's adopted standards.
 - (b) (i) An applicant may in writing request the land use authority to accept or reject the

applicant's installation of required subdivision improvements or performance of warranty work.

- (ii) The land use authority shall accept or reject subdivision improvements within 15 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 15-day period if inspection of the subdivision improvements is impeded by winter weather conditions.
- (iii) The land use authority shall accept or reject the performance of warranty work within 45 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 45-day period if inspection of the warranty work is impeded by winter weather conditions.
- (c) If a land use authority determines that the installation of required subdivision improvements or the performance of warranty work does not meet the municipality's adopted standards, the land use authority shall comprehensively and with specificity list the reasons for its determination.
- {{}}(4) Subject to Section 10-9a-509, nothing in this section and no action or inaction of the land use authority relieves an applicant's duty to comply with all applicable substantive ordinances and regulations.{{}}
- $\{\{\}\}$ There shall be no money damages remedy arising from a claim under this section.

Section $\frac{(2)3}{2}$. Section 10-9a-511 is amended to read:

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

- (1) (a) Except as provided in this section, a nonconforming use or noncomplying structure may be continued by the present or a future property owner.
- (b) A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.
- (c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.
 - (2) The legislative body may provide for:
- (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;
 - (b) the termination of all nonconforming uses, except billboards, by providing a

formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and

- (c) the termination of a nonconforming use due to its abandonment.
- (3) (a) A municipality may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.
- (b) A municipality may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:
- (i) the structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after written notice to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or
- (ii) the property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.
- (c) (i) Notwithstanding a prohibition in its zoning ordinance, a municipality may permit a billboard owner to relocate the billboard within the municipality's boundaries to a location that is mutually acceptable to the municipality and the billboard owner.
- (ii) If the municipality and billboard owner cannot agree to a mutually acceptable location within 90 days after the owner submits a written request to relocate the billboard, the {{}} provisions of{} municipality may not prevent the billboard owner from taking an action specified in} Subsection 10-9a-513(2)(a)(iv) {{apply} unless the municipality has commenced eminent domain proceedings in accordance with the provisions of Section 10-9a-512 within 90 days after the day that the billboard owner submits a written request to relocate the billboard.
- (d) (i) Except as provided in Subsection (3)(e), a municipality may not enact or enforce an ordinance that prevents an owner of an existing nonconforming or conforming billboard from upgrading that billboard to an electronic or mechanical changeable message sign that operates in conformance with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.
- (ii)apply.
- (d) A municipality may {not enact or enforce an ordinance that forces an owner of an existing nonconforming or conforming billboard to forfeit any other billboard owned by the

same owner in order to upgrade the existing nonconforming or conforming billboard to an electronic or mechanical changeable message sign that operates in conformance with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.

- (e) A municipality may, subject to Subsection (3)(f), impose a midnight to 6

 a.m.}impose a curfew on the operation of an electronic or mechanical changeable message

 sign {:
 - (f) A municipality may not impose the curfew described in Subsection (3)(e) unless:
- (i) the electronic or mechanical changeable message sign is located outside of an area governed by the Highway Beautification Act of 1965, Pub. L. No. 89-285, 79 Stat. 1028, or the Utah-Federal Agreement, as defined in Section 72-7-515; and
 - (ii) the face of the electronic or mechanical changeable message sign:
- (A) is within 150 feet of the outer edge of an existing residential dwelling structure that is legally occupied and located on property zoned exclusively for residential purposes; and
 - (B) is oriented toward the structure described in Subsection (3)(f)(ii)(A)} if the curfew:
 - (i) eliminates light emission from the sign; or
- (ii) requires a static message from midnight to 6 a.m. for a sign located within 200 feet of a residence.
- (e) No later than 45 days after the day on which a municipality receives a written request from a billboard owner to trim or remove a tree that obstructs the view and readability of a billboard, the municipality shall:
 - (i) trim or remove the tree; or
 - (ii) authorize the billboard owner to:
 - (A) adjust the height of the billboard; or
 - (B) relocate the billboard.
- (4) (a) Unless the municipality establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use.
- (b) Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.
 - (c) Abandonment may be presumed to have occurred if:
 - (i) a majority of the primary structure associated with the nonconforming use has been

voluntarily demolished without prior written agreement with the municipality regarding an extension of the nonconforming use;

- (ii) the use has been discontinued for a minimum of one year; or
- (iii) the primary structure associated with the nonconforming use remains vacant for a period of one year.
- (d) The property owner may rebut the presumption of abandonment under Subsection (4)(c), and shall have the burden of establishing that any claimed abandonment under Subsection (4)(b) has not in fact occurred.
- (5) A municipality may terminate the nonconforming status of a school district or charter school use or structure when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period established by ordinance.
 - (6) A municipal ordinance adopted under Section 10-1-203 may not:
- (a) require physical changes in a structure with a legal nonconforming rental housing use unless the change is for:
 - (i) the reasonable installation of:
 - (A) a smoke detector that is plugged in or battery operated;
 - (B) a ground fault circuit interrupter protected outlet on existing wiring;
 - (C) street addressing;
- (D) except as provided in Subsection (7), an egress bedroom window if the existing bedroom window is smaller than that required by current state building code;
- (E) an electrical system or a plumbing system, if the existing system is not functioning or is unsafe as determined by an independent electrical or plumbing professional who is licensed in accordance with Title 58, Occupations and Professions;
 - (F) hand or guard rails; or
 - (G) occupancy separation doors as required by the International Residential Code; or
 - (ii) the abatement of a structure; or
 - (b) be enforced to terminate a legal nonconforming rental housing use.
- (7) A municipality may not require a change described in Subsection (6)(a)(i)(D) if the change:
 - (a) would compromise the structural integrity of a building; or

- (b) could not be completed in accordance with current building codes, including set-back and window well requirements.
- (8) A legal nonconforming rental housing use may not be terminated under Section 10-1-203.

Section 3. Section 10-9a-512 is amended to read:

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

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

(a) gift;

(b) purchase;

(c) agreement;

(d) exchange; or

(e) subject to Subsection (3), eminent domain.

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

(3) If a municipality terminates a billboard owner's billboard or associated rights through eminent domain, the municipality shall exercise the right of eminent domain in

- through eminent domain, the municipality shall exercise the right of eminent domain in accordance with and subject to the requirements of Title 78B, Chapter 6, Part 5, Eminent Domain.
- Section 4. Section 10-9a-513 is amended to read:
- 10-9a-513. Municipality's acquisition of billboard by eminent domain -- Removal without providing compensation -- Limit on allowing nonconforming billboards to be rebuilt or replaced -- Validity of municipal permit after issuance of state permit { -- Just compensation in eminent domain proceeding -- Municipal conditions on billboard prohibited}.
 - (1) As used in this section:
- (a) "Clearly visible" means capable of being {{}}read{{}} viewed} without obstruction by an occupant of a vehicle traveling on a street or highway within the visibility area.
 - (b) "Highest allowable height" means:
- (i) if the height allowed by the municipality, by ordinance or consent, is higher than the height under Subsection (1)(b)(ii), the height allowed by the municipality; or

- (ii) (A) for a noninterstate billboard:
- (I) if the height of the previous use or structure is 45 feet or higher, the height of the previous use or structure; or
- (II) if the height of the previous use or structure is less than 45 feet, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than 45 feet; and
 - (B) for an interstate billboard:
- (I) if the height of the previous use or structure is at or above the interstate height, the height of the previous use or structure; or
- (II) if the height of the previous use or structure is less than the interstate height, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than the interstate height.
- (c) "Interstate billboard" means a billboard that is intended to be viewed from a highway that is an interstate.
 - (d) "Interstate height" means a height that is the higher of:
 - (i) 65 feet above the ground; and
 - (ii) 25 feet above the grade of the interstate.
- (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a street or highway that is not an interstate.
 - (f) "Visibility area" means the area on a street or highway that is:
- (i) defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and
- (ii) defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:
 - (A) perpendicular to the street or highway; and
 - (B) (I) for an interstate billboard, 500 feet from the base of the billboard; or
 - (II) for a noninterstate billboard, 300 feet from the base of the billboard.
- (2) (a) A municipality {{}} is considered to have initiated the acquisition of a billboard structure by eminent domain if the municipality prevents a billboard owner from {{}} may not prevent a billboard owner from taking one or any of the following actions unless the municipality has first commenced, subject to Subsection (2)(b)(i), eminent domain proceedings

as described in Section 10-9a-512}:

- (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged by casualty, an act of God, or vandalism;
- (ii) except as provided in Subsection (2){{}}(c){{}}(d)}, relocating or rebuilding a billboard structure, or taking other measures, to correct a mistake in the placement or erection of a billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit;
 - (iii) structurally modifying or upgrading a billboard;
- (iv) relocating a billboard into any commercial, industrial, or manufacturing zone within the municipality's boundaries, if:
 - (A) the relocated billboard is:
 - (I) within 5,280 feet of its previous location; and
 - (II) no closer than:
- (Aa) 300 feet from an off-premise sign existing on the same side of the street or highway; or
- (Bb) if the street or highway is an interstate or limited access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act between the relocated billboard and an off-premise sign existing on the same side of the interstate or limited access highway; and
- (B) (I) the billboard owner has submitted a written request under Subsection 10-9a-511(3)(c); and
- (II) the municipality and billboard owner are unable to agree, within the time provided in Subsection 10-9a-511(3)(c), to a mutually acceptable location; \(\frac{11}{12}\) or \(\frac{11}{12}\)
- (v) making the following modifications, as the billboard owner determines, to a billboard that is structurally modified or upgraded under Subsection (2)(a)(iii) or relocated under Subsection (2)(a)(iv):
 - (A) erecting the billboard:
 - (I) to the highest allowable height; and
- (II) as the owner determines, to an angle that makes the entire advertising content of the billboard clearly visible; and
 - (B) installing a sign face on the billboard that is at least the same size as, but no larger

than, the sign face on the billboard before its relocation { or

- (vi) exercising a right granted to a billboard owner under the provisions of Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.
- (b) (i) Notwithstanding Subsection (2)(a), a municipality may not commence eminent domain proceedings to prevent a billboard owner from upgrading a billboard to an electronic or mechanical changeable message sign.

[(b)] (ii)}.

- (b) A modification under Subsection (2)(a)(v) shall comply with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.
- (c) A {{}} municipality's denial of {{}} municipality may deny} a billboard owner's request to relocate or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the placement or erection of a billboard {{}} does not constitute the initiation of acquisition by {{}} without commencing} eminent domain {{} proceedings} under Subsection (2)(a) if the mistake in placement or erection of the billboard is determined by clear and convincing evidence to have resulted from an intentionally false or misleading statement:
 - (i) by the billboard applicant in the application; and
 - (ii) regarding the placement or erection of the billboard.
- (d) If a municipality {{}} is considered to have initiated the acquisition of {{}} acquires} a billboard structure by eminent domain under Subsection (2)(a) or any other provision of applicable law, the municipality shall subject to Subsection (2)(e)(i) pay just compensation to the billboard owner in an amount that is:
- (i) the value of the existing billboard at a fair market capitalization rate, based on actual annual revenue, less any annual rent expense;
 - (ii) the value of any other right associated with the billboard structure that is acquired;
 - (iii) the cost of the sign structure; and
- (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the billboard owner's interest is a part.
- (e) (i) No later than 30 days after the day on which a municipality initiates the acquisition of a billboard structure under this section, the billboard owner shall provide the municipality evidence to justify each claim for which the billboard owner requests just compensation.

- (ii) A municipality is not required to pay just compensation for a claim for which a billboard has not provided evidence for in accordance with Subsection (2)(e)(i).
- (3) Notwithstanding Subsection (2) and Section 10-9a-512, a municipality may {[}remove{] require that a billboard owner remove} a billboard without providing compensation if:
 - (a) the municipality determines:
- (i) by clear and convincing evidence that the applicant for a permit intentionally made a false or misleading statement in the applicant's application regarding the placement or erection of the billboard; or
 - (ii) by substantial evidence that the billboard:
 - (A) is structurally unsafe;
 - (B) is in an unreasonable state of repair; or
 - (C) has been abandoned for at least 12 months;
- (b) the municipality notifies the owner in writing that the owner's billboard meets one or more of the conditions listed in Subsections (3)(a)(i) and (ii);
 - (c) the owner fails to remedy the condition or conditions within:
- (i) except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's receipt of written notice under Subsection (3)(b); or
- (ii) if the condition forming the basis of the municipality's intention to remove the billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a natural disaster, following the billboard owner's receipt of written notice under Subsection (3)(b); and
- (d) following the expiration of the applicable period under Subsection (3)(c) and after providing the owner with reasonable notice of proceedings and an opportunity for a hearing, the municipality finds:
- (i) by clear and convincing evidence, that the applicant for a permit intentionally made a false or misleading statement in the application regarding the placement or erection of the billboard; or
- (ii) by substantial evidence that the billboard is structurally unsafe, is in an unreasonable state of repair, or has been abandoned for at least 12 months.
 - (4) A municipality may not allow a nonconforming billboard to be rebuilt or replaced

by anyone other than its owner or the owner acting through its contractors.

- (5) A permit issued, extended, or renewed by a municipality for a billboard remains valid from the time the municipality issues, extends, or renews the permit until 180 days after a required state permit is issued for the billboard if:
 - (a) the billboard requires a state permit; and
- (b) an application for the state permit is filed within 30 days after the municipality issues, extends, or renews a permit for the billboard.

{(6) } Section 5. Section 10-9a-513.1 is enacted to read:

10-9a-513.1. Conversion of billboard.

A municipality may not {require a billboard owner to remove or alter a billboard, or require that a person who has a lease, easement, or other agreement with a billboard owner to terminate or fail to renew that lease, easement, or other agreement as a condition of issuing or approving:

- (a) a permit;
- (b) a license;
- (c) a zone change;
- (d) a variance;
 - (e) any land use entitlement; or
- (f) any other land use approval or}deny an application to convert an existing interstate billboard, as defined in Section 10-9a-513, if the billboard:
 - (1) location is in accordance with adopted zoning; or
- (2) is a permissible nonconforming use in accordance Section 10-9a-511 and an applicable municipal ordinance.

Section $\frac{5}{6}$. Section 10-9a-513.5 is enacted to read:

10-9a-513.5. Billboard arbitration.

- (1) {(a) A billboard owner} An applicant may challenge or dispute a final decision {; action, or failure to timely act made by a municipality or land use authority} of a municipality concerning a billboard by serving a notice of arbitration upon the municipality within the time for {an}a judicial appeal of {that action or inaction.
- (b) A billboard owner need not exhaust administrative remedies available to the billboard owner in order to pursue a remedy under this section} the final decision.

- (2) (a) A notice of arbitration {shall set forth:
- (i) served in accordance with Subsection (1) shall:
- (i) stay the applicant's appeal period;
- (ii) state the decision, action, or failure to act that is the subject of the arbitration; and
- (\{\fii\}\)\ iii) state the name of the \{\footnote{\text{billboard owner's}}\}\ applicant's \text{choice of an arbitrator.}
- (b) (i) The municipality shall have 21 days after the day { on which} the municipality receives a notice of arbitration to respond {, in accordance with Subsection (2)(b), to the notice.
 - (i) The municipality's response shall:
- (A) set forth the reasons, if any, for to the notice of arbitration, including a statement stating as to whether the {municipality's decision, action, or failure to act; and
- (B) include a statement of agreement} municipality agrees or {disagreement with} disagrees to the {billboard owner's choice of} applicant's arbitrator choice.
- (ii) If the municipality does not agree to the {billboard owner's} applicant's selected arbitrator, the municipality shall submit its own choice of arbitrator in {the municipality's} its response to { the} notice of arbitration under Subsection (2)(b).
- (iii) If the {billboard owner} applicant and municipality cannot agree {on} to a single arbitrator {, a panel of three arbitrators will conduct}:
- (A) the {arbitration with each party's} applicant's and the municipality's chosen {arbitrator selecting the} arbitrators shall choose a third arbitrator{.}; and
- (\{\fiv\) Iff\B) the arbitration shall be decided by a three-member panel consisting of the applicant's arbitrator, the \{\text{municipality fails to timely serve a complete}\)

 response,\{\text{municipality's arbitrator, and an arbitrator described in \{\text{accordance with}\}\}

 Subsection (2)(b)(\{\fiv\}), to a notice of arbitration under Subsection (2)(b), the billboard owner's land use application shall be deemed approved and all associated permits shall be issued upon payment of the required fees\{\frac{1}{111}\)(A).
 - (3) (a) An arbitration under this section shall commence :
 - (i) within 30 days of no later than:
- (i) except as provided in Subsection (3)(a)(ii), 30 days after the day on which a municipality {timely serving} serves, in accordance with Subsection (2)(b), its response to the notice of arbitration; or
 - (ii) {if}45 days after the {arbitration is conducted by}day on which a {panel of

<u>arbitrators</u>} <u>municipality serves</u>, in accordance with Subsection (2)(b){(iii)}, {within 45 days of a timely service of a municipality's} its response to the notice of arbitration if a panel of three as described in Subsection (2)(b)(iii)(B) is to decide the arbitration.

- (b) Unless otherwise agreed to in writing :
- (i) }, each party shall pay:
- (i) an equal share of the fees and costs of {the} an arbitrator {selected} mutually agreed to under Subsection (2)(b)(i); or
- (ii) {if} for an arbitration panel {is selected under} described in Subsection (2)(b)(iii)(B):
- (A) {each party shall pay the } fees and costs {of} for the arbitrator selected by {that} the party; and
- (B) {each party shall pay }an equal share of the fees and costs of the { third} arbitrator selected in accordance with Subsection (2)(b)(iii)(A).
- (c) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted {under}in accordance with this section is governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- (4) An arbitration {award} decision issued {under} in accordance with this section shall be:
- (a) issued {within} no later than 60 days {of} after the {commencement of} day the arbitration commences; and
 - (b) the final resolution of all claims related to the dispute unless:
 - (i) the {award} decision is procured by corruption, fraud, or other undue means; or
- (ii) {either}a party, within 20 days after {issuance of}the day the {arbitration} award}decision is issued, files a complaint requesting a trial de novo in{the} district court.
- (5) (a) Upon filing a complaint for a trial de novo under Subsection (4)(b)(ii), a claim {shall proceed through litigation pursuant} and related proceedings are subject to the Utah Rules of Civil Procedure and Utah Rules of Evidence { in the district court.}
 - (a) The arbitration award.
- (b) Except as provided in Subsection (6), the arbitration decision described in Subsection (4) may not be offered as evidence in a trial de novo under Subsection (4)(b)(ii), except as provided in Subsection (6).

- (b) The court may not presume that the municipality's decision, inaction, or action is valid.
 - (c) (i) Subject to Subsection (5)(c)(ii), the court may accept evidence.
- (ii) In reviewing a decision to deny a billboard owner's land use application, the municipality may not argue any reasons why the application should be denied other those set forth in the written decision required by Subsection 10-9a-509.5(2)(e)(i)(A)}.
- (6) {A}(a) If a party to a trial de novo {under}described in Subsection (4)(b)(ii) {that } prevails on the same legal theories at{ both} the trial de novo and {the}in an arbitration {conducted under Subsection (3) shall be}decision, the party is entitled to reasonable attorney fees, costs, and expenses incurred in the {arbitration and the} trial de novo.
- (\{a\}b) \{A party may not offer}\If an arbitration \{award issued in accordance with \\
 Subsection (4)\}decision includes, under Subsection (4)(b), an award, a party may not present \\
 the award as evidence to the district court unless the evidence of the award is \\
 \{offered\}presented \text{ as \{evidence in\}part of a motion for attorney fees, costs, and expenses \{as\\}described \text{ in\}\underline{under Subsection (6)(a).}
- ({b}c) An order resulting from a motion {for attorney fees, costs, and expenses under}described in Subsection (6)({a}b) is considered a final judgment under Rule 54 of the Utah Rules of Civil Procedure.

Section 7. Section 17-27a-103 is amended to read:

17-27a-103. **Definitions.**

As used in this chapter:

- (1) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owners association, public utility, or the Utah Department of Transportation, if:
- (a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
- (b) the entity has filed with the county a copy of the entity's general or long-range plan; or
 - (c) the entity has filed with the county a request for notice during the same calendar

year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

- (2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.
- (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.
 - (4) (a) "Charter school" means:
 - (i) an operating charter school;
- (ii) a charter school applicant that has its application approved by a chartering entity in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or
- (iii) an entity who is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.
 - (b) "Charter school" does not include a therapeutic school.
- (5) "Chief executive officer" means the person or body that exercises the executive powers of the county.
- (6) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.
- (7) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:
 - (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
 - (b) Utah Constitution Article I, Section 22.
- (8) "Convert" means to change the surface of a billboard sign face from an existing, non-digital surface to a digitally-controlled surface.
- [(8)] (9) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.
 - [(9)](10) "Development activity" means:

- (a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;
- (b) any change in use of a building or structure that creates additional demand and need for public facilities; or
- (c) any change in the use of land that creates additional demand and need for public facilities.
- [(10)](11) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.
- (b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

[(11)] (12) "Educational facility":

- (a) means:
- (i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;
 - (ii) a structure or facility:
- (A) located on the same property as a building described in Subsection [(11)] (12)(a)(i); and
 - (B) used in support of the use of that building; and
- (iii) a building to provide office and related space to a school district's administrative personnel; and
 - (b) does not include:
- (i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
- (A) not located on the same property as a building described in Subsection [(11)] (12)(a)(i); and
- (B) used in support of the purposes of a building described in Subsection [(11)] (12)(a)(i); or
 - (ii) a therapeutic school.

[(12)] (13) "Elderly person" means a person who is 60 years old or older, who desires or needs to live with other elderly persons in a group setting, but who is capable of living independently.

[(13)] (14) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

[(14)] (15) "Flood plain" means land that:

- (a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or
- (b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

[(15)] (16) "Gas corporation" has the same meaning as defined in Section 54-2-1.

[(16)] (17) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of the unincorporated land within the county.

[(17)] (18) "Geologic hazard" means:

- (a) a surface fault rupture;
- (b) shallow groundwater;
- (c) liquefaction;
- (d) a landslide;
- (e) a debris flow;
- (f) unstable soil;
- (g) a rock fall; or
- (h) any other geologic condition that presents a risk:
- (i) to life;
- (ii) of substantial loss of real property; or
- (iii) of substantial damage to real property.

[(18)] (19) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

- (a) runs with the land; and
- (b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or
- (ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

[(19)] (20) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

[(20)] (21) "Identical plans" means building plans submitted to a county that:

- (a) are clearly marked as "identical plans";
- (b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and
 - (c) describe a building that:
- (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
- (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
- (iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and
 - (iv) does not require any additional engineering or analysis.
- [(21)] (22) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.
- [(22)] (23) "Improvement assurance" means a surety bond, letter of credit, cash, or other security:
 - (a) to guaranty the proper completion of an improvement;
 - (b) that is required as a condition precedent to:
 - (i) recording a subdivision plat; or
 - (ii) beginning development activity; and
- (c) that is offered to a land use authority to induce the land use authority, before actual construction of required improvements, to:
 - (i) consent to the recording of a subdivision plat; or

- (ii) issue a permit for development activity.
- [(23)] (24) "Improvement assurance warranty" means a promise that the materials and workmanship of improvements:
 - (a) comport with standards that the county has officially adopted; and
 - (b) will not fail in any material respect within a warranty period.
- [(24)] (25) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- [(25)] (26) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.
- [(26)] (27) "Land use application" means an application required by a county's land use ordinance.
- [(27)] (28) "Land use authority" means a person, board, commission, agency, or other body designated by the local legislative body to act upon a land use application.
- [(28)] (29) "Land use ordinance" means a planning, zoning, development, or subdivision ordinance of the county, but does not include the general plan.
 - [(29)] (30) "Land use permit" means a permit issued by a land use authority.
- [(30)] (31) "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.
- [(31)] (32) "Local district" means any entity under Title 17B, Limited Purpose Local Government Entities Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.
- [(32)] (33) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.
- [(33)] (34) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.
- [(34)] (35) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

- (a) verifying that building plans are identical plans; and
- (b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

[(35)] (36) "Noncomplying structure" means a structure that:

- (a) legally existed before its current land use designation; and
- (b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

[(36)] (37) "Nonconforming use" means a use of land that:

- (a) legally existed before its current land use designation;
- (b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and
- (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

[(37)] (38) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

- (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
- (b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and
 - (c) has been adopted as an element of the county's general plan.

[(38)] (39) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

[(39)] (40) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

- (a) an estimate of the existing supply of moderate income housing located within the county;
- (b) an estimate of the need for moderate income housing in the county for the next five years as revised biennially;
 - (c) a survey of total residential land use;

- (d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and
- (e) a description of the county's program to encourage an adequate supply of moderate income housing.
- [(40)] (41) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 17-27a-603, 17-23-17, or 57-8-13.

[(41)] (42) "Potential geologic hazard area" means an area that:

- (a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or
- (b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

[(42)] (43) "Public agency" means:

- (a) the federal government;
- (b) the state;
- (c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or
 - (d) a charter school.
- [(43)] (44) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.
- [(44)] (45) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.
- [(45)] (46) "Receiving zone" means an unincorporated area of a county that the county's land use authority designates as an area in which an owner of land may receive transferrable development rights.
- [(46)] (47) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.
- [(47)] (48) "Residential facility for elderly persons" means a single-family or multiple-family dwelling unit that meets the requirements of Section 17-27a-515, but does not include a health care facility as defined by Section 26-21-2.

[(48)] (49) "Residential facility for persons with a disability" means a residence:

- (a) in which more than one person with a disability resides; and
- (b) (i) is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or
- (ii) is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

[(49)] (50) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

- (a) parliamentary order and procedure;
- (b) ethical behavior; and
- (c) civil discourse.

[(50)] (51) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

[(51)] (52) "Sending zone" means an unincorporated area of a county that the county's land use authority designates as an area from which an owner of land may transfer transferrable development rights to an owner of land in a receiving zone.

[(52)] (53) "Specified public agency" means:

- (a) the state;
- (b) a school district; or
- (c) a charter school.

[(53)] (54) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

[(54)] (55) "State" includes any department, division, or agency of the state.

[(55)] (56) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.

[(56)] (57) (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

- (b) "Subdivision" includes:
- (i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and
- (ii) except as provided in Subsection [(56)] (57)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.
 - (c) "Subdivision" does not include:
 - (i) a bona fide division or partition of agricultural land for agricultural purposes;
- (ii) a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:
 - (A) no new lot is created; and
 - (B) the adjustment does not violate applicable land use ordinances;
 - (iii) a recorded document, executed by the owner of record:
- (A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or
- (B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;
- (iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:
 - (A) an electrical transmission line or a substation;
 - (B) a natural gas pipeline or a regulation station; or
- (C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;
- (v) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:
 - (A) no new dwelling lot or housing unit will result from the adjustment; and
 - (B) the adjustment will not violate any applicable land use ordinance; or
- (vi) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels.
 - (d) The joining of a subdivided parcel of property to another parcel of property that has

not been subdivided does not constitute a subdivision under this Subsection [(56)] (57) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

[(57)] (58) "Therapeutic school" means a residential group living facility:

- (a) for four or more individuals who are not related to:
- (i) the owner of the facility; or
- (ii) the primary service provider of the facility;
- (b) that serves students who have a history of failing to function:
- (i) at home;
- (ii) in a public school; or
- (iii) in a nonresidential private school; and
- (c) that offers:
- (i) room and board; and
- (ii) an academic education integrated with:
- (A) specialized structure and supervision; or
- (B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

[(58)] (59) "Township" means a contiguous, geographically defined portion of the unincorporated area of a county, established under this part or reconstituted or reinstated under Section 17-27a-306, with planning and zoning functions as exercised through the township planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority, except that "township" means a former township under Laws of Utah 1996, Chapter 308, where the context so indicates.

[(59)] (60) "Transferrable development right" means the entitlement to develop land within a sending zone that would vest according to the county's existing land use ordinances on the date that a completed land use application is filed seeking the approval of development activity on the land.

[(60)] (61) "Unincorporated" means the area outside of the incorporated area of a municipality.

[(61)] (62) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

- (b) an ownership interest in the right to the beneficial use of water represented by:
- (i) a contract; or
- (ii) a share in a water company, as defined in Section 73-3-3.5.
- [(62)] (63) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section $\frac{6}{8}$. Section 17-27a-509.5 is amended to read:

17-27a-509.5. Review for application completeness -- Substantive application review -- Reasonable diligence required for determination of whether improvements or warranty work meets standards -- Money damages claim prohibited.

- (1) (a) Each county shall, in a timely manner, determine whether an application is complete for the purposes of subsequent, substantive land use authority review.
- (b) After a reasonable period of time to allow the county diligently to evaluate whether all objective ordinance-based application criteria have been met, if application fees have been paid, the applicant may in writing request that the county provide a written determination either that the application is:
- (i) complete for the purposes of allowing subsequent, substantive land use authority review; or
- (ii) deficient with respect to a specific, objective, ordinance-based application requirement.
- (c) Within 30 days of receipt of an applicant's request under this section, the county shall either:
- (i) mail a written notice to the applicant advising that the application is deficient with respect to a specified, objective, ordinance-based criterion, and stating that the application must be supplemented by specific additional information identified in the notice; or
- (ii) accept the application as complete for the purposes of further substantive processing by the land use authority.
- (d) If the notice required by Subsection (1)(c)(i) is not timely mailed, the application shall be considered complete, for purposes of further substantive land use authority review.
- (e) (i) The applicant may raise and resolve in a single appeal any determination made under this Subsection (1) to the appeal authority, including an allegation that a reasonable period of time has elapsed under Subsection (1)(a).

- (ii) The appeal authority shall issue a written decision for any appeal requested under this Subsection (1)(e).
- (f) (i) The applicant may appeal to district court the decision of the appeal authority made under Subsection (1)(e).
- (ii) Each appeal under Subsection (1)(f)(i) shall be made within 30 days of the date of the written decision.
- (2) (a) Each land use authority shall substantively review a complete application and an application considered complete under Subsection (1)(d), and shall approve or deny each application with reasonable diligence.
- (b) After a reasonable period of time to allow the land use authority to consider an application, the applicant may in writing request that the land use authority take final action within 45 days from date of service of the written request.
- (c) The land use authority shall take final action, approving or denying the application within 45 days of the written request.
- (d) If the land use authority denies an application processed under the mandates of Subsection (2)(b), or if the applicant has requested a written decision in the application, the land use authority shall include its reasons for denial in writing, on the record, which may include the official minutes of the meeting in which the decision was rendered.
- (e) If the land use authority fails to [comply with] take an action required under Subsection (2)(c)[-;] for (d):
- (i) the applicant may appeal this failure} and notwithstanding Section 17-27a-707, the land use authority is limited on appeal to the record created before the expiration of the 45 day period established under Subsection (2)(c).
 - (f) If the land use authority fails to take action under Subsection (2)(c), the applicant:
 - (i) may appeal [this failure] to district court within 30 days of {:
 - (A) the written decision; or
- (B) the date on which the land use authority should have taken final action under Subsection (2)(c)[\cdot]; $\frac{\text{cor}}{\text{and}}$
- (ii) {if an applicant is an owner of a billboard, the applicant may elect to pursue the provisions of}notwithstanding Section {17-27a-512.5}
 - (f) If a billboard owner files an appeal under Subsection (2)(e)(i):

- (i) the district court may consider only those reasons for denial that have been issued in writing by the land use authority;
- (ii) the land use authority may not advance or argue any reason why the application should be denied other than a reason set forth in Subsection (2)(d);
 - (iii) the district court shall enter a judgment approving or denying the application; and
- (iv) if the district court enters a judgment approving the application, the court shall award the applicant attorney fees, costs, and expenses incurred on appeal} 17-27a-801, is not required to exhaust administrative remedies available to the applicant.
- (3) (a) With reasonable diligence, each land use authority shall determine whether the installation of required subdivision improvements or the performance of warranty work meets the county's adopted standards.
- (b) (i) An applicant may in writing request the land use authority to accept or reject the applicant's installation of required subdivision improvements or performance of warranty work.
- (ii) The land use authority shall accept or reject subdivision improvements within 15 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 15-day period if inspection of the subdivision improvements is impeded by winter weather conditions.
- (iii) The land use authority shall accept or reject the performance of warranty work within 45 days after receiving an applicant's written request under Subsection (3)(b)(i), or as soon as practicable after that 45-day period if inspection of the warranty work is impeded by winter weather conditions.
- (c) If a land use authority determines that the installation of required subdivision improvements or the performance of warranty work does not meet the county's adopted standards, the land use authority shall comprehensively and with specificity list the reasons for its determination.
- (4) Subject to Section 17-27a-508, nothing in this section and no action or inaction of the land use authority relieves an applicant's duty to comply with all applicable substantive ordinances and regulations.
 - (5) There shall be no money damages remedy arising from a claim under this section. Section {7} 2. Section **17-27a-510** is amended to read:
 - 17-27a-510. Nonconforming uses and noncomplying structures.

- (1) (a) Except as provided in this section, a nonconforming use or a noncomplying structure may be continued by the present or a future property owner.
- (b) A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.
- (c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.
 - (2) The legislative body may provide for:
- (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;
- (b) the termination of all nonconforming uses, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and
 - (c) the termination of a nonconforming use due to its abandonment.
- (3) (a) A county may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.
- (b) A county may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:
- (i) the structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after written notice to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or
- (ii) the property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.
- (c) (i) Notwithstanding a prohibition in its zoning ordinance, a county may permit a billboard owner to relocate the billboard within the county's unincorporated area to a location that is mutually acceptable to the county and the billboard owner.
- (ii) If the county and billboard owner cannot agree to a mutually acceptable location within 90 days after the owner submits a written request to relocate the billboard, the {[} provisions of {] county may not prevent the billboard owner from taking an action specified

- in} Subsection 17-27a-512(2)(a)(iv) {[apply] unless the county has commenced eminent domain proceedings in accordance with the provisions of Section 17-27a-511 within 90 days after the day that the billboard owner submits a written request to relocate the billboard.
- (d) (i) Except as provided in Subsection (3)(e), a county may not enact or enforce an ordinance that prevents an owner of an existing nonconforming or conforming billboard from upgrading that billboard to an electronic or mechanical changeable message sign that operates in conformance with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.
 - (ii)apply.
- (d) A county may {not enact or enforce an ordinance that forces an owner of an existing nonconforming or conforming billboard to forfeit any other billboard owned by the same owner in order to upgrade the existing nonconforming or conforming billboard to an electronic or mechanical changeable message sign that operates in conformance with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.
- (e) A county may, subject to Subsection (3)(f), }impose a{ midnight to 6 a.m.} curfew on the operation of an electronic or mechanical changeable message sign{.
 - (f) A county may not impose} if the curfew { described in Subsection (3)(e) unless:
- (i) the electronic or mechanical changeable message sign is located outside of an area governed by the Highway Beautification Act of 1965, Pub. L. No. 89-285, 79 Stat. 1028, or the Utah-Federal Agreement, as defined in Section 72-7-515; and
 - (ii) the face of the electronic or mechanical changeable message sign:
- (A) is within 150 feet of the outer edge of an existing residential dwelling structure that is legally occupied and located on property zoned exclusively for residential purposes; and
 - (B) is oriented toward the structure described in Subsection (3)(f)(ii)(A)}:
 - (i) eliminates light emission from the sign; or
- (ii) requires a static message from midnight to 6 a.m. for a sign located within 200 feet of a residence.
- (e) No later than 45 days after the day on which a county receives a written request from a billboard owner to trim or remove a tree that obstructs the view and readability of a billboard, the county shall:
 - (i) trim or remove the tree; or
 - (ii) authorize the billboard owner to:

- (A) adjust the height of the billboard; or
- (B) relocate the billboard.
- (4) (a) Unless the county establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use.
- (b) Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.
 - (c) Abandonment may be presumed to have occurred if:
- (i) a majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the county regarding an extension of the nonconforming use;
 - (ii) the use has been discontinued for a minimum of one year; or
- (iii) the primary structure associated with the nonconforming use remains vacant for a period of one year.
- (d) The property owner may rebut the presumption of abandonment under Subsection (4)(c), and shall have the burden of establishing that any claimed abandonment under Subsection (4)(c) has not in fact occurred.
- (5) A county may terminate the nonconforming status of a school district or charter school use or structure when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period established by ordinance.

Section {8} 10. Section {17-27a-511} 17-27a-512 is amended to read:

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

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

(a) gift;

(b) purchase;

(c) agreement;

(d) exchange; or

(e) subject to Subsection (3), eminent domain.

(2) A termination under Subsection (1)(a), (b), (c), or (d) requires the voluntary consent

of the billboard owner.

- (3) If a county terminates a billboard owner's billboard or associated rights through eminent domain, the county shall exercise the right of eminent domain in accordance with and subject to the requirements of Title 78B, Chapter 6, Part 5, Eminent Domain.
 - Section 9. Section 17-27a-512 is amended to read:
- † 17-27a-512. County's acquisition of billboard by eminent domain -- Removal without providing compensation -- Limit on allowing nonconforming billboard to be rebuilt or replaced -- Validity of county permit after issuance of state permit{ -- Just compensation in eminent domain proceeding -- County conditions on billboard prohibited}.
 - (1) As used in this section:
- (a) "Clearly visible" means capable of being {{}}read{{}} viewed} without obstruction by an occupant of a vehicle traveling on a street or highway within the visibility area.
 - (b) "Highest allowable height" means:
- (i) if the height allowed by the county, by ordinance or consent, is higher than the height under Subsection (1)(b)(ii), the height allowed by the county; or
 - (ii) (A) for a noninterstate billboard:
- (I) if the height of the previous use or structure is 45 feet or higher, the height of the previous use or structure; or
- (II) if the height of the previous use or structure is less than 45 feet, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than 45 feet; and
 - (B) for an interstate billboard:
- (I) if the height of the previous use or structure is at or above the interstate height, the height of the previous use or structure; or
- (II) if the height of the previous use or structure is less than the interstate height, the height of the previous use or structure or the height to make the entire advertising content of the billboard clearly visible, whichever is higher, but no higher than the interstate height.
- (c) "Interstate billboard" means a billboard that is intended to be viewed from a highway that is an interstate.
 - (d) "Interstate height" means a height that is the higher of:

- (i) 65 feet above the ground; and
- (ii) 25 feet above the grade of the interstate.
- (e) "Noninterstate billboard" means a billboard that is intended to be viewed from a street or highway that is not an interstate.
 - (f) "Visibility area" means the area on a street or highway that is:
- (i) defined at one end by a line extending from the base of the billboard across all lanes of traffic of the street or highway in a plane that is perpendicular to the street or highway; and
- (ii) defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:
 - (A) perpendicular to the street or highway; and
 - (B) (I) for an interstate billboard, 500 feet from the base of the billboard; or
 - (II) for a noninterstate billboard, 300 feet from the base of the billboard.
- (2) (a) A county { is considered to have initiated the acquisition of a billboard structure by eminent domain if the county prevents a billboard owner from { may not prevent a billboard owner from taking one or any of the following actions unless the county has first commenced, subject to Subsection (2)(b)(i), eminent domain proceedings as described in Section 17-27a-511}:
- (i) rebuilding, maintaining, repairing, or restoring a billboard structure that is damaged by casualty, an act of God, or vandalism;
- (ii) except as provided in Subsection (2) {{}}(c) {{}}(d)}, relocating or rebuilding a billboard structure, or taking other measures, to correct a mistake in the placement or erection of a billboard for which the county has issued a permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of that permit;
 - (iii) structurally modifying or upgrading a billboard;
- (iv) relocating a billboard into any commercial, industrial, or manufacturing zone within the unincorporated area of the county, if:
 - (A) the relocated billboard is:
 - (I) within 5,280 feet of its previous location; and
 - (II) no closer than:
- (Aa) 300 feet from an off-premise sign existing on the same side of the street or highway; or

- (Bb) if the street or highway is an interstate or limited access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act between the relocated billboard and an off-premise sign existing on the same side of the interstate or limited access highway; and
- (B) (I) the billboard owner has submitted a written request under Subsection 17-27a-510(3)(c); and
- (II) the county and billboard owner are unable to agree, within the time provided in Subsection 17-27a-510(3)(c), to a mutually acceptable location; {}}
- (v) making the following modifications, as the billboard owner determines, to a billboard that is structurally modified or upgraded under Subsection (2)(a)(iii) or relocated under Subsection (2)(a)(iv):
 - (A) erecting the billboard:
 - (I) to the highest allowable height; and
- (II) as the owner determines, to an angle that makes the entire advertising content of the billboard clearly visible; and
- (B) installing a sign face on the billboard that is at least the same size as, but no larger than, the sign face on the billboard before its relocation {[.]; or
- (vi) exercising a right granted to a billboard owner under the provisions of Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.
- (b) (i) Notwithstanding Subsection (2)(a), a county may not commence eminent domain proceedings to prevent a billboard owner from upgrading a billboard to an electronic or mechanical changeable message sign.
- [(b)] (ii)}<u>.</u>
- (c) A {{}} county's denial of{{}} county may deny} a billboard owner's request to relocate or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the placement or erection of a billboard {{}} does not constitute the initiation of acquisition by{{}} without commencing} eminent domain{{ proceedings}} under Subsection (2)(a) if the mistake in placement or erection of the billboard is determined by clear and convincing evidence to have resulted from an intentionally false or misleading statement:

- (i) by the billboard applicant in the application; and
- (ii) regarding the placement or erection of the billboard.
- (d) If a county $\{\{\}\}$ is considered to have initiated the acquisition of $\{\{\}\}$ acquires $\}$ a billboard structure by eminent domain under Subsection $\{\{\}\}$ (a) or any other provision of applicable law, the county shall subject to Subsection (2)(e)(i) pay just compensation to the billboard owner in an amount that is:
- (i) the value of the existing billboard at a fair market capitalization rate, based on actual annual revenue, less any annual rent expense;
 - (ii) the value of any other right associated with the billboard structure that is acquired;
 - (iii) the cost of the sign structure; and
- (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the billboard owner's interest is a part.
- (e) (i) No later than 30 days after the day on which a county initiates the acquisition of a billboard structure under this section, the billboard owner shall provide the county evidence to justify each claim for which the billboard owner requests just compensation.
- (ii) A county is not required to pay just compensation for a claim for which a billboard has not provided evidence for in accordance with Subsection (2)(e)(i).
- (3) Notwithstanding Subsection (2) and Section 17-27a-511, a county may {{}} remove{{}} require that a billboard owner remove} a billboard without providing compensation if:
 - (a) the county determines:
- (i) by clear and convincing evidence that the applicant for a permit intentionally made a false or misleading statement in the applicant's application regarding the placement or erection of the billboard; or
 - (ii) by substantial evidence that the billboard:
 - (A) is structurally unsafe;
 - (B) is in an unreasonable state of repair; or
 - (C) has been abandoned for at least 12 months;
- (b) the county notifies the owner in writing that the owner's billboard meets one or more of the conditions listed in Subsections (3)(a)(i) and (ii);
 - (c) the owner fails to remedy the condition or conditions within:

- (i) except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's receipt of written notice under Subsection (3)(b); or
- (ii) if the condition forming the basis of the county's intention to remove the billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a natural disaster, following the billboard owner's receipt of written notice under Subsection (3)(b); and
- (d) following the expiration of the applicable period under Subsection (3)(c) and after providing the owner with reasonable notice of proceedings and an opportunity for a hearing, the county finds:
- (i) by clear and convincing evidence, that the applicant for a permit intentionally made a false or misleading statement in the application regarding the placement or erection of the billboard; or
- (ii) by substantial evidence that the billboard is structurally unsafe, is in an unreasonable state of repair, or has been abandoned for at least 12 months.
- (4) A county may not allow a nonconforming billboard to be rebuilt or replaced by anyone other than its owner or the owner acting through its contractors.
- (5) A permit issued, extended, or renewed by a county for a billboard remains valid from the time the county issues, extends, or renews the permit until 180 days after a required state permit is issued for the billboard if:
 - (a) the billboard requires a state permit; and
- (b) an application for the state permit is filed within 30 days after the county issues, extends, or renews a permit for the billboard.

{(6) } Section 11. Section 17-27a-512.1 is enacted to read:

17-27a-512.1. Conversion of billboard.

A county may not {require that a billboard owner remove or alter a billboard, or require that a person who has a lease, easement, or other agreement with a billboard owner terminate or fail to renew that lease, easement, or other agreement as a condition of issuing or approving:

(a) a permit;
(b) a license;
(c) a zone change;
(d) a variance;

- (e) any land use entitlement; or
- (f) any other land use approval or}deny an application to convert an existing interstate billboard, as defined in Section 10-9a-513, if the billboard:
 - (1) location is in accordance with adopted zoning; or
- (2) is a permissible nonconforming use in accordance Section 10-9a-511 and an applicable county ordinance.

Section $\{10\}$ 12. Section 17-27a-512.5 is enacted to read:

17-27a-512.5. Billboard arbitration.

- (1) {(a) A billboard owner} An applicant may challenge or dispute a final decision {, action, or failure to timely act made by} of a county {or land use authority} concerning a billboard by serving a notice of arbitration upon the county within the time for {an}a judicial appeal of {that action or inaction.
- (b) A billboard owner need not exhaust administrative remedies available to the billboard owner in order to pursue a remedy under this section} the final decision.
 - (2) (a) A notice of arbitration {shall set forth:
 - (i) served in accordance with Subsection (1) shall:
 - (i) stay the applicant's appeal period;
 - (ii) state the decision, action, or failure to act that is the subject of the arbitration; and (fii) state the name of the follower's applicant's choice of an arbitrator.
- (b) (i) The county shall have 21 days after the day { on which} the county receives a notice of arbitration to respond {, in accordance with Subsection (2)(b),} to the notice {.
- (i) The county's response shall:
 - (A) set forth the reasons, if any, for the county's decision, action, or failure to act; and
- (B) include a statement of agreement or disagreement with the billboard owner's choice of arbitrator} of arbitration, including a statement stating as to whether the county agrees or disagrees to the applicant's arbitrator choice.
- (ii) If the county does not agree to the {billboard owner's} applicant's selected arbitrator, the county shall submit its own choice of arbitrator in {the county's} its response to {the} notice of arbitration under Subsection (2)(b).
- (iii) If the {billboard owner} applicant and county cannot agree {on} to a single arbitrator {, a panel of three arbitrators will conduct}:

- (A) the {arbitration with each party's} applicant's and the county's chosen {arbitrator selecting the} arbitrators shall choose a third arbitrator{...}; and
- (\{\text{iv}\) If the county fails to timely serve a complete response, in accordance with\{\text{B}\) the arbitration shall be decided by a three-member panel consisting of the applicant's arbitrator, the county's arbitrator, and an arbitrator described in Subsection (2)(b)(\{\text{i}\), to a notice of arbitration under Subsection (2)(b), the billboard owner's land use application shall be deemed approved and all associated permits shall be issued upon payment of the required fees\{\text{iii}\)(A).
 - (3) (a) An arbitration under this section shall commence :
 - (i) within 30 days of a county timely serving no later than:
- (i) except as provided in Subsection (3)(a)(ii), 30 days after the day on which a county serves, in accordance with Subsection (2)(b), its response to the notice of arbitration; or
- (ii) {if}45 days after the {arbitration is conducted by a panel of arbitrators} day on which a county serves, in accordance with Subsection (2)(b){(iii)}, {within 45 days of a timely service of a county's} its response to the notice of arbitration if a panel of three as described in Subsection (2)(b)(iii)(B) is to decide the arbitration.
 - (b) Unless otherwise agreed to in writing :
 - (i) , each party shall pay:
- (i) an equal share of the fees and costs of {the}an arbitrator {selected} mutually agreed to under Subsection (2)(b)(i); or
- (ii) {if} for an arbitration panel {is selected under} described in Subsection (2)(b)(iii)(B):
- (A) {each party shall pay the } fees and costs {of} for the arbitrator selected by {that} the party; and
- (B) {each party shall pay }an equal share of the fees and costs of the { third} arbitrator selected in accordance with Subsection (2)(b)(iii)(A).
- (c) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted {under} in accordance with this section is governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.
- (4) An arbitration {award} decision issued {under} in accordance with this section shall be:
 - (a) issued \{\text{within}\}\no \text{later than 60 days \{\text{of}\}\text{after the \{\text{commencement of}\}\text{day the}\}

arbitration commences; and

- (b) the final resolution of all claims related to the dispute unless:
- (i) the {award} decision is procured by corruption, fraud, or other undue means; or
- (ii) {either}a party, within 20 days after {issuance of}the day the {arbitration} award}decision is issued, files a complaint requesting a trial de novo in{ the} district court.
- (5) (a) Upon filing a complaint for a trial de novo under Subsection (4)(b)(ii), a claim {shall proceed through litigation pursuant} and related proceedings are subject to the Utah Rules of Civil Procedure and Utah Rules of Evidence { in the district court.}
 - (a) The arbitration award).
- (b) Except as provided in Subsection (6), the arbitration decision described in Subsection (4) may not be offered as evidence in a trial de novo under Subsection (4)(b)(ii), except as provided in Subsection (6).
 - (b) The court may not presume that the county's decision, inaction, or action is valid.
 - (c) (i) Subject to Subsection (5)(c)(ii), the court may accept evidence.
- (ii) In reviewing a decision to deny a billboard owner's land use application, the county may not argue any reasons why the application should be denied other those set forth in the written decision required by Subsection 17-27a-509.5(2)(e)(i)(A)}.
- (6) {A}(a) If a party to a trial de novo {under}described in Subsection (4)(b)(ii) {that } prevails on the same legal theories at{ both} the trial de novo and {the}in an arbitration {conducted under Subsection (3) shall be}decision, the party is entitled to reasonable attorney fees, costs, and expenses incurred in the {arbitration and the} trial de novo.
- (\{a\}b) \{A party may not offer\}\If an arbitration \{award issued in accordance with \\
 \text{Subsection (4)}\}\decision includes, under Subsection (4)(b), an award, a party may not present \text{the award as evidence to the district court unless the evidence of the award is \{\text{offered}\}\text{presented} as \{\text{evidence in}\}\text{part of a motion for attorney fees, costs, and expenses \{\text{as}\}\text{described in}\}\text{under Subsection (6)(a).}
- (\{b\c)\c) An order resulting from a motion \{for attorney fees, costs, and expenses \\
 \text{under}\{\described in Subsection (6)(\{a\c}b)\) is \(\considered\) a final judgment under Rule 54 of the Utah Rules of Civil Procedure.

Section $\{11\}$ 13. Section 72-7-502 is amended to read:

72-7-502. Definitions.

As used in this part:

- (1) "Clearly visible" means capable of being {{}}read{{}} viewed} without obstruction by an occupant of a vehicle traveling on the main traveled way of a street or highway within the visibility area.
- (2) "Commercial or industrial activities" means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following are commercial or industrial activities:
- (a) agricultural, forestry, grazing, farming, and related activities, including wayside fresh produce stands;
 - (b) transient or temporary activities;
 - (c) activities not visible from the main-traveled way;
 - (d) activities conducted in a building principally used as a residence; and
 - (e) railroad tracks and minor sidings.
 - (3) (a) "Commercial or industrial zone" means only:
- (i) those areas within the boundaries of cities or towns that are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under enabling state legislation or comprehensive local zoning ordinances or regulations;
- (ii) those areas within the boundaries of urbanized counties that are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under enabling state legislation or comprehensive local zoning ordinances or regulations;
- (iii) those areas outside the boundaries of urbanized counties and outside the boundaries of cities and towns that:
- (A) are used or reserved for business, commerce, or trade, or zoned as a highway service zone, under comprehensive local zoning ordinances or regulations or enabling state legislation; and
- (B) are within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured from the nearest point of the beginning or ending of the pavement widening at the exit from or entrance to the main-traveled way; or
- (iv) those areas outside the boundaries of urbanized counties and outside the boundaries of cities and towns and not within 8420 feet of an interstate highway exit, off-ramp, or turnoff as measured from the nearest point of the beginning or ending of the pavement

widening at the exit from or entrance to the main-traveled way that are reserved for business, commerce, or trade under enabling state legislation or comprehensive local zoning ordinances or regulations, and are actually used for commercial or industrial purposes.

- (b) "Commercial or industrial zone" does not mean areas zoned for the sole purpose of allowing outdoor advertising.
- (4) "Comprehensive local zoning ordinances or regulations" means a municipality's comprehensive plan required by Section 10-9a-401, the municipal zoning plan authorized by Section 10-9a-501, and the county master plan authorized by Sections 17-27a-401 and 17-27a-501. Property that is rezoned by comprehensive local zoning ordinances or regulations is rebuttably presumed to have not been zoned for the sole purpose of allowing outdoor advertising.
- (5) "Convert" means to change the surface of a billboard sign face from an existing, non-digital surface to a digitally-controlled surface.
- [(5)] (6) "Directional signs" means signs containing information about public places owned or operated by federal, state, or local governments or their agencies, publicly or privately owned natural phenomena, historic, cultural, scientific, educational, or religious sites, and areas of natural scenic beauty or naturally suited for outdoor recreation, that the department considers to be in the interest of the traveling public.
- [(6)](7) (a) "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being.
- (b) "Erect" does not include any activities defined in Subsection [(6)] (7)(a) if they are performed incident to the change of an advertising message or customary maintenance of a sign.
- [(7)] (8) "Highway service zone" means a highway service area where the primary use of the land is used or reserved for commercial and roadside services other than outdoor advertising to serve the traveling public.
- [(8)] (9) "Information center" means an area or site established and maintained at rest areas for the purpose of informing the public of:
 - (a) places of interest within the state; or
 - (b) any other information that the department considers desirable.
 - [(9)] (10) "Interchange or intersection" means those areas and their approaches where

traffic is channeled off or onto an interstate route, excluding the deceleration lanes, acceleration lanes, or feeder systems, from or to another federal, state, county, city, or other route.

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

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

(b) "Maintenance" does not include an action defined or described in Subsection (5).

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

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

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

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

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

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

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

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

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

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

- (a) includes all contiguous interests in land, improvements, and utilities acquired, constructed, and used in connection with the operation of the public assembly facility, whether the interests are owned or held in fee title or a lease or easement for a term of at least 40 years, and regardless of whether the interests are owned or operated by separate governmental authorities or districts:
 - (b) is wholly or partially funded by public money;
- (c) requires a person attending an event at the public assembly facility to purchase a ticket or that otherwise charges for the use of the public assembly facility as part of its regular operation; and
 - (d) has a minimum and permanent seating capacity of at least 10,000 people.

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

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

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

- [(25)] (26) (a) "Remodel" means the upgrading, changing, alteration, refurbishment, modification, or complete substitution of a new outdoor advertising structure for one permitted pursuant to this part and that is located in a commercial or industrial area.
 - (b) "Remodel" does not include an action defined or described in Subsection (5).
- [(26)] (27) "Rest area" means an area or site established and maintained within or adjacent to the right-of-way by or under public supervision or control for the convenience of the traveling public.
- [(27)] (28) "Scenic or natural area" means an area determined by the department to have aesthetic value.
- [(28)] (29) "Traveled way" means that portion of the roadway used for the movement of vehicles, exclusive of shoulders and auxiliary lanes.
 - [(29)] (30) (a) "Unzoned commercial or industrial area" means:
- (i) those areas not zoned by state law or local law, regulation, or ordinance that are occupied by one or more industrial or commercial activities other than outdoor advertising signs;
- (ii) the lands along the highway for a distance of 600 feet immediately adjacent to those activities; and
- (iii) lands covering the same dimensions that are directly opposite those activities on the other side of the highway, if the department determines that those lands on the opposite side of the highway do not have scenic or aesthetic value.
- (b) In measuring the scope of the unzoned commercial or industrial area, all measurements shall be made from the outer edge of the regularly used buildings, parking lots, storage, or processing areas of the activities and shall be along or parallel to the edge of pavement of the highway.
- (c) All signs located within an unzoned commercial or industrial area become nonconforming if the commercial or industrial activity used in defining the area ceases for a continuous period of 12 months.
- [(30)] (31) "Urbanized county" means a county with a population of at least 125,000 persons.
 - [(31)] (32) "Visibility area" means the area on a street or highway that is:
 - (a) defined at one end by a line extending from the base of the billboard across all lanes

of traffic of the street or highway in a plane that is perpendicular to the street or highway; and

- (b) defined on the other end by a line extending across all lanes of traffic of the street or highway in a plane that is:
 - (i) perpendicular to the street or highway; and
 - (ii) 500 feet from the base of the billboard.

Section $\frac{12}{14}$. Section 72-7-505 is amended to read:

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

- (1) (a) Except as provided in Subsection (2), a sign face within the state may not exceed the following limits:
 - (i) maximum area 1,000 square feet;
 - (ii) maximum length 60 feet; and
 - (iii) maximum height 25 feet.
- (b) No more than two facings visible and readable from the same direction on the main-traveled way may be erected on any one sign structure. Whenever two facings are so positioned, neither shall exceed the maximum allowed square footage.
- (c) Two or more advertising messages on a sign face and double-faced, back-to-back, stacked, side-by-side, and V-type signs are permitted as a single sign or structure if both faces enjoy common ownership.
- {{}}(d) A changeable message sign is permitted if the interval between message changes is not more frequent than at least eight seconds and the actual message rotation process is accomplished in three seconds or less.{{}}
- {{}}(e) An illumination standard adopted by any jurisdiction shall be uniformly applied to all signs, public or private, on or off premise.{{}}
- ({d) An existing conforming or nonconforming sign, a newly constructed conforming sign, or a relocated sign may be upgraded or constructed as an electronic changeable message sign so long as the interval between message changes is not more frequent than at least eight seconds and the actual message rotation process is accomplished in three seconds or less.
- (e)f) (i) The illumination of an electronic or mechanical changeable message sign is subject to a curfew described in Section 10-9a-511 or 17-27a-510.
 - (ii) In addition to a curfew imposed in accordance with Subsection (1)(f), the

<u>illumination of an electronic or mechanical</u> changeable message sign may {not } be {limited, except} regulated to prevent {an electronic} the sign face from increasing ambient lighting levels by more than 0.3 {footcandles} foot-candles when measured:

({i}A) at any time after sunset and before sunrise;

({ii}B) perpendicular to the sign face; and

({iii}C) at a distance in feet calculated by taking the square root of the product of the {following:

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

(B) 100.

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

†area of the sign face and 100.

- (2) (a) An outdoor sign structure located inside the unincorporated area of a nonurbanized county may have the maximum height allowed by the county for outdoor advertising structures in the commercial or industrial zone in which the sign is located. If no maximum height is provided for the location, the maximum sign height may be 65 feet above the ground or 25 feet above the grade of the main traveled way, whichever is greater.
- (b) An outdoor sign structure located inside an incorporated municipality or urbanized county may have the maximum height allowed by the municipality or urbanized county for outdoor advertising structures in the commercial or industrial zone in which the sign is located. If no maximum height is provided for the location, the maximum sign height may be 65 feet above the ground or 25 feet above the grade of the main traveled way, whichever is greater.
 - (3) Except as provided in Section 72-7-509:
- (a) Any sign allowed to be erected by reason of the exceptions set forth in Subsection 72-7-504(1) or in H-1 zones may not be closer than 500 feet to an existing off-premise sign adjacent to an interstate highway or limited access primary highway, except that signs may be erected closer than 500 feet if the signs on the same side of the interstate highway or limited

access primary highway are not simultaneously visible.

- (b) Signs may not be located within 500 feet of any of the following which are adjacent to the highway, unless the signs are in an incorporated area:
 - (i) public parks;
 - (ii) public forests;
 - (iii) public playgrounds;
- (iv) areas designated as scenic areas by the department or other state agency having and exercising this authority; or
 - (v) cemeteries.
- (c) (i) (A) Except under Subsection (3)(c)(ii), signs may not be located on an interstate highway or limited access highway on the primary system within 500 feet of an interchange, or intersection at grade, or rest area measured along the interstate highway or freeway from the sign to the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way.
- (B) Interchange and intersection distance limitations shall be measured separately for each direction of travel. A measurement for each direction of travel may not control or affect any other direction of travel.
- (ii) A sign may be placed closer than 500 feet from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main-traveled way, if:
- (A) the sign is replacing an existing outdoor advertising use or structure which is being removed or displaced to accommodate the widening, construction, or reconstruction of an interstate, federal aid primary highway existing as of June 1, 1991, or national highway system highway; and
- (B) it is located in a commercial or industrial zoned area inside an urbanized county or an incorporated municipality.
- (d) The location of signs situated on nonlimited access primary highways in commercial, industrial, or H-1 zoned areas between streets, roads, or highways entering the primary highway shall not exceed the following minimum spacing criteria:
- (i) Where the distance between centerlines of intersecting streets, roads, or highways is less than 1,000 feet, a minimum spacing between structures of 150 feet may be permitted between the intersecting streets or highways.

- (ii) Where the distance between centerlines of intersecting streets, roads, or highways is 1,000 feet or more, minimum spacing between sign structures shall be 300 feet.
- (e) All outdoor advertising shall be erected and maintained within the outdoor advertising corridor.
 - (4) Subsection (3)(c)(ii) may not be implemented until:
- (a) the Utah-Federal Agreement for carrying out national policy relative to control of outdoor advertising in areas adjacent to the national system of interstate and defense highways and the federal-aid primary system is modified to allow the sign placement specified in Subsection (3)(c)(ii); and
- (b) the modified agreement under Subsection (4)(a) is signed on behalf of both the state and the United States Secretary of Transportation.

Section 15. Section 72-7-507 is amended to read:

72-7-507. Advertising -- Permits -- Application requirements -- Duration -- Fees.

- (1) (a) Outdoor advertising may not be maintained without a current permit.
- (b) Applications for permits shall be made to the department on forms furnished by it.
- (c) A permit must be obtained prior to installing or converting each outdoor sign.
- (d) The application for a permit shall be accompanied by an initial fee established under Section 63J-1-504.
- (2) (a) Each permit issued by the department is valid for a period of up to five years and shall expire on June 30 of the fifth year of the permit, or upon the expiration or termination of the right to use the property, whichever is sooner.
- (b) Upon renewal, each permit may be renewed for periods of up to five years upon the filing of a renewal application and payment of a renewal fee established under Section 63J-1-504.
- (3) Sign owners residing outside the state shall provide the department with a continuous performance bond in the amount of \$2,500.
- (4) Fees may not be prorated for fractions of the permit period. Advertising copy may be changed at any time without payment of an additional fee.
- (5) (a) Each sign shall have its permit continuously affixed to the sign in a position visible from the nearest traveled portion of the highway.
 - (b) The permit shall be affixed to the sign structure within 30 days after delivery by the

department to the permit holder, or within 30 days of the installation date of the sign structure.

- (c) Construction of the sign structure shall begin within 180 days after delivery of the permit by the department to the permit holder and construction shall be completed within 365 days after delivery of the permit.
- (6) The department may not accept any applications for a permit or issue any permit to erect or maintain outdoor advertising within 500 feet of a permitted sign location except to the permit holder or the permit holder's assigns until the permit has expired or has been terminated pursuant to the procedures under Section 72-7-508.
 - (7) Permits are transferrable if the ownership of the permitted sign is transferred.
- (8) Conforming, permitted sign structures may be altered, changed, remodeled, and relocated subject to the provisions of Subsection (6).

{Section 13. Section 72-7-508 is amended to read:

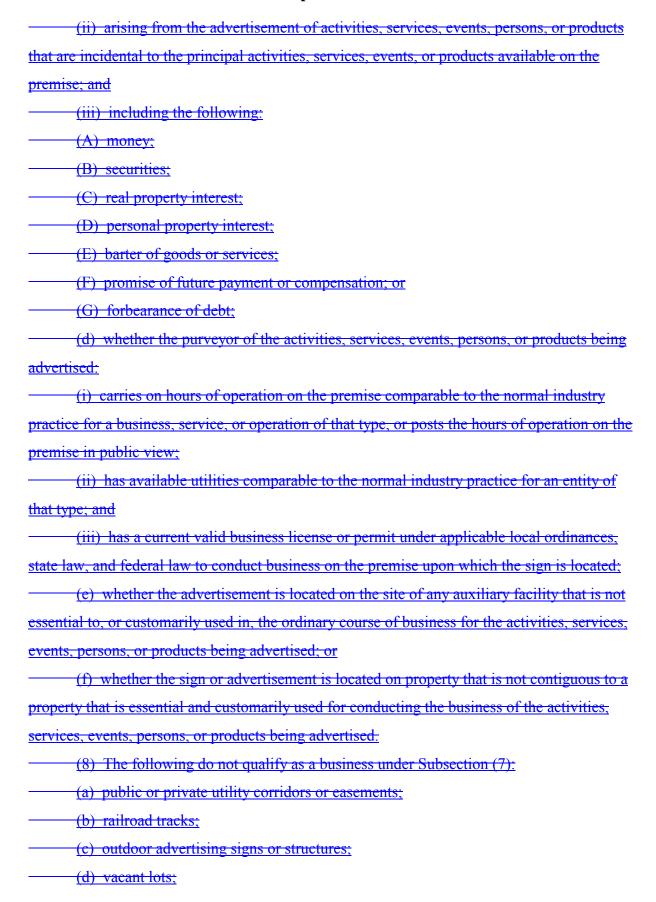
- 72-7-508. Unlawful}(9) The department may not issue a permit to convert an outdoor advertising {-- Adjudicative proceedings -- Judicial review -- Costs of removal -- Civil and criminal liability for damaging regulated signs -- Immunity for Department of Transportation.
 - (1) Outdoor advertising is unlawful when:
 - (a) erected after May 9, 1967, contrary to the provisions of this chapter;
 - (b) a permit is not obtained as required by this part;
- (c) a false or misleading statement has been made in the application for a permit that was material to obtaining the permit; or
- (d) the sign for which a permit was issued is not in a reasonable state of repair, is unsafe, or is otherwise in violation of this part.
- (2) The establishment, operation, repair, maintenance, or alteration of any sign contrary to this chapter is also a public nuisance.
- (3) Except as provided in Subsection (4), in its enforcement of this section, the department shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.
- (4) (a) The district courts shall have jurisdiction to review by trial de novo all final orders of the department under this part resulting from formal and informal adjudicative proceedings.
 - (b) Venue for judicial review of final orders of the department shall be in the county in

which the sign is located. (5) If the department is granted a judgment, the department is entitled to have any nuisance abated and recover from the responsible person, firm, or corporation, jointly and severally: (a) the costs and expenses incurred in removing the sign; and (b) (i) \$500 for each day the sign was maintained following the expiration of 10 days after notice of agency action was filed and served under Section 63G-4-201; (ii) \$750 for each day the sign was maintained following the expiration of 40 days after notice of agency action was filed and served under Section 63G-4-201; (iii) \$1,000 for each day the sign was maintained following the expiration of 70 days after notice of agency action was filed and served under Section 63G-4-201; and (iv) \$1,500 for each day the sign was maintained following the expiration of 100 days after notice of agency action was filed and served under Section 63G-4-201. (6) (a) Any person, partnership, firm, or corporation who vandalizes, damages, defaces, destroys, or uses any sign controlled under this chapter without the owner's permission is liable to the owner of the sign for treble the amount of damage sustained and all costs of court, including a reasonable [attorney's] attorney fee, and is guilty of a class C misdemeanor. (b) This Subsection (6) does not apply to the department, its agents, or employees if acting to enforce this part. (7) The following criteria shall be used for determining whether an existing sign within an [interstate] outdoor advertising corridor has as its purpose unlawful off-premise outdoor advertising: (a) whether the sign complies with this part; (b) whether the premise includes an area: (i) from which the general public is serviced according to normal industry practices for organizations of that type; or (ii) that is directly connected to or is involved in carrying out the activities and normal

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

industry practices of the advertised activities, services, events, persons, or products;

(c) whether the sign generates revenue:



(e) transient or temporary activities; or (f) storage of accessory products. (9) The sign owner has the burden of proving, by a preponderance of the evidence, that the advertised activity is conducted on the premise. Section 14. Section 72-7-510 is amended to read: 72-7-510. Existing outdoor advertising not in conformity with part -- Procedure -- Eminent domain -- Compensation -- Relocation. (1) As used in this section, "nonconforming sign" means a sign that has been erected in a zone or area other than commercial or industrial or where outdoor advertising is not permitted under this part. (2) (a) The department may acquire by gift, purchase, agreement, exchange, or eminent domain, any existing outdoor advertising and all property rights pertaining to the outdoor advertising which were lawfully in existence on May 9, 1967, and which by reason of this part become nonconforming. (b) [If the] The department, or any town, city, county, governmental entity, public utility, or any agency or the United States Department of Transportation under this part[, prevents] may not prevent the maintenance as defined in Section 72-7-502, or [requires] require that maintenance of an existing sign be discontinued[,] unless the department, town, city, county, governmental entity, public utility, or agency acquires the sign in question [shall be considered acquired by the entity and just compensation will become immediately due and payable] by eminent domain. (c) Eminent domain shall be exercised in accordance with the [provision] provisions of Title 78B, Chapter 6, Part 5, Eminent Domain. (3) (a) Just compensation shall be paid for outdoor advertising and all property rights pertaining to the same, including the right of the landowner upon whose land a sign is located, acquired through the processes of eminent domain. (b) For the purposes of this part, just compensation shall include the consideration of damages to remaining properties, contiguous and noncontiguous, of an outdoor advertising sign company's interest, which remaining properties, together with the properties actually condemned, constituted an economic unit.

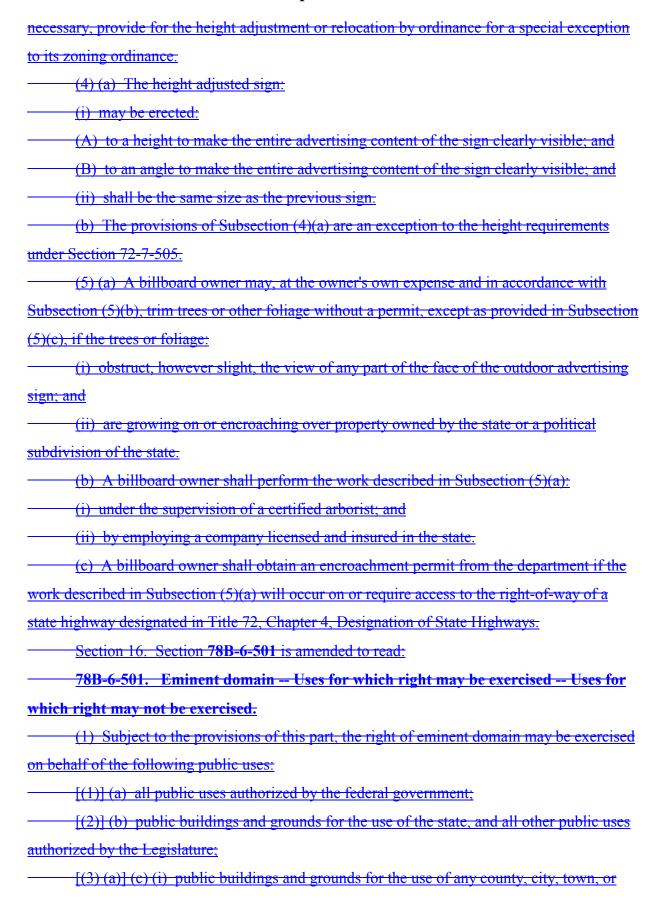
(c) The department is empowered to remove signs found in violation of Section

72-7-508 without payment of any compensation.

- (4) (a) Except as specifically provided in this [section or Section 72-7-513] part, Title 10, Chapter 9a, Part 5, Land Use Ordinances, or Title 17, Chapter 27a, Part 5, Land Use Ordinances, this part may not be construed to permit a person to place or maintain any outdoor advertising adjacent to any interstate or primary highway system which is prohibited [by law or] by any town, city, or county ordinance.
- (b) Any town, city, county, governmental entity, or public utility which requires the removal, relocation, alteration, change, or termination of outdoor advertising shall commence eminent domain proceedings and pay just compensation as defined in this part and in Title 78B, Chapter 6, Part 5, Eminent Domain.
- (5) Except as provided in Section 72-7-508, no sign shall be required to be removed by the department nor sign maintenance as described in this section be discontinued unless at the time of removal or discontinuance there are sufficient funds, from whatever source, appropriated and immediately available to pay the just compensation required under this section and unless at that time the federal funds required to be contributed under 23 U.S.C., Sec. 131, if any, with respect to the outdoor advertising being removed, have been appropriated and are immediately available to this state.
- (6) (a) If any outdoor advertising use, structure, or permit may not be continued because of the widening, construction, or reconstruction along an interstate, federal aid primary highway existing as of June 1, 1991, or national highway systems highway, the owner shall have the option to relocate and remodel the use, structure, or permit to another location:
- (i) on the same property;
- (ii) on adjacent property;
- (iii) on the same highway within 5280 feet of the previous location, which may be extended 5280 feet outside the areas described in Subsection 72-7-505(3)(c)(i)(A), on either side of the same highway; or
- (iv) mutually agreed upon by the owner and the county or municipality in which the use, structure, or permit is located.
- (b) The relocation under Subsection (6)(a) shall be in a commercial or industrial zoned area or where outdoor advertising is permitted under this part.
 - (c) The county or municipality in which the use or structure is located shall, if

necessary, provide for the relocation and remodeling by ordinance for a special exception to its zoning ordinance. (d) The relocated and remodeled use or structure may be: (i) erected to a height and angle to make it clearly visible to traffic on the main-traveled way of the highway to which it is relocated or remodeled; (ii) the same size and at least the same height as the previous use or structure, but the relocated use or structure may not exceed the size and height permitted under this part; or (iii) relocated to a comparable vehicular traffic count. (7) (a) The governmental entity, quasi-governmental entity, or public utility that causes the need for the outdoor advertising relocation or remodeling as provided in Subsection (6)(a) shall pay the costs related to the relocation, remodeling, or acquisition. (b) If a governmental entity prohibits the relocation and remodeling as provided in Subsection (6)(a), it shall pay just compensation as provided in Subsection (3). Section 15. Section 72-7-510.5 is amended to read: 72-7-510.5. Height adjustments for outdoor advertising signs -- Sign obstruction. (1) If the view [and readability] of an outdoor advertising sign, including a sign that is a nonconforming sign as defined in Section 72-7-510, a noncomplying structure as defined in Sections 10-9a-103 and 17-27a-103, or a nonconforming use as defined in Sections 10-9a-103 and 17-27a-103 is obstructed due to a noise abatement or safety measure, grade change, construction, directional sign, highway widening, or aesthetic improvement made by an agency or political subdivision of this state, along an interstate, federal aid primary highway existing as of June 1, 1991, national highway systems highway, or state highway or by an improvement created on real property subsequent to the department's disposal of the property under Section 72-5-111, the owner of the sign may: (a) adjust the height of the sign; or (b) relocate the sign to a point within 500 feet of its prior location, if the sign complies with the spacing requirements under Section 72-7-505 and is in a commercial or industrial zone. (2) A height adjusted sign under this section does not constitute a substantial change to the sign.

(3) The county or municipality in which the outdoor advertising sign is located shall, if



board of education:

[(b)] (ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water for the use of the inhabitants of any county, city, or town, or for the draining of any county, city, or town; (c) (iii) the raising of the banks of streams, removing obstructions from streams, and widening, deepening, or straightening their channels; [(d)] (iv) bicycle paths and sidewalks adjacent to paved roads; [(e)] (v) roads, streets, and alleys for public vehicular use, excluding trails, paths, or other ways for walking, hiking, bicycling, equestrian use, or other recreational uses, or whose primary purpose is as a foot path, equestrian trail, bicycle path, or walkway; and [(f)] (vi) all other public uses for the benefit of any county, city, or town, or its inhabitants; [(4)] (d) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or road locomotives. roads for logging or lumbering purposes, and railroads and street railways for public transportation; [(5)] (e) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes for the supplying of persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic or other uses, or for irrigation purposes, or for the draining and reclaiming of lands, or for the floating of logs and lumber on streams not navigable, or for solar evaporation ponds and other facilities for the recovery of minerals in solution; [(6) (a)] (f) (i) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping places to access or facilitate the milling, smelting, or other reduction of ores, or the working of mines, quarries, coal mines, or mineral deposits including minerals in solution; [(b)] (ii) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal mines or mineral deposits including minerals in solution; (c) (iii) mill dams; -[(d)] (iv) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or formation in any land for the underground storage of natural gas, and in connection with that, any other interests in property which may be required to adequately examine,

prepare, maintain, and operate underground natural gas storage facilities; [(e)] (v) solar evaporation ponds and other facilities for the recovery of minerals in solution; and [(f)] (vi) any occupancy in common by the owners or possessors of different mines, quarries, coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores, or any place for the flow, deposit or conduct of tailings or refuse matter; [(7)] (g) byroads leading from a highway to: (a) (i) a residence; [(b)] (ii) a development; or [(c)] (iii) a farm; [(8)] (h) telegraph, telephone, electric light and electric power lines, and sites for electric light and power plants; [(9)] (i) sewage service for: [(a)] (i) a city, a town, or any settlement of not less than 10 families; [(b)] (ii) a development; [(c)] (iii) a public building belonging to the state; or [(d)] (iv) a college or university; [(10)] (j) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and storing water for the operation of machinery for the purpose of generating and transmitting electricity for power, light or heat; [(11)] (k) cemeteries and public parks, except for a park whose primary use is: [(a)] (i) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or [(b)] (ii) to connect other trails, paths, or other ways for walking, hiking, bicycling, or equestrian use; [(12)] (1) pipe lines for the purpose of conducting any and all liquids connected with the manufacture of beet sugar; and [(13)] (m) sites for mills, smelters or other works for the reduction of ores and necessary to their successful operation, including the right to take lands for the discharge and natural distribution of smoke, fumes, and dust, produced by the operation of works, provided that the powers granted by this section may not be exercised in any county where the

population exceeds 20,000, or within one mile of the limits of any city or incorporated town nor unless the proposed condemner has the right to operate by purchase, option to purchase or easement, at least 75% in value of land acreage owned by persons or corporations situated within a radius of four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits of the four-mile radius; nor as to lands covered by contracts, easements, or agreements existing between the condemner and the owner of land within the limit and providing for the operation of such mill, smelter, or other works for the reduction of ores; nor until an action shall have been commenced to restrain the operation of such mill, smelter, or other works for the reduction of ores:

- (2) A political subdivision may not terminate a billboard owner's billboard structure or associated rights through eminent domain unless:
- (a) the political subdivision commences eminent domain proceedings for a proposed public use described in Subsection (1); and
 - (b) the proposed public use would be located on:
- (i) the same property where the billboard is located if the billboard owner does not intend to relocate the billboard; or
- (ii) the property where a billboard owner intends to relocate or construct a billboard.

 †sign if the conversion is inconsistent with local zoning.