

**Representative Francis D. Gibson** proposes the following substitute bill:

**BILLBOARD AMENDMENTS**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Francis D. Gibson**

Senate Sponsor: Jacob L. Anderegg

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**LONG TITLE**

**General Description:**

This bill amends provisions related to billboards in municipalities and counties.

**Highlighted Provisions:**

This bill:

▶ amends provisions related to a municipality or a county's acquisition of a billboard and associated rights through eminent domain;

▶ permits a municipality or county to require a billboard owner to remove a billboard under certain conditions; and

▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**10-9a-511**, as last amended by Laws of Utah 2015, Chapter 205

**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



26 17-27a-510, as last amended by Laws of Utah 2009, Chapter 170

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

28 17-27a-512, as last amended by Laws of Utah 2014, Chapter 189

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

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

32 **10-9a-511. Nonconforming uses and noncomplying structures.**

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

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

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

39 (2) The legislative body may provide for:

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

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

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

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

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

53 (i) the structure is allowed to deteriorate to a condition that the structure is rendered  
54 uninhabitable and is not repaired or restored within six months after the day on which written  
55 notice is served to the property owner that the structure is uninhabitable and that the  
56 noncomplying structure or nonconforming use will be lost if the structure is not repaired or

57 restored within six months; or

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

60 (c) (i) Notwithstanding a prohibition in ~~[its]~~ the municipality's zoning ordinance, a  
61 municipality may permit a billboard owner to relocate the billboard within the municipality's  
62 boundaries to a location that is mutually acceptable to the municipality and the billboard  
63 owner.

64 (ii) If the municipality and billboard owner cannot agree to a mutually acceptable  
65 location within ~~Œ~~ **[90] 180** ~~←Œ~~ days after the day on which the owner submits a written request to  
65a relocate  
66 the billboard, ~~[the provisions of Subsection 10-9a-513(2)(a)(iv) apply]~~ the billboard owner may  
67 relocate the billboard in accordance with Subsection 10-9a-513(2).

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

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

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

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

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

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

80 (d) The property owner may rebut the presumption of abandonment under Subsection  
81 (4)(c), and ~~[shall have]~~ has the burden of establishing that any claimed abandonment under  
82 Subsection (4)(b) has not ~~[in fact]~~ occurred.

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

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

88 **10-9a-512. Termination of a billboard and associated rights.**

89 (1) A municipality may only require termination of a billboard and associated  
90 ~~[property]~~ rights through:

- 91 (a) gift;
- 92 (b) purchase;
- 93 (c) agreement;
- 94 (d) exchange; or
- 95 (e) eminent domain.

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

98 (3) A termination under Subsection (1)(e) requires the municipality to:

- 99 (a) acquire the billboard and associated rights through eminent domain, in accordance  
100 with Title 78B, Chapter 6, Part 5, Eminent Domain, except as provided in Subsections  
101 10-9a-513(2)(f) and (h); and  
102 (b) after acquiring the rights under Subsection (3)(a), terminate the billboard and  
103 associated rights.

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

105 **10-9a-513. Municipality's acquisition of billboard by eminent domain -- Removal**  
106 **without providing compensation -- Limit on allowing nonconforming billboards to be**  
107 **rebuilt or replaced -- Validity of municipal permit after issuance of state permit.**

108 (1) As used in this section:

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

111 (b) "Highest allowable height" means:

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

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

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

117 (II) if the height of the previous use or structure is less than 45 feet, the height of the  
118 previous use or structure or the height to make the entire advertising content of the billboard

119 clearly visible, whichever is higher, but no higher than 45 feet; and

120 (B) for an interstate billboard:

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

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

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

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

129 (i) 65 feet above the ground; and

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

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

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

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

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

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

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

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

141 ~~[(2)(a) A municipality is considered to have initiated the acquisition of a billboard  
142 structure by eminent domain if the municipality prevents a billboard owner from:]~~

143 (2) (a) If a billboard owner makes a written request to the municipality with

144 jurisdiction over the billboard to take an action described in Subsection (2)(b), the billboard

145 owner may take the requested action, without further municipal land use approval, \$→ [90] 180 ←\$

145a days

146 after the day on which the billboard owner makes the written request, unless within the \$→ [90]

146a 180 ←\$ -day

147 period the municipality:

148 (i) in an attempt to acquire the billboard and associated rights through eminent domain

149 under Section 10-9a-512 for the purpose of terminating the billboard and associated rights:

150 (A) completes the procedural steps required under Title 78B, Chapter 6, Part 5,  
 151 Eminent Domain, before the filing of an eminent domain action; and

152 (B) files an eminent domain action in accordance with Title 78B, Chapter 6, Part 5,  
 153 Eminent Domain;

154 (ii) denies the request in accordance with Subsection (2)(d); or

155 (iii) requires the billboard owner to remove the billboard in accordance with  
 156 Subsection (3).

157 (b) Subject to Subsection (2)(a), a billboard owner may:

158 (i) [rebuilding, maintaining, repairing, or restoring] rebuild, maintain, repair, or restore  
 159 a billboard structure that is damaged by casualty, an act of God, or vandalism;

160 (ii) [except as provided in Subsection (2)(c), relocating or rebuilding] relocate or  
 161 rebuild a billboard structure, or [taking other measures] take another measure, to correct a  
 162 mistake in the placement or erection of a billboard for which the municipality [has] issued a  
 163 permit, if the proposed relocation, rebuilding, or other measure is consistent with the intent of  
 164 that permit;

165 (iii) structurally [modifying or upgrading] modify or upgrade a billboard;

166 (iv) [relocating] relocate a billboard into any commercial, industrial, or manufacturing  
 167 zone within the municipality's boundaries, if [:(A)] the relocated billboard is:

168 [:(F)] (A) within 5,280 feet of [its] the billboard's previous location; and

169 [:(H)] (B) no closer than [:(Aa)] 300 feet from an off-premise sign existing on the same  
 170 side of the street or highway [;], or [:(Bb)] if the street or highway is an interstate or limited  
 171 access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the  
 172 distance allowed under that act between the relocated billboard and an off-premise sign  
 173 existing on the same side of the interstate or limited access highway; [and] or

174 [:(B) (F) the billboard owner has submitted a written request under Subsection  
 175 10-9a-511(3)(c); and]

176 [:(H) the municipality and billboard owner are unable to agree, within the time provided  
 177 in Subsection 10-9a-511(3)(c), to a mutually acceptable location; or]

178 (v) [making] make one or more of the following modifications, as the billboard owner  
 179 determines, to a billboard that is structurally [modified or upgraded under Subsection (2)(a)(iii)  
 180 or relocated under Subsection (2)(a)(iv)] altered by modification or upgrade under Subsection

181 (2)(b)(iii), by relocation under Subsection (2)(b)(iv), or by any combination of these  
 182 alterations:

183 (A) [~~erecting~~] erect the billboard:

184 (I) to the highest allowable height; and

185 (II) as the owner determines, to an angle that makes the entire advertising content of  
 186 the billboard clearly visible; [~~and~~] or

187 (B) [~~installing~~] install a sign face on the billboard that is at least the same size as, but  
 188 no larger than, the sign face on the billboard before [~~its~~] the billboard's relocation.

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

191 [~~(c)~~] (d) A [~~municipality's denial of~~] municipality may deny a billboard owner's request  
 192 to relocate or rebuild a billboard structure, or to take other measures, in order to correct a  
 193 mistake in the placement or erection of a billboard [~~does not constitute the initiation of~~  
 194 ~~acquisition by eminent domain under Subsection (2)(a)] without acquiring the billboard and  
 195 associated rights through eminent domain under Section [10-9a-512](#), if the mistake in placement  
 196 or erection of the billboard is determined by clear and convincing evidence, in a proceeding  
 197 that protects the billboard owner's due process rights, to have resulted from an intentionally  
 198 false or misleading statement:~~

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

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

201 [~~(d) If a municipality is considered to have initiated the acquisition of a billboard~~  
 202 ~~structure by eminent domain under Subsection (2)(a) or any other provision of applicable law,~~  
 203 ~~the municipality]~~

204 (e) A municipality that acquires a billboard and associated rights through eminent  
 205 domain under Section [10-9a-512](#) shall pay just compensation to the billboard owner in an  
 206 amount that is:

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

209 (ii) the value of any other right associated with the billboard [~~structure that is~~  
 210 ~~acquired~~];

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

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

214 (f) If a municipality commences an eminent domain action under Subsection (2)(a)(i):

215 (i) the provisions of Section 78B-6-510 do not apply; and

216 (ii) the municipality may not take possession of the billboard or the billboard's  
217 associated rights until:

218 (A) completion of all appeals of a judgment allowing the municipality to acquire the  
219 billboard and associated rights; and

220 (B) the billboard owner receives payment of just compensation, described in  
221 Subsection (2)(e).

222 (g) Unless the eminent domain action is dismissed under Subsection (2)(h)(ii), a  
223 billboard owner may proceed, without further municipal land use approval, to take an action  
224 requested under Subsection (2)(a), if the municipality's eminent domain action commenced  
225 under Subsection (2)(a)(i) is dismissed without an order allowing the municipality to acquire  
226 the billboard and associated rights.

227 (h) (i) A billboard owner may withdraw a request made under Subsection (2)(a) at any  
228 time before the municipality takes possession of the billboard or the billboard's associated  
229 rights in accordance with Subsection (2)(f)(ii).

230 (ii) If a billboard owner withdraws a request in accordance with Subsection (2)(h)(i),  
231 the court shall dismiss the municipality's eminent domain action to acquire the billboard or  
232 associated rights.

233 (3) Notwithstanding [~~Subsection (2) and~~] Section 10-9a-512, a municipality may  
234 [~~remove a billboard without providing compensation if~~] require the owner of a billboard to  
235 remove the billboard without acquiring the billboard and associated rights through eminent  
236 domain if:

237 (a) the municipality determines:

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

241 (ii) by substantial evidence that the billboard:

242 (A) is structurally unsafe;



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

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

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

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

248 (i) [~~except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's~~  
249 receipt of] ~~§~~ → [90] 180 ← ~~§~~ days after the day on which the billboard owner receives written notice  
249a under

250 Subsection (3)(b); or

251 (ii) if the condition forming the basis of the municipality's intention to remove the  
252 billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary  
253 because of a natural disaster, [~~following the~~] after the day on which the billboard [~~owner's~~  
254 receipt of] owner receives written notice under Subsection (3)(b); and

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

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

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

263 (4) A municipality may not allow a nonconforming billboard to be rebuilt or replaced:

264 (a) by anyone other than [~~its~~] the billboard's owner or the billboard's owner acting  
265 through [~~its contractors:~~] a contractor; or

266 (b) within 500 feet of the nonconforming location.

267 (5) A permit [~~issued, extended, or renewed by a municipality~~] that a municipality  
268 issues, extends, or renews for a billboard remains valid [~~from the time~~] beginning on the day on  
269 which the municipality issues, extends, or renews the permit [~~until~~] and ending 180 days after  
270 the day on which a required state permit is issued for the billboard if:

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

272 (b) an application for the state permit is filed within 30 days after the day on which the  
273 municipality issues, extends, or renews a permit for the billboard.

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

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

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

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

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

282 (2) The legislative body may provide for:

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

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

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

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

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

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

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

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

305 (ii) If the county and billboard owner cannot agree to a mutually acceptable location  
 306 within ~~5~~ **90** ~~180~~ **180** days after the day on which the owner submits a written request to relocate  
 306a the  
 307 billboard, [~~the provisions of Subsection 17-27a-512(2)(a)(iv) apply~~] the billboard owner may  
 308 relocate the billboard in accordance with Subsection 17-27a-512(2).

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

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

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

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

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

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

321 (d) The property owner may rebut the presumption of abandonment under Subsection  
 322 (4)(c), and [~~shall have~~] has the burden of establishing that any claimed abandonment under  
 323 Subsection (4)(c) has not [~~in fact~~] occurred.

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

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

329 **17-27a-511. Termination of a billboard and associated rights.**

330 (1) A county may only require termination of a billboard and associated [~~property~~]  
 331 rights through:

332 (a) gift;

333 (b) purchase;

334 (c) agreement;

335 (d) exchange; or

336 (e) eminent domain.

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

339 (3) A termination under Subsection (1)(e) requires the county to:

340 (a) acquire the billboard and associated rights through eminent domain, in accordance  
341 with Title 78B, Chapter 6, Part 5, Eminent Domain, except as provided in Subsections

342 17-27a-512(2)(f) and (h); and

343 (b) after acquiring the rights under Subsection (3)(a), terminate the billboard and  
344 associated rights.

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

346 **17-27a-512. County's acquisition of billboard by eminent domain -- Removal**  
347 **without providing compensation -- Limit on allowing nonconforming billboard to be**  
348 **rebuilt or replaced -- Validity of county permit after issuance of state permit.**

349 (1) As used in this section:

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

352 (b) "Highest allowable height" means:

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

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

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

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

361 (B) for an interstate billboard:

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

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

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

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

370 (i) 65 feet above the ground; and

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

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

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

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

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

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

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

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

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

384 (2) (a) If a billboard owner makes a written request to the county with jurisdiction over  
385 the billboard to take an action described in Subsection (2)(b), the billboard owner may take the  
386 requested action, without further county land use approval,  $\hat{S} \rightarrow [90] 180 \leftarrow \hat{S}$  days after the day on  
386a which the  
387 billboard owner makes the written request, unless within the  $\hat{S} \rightarrow [90] 180 \leftarrow \hat{S}$  -day period the  
387a county:

388 (i) in an attempt to acquire the billboard and associated rights through eminent domain  
389 under Section [17-27a-511](#) for the purpose of terminating the billboard and associated rights:

390 (A) completes the procedural steps required under Title 78B, Chapter 6, Part 5,

391 Eminent Domain, before the filing of an eminent domain action; and

392 (B) files an eminent domain action in accordance with Title 78B, Chapter 6, Part 5,

393 Eminent Domain;

394 (ii) denies the request in accordance with Subsection (2)(d); or

395 (iii) requires the billboard owner to remove the billboard in accordance with

396 Subsection (3).

397 (b) Subject to Subsection (2)(a), a billboard owner may:

398 (i) [~~rebuilding, maintaining, repairing, or restoring~~] rebuild, maintain, repair, or restore  
399 a billboard structure that is damaged by casualty, an act of God, or vandalism;

400 (ii) [~~except as provided in Subsection (2)(c), relocating or rebuilding~~] relocate or  
401 rebuild a billboard structure, or [~~taking other measures~~] take another measure, to correct a  
402 mistake in the placement or erection of a billboard for which the county [~~has~~] issued a permit,  
403 if the proposed relocation, rebuilding, or other measure is consistent with the intent of that  
404 permit;

405 (iii) structurally [~~modifying or upgrading~~] modify or upgrade a billboard;

406 (iv) [~~relocating~~] relocate a billboard into any commercial, industrial, or manufacturing  
407 zone within the unincorporated area of the county, if[~~-(A)~~] the relocated billboard is:

408 [~~(F)~~] (A) within 5,280 feet of [~~its~~] the billboard's previous location; and

409 [~~(H)~~] (B) no closer than[~~-(Aa)~~] 300 feet from an off-premise sign existing on the same  
410 side of the street or highway[~~;~~], or [~~(Bb)~~] if the street or highway is an interstate or limited  
411 access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the  
412 distance allowed under that act between the relocated billboard and an off-premise sign  
413 existing on the same side of the interstate or limited access highway; [~~and~~] or

414 [~~(B)~~] (F) the billboard owner has submitted a written request under Subsection  
415 17-27a-510(3)(c); and]

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

418 (v) [~~making~~] make one or more of the following modifications, as the billboard owner  
419 determines, to a billboard that is structurally [~~modified or upgraded under Subsection (2)(a)(iii)~~  
420 ~~or relocated under Subsection (2)(a)(iv)~~] altered by modification or upgrade under Subsection  
421 (2)(b)(iii), by relocation under Subsection (2)(b)(iv), or by any combination of these  
422 alterations:

423 (A) [~~erecting~~] erect the billboard:

424 (I) to the highest allowable height; and

425 (II) as the owner determines, to an angle that makes the entire advertising content of  
426 the billboard clearly visible; [~~and~~] or

427 (B) [~~installing~~] install a sign face on the billboard that is at least the same size as, but  
428 no larger than, the sign face on the billboard before [~~its~~] the billboard's relocation.

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

431 ~~[(c)]~~ (d) A ~~[county's denial of]~~ county may deny a billboard owner's request to relocate  
 432 or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the  
 433 placement or erection of a billboard ~~[does not constitute the initiation of acquisition by eminent~~  
 434 ~~domain under Subsection (2)(a)]~~ without acquiring the billboard and associated rights through  
 435 eminent domain under Section 17-27a-511, if the mistake in placement or erection of the  
 436 billboard is determined by clear and convincing evidence, in a proceeding that protects the  
 437 billboard owner's due process rights, to have resulted from an intentionally false or misleading  
 438 statement:

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

441 ~~[(d) If a county is considered to have initiated the acquisition of a billboard structure by~~  
 442 ~~eminent domain under Subsection (1)(a) or any other provision of applicable law, the county]~~

443 (e) A county that acquires a billboard and associated rights through eminent domain  
 444 under Section 17-27a-511 shall pay just compensation to the billboard owner in an amount that  
 445 is:

- 446 (i) the value of the existing billboard at a fair market capitalization rate, based on  
 447 actual annual revenue, less any annual rent expense;
- 448 (ii) the value of any other right associated with the billboard ~~[structure that is~~  
 449 ~~acquired]~~;
- 450 (iii) the cost of the sign structure; and
- 451 (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the  
 452 billboard owner's interest is a part.

453 (f) If a county commences an eminent domain action under Subsection (2)(a)(i):

- 454 (i) the provisions of Section 78B-6-510 do not apply; and
- 455 (ii) the county may not take possession of the billboard or the billboard's associated  
 456 rights until:

457 (A) completion of all appeals of a judgment allowing the county to acquire the  
 458 billboard and associated rights; and

459 (B) the billboard owner receives payment of just compensation, described in

460 Subsection (2)(e).

461 (g) Unless the eminent domain action is dismissed under Subsection (2)(h)(ii), a  
 462 billboard owner may proceed, without further county land use approval, to take an action  
 463 requested under Subsection (2)(a), if the county's eminent domain action commenced under  
 464 Subsection (2)(a)(i) is dismissed without an order allowing the county to acquire the billboard  
 465 and associated rights.

466 (h) (i) A billboard owner may withdraw a request made under Subsection (2)(a) at any  
 467 time before the county takes possession of the billboard or the billboard's associated rights in  
 468 accordance with Subsection (2)(f)(ii).

469 (ii) If a billboard owner withdraws a request in accordance with Subsection (2)(h)(i),  
 470 the court shall dismiss the county's eminent domain action to acquire the billboard or  
 471 associated rights.

472 (3) Notwithstanding [~~Subsection (2) and~~] Section 17-27a-511, a county may [~~remove a~~  
 473 ~~billboard without providing compensation if~~] require an owner of a billboard to remove the  
 474 billboard without acquiring a billboard and associated rights through eminent domain if:

475 (a) the county determines:

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

479 (ii) by substantial evidence that the billboard:

480 (A) is structurally unsafe;

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

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

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

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

486 (i) [~~except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's~~  
 487 ~~receipt of] ~~§→ [90] 180 ←§~~ days after the day on which the billboard owner receives written notice  
 487a under~~

488 Subsection (3)(b); or

489 (ii) if the condition forming the basis of the county's intention to remove the billboard  
 490 is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a



491 natural disaster, ~~[following the]~~ after the day on which the billboard ~~[owner's receipt of]~~ owner  
492 receives written notice under Subsection (3)(b); and

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

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

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

501 (4) A county may not allow a nonconforming billboard to be rebuilt or replaced:

502 (a) by anyone other than ~~[its]~~ the billboard's owner or the billboard's owner acting  
503 through ~~[its contractors.]~~ a contractor; or

504 (b) within 500 feet of the nonconforming location.

505 (5) A permit ~~[issued, extended, or renewed by a county]~~ that a county issues, extends,  
506 or renews for a billboard remains valid ~~[from the time]~~ beginning on the day on which the  
507 county issues, extends, or renews the permit ~~[until]~~ and ending 180 days after the day on which  
508 a required state permit is issued for the billboard if:

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

510 (b) an application for the state permit is filed within 30 days after the day on which the  
511 county issues, extends, or renews a permit for the billboard.