

BILLBOARD AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Francis D. Gibson

Senate Sponsor: Jacob L. Anderegg

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

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 2014, Chapter 189

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

Section 1. 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 the day on which written 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 [~~90~~] 180 days after the day on which the owner submits a written request to
66 relocate the billboard, [~~the provisions of Subsection 10-9a-513(2)(a)(iv) apply~~] the billboard
67 owner may 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, 180 days
146 after the day on which the billboard owner makes the written request, unless within the 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 ~~[(e)]~~ (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~~] 180 days after the day on which the billboard owner receives written notice 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 by anyone other than [~~its~~] the billboard's owner, or the billboard's owner acting through [~~its~~
265 ~~contractors.~~] a contractor, within 500 feet of the nonconforming location.

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

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

271 (b) an application for the state permit is filed within 30 days after the day on which the

272 municipality issues, extends, or renews a permit for the billboard.

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

274 **17-27a-510. Nonconforming uses and noncomplying structures.**

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

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

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

281 (2) The legislative body may provide for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

326 established by ordinance.

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

328 **17-27a-511. Termination of a billboard and associated rights.**

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

- 331 (a) gift;
- 332 (b) purchase;
- 333 (c) agreement;
- 334 (d) exchange; or
- 335 (e) eminent domain.

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

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

339 (a) acquire the billboard and associated rights through eminent domain, in accordance
340 with Title 78B, Chapter 6, Part 5, Eminent Domain, except as provided in Subsections
341 17-27a-512(2)(f) and (h); and

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

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

345 **17-27a-512. County's acquisition of billboard by eminent domain -- Removal**
346 **without providing compensation -- Limit on allowing nonconforming billboard to be**
347 **rebuilt or replaced -- Validity of county permit after issuance of state permit.**

348 (1) As used in this section:

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

351 (b) "Highest allowable height" means:

352 (i) if the height allowed by the county, by ordinance or consent, is higher than the

353 height under Subsection (1)(b)(ii), the height allowed by the county; or

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

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

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

360 (B) for an interstate billboard:

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

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

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

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

369 (i) 65 feet above the ground; and

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

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

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

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

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

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

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

380 (II) for a noninterstate billboard, 300 feet from the base of the billboard.
381 ~~[(2)(a) A county is considered to have initiated the acquisition of a billboard structure~~
382 ~~by eminent domain if the county prevents a billboard owner from:]~~
383 (2) (a) If a billboard owner makes a written request to the county with jurisdiction over
384 the billboard to take an action described in Subsection (2)(b), the billboard owner may take the
385 requested action, without further county land use approval, 180 days after the day on which the
386 billboard owner makes the written request, unless within the 180-day period the county:
387 (i) in an attempt to acquire the billboard and associated rights through eminent domain
388 under Section [17-27a-511](#) for the purpose of terminating the billboard and associated rights:
389 (A) completes the procedural steps required under Title 78B, Chapter 6, Part 5,
390 Eminent Domain, before the filing of an eminent domain action; and
391 (B) files an eminent domain action in accordance with Title 78B, Chapter 6, Part 5,
392 Eminent Domain;
393 (ii) denies the request in accordance with Subsection (2)(d); or
394 (iii) requires the billboard owner to remove the billboard in accordance with
395 Subsection (3).
396 (b) Subject to Subsection (2)(a), a billboard owner may:
397 (i) ~~[rebuilding, maintaining, repairing, or restoring]~~ rebuild, maintain, repair, or restore
398 a billboard structure that is damaged by casualty, an act of God, or vandalism;
399 (ii) ~~[except as provided in Subsection (2)(c), relocating or rebuilding]~~ relocate or
400 rebuild a billboard structure, or ~~[taking other measures]~~ take another measure, to correct a
401 mistake in the placement or erection of a billboard for which the county ~~[has]~~ issued a permit,
402 if the proposed relocation, rebuilding, or other measure is consistent with the intent of that
403 permit;
404 (iii) structurally ~~[modifying or upgrading]~~ modify or upgrade a billboard;
405 (iv) ~~[relocating]~~ relocate a billboard into any commercial, industrial, or manufacturing
406 zone within the unincorporated area of the county, if~~[(A)]~~ the relocated billboard is:

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

408 ~~[(H)]~~ (B) no closer than~~[-(Aa)]~~ 300 feet from an off-premise sign existing on the same

409 side of the street or highway~~[-];~~, or ~~[(Bb)]~~ if the street or highway is an interstate or limited

410 access highway that is subject to Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the

411 distance allowed under that act between the relocated billboard and an off-premise sign

412 existing on the same side of the interstate or limited access highway; ~~[and]~~ or

413 ~~[(B) (I) the billboard owner has submitted a written request under Subsection~~

414 ~~17-27a-510(3)(c); and]~~

415 ~~[(H) the county and billboard owner are unable to agree, within the time provided in~~

416 ~~Subsection 17-27a-510(3)(c), to a mutually acceptable location; or]~~

417 (v) ~~[making]~~ make one or more of the following modifications, as the billboard owner

418 determines, to a billboard that is structurally ~~[modified or upgraded under Subsection (2)(a)(iii)~~

419 ~~or relocated under Subsection (2)(a)(iv)]~~ altered by modification or upgrade under Subsection

420 (2)(b)(iii), by relocation under Subsection (2)(b)(iv), or by any combination of these

421 alterations:

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

423 (I) to the highest allowable height; and

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

425 the billboard clearly visible; ~~[and]~~ or

426 (B) ~~[installing]~~ install a sign face on the billboard that is at least the same size as, but

427 no larger than, the sign face on the billboard before ~~[its]~~ the billboard's relocation.

428 ~~[(b)]~~ (c) A modification under Subsection (2)~~[(a)]~~(b)(v) shall comply with Title 72,

429 Chapter 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

430 ~~[(c)]~~ (d) A ~~[county's denial of]~~ county may deny a billboard owner's request to relocate

431 or rebuild a billboard structure, or to take other measures, in order to correct a mistake in the

432 placement or erection of a billboard ~~[does not constitute the initiation of acquisition by eminent~~

433 ~~domain under Subsection (2)(a)]~~ without acquiring the billboard and associated rights through

434 eminent domain under Section 17-27a-511, if the mistake in placement or erection of the
435 billboard is determined by clear and convincing evidence, in a proceeding that protects the
436 billboard owner's due process rights, to have resulted from an intentionally false or misleading
437 statement:

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

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

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

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

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

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

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

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

460 (g) Unless the eminent domain action is dismissed under Subsection (2)(h)(ii), a

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

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

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

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

474 (a) the county determines:

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

478 (ii) by substantial evidence that the billboard:

479 (A) is structurally unsafe;

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

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

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

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

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

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

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

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

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

500 (4) A county may not allow a nonconforming billboard to be rebuilt or replaced by
501 anyone other than ~~[its]~~ the billboard's owner, or the billboard's owner acting through ~~[its~~
502 ~~contractors:]~~ a contractor, within 500 feet of the nonconforming location.

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

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

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