

SB0061S01 compared with SB0061

~~text~~ shows text that was in SB0061 but was deleted in SB0061S01.

inserted text shows text that was not in SB0061 but was inserted into SB0061S01.

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Senator Scott D. Sandall proposes the following substitute bill:

OUTDOOR ADVERTISING AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to billboard and other signage and electronic or mechanical changeable message signs.

Highlighted Provisions:

This bill:

- ▶ prohibits a municipality or county from:
 - enacting or enforcing an ordinance that prevents an owner of certain signs from modifying or constructing an electronic or mechanical changeable message sign in certain circumstances; and
 - requiring a sign owner to forfeit one sign in order to upgrade or construct another electronic or mechanical changeable sign;
- ▶ allows a municipality or county to impose a curfew on the operation of certain

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signs;

- ▶ requires a municipality or county to pay attorney fees to an owner that successfully enforces the owner's right to upgrade a sign to an electronic or changeable message sign;
- ▶ amends provisions related to brightness of electronic changeable message signs; 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 2018, Chapter 239

17-27a-510, as last amended by Laws of Utah 2018, Chapter 239

72-7-505, as last amended by Laws of Utah 2015, Chapter 402

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

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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 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 the municipality's 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 180 days after the day on which the owner submits a written request to relocate the billboard, the billboard owner may relocate the billboard in accordance with Subsection 10-9a-513(2).

(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) 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 owner in order to upgrade the existing nonconforming or conforming billboard to an electronic or mechanical changeable message sign that conforms with Title 72, Chapter 7, Part 5, Utah

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Outdoor Advertising Act.

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

(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 is:

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

(g) A municipality shall pay a billboard owner's attorney fees incurred if a billboard owner successfully challenges the owner's rights under this section to upgrade a billboard to an electronic or mechanical changeable message sign.

(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 has the burden of establishing that any claimed abandonment under Subsection (4)(b) has not 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

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school use or structure ceases to be used for school district or charter school purposes for a period established by ordinance.

Section 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 the day on which written notice is served 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 the county's zoning ordinance, a county may

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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 180 days after the day on which the owner submits a written request to relocate the billboard, the billboard owner may relocate the billboard in accordance with Subsection 17-27a-512(2).

(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) A county may not enact or enforce an ordinance that requires an owner of an existing nonconforming or conforming billboard to forfeit any other billboard owned by the owner in order to upgrade the existing nonconforming or conforming billboard to an electronic or mechanical changeable message sign that conforms with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.

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

(f) A county 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 is:

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

(g) A county shall pay a billboard owner's attorney fees incurred if a billboard owner successfully challenges the owner's rights under this section to upgrade a billboard to an electronic or mechanical changeable message sign.

(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.

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(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 has the burden of establishing that any claimed abandonment under Subsection (4)(c) has not 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 3. 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~~

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~~not more frequent than at least eight seconds and the actual message rotation process is accomplished in three seconds or less.~~

~~[(c) 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 if:

(i) the interval between message changes is not more frequent than eight seconds; and

(ii) the actual message rotation process is accomplished in three seconds or less.

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

(i) after sunset and before sunrise;

(ii) perpendicular to the sign face; and

(iii) at a distance in linear 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.

(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

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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(2) 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

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(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.~~§§~~

~~{~~ ~~(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 if:~~

~~_____ (i) the interval between message changes is not more frequent than eight seconds; and~~

~~_____ (ii) the actual message rotation process is accomplished in three seconds or less.~~

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

~~_____ (i) after sunset and before sunrise;~~

~~_____ (ii) perpendicular to the sign face; and~~

~~_____ (iii) at a distance in linear 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)(c), 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~~

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owner's sign at the brighter of the two standards.

‡ (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.