

1                   **OUTDOOR ADVERTISING TECHNOLOGY AMENDMENTS**

2                                   2013 GENERAL SESSION

3                                   STATE OF UTAH

4                           **Chief Sponsor: Peter C. Knudson**

5                           House Sponsor: \_\_\_\_\_

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7   **LONG TITLE**

8   **General Description:**

9           This bill amends provisions relating to billboards and electronic or mechanical  
10 changeable message signs.

11 **Highlighted Provisions:**

12           This bill:

- 13           ▶ prohibits a municipality or county from enacting or enforcing certain billboard
- 14 ordinances relating to electronic or mechanical changeable message signs;
- 15           ▶ prohibits a municipality or county from commencing eminent domain proceedings
- 16 to prevent a billboard owner from upgrading a billboard to an electronic or
- 17 mechanical changeable message sign;
- 18           ▶ amends the definition of maintenance to include upgrading a sign for the purposes
- 19 of outdoor advertising regulations;
- 20           ▶ amends provisions related to an electronic or mechanical changeable message sign;
- 21 and
- 22           ▶ makes technical corrections.

23 **Money Appropriated in this Bill:**

24           None

25 **Other Special Clauses:**

26           None

27 **Utah Code Sections Affected:**



28 AMENDS:

- 29 **10-9a-511**, as last amended by Laws of Utah 2012, Chapter 289
- 30 **10-9a-513**, as last amended by Laws of Utah 2009, Chapters 170 and 233
- 31 **17-27a-510**, as last amended by Laws of Utah 2009, Chapter 170
- 32 **17-27a-512**, as last amended by Laws of Utah 2009, Chapters 170 and 233
- 33 **72-7-502**, as last amended by Laws of Utah 2011, Chapter 346
- 34 **72-7-505**, as last amended by Laws of Utah 2011, Chapter 346
- 35 **72-7-510**, as last amended by Laws of Utah 2008, Chapter 3



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

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

39 **10-9a-511. Nonconforming uses and noncomplying structures.**

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

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

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

46 (2) The legislative body may provide for:

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

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

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

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

58 (b) A municipality may prohibit the reconstruction or restoration of a noncomplying

59 structure or terminate the nonconforming use of a structure if:

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

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

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

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

72 (d) (i) Except as provided in Subsection (3)(e), a municipality may not enact or enforce  
73 an ordinance that prevents an owner of an existing nonconforming or conforming billboard  
74 from upgrading that billboard to an electronic or mechanical changeable message sign that  
75 operates in conformance with Subsection 72-7-505(1).

76 (ii) A municipality may not enact or enforce an ordinance that forces an owner of an  
77 existing nonconforming or conforming billboard to forfeit any other billboard owned by the  
78 same owner in order to upgrade the existing nonconforming or conforming billboard to an  
79 electronic or mechanical changeable message sign that operates in conformance with  
80 Subsection 72-7-505(1).

81 (e) A municipality may, subject to Subsections (3)(f) and (g), impose a requirement  
82 that for a period commencing 60 minutes after sunset until 6 a.m., the message on an electronic  
83 changeable sign be turned off or not change.

84 (f) A municipality may not impose the requirement described in Subsection (3)(e)  
85 unless:

86 (i) the face of the electronic changeable message sign:

87 (A) cannot be viewed from the interstate system; and

88 (B) is located on and oriented to be viewed primarily from a street where, as of May  
89 14, 2013, the posted speed limit is 25 miles or less per hour; or

- 90           (ii) the face of the electronic changeable message sign:
- 91           (A) cannot be viewed from the interstate system;
- 92           (B) is within 150 feet of the outer edge of an existing residential dwelling structure that
- 93 is legally occupied and located on property zoned exclusively for residential purposes; and
- 94           (C) is oriented toward the structure described in Subsection (3)(f)(ii)(B).
- 95           (g) A municipality may not enforce a requirement imposed by the municipality in
- 96 accordance with Subsection (3)(e) if the message is a public safety or emergency
- 97 announcement, warning, or alert.

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

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

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

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

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

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

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

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

117           (6) A municipal ordinance adopted under Section 10-1-203.5 may not:

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

120           (i) the reasonable installation of:

- 121 (A) a smoke detector that is plugged in or battery operated;
- 122 (B) a ground fault circuit interrupter protected outlet on existing wiring;
- 123 (C) street addressing;
- 124 (D) except as provided in Subsection (7), an egress bedroom window if the existing
- 125 bedroom window is smaller than that required by current state building code;
- 126 (E) an electrical system or a plumbing system, if the existing system is not functioning
- 127 or is unsafe as determined by an independent electrical or plumbing professional who is
- 128 licensed in accordance with Title 58, Occupations and Professions;
- 129 (F) hand or guard rails; or
- 130 (G) occupancy separation doors as required by the International Residential Code; or
- 131 (ii) the abatement of a structure; or
- 132 (b) be enforced to terminate a legal nonconforming rental housing use.
- 133 (7) A municipality may not require a change described in Subsection (6)(a)(i)(D) if the
- 134 change:
- 135 (a) would compromise the structural integrity of a building; or
- 136 (b) could not be completed in accordance with current building codes, including
- 137 set-back and window well requirements.
- 138 (8) A legal nonconforming rental housing use may not be terminated under Section
- 139 10-1-203.5.

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

141 **10-9a-513. Municipality's acquisition of billboard by eminent domain -- Removal**  
142 **without providing compensation -- Limit on allowing nonconforming billboards to be**  
143 **rebuilt or replaced -- Validity of municipal permit after issuance of state permit.**

144 (1) As used in this section:

- 145 (a) "Clearly visible" means capable of being read without obstruction by an occupant of
- 146 a vehicle traveling on a street or highway within the visibility area.
- 147 (b) "Highest allowable height" means:
- 148 (i) if the height allowed by the municipality, by ordinance or consent, is higher than the
- 149 height under Subsection (1)(b)(ii), the height allowed by the municipality; or
- 150 (ii) (A) for a noninterstate billboard:
- 151 (I) if the height of the previous use or structure is 45 feet or higher, the height of the

152 previous use or structure; or

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

156 (B) for an interstate billboard:

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

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

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

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

165 (i) 65 feet above the ground; and

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

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

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

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

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

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

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

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

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

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

181 (ii) except as provided in Subsection (2)(c), relocating or rebuilding a billboard  
182 structure, or taking other measures, to correct a mistake in the placement or erection of a

183 billboard for which the municipality has issued a permit, if the proposed relocation, rebuilding,  
184 or other measure is consistent with the intent of that permit;

185 (iii) structurally modifying or upgrading a billboard;

186 (iv) relocating a billboard into any commercial, industrial, or manufacturing zone

187 within the municipality's boundaries, if:

188 (A) the relocated billboard is:

189 (I) within 5,280 feet of its previous location; and

190 (II) no closer than:

191 (Aa) 300 feet from an off-premise sign existing on the same side of the street or  
192 highway; or

193 (Bb) if the street or highway is an interstate or limited access highway that is subject to  
194 Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act  
195 between the relocated billboard and an off-premise sign existing on the same side of the  
196 interstate or limited access highway; and

197 (B) (I) the billboard owner has submitted a written request under Subsection  
198 10-9a-511(3)(c); and

199 (II) the municipality and billboard owner are unable to agree, within the time provided  
200 in Subsection 10-9a-511(3)(c), to a mutually acceptable location; or

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

204 (A) erecting the billboard:

205 (I) to the highest allowable height; and

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

208 (B) installing a sign face on the billboard that is at least the same size as, but no larger  
209 than, the sign face on the billboard before its relocation.

210 (b) Notwithstanding Subsection (2)(a), a municipality may not commence eminent  
211 domain proceedings to prevent a billboard owner from upgrading a billboard to an electronic or  
212 mechanical changeable message sign.

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

214 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.

215 ~~[(e)]~~ (d) A municipality's denial of a billboard owner's request to relocate or rebuild a  
216 billboard structure, or to take other measures, in order to correct a mistake in the placement or  
217 erection of a billboard does not constitute the initiation of acquisition by eminent domain under  
218 Subsection (2)(a) if the mistake in placement or erection of the billboard is determined by clear  
219 and convincing evidence to have resulted from an intentionally false or misleading statement:

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

222 ~~[(f)]~~ (e) If a municipality is considered to have initiated the acquisition of a billboard  
223 structure by eminent domain under Subsection (2)(a) or any other provision of applicable law,  
224 the municipality shall pay just compensation to the billboard owner in an amount that is:

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

231 (3) Notwithstanding Subsection (2) and Section 10-9a-512, a municipality may remove  
232 a billboard without providing compensation if:

- 233 (a) the municipality determines:
  - 234 (i) by clear and convincing evidence that the applicant for a permit intentionally made a  
235 false or misleading statement in the applicant's application regarding the placement or erection  
236 of the billboard; or
  - 237 (ii) by substantial evidence that the billboard:
    - 238 (A) is structurally unsafe;
    - 239 (B) is in an unreasonable state of repair; or
    - 240 (C) has been abandoned for at least 12 months;
  - 241 (b) the municipality notifies the owner in writing that the owner's billboard meets one  
242 or more of the conditions listed in Subsections (3)(a)(i) and (ii);
  - 243 (c) the owner fails to remedy the condition or conditions within:
    - 244 (i) except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's



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

246 (ii) if the condition forming the basis of the municipality's intention to remove the  
247 billboard is that it is structurally unsafe, 10 business days, or a longer period if necessary  
248 because of a natural disaster, following the billboard owner's receipt of written notice under  
249 Subsection (3)(b); and

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

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

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

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

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

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

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

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

267 **17-27a-510. Nonconforming uses and noncomplying structures.**

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

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

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

274 (2) The legislative body may provide for:

275 (a) the establishment, restoration, reconstruction, extension, alteration, expansion, or

276 substitution of nonconforming uses upon the terms and conditions set forth in the land use  
277 ordinance;

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

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

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

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

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

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

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

296 (ii) If the county and billboard owner cannot agree to a mutually acceptable location  
297 within 90 days after the owner submits a written request to relocate the billboard, the  
298 provisions of Subsection 17-27a-512(2)(a)(iv) apply.

299 (d) (i) Except as provided in Subsection (3)(e), a county may not enact or enforce an  
300 ordinance that prevents an owner of an existing nonconforming or conforming billboard from  
301 upgrading that billboard to an electronic or mechanical changeable message sign that operates  
302 in conformance with Subsection 72-7-505(1).

303 (ii) A county may not enact or enforce an ordinance that forces an owner of an existing  
304 nonconforming or conforming billboard to forfeit any other billboard owned by the same owner  
305 in order to upgrade the existing nonconforming or conforming billboard to an electronic or  
306 mechanical changeable message sign that operates in conformance with Subsection

307 72-7-505(1).

308 (e) A county may, subject to Subsections (3)(f) and (g), impose a requirement that for a  
309 period commencing 60 minutes after sunset until 6 a.m., the message on an electronic  
310 changeable sign be turned off or not change.

311 (f) A county may not impose the requirement described in Subsection (3)(e) unless:

312 (i) the face of the electronic changeable message sign:

313 (A) cannot be viewed from the interstate system; and

314 (B) is located on and oriented to be viewed primarily from a street where, as of May

315 14, 2013, the posted speed limit is 25 miles or less per hour; or

316 (ii) the face of the electronic changeable message sign:

317 (A) cannot be viewed from the interstate system;

318 (B) is within 150 feet of the outer edge of an existing residential dwelling structure that

319 is legally occupied and located on property zoned exclusively for residential purposes; and

320 (C) is oriented toward the structure described in Subsection (3)(f)(ii)(B).

321 (g) A county may not enforce a requirement imposed by the county in accordance with

322 Subsection (3)(e) if the message is a public safety or emergency announcement, warning, or

323 alert.

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

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

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

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

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

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

336 (d) The property owner may rebut the presumption of abandonment under Subsection

337 (4)(c), and shall have the burden of establishing that any claimed abandonment under

338 Subsection (4)(c) has not in fact occurred.

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

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

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

347 (1) As used in this section:

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

350 (b) "Highest allowable height" means:

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

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

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

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

359 (B) for an interstate billboard:

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

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

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

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

368 (i) 65 feet above the ground; and

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

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

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

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

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

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

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

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

380 (2) (a) A county is considered to have initiated the acquisition of a billboard structure  
381 by eminent domain if the county prevents a billboard owner from:

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

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

388 (iii) structurally modifying or upgrading a billboard;

389 (iv) relocating a billboard into any commercial, industrial, or manufacturing zone  
390 within the unincorporated area of the county, if:

391 (A) the relocated billboard is:

392 (I) within 5,280 feet of its previous location; and

393 (II) no closer than:

394 (Aa) 300 feet from an off-premise sign existing on the same side of the street or  
395 highway; or

396 (Bb) if the street or highway is an interstate or limited access highway that is subject to  
397 Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act, the distance allowed under that act  
398 between the relocated billboard and an off-premise sign existing on the same side of the  
399 interstate or limited access highway; and

400 (B) (I) the billboard owner has submitted a written request under Subsection  
401 17-27a-510(3)(c); and  
402 (II) the county and billboard owner are unable to agree, within the time provided in  
403 Subsection 17-27a-510(3)(c), to a mutually acceptable location; or  
404 (v) making the following modifications, as the billboard owner determines, to a  
405 billboard that is structurally modified or upgraded under Subsection (2)(a)(iii) or relocated  
406 under Subsection (2)(a)(iv):  
407 (A) erecting the billboard:  
408 (I) to the highest allowable height; and  
409 (II) as the owner determines, to an angle that makes the entire advertising content of  
410 the billboard clearly visible; and  
411 (B) installing a sign face on the billboard that is at least the same size as, but no larger  
412 than, the sign face on the billboard before its relocation.  
413 (b) Notwithstanding Subsection (2)(a), a county may not commence eminent domain  
414 proceedings to prevent a billboard owner from upgrading a billboard to an electronic or  
415 mechanical changeable message sign.  
416 [~~(b)~~] (c) A modification under Subsection (1)(a)(v) shall comply with Title 72, Chapter  
417 7, Part 5, Utah Outdoor Advertising Act, to the extent applicable.  
418 [~~(c)~~] (d) A county's denial of a billboard owner's request to relocate or rebuild a  
419 billboard structure, or to take other measures, in order to correct a mistake in the placement or  
420 erection of a billboard does not constitute the initiation of acquisition by eminent domain under  
421 Subsection (2)(a) if the mistake in placement or erection of the billboard is determined by clear  
422 and convincing evidence to have resulted from an intentionally false or misleading statement:  
423 (i) by the billboard applicant in the application; and  
424 (ii) regarding the placement or erection of the billboard.  
425 [~~(d)~~] (e) If a county is considered to have initiated the acquisition of a billboard  
426 structure by eminent domain under Subsection (1)(a) or any other provision of applicable law,  
427 the county shall pay just compensation to the billboard owner in an amount that is:  
428 (i) the value of the existing billboard at a fair market capitalization rate, based on  
429 actual annual revenue, less any annual rent expense;  
430 (ii) the value of any other right associated with the billboard structure that is acquired;

431 (iii) the cost of the sign structure; and  
432 (iv) damage to the economic unit described in Subsection 72-7-510(3)(b), of which the  
433 billboard owner's interest is a part.

434 (3) Notwithstanding Subsection (2) and Section 17-27a-511, a county may remove a  
435 billboard without providing compensation if:

436 (a) the county determines:

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

440 (ii) by substantial evidence that the billboard:

441 (A) is structurally unsafe;

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

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

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

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

447 (i) except as provided in Subsection (3)(c)(ii), 90 days following the billboard owner's  
448 receipt of written notice under Subsection (3)(b); or

449 (ii) if the condition forming the basis of the county's intention to remove the billboard  
450 is that it is structurally unsafe, 10 business days, or a longer period if necessary because of a  
451 natural disaster, following the billboard owner's receipt of written notice under Subsection  
452 (3)(b); and

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

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

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

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

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

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

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

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

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

470 **72-7-502. Definitions.**

471 As used in this part:

472 (1) "Clearly visible" means capable of being read without obstruction by an occupant  
473 of a vehicle traveling on the main traveled way of a street or highway within the visibility area.

474 (2) "Commercial or industrial activities" means those activities generally recognized as  
475 commercial or industrial by zoning authorities in this state, except that none of the following  
476 are commercial or industrial activities:

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

479 (b) transient or temporary activities;

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

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

482 (e) railroad tracks and minor sidings.

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

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

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

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

492 (A) are used or reserved for business, commerce, or trade, or zoned as a highway



493 service zone, under comprehensive local zoning ordinances or regulations or enabling state  
494 legislation; and

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

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

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

506 (4) "Comprehensive local zoning ordinances or regulations" means a municipality's  
507 comprehensive plan required by Section 10-9a-401, the municipal zoning plan authorized by  
508 Section 10-9a-501, and the county master plan authorized by Sections 17-27a-401 and  
509 17-27a-501. Property that is rezoned by comprehensive local zoning ordinances or regulations  
510 is rebuttably presumed to have not been zoned for the sole purpose of allowing outdoor  
511 advertising.

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

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

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

522 (7) "Highway service zone" means a highway service area where the primary use of the  
523 land is used or reserved for commercial and roadside services other than outdoor advertising to

524 serve the traveling public.

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

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

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

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

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

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

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

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

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

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

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

554 (17) "Outdoor advertising" means any outdoor advertising structure or outdoor

555 structure used in combination with an outdoor advertising sign or outdoor sign within the  
556 outdoor advertising corridor which is visible from a place on the main-traveled way of a  
557 controlled route.

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

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

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

567 (21) "Public assembly facility" means a convention facility as defined under Section  
568 59-12-602 and that:

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

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

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

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

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

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

585 (24) "Relocation and replacement" means allowing all outdoor advertising signs or

586 permits the right to maintain outdoor advertising along the interstate, federal aid primary  
587 highway existing as of June 1, 1991, and national highway system highways to be maintained  
588 in a commercial or industrial zoned area to accommodate the displacement, remodeling, or  
589 widening of the highway systems.

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

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

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

598 (28) "Traveled way" means that portion of the roadway used for the movement of  
599 vehicles, exclusive of shoulders and auxiliary lanes.

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

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

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

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

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

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

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

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

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

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

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

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

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

625 **72-7-505. Sign size -- Sign spacing -- Location in outdoor advertising corridor --**  
626 **Limit on implementation.**

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

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

630 (ii) maximum length - 60 feet; and

631 (iii) maximum height - 25 feet.

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

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

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

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

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

647 (e) The illumination of an electronic changeable message sign may not be limited,

648 except to prevent an electronic sign face from increasing ambient lighting levels by more than  
649 0.3 footcandles when measured:

650 (i) after sunset and before sunrise;

651 (ii) perpendicular to the sign face; and

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

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

656 (B) 100.

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

662 (2) (a) An outdoor sign structure located inside the unincorporated area of a  
663 nonurbanized county may have the maximum height allowed by the county for outdoor  
664 advertising structures in the commercial or industrial zone in which the sign is located. If no  
665 maximum height is provided for the location, the maximum sign height may be 65 feet above  
666 the ground or 25 feet above the grade of the main traveled way, whichever is greater.

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

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

673 (a) Any sign allowed to be erected by reason of the exceptions set forth in Subsection  
674 72-7-504(1) or in H-1 zones may not be closer than 500 feet to an existing off-premise sign  
675 adjacent to an interstate highway or limited access primary highway, except that signs may be  
676 erected closer than 500 feet if the signs on the same side of the interstate highway or limited  
677 access primary highway are not simultaneously visible.

678 (b) Signs may not be located within 500 feet of any of the following which are adjacent

679 to the highway, unless the signs are in an incorporated area:

680 (i) public parks;

681 (ii) public forests;

682 (iii) public playgrounds;

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

685 (v) cemeteries.

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

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

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

696 (A) the sign is replacing an existing outdoor advertising use or structure which is being  
697 removed or displaced to accommodate the widening, construction, or reconstruction of an  
698 interstate, federal aid primary highway existing as of June 1, 1991, or national highway system  
699 highway; and

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

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

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

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

710 (e) All outdoor advertising shall be erected and maintained within the outdoor  
711 advertising corridor.

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

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

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

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

720 **72-7-510. Existing outdoor advertising not in conformity with part -- Procedure**  
721 **-- Eminent domain -- Compensation -- Relocation.**

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

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

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

734 (c) Eminent domain shall be exercised in accordance with the provision of Title 78B,  
735 Chapter 6, Part 5, Eminent Domain.

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

739 (b) For the purposes of this part, just compensation shall include the consideration of  
740 damages to remaining properties, contiguous and noncontiguous, of an outdoor advertising sign



741 company's interest, which remaining properties, together with the properties actually  
742 condemned, constituted an economic unit.

743 (c) The department is empowered to remove signs found in violation of Section  
744 72-7-508 without payment of any compensation.

745 (4) (a) Except as specifically provided in this section, Subsection 72-7-505(1)(d), or  
746 Section 72-7-513, this part may not be construed to permit a person to place or maintain any  
747 outdoor advertising adjacent to any interstate or primary highway system which is prohibited  
748 by law or by any town, city, or county ordinance.

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

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

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

763 (i) on the same property;

764 (ii) on adjacent property;

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

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

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

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

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

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

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

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

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

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

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**Legislative Review Note**  
**as of 2-11-13 9:44 AM**

**Office of Legislative Research and General Counsel**