

## SB0061S02 compared with SB0061S01

~~{deleted text}~~ shows text that was in SB0061S01 but was deleted in SB0061S02.

inserted text shows text that was not in SB0061S01 but was inserted into SB0061S02.

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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: \_\_\_\_\_

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#### 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}~~ defines terms related to electronic and mechanical changeable message signs;

- ▶ allows the upgrade of certain existing signs to electronic or mechanical changeable message ~~{sign}~~ signs in certain circumstances; ~~{and~~

~~requiring a sign owner to forfeit one sign in order to upgrade or construct~~

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~~another~~

- ▶ allows a municipality for county to prohibit the upgrade to electronic or mechanical changeable ~~{sign}~~ message signs along certain types of highways;
- ▶ allows a municipality or county to impose a curfew or other restrictions on the operation of certain 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-103, as last amended by Laws of Utah 2020, Chapter 434

10-9a-511, as last amended by Laws of Utah 2018, Chapter 239

10-9a-529, as enacted by Laws of Utah 2020, Chapter 434

17-27a-103, as last amended by Laws of Utah 2020, Chapter 434

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

63I-2-217, as last amended by Laws of Utah 2020, Chapters 47, 114, and 434

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

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

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

#### **10-9a-103. Definitions.**

As used in this chapter:

- (1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.
- (2) "Adversely affected party" means a person other than a land use applicant who:

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(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(5)(a); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

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(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(9) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(10) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(11) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(12) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(13) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including

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kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (13)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (13)(a)(i);

and

(B) used in support of the purposes of a building described in Subsection (13)(a)(i); or

(ii) a therapeutic school.

(14) "Electronic changeable message sign" or "electronic message sign" means a sign on which the display is changed periodically by changing the internal illumination of the sign face.

~~[(14)]~~ (15) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

~~[(15)]~~ (16) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

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

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

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

(a) a surface fault rupture;

(b) shallow groundwater;

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

~~[(18)]~~ [(19)] "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:

- (a) recommend land use regulations to preserve local historic districts or areas; and
- (b) administer local historic preservation land use regulations within a local historic district or area.

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

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

- (a) are clearly marked as "identical plans";
- (b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and
- (c) describe a building that:
  - (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
  - (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
  - (iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and
  - (iv) does not require any additional engineering or analysis.

~~[(21)]~~ [(22)] "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

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~~[(22)]~~[(23)] "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

- (a) recording a subdivision plat; or
- (b) development of a commercial, industrial, mixed use, or multifamily project.

~~[(23)]~~[(24)] "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

- (a) complies with the municipality's written standards for design, materials, and workmanship; and
- (b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

~~[(24)]~~[(25)] "Improvement warranty period" means a period:

- (a) no later than one year after a municipality's acceptance of required landscaping; or
- (b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:
  - (i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and
  - (ii) has substantial evidence, on record:
    - (A) of prior poor performance by the applicant; or
    - (B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

~~[(25)]~~[(26)] "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

- (a) is required for human occupation; and
- (b) an applicant must install:
  - (i) in accordance with published installation and inspection specifications for public improvements; and
  - (ii) whether the improvement is public or private, as a condition of:
    - (A) recording a subdivision plat;
    - (B) obtaining a building permit; or

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(C) development of a commercial, industrial, mixed use, condominium, or multifamily project.

~~[(26)]~~ [(27)] "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

~~[(27)]~~ [(28)] "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

~~[(28)]~~ [(29)] "Land use application":

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

~~[(29)]~~ [(30)] "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

~~[(30)]~~ [(31)] "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

~~[(31)]~~ [(32)] "Land use permit" means a permit issued by a land use authority.

~~[(32)]~~ [(33)] "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;



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(b) includes the adoption or amendment of a zoning map or the text of the zoning code;  
and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

~~[(33)]~~ [(34)] "Legislative body" means the municipal council.

~~[(34)]~~ [(35)] "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

~~[(35)]~~ [(36)] "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

~~[(36)]~~ [(37)] "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

~~[(37)]~~ [(38)] (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or parcels, whether or not the lots are located in the same subdivision, in accordance with Section 10-9a-608, with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

~~[(38)]~~ [(39)] "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit;

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or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

- (i) a public transit district as defined in Section 17B-2a-802; or
- (ii) an eligible political subdivision as defined in Section 59-12-2219.

(40) "Mechanical changeable message sign" or "mechanical message sign" means a sign on which the display is changed periodically by a contained mechanism within the sign structure that alters the physical components of the sign face and alter the sign.

(39) (41) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

(40) (42) "Municipal utility easement" means an easement that:

- (a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;
- (b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;
- (c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;
- (d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;
- (e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and
  - (ii) is located in a utility easement granted for public use; or
- (f) is described in Section 10-9a-529 and is used by a specified public utility.

(41) (43) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

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

(42) (44) "Noncomplying structure" means a structure that:

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(a) legally existed before its current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

~~[(43)]~~ (45) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

~~[(44)]~~ (46) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

~~[(45)]~~ (47) "Parcel" means any real property that is not a lot created by and shown on a subdivision plat recorded in the office of the county recorder.

~~[(46)]~~ (48) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 57-1-45, if no additional parcel is created and:

(i) none of the property identified in the agreement is subdivided land; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

~~[(47)]~~ (49) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

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~~[(48)]~~ (50) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

- (a) an estimate of the existing supply of moderate income housing located within the municipality;
- (b) an estimate of the need for moderate income housing in the municipality for the next five years;
- (c) a survey of total residential land use;
- (d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and
- (e) a description of the municipality's program to encourage an adequate supply of moderate income housing.

~~[(49)]~~ (51) "Plat" means a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

~~[(50)]~~ (52) "Potential geologic hazard area" means an area that:

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

~~[(51)]~~ (53) "Public agency" means:

- (a) the federal government;
- (b) the state;
- (c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or
- (d) a charter school.

~~[(52)]~~ (54) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

~~[(53)]~~ (55) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

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~~[(54)]~~ [(56)] "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

~~[(55)]~~ [(57)] "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

~~[(56)]~~ [(58)] "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

~~[(57)]~~ [(59)] "Residential facility for persons with a disability" means a residence:

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

~~[(58)]~~ [(60)] "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

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

~~[(59)]~~ [(61)] "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

~~[(60)]~~ [(62)] "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

~~[(61)]~~ [(63)] "Specified public agency" means:

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

~~[(62)]~~ [(64)] "Specified public utility" means an electrical corporation, gas corporation,

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or telephone corporation, as those terms are defined in Section 54-2-1.

~~[(63)]~~ (65) "State" includes any department, division, or agency of the state.

~~[(64)]~~ (66) "Subdivided land" means the land, tract, or lot described in a recorded subdivision plat.

~~[(65)]~~ (67) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection ~~[(65)]~~ (67)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) an agreement recorded with the county recorder's office between owners of adjoining unsubdivided properties adjusting the mutual boundary by a boundary line agreement in accordance with Section 57-1-45 if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous parcel of property that is not subdivided land into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) an agreement between owners of adjoining subdivided properties adjusting the

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mutual lot line boundary in accordance with Section 10-9a-603 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels;

(vi) a parcel boundary adjustment;

(vii) a lot line adjustment;

(viii) a road, street, or highway dedication plat; or

(ix) a deed or easement for a road, street, or highway purpose.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (65) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.

~~[(66)]~~ [(68)] "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

~~[(67)]~~ [(69)] "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

~~[(68)]~~ [(70)] "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

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

~~[(69)]~~ [(71)] "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

~~[(70)]~~ [(72)] "Unincorporated" means the area outside of the incorporated area of a city or town.

~~[(71)]~~ [(73)] "Water interest" means any right to the beneficial use of water, including:

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

~~[(72)]~~ [(74)] "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section ~~{1}~~ 2. Section **10-9a-511** is amended to read:

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

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

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

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



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(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 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)+~~ if a municipal zoning ordinance that was in effect on or after January 1, 2021, authorizes an electronic changeable message sign

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or a mechanical changeable message sign adjacent to a right-of-way, the municipality shall allow an existing nonconforming or conforming off-premise sign or a relocated nonconforming or conforming off-premise sign to upgrade to:

(i) an electronic changeable message off-premise sign if:

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

(B) the actual message rotation process does not exceed one-quarter of one second;

(ii) a mechanical changeable message off-premise sign if:

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

(B) the actual message rotation process does not exceed three seconds; or

(iii) a combination of Subsections (3)(d)(i) and (ii).

(e) A municipality may ~~not~~ enact or enforce an ordinance that prevents an owner of ~~an existing nonconforming or conforming~~ a billboard from upgrading ~~that~~ a billboard to an electronic or mechanical changeable message ~~sign that operates in conformance with~~ off-premise sign for any billboard:

(i) located on a property immediately adjacent to a State Scenic Byway, National Scenic Byway, or All-American Road as designated pursuant to Title 72, Chapter ~~7~~4, Part ~~5~~3, 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~~ State Scenic Byway Program; or

(ii) in any area that, on January 1, 2021, was zoned exclusively for residential use.

(f) (i) For an electronic changeable message sign ~~that conforms with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.~~

~~(e) Subject~~ located in an area described in Subsection (3)(f)(ii), a municipality may:

(A) subject to Subsection (3)(f) ~~, a municipality may~~ (iii) impose a curfew on the operation of the electronic changeable message sign; or

(B) require the use of an electronic ~~or mechanical~~ changeable message sign ~~between midnight and 6 a.m.~~

~~(f) that is designed and manufactured with physical light-trespass mitigation that blocks the displays light output from substantially reaching an existing residential dwelling structure.~~

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(ii) A municipality may ~~not~~ impose the ~~curfew~~ restrictions described in Subsection (3)(~~e~~) unless:

~~(i) the electronic or mechanical~~ f(i) for an electronic changeable message sign if the face of the electronic changeable message sign is:

(A) located outside of an area ~~governed by~~ subject to 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~~)B) located~~ within ~~150~~300 feet of the outer edge of an existing residential dwelling structure that is legally occupied and located on property zoned

~~exclusively~~ primarily for residential purposes; and

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

~~(~~g~~)iii) 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~~; may not enact a curfew on the operation of an electronic~~ changeable message sign except between the hours of midnight and 6 a.m.

(g) (i) Except as provided in Subsection (3)(g)(ii), a municipality may not, as a condition of upgrading in accordance with Subsection (3)(d), enact or enforce an ordinance that requires a billboard owner to install additional landscaping or aesthetic embellishments.

(ii) Subsection (3)(g)(i) does not apply to a municipal ordinance that restricts the paint color of a sign structure.

(h) A municipality may not, as a condition of upgrading or building in accordance with Subsection 3(d), enact or enforce an ordinance that requires a billboard owner to forfeit another billboard or any associated right.

(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

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

### Section 3. Section 10-9a-529 is amended to read:

#### **10-9a-529. Specified public utility located in a municipal utility easement.**

A specified public utility may exercise each power of a public utility under Section 54-3-27 if the specified public utility uses an easement:

(1) with the consent of a municipality; and

(2) that is located within a municipal utility easement described in Subsection 10-9a-103~~(40)~~(42)(a) through (e).

### Section 4. Section 17-27a-103 is amended to read:

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

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

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

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

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan;  
or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(5)(a); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Chief executive officer" means the person or body that exercises the executive powers of the county.

(9) "Conditional use" means a land use that, because of its unique characteristics or

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potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(10) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

- (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
- (b) Utah Constitution, Article I, Section 22.

(11) "County utility easement" means an easement that:

(a) a plat recorded in a county recorder's office described as a county utility easement or otherwise as a utility easement;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the county or the county's affiliated governmental entity owns or creates; and

(d) (i) either:

(A) no person uses or occupies; or

(B) the county or the county's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; or

(ii) a person uses or occupies with or without an authorized franchise or other agreement with the county.

(12) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(13) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(14) (a) "Disability" means a physical or mental impairment that substantially limits

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one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. Sec. 802.

(15) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (15)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (15)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (15)(a)(i); or

(ii) a therapeutic school.

(16) "Electronic changeable message sign" or "electronic message sign" means the same as that term is defined in Section 10-9a-103.

~~[(16)]~~ (17) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

~~[(17)]~~ (18) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency

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but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

~~[(18)]~~ [(19)] "Gas corporation" has the same meaning as defined in Section 54-2-1.

~~[(19)]~~ [(20)] "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of:

- (a) the unincorporated land within the county; or
- (b) for a mountainous planning district, the land within the mountainous planning

district.

~~[(20)]~~ [(21)] "Geologic hazard" means:

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

~~[(21)]~~ [(22)] "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

~~[(22)]~~ [(23)] "Identical plans" means building plans submitted to a county that:

- (a) are clearly marked as "identical plans";
- (b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and
- (c) describe a building that:
  - (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;



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(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and

(iv) does not require any additional engineering or analysis.

~~[(23)]~~ [(24)] "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

~~[(24)]~~ [(25)] "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

~~[(25)]~~ [(26)] "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the county's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

~~[(26)]~~ [(27)] "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required landscaping; or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

~~[(27)]~~ [(28)] "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

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- (a) is required for human consumption; and
- (b) an applicant must install:
  - (i) in accordance with published installation and inspection specifications for public improvements; and
  - (ii) as a condition of:
    - (A) recording a subdivision plat;
    - (B) obtaining a building permit; or
    - (C) developing a commercial, industrial, mixed use, condominium, or multifamily project.

~~[(28)]~~ [(29)] "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

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

~~[(29)]~~ [(30)] "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

~~[(30)]~~ [(31)] "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

~~[(31)]~~ [(32)] "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

~~[(32)]~~ [(33)] "Land use application":

- (a) means an application that is:
  - (i) required by a county; and
  - (ii) submitted by a land use applicant to obtain a land use decision; and
- (b) does not mean an application to enact, amend, or repeal a land use regulation.

~~[(33)]~~ [(34)] "Land use authority" means:

- (a) a person, board, commission, agency, or body, including the local legislative body,

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designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

~~[(34)]~~ [(35)] "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

- (a) a land use permit;
- (b) a land use application; or
- (c) the enforcement of a land use regulation, land use permit, or development agreement.

~~[(35)]~~ [(36)] "Land use permit" means a permit issued by a land use authority.

~~[(36)]~~ [(37)] "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

~~[(37)]~~ [(38)] "Legislative body" means the county legislative body, or for a county that has adopted an alternative form of government, the body exercising legislative powers.

~~[(38)]~~ [(39)] "Local district" means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

~~[(39)]~~ [(40)] "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

~~[(40)]~~ [(41)] (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or parcels, whether or not the lots are located in the same subdivision, in

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accordance with Section 17-27a-608, with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

- (i) creates an additional lot; or
- (ii) constitutes a subdivision.

~~[(41)]~~ (42) "Major transit investment corridor" means public transit service that uses or occupies:

- (a) public transit rail right-of-way;
- (b) dedicated road right-of-way for the use of public transit, such as bus rapid transit;

or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

- (i) a public transit district as defined in Section 17B-2a-802; or
- (ii) an eligible political subdivision as defined in Section 59-12-2219.

(43) "Mechanical changeable message sign" or "mechanical message sign" means the same as that term is defined in Section 10-9a-103.

~~[(42)]~~ (44) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

~~[(43)]~~ (45) "Mountainous planning district" means an area:

- (a) designated by a county legislative body in accordance with Section 17-27a-901; and
- (b) that is not otherwise exempt under Section 10-9a-304.

~~[(44)]~~ (46) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

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

~~[(45)]~~ (47) "Noncomplying structure" means a structure that:

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

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the use of land.

~~[(46)]~~ (48) "Nonconforming use" means a use of land that:

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

~~[(47)]~~ (49) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

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

~~[(48)]~~ (50) "Parcel" means any real property that is not a lot created by and shown on a subdivision plat recorded in the office of the county recorder.

~~[(49)]~~ (51) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 57-1-45, if no additional parcel is created and:

- (i) none of the property identified in the agreement is subdivided land; or
  - (ii) the adjustment is to the boundaries of a single person's parcels.
- (b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary

line that:

- (i) creates an additional parcel; or
- (ii) constitutes a subdivision.

~~[(50)]~~ (52) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

~~[(51)]~~ (53) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

- (a) an estimate of the existing supply of moderate income housing located within the

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county;

(b) an estimate of the need for moderate income housing in the county for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

~~[(52)]~~ [(54)] "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

~~[(53)]~~ [(55)] "Plat" means a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 17-27a-603 or 57-8-13.

~~[(54)]~~ [(56)] "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

~~[(55)]~~ [(57)] "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

~~[(56)]~~ [(58)] "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

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~~[(57)]~~ [(59)] "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

~~[(58)]~~ [(60)] "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

~~[(59)]~~ [(61)] "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

~~[(60)]~~ [(62)] "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

~~[(61)]~~ [(63)] "Residential facility for persons with a disability" means a residence:

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

~~[(62)]~~ [(64)] "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

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

~~[(63)]~~ [(65)] "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

~~[(64)]~~ [(66)] "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

~~[(65)]~~ [(67)] "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

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~~[(66)]~~ [(68)] "Specified public agency" means:

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

~~[(67)]~~ [(69)] "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

~~[(68)]~~ [(70)] "State" includes any department, division, or agency of the state.

~~[(69)]~~ [(71)] "Subdivided land" means the land, tract, or lot described in a recorded subdivision plat.

~~[(70)]~~ [(72)] (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection ~~[(70)]~~ [(72)](c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) an agreement recorded with the county recorder's office between owners of adjoining properties adjusting the mutual boundary by a boundary line agreement in accordance with Section 57-1-45 if:

(A) no new lot is created; and

(B) the adjustment does not violate applicable land use ordinances;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal description of more than one contiguous parcel of property that is not subdivided land into one legal description encompassing all such parcels of property; or

(B) joining a subdivided parcel of property to another parcel of property that has not



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been subdivided, if the joinder does not violate applicable land use ordinances;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) an agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Section 10-9a-603 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels;

(vii) a parcel boundary adjustment;

(viii) a lot line adjustment;

(ix) a road, street, or highway dedication plat; or

(x) a deed or easement for a road, street, or highway purpose.

(d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection ~~[(70)]~~ [(72)] as to the unsubdivided parcel of property or subject the unsubdivided parcel to the county's subdivision ordinance.

~~[(71)]~~ [(73)] "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 17-27a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

~~[(72)]~~ [(74)] "Suspect soil" means soil that has:

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(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

~~[(73)]~~ [(75)] "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

~~[(74)]~~ [(76)] "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

~~[(75)]~~ [(77)] "Unincorporated" means the area outside of the incorporated area of a municipality.

~~[(76)]~~ [(78)] "Water interest" means any right to the beneficial use of water, including:

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

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

~~[(77)]~~ [(79)] "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

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Section ~~2~~5. 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 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.

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(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), ~~if a county zoning ordinance that was in effect on or after January 1, 2021, authorizes an electronic changeable message sign or a mechanical changeable message sign adjacent to a right-of-way, the county shall allow an existing nonconforming or conforming off-premise sign or a relocated nonconforming or conforming off-premise sign to upgrade to:~~

~~(i) an electronic changeable message off-premise sign if:~~

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

~~(B) the actual message rotation process does not exceed one-quarter of one second;~~

~~(ii) a mechanical changeable message off-premise sign if:~~

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

~~(B) the actual message rotation process does not exceed three seconds; or~~

~~(iii) a combination of Subsections (3)(d)(i) and (ii).~~

~~(e) A county may enact or enforce an ordinance that prevents an owner of an existing nonconforming or conforming a billboard from upgrading that a billboard to an electronic or mechanical changeable message sign that operates in conformance with off-premise sign for any billboard:~~

~~(i) located on a property immediately adjacent to a State Scenic Byway, National Scenic Byway, or All-American Road as designated pursuant to Title 72, Chapter 4, Part 3, 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 State Scenic Byway Program; or~~

~~(ii) in any area that, on January 1, 2021, was zoned exclusively for residential use.~~

~~(f) (i) For an electronic changeable message sign that conforms with Title 72, Chapter 7, Part 5, Utah Outdoor Advertising Act.~~

~~(c) Subject located in an area described in Subsection (3)(f)(ii), a county may:~~

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(A) subject to Subsection (3)(f) ~~{, a county may,}~~ (iii) impose a curfew on the operation of the electronic changeable message sign; or

(B) require the use of an electronic ~~{ or mechanical}~~ changeable message sign ~~{between midnight and 6 a.m.}~~

~~{f}~~ that is designed and manufactured with physical light-trespass mitigation that blocks the displays light output from substantially reaching an existing residential dwelling structure.

(ii) A county may ~~{not}~~ impose the ~~{curfew}~~ restrictions described in Subsection (3) ~~{e}~~ unless:

~~{i}~~ the electronic or mechanical ~~{f}~~ (i) for an electronic changeable message sign if the face of the electronic changeable message sign is:

(A) located outside of an area ~~{governed by}~~ subject to 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}~~ ~~B~~ located within ~~{150}~~ 300 feet of the outer edge of an existing residential dwelling structure that is legally occupied and located on property zoned ~~{exclusively}~~ primarily for residential purposes; and

~~{B}~~ ~~C~~ oriented toward the structure described in Subsection (3)(f)(ii) ~~{A}~~ ~~B~~.

~~{g}~~ ~~iii}~~ 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}~~ may not enact a curfew on the operation of an electronic changeable message sign except between the hours of midnight and 6 a.m.

(g) (i) Except as provided in Subsection (3)(g)(ii), a county may not, as a condition of upgrading in accordance with Subsection (3)(d), enact or enforce an ordinance that requires a billboard owner to install additional landscaping or aesthetic embellishments.

(ii) Subsection (3)(g)(i) does not apply to a county ordinance that restricts the paint color of a sign structure.

(h) A county may not, as a condition of upgrading or building in accordance with Subsection 3(d), enact or enforce an ordinance that requires a billboard owner to forfeit another billboard or any associated right.

(4) (a) Unless the county establishes, by ordinance, a uniform presumption of legal

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existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use.

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

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

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

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

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

(d) The property owner may rebut the presumption of abandonment under Subsection (4)(c), and 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 6. Section 63I-2-217 is amended to read:

**63I-2-217. Repeal dates -- Title 17.**

(1) Section 17-22-32.2, regarding restitution reporting, is repealed January 1, 2021.

(2) Section 17-22-32.3, regarding the Jail Incarceration and Transportation Costs Study Council, is repealed January 1, 2021.

(3) Subsection 17-27a-102(1)(b), the language that states "or a designated mountainous planning district" is repealed June 1, 2021.

(4) (a) Subsection 17-27a-103~~(18)~~(20)(b), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-103~~(42)~~(45), regarding a mountainous planning district, is repealed June 1, 2021.

(5) Subsection 17-27a-210(2)(a), the language that states "or the mountainous planning district area" is repealed June 1, 2021.

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(6) (a) Subsection 17-27a-301(1)(b)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-301(1)(c), regarding a mountainous planning district, is repealed June 1, 2021.

(c) Subsection 17-27a-301(3)(a), the language that states " or (c)" is repealed June 1, 2021.

(7) Section 17-27a-302, the language that states ", or mountainous planning district" and "or the mountainous planning district," is repealed June 1, 2021.

(8) Subsection 17-27a-305(1)(a), the language that states "a mountainous planning district or" and ", as applicable" is repealed June 1, 2021.

(9) (a) Subsection 17-27a-401(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-401(7), regarding a mountainous planning district, is repealed June 1, 2021.

(10) (a) Subsection 17-27a-403(1)(b)(ii), regarding a mountainous planning district, is repealed June 1, 2021.

(b) Subsection 17-27a-403(1)(c)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(c) Subsection 17-27a-403(2)(a)(iii), the language that states "or the mountainous planning district" is repealed June 1, 2021.

(d) Subsection 17-27a-403(2)(c)(i), the language that states "or mountainous planning district" is repealed June 1, 2021.

(11) Subsection 17-27a-502(1)(d)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

(12) Subsection 17-27a-505.5(2)(a)(iii), regarding a mountainous planning district, is repealed June 1, 2021.

(13) Subsection 17-27a-602(1)(b), the language that states "or, in the case of a mountainous planning district, the mountainous planning district" is repealed June 1, 2021.

(14) Subsection 17-27a-604(1)(b)(i)(B), regarding a mountainous planning district, is repealed June 1, 2021.

(15) Subsection 17-27a-605(1)(a), the language that states "or mountainous planning

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district land" is repealed June 1, 2021.

(16) Title 17, Chapter 27a, Part 9, Mountainous Planning District, is repealed June 1, 2021.

(17) On June 1, 2021, when making the changes in this section, the Office of Legislative Research and General Counsel shall:

(a) in addition to its authority under Subsection 36-12-12(3):

(i) make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's understanding of the Legislature's intent; and

(ii) make necessary changes to subsection numbering and cross references; and

(b) identify the text of the affected sections and subsections based upon the section and subsection numbers used in Laws of Utah 2017, Chapter 448.

(18) Subsection 17-34-1(5)(d), regarding county funding of certain municipal services in a designated recreation area, is repealed June 1, 2021.

(19) Title 17, Chapter 35b, Consolidation of Local Government Units, is repealed January 1, 2022.

(20) On June 1, 2022:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision described in Subsection 17-52a-104(1)(b) or (2)(b)," is repealed; and

(c) Subsection 17-52a-301(3)(a)(iv), regarding the first initiated process, is repealed.

(21) On January 1, 2028, Subsection 17-52a-103(3), requiring certain counties to initiate a change of form of government process by July 1, 2018, is repealed.

Section ~~37~~7. 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.



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

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

~~(d) An existing conforming or nonconforming sign, a newly constructed conforming sign, or a relocated sign may be upgraded or constructed as an electronic changeable message sign 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.~~

~~(f)~~ (f) 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 owner's sign at the brighter of the two standards.~~

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

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

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

(a) Any sign allowed to be erected by reason of the exceptions set forth in Subsection 72-7-504(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

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any other direction of travel.

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

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

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

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

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

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

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

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

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

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