

*Scenic*UTAH

ELECTRONIC SIGN & DIGITAL BILLBOARD ORDINANCES

A Primer for Local Governments

3rd Edition - 2024



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This 3rd Edition of the *Primer for Local Governments* is
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SCENIC UTAH is a statewide nonprofit organization working to protect and enhance the scenic qualities of our communities, countryside, and roadways. We partner with other groups who share our common goal of safeguarding the extraordinary beauty of the Beehive State, and advocate for policies that encourage community engagement, protect and enhance scenic beauty and limit visual pollution. We are an affiliate of the national organization [Scenic America](#).

THIS PRIMER is intended for local governments and community groups seeking to develop or amend their digital sign and billboard ordinances to fit their community's standards and goals.

Written by planning professionals with many years of experience navigating the complexities of billboard and sign ordinances, it offers definitions, guidance and key considerations, a checklist for creating robust and defensible ordinances, and links to additional useful resources.

The Primer is a living document to be reviewed and updated as outdoor advertising laws, policies, and public sentiment evolve.

We welcome your feedback.

*Scenic Utah
August 2024*

www.scenicutah.org

Contents

Purpose of the primer	1
Local governments CAN regulate billboards	1
The high public cost of NOT regulating billboards.....	3
Types of outdoor signs.....	4
Types of digital signage.....	4
How municipalities regulate (off-premises) billboards and on-premises business signs.....	5
Regulating or prohibiting OFF-PREMISES digital / electronic billboards.....	6
Regulating ON-PREMISES digital signs.....	6
Tips for getting started	7
Six steps to developing or amending digital sign and billboard ordinances.....	8
CHECKLIST for drafting on-premises digital sign and off-premises digital billboard ordinances.....	10
Other useful resources	11

Electronic Sign & Digital Billboard Ordinances

Purpose of this primer

Sign regulation is no longer an issue exclusive to Utah's large metropolitan areas. Today, even the smallest communities face challenges related to outdoor advertising and its impacts. And as digital technology and electronic signage are quickly replacing traditional 'static' signage, local governments—regardless of their size—are grappling with how to regulate digital signs.

Most cities and towns in Utah have not updated their sign and billboard ordinances to reflect the growing impacts of digital signage. This primer is intended as a starting place for planners, elected officials, citizens, and others seeking to adopt new or strengthen existing digital / electronic sign ordinances. It describes both 'on-premises' signs and 'off-premises' billboards and offers guidance on how to develop coherent digital ordinances for both types.

Local Governments CAN regulate billboards

1. Billboards and on-premises signs can be treated differently by local governments.

On-premises signs that advertise goods and services offered on the same property are different from billboards that advertise goods and services *not* offered on the same property. In April 2022, the U.S. Supreme Court ruled in [*City of*](#)









[*Austin v. Reagan National Advertising*](#) that local governments have the right to regulate them differently. The Court affirmed that cities with different standards for on-premises signs and off-premises billboards do not violate a billboard owner's right of free speech—a common argument used by the billboard industry in lobbying states to preempt municipalities from regulating billboards on interstates, state highways, and local roads.

[This April 2022 article](#) describing the Supreme Court decision includes useful detail.



Millcreek on-premises signs and off-premises billboards / Scenic Utah

2. **Utah cities and towns have the legal right to set more restrictive billboard standards, including for digital, than the minimum standards set out in the Utah Outdoor Advertising Act (UOAA).** For interstate highways and other primary federal aid highways, federal law allows local governments to establish more restrictive billboard ordinances than those found in state codes.
3. **Utah state code allows municipalities to prohibit and/or restrict billboards, and to establish standards** for the placement, height, size, and lighting of both conventional and digital billboards on roads other than interstates and federal primary aid highways.
4. **Billboard companies are aggressively pursuing digital signage due to the potential for substantially higher revenue**—up to 12 times greater than conventional billboards. Across the country, billboard owners are offering exchange deals to cities seeking to remove static signs, agreeing to remove a certain number of static billboards for each new or installed digital sign. Exchange ratios vary markedly, depending on local factors and negotiation strategies. Local governments considering such deals should apply due diligence and carefully analyze the economics, visual impacts, carbon footprint, and costs of removing or relocating digital billboards in the future. Below are some static-to-digital exchange ratios from a Scenic Utah sign ordinance search. ([See our Aug. 2024 Blog](#) for more exchange ratios and considerations for deciding the right ratios for your municipality.)

13.8-to-1 ST. PETERSBURG, FL	 <p><i>All 83 static billboard faces (41 structures) to be removed before first digital installation.</i></p>
10-to-1 TAMPA, FL	
9-to-1 / 2:1 LOS ANGELES, CA	 <p><i>Committed to removing 120+ static to install 71 new digital.</i></p>
9-to-1 STOCKTON, CA	
7.8-to-1* TACOMA, WA	 <p><i>*Proposed: 5.4-to-1 (first 10 billboards); 5-to-1 (next 7); 7.8-to-1 (last 21). Agreement requires surrender of relocation certificates.</i></p>
7-to-1 KANSAS CITY, MO	
6-to-1 GULFPORT, MS	
6-to-1 SAN JOSE, CA	 <p><i>An increase from previous 4-to-1.</i></p>

Absent a sign ordinance that sets clear standards, anything goes. For example, unless sign height maximums are clearly specified, a sign of any height can be installed, and municipalities have no power to remove it or reduce its height.

The high public cost of NOT regulating billboards

Once a traditional or digital billboard is installed, it is, for all practical purposes, a permanent structure. As a result of persistent lobbying by Utah billboard owners, removing one of these structures is prohibitively expensive for most municipalities. The power of eminent domain, as enshrined in the U.S. Constitution, allows government entities to buy out private property for a public purpose (typically for economic redevelopment, widening roads, or public safety.)

In Utah, unlike any other state in the Mountain West, the eminent domain statute has been amended in various ways to give billboard owners special rights not granted to any other type of property owner. This has resulted in valuations that make it extremely difficult for a municipality or other government entity to buy out a billboard.

Because of these special rights, many Utah municipalities are deterred or prevented from initiating eminent domain proceedings on billboard properties. Orem, Millcreek, St. George, Toquerville, Sandy, Layton, and Salt Lake City are among the many communities that have found it too costly to acquire billboard easements; relocate a billboard; or remove billboards in favor of redevelopment for a 'higher and better' use.



SLC's tallest billboard—in a residential zone



An off-premises billboard in St. George / Formetco.com



An on-premises EMC in Murray

Types of outdoor signs

Most ordinances divide signs into two distinct categories. Both are attached either to the ground or to a structure, but their uses differ.

1. **Off-premises signs (billboards)** advertise businesses, services, ideas, and products at locations other than the site of the sign. Billboard owners rent the ad space to third-party advertisers.
2. **On-premises (business) signs** advertise products, services, or ideas that are sold, provided, produced, manufactured, or furnished on the property where the sign is located. These signs also can identify or advertise other businesses or persons that maintain a business on the same premises. They typically are not available for rent by third parties.

Types of digital signage

The use of digital technology dramatically increases the lighting intensity and visibility of a sign. The two broad categories of digital signs are: 1) electronic message centers and 2) digital billboards.

1. **Electronic Message Centers (EMCs)** are *on-premises* digital signs that use a computer or other electronic means to change and control the content and light intensity.

2. **Digital or “electronic” billboards** are large *off-premises* displays that use digital images and change at frequent intervals – typically about every six to eight seconds. They are controlled remotely via software by the billboard owner.

How municipalities regulate (off-premises) billboards and on-premises business signs

Municipalities CAN regulate off-premises billboards differently than on-premises business signs. All cities and towns have different standards for billboards and on-premises business signs. Billboard owners frequently challenge this distinction, arguing that by prohibiting digital billboards in zones that also allow digital on-premises signs, cities are violating their right to free speech. This is not the case. The U.S. Supreme Court in 2022 affirmed the constitutionality of distinguishing between these two types of signs.

Off-premises billboards

1. Cities can prohibit the installation or construction of any additional billboards, with existing billboards grandfathered as “non-conforming” signs. Or...
2. They can allow billboards without restrictions. Or...
3. They can allow billboards only in certain zones, and set standards to regulate their size, height, setback, location, lighting, digitizing, etc.

Most municipalities in Utah prohibit NEW billboards, but their ordinances do not explicitly prohibit digital displays on billboards (“digital billboards”) or conversion of existing static billboards to digital.

If your ordinance does not include language that either prohibits or regulates digital billboards, and the owner of a permitted billboard begins the process of converting a static board to digital, your municipality will be unable to regulate or prevent the conversion.

On-premises business signs

All municipalities allow on-premises signs. Ordinances governing these signs vary in complexity, from very minimal to very detailed. In general, a municipality should set standards based on location (main streets, historical districts, light commercial, adjacent to freeways, etc.) and on community values or standards that may include the following:

- Location
- Height
- Setback
- Size of sign face
- Commercial, residential, historical, gateway, etc.
- Type of sign (pole, monument, storefront, etc.)
- Lighting
- Digitization

Regulating or prohibiting OFF-PREMISES digital/electronic billboards

Municipalities need to decide whether to regulate or prohibit new digital billboards and / or the conversion of existing static billboards to digital.

Prohibiting new digital billboards and digital conversions requires a review of your existing sign ordinance to determine whether new, additional billboards are currently allowed, and the specific standards governing them. If new billboards ARE allowed, but you want to prohibit digital conversions or new digital billboards, language should be added to your existing sign ordinance stating “digital/electronic billboards or the conversion of existing billboards to digital is prohibited in all (or certain) zones.”

All sign ordinances should have a “prohibited signs” section stating the types of signs that are not allowed. If your ordinance lacks this section, it is important to create one.

If your municipality is among the many in Utah that do NOT allow new additional billboards, language should be added to your ordinance to prevent existing “grandfathered” (nonconforming) billboards from being converted to digital. For example, consider adding this to your list of prohibited signs:

- *“Digital or electronic billboards of any kind, including conversion of existing billboards to digital or electronic, of any size or any description, irrespective of the underlying zone.”*

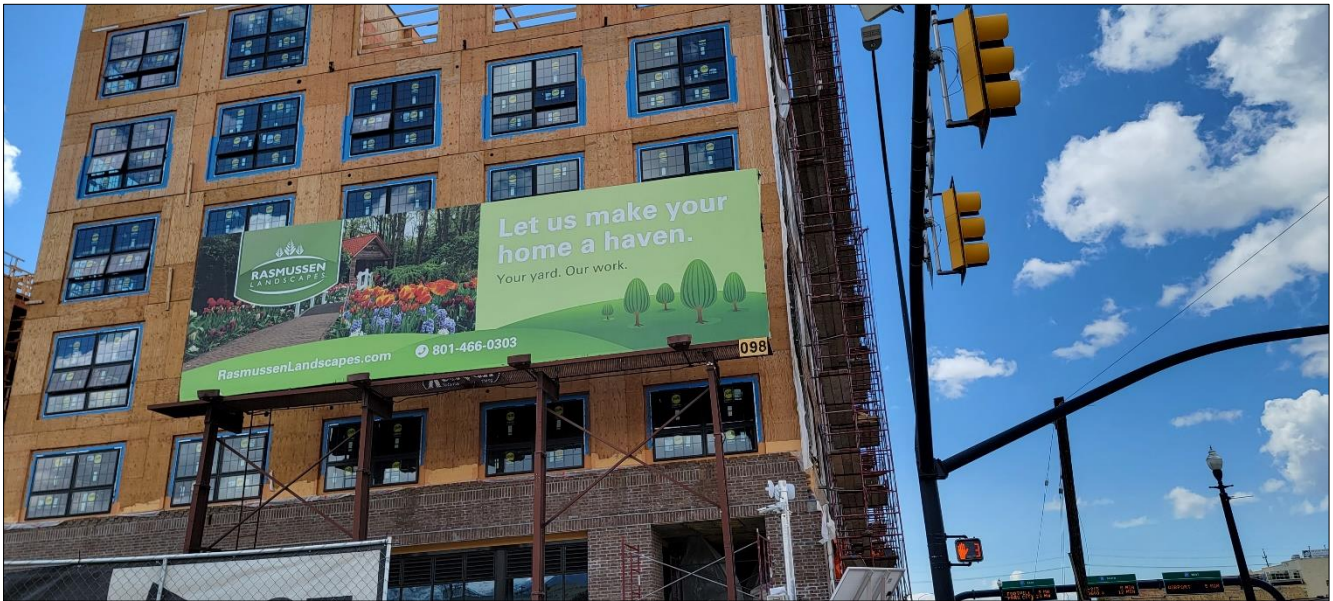
Allowing but regulating digital billboards will require setting standards for location, lighting intensity, dwell times, curfews or allowed hours of operation, safety, and aesthetic impacts.

When deciding whether to ban digital billboards or allow them with standards, it's important to consider their overall and long-term impacts. Digital signage is far more distracting and visually impactful than traditional “static” signage. Additionally, the cost to taxpayers of removing a digital billboard for redevelopment or road widening projects can be up to 10 times higher than removing a static billboard. And public opinion often weighs heavily against digitization, especially in residential and scenic areas.

The **CHECKLIST on Pages 10-12** includes key issues to consider when developing or updating your digital billboard ordinance standards.

Regulating ON-PREMISES digital signs

Municipalities need to decide whether to regulate digital electronic message center (EMC) displays, or to prohibit them all together. Failure to regulate should not be an option.



A billboard on the site of a new housing development in downtown Salt Lake City

To prohibit new EMCs, as some Utah communities now do, you should include this class of signage to your list of prohibited signs. For example, your list of prohibited signs could include:

- *“Digital / electronic on-premises signs of all kinds, including any conversion of existing signs thereto, irrespective of the underlying zone.”*

To allow-but-regulate EMCs subject to specific standards, it is important to determine the parameters within which the sign will be required to operate. The language should be clear, concise and unambiguous. If a standard can be interpreted in different ways by different parties, the most lenient interpretation will typically prevail.

If you opt to allow and regulate on-premises digital signs, rather than prohibit them, there are a number of questions to be addressed. The **CHECKLIST on Pages 10-12** includes key issues to consider when developing or updating your on-premises digital sign (EMC) and billboard ordinances.

Tips for getting started

- Carefully review your current sign and billboard ordinances to best understand how they are organized, identify vague language and definitions, and decide what provisions (standards) need to be added, changed, strengthened, or clarified.
- Ordinance changes are more likely to succeed when one or more elected officials serve as knowledgeable ‘champions’ of the effort.

- City or town councils and county commissions are the legislative bodies that make final decisions regarding local sign and billboard ordinances. Planning commissions and planning staff are important to the process, but locally elected officials are the key decision makers.
- Citizen groups, planners, businesses, and others interested in updating a community's sign ordinances should engage with their planning commission and locally elected leaders about initiating the changes. A group of like-minded residents and business owners seeking a sign ordinance change—even if the group is small and loosely organized—is a constituency that elected leaders will respond to.
- Review 'model ordinances' or those of other municipalities whose standards and regulations reflect those your own municipality is seeking to develop.

Six steps to developing or amending digital sign and billboard ordinances

1. **Move to update an ordinance.** A city or town council, county commission, or planning commission moves to create or update the sign and billboard ordinances. Often, it is a resident, business, or community group that requests elected officials or planning commissions to act.
2. **Ensure adequate time.** The county, city, or town council can impose a moratorium on accepting any new applications for new digital or static billboards or on-premises signs until a proposed new ordinance can be vetted and approved.
3. **Inform billboard owners.** Utah state law requires municipalities to notify billboard owners of an intent to create or amend a billboard ordinance. Billboard owners will often insist they be included in the drafting process. It's important to review their suggestions carefully and obtain legal advice when necessary. Remember, once a permit to build or convert a sign to digital has been filed with a local government, the billboard will effectively become a permanent structure due to the high public cost of removing it.

When a community is facing an immediate new, unregulated or unwanted sign or billboard, and its current ordinances are inadequate to deal with the issue, Utah law allows a city to place a moratorium (or "pending ordinance") on accepting any new applications for a period of six months. During that time, the municipality may amend its ordinance to prevent or adequately regulate the sign / building / use, etc.



Municipalities need to decide whether to allow but regulate digital billboards and EMCs, or to prohibit them all together. (Photo by Jeff Clay)

4. **Draft the ordinance or amendments.** Elected officials instruct their planning department to prepare a draft ordinance or amendments to the existing ordinance. Communities with no planning department typically engage a third-party planning consultant. These consultants should be vetted for experience in sign ordinance standards; a poorly drafted ordinance can result in long-term adverse consequences to a municipality.
5. **Provide the draft ordinance or amendments language to the local planning commission and community council members,** who may release an early draft for public comment, and play an important overall advisory role in the process.
6. **The planning commission or consultant reviews the draft ordinance,** schedules public meetings, and recommends to elected officials whether the draft ordinance should be adopted, adopted with changes, or not adopted, as required by state law.
7. **Hold public meetings.** Elected officials deliberate, invite final public input, and decide whether to adopt the new or amended ordinance as presented, adopt the language with changes, or decide not to adopt.

CHECKLIST

for drafting on-premises EMC sign ordinances and off-premises digital billboard ordinances

- ☑ **Definitions:** The terms and concepts that appear in your sign ordinance should be clearly defined. This will help avoid ambiguity and conflict.

For example:

ELECTRONIC / DIGITAL SIGNS: Any sign that includes a video display, projected image, or similar device with text, images, or graphics generated by solid state electronic components. Electronic signs include, but are not limited to, signs that use light emitting diodes (LED), plasma displays, fiber optics, or any other technology that results in bright, high-resolution text, images, and graphics.

ELECTRONIC BILLBOARD: Any off-premises sign that includes video display, projected image, or similar device with text, images, or graphics generated by solid state electronic components. Electronic billboards include, but are not limited to, billboards that use light emitting diodes (LED), plasma displays, fiber optics, or any other technology that results in bright, high-resolution text, images, and graphics.

- ☑ **Zoning.** Where will EMCs (electronic message centers) and digital billboards be allowed and where will they NOT be allowed? Consider how EMCs and digital billboards will impact residences, historic districts, small commercial or mixed-use areas, city centers, scenic areas, etc. If the intent is to protect residential areas from impacts of digital signage, keep in mind that high density residential developments are often located in commercially zoned locations.¹

- ☑ **What can be displayed?** Moving images or static images only? Moving images can take many different forms, such as scrolling text, video, flashing, fading, etc. Remember, the message itself (what it says) cannot be regulated; only the physical sign structure on which the message is displayed can be regulated.

- ☑ **What technology will be required** to minimize excessive brightness? Light from digital signage can be intensely bright at night, dusk, dawn and even during the day. Communities are increasingly concerned about traffic safety and the impact of digital signage on their views of the night sky. These impacts may not be altogether eliminated, but they can be significantly reduced with currently available technology.²

¹ Many municipalities allow (and encourage) residential housing and transit-oriented development in zones that are not strictly residential. High density residential projects are common in commercial zones, mixed commercial and light industrial zones. Therefore, it's important to consider the impact of digital signs on residential projects located outside of residential zones.

² Technology is available that can control luminance intensity, angle a sign's LED lights downward, slow the twirling of images, and change hours of operation. Digital displays also can be equipped with a programmable device that senses ambient light conditions and automatically adjusts the light intensity of the sign.

CHECKLIST

for drafting on-premises EMC sign ordinances and off-premises digital billboard ordinances

- ☑ **Luminance.** Set specific luminance levels for daytime, nighttime, dawn, and dusk with appropriate enforcement standards. Billboard and sign companies and their trade associations promote a standard for nighttime brightness “not to exceed .3 footcandles over ambient lighting...”, but they’re silent on daytime, dusk, and dawn brightness. Municipalities can choose their own luminance standards for any period during a 24-hour cycle; many have decided the .3 footcandle standard is too bright for their communities and has set .2 or .1 footcandle standards, or they use the [NIT standard](#), as Provo and other Utah communities do.
- ☑ **Dwell / hold times.** The length of time an image is displayed on a digital billboard or EMC is the “dwell” or “hold” time. While 8 seconds is the minimum time promoted by the billboard and digital sign industries, communities can require much longer minimum dwell times. (For example, Provo has a one-hour minimum hold time for EMCs in certain lighting zones; 15 seconds in commercial zones, and 60 seconds in other zones.) Dwell times should be tied to identifiable and defensible criteria. This may include signs that reflect changing prices or services (such as gas stations or theaters). If multiple images are being shown each minute, dwell times can be tied to proximity to residential areas, street category, or speed limits. Lower speed limits should have longer dwell times. **Twirl time** refers to the transition time between ads. With most digital technology, this is now nearly instantaneous, but it’s important to note: the shorter the twirl time, the less potential for distractive motion. The Federal Highway Administration recommends a twirl time of 1 second or less.
- ☑ **Community input.** Before a decision is made to allow digital billboards in a community, it is important to understand and disclose the range of impacts that any proposed digital signage will have on businesses, residents, community aesthetics, and safety—and to seek broad community input before approving it.
- ☑ **Size.** Determine whether or how to limit the electronic portion of the overall EMC sign area. Failing to set size/square-footage limits, as a percentage of the total sign face, inevitably leads to larger displays. Some ordinances limit digital displays to 50% or less of a total sign face. The same digital percentage standards can apply to digital billboards. Municipalities can set digital standards for both on-premises EMCs and digital billboards, including those on interstate freeways and other primary highways.
- ☑ **Curfews.** Communities are increasingly requiring digital signs and billboards to be turned off or dimmed at certain hours. The brightness of digital signage is most pronounced at dawn, dusk and nighttime. Curfews help reduce light pollution in surrounding areas, protecting neighborhoods or dark-sky areas. They also minimize driver distraction and help conserve energy by limiting the sign’s operating hours.

☑ **Digital lighting standards.** Uncontrolled digital billboard and on-premises sign lighting can be intensely bright and often results in complaints to city officials. Establishing technology and lighting standards can mitigate, to a degree, the intensity of digital light intrusion. For example, cities can require physical light-blocking louvers that limit light output from the sides of a digital billboard. These also allow light to be directed only toward the intended viewing area, and to reduce light pollution in residential areas. **To ensure compliance with your lighting standards:**

1. Require sign and billboard owners to sign an affidavit stipulating their EMC signs and digital billboards adhere to the sign ordinance.
2. Require on-premises sign and billboard owners to cover the cost of a qualified technician who can confirm the sign adheres to lighting and luminance standards.
3. Ensure curfews make sense and meet community needs. Unregulated digital signage can be especially intrusive after sunset, which is sometimes as early as 5 pm in mid-winter.
4. Establish minimum distances between digital signs and residential areas. Optimally, light from digital billboard should be invisible in residential areas, regardless of whether they're located in commercial or residential zones.

Other Useful Resources

[Report on Digital Sign Brightness \(Part 1\)](#) and [Report on Digital Sign Brightness \(Part 2\)](#)

This two-part report commissioned by Scenic Nevada, prepared for the Nevada Department of Transportation, Washoe County, City of Reno and City of Sparks, includes recommendations for state regulations and city and county ordinances to address the brightness of digital on-premises signs and off-premises billboards.

- Part 1 provides background and support information, key terms and definitions, etc.
- Part 2 provides proposed ordinance language.

[International Dark Sky Association Lighting Guidelines for Electronic Messaging Centers](#)

These guidelines, developed in line with Illuminating Engineering Society's off-roadway sign recommendations, are the culmination of a two-year IDA process to address the growing presence of LED billboards. The guidelines recommend specific values for light emitted by electronic billboards, suggest curfew times for sign operation, and identify additional best management practices to minimize negative impacts on public safety and the environment.

[Michigan Sign Regulation Guidebook](#)

This 2021 (2nd edition) comprehensive guidebook is available for \$50 through the Scenic Michigan website. It addresses a wide range of issues associated with local sign regulation, with a major focus on legal issues and how communities can develop sign ordinances that minimize legal risks. It includes information on regulation of different types of signs, and approaches to sign regulation that preserve "content neutrality," a critical issue under federal First Amendment law.

[Provo Municipal Code: Signs and Outdoor Advertising](#)

A useful example of a Utah community's outdoor advertising ordinance, which was recently amended to clarify aspects of its on-premises and off-premises digital signage regulations.

[Utah Department of Transportation Outdoor Advertising Guide](#)

A summary of outdoor advertising regulations and UDOT's regulatory role in outdoor advertising and compliance with the Highway Beautification Act (HBA).

[Signs: Digital and Electronic Sign Regulation](#)

A Chester County (PA) "toolbox" to help municipalities regulate outdoor advertising through zoning ordinance, "using reasonable and objective standards that protect the public's health, safety, welfare, and community character."

[Highway Beautification Act / HBA \(1965\)](#)

Known as "Lady Bird's Law," the Highway Beautification Act addressed the challenge of bringing beauty to the nation's highways by controlling outdoor advertising, junkyard control, landscaping, and scenic enhancement of federal-aid highways.

[Utah-Federal Agreement \(1968\)](#)

The 1965 Highway Beautification Act requires states to maintain "effective control" of outdoor advertising on interstates and federally funded state highways. Failure to do so subjects states to a loss of 10 percent of their federal-aid highway funds. Each state entered into a mandatory agreement with the federal government setting forth their sign controls in commercial and industrial areas based on customary usage within that state at the time the agreement was signed. Utah signed the agreement in 1968.

[Utah Outdoor Advertising Act \(UOAA\)](#)

The UOAA regulates outdoor advertising along interstates and federally funded state highways in Utah. It provides a statutory basis for regulating outdoor advertising consistent with zoning principles and public policy; protecting public safety, health, welfare, and enjoyment of public travel; and preserving natural scenic beauty along our highways. State law does not prohibit local governments from setting more restrictive sign and billboard standards.

#



We are available to help planners and municipalities review and refine their sign and billboard ordinances.

Contact us with questions, or to schedule a virtual or in-person conversation.

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