

*Scenic*UTAH

ELECTRONIC SIGN & DIGITAL BILLBOARD ORDINANCES

A PRIMER FOR LOCAL GOVERNMENTS



Scenic UTAH

SCENIC UTAH is a statewide 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. 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.

This is a living document to be reviewed and updated as outdoor advertising laws, policies, and public sentiment evolve. We welcome your feedback.

*Scenic Utah
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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 signage, local governments – regardless of their size – are grappling with how to regulate digital signs in their communities.

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.

Legal basis for regulating signs and billboards

On-premises signs that advertise goods and services offered on the same property are different from billboards advertising goods and services *not* offered on the same property, and **the U.S. Supreme Court has ruled that local governments have the right to regulate them differently**. In April 2022, the Court affirmed that cities with different standards for on-premises signs and off-premises billboards are not violating a billboard owner's right of free speech – a common argument used by the billboard industry in lobbying the state to preempt the right of municipalities to regulate billboards.



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

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

Absent a zoning ordinance that sets standards, anything goes. For example, unless sign height maximums are spelled out in an ordinance, 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 a 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.) But unlike any other state in the mountain west, Utah's eminent domain statute has been amended in various ways to give billboard owners special rights not granted to any other type of land user – rights that make it almost impossible for municipalities to buy out a billboard and put the property to a more productive use.

Because of these special rights, many Utah municipalities have been deterred or prevented from initiating eminent domain proceedings on billboard properties. Orem, Millcreek, St. George, Toquerville, Sandy, Layton, and Salt Lake City are just a few of the many communities who found it too costly to acquire billboard easements, relocate, or remove billboards in favor of residential housing, redevelopment projects, or other more valuable public purposes.



Salt Lake City billboard / Scenic Utah



St. George Off-premises digital billboard / Formetco.com



Brigham City on-premises sign

Types of outdoor signs

Most sign 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 not located at the site of the sign. They typically are available for rent by a variety of third-party advertisers.
2. **On-premises 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 are typically not for rent by third parties.

Types of digital signage

The use of digital technology dramatically increases the lighting intensity, visibility, and impact of a sign. The two most common types of digital signage are:

1. Electronic Message Centers (EMCs) are on-premises digital signs that use a computer or other electronic means to change and control the message displayed.
2. Digital Billboards (also called “electronic billboards”) are large displays that use digital images and change at frequent intervals – typically about every eight seconds.

Municipalities regulate off-premises (billboards) & on-premises business signs in several ways.

For off-premises billboards:

1. They prohibit the installation or construction of any additional billboards, but existing billboards are grandfathered as “legal, non-conforming” signs, or
2. They allow billboards without restrictions, or allow them only in some zones, and set standards to regulate their size, height, setback, location, lighting, digitizing, etc.

Most municipalities in Utah do not regulate or prohibit digital displays on billboards (“digital billboards”), nor do they prohibit conversion of an existing static billboard to digital.

Review your existing ordinance to see whether your community is one of these.

If there is no ordinance language that either prohibits or regulates digital billboards, and the owner of a permitted billboard begins the process to convert a static board to digital, the municipality will be unable to regulate or prevent the conversion.

For on-premises 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 freeway, etc.) and community values or standards that include the following:

- Height
- Type of sign (pole sign, monument sign, storefront sign, etc.)
- Setback
- Lighting
- Size of sign face
- Digitization

Regulating or prohibiting OFF-PREMISES digital / electronic billboards

Your municipality will need to decide whether to regulate or prohibit new digital billboards and / or the conversion of existing billboards to digital.

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

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

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

Allowing but regulating digital billboards will require setting standards for safety, visual, and aesthetic impacts. See the **CHECKLIST on Pages 8-10** for key issues to consider when developing or updating your digital billboard ordinance.

In deciding whether to prohibit digital billboards, or to allow but regulate them, keep in mind that digital billboards are more distracting, with a far greater visual impact, than conventionally lit, traditional billboards. In addition, the cost to taxpayers to remove a digital billboard (for a public purpose such as a redevelopment or road-widening project) will be far greater – often by as much as 10 times – than removing a traditional billboard.

Regulating ON-PREMISES digital signs

Your municipality will need to decide whether to regulate digital electronic message center (EMC) displays – subject to standards, or to prohibit them all together.

To prohibit new EMCs (as some Utah communities now do), add language to your definition of prohibited signs. For example:

“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 regulate on-premises digital signs, rather than prohibit them, there are a number of questions to be addressed. The **CHECKLIST on Pages 8-10** includes key issues to consider when developing or updating your on-premises digital sign (EMC) and billboard ordinances.

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.



Downtown Salt Lake City Billboard / Scenic Utah

Some tips for getting started

- Take time to read your current sign and billboard ordinances to better understand what they include, how they are organized, definitions, and 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 laws and 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 their 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. In addition, your planning commission – entirely on its own – has the statutory authority to begin the ordinance drafting process.
- Review ‘model ordinances’ or those of other municipalities whose standards and regulations reflect those that your own municipality is seeking to develop.

Six steps to developing or amending digital sign & billboard ordinances

1. **Move to update an ordinance.** A city or town council, the 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 encourages elected officials or planning commissions to act.
2. **Inform billboard owners.** Utah state code requires municipalities to notify billboard owners of their intent to create or amend a billboard ordinance. Once notified, billboard owners often insist on being involved in the drafting process. It's important to review their suggestions carefully and obtain legal advice if necessary. Remember, once a permit to build or convert to digital has been filed with the city, the billboard is likely to be a permanent structure, due to the high public cost of removing it.
3. **Draft the ordinance or amendments.** Elected officials instruct their planning department to prepare a draft ordinance or amendments to the existing ordinance. Communities that do not have planning departments typically engage a third-party planning consultant with experience and knowledge of sign ordinances and state statutes.
4. **Provide the draft ordinance or amendments language to the local planning commission and community council members,** who will play an important advisory role in this process.
5. **Planning commissions review drafts of the new or amended ordinance** and schedule public meetings, as required by state law. The planning commission then recommends to elected officials whether the draft ordinance should be adopted, adopted with changes, or not adopted.
6. **Hold public meetings.** Elected officials deliberate, invite public input, and decide whether to adopt the new or amended ordinance as presented, adopt the language with changes, or decide not to adopt.

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.

CHECKLIST

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

- ☑ **In which zones** 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 areas, city centers, scenic areas, etc. If the intent is to protect residential areas from the 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; it is the signage on which the message is displayed that *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 can be reduced with currently available technology.²
- ☑ **Luminance considerations.** It's important to set specific luminance levels for daytime, nighttime, dawn, and dusk with appropriate enforcement standards. Billboard companies and their trade associations promote a standard for nighttime brightness "not to exceed .3 footcandles over ambient lighting...", but not for daytime, dusk and dawn brightness. Municipalities are free to choose their own luminance standards for any period during a 24-hour cycle.
- ☑ **Dwell times.** "Dwell time" (or "hold time") refers to the length of time that a static image is displayed on a digital billboard or electronic (EMC) sign. An eight-second *minimum* dwell time is common, but communities have the option to require much longer minimum dwell times. It is recommended that the dwell time be tied to identifiable and defensible criterion. This may include the daily change in price (such as gas stations signs) or other regular change (such as movie theaters), or in the event that multiple images are being shown per minute, dwell time can be tied to the nearness of residential areas, street category and speed limit. Lower speed limits should have longer dwell times. "Twirl time" is the time between one image to a subsequent image on the sign face. The shorter the twirl time, the less potential for distractive motion. It is recommended that the twirl time be instantaneous; one second or less.

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 that are located outside of single-family residential zones.

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

CHECKLIST

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

- ☑ **Community consensus on digital billboards.** Due to Utah’s billboard-friendly state statutes that make the removal of a digital billboard exorbitantly expensive, digital billboards will be permanent fixtures in your community. In anticipation of this, before a decision is made to allow digital billboards, it is important to understand the range of impacts of the digital signage and ensure there is community consensus on approving it.
- ☑ **Size.** It is important to determine whether or how to limit the digital / electronic portion of the overall EMC sign area. Failing to limit the size of the digital display, as a percentage of the total sign face, inevitably leads to larger and larger digital displays. Some ordinances limit digital displays to 50% or less of a total sign face. The same digital percentage standards can apply to billboards.
- ☑ **Curfews.** Communities are increasingly exploring or requiring digital displays on both on-premises signs and billboards be turned off or substantially dimmed or made static between certain hours during of the day, including dawn and dusk.
- ☑ **Municipalities can regulate billboards differently than on-premises signs.** All cities and towns have different regulations for off-premises billboards and on-premises business signs. Billboard owners have often challenged this distinction, arguing that *prohibiting* digital billboards in zones that *allow* digital on-premises business signs is a violation of their right to free speech. This is not the case; the U.S. Supreme Court recently affirmed the constitutionality of distinguishing between these two types of signs.
- ☑ **Digital illumination standards.** Uncontrolled digital billboard and on-premises sign lighting is intensely bright in the absence of standards, and often results in complaints to city officials and billboard owners. Technology and lighting standards exist that can mitigate, to a degree, the intensity of digital light. For example, cities can require physical light-blocking louvers to provide for light-protected areas and use down-angled LED diodes for the control of blue wavelength light.
- ☑ **Assuring compliance with your illumination standards.**
 1. Require sign and billboard owners to record an affidavit stipulating that their EMC signs and digital billboards adhere to your sign ordinance.
 2. Require sign and billboard owners to cover the cost of a qualified technician to confirm the sign adheres to illumination requirements.
 3. Ensure curfews make sense and meet community needs. Unregulated digital signage can be especially intrusive after sunset, meaning as early as 5 pm in mid-winter.
 4. Minimum distances from residential areas should be carefully considered. Even better, light from digital billboard should be unseen by all residential properties, whether they’re located in commercial or residential zones.

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 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.*



*Scenic Utah is available to help review and refine
your municipality's sign & billboard ordinance.
Contact us to schedule a virtual or in-person conversation.*

scenicutah.org/contact

Links to 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."

[Sign Ordinance: A Comprehensive, Content-Neutral Approach to Local Sign Control](#)

This 2015 Montgomery County, Pennsylvania "Planning Commission's signage guide and model sign ordinance" is a useful guide to sign regulations. It describes best practices from communities around the U.S., relevant federal and state statutes, and provisions based on key court decisions involving signage. The model sign ordinance includes regulations for both on-premises business and off-premises signs (i.e., billboards) as well as detailed general regulations including a sign illumination regulations section.

[The Highway Beautification Act \(1965\)](#)

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.