



# Briefing for Planning Commission

Planning Division  
Community & Economic Development Department

**To:** Planning Commission Members

**From:** Doug Dansie, Senior Planner

**Date:** December 2, 2010

**Re:** Billboard Ordinance: December 9<sup>th</sup> briefing on proposed code amendments regarding billboards and public transit (public amenity) advertising.

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**Petitions: 400-06-51, PLNPCM2010-00032, PLNPCM2010-00717**

## ***Background***

There are presently three separate petitions regarding the regulation of off-premise advertising in Salt Lake City.

**Petition 400-06-51: Zoning Text Amendment, Transit Shelter Advertising** - A request for a zoning text amendment to address advertising on Bus Shelters. The text amendment would affect all zoning districts.

**PLNPCM2010-00032: Zoning Text Amendment, Billboards** - A request by Salt Lake City Mayor Becker for a zoning text amendment to address outdoor billboards. The proposed amendment would update current regulations for outdoor billboards to make them consistent with state law. The text amendment would affect all zoning districts.

**PLNPCM2010-00717: Zoning Text Amendment, Electronic Billboards** - A request by Salt Lake City Mayor Becker for a zoning text amendment to address electronic billboards. Currently, the City Zoning Ordinance does not address electronic billboards. The text amendment would affect all zoning districts.

An Open House introducing these petitions and potential regulations was held on November 18, 2010.

There will be a briefing at the December 9, 2010 meeting in preparation for a more formal staff report and public hearing not yet scheduled.

Because of the complicated nature of these petitions, the Staff is requesting that the Planning Commission hold an extensive working session prior to a public hearing. A working session has been tentatively scheduled for January 12, 2011. A working subcommittee may also be advantageous.

Attached are two working drafts illustrating potential changes. These drafts are provided to begin the discussion only. No comments from other departments or the industry have yet been integrated into the discussion drafts. The Planning Commission will be expected to address major policy issues prior to finalizing a draft.

Young Electric Sign Company has offered to provide a seminar regarding the technical details of electronic signage. They have invited staff and Planning Commission members to view their presentation; as early as December, in order to provide background for the proposed January working session.. Any Planning Commissioner who is interested in attending should let staff know.

## **Issues**

**Petition 400-06-51: Zoning Text Amendment, Transit Shelter Advertising** - A request for a zoning text amendment to address advertising on Bus Shelters.

### *Issues:*

- This is a potential method of paying for public amenities.
- Other communities along the Wasatch Front are presently using advertising as a method of paying for transit shelters. Advertising has been used to pay for other public amenities such as public toilettes or kiosks for news racks etc.

### *Questions:*

- How much advertising in the public way is appropriate? How much advertising creates clutter?
- Should it be limited to transit shelter advertising or are other forms acceptable?
- Is this unfair competition?

**PLNPCM2010-00032: Zoning Text Amendment, Billboards** - A request by Salt Lake City Mayor Becker for a zoning text amendment to address outdoor billboards. The proposed amendment would update current regulations for outdoor billboards to make them consistent with state law.

### *Issues:*

- The original billboard bank was instigated in 1993. Changes in State Law have made the Salt Lake billboard bank ineffective.
- Billboards impact City revenues and have a negative effect on development (they are taxed as personal property, providing minimal tax generation after 16 years – yet they often occupy high-profile locations, effectively preventing higher tax generating development).

### *Questions:*

- What relocation is acceptable?
- Are there methods of decreasing billboard impacts?
- Are there methods of reducing the negative tax impact on the community?
- Are there methods of reducing visual or physical impacts on the city?
- Are there more appropriate methods of spacing billboards (i.e. concentration-similar to Time Square vs. dispersal-spaced every 500 feet).

**PLNPCM2010-00717: Zoning Text Amendment, Electronic Billboards** - A request by Salt Lake City Mayor Becker for a zoning text amendment to address electronic billboards. Currently, the City Zoning Ordinance does not address electronic billboards.

### *Issues:*

- The Federal Government has not completed studies regarding highway safety.
- Electronic billboards are undefined by City Ordinances.

### *Questions:*

- Are electronic billboards appropriate in the city? If so, where?
- Can conversion be used to reduce overall numbers of billboards?
- Can billboards effectively be integrated into building architecture (rather than free standing signs)?
- What are the traffic impacts?
- What are the impacts on adjacent landowners?
- What are appropriate levels of illumination and timing?

## Discussion Draft

Proposal which allows transit advertising, eliminates billboard bank, defines electronic billboards and allows limited conversion to electronic billboards when accompanied by a reduction in overall number of billboards.

### 21A.46.058 TRANSIT SHELTER AND PUBLIC AMENITY ADVERTISING

Transit shelter and public amenity advertising shall be allowed only as part of a shelter at a bus stop or public transit stop or station, or a public amenity, pursuant to an approved and executed agreement between the City and a provider of transit shelters or public amenities, which sets forth the regulation of size, content, placement, design and materials used in the construction of said advertising and shelters and public amenity.

For purposes of this section, "public amenity" means an item generally located in the public way to provide a public service, which may include, but is not limited to, a kiosk displaying way finding signage or accommodating news racks or other public information, public restrooms, public furniture such as benches or trash receptacles or public services such as bike sharing. The common element is that they are offered for public consumption and provided as contract services to the City.

Transit shelter and public amenity advertising shall in no case be larger than 48" by 72" and shall be limited to no more than three panels per shelter or kiosk, unless otherwise restricted further by contract.

Transit shelter and public amenity advertising is only authorized when located adjacent to non-residential, RB, RMU, or RO zoning districts.

Transit shelter and public amenity advertising display may not contain nudity, pornography, or indecent or vulgar pictures, graphics or language or advertising of illegal products.

### **21A.46.060: SIGNS SPECIFICALLY PROHIBITED IN ALL ZONING DISTRICTS:**

The following exterior signs, in addition to all other signs not expressly permitted by this chapter, are prohibited in all zoning districts and shall not be erected:

- A. Animated signs excluding public service signs;
- B. Any snipe sign;
- C. Balloons;
- D. Bench signs; except transit shelter and public amenity advertising specifically authorized by section 21A.46.58
- E. Portable signs, except where specifically permitted by district sign regulations;
- F. Signs overhanging the property line other than signs that are permitted under the sign regulations applicable to each zoning district;
- G. Signs which are structurally unsafe, hazardous or violate the uniform building code or the uniform fire code;
- H. Signs located near streets which imitate or are easily confused with official traffic signs and use words such as "stop", "look", "danger", "go slow", "caution" or "warning", except where such words are part of the name of a business or are accessory to parking lots; and
- I. Painted signs which do not meet the definition of wall signs. (Ord. 53-00 § 3, 2000; Ord. 88-95 § 1 (Exh. A), 1995)

**21A.46.160: BILLBOARDS:**

- A. Purpose Statement: This chapter is intended to limit the maximum number of billboards in Salt Lake City to no greater than the current number. This chapter further provides reasonable processes and methods for the replacement or relocation of existing nonconforming billboards to areas of the city where they will have less negative impact on the goals and policies of the city which promote the enhancement of the city's gateways, views, vistas and related urban design elements of the city's master plans.

B. Definitions:

**BILLBOARD:** 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. A billboard does not include transit shelter and public amenity advertising specifically authorized by Section 21A.46.058

**BILLBOARD BANK:** ~~An accounting system established by the city to keep track of the number and square footage of nonconforming billboards removed pursuant to this chapter.~~

**BILLBOARD CREDIT:** ~~An entry into a billboard owner's billboard bank account that shows the number and square footage of demolished nonconforming billboards.~~

**BILLBOARD OWNER:** The owner of a billboard in Salt Lake City.

**DWELL TIME** The length of time that elapses between text, images, or graphics on an electronic sign.

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**EXISTING BILLBOARD:** A billboard which was constructed, maintained and in use or for which a permit for construction was issued as of July 13, 1993.

**ELECTRONIC BILLBOARD:** Any off-premise sign, 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 other technology that results in bright, high-resolution text, images, and graphics.

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**GATEWAY:** The following streets or highways within Salt Lake City:

1. Interstate 80;
2. Interstate 215;
3. Interstate 15;
4. 4000 West;
5. 5600 West;

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6. 2100 South Street from Interstate 15 to 1300 East;
7. The 2100 South Expressway from I-15 west to the city limit;
8. Foothill Drive from Guardsman Way to Interstate 80;
9. 400 South from Interstate 15 to 800 East;
10. 500 South from Interstate 15 to 700 East;
11. 600 South from Interstate 15 to 700 East;
12. 300 West from 900 North to 900 South;
13. North Temple from Main Street to Interstate 80;
14. Main Street from North Temple to 2100 South Street;
15. State Street from South Temple to 2100 South; and
16. 600 North from 800 West to 300 West.

**NEW BILLBOARD:** A billboard for which a permit to construct is issued after December 31, 1993.

**NONCONFORMING BILLBOARD:** An existing billboard which is located in a zoning district or otherwise situated in a way which would not be permitted by the provisions of this chapter.

**SPECIAL GATEWAY:** The following streets or highways within Salt Lake City:

1. North Temple between 600 West and 2200 West;
2. 400 South between 200 East and 800 East;
3. State Street between 600 South and 2100 South; and
4. Main Street between 600 South and 2100 South.

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LUMINANCE The photometric quantity most closely associated with the perception of brightness. Luminance is measured in candelas per square meters or "nits" for purposes of this ordinance.

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MOTION The depiction of movement or change of position of text, images, or graphics. Motion shall include, but not be limited to, visual effects such as dissolving and fading text and images, running sequential text, graphic bursts, lighting that

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resembles zooming, twinkling, or sparkling, changes in light or color, transitory bursts of light intensity, moving patterns or bands of light, expanding or contracting shapes, and similar actions.

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NITS. A unit of measure of brightness or luminance. One nit is equal to one candela/square meter.

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TEMPORARY EMBELLISHMENT: An extension of the billboard resulting in increased square footage as part of an artistic design to convey a specific message or advertisement.

TWIRL TIME The time it takes for static text, images, and graphics on an electronic sign to change to a different text, images, or graphics on a subsequent sign face.

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C. Limit On The Total Number Of Billboards: No greater number of billboards shall be allowed in Salt Lake City than the number of existing billboards. Billboards Prohibited: New Billboards are prohibited in Salt Lake City.

D. Relocation of Billboards: Existing billboards may be relocated as mandated by the requirements of Utah state law. Additionally, billboards may be relocated from any zoning district to Manufacturing, Extractive Industry and CG General Commercial zoning districts with the restriction that they are not oriented towards, or located within 600 feet of a gateway or special gateway street or residential zoning district. Voluntary relocation shall follow the priority outlined in subsection 21A.46.160.F of this ordinance, unless otherwise negotiated with the City.

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DE. Permit Required For Removal Of Nonconforming Billboards:

1. Permit: Nonconforming billboards may be removed by the billboard owner only after obtaining a permit for the demolition of the nonconforming billboard.
2. Application: Application for demolition shall be on a form provided by the zoning administrator.
3. Fee: The fee for demolishing a nonconforming billboard shall be one hundred eleven dollars (\$111.00).

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E. Credits For Nonconforming Billboard Removal: After a nonconforming billboard is demolished pursuant to a permit issued under subsection D1 of this section, or its successor, the city shall create a billboard bank account for the billboard owner. The account shall show the date of the removal and the zoning district of the demolished

nonconforming billboard. The account shall reflect billboard credits for the billboard and its square footage. Demolition of a conforming billboard shall not result in any billboard credit.

F. Priority For Removal Of Nonconforming Billboards: Nonconforming billboards shall be removed subject to the following priority schedule:

1. Billboards in districts zoned residential, historic, residential R-MU or downtown D-1, D-3 and D-4 shall be removed first;
2. Billboards in districts zoned commercial CN or CB, or any gateway zoning district G-MU, GGC or GH or on gateway streets shall be removed second;
3. Billboards which are nonconforming for any other reason shall be removed last; and
4. A billboard owner may demolish nonconforming billboards of a lower priority before removing billboards in a higher priority; however, the billboard credits for removing the lower priority billboard shall not become effective for use in constructing a new billboard until two (2) billboards specified in subsection F1 of this section, or its successor, with a total square footage equal to or greater than the lower priority billboard, are credited in the billboard owner's billboard bank account. If a billboard owner has no subsection F1 of this section, or its successor, nonconforming billboards, two (2) subsection F2 of this section, or its successor, priority billboards may be credited in the billboard owner's billboard bank account to effectuate the billboard credits of a subsection F3 of this section, or its successor, billboard to allow the construction of a new billboard. For the purposes of this section, the two (2) higher priority billboards credited in the billboard bank account can be used only once to effectuate the billboard credits for a lower priority billboard.

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G. Life Of Billboard Credits: Any billboard credits not used within thirty six (36) months of their creation shall expire and be of no further value or use except that lower priority credits effectuated pursuant to subsection F4 of this section, or its successor, shall expire and be of no further value or use within sixty (60) months of their initial creation.

H. Billboard Credits Transferable: A billboard owner may sell or otherwise transfer a billboard and/or billboard credits. Transferred billboard credits which are not effective because of the priority provisions of subsection F of this section, or its successor,



~~shall not become effective for their new owner until they would have become effective for the original owner. The transfer of any billboard credits do not extend their thirty six (36) month life provided in subsection G of this section, or its successor.~~

~~I.G. Double Faced Billboards: Demolition of a nonconforming billboard that has two (2) advertising faces shall receive billboard credits for the square footage on each face, but only as one billboard.~~

~~J.H. New Billboard Construction: It is unlawful to construct a new billboard other than pursuant to the terms of this chapter. In the event of a conflict between this chapter and any other provision in this code, the provisions of this chapter shall prevail.~~

~~K.I. Permitted Zoning Districts: New-Relocated billboards may be constructed only in the area identified on the official billboard map - Manufacturing, Extractive Industry and CG General Commercial zoning districts with the restriction that they are not oriented towards, or located within 600 feet of a gateway or special gateway street or residential zoning district.~~

~~L.J. New-Billboard relocation or remodeling Permits:~~

~~1. Application: Anyone desiring to construct a new billboard shall file an application on a form provided by the zoning administrator.~~

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~~2. Fees: The fees for a new billboard construction permit shall be:~~

~~a. Building permit and plan review fees required by the uniform building code as adopted by the city; and~~

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~~b. Inspection tag fees according to the fee schedule or its successor.~~

~~M. Use Of Billboard Credits:~~

~~1. A new billboard permit shall only be issued if the applicant has billboard credits of a sufficient number of square feet and billboards to allow construction of the new billboard.~~

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2. When the permit for the construction of a new billboard is issued, the zoning administrator shall deduct from the billboard owner's billboard bank account:

a. The square footage of the new billboard; and

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b. The number of billboards whose square footage was used to allow the new billboard construction.

3. If the new billboard uses less than the entire available billboard credits considering both the number of billboards and square footage, any remaining square footage shall remain in the billboard bank.

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NK. New-Billboards Prohibited On Gateways: Except as provided in subsection Q-D of this section, or its successor, no new billboard may be constructed within six hundred feet (600') of the right of way of any gateway street.

QL. Special Gateway Provisions:

1. If a nonconforming billboard is demolished within a special gateway, the billboard owner may construct a new billboard along the same special gateway in a zoning district equal to or less restrictive than that from which the nonconforming billboard was removed and subject to other subsections P, Q, R and S of this section, provided that the size of the new billboard does not exceed the amount of billboard credits in the special gateway billboard bank size of the billboard being relocated. Billboards may not be relocated from other areas onto a special gateway

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2. The demolition of a nonconforming billboard pursuant to this section shall not accrue billboard credits within the general billboard bank. Credits for a billboard demolished or constructed within a special gateway shall be tracked within a separate bank account for each special gateway. A permit for the construction of a new billboard pursuant to this section must be taken out within thirty six (36) months of the demolition of the nonconforming billboard.

PM. Maximum Size: The maximum size of the advertising area of any new billboard shall not exceed fifteen feet (15') in height and fifty feet (50') in width.

QN. Temporary Embellishments:

1. Temporary embellishments shall not exceed ten percent (10%) of the advertising face of any billboard, and shall not exceed five feet (5') in height above the billboard structure.
2. No temporary embellishment shall be maintained on a billboard more than twelve (12) months.

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Temporary Embellishments are prohibited

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RO. Height: The highest point of any new billboard, billboard excluding temporary embellishments shall not be more than:

1. Forty five feet (45') above the existing grade; or the maximum height for a pole sign in the applicable zoning district, whichever is less. Unless otherwise authorized by State law.
2. If a street within one hundred feet (100') of the billboard, measured from the street at the point at which the billboard is perpendicular to the street, is on a different grade than the new billboard, twenty five feet (25') above the pavement elevation of the street.
3. If the provisions of subsection R2 of this section, or its successor subsection, apply to more than one street, the new billboard may be the higher of the two (2) heights.

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SP. Minimum Setback Requirements: All freestanding billboards shall be subject to pole sign setback requirements listed for the district in which the billboard is located. In the absence of setback standards for a particular district, freestanding billboards shall maintain a setback of not less than five feet (5') from the front or corner side lot line. This setback requirement shall be applied to all parts of the billboard, not just the sign support structure.

TQ. Spacing:

1. Small Signs: Billboards with an advertising face three hundred (300) square feet or less in size shall not be located closer than three hundred (300) linear feet from any other small billboard or eight hundred feet (800') from a large billboard on the same side of the street;

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2. Large Signs: Billboards with an advertising face greater than three hundred (300) square feet in size shall not be located closer than eight hundred (800) linear feet from any other billboard, small or large, on the same side of the street.

3. Spacing for electronic billboards fully integrated into the architecture of a building and not free standing, may be modified by the Planning Commission as a Conditional Building and Site Design Review as outlined in section 21A.59, as long as such modifications are consistent with State Law

R Lighting: Nighttime illumination of billboards may not glare directly onto the roadway or sidewalk nor across property lines. Billboards located within Residential, Mixed-Use, CN or CB zoning districts may not be illuminated or lit between the hours of midnight and 6 am.

S: Electronic Billboards:

1. Electronic Billboard are prohibited except when converting an existing billboard to electronic as follows:

- a) A Billboard may be converted to an electronic billboard in Manufacturing, Extractive Industry and CG General Commercial zoning districts with the restriction that they are not oriented towards, or located within 600 feet of a gateway or special gateway street or residential zoning district. Provided that four times the non-electronic square footage of the new electronic billboard is removed elsewhere in the City.
- b) Billboards may be converted to electronic billboards on Gateway streets, provided that five times the non-electronic square footage of the new electronic billboard is removed along the same Gateway, or removed from another gateway only if sufficient square footage is not available on the host gateway.
- c) Billboards may be converted to electronic billboards in Special Gateways provided that four times the non-electronic square footage of the new electronic billboard is removed on the same Special Gateway or removed from another special gateway only if sufficient square footage is not available on the host special gateway and the new electronic billboard is fully integrated into the architecture of a building and is not free standing.
- d) Billboards may be converted to electronic billboards in Downtown or Sugar House Business District zoning districts provided that five times the non-electronic square footage of the new electronic billboard is removed in any Downtown, Sugar House Business District, residential, neighborhood commercial, Community Business, Community Shopping Center, gateway, or

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mixed-use zoning district and the new electronic billboard is fully integrated into the architecture of a building and is not free standing.

2. Motion

Any motion of any kind is prohibited on an electronic sign face. Electronic billboards shall have only static text, images, and graphics.

3. Dwell time

The text, image, or display on an electronic sign may not change more than once every sixty (60) seconds. Twirl time between subsequent text, images, or display shall not exceed 0.25 seconds.

4. Brightness

During daylight hours between sunrise and sunset, luminance shall be no greater than 2,500 nits. At all other times, luminance shall be no greater than 500 nits.

5. Size

The maximum size of an electronic sign shall be no larger than the billboard it replaced or shall not exceed fifteen feet (15') in height and fifty feet (50') in width, whichever is less.

6. Display period

Electronic billboards may not be illuminated or lit between the hours of midnight, and 6 a.m if they are located within 600 Feet of a residential, mixed-use, downtown, Sugar House Business District, gateway, Neighborhood Commercial, Community Business, or Community Shopping Center zoning district.

7. Controls

- a. All electronic signs shall be equipped with an automatic dimmer control or other mechanism that automatically controls the sign's brightness and display period as provided above.
- b. Prior to approval of any permit for to operate an electronic sign, the applicant shall certify that the sign has been tested and complies with the motion, dwell time, brightness, and other requirements herein.
- c. The owner and/or operator of an electronic sign shall submit an annual report to the city certifying that the sign complies with the motion, dwell time, brightness, and other requirements herein.

U. Landscaping In Residential And Commercial CN And CB Zoning Districts:  
Properties in any residential zone and commercial CN or CB zones on which a billboard is the only structure shall be landscaped as required by sections 21A.26.020 and 21A.26.030 and chapter 21A.48 of this title, or its successor chapter. No portion of such property shall be hard or gravel surfaced.

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~~WU.~~ Landscaping In Other Zoning Districts: Property in all districts other than as specified in subsection U of this section, or its successor subsection, upon which a billboard is the only structure, shall be landscaped from the front of the property to the deepest interior point of the billboard for fifty (50) linear feet along the street frontage distributed, to the maximum extent possible, evenly on each side of the billboard.

~~WV.~~ Xeriscape Alternative: If all the properties adjacent to and across any street from the property for which billboard landscaping is required pursuant to subsection V of this section, or its successor subsection, are not developed or, if a water line for irrigation does not exist on the property or in the street right of way adjacent to such property, the zoning administrator may authorize Xeriscaping as an alternative for the required landscaping.

~~XW.~~ Existing Billboard Landscaping: Existing billboards shall comply with the landscaping provisions of this section on or before January 1, 1996.

~~YX.~~ Compliance With Tree Stewardship Ordinance: Construction, demolition or maintenance of billboards shall comply with the provisions of the Salt Lake City tree stewardship ordinance and the Tree Protection ordinance.

~~ZY.~~ Subdivision Registration: To the extent that the lease or other acquisition of land for the site of a new billboard may be determined to be a subdivision pursuant to state statute no subdivision plat shall be required and the zoning administrator is authorized to approve, make minor subsequent amendments to, and record as necessary, such subdivision.

~~AA.~~ Special Provisions:

~~1.~~ Applicability: The provisions of this section shall apply to specified billboards located:

~~a.~~ Four (4) existing billboards between 1500 North and 1800 North adjacent to the west side of Interstate 15; and

~~b.~~ One existing billboard on the east side of Victory Road at approximately 1100 North.

~~2. General Applicability: Except as modified by this section, all other provisions of this chapter shall apply to the five (5) specified billboards.~~

~~3. Special Priority: The five (5) specified billboards shall be considered as gateway billboards for the purposes of the priority provisions of subsection F of this section, or its successor subsection.~~

~~4. Landscaping: The five (5) specified billboards shall be landscaped pursuant to the provisions of subsection V of this section, or its successor subsection.~~

~~BB. State Mandated Relocation Of Billboards: Except as otherwise authorized herein, existing billboards may not be relocated except as mandated by the requirements of Utah state law. (Ord. 72-08 § 2, 2008; Ord. 42-08 § 12, 2008; Ord. 13-04 §§ 25, 26, 27, 2004; Ord. 25-00 §§ 1-3, 2000; Ord. 83-98 §§ 12-14, 1998; Ord. 88-95 § 1 (Exh. A), 1995)~~

## Discussion Draft

Proposal which allows transit advertising, eliminates billboard bank, defines electronic billboards and prohibits electronic billboards.

### 21A.46.058 TRANSIT SHELTER AND PUBLIC AMENITY ADVERTISING

Transit shelter and public amenity advertising shall be allowed only as part of a shelter at a bus stop or public transit stop or station, or a public amenity, pursuant to an approved and executed agreement between the City and a provider of transit shelters or public amenities, which sets forth the regulation of size, content, placement, design and materials used in the construction of said advertising and shelters and public amenity.

For purposes of this section, "public amenity" means an item generally located in the public way to provide a public service, which may include, but is not limited to, a kiosk displaying way finding signage or accommodating news racks or other public information, public restrooms, public furniture such as benches or trash receptacles or public services such as bike sharing. The common element is that they are offered for public consumption and provided as contract services to the City.

Transit shelter and public amenity advertising shall in no case be larger than 48" by 72" and shall be limited to no more than three panels per shelter or kiosk, unless otherwise restricted further by contract.

Transit shelter and public amenity advertising is only authorized when located adjacent to non-residential, RB, RMU, or RO zoning districts.

Transit shelter and public amenity advertising display may not contain nudity, pornography, or indecent or vulgar pictures, graphics or language or advertising of illegal products.

### **21A.46.060: SIGNS SPECIFICALLY PROHIBITED IN ALL ZONING DISTRICTS:**

The following exterior signs, in addition to all other signs not expressly permitted by this chapter, are prohibited in all zoning districts and shall not be erected:

A. Animated signs excluding public service signs;



B. Any snipe sign;

C. Balloons;

D. Bench signs; except transit shelter and amenity advertising specifically authorized by section 21A.46.58

E. Portable signs, except where specifically permitted by district sign regulations;

F. Signs overhanging the property line other than signs that are permitted under the sign regulations applicable to each zoning district;

G. Signs which are structurally unsafe, hazardous or violate the uniform building code or the uniform fire code;

H. Signs located near streets which imitate or are easily confused with official traffic signs and use words such as "stop", "look", "danger", "go slow", "caution" or "warning", except where such words are part of the name of a business or are accessory to parking lots; and

I. Painted signs which do not meet the definition of wall signs. (Ord. 53-00 § 3, 2000: Ord. 88-95 § 1 (Exh. A), 1995)

#### **21A.46.160: BILLBOARDS:**

A. Purpose Statement: This chapter is intended to limit the maximum number of billboards in Salt Lake City to no greater than the current number. This chapter further provides reasonable processes and methods for the replacement or relocation of existing nonconforming billboards to areas of the city where they will have less negative impact on the goals and policies of the city which promote the enhancement of the city's gateways, views, vistas and related urban design elements of the city's master plans.

B. Definitions:

**BILLBOARD:** 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. A billboard does not include transit shelter and public amenity advertising specifically authorized by Section 21A.46.058

~~**BILLBOARD BANK:** An accounting system established by the city to keep track of the number and square footage of nonconforming billboards removed pursuant to this chapter.~~

~~**BILLBOARD CREDIT:** An entry into a billboard owner's billboard bank account that shows the number and square footage of demolished nonconforming billboards.~~

**BILLBOARD OWNER:** The owner of a billboard in Salt Lake City.

**DWELL TIME** The length of time that elapses between text, images, or graphics on an electronic sign.

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**EXISTING BILLBOARD:** A billboard which was constructed, maintained and in use or for which a permit for construction was issued as of July 13, 1993.

**ELECTRONIC BILLBOARD:** Any off-premise sign, 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 other technology that results in bright, high-resolution text, images, and graphics.

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**GATEWAY:** The following streets or highways within Salt Lake City:

1. Interstate 80;

2. Interstate 215;

3. Interstate 15;

4. 4000 West;

5. 5600 West;

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6. 2100 South Street from Interstate 15 to 1300 East;
7. The 2100 South Expressway from I-15 west to the city limit;
8. Foothill Drive from Guardsman Way to Interstate 80;
9. 400 South from Interstate 15 to 800 East;
10. 500 South from Interstate 15 to 700 East;
11. 600 South from Interstate 15 to 700 East;
12. 300 West from 900 North to 900 South;
13. North Temple from Main Street to Interstate 80;
14. Main Street from North Temple to 2100 South Street;
15. State Street from South Temple to 2100 South; and
16. 600 North from 800 West to 300 West.

**NEW BILLBOARD:** A billboard for which a permit to construct is issued after December 31, 1993.

**NONCONFORMING BILLBOARD:** An existing billboard which is located in a zoning district or otherwise situated in a way which would not be permitted by the provisions of this chapter.

**SPECIAL GATEWAY:** The following streets or highways within Salt Lake City:

1. North Temple between 600 West and 2200 West;
2. 400 South between 200 East and 800 East;
3. State Street between 600 South and 2100 South; and
4. Main Street between 600 South and 2100 South.

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LUMINANCE The photometric quantity most closely associated with the perception of brightness. Luminance is measured in candelas per square meters or "nits" for purposes of this ordinance.

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MOTION The depiction of movement or change of position of text, images, or graphics. Motion shall include, but not be limited to, visual effects such as dissolving and fading text and images, running sequential text, graphic bursts, lighting that

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resembles zooming, twinkling, or sparkling, changes in light or color, transitory bursts of light intensity, moving patterns or bands of light, expanding or contracting shapes, and similar actions.

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NITS A unit of measure of brightness or luminance. One nit is equal to one candela/square meter.

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TEMPORARY EMBELLISHMENT: An extension of the billboard resulting in increased square footage as part of an artistic design to convey a specific message or advertisement.

TWIRL TIME The time it takes for static text, images, and graphics on an electronic sign to change to a different text, images, or graphics on a subsequent sign face.

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~~C. Limit On The Total Number Of Billboards: No greater number of billboards shall be allowed in Salt Lake City than the number of existing billboards. Billboards Prohibited: New Billboards are prohibited in Salt Lake City.~~

~~D. Relocation of Billboards: Existing billboards may be relocated as mandated by the requirements of Utah state law. Additionally, billboards may be relocated from any zoning district to Manufacturing, Extractive Industry and CG General Commercial zoning districts with the restriction that they are not oriented towards, or located within 600 feet of a gateway or special gateway street or residential zoning district. Voluntary relocation shall follow the priority outlined in subsection 21A.46.160.F of this ordinance, unless otherwise negotiated with the City.~~

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~~D.E. Permit Required For Removal Of Nonconforming Billboards:~~

- ~~1. Permit: Nonconforming billboards may be removed by the billboard owner only after obtaining a permit for the demolition of the nonconforming billboard.~~
- ~~2. Application: Application for demolition shall be on a form provided by the zoning administrator.~~
- ~~3. Fee: The fee for demolishing a nonconforming billboard shall be one hundred eleven dollars (\$111.00).~~

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~~E. Credits For Nonconforming Billboard Removal: After a nonconforming billboard is demolished pursuant to a permit issued under subsection D1 of this section, or its successor, the city shall create a billboard bank account for the billboard owner. The account shall show the date of the removal and the zoning district of the demolished~~

nonconforming billboard. The account shall reflect billboard credits for the billboard and its square footage. Demolition of a conforming billboard shall not result in any billboard credit.

F. Priority For Removal Of Nonconforming Billboards: Nonconforming billboards shall be removed subject to the following priority schedule:

1. Billboards in districts zoned residential, historic, residential R-MU or downtown D-1, D-3 and D-4 shall be removed first;
2. Billboards in districts zoned commercial CN or CB, or any gateway zoning district G-MU, GGC or GH or on gateway streets shall be removed second;
3. Billboards which are nonconforming for any other reason shall be removed last; and
4. A billboard owner may demolish nonconforming billboards of a lower priority before removing billboards in a higher priority; however, the billboard credits for removing the lower priority billboard shall not become effective for use in constructing a new billboard until two (2) billboards specified in subsection F1 of this section, or its successor, with a total square footage equal to or greater than the lower priority billboard, are credited in the billboard owner's billboard bank account. If a billboard owner has no subsection F1 of this section, or its successor, nonconforming billboards, two (2) subsection F2 of this section, or its successor, priority billboards may be credited in the billboard owner's billboard bank account to effectuate the billboard credits of a subsection F3 of this section, or its successor, billboard to allow the construction of a new billboard. For the purposes of this section, the two (2) higher priority billboards credited in the billboard bank account can be used only once to effectuate the billboard credits for a lower priority billboard.

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G. Life Of Billboard Credits: Any billboard credits not used within thirty six (36) months of their creation shall expire and be of no further value or use except that lower priority credits effectuated pursuant to subsection F4 of this section, or its successor, shall expire and be of no further value or use within sixty (60) months of their initial creation.

H. Billboard Credits Transferable: A billboard owner may sell or otherwise transfer a billboard and/or billboard credits. Transferred billboard credits which are not effective because of the priority provisions of subsection F of this section, or its successor,

shall not become effective for their new owner until they would have become effective for the original owner. The transfer of any billboard credits do not extend their thirty-six (36) month life provided in subsection G of this section, or its successor.

I.G. Double Faced Billboards: Demolition of a nonconforming billboard that has two (2) advertising faces shall receive billboard credits for the square footage on each face, but only as one billboard.

J.H. New Billboard Construction: It is unlawful to construct a new billboard other than pursuant to the terms of this chapter. In the event of a conflict between this chapter and any other provision in this code, the provisions of this chapter shall prevail.

K.I. Permitted Zoning Districts: ~~New-Relocated~~ billboards may be constructed only in the area identified on the official billboard map, Manufacturing, Extractive Industry and CG General Commercial zoning districts with the restriction that they are not oriented towards, or located within 600 feet of a gateway or special gateway street or residential zoning district.

L.J. New-Billboard relocation or remodeling Permits:

1. Application: Anyone desiring to construct a new billboard shall file an application on a form provided by the zoning administrator.

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2. Fees: The fees for a new billboard construction permit shall be:

a. Building permit and plan review fees required by the uniform building code as adopted by the city; and

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b. Inspection tag fees according to the fee schedule or its successor.

M. Use Of Billboard Credits:

1. A new billboard permit shall only be issued if the applicant has billboard credits of a sufficient number of square feet and billboards to allow construction of the new billboard.

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~~2. When the permit for the construction of a new billboard is issued, the zoning administrator shall deduct from the billboard owner's billboard bank account:~~

~~a. The square footage of the new billboard; and~~

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~~b. The number of billboards whose square footage was used to allow the new billboard construction.~~

~~3. If the new billboard uses less than the entire available billboard credits considering both the number of billboards and square footage, any remaining square footage shall remain in the billboard bank.~~

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NK. New-Billboards Prohibited On Gateways: Except as provided in subsection O-D of this section, or its successor, no new billboard may be constructed within six hundred feet (600') of the right of way of any gateway street.

OL. Special Gateway Provisions:

1. If a nonconforming billboard is demolished within a special gateway, the billboard owner may construct a new billboard along the same special gateway in a zoning district equal to or less restrictive than that from which the nonconforming billboard was removed and subject to other subsections P, Q, R and S of this section, provided that the size of the new billboard does not exceed the amount of billboard credits in the special gateway billboard bank size of the billboard being relocated. Billboards may not be relocated from other areas onto a special gateway

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~~2. The demolition of a nonconforming billboard pursuant to this section shall not accrue billboard credits within the general billboard bank. Credits for a billboard demolished or constructed within a special gateway shall be tracked within a separate bank account for each special gateway. A permit for the construction of a new billboard pursuant to this section must be taken out within thirty six (36) months of the demolition of the nonconforming billboard.~~

PM. Maximum Size: The maximum size of the advertising area of any new billboard shall not exceed fifteen feet (15') in height and fifty feet (50') in width.

QN. Temporary Embellishments:

~~1. Temporary embellishments shall not exceed ten percent (10%) of the advertising face of any billboard, and shall not exceed five feet (5') in height above the billboard structure.~~

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~~2. No temporary embellishment shall be maintained on a billboard more than twelve (12) months.~~

Temporary Embellishments are prohibited

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RO. Height: The highest point of any new billboard, billboard excluding temporary embellishments shall not be more than:

~~1. Forty five feet (45') above the existing grade; or the maximum height for a pole sign in the applicable zoning district, whichever is less. Unless otherwise authorized by State law.~~

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~~2. If a street within one hundred feet (100') of the billboard, measured from the street at the point at which the billboard is perpendicular to the street, is on a different grade than the new billboard, twenty five feet (25') above the pavement elevation of the street.~~

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~~3. If the provisions of subsection R2 of this section, or its successor subsection, apply to more than one street, the new billboard may be the higher of the two (2) heights.~~

SP. Minimum Setback Requirements: All freestanding billboards shall be subject to pole sign setback requirements listed for the district in which the billboard is located. In the absence of setback standards for a particular district, freestanding billboards shall maintain a setback of not less than five feet (5') from the front or corner side lot line. This setback requirement shall be applied to all parts of the billboard, not just the sign support structure.

TQ. Spacing:

1. Small Signs: Billboards with an advertising face three hundred (300) square feet or less in size shall not be located closer than three hundred (300) linear feet from any other small billboard or eight hundred feet (800') from a large billboard on the same side of the street;

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2. Large Signs: Billboards with an advertising face greater than three hundred (300) square feet in size shall not be located closer than eight hundred (800) linear feet from any other billboard, small or large, on the same side of the street.

3. Spacing for billboards fully integrated into the architecture of a building and not free standing, may be modified by the Planning Commission as a Conditional Building and Site Design Review as outlined in section 21A.59, as long as such modifications are consistent with State Law

R Lighting: Nighttime illumination of billboards may not glare directly onto the roadway or sidewalk nor across property lines. Billboards located within Residential, Mixed-Use, CN or CB zoning districts may not be illuminated or lit between the hours of midnight and 6 am.

S: Electronic Billboards:

1. New Electronic Billboard are prohibited, Electronic billboard existing as of the date of adoption of this ordinance are limited to the following:

a. Motion

Any motion of any kind is prohibited on an electronic sign face. Electronic billboards shall have only static text, images, and graphics.

b. Dwell time

The text, image, or display on an electronic sign may not change more than once every sixty (60) seconds. Twirl time between subsequent text, images, or display shall not exceed 0.25 seconds.

c. Brightness

During daylight hours between sunrise and sunset, luminance shall be no greater than 2,500 nits. At all other times, luminance shall be no greater than 500 nits.

d. Size

The maximum size of an electronic sign shall be no larger than the billboard as it exists as of the date of the adoption of this ordinance.

e. Display period

Electronic billboards may not be illuminated or lit between the hours of midnight, and 6 a.m if they are located within 600 Feet of a residential, mixed-use, downtown, Sugar House Business District, gateway, Neighborhood Commercial, Community Business, or Community Shopping Center zoning district.

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f. Controls

- i. All electronic signs shall be equipped with an automatic dimmer control or other mechanism that automatically controls the sign's brightness and display period as provided above.
- ii. Prior to approval of any permit for to operate an electronic sign, the applicant shall certify that the sign has been tested and complies with the motion, dwell time, brightness, and other requirements herein.
- iii. The owner and/or operator of an electronic sign shall submit an annual report to the city certifying that the sign complies with the motion, dwell time, brightness, and other requirements herein.

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U. Landscaping In Residential And Commercial CN And CB Zoning Districts:

Properties in any residential zone and commercial CN or CB zones on which a billboard is the only structure shall be landscaped as required by sections 21A.26.020 and 21A.26.030 and chapter 21A.48 of this title, or its successor chapter. No portion of such property shall be hard or gravel surfaced.

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V. Landscaping In Other Zoning Districts: Property in all districts other than as specified in subsection U of this section, or its successor subsection, upon which a billboard is the only structure, shall be landscaped from the front of the property to the deepest interior point of the billboard for fifty (50) linear feet along the street frontage distributed, to the maximum extent possible, evenly on each side of the billboard.

W. Xeriscape Alternative: If all the properties adjacent to and across any street from the property for which billboard landscaping is required pursuant to subsection V of this section, or its successor subsection, are not developed or, if a water line for irrigation does not exist on the property or in the street right of way adjacent to such property, the zoning administrator may authorize Xeriscaping as an alternative for the required landscaping.

X. Existing Billboard Landscaping: Existing billboards shall comply with the landscaping provisions of this section on or before January 1, 1996.

~~YX.~~ Compliance With Tree Stewardship Ordinance: Construction, demolition or maintenance of billboards shall comply with the provisions of the Salt Lake City tree stewardship ordinance and the Tree Protection ordinance.

~~ZY.~~ Subdivision Registration: To the extent that the lease or other acquisition of land for the site of a new billboard may be determined to be a subdivision pursuant to state statute no subdivision plat shall be required and the zoning administrator is authorized to approve, make minor subsequent amendments to, and record as necessary, such subdivision.

~~AA.~~ Special Provisions:

~~1.~~ Applicability: The provisions of this section shall apply to specified billboards located:

~~a.~~ Four (4) existing billboards between 1500 North and 1800 North adjacent to the west side of Interstate 15; and

~~b.~~ One existing billboard on the east side of Victory Road at approximately 1100 North.

~~2.~~ General Applicability: Except as modified by this section, all other provisions of this chapter shall apply to the five (5) specified billboards.

~~3.~~ Special Priority: The five (5) specified billboards shall be considered as gateway billboards for the purposes of the priority provisions of subsection F of this section, or its successor subsection.

~~4.~~ Landscaping: The five (5) specified billboards shall be landscaped pursuant to the provisions of subsection V of this section, or its successor subsection.

~~BB.~~ State Mandated Relocation Of Billboards: Except as otherwise authorized herein, existing billboards may not be relocated except as mandated by the requirements of Utah state law. (Ord. 72-08 § 2, 2008: Ord. 42-08 § 12, 2008: Ord. 13-04 §§ 25, 26, 27, 2004: Ord. 25-00 §§ 1-3, 2000: Ord. 83-98 §§ 12-14, 1998: Ord. 88-95 § 1 (Ex. A), 1995)

# Comments From Greg Simonson regarding billboards

## Comments Concerning Changes to Salt Lake City's Billboard Ordinance.

This is a comment concerning the proposed changes to Salt Lake City's billboard ordinances that were presented at the Open House on November 18, 2010.

### **A. Removal of the Time Bank would Constitute a Taking.**

Billboard owners with points in the bank have constitutionally protected property rights. The economic value of these points is recognized in the current ordinance (See, 21A.46.060(H)).

In both drafts of proposed changes, Salt Lake City eliminates the time banking system. In particular, the provision that allows an entity to construct a new billboard when it has the credits (or points) to do so is eliminated. Taking this property without compensation constitutes a violation of substantive due process and procedural due process of law. This is a taking for which formal condemnation procedures must be instituted. These credits or points have already been obtained and the owners have relied on them when removing previous billboards.

The proposed changes also would eliminate the provision that gives a right to sell the billboard credits and any "economic rights" pertaining to it. Again, this constitutes a taking and is a violation of the Due Process Clause of the United States Constitution and Article 1 Section 22 of the Utah Constitution. Again, compensation must be paid for the economic rights that they have lost.

Even the current ordinance violates the law regarding billboards. The point system that calls for point expiration after 36 months is, in effect, an amortization of the billboards. This is in violation of Section 10-9a-511(2)(b) of the Utah Code which prohibits municipalities from terminating these nonconforming billboards or amortizing billboards. This Section of the code, which has constitutional takings underpinnings, is designed to prevent the takings the City has attempted under the current ordinance.

### **B. Proposed Limitations on Electronic Signs are Improper and Constitute Impermissible Regulation of Free Speech.**

The proposed ordinance requires the elimination of as many as 5 traditional billboards to allow the erection of 1 electronic billboard. This provision has many problems including the fact that the only people that will be able to construct electronic billboards are those that own traditional billboards. This does not provide equal protection under the law.

Limitations on dwell time and the number of advertisers on an electronic sign violate the First Amendment in that they impose impermissible content restrictions on the sign. While the City is allowed some reasonable time and place restrictions when there is a rational basis for doing so, restricting number of messages on the board is an unreasonable content restriction and

violates principles of free speech. As noted below, all City ordinances in any way restricting speech must be “narrowly tailored” to meet legitimate City objectives. This ordinance does not pass muster.

**C. Changes to Ordinances to Allow Advertising at Transit Shelters are Inconsistent with Ordinance’s Stated Purposes and violate the law.**

At its heart the proposed new ordinance is a revenue ordinance. The City desires to raise money through advertising. It is true that much of this revenue will go toward the construction and maintenance of transit shelters, a legitimate governmental function. However, the bottom line is that the City is seeking to raise revenue by legalizing expansion of off premise advertising in the City, so long as only the City is permitted to participate in the revenues derived from the regulation change. This certainly makes it appear that the City desires to suppress the activities of its advertising competitors, while lifting restrictions that will only benefit the City.

The current Salt Lake City Billboard Ordinance was enacted “to limit the maximum number of billboards in Salt Lake City to the current number.” (Section 21A.46.160) If enacted, the new ordinance is nothing more than a decision to now after many years of restricting the total number of billboards to the current number, increase the number of billboards allowed so that the City and its one chosen contractors can actively and on unequal terms compete for advertising revenues. The City proposes to do this at a time that is also proposes reduction of competing billboards.

In stating its rationale for the current billboard law, which limits billboards to its current number, the City has said it wants to relocate existing billboards and limit construction of new billboards to have “less negative impact on the goals and policies of the City which promote the enhancement of the City’s gateways, views, vistas and related urban design elements of the City’s master plan.” (21A.46.150.1). Similarly, the purposes of the sign ordinance are stated in Section 21A.46.010 and include the following statements:

3. Encourage sign legibility through the elimination of excessive and confusing sign displays;
4. Preserve and improve the appearance of the city as a place in which to live and to work, and create an attraction to nonresidents to come to visit or trade;
6. Safeguard and enhance property values;
7. Protect public and private investments in buildings and open space.

We cannot think of any rational distinction as to why a ban on new billboards, or a restriction on electronic billboards somehow promotes these values, whereas now changing the definition of billboard to allow transit advertising somehow also promotes such values. Clearly the City has long thought that transit advertising would diminish such values or else it would not

have written the definition of billboard as it did. Only now that the City has determined that it, instead of someone else, may earn the advertising revenues, does the City decide to no longer cling so tightly to its stated purposes.

The City's apparent willingness to increase the number of billboards allowed in the City calls into question the overall limitation on billboards in the City and whether the City has acted rationally and legitimately in placing such a limit. If the City proceeds to enact the proposed legislation the City will face challenges to the overall limit on billboards in the City.

Finally, we wish to remind the City that regulations on billboards must be "narrowly tailored" to serve as a significant governmental interest. *City of Ladue v. Gilleo*, 512 U.S. 43, 48 (1994). "Billboards and other visual signs, is it clear, represent a medium of expression that the Free Speech Clause has long protected." *Prime Media, Inc. v. City of Brentwood*, 398 F.3d 814 (6th Cir. 2005). Enactment of the proposed ordinance would seriously call into question the entire Salt Lake City regulatory scheme and whether it is "narrowly tailored" to achieve its goals and purposes. If the City can so cavalierly cast aside such long standing provisions as it now proposes to do, without compromising its goals and objectives, it is likely that there are other significant areas of regulation, including the complete restriction on additional signs, that will not survive court scrutiny.