

SECHREST LEGAL CONSULTING



October 26, 2020

Salt Lake City Planning Commission
451 South State Street
Salt Lake City, UT 84101

Dear Commissioners:

Reagan Outdoor Advertising ("ROA") provides this written comment to the proposed agenda item relating to the Zoning Text Amendment affecting those sections of Salt Lake City Code regulating Billboards.

To give some background about ROA, ROA is a family owned business headquartered in Salt Lake City with satellite offices around the country. ROA employs more than 200 people and is an important advertising piece for countless Salt Lake City based businesses including the Miller Companies, the University of Utah and many more small and local businesses.¹ In addition to its efforts to help businesses reach their customers, ROA donates in large amounts to both local and national charitable organizations including, among others, free COVID-19 testing at the Urban Indian Center in Salt Lake City, The Utah Diaper Bank, and for the Utah Coronavirus Task Force in amounts totaling millions of dollars in donated space over the last 5 years².

ROA has concerns with the proposal as currently written and is preparing a proposed alternative ordinance which ROA believes will more adequately address public and city concerns than the ordinance proposed by Salt Lake City Planning Division ("Planning") which we will present to the Planning Commission as soon as possible.

While there are numerous issues with the Planning draft of the Proposed Ordinance, each of which makes it challenging for owners of billboards to relocate "billboards away from residential neighborhoods and historic districts" as stated in the staff report to this agenda item, the most glaring problem with the proposed ordinance is the removal of the Billboard Bank.

The staff report indicates that the Billboard Bank has led to litigation for the City. The contrary is more accurate. The circumstances which lead to the overwhelming majority of litigation related to billboards are circumstances when a billboard is proposed to be relocated pursuant to state law and the City, for its own reasons, chooses to condemn the sign instead of

¹ The heads of ROA and YESCO Outdoor Advertising recently penned a letter to the editor elaborating on this fact. It has been enclosed for your review.

² See enclosed examples of ROA's charitable billboards.



permitting the relocation. In the interest of absolute clarity, Billboards are ONLY permitted in Commercial and Industrial zones pursuant to Federal and State Law, regardless of city ordinance. Thus, given the ability to relocate signs, Billboard companies of necessity, must relocate them to commercial or industrial areas (away from "residential neighborhoods and historic districts"). The billboard bank facilitates this relocation effort by removing time pressures for relocation.

Despite the statement in the staff report that the billboard bank as a concept is "outdated" and "complicated", an increasing number of cities are adopting billboard banks as the preferred way to manage existing billboard inventory. The most recent city to do so is Millcreek City, which adopted a billboard bank earlier this year. In fact, billboard banks are becoming much more standard with each year that goes by.

The reason a billboard bank is effective for the adequate and efficient management of billboards is that it encourages collaboration. In most circumstances, billboard companies seek to relocate signs in response to an effort to develop a property to a more efficient/higher value use. These, often time sensitive, relocations allow developers to redevelop under used properties, bring value to the neighborhoods where they reside and generate more tax base for the City. However, where a billboard is on the property, a new home for the sign must be found. Salt Lake City has chosen to make relocating a billboard under its current ordinance to be a herculean task. Gateways, special gateways, and other limitations on relocation make it nearly impossible to find a suitable location under the City's ordinance. Given the difficulty of relocating under the City's ordinance, a billboard bank allows the time sensitive development to proceed when a location cannot be immediately secured by the billboard owner by allowing them to "bank" the billboard "credits" until a suitable location can be found. This allows both the billboard company and the city time to work together to find and secure a location that is appropriate for the billboard.

Absent the use of the billboard bank, that luxury of time is rarely available. If a location cannot be found in time for development to start, one of three things will happen, either the billboard will remain in its current location stopping the needed redevelopment, it will be relocated pursuant to state law, over the possible objection of the City, or the City will enter into litigation to condemn the sign (a costly prospect for all involved and certainly the least desirable option³). The inclusion and intelligent use of a billboard bank resolves these issues before they can force an undesirable outcome for all involved.

The changes that ROA proposes would keep the Billboard Bank, but remove (as is proposed by Planning) the restrictions related to gateways and special gateways which do in fact make the system needlessly complicated. In other cities where billboard banks have been effectively used, the City has adopted general areas where billboards may NOT be relocated.

It is ROA's hope and intention to build healthy long term relationship with Salt Lake City. Prior personalities have made the extremely challenging. ROA is a major land owner in Salt Lake City, and central to the advertising efforts of many of the businesses within Salt Lake City. Preserving the Billboard Bank will facilitate building that relationship and allow collaboration between billboard owners and the City.

Finally, ROA is of the opinion that this matter was improperly brought to the planning commission, as the City Council action which initiated this process was not properly noticed pursuant to Utah State Cod Ann. §72-7-506(2)(b) which requires:

any county, municipality, or governmental entity shall, upon written request, give reasonably timely written notice to all outdoor advertising permit holders within its jurisdiction of any change or proposed change to the outdoor or off-premise advertising provisions of its zoning provisions, codes, or ordinances.

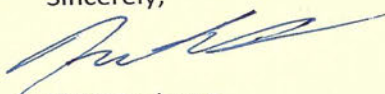
ROA provided such request in multiple letters dated October 16, 2015, October 26, 2012, and May 18, 2006. Despite having received such notice, The Salt Lake City Council failed to notify ROA of its agenda item L.1 on its regular agenda scheduled on May 5, 2020. There are no exceptions in state law to provide for "non-substantive" changes or changes where no public comment is permitted. Even if there were such exceptions written into the requirement, the agenda item clearly indicates substantive discussions had been held as there are specific policies addressed within the description of the agenda item specifically, the removal of the existing "Billboard Bank".

Given that the ROA was improperly not noticed of the action, ROA requests that the process be reinitiated and properly noticed. More to the point, ROA believes that a collaborative process will yield the best possible results for all parties and is eager to be involved with any ordinance changes from the initiation of the process, which is the purpose served by the state law requirement referenced above.

We look forward to working with you.

Many thanks for your consideration,

Sincerely,



Nate Sechrest
Reagan Outdoor Advertising

Up or Down on Billboards . . . We Can All Agree on These Principles

By Patrick O'Donnell and Dewey Reagan

A column published by the *Deseret News* October 13, calling for a billboard ban, raises important issues about constitutional freedoms and corporate responsibility.

Yes, people debate about billboards but most everyone can agree on these principles:

- **Good corporate citizens try to solve problems**

Over time, American attitudes about seatbelts and drunk driving have changed: most passengers now buckles up and drunk driving is not cool.

Many change agents pushed this shift, including public safety billboards. The National Highway Traffic Safety Administration now uses “digital” billboards on behalf of safety.



Law enforcement and emergency authorities rely on billboards to find fugitives and communicate with the public.

In Utah, Reagan Outdoor Advertising donated thousands of dollars in digital (electronic) billboard space to promote Covid-19 testing on the Navajo Nation. The outdoor advertising industry in Utah routinely provides *pro bono* space to community organizations such as the L.D.S. Church, the Buddhist Temple, and the Urban Indian Center.

- **Innovation drives our economy**

Young Electric Sign Company (YESCO) was founded 100 years ago by an immigrant who hand-painted signs in Ogden. YESCO is now a tech leader in lighting, engineering, and signage.

Signs once painted by hand are activated by computers. The ability to change messages quickly helps advertisers and communities.

After the Elizabeth Smart kidnapping in 2002, printed billboards were posted to seek tips and advertise the reward for her return. By 2008, AMBER Alerts were transmitted quickly to digital billboards.

- **Banning legal business is extreme**

Regulation of business is the norm, not government bans. The billboard industry supports regulation.

Most Americans agree that regulation is preferable to arbitrary government banishment of legal businesses. If you accept bans as legitimate government policy, then you should ask “who’s next?”



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We have 50 years of experience.

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DDI Vantage.org



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JAPANESE FESTIVAL

 Salt Lake Buddhist Temple

SATURDAY, JULY 13

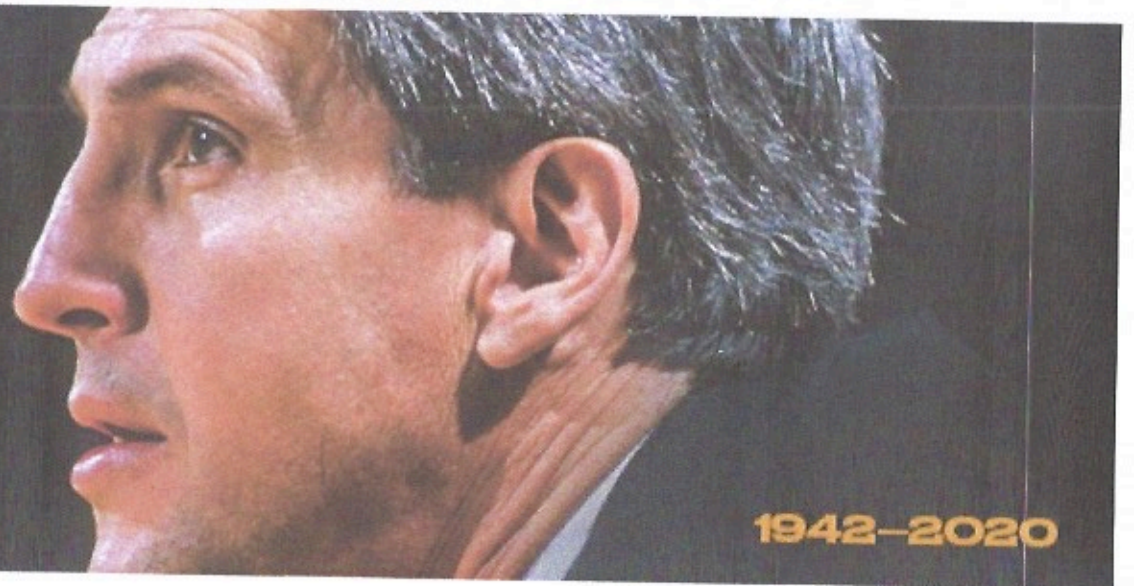
FOOD SERVED AT 3:00 PM

TAIKO DRUM PERFORMANCE • BOOKSTORE
TEMPLE TOURS • TRADITIONAL JAPANESE DANCING

FREE ADMISSION!

211 WEST 100 SOUTH, SLC, UT

Rest easy, Coach.



1942-2020

ONE FINAL DEBATE.

LIVE • TUESDAY 16TH 7PM

Reagan
Outdoor Advertising

2
NEWS

PIONEER PARK COALITION



LIVE IN PRIMETIME!

SUPPORT MILLCREEK PROMISE

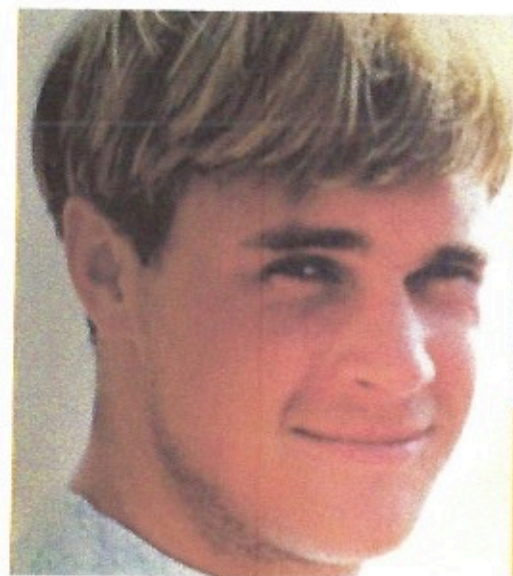
FOOD DONATION DRIVE FOR FAMILIES AFFECTED BY COVID-19



MILLCREEK ELEMENTARY - 3761 SOUTH 1100 EAST
MON-FRI 8AM-2PM



DROP OFF: TOILET PAPER, HAND SANITIZER, CANNED FOOD, PRODUCE, AND MORE



Heroin. Pills. It All Kills.

NALOXONE SAVES. GET IT.

UtahNaloxone.org

DONATION DRIVE FOR NAVAJO NATION

PPE • Food • Cleaning Supplies

Urban Indian Center SLC 120 W 1300 S Today, Tomorrow

**Kindness is a
warm coat**

OperationWarm.org/utahkids



STAY SAFE

TO STAY OPEN

DINE SAFE

StayOpenUtah.com





WEAR A MASK

Protect Yourself and Others

[Coronavirus.Utah.gov](https://www.coronavirus.Utah.gov)



FREE COVID-19 TESTING

OCTOBER 17 9 AM - 1 PM

Urban Indian Center SLC 120 W 1300 S



UTAH GUBERNATORIAL DEBATE

Tuesday, September 29 at 6:00 P.M.

Spencer Cox
and
Chris Peterson

WATCH ON TV, STREAM ONLINE, AND LISTEN ON LOCAL RADIO.

Diaper Need Awareness Week

You Can Make a Difference

SEPT. 23-29



UtahDiaperBank.org



**SHOP SAFE,
SHOP LOCAL**

Support Cottonwood Heights Businesses

21A.46.160: BILLBOARDS:

A. Definitions: The definitions in this section apply in addition to those in section 21A.46.020 of this chapter.

BILLBOARD: A form of an off premises sign. 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.

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 billboard or electronic sign.

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

ELECTRONIC SIGN: Any on premises 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.

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.

FOOT-CANDLE: The English unit of measurement for luminance, which is equal to one lumen, incident upon an area of one square foot.

MODIFIED BILLBOARD: A billboard that is modified or repaired pursuant to a provision of Utah State Code or this ordinance.

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 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.

RELOCATED BILLBOARD: A billboard that is moved from one location to another location pursuant to a provision of Utah State Code or this ordinance.

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 billboard or electronic sign to change to a different text, images, or graphics on a subsequent sign face.

B. Permit Required For Removal Of Billboards:

1. Permit: 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 as shown on the Salt Lake City consolidated fee schedule.

C. Credits For Billboard Removal: After a 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 of the demolished billboard. The account shall reflect billboard credits for the billboard and its square footage.

D. 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.

E. Billboard Credits Transferable: A billboard owner may sell or otherwise transfer a billboard and/or billboard credits. The transfer of any billboard credits do not extend their thirty six (36) month life provided in subsection D of this section, or its successor.

F. Double Faced Billboards: Demolition of a billboard that has two (2) advertising faces shall receive billboard credits for the square footage on each face.

G. 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.

H. Billboards Prohibited: No billboard may be constructed anywhere in Salt Lake City except as provided under section K or pursuant to Utah State Code. Billboards that exist as of [insert date of publication of this ordinance], are a permitted conforming use.

I. Permitted Zoning Districts: New billboards may be constructed only in Mixed Use, Commercial, Industrial or Manufacturing Zones.

J. New Billboard Permits:

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

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;

K. 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.
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
 - 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.

L. Size, Height and Spacing Requirements:

1. Billboards constructed pursuant to section K above are subject to the size, height and spacing requirements in this subsection or the provision of the Utah Code relied on by the billboard owner to permit the relocation or modification, at the discretion of the billboard owner.
 - a. Size: If the provision of Utah Code relied on by the billboard owner to permit the relocated or modified billboard does not identify a maximum size for the relocated or modified billboard, the billboard shall not exceed fifteen feet (15') in height and fifty (50') feet in width.
 - b. Height: If the provisions of Utah Code relied on by the billboard owner to permit the relocated or modified billboard does not identify the maximum height for the relocated or modified billboard the billboard excluding temporary embellishments shall not be more than:
 - i. Forty-five feet (45') above the existing grade, measured from the highest point of the billboard to the grade of the land directly beneath the highest point of the billboard; or
 - ii. Twenty-five feet (25') above the existing grade, measured from the highest point of the billboard to the grade of the street, measured from the highest point of the billboard to the grade of the street directly perpendicular to the street to a point on the billboard closest to that street, is on a different grade than the billboard;
 - iii. If the provisions of subsection b.ii 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.
 - c. Spacing: If the provision of Utah Code relied on by the billboard owner to permit the relocated or modified billboard does not identify minimum spacing requirements, the following provisions apply:
 - i. 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 five hundred (500') from any other large billboard, except a billboard on the opposite side of the street.

- ii. Large Signs: Billboards with an advertising face greater than three hundred (300) square feet in size shall not be located closer than five hundred (500) linear feet from any other billboard, except a billboard on the opposite side of the same street.

M. Setback Requirements: All relocated billboards, billboards constructed pursuant to section K, or existing billboards that are substantially rebuilt or entirely replaced shall meet the following setback requirements:

1. Billboards shall maintain a setback of not less than five feet (5') from the front or side lot line. This setback requirement shall be applied to all parts of the billboard, not just the sign support structure.

N. Landscaping Requirements: Where the billboard is the only structure upon a parcel, the billboard owner shall landscape the area immediately around the pole with low growth shrubberies intended to disguise the appearance of the pole.

O. Temporary Embellishments: Temporary embellishments shall not do one or more of the following:

- 1. Exceed ten percent (10%) of the advertising face of any billboard,
- 2. Exceed five feet (5') in height above the billboard structure.
- 3. Exist on a billboard for more than twelve (12) months.

P. Permits: a billboard owner must obtain a permit as provided in Salt Lake City Code 18.20.010 or its successor, before erecting, moving, removing, converting or demolishing a billboard.

Q. Electronic Billboards:

1. Standards: Any electronic billboard shall be operated pursuant to the following standards:

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

(1) The dwell time of any text, image, or display on an electronic billboard may not exceed more than once every eight (8) seconds. Twirl time between subsequent text, images, or display shall not exceed one-fourth (0.25) second.

(2) The illumination of any electronic billboard shall not increase the ambient lighting level more than three-tenths (0.3) foot-candle when measured by a foot-candle meter perpendicular to the electronic billboard face at:

(A) One hundred fifty feet (150') for an electronic billboard with a surface area of not more than two hundred forty-two (242) square feet;

(B) Two hundred feet (200') for an electronic billboard with a surface area greater than two hundred forty-two (242) square feet but not more than three hundred seventy-eight (378) square feet;

(C) Two hundred fifty feet (250') for an electronic billboard with a surface area greater than three hundred seventy-eight (378) square feet but not more than six hundred seventy-two (672) square feet; and

(D) Three hundred fifty feet (350') for an electronic billboard with a surface area greater than six hundred seventy-two (672) square feet.

b. Electronic billboards may not be illuminated or lit between the hours of twelve o'clock (12:00) midnight and six o'clock (6:00) A.M. if they are located in, or within six hundred feet (600') of a residential, mixed use, downtown, Sugar House business district, gateway, neighborhood commercial, community business, or community shopping center zoning district.

c. Controls shall be provided as follows:

(1) All electronic billboards shall be equipped with an automatic dimmer control or other mechanism that automatically controls the sign's brightness and display period as provided above.

(2) Prior to approval of any permit to operate an electronic billboard, the applicant shall certify that the sign has been tested and complies with the motion, dwell time, brightness, and other requirements herein.

(3) The owner and/or operator of an electronic billboard shall submit an annual report to the city certifying that the sign complies with the motion, dwell time, brightness, and other requirements herein.

R. Compliance With Ordinances Regulating Trees: Any construction, demolition, maintenance, or repair of billboards shall comply with the provisions of the Salt Lake City Code that regulate the preservation, maintenance, disturbance, or damage to trees.