



REPORT TO COUNCIL

City of Sacramento

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www.CityofSacramento.org

STAFF REPORT
January 6, 2009

Honorable Mayor and
Members of the City Council

Title: Policy Workshop on the City's Sign Code (City Code Chapter 15.148) Relating to Billboards and Digital Displays and Other New Technologies (M07-015)

Location/Council District: Citywide

Recommendation: Provide comment and direction on signage in the City of Sacramento for: billboards, digital displays and other new technologies.

Contact: Sandra Yope, Senior Planner, (916) 808-7158; Joy Patterson, Principal Planner, (916) 808-5607

Presenters: Joy Patterson, Principal Planner

Department: Development Services

Division: Current Planning

Organization No: 21001010

Description/Analysis:

Issue: This is the fifth meeting in a series of Council meetings to address key issues and provide direction to staff as it prepares an ordinance updating the Sign Code to be consistent with current law and to address new types of signage and new practices of the sign industry.

To assist in amending the Sign Code, the City Attorney's Office has retained outside counsel, Randal Morrison of the law firm Sabine and Morrison. He specializes in the law pertaining to sign regulation, and has prepared sign codes for a number of California jurisdictions, as well as defended numerous challenges to sign codes of local jurisdictions.

At this meeting, staff seeks Council direction on how to address in the Sign Code the following issues: billboards, including billboards adjacent to freeways; and digital displays and other new technologies. Attachment 1 summarizes the relevant law and the options that are available to the Council in addressing these issues.

Policy Considerations: Revising sections of the City Code associated with signs and their allowed locations is consistent with the City's Strategic Plan areas of Culture and Entertainment, Economic Development, and Enhancing Public Safety.

Committee/Commission Action: None

Environmental Considerations: None

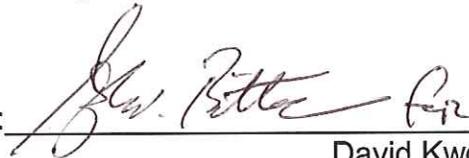
Sustainability Considerations: There are no sustainability considerations applicable to the request for City Council comment and direction on signage in the City of Sacramento.

Rationale for Recommendation: Staff needs direction from the Council regarding the appropriate updates to the Sign Code relating to current sign issues.

Financial Considerations: None

Emerging Small Business Development (ESBD): No goods or services are being purchased under this report.

Respectfully Submitted by:



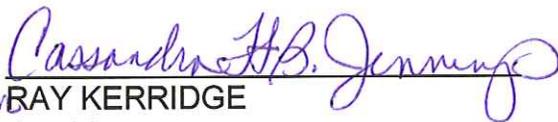
David Kwong
Planning Manager

Approved by:



William Thomas
Director of Development Services

Recommendation Approved:



RAY KERRIDGE
City Manager

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ATTACHMENT 1

Discussion Paper on Sign Issues

1. Billboards (Including Readerboards)

The City's sign consultant has recommended that the regulation of signs on private property and the regulation of signs on City property, including the public right of way (PROW) controlled by the City, be addressed in separate chapters. The subject of billboards is one that should be addressed in each chapter, and is discussed below.

A. Billboards on Private Property

The City enacted an interim ban on any new billboards¹ in October 2007, and that ban is currently in place. The interim ban is intended to remain in place until the comprehensive revision of the sign ordinance is complete. Even without this interim ban, the current sign code prohibits any new billboards that are within 660 feet (1/8 of a mile) of a freeway if they are visible to persons travelling on the freeway. (See City Code Sec.15.148.860.) The current code also prohibits the alteration or replacement of any existing billboards that would be banned if they were new billboards. The current City Code is more restrictive in some respects than state law (the Outdoor Advertising Act, Cal. Business and Professions Code Sec. 5200 et seq.), which was adopted largely to comply with the federal Highway Beautification Act of 1965 (23 U.S.C. § 131). The state law applies only when a billboard or other sign is within 660 feet of a federally funded highway.

The current sign code does allow billboards in certain zones, subject to the prohibition on signage that is within 660 feet of a freeway and subject to certain size, spacing and other reasonable time, place and manner restrictions. For example, off-site signs are allowed in the C-2, C-4, M-1 and M-2 zones, subject to certain requirements, including: all off-site signs must be detached; off-site signs may not be closer than 550 feet to another off-site sign on the same side of the street; the square footage of the sign does not exceed 300 square feet; in the C-2 zone, any new sign must replace an existing, "replaceable"² sign so that there is no net increase in the number of off-site signs in the C-2 zone. (See City Code Sec. 15.148.160.)

As enacted in approximately 1981, the sign code calls for removal of all nonconforming offsite signs within a short, specified period of time (generally one to three years, with ten years provided for offsite signs near freeways). The removal requirement was subsequently preempted by state law (Bus. & Prof. Sec. 5412) and has never been

¹ The ban is on all off-site signs, where an "off-site" sign is defined as follows:

Off-site sign means any sign not located on the premises of the business or entity indicated or advertised by such sign. This definition shall include billboards, poster panels, painted bulletins and other similar advertising displays.

² The sign code distinguishes between replaceable and non-replaceable off-site signs in the C-2 zone. Replaceable off-site signs are those that were lawful at the time of enactment of the code in approximately 1981, while non-replaceable signs are all other off-site signs.

given effect. Under state law, a local jurisdiction may not remove, or cause to be removed, nonconforming off-site signs unless the jurisdiction provides reasonable compensation; there are narrow exceptions to this rule for billboards which are not oriented for freeway visibility and are located either in residential neighborhoods or agricultural zones. State law says the City must allow the owner or operator of nonconforming off-site signs to maintain and utilize such signs, although there is no obligation to allow for the replacement or upgrading of such signs. There are a number of nonconforming, off-site signs in the City, with many of them exceeding the 300 square feet restriction. The most common standard size for billboards is 14 feet x 48 feet, or 672 square feet; however, 10 feet by 30 feet (300 square feet) is also a standard size.).

Newer offsite signs sometimes use digital display technology, such as those at Cal-Expo, adjacent to Business 80, and the new display located on CSUS property, adjacent to Highway 50. Under the current sign code, digital displays and similar technologies are prohibited. A few recent court decisions hold that a ban on digital signs (sometimes called LED signs or "electronic message centers") is valid when there are no exceptions based on message content. The issue of whether the City should allow digital displays and other new forms of sign technology is addressed in the next section of this report.

Options available to the City on the issue of billboards include:

- Option 1:** Continue with current approach, banning billboards where visible from freeways and while allowing them in certain zones, subject to time, place and manner restrictions. The time, place, manner rules can vary by zoning district.
- Option 2:** A complete ban on all new billboards, whether adjacent to, and visible from, a freeway or elsewhere. Most California cities have adopted this policy.
- Option 3:** Allow billboards along freeways and certain other transportation corridors, subject to time, place and manner restrictions, such as maximum size and minimum spacing requirements. Along freeways, State law establishes mandatory restrictions on size, spacing, other standards, but the city is free to impose tighter restrictions.

Staff recommends Option 3 to allow billboards along freeways and certain other transportation corridors, subject to time, place and manner restrictions. Allowing offsite signage (billboards) in specified areas, subject to reasonable time, place and manner restrictions, is important to the City's economic development goals.

B. Billboards on City property, rights of way (PROW)

When a billboard or other sign is proposed to be located on property which is either owned by or controlled by the city, the ownership / control right fundamentally changes the constitutional analysis.

The City has received several proposals to place billboards and other signs that are "offsite commercial" in nature on City property or in the public right of way controlled by the City. As discussed previously, it has been recommended that the City should prepare two sets of sign regulations; one dealing with signs on private property, and one dealing with signs on City property, including the City ROW.

If the desire of the City is to allow off-site signage on City property or in the City ROW, then regulations could be drafted that would accomplish this. As a "speaker" on its own property, the City has a great deal of discretion in deciding what type of signage, if any, should be allowed on City property or in the City ROW. However, it should be noted that if the City allows large billboards on its property or in the City ROW, this may serve as precedent for the City being required to allow them on private property. Similarly, allowing other type of signage on City property (e.g., digital displays) may serve as a precedent for signage on private property. The issue of whether a city may generally ban off-site messages while still allowing them on city property is currently pending before the Ninth Circuit (*Metro Lights v. LA*). A decision is expected within the next few months. This case appears to be a leading candidate for eventual review by the U.S. Supreme Court.

Whether located on City property or private property (or on property of other public entities), billboards are subject to the restrictions of the state Outdoor Advertising Act, including the restrictions on new billboards that are visible from, and located within 660 feet of, a freeway. The Act prohibits new billboards in some situations; prohibits them in certain other situations, absent a relocation agreement that results in removal of similar signage in other locations; and allows them in others, subject to time, place, manner and restrictions. The characterization of the freeway as a "landscaped freeway" is a major factor in determining whether new billboards are allowed, and if so, under what circumstances. As a matter of policy, the City has denominated all freeways in Sacramento to constitute landscaped freeways, and to ban any and all new billboards adjacent to landscaped freeways.

Today, the vast majority of local governments in California prohibit the installation of new billboards, whether they are proposed for private property or city property / PROW, while leaving open the possibility of relocation agreements. The most common reasons for this policy choice are the beliefs that "we have enough billboards already," and that "billboards by their very nature cause esthetic harm and contribute to permanent, visual clutter."

Options available to the City include the following:

Option 1: Ban new billboards on City property; City rights of way.

- Option 2:** Allow billboards on City property, City rights of way, subject to reasonable restrictions on the nature and type of advertising.
- Option 3:** Ban new billboards on City property, except for certain defined areas or zones. This would be a "place" rule, not a "message based exception."

Staff recommends Option 2 to allow billboards on City property, City rights of way, subject to reasonable restrictions on nature and type of advertising. Acting as a landlord, the City can regulate the content, nature and type of advertising conducted on its property. Offsite signage (billboards) on City property would also be subject to the same place, manner and time restrictions as offsite signage on privately owned property.

2. Digital Displays and Other Modern Forms of Moving Image Display Technology

Enacted in the 1970s and early 1980s, the current sign code does not allow for a range of newer technologies and generally only accommodates signs that display only a static image. The current City Code prohibits animated, intensely lit and moving signs, and this has been construed to prohibit digital displays such as those at Cal-Expo and Sacramento State University, as well as other forms of modern technology. Interest has been shown in utilizing digital displays and other modern technology for off-site advertising; there also has been interest in utilizing digital displays and other forms of modern technology for onsite displays.

Aesthetics and pedestrian and driver safety are primary reasons given by cities and counties for regulating, restricting or prohibiting digital displays and other advertising forms. This is true of the current City Code, which describes its purpose as follows:

The purpose of the sign regulations set forth in this chapter shall be to eliminate potential hazards to motorists and pedestrians; to encourage signs which, by their good design, are integrated with and harmonious to the buildings and sites which they occupy, and which eliminate excessive and confusing sign displays; to preserve and improve the appearance of the city as a place in which to live and to work and as an attraction to nonresidents who come to visit or trade; to safeguard and enhance property values; to protect public and private investment in buildings and open spaces; to supplement and be a part of the regulations imposed and the plan set forth under the comprehensive zoning ordinance of the city; and to promote the public health, safety and general welfare. (City Code, Sec. 15.148.010.)

The issue of whether to allow digital displays and other forms of non-static signage is a controversial one, with both the outdoor advertising (billboard) and custom sign making industries advocating for the allowance of such signage, while various scenic and environmental groups, especially Scenic America, arguing against such signage. It

would be appropriate to hear testimony from these groups and the public on the issue of whether to allow these types of signs. Both the sign industry and Scenic America have been advised of the Council meeting and anticipate both will make presentations.

Options available to the City on the issue of whether to allow for digital displays and other modern forms of sign technology are wide-ranging, and include the following:

- Option 1:** Prohibit digital displays and other types of non-static signage, both onsite and offsite;
- Option 2:** Prohibit digital displays and other types of non-static signage within specified vicinity of freeways, but allow onsite and offsite signage elsewhere, subject to reasonable time, place, and manner restrictions. The restrictions of the Outdoor Advertising Act would apply in addition to any restrictions imposed by the City's sign code.
- Option 3:** Allow digital displays and other types of non-static signage anywhere, or in non-residential areas, subject to time, place and manner restrictions. The restrictions of the Outdoor Advertising Act would apply in addition to any restrictions imposed by the City's sign code.

Staff recommends Option 3 to allow digital displays and other types of non-static signage (including offsite signs/billboards) in non-residential areas, subject to time, place and manner restrictions. The current sign code was established prior to many of the signage technologies available today. Vibrant signage plays a critical role in the commercial viability of Sacramento's businesses. By allowing and regulating digital displays and other modern forms of sign technology, the City of Sacramento will serve its economic development goals while ensuring that such signage does not negatively impact residential uses.

Power Point Presentation

**Sign Code Policy Workshop:
Billboards, Digital Displays and
Other New Technologies**

Sacramento City Council

January 6, 2009

Basic Principles of Sign Regulation

- Regulations for signage on privately owned property should concern time, place and manner of display not content.
- When on City-owned property (City acting as the landlord) signage content/message can be regulated.
- The same time, place and manner regulations applicable to signs on private property should be applied on City-owned property in similar zone or district.

Billboards

- Current City Sign Code:
 - Council enacted an interim ban on any new billboards (offsite signs) in October 2007 to be in effect until new code is adopted.
 - Current code prohibits new billboards within 660 feet of a freeway if they are visible to persons travelling on the freeway.
 - Current code prohibits the alteration or replacement of any existing billboards that would be banned if they were new billboards.
 - Current code does allow billboards in certain zones subject to certain size, spacing and other reasonable time, place and manner restrictions.



Billboards

Options available to the City on the issue of billboards include:

- Option 1:** Continue with current approach, banning billboards where visible from freeways and while allowing them in certain zones, subject to time, place and manner restrictions. The time, place, manner rules can vary by zoning district.
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Billboards

Staff recommends Option 3 to allow billboards along freeways and certain other transportation corridors, subject to time, place and manner restrictions.

- Allowing offsite signage (billboards) in specified areas, subject to reasonable time, place and manner restrictions, is important to the City's economic development goals.

Billboards on City Property

Options available to the City include:

Option 1: Ban new billboards on City property; City rights of way.

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Billboards on City Property

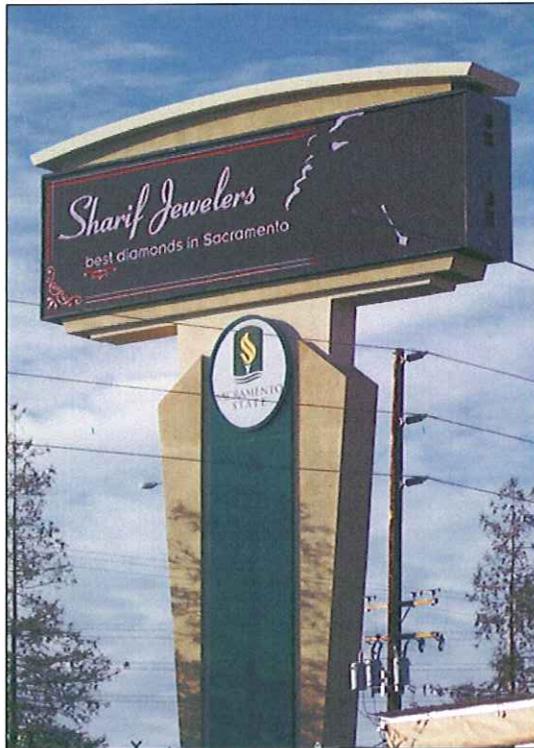
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- Acting as a landlord, the City can regulate the content, nature and type of advertising conducted on its property.
- Offsite signage (billboards) on City property would also be subject to the same place, manner and time restrictions as offsite signage on privately owned property.

Digital Display and Other New Technology



Digital Display and Other New Technology



Current City Sign Code

- Prohibits animated, intensely lit and moving signs.
- This has been construed to prohibit digital displays such as those at Cal-Expo and Sacramento State University, as well as other forms of modern technology.

Digital Display and Other New Technology

Options available to the City on this issue are wide-ranging, and include the following:

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Digital Display and Other New Technology

Staff recommends Option 3 to allow digital displays and other types of non-static signage (including offsite signs/billboards) in non-residential areas, subject to time, place and manner restrictions.

- Current sign code was established prior to many of the signage technologies available today.
- Vibrant signage plays a critical role in the commercial viability of Sacramento's businesses.
- Allowing and regulating digital displays and other modern forms of sign technology, will support economic development goals while ensuring that such signage does not negatively impact residential uses.

