



REPORT TO COUNCIL

City of Sacramento

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STAFF REPORT
June 12, 2007

Honorable Mayor and
 Members of the City Council

Title: Amendments to the City's Sign Code (City Code Chapter 15.148) (M07-015)

Location/Council District: Citywide

Recommendation: 1) Approve staff's recommendation to address a series of issues pertaining to the City's Sign Code (Title 15) at five workshops of the Council; 2) review the general laws governing sign regulation; and 3) provide comment and direction to staff on regulating temporary signs ("A-frames") in the City of Sacramento.

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

Presenters: Sandra Yope, Senior Planner

Department: Development Services

Division: Current Planning

Organization No: 4881

Description/Analysis:

Issue: The Development Services Department proposes to prepare amendments to the City's Sign Code. Many of the provisions of the current Sign Code were enacted in the early 1970's (Ordinance No. 2868, adopted in March 1971) and early 1980's (Ordinance Nos. 81-093, 82-043). Since that time, there have been a number of developments in federal and state law, both statutory and judicial, that call into question a number of provisions of the Sign Code on preemption and other grounds. The City Attorney's Office has recommended that appropriate amendments be made to address these issues. In addition to changes in the law, there have been changes in signage and in the practices of the sign industry that the current code does not address, and there are some provisions of the current code that are obsolete. Staff believes that it would be appropriate for the Council to consider whether to address these matters in the ordinance amending the Sign Code.

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. Mr. Morrison has reviewed the City's Sign Code, and he and staff have identified a number of issues on which Council direction is needed or would be helpful.

Staff believes it would be appropriate to address the identified issues at four additional meetings of the full Council, with each meeting devoted to a limited number of issues on which the Council would be asked to provide direction. Following each meeting, staff and the consultant would prepare amendments to the Sign Code reflecting Council direction. Following the last meeting, a complete proposed ordinance reflecting the direction of Council would be prepared and processed through the Law and Legislation Committee.

Attachment 1 sets forth the list of issues on which staff seeks direction on how the Council wishes to proceed, and also a proposed schedule of meetings to address these issues. To allow for focused discussion, staff proposes that two to three issues be addressed at a given meeting, and the proposed groupings are set forth in Attachment 1.

At today's meeting, staff, through the consultant, will provide an overview of the law governing the regulation of signs in California.

Finally, staff seeks Council direction on how to regulate temporary signs in the City of Sacramento. Attachment 2 summarizes the relevant law and the options that are available to the Council in addressing temporary signs ("A-frames") in the City right-of-way (sidewalks). This type of signage is currently prohibited but is prevalent, particularly in the downtown and commercial corridors. Staff will provide a similar discussion at future meetings for each of the issues on which direction is sought.

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

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

PROPOSED HEARING SCHEDULE

Date of Meeting	Issues to be Addressed
Meeting No. 1 [June 12, 2007]	<ul style="list-style-type: none"> • Temporary signs ("A-frames")
Meeting No. 2 [August, 2007]	<ul style="list-style-type: none"> • Billboards (off-site signs) • Readerboards (moving electronic displays) • Illuminated and Projection Signs (signs projected onto buildings, structures)
Meeting No. 3 [September, 2007]	<ul style="list-style-type: none"> • Street banners (banners attached to City-owned utility poles (light posts), guy wires) • Private non-commercial signs on City property (traditional public forums-sidewalks, parks, public grounds adjacent to city property) • Private signs on City property (other than traditional public forums)
Meeting No. 4 [November, 2007]	<ul style="list-style-type: none"> • Real estate signs (on private property, in the public right-of-way) • Window signage • Murals
Meeting No. 5 [January, 2008]	<ul style="list-style-type: none"> • Maintenance, Repair, Replacement of non-conforming signs • Removal of non-conforming signs (through amortization)
Adoption of Code Changes [April, 2008]	<ul style="list-style-type: none"> • Changed Sign Ordinance

ATTACHMENT 2

Discussion Paper on Sign Issues and Temporary Signs

Governmental regulation of signs is governed by a large body of case law; in California, there also are statutes that impact the City's ability to regulate signage. The City Attorney's Office and the consultant have prepared the following overview of the law and discussion of policy options available to the City.

The City's consultant recommends that the new sign ordinance consist of two separate chapters. In one, the City speaks as a regulator of signs on private property, while the other states the City's policies regarding private party signs on City property and the public right-of-way. Because the tests for constitutionality are different for the two roles, this approach will give the City greater flexibility in controlling signs on its own property.

The courts divide speech by sign into two broad categories; commercial and non-commercial. The latter consists of debate on topics of public concern, primarily war, religion, politics, etc. Non-commercial speech has the highest degree of protection under the First Amendment, and at least on private property, must be given at least equal display right with commercial messages.

Set forth below are the options available in addressing temporary signage ("A frames"), and staff would request that Council provide comment and direction.

Temporary or portable signs (A-frames, T-frames and H-frames)

Pursuant to policy direction, staff is drafting provisions that would allow for temporary or portable signs in the same manner as the City of Portland, Oregon. Portland allows such signs in the public right-of-way (sidewalks), subject to a ministerial permitting requirement and subject to compliance with dimensional and locational requirements. The City of Portland imposes fees to cover the costs of permitting, inspection and enforcement, and staff anticipates recommending that the Council adopt a similar fee and regulatory program for Sacramento.

Although "temporary signs" and "portable signs" rules are often lumped together, they could also be regulated under separate and differing rules. "Portable signs" can be of several distinct types, such as those on trailers, boats, balloons, human-held, signs with their own wheels, foldable signs, etc. "Structural type" rules, when they do not turn on message content, are almost always sustained by the courts.

Staff seeks direction on how to regulate temporary signage. **Ordinance options available to the City when regulating temporary signs include the following:**

- **OPTION 1:** A complete ban on temporary and / or portable signs throughout the City. The sign code (Sec. 15.148.670-E) currently bans all temporary or portable signs of this nature.

- **OPTION 2:** A ban with location-based exceptions. The City has broad discretion in determining where such signage should be allowed, and under what conditions and restrictions. For example, the City may wish to restrict temporary and / or portable signage to the Central Business District (CBD) and specified commercial corridors.
- **OPTION 3:** Allowing temporary signs City-wide, subject to size, dimension, location and other reasonable time, place and manner restrictions.

If the City allows temporary signs, it may not regulate the content of such signs, other than prohibiting "offsite" commercial messages. "Onsite" can be defined to refer to signs on the same parcel, or on adjacent parcels. The courts consistently hold that the "onsite/offsite" distinction is not content-based regulation; it is a location criterion. Thus, if the sign code allows temporary signs on private property in the CBD, it may not restrict such signage to commercial messages only, or particular non-commercial messages. While most temporary signage is likely to be of a commercial nature, advertising the adjacent business or the products, services or wares that it offers, the sign code would have to permit non-commercial signage, on any and all subjects (war, politics, religion, etc.), provided the signage complied the content-neutral regulations of the Sign Code on size, shape, permits and the like. Generally speaking, on private property, the City may not restrict the content of commercial signage to allow some messages, but ban disfavored but legal products and services (e.g., the City may not ban alcohol, tobacco advertisements). There is no free speech protection for commercial messages which promote products or services that are illegal at the place where they are offered.

