



REPORT TO COUNCIL

City of Sacramento

915 I Street, Sacramento, CA 95814-2671
[www. CityofSacramento.org](http://www.CityofSacramento.org)

STAFF REPORT
September 18, 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: Provide comment and direction to staff on the following types of signage in the City of Sacramento: billboards (offsite signs); readerboards (moving electronic displays); and illuminated and projection signs.

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

Presenters: Sandra Yope, Senior Planner

Department: Development Services, Department of Transportation

Division: Current Planning

Organization No: 4881

Description/Analysis:

Issue: This is the second of five Council workshops to address key issues and provide direction to staff as it prepares an ordinance updating the sign code to be consistent with current law, incorporate Council's policy choices, 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 today's meeting, staff seeks Council direction on how to address the following issues: off-site signs (billboards); readerboards (moving electronic displays, such as the sign at Cal-Expo); and illuminated and projection signs. Attachment 1 summarizes the relevant law, the current provisions of the City Code and the

options that are available to the Council in addressing the three issues.
Attachment 1 also sets forth staff's recommendations on these three 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

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

Table of Contents:

Report	Pg 1
Attachments	
1 Discussion Paper	Pg 3
2 Sign Code Zones Reference	Pg 9

Attachment 1
Discussion Paper

The City's ability to regulate signage is governed in significant part by the California Outdoor Advertising Act (Business and Professions Code Sec. 5200 et seq.) Set forth below is a brief discussion of the basic provisions of that Act, followed by a discussion of the three categories of signage on which staff seeks Council direction.

California Outdoor Advertising Act

The California Attorney General has summarized the Outdoor Advertising Act as follows:

The Outdoor Advertising Act ("Act") regulates advertising displays, such as billboards, in unincorporated areas of the state and in areas adjacent to interstate and primary highways. Although the Act expressly occupies the whole field of outdoor advertising regulation, it does not prohibit the enforcement of the Act by a county or the passage by a county of reasonable land use or zoning regulations affecting the placement of advertising displays, and provides that cities and counties may impose restrictions on advertising displays equal to or greater than those imposed by the Act. The Act is designed to regulate outdoor advertising in a manner consistent with the federal Highway Beautification Act of 1965 (23 U.S.C. § 131). The Act provides minimum standards "designed to accommodate the federal statute in order to qualify for federal aid." The State Department of Transportation is responsible for administering the Act, including the issuance of licenses to those engaged in the business of erecting and maintaining advertising displays and the issuance of permits for displays covered by the Act's requirements.

The basic prohibition contained in the Act is that no advertising display may be placed or maintained within 660 feet [1/8 of a mile] from the right-of-way of an interstate or primary highway if the advertising copy would be visible from the highway. Separate rules apply to advertising displays placed or maintained on property adjacent to a section of a freeway which has been landscaped. Additional rules pertain to the posting of signs along "scenic highways." 79 Ops Cal. Atty Gen 117 (citations and footnotes omitted).

The City's Sign Code is consistent with, and at times more restrictive than, the Outdoor Advertising Act. The provisions of the current Sign Code relevant to the three issues that are to be addressed are set forth below.

Billboards (off-site signs)

Offsite signs are defined in the City Code as follows:

“Offsite 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.

The City's consultant working on the revision of the Sign Ordinance recommends that “billboards” be separately defined in the forthcoming new sign ordinance. This will allow billboards, as commonly understood, to be placed in a distinct class, and regulated in conformance with recent court decisions. The working definition for “billboard,” in the forthcoming new sign ordinance, is:

A permanent structure sign in a fixed location which meets any one or more of the following criteria: (1) it is a primary or principal use of the land, in contrast to an appurtenant or accessory use of the land; (2) it is used for the display of off-site commercial messages; (3) it is used for general advertising or advertising for hire, or (4) display space is routinely devoted to messages sponsored by persons or groups other than the owner of the sign or the owner of the property, regardless of whether the furnishing of display space is for consideration, exchange, by donation, or otherwise.

This definition does not include “sign trucks” or “mobile billboards.” Such devices are a growing segment of the outdoor advertising industry. It also does not include temporary signs – such as real estate open house signs – that are often “off-site.” State law (B&P 713) overrides local efforts to ban off-site “real estate for sale” signs, but there are doubts about the constitutionality of that state law.

The proposed new definition for billboard could also include a “minimum size” element (typically, 32 or 16 or 8 sf – fractions of the size of a standard sheet of plywood). However, such a criterion would remove from the definition of “billboard” certain “small format billboards.” That is another growth area in the outdoor advertising industry. “Small format billboards” are often the same size as movie posters, and mounted in similar frames. Like their much larger cousins, they display off-site commercial messages on leased space. Alternatively, “small format billboards” could be defined separately and subjected to rules which apply specifically to that format.

There is an unresolved legal issue over whether a city can ban small format billboards generally, and still allow them on city-owned facilities, such as public transport shelters, park benches, etc. This issue is currently pending in the Ninth Circuit, U.S. Court of Appeals, in a case involving the City of Los Angeles.

The current Sign Code generally permits billboards in the C-2, C-4, M-1 and M-2 zones, subject to size, location, height, spacing and other content-neutral requirements or

restrictions.¹ They are prohibited in all other zones, and they are also prohibited in the area bounded by I-5 on the west, 17th Street on the east, H Street on the north and Q Street on the south. Since 1981, new billboards are allowed in the C-2 zone only when they replace lawfully existing billboards in the C-2 zone. In 1982, the City prepared an inventory of "replaceable" and "non-replaceable" billboards, and thereafter new billboards were allowed in the C-2 zone only if the number of replaceable billboards did not increase.²

Under the current Sign Code, new billboards may not be located within 660 feet of a freeway if any portion of the sign's advertising or message would be visible to those driving on the freeway. This prohibition on new billboards within 660 feet of a freeway, a prohibition adopted by the City in 1971, is generally mandated by the California Outdoor Advertising Act. Cal. Bus. and Prof. Code Sec. 5405. Since 1971, the Sign Code has called for the removal without compensation of all billboards within 660 feet of a freeway, following a period of amortization that has long since expired; this provision is preempted by the Outdoor Advertising Act, which generally prohibits the City from requiring removal of billboards without just compensation. In almost all cases, just compensation is prohibitively expensive. Most cities determined to get rid of a particular billboard end up negotiating a relocation agreement, rather than paying just compensation.

Policy options for the City when regulating billboards includes the following:

- **OPTION 1:** A ban on all new billboards, no exceptions.
- **OPTION 2:** A ban on all new billboards, subject to billboards authorized by relocation agreements approved by the City. This would allow the City to authorize the relocation of existing billboards from sensitive or inappropriate locations to more suitable locations. State law encourages relocation agreements, subject only to the same Caltrans rules that would apply to a proposed new billboard.
- **OPTION 3:** A ban on all new billboards, with exceptions for certain locations. State law generally prohibits new billboards within 660 feet of an interstate or primary highway if any portion of the sign's advertising or message would be visible to those driving on the interstate or primary highway.
- **OPTION 4:** Allowing billboards in all commercial or industrial areas, subject to content-neutral rules concerning size, height, lighting and other factors. Again, state law generally prohibits new billboards within 660 feet of an interstate or primary highway if any portion of the sign's advertising or message would be

¹ The current regulations concerning off-site signage are set forth in Section 15.148.160 of the City Code, a copy of which is attached as Exhibit A.

² A replaceable billboard is one that was lawful when erected or altered, with all relevant permits. A non-replaceable billboard is one that was erected or altered without the necessary permits. City Code Sec. 15.148.160-B-6.

visible to those driving on the interstate or primary highway.

- **OPTION 5:** Creating separate rules for large and small format billboards.

State law generally prohibits the City from requiring the removal of existing, non-conforming billboards unless the City provides just compensation. B&P 5412. The prohibition on regulating the content of signage applies to billboards.

In recent years, there has been much litigation brought by billboard companies who were denied permits for new signs. Such suits generally assert that the sign ordinance contains unconstitutional provisions, and thus is invalid and cannot be enforced to prevent new billboards. However, most courts will not allow billboard companies to challenge parts of the sign ordinance that do not apply to the billboards. With a properly drafted sign ordinance that includes either (a) a complete ban on all new billboards or (b) a complete ban with exceptions for relocation agreements, the government wins very nearly all of these suits.

Staff recommends Option 3: A ban on all new billboards, with exceptions for certain locations. This will allow billboards in appropriate zones or districts depending on how the code is structured. Staff does recommend that new billboards be prohibited in the C-2 General Commercial zone.

Readerboards (moving electronic displays)

Readerboards (large signs with moving or changing images), such as the one located at Cal-Expo, are becoming increasingly popular. Readerboards likely constitute "moving signs" under the current Sign Code, and are generally prohibited in the City of Sacramento. See Sec. 15.148.650 of the City Code.³ The Code also prohibits animated and intensely lit signs. See City Code Sec. 15.148.640.⁴ To the extent the readerboards constitute off-site signs, they are prohibited within 660 feet of a freeway and are subject to the requirements and restrictions set forth above. Readerboards may consist of on-site or off-site advertising, or a combination of both. The sign at the Convention Center on J Street is an example of an on-site advertising moving display.

In addition to the large moving electronic displays such as the one at Cal-Expo, there

³ The City Code defines a moving sign as follows: "Moving sign" means any sign or device which has any visible moving part, visible revolving part, or visible mechanical movement of any description, or other apparent visible movement achieved by electrical, electronic, or kinetic means, including intermittent electrical pulsations, or by actions of wind currents. City Code Sec. 15.148.1170.

⁴ "Animated sign" means any sign which is designed and constructed to give a message through a sequence of progressive changes of parts or lights or degree of lighting. City Code Sec. 15.148.1170. Section 15.148 prohibits a sign "which is animated by means of flashing, scintillating, blinking or traveling lights or any other means not providing constant illumination; and also any sign "which because of its intensity of light constitutes a nuisance or hazard to vehicular traffic, pedestrians or adjacent properties."

are other types of moving displays, such as the digital displays found at gas stations showing the current prices of gasoline, or the digital displays at retail establishments (e.g., Walgreen's) that advertise featured products or products on sale. These types of displays change periodically, but with less frequency than the Cal-Expo type signs.

Recent court decisions have, for the most part, validated cities bans or restrictions on moving or animated images, so long as the rules do not turn on message content.

Across the nation, the outdoor advertising industry is pushing hard for "digital conversion" - transforming traditional, flat panel, static billboard display faces to electronic faces - essentially, giant television screens - using light emitting diodes ("L.E.D.s) or other electronic means. This push is being pursued as legislation at the national, state, and local levels, as well as by litigation. Environmental, scenic, and preservation groups are opposing the digital conversion movement, primarily on the grounds that LED billboards are vastly more intense visually, far more distracting, and generally produce a "carnivalizing" or "cheapening" of the area. Many citizens feel strongly that they do not want their town to look like Las Vegas or the Times Square area of New York City. It is clear that digital billboards will produce much greater revenue streams for billboard companies, compared to traditional static flat panels. Digital conversion is likely to be the major policy issue in sign regulation for the next several years. Thus far, there have been few court decisions on this point. A state law has been proposed which would make digital conversion a matter of right; it is expected to be re-introduced next legislative session.

Policy options for the City when regulating readerboards includes the following:

- **OPTION 1:** Continue with a ban on readerboards.
- **OPTION 2:** Allow them in certain locations, subject to content-neutral rules concerning size, height and other factors.
- **OPTION 3:** Allow them without restriction, subject to content-neutral rules concerning size, height and other factors, and subject to the restriction on locating off-site signs within 660 feet of an interstate or primary highway.

Staff recommends Option 2: Allow them in certain locations, subject to content-neutral rules concerning size, height and other factors. This will allow readerboards in appropriate zones or districts depending on how the code is structured.

Illuminated and Projection Signs (signs projected onto buildings or structures)

In recent months, staff has been approached with requests to install new forms of signage that are either prohibited by the current sign code or not addressed in the sign code. The requests have included projection signs, which are signs that would be projected onto the sides of buildings or structures from a remote location; and illuminated signs, including signs that reflect the developments in sign technology.

Projection signs could be both for both off-site and on-site signage, and could include animation as that term is used in the sign code. See footnote 4 above.

As noted above, the current Sign Code may prohibit these signs, since the Code prohibits signs animated "by means other than constant illumination" and also signs that are too "intense" in terms of illumination.⁵

Policy options for the City when regulating illuminated and projection signs includes the following:

- **OPTION 1:** Allowing them in certain zones or districts, subject to size, height and other content-neutral regulations.
- **OPTION 2:** Allowing on-site, but not off-site, advertising.
- **OPTION 3:** Allowing on-site and off-site advertising.

Staff recommends Option 1: Allowing them in certain zones or districts, subject to size, height and other content-neutral regulations. This will allow illuminated and projection signs in appropriate zones or districts depending on how the code is structured.

⁵ Some of the current provisions of the Sign Code, such as the prohibition on signage with illumination that is "too intense" are arguably vague or ambiguous. Staff intends to address this issue as part of the Sign Code amendment process.

Attachment 2
Sign Code Zones

15.148.160 C-2 and C-4 commercial, M-1 and M-2 industrial zones

Within the C-2 and C-4 (commercial), M-1 and M-2 (industrial) zones, onsite signs and offsite signs are subject to the following regulations:

A. Onsite Signs.

1. One detached sign for each developed parcel not exceeding one square foot of sign area for each lineal foot of street frontage abutting the developed portion of such parcel, provided that:

a. Where a developed parcel has in excess of three hundred (300) feet of street frontage, one additional detached sign may be erected for each additional three hundred (300) feet of street frontage in excess of the first three hundred (300) feet of street frontage abutting the developed portion of such parcel.

b. Where a developed parcel is permitted to have more than one detached sign under these regulations, the distance between such detached signs on each parcel shall be not less than three hundred (300) feet.

c. Subject to the provisions of Article IV of this chapter, the total area of all detached signs on each parcel shall not exceed one square foot of sign area for each lineal foot of street frontage of the developed portion of such parcel.

2. Two attached signs are permitted for each occupancy. Such signs shall not exceed a total aggregate area of three square feet of sign area for each front foot of building occupancy. Such signs may be placed flat against a building, may be projected or nonprojected signs and may be located on an architectural projection or attached to the underside of an architectural projection subject to the provisions of Section 15.148.460 and 15.148.470 of this chapter.

3. The maximum height limit for detached signs shall be as follows:

a. In C-2 and C-4 zones: thirty-five (35) feet;

b. In M-1 and M-2 zones: forty (40) feet.

No height limit is specified for signs placed flat against the wall of a building or for other attached signs provided all other provisions of this article are complied with.

B. Offsite Signs. Except as otherwise prohibited by this article, offsite signs are permitted in the C-2, C-4, M-1, and M-2 zones as follows:

1. All offsite signs shall be detached signs.

2. No offsite sign shall be located nearer than five hundred (500) feet to any other offsite sign on the same side of the street as such offsite sign. When an offsite sign is located on one street but is oriented to be viewed primarily from another street, no such sign shall be located nearer than five hundred (500) feet to any other offsite sign on the same side of the street on which it is located or any other offsite sign located on the nearest side of the street to which said sign is oriented.

3. An offsite sign shall not exceed three hundred (300) square feet in area.

4. The maximum height limit for an offsite sign shall be thirty (30) feet in the C-2 zone and thirty-five (35) feet in the C-4, M-1 and M-2 zones.

5. No offsite sign shall be located in the area bounded by Interstate 5 to the west, 17th Street to the east, H Street to the north, and Q Street to the south.

6. After October 29, 1981 no person shall erect an offsite sign in the C-2 zone unless the planning director has issued a C-2 offsite sign replacement permit for such sign. The planning director shall issue a C-2 offsite sign replacement permit only if (a) the total number of existing "replaceable" offsite signs located in the C-2 zone is less than the total number of "replaceable" signs listed in the final C-2 offsite sign roster, and (b) the owner of the proposed sign does not own or possess any other form of property interest in an existing "nonreplaceable" offsite sign located anywhere in the city. The C-2 offsite sign final roster shall be prepared as follows:

a. The owner, or his or her designee, of every offsite sign located in the C-2 zone on October 29, 1981 shall submit to the planning director on or before December 28, 1981 a written description of the location, date of original erection, date of any structural alteration, date of any relocation, and, if available, a copy of the city sign permit or building permit issued for each such sign.

b. On or before April 19, 1982, the planning director shall prepare a tentative roster, listing each offsite sign located in the C-2 zone on October 29, 1981 and sign located in the C-2 zone on October 29, 1981 and designating each sign as either "replaceable" or "nonreplaceable." For roster classification purposes only, an offsite sign shall be designated:

i. "Replaceable" if it was erected in conformance with the provisions of this article in effect on the date of erection and, if the sign was subsequently altered or relocated, such alteration or relocation conformed with the provisions of this article then in effect.

ii. "Nonreplaceable" if (a) it was erected, altered or relocated without issuance of a permit or permits as required by Section 15.148.030 of this chapter, or in violation of the terms of said permit or permits, or (b) it existed in 1970, was rendered nonconforming by the enactment of Ordinance No. 2868, and the amortization period specified in Section 15.148.790(A) of this chapter has passed.

c. The planning director shall mail the tentative roster to all persons who submitted information regarding an offsite sign, pursuant to subsection (B)(6)(c) of this section, and all other persons who have requested a roster. Notice of the availability of the tentative roster shall be published at least once in a newspaper of citywide circulation.

d. Any person who has received actual notice of the tentative roster shall notify in writing the planning director on or before May 17, 1982 if he or she believes the tentative roster is incorrect or incomplete, On or before July 12, 1982, the planning director shall prepare a final roster.

C. General Provisions Relating to Location. No sign shall be located nearer than five feet to an interior property line nor shall any sign be located nearer than five feet to any common wall or other point common to two separate occupancies on the same parcel. This regulation, however, shall not apply to signs painted on or otherwise attached flat against the wall or architectural projection of a building on the same parcel.

With the exception of offsite signs, a sign may be located within or project into a required front or street sideyard setback area. However, no sign may project into or over an abutting public right-of-way except as otherwise provided in this article. Offsite signs shall be located so as to provide and maintain the same front and street sideyard setbacks as are required for a building on the same parcel. (Prior code § 3.04.066)