

ORDINANCE NO. NS-XXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA REPEALING AND REENACTING IN ITS ENTIRETY ARTICLE XII OF CHAPTER 41 OF THE SANTA ANA MUNICIPAL CODE PERTAINING TO OFF-PREMISE COMMERCIAL ADVERTISING SIGNS AND DEVELOPMENT PROJECT PLAN APPROVALS TO ALLOW AND REGULATE NEW DIGITAL BILLBOARDS SUBJECT TO CERTAIN LOCATION, DESIGN, AND OPERATIONAL REQUIREMENTS

THE CITY COUNCIL OF THE CITY OF SANTA ANA HEREBY ORDAINS AS FOLLOWS:

Section 1. The City Council of the City of Santa Ana hereby finds, determines and, declares as follows:

A. On April 16, 1984, the City Council adopted Ordinance No. NS-1722, adding Article XII to Chapter 41 of the Santa Ana Municipal Code (SAMC) allowing and regulating off-premise commercial advertising signs, commonly known as billboards.

B. On June 15, 1987, the City Council adopted Ordinance No. NS-1915, adopting a revised “Critical Development Areas” and “Improvement Areas” map to further allow and regulate off-premise commercial advertising signs in certain segments of the City.

C. On September 8, 1987, the City Council adopted Ordinance No. NS-1927, further amending certain sections of Article XII of the Santa Ana Municipal Code.

D. Since the adoption of Ordinance Nos. NS-1722, NS-1915, and NS-1927, amendments to the California Outdoor Advertising Act and other regulations and policies of the California Department of Transportation (Caltrans), as well as changes in technology allowing digital displays on billboards, have rendered many segments of Article XII of Chapter 41 of the SAMC outdated and obsolete. This status effectively prohibits construction or reconstruction of new or existing billboards, as well as installation of electronic message displays. Since their adoption, these ordinances have also effectively rendered existing billboards in Santa Ana as legal nonconforming.

E. The California Outdoor Advertising Act, set forth in California Business and Professions Code Section 5200 et seq., generally provides that compensation must be paid to billboard owners for the removal, abatement, or limitation of the

customary maintenance, use, or repair of certain lawfully erected nonconforming billboards, except through a relocation agreement.

F. Business and Professions Code Section 5412 specifically empowers a city to enter into relocation agreements on whatever terms are agreeable to an outdoor advertising display owner and such city as a means of eliminating the need to pay compensation for their removal.

G. Construction of new billboards is prohibited along highways designated as landscaped freeways with certain exceptions, including the construction of relocated billboards pursuant to Business and Professions Code Sections 5440 through 5443.5 or the construction of new billboards along portions of landscaped freeways that have been declassified.

H. Business and Professions Code Section 5412 further empowers a city to adopt ordinances or resolutions providing for the relocation of billboards.

I. Technology has also allowed for the modernization of advertising medium by way of the creation of digital or electronic messaging, which have been utilized by advertising companies throughout the nation.

J. The City recognizes that billboards are a valuable advertising tool, but without proper design, placement, and maintenance, they may unduly distract, create traffic hazards and negative visual, lighting, and glare impacts.

K. Permitting the construction of new billboards along portions of the City that are not adjacent to landscaped freeways and the relocation or reconstruction of existing billboards to more appropriate locations within the City with upgraded technology provides a greater opportunity for businesses to advertise to larger audiences, promote economic growth in the City and the region, and provide for additional public service announcements.

L. Allowing the removal of existing billboards also allows the City to direct the placement of new billboards with digital technologies into areas that are more aesthetically appropriate, thereby creating fewer visual and glare impacts for the City's residents.

M. Adoption of this Ordinance is compatible with the SAMC and promotes the public health, safety, and welfare of the citizens of the City.

N. The Planning Commission held a duly-noticed public hearing on April 25, 2022 to consider this Ordinance, where all interested persons were given an opportunity to be heard. The Planning Commission recommended approval of the ordinance to the City Council, subject to modifications to Section 41-1113 of this Ordinance and the draft Operating Agreement template to provide for minimum local hiring requirements when considering billboard reduction alternatives as per Section 1 of the draft Operating Agreement.

O. The City Council held a duly-noticed public hearing on June 21, 2022 where all interested persons were given an opportunity to be heard.

Section 2. The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 3. Article XII (Off-Premise Commercial Advertising Signs) of Chapter 41 of the Santa Ana Municipal Code (Zoning) is hereby repealed in its entirety.

Section 4. Article XII (Off-Premise Commercial Advertising Signs) of Chapter 41 of the Santa Ana Municipal Code (Zoning) is hereby reenacted in its entirety to read as follows:

ARTICLE XII. – OFF-PREMISE COMMERCIAL ADVERTISING SIGNS (BILLBOARDS)

DIVISION 1. - GENERAL PROVISIONS

Sec. 41-1100. - Purpose.

The purpose and intent of this Article is to allow:

- (1) The installation of digital billboards adjacent to freeways in suitable locations;
- (2) The reconstruction or conversion of existing static freeway-oriented billboards to digital billboards; and
- (3) The reconstruction or conversion of existing on-premise freeway-oriented advertising signs to digital billboards.

Sec. 41-1100.5. - Goals.

These provisions seek to achieve the following goals:

- (1) The removal of existing billboards along arterial streets;
- (2) The construction of new freeway-oriented digital billboards in exchange for specific economic and community benefits as described in this Article;
- (3) The reconstruction/conversion of freeway-oriented existing static billboards in exchange for specific economic and community benefits as described in this Article;
- (4) The reconstruction or conversion of existing on-premise freeway-oriented digital signs to off-premise commercial advertising signs;
- (5) The display of public service announcements; and
- (6) The generation of revenue for City to fund ongoing services and community needs.

Sec. 41-1101. - Definitions.

As used in this Article, the following words, terms or phrases have the following meanings:

- (1) *Adjacent (when used to refer to a billboard adjacent to a freeway)* shall mean located within 300 feet of the edge of pavement of a freeway on a parcel having frontage on said freeway and as depicted on maps by the Planning Division.
- (2) *Arterial Billboard* means an off-premise commercial advertising sign located adjacent to a public street that is not freeway oriented.
- (3) *Billboard and Off-Premise Commercial Advertising Sign* means a sign affixed to the ground as a permanent structure used for the display of off-premise advertising to the public.
- (4) *Billboard Operating Agreement* means an agreement entered into by and between the City and the billboard operator which will specify terms for fees to compensate for impacts on City aesthetics and services, including an Economic and Community Benefits Plan, if proposed.
- (5) *Classified Landscaped Freeway*, when referenced in this Article, refers to a designation applied by the California Department of Transportation (Caltrans) to certain freeway segments which meet the criteria established by the California Code of Regulations Outdoor Advertising Regulations, Title 4, Division 6, and as amended.
- (6) *Commercial Advertisement* means any advertisement which has, as its primary purpose, the promotion of the sale of goods or services by a commercial business or enterprise to the public generally or any significant part thereof.
- (7) *Digital Billboard* means a billboard or off-premise commercial advertising sign using technologies, such as LCD (Liquid Crystal Display) and LED (Light-Emitting Diode), to display images and text.
- (8) *Freeway Corridor* means land located within three hundred (300) feet of the edge of freeway pavement and having frontage on the following freeways: the Santa Ana (I-5) Freeway; the Garden Grove (SR-22) Freeway; and the Costa Mesa (SR-55) Freeway.
- (9) *Freeway-Oriented* means any billboard that is adjacent to a freeway, designed to be viewed primarily by persons traveling on the main-traveled way of the freeway.
- (10) *Freeway-Oriented On-Premise Digital Sign (Existing)* means an electronic, digital message display that has been approved by the City of Santa Ana as part of a regional planned sign program pursuant to Section 41-885 of the Santa Ana Municipal Code.
- (11) *Non-Commercial Advertisement Sign* means any advertisement other than a commercial advertisement, including public service announcements.
- (12) *Off-Premise Advertisement Sign* means any commercial advertisement other than an on-premise advertisement sign that advertises products or services that is not located, produced, or offered for sale on the subject premise.
- (13) *On-Premise Advertisement Sign* means any commercial advertisement which pertains solely to goods or services which are produced or offered for sale on the premises where the advertisement is displayed.

- (14) *Static Billboard* means a billboard or off-premise commercial advertising sign that is not equipped as a digital display.

Sec. 41-1102. - Consistency with the Outdoor Advertising Act.

To the extent that there is any conflict between the provisions of this Article and the provisions of the California Outdoor Advertising Act, codified at California Business and Professions Code Sections 5200 et seq., and as amended, the Outdoor Advertising Act shall prevail.

Sec. 41-1103. - Application to Existing Signs.

Any off-premise commercial advertising sign which was constructed in conformance with the requirements of this Article as they existed at the time of such construction, but which is not in conformance with the requirements of this Article, shall be deemed a legal nonconforming use for purposes of this Article, and may be maintained subject to the restrictions and limitations imposed on nonconforming uses by this Chapter. Such signs may be compelled to be removed through amortization subject to the requirements and limitations imposed by Sections 5412 through 5412.4 of the Business and Professions Code of the State of California, the provisions of which, as they may from time to time be amended, are incorporated herein by this reference.

Sec. 41-1104. - Fees.

The City Council may, by resolution, establish fees for any or all the administrative processes established by this Article. Every application for a billboard permit or Conditional Use Permit (CUP) or appeal to the Planning Commission or City Council shall be accompanied by a filing fee. No application shall be accepted for filing without the required fee. The City Council shall from time to time by resolution adopt a schedule of fees to be charged.

Sec. 41-1105. - Commercial and Non-commercial Messages.

Nothing in this Article shall be deemed to prohibit or restrict the use of any sign authorized by this Article for any noncommercial message. No permit required for any sign under this Article shall be granted, conditioned, or denied based on the content of the message displayed by such sign, whether such message is commercial or noncommercial in nature.

DIVISION 2. - ADMINISTRATION AND PERMIT PROCEDURES

Sec. 41-1110. – Permit Type and Review Authority.

Table 41-1110 below identifies the primary types of development applications, approval process and approval authority for the applications required to permit digital

billboards. Applications may be subject to one or more development application processing procedures contained in this Chapter. The exact processing and timing of applications shall be determined by the Planning Division based on the applicable project characteristics.

Table 41-1110 Permit Type and Review Authority

Billboard Type	Permit Type Required	Approving Body	Public Hearing Required
New Digital Billboard	Development Project Plan	Director of PBA	Yes
	Conditional Use Permit	Planning Commission	
	Operating Agreement	City Manager	
Conversion/Reconstruction of Existing Freeway-Oriented Static Billboard	Development Project Plans	Director of PBA	No
	Operating Agreement	City Manager	
Conversion/Reconstruction of Existing Freeway-Oriented On-Premise <u>Digital</u> Sign	Development Project Plan	Director of PBA	Yes
	Conditional Use Permit	Planning Commission	
	Operating Agreement	City Manager	
Relocation of Existing and Approved Static or Digital Billboards ⁽¹⁾	Development Project Plan	Director of PBA	Yes
	Conditional Use Permit	Planning Commission	
	Operating Agreement	City Manager	
Notes:			
1. As approved by this Ordinance and if required and permitted by the California Outdoor Advertising Act, as amended from time to time.			

Appeals from decisions of the Director of the Planning and Building Agency and/or Planning Commission, extensions, time limits, and modifications to such digital billboard approval must be conducted in a manner in accordance with Article V, Division 1 of this Chapter.

Sec. 41-1111. - Application Requirements.

Every application for the construction a new digital billboard, conversion/reconstruction of an existing freeway-oriented static billboard, or conversion/reconstruction of an existing freeway oriented on-premise advertising sign to a digital billboard shall be filed by, or with the written consent of, the property owner on forms required by the Planning Division and shall be at a minimum accompanied by the following information:

- (a) A pictorial representation of, and other information about, the proposed digital billboard, disclosing overall dimensions, dimensions of letters and figures, colors, materials, copy, and illumination characteristics.
- (b) A plan of the site on which the proposed digital billboard is to be located, indicating the precise location of the billboard, existing and proposed landscaping, other site improvements, and proximity to the edge of pavement of an adjacent freeway.
- (c) A vicinity map depicting the location of all existing and proposed billboards, any landmarks as designated on the General Plan that are within one thousand (1,000) feet of the proposed digital billboard, and the zoning designation of all sites within five hundred (500) feet of the boundaries of the subject property.
- (d) Photo simulations of all proposed digital billboards showing daytime and nighttime conditions.
- (e) A three-dimensional (3D) massing study depicting the proposed digital billboard. The 3D study should include massing of proposed development, if any, on applicant's parcel as well as existing buildings and advertising signs within one thousand (1,000) feet of the proposed digital billboard.
- (f) If the application involves the exchange of existing billboards, a map depicting the location(s) of billboards to be removed; at least two photos of each billboard to be removed; and a summary of the size of each billboard face to be removed.
- (g) Such other information as the Executive Director of the Planning and Building Agency deems appropriate to determine compliance with the provisions of this Article.

Sec. 41-1112. - Digital Billboard Conditional Use Permit Findings of Approval.

For approval of a Conditional Use Permit for a Digital Billboard, the Planning Commission shall make the following findings of fact set forth in this Section and not upon the standards set forth in Section 41-638 of this Chapter, and may impose conditions, restrictions or limitations as the commission deems necessary to meet the general purpose and intent of this Article and to ensure that the public health, safety and welfare are being maintained. Findings of Approval shall be made, and conditions may be imposed to confirm that:

- (a) The proposed digital billboard shall not constitute a hazard to the safe and efficient operation of vehicles upon a freeway.
- (b) Adequate space exists between the proposed digital billboard and any existing billboards in the vicinity, thus avoiding or minimizing any negative aesthetic impacts to surrounding land uses.
- (c) The size and design of the digital billboard will not be out of context with its visual environment.
- (d) The digital billboard will not cause light and glare to intrude upon residential uses, including those in mixed-use districts or developments.
- (e) The digital billboard will not significantly block or impair views of landmarks identified in the City's General Plan.
- (f) The installation of the new digital billboard will result in significant economic and community benefits.

Sec. 41-1113. - Operating Agreement Required; Execution Fee Required.

Prior to issuance of any building permits to reconstruct an existing static billboard, or prior to the public hearing notice to consider construction of a new digital billboard or conversion/reconstruction of an existing freeway oriented on-premise sign to a digital billboard, the applicant shall submit to the City Manager an executed Billboard Operating Agreement that has been reviewed and approved by the City Attorney and the Executive Director of the Planning and Building Agency. The applicant shall be responsible for paying any fees that have been established by the City Council to process and execute the Billboard Operating Agreement. In approving such agreement, the City Manager must find that the agreement will confer a substantial public benefit to the City and to the general public. Such public benefits may include, without limitation: the removal of legal nonconforming billboards; minimum display percentages or times for the advertising of City events and public service announcements; public art programming; physical site improvements; automatic brightness reductions or automatic display shutoffs due to proximity to sensitive land uses; minimum advertising of goods, products, or services provided onsite; monetary contribution intended for streetscape amenities or publicly accessible open space that enhances the quality and comfort of the pedestrian experience; minimum 20-percent local hiring from Santa Ana residents to be considered for billboard removal alternatives through the Economic and Community Benefits Plan; and/or financial contributions to the City with the intent to achieve the same results.

DIVISION 3. – DEVELOPMENT, LIGHTING AND OPERATIONAL STANDARDS

Sec. 41-1130. - Permitted Locations.

New and reconstructed billboards, and the conversion of existing freeway oriented on-premise advertisement signs to a digital billboard:

- (a) Shall only be constructed on properties zoned and used for non-residential uses in any zoning district, including overlay zones, specific plans, and specific development zones. Such requirement may be modified by the Planning Commission through the approval of a Conditional Use Permit.
- (b) Shall be located within the Freeway Corridor as defined in Section 41-1101.
- (c) Shall not be located within five hundred (500) feet from any residentially zoned parcel, as measured from the border of the digital billboard face, or the base of the digital billboard structure, to the nearest property line of the residentially zoned property. Such requirement may be modified to be no less than one-hundred fifty (150) feet for mixed-use districts by the Planning Commission through the approval of a Conditional Use Permit
- (d) Shall be located outside any right-of-way owned by the California Department of Transportation (Caltrans).
- (e) Shall not significantly block or significantly impair views of any landmark identified in the General Plan.
- (f) To preserve views of the Santa Ana Water Tower, no billboard shall be constructed on any property adjacent to the northbound and southbound travel lanes of the Santa Ana (I-5) Freeway between Main Street and Grand Avenue.

Sec. 41-1131. - Development Standards.

- (a) All digital billboards shall comply with standards established by the California Department of Transportation (Caltrans) in effect at the time the permit is issued. These standards may prohibit the construction of digital billboards in landscaped areas and/or in zones where residential uses are permitted; may limit the size and height of digital billboards; and may require separation between billboards, among other provisions.
- (b) All new or reconstructed billboards shall be digital billboards. The construction or reconstruction of static billboards is prohibited.
- (c) The development standards in Table 41-1131 shall be applicable to all new and reconstructed billboards.

Table 41-1131 Digital Billboard Development Standards

Standard	
Maximum Sign Area/Face	As allowed by Caltrans
Maximum Number of Faces	Two (2)
Maximum Height	60 feet ⁽¹⁾
Spacing Between Billboards	1,000 feet ⁽²⁾
Number of Vertical Supports	One Vertical Support ⁽³⁾

Notes:

1. Measured from nearest adjacent curb level on the site on which the sign is constructed. May be modified through Planning Commission approval of a Conditional Use Permit.
2. The minimum separation between billboards shall be one-thousand (1,000) feet (including static billboards) or standards established by Caltrans in effect at the time the permit is issued, whichever is greater, as measured from the base of each billboard's vertical support.
3. All conduits, cables and appurtenances shall be concealed within the vertical support.

Sec. 41-1132. - Design Standards.

- (a) The words "Santa Ana" shall permanently appear on the billboard structure in a size large enough to be visible to drivers using the freeway. The precise location, size and font of the words shall be determined by the approval authority.
- (b) All ground-mounted equipment shall be screened from view at street level. The entire site occupied by the billboard shall be appropriately landscaped with groundcover and shrubs to the satisfaction of the approval authority.
- (c) Each freeway billboard must be oriented primarily for viewing from the freeway and shall be oriented, and adequately shielded if necessary, to prevent the trespass of light and glare upon any residential land use, including those in mixed-use districts, as exists on the date of building permit issuance.
- (d) The billboard shall utilize an innovative billboard format, shall creatively use the latest in technology to ensure digital image quality, and shall use innovative architectural features and materials.
- (e) All billboards shall plainly display, and be visible from no less than fifty (50) feet, the name of the person or company owning or maintaining such billboard, contact information for said person or company, and the billboard's identification number.
- (f) Billboards projecting over a driveway or drive aisle shall have a minimum clearance of 20 feet between the lowest point of the sign and the driveway grade.
- (g) No part of any billboard shall cross onto an adjacent property.
- (h) Billboards projecting over a pedestrian walkway shall have a minimum clearance of twelve (12) feet between the lowest point of the sign and the walkway grade.
- (i) All billboards not projecting over drive areas or pedestrian walkways shall have a minimum clearance of twelve (12) feet between the lowest point of the billboard and ground level.

Sec. 41-1133. - Lighting and Display Requirements.

- (a) Signs shall produce a maximum 0.3 foot-candles over ambient light levels.
- (b) The display brightness shall be controlled by a photocell or light sensor that adjusts the brightness to the required level based on ambient light conditions without the need for human input. Use of other brightness adjustment methods,

such as timer- or calendar-based systems, shall only be used as a backup system.

- (c) The display shall be factory-certified as capable of complying with the above brightness standards. Such certification shall be provided to the satisfaction of the Executive Director of the Planning and Building Agency, or his/her designee.
- (d) The sign owner shall provide to the City, upon request, certification by or compensation for an independent contractor to verify that the brightness levels of the digital billboard are in compliance with the requirements of this Section.
- (e) All signs shall be equipped with a control system that, in the event of a display or control malfunction, "freezes" the display on either a single, unchanging message, or a blank screen. An emergency shutoff switch shall be provided.
- (f) Any sign area not comprising the digital display panel is prohibited. This area includes, but is not limited to, static sign area, appendages, cutout letters, and figures. A frame surrounding the display panel up to twelve (12) inches in width shall be permitted; it shall not contain any sign copy or graphics, and shall not count toward the sign area.
- (g) Where screen transitions are used, such transitions shall not give the appearance of moving text or images. The sign copy shall not use flashing, intermittent or moving lights or produce the optical illusion of movement or use animation.
- (h) Each sign copy shall be displayed for a minimum of four (4) seconds. The still images may not move or present the appearance of motion and may not use flashing, scintillating, blinking, or traveling lights or any other means not providing constant illumination. Transition or blank screen time between one still image and the next may not exceed one (1) second.
- (i) All digital billboards must comply with all applicable laws and regulations concerning brightness, including, without limitation, California Vehicle Code Section 21466.5, and as amended.
- (j) All digital billboards must provide sufficient time for public service announcements as set forth in the approved Operating Agreement. Such public service announcements may not be concentrated during non-peak hours and must be evenly dispersed throughout peak hours so as to maximize their benefit for the community and passer-by traffic.

Sec. 41-1134. - Prohibited Features.

Freeway oriented billboards shall not contain any of the following features:

- (a) Moving parts.
- (b) Appendages, cutout letters, or figures that protrude beyond the flat surface of the sign face.
- (c) Lights that flash, shimmer, glitter or give the appearance of flashing, shimmering or glittering. Exceptions to this restriction include time, temperature and smog index units.

- (d) Walls or screens at the base of the sign which create a hazard to public safety or provide an attractive nuisance.
- (e) Copy which simulates any traffic sign in a manner which confuses the public.
- (f) Copy which duplicates any other content displayed on the sign.
- (g) Devices which emit audible sound, or odor or particulate matter.

Sec. 41-1135. - Maintenance and Monitoring.

- (a) No person shall allow any digital billboard located on property owned, occupied or controlled by such person to remain in a condition of disrepair for a period of more than fifteen (15) days. For purposes of this article, a billboard shall be deemed to be in a condition of disrepair if it is in need of replacement of defective or missing parts, has a broken or damaged sign face, or is in need of repainting or cleaning in order to be brought into a reasonably slightly and legible condition.
- (b) All billboard operators shall submit a Lighting Monitoring Report to the Planning Division upon installation, and at three-year intervals thereafter to confirm conformance with the lighting requirements set forth in this Article.
- (c) Complaints about lighting will be investigated by the City, and if determined necessary by the Executive Director of the Planning and Building Agency, the billboard operator shall provide an updated Lighting Monitoring Report within 72 hours of the notice from the City. The City shall reserve the right to conduct digital billboard lighting measurements. If the measured luminance and/or illuminance exceed the data presented in operator's Lighting Monitoring Report, the findings of the City report shall prevail. All cost shall be borne by the applicant/operator.

DIVISION 4. - BILLBOARD EXCHANGE PROGRAM.

Sec. 41-1140. - Applicability.

No building permit shall be issued for any new digital billboard, conversion/reconstruction of an existing freeway oriented static billboard, or conversion/reconstruction of an existing on-premise advertising sign to a digital billboard, until the removal ratios as required by the Operating Agreement pursuant to Section 41-1113 of this Article have been met by applicant. In addition, the following standards are shall apply:

- (a) Nonconforming billboards with more than one face shall be removed in their entirety and shall not be altered or partially dismantled in such a way as to leave behind one or more faces or portion(s) thereof.
- (b) No billboard shall be reduced in size or otherwise altered to provide for the required removal, and only whole, entire billboard(s) shall be removed. In no case shall less than the required amount of display surface area be removed.
- (c) Any billboard removed or demolished from within the City, or reduced in size, not in conjunction with a project requiring removal under this Article, shall not be credited toward the removal requirements of Section.

- (d) Billboards shall be removed with the following priority, in order of highest priority to lowest:
 - (1) Nonconforming billboards located on properties used for residential purposes or zoned for residential use.
 - (2) Nonconforming billboards not located adjacent to a street classified as a Freeway, Principal, Major Arterial, Primary Arterial and Secondary Arterial as defined by the Santa Ana Circulation Element, with the exception of those billboards located in Downtown Santa Ana.
 - (3) All other nonconforming billboards.
- (e) The City may allow the applicant to post a bond guaranteeing removal of the existing billboards prior to issuing permits for the applicable digital billboard in the freeway corridor.

Sec. 41-1141. - Overriding Economic and Community Benefit Considerations for Billboard Removal Exchange Ratio Reduction.

The billboard removal ratio as required pursuant to Section 41-1113 of this Article may be reduced subject to demonstration of overriding economic and community benefits as proposed in an Economic and Community Benefits Plan attached to and incorporated in a Billboard Operating Agreement as specified in Section 41-1113 of this chapter, subject to the satisfaction of the City Manager.

Section 5. Section 41-668 of Division 3 of Article V of Chapter 41 of the Santa Ana Municipal Code is hereby amended to read as follows:

Sec. 41-668. - Definitions.

(a) *Development project.* As used in this division, the term "development project" includes any of the following projects:

(1) The new construction of any building or buildings, and additions to any existing building or buildings, if new floor space of two thousand five hundred (2,500) square feet or more is constructed or added; but excluding the following:

- a. Single family homes;
- b. Room additions to duplexes;
- c. Tenant improvements not involving a change of use;
- d. Facade improvements;
- e. Equipment covers or structures to cover equipment.

(2) Tenant improvements involving an intensification or change in occupancy classification.

(3) Any project that requires a discretionary approval, excluding conditional use permits for operation of eating establishments between the hours of 12:00 a.m. and 5:00 a.m. and conditional use permits for the sale of alcoholic beverages.

(4) Construction of new digital billboards, conversion of an existing static billboard within to a digital billboard, conversion/reconstruction of existing on-premise digital signs, and relocation of billboards.

(b) *Discretionary approval.* As used in this division, the term "discretionary approval" means a conditional use permit, variance, minor exception, tentative map approval, change in use district designation, or similar entitlement for development, the granting of which involves the exercise of discretion, other than the plan approval process set forth in this division.

Section 6. Pursuant to the California Environmental Quality Act, the City Council has concurrently and separately reviewed, certified, and adopted the Final Initial Study/Mitigated Negative Declaration and the related Mitigation Monitoring and Reporting Program for this project/ordinance. On the basis of this review, the City Council found that there is no substantial evidence from which it can be fairly argued that the project will have a significant adverse effect on the environment.

Section 7. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Santa Ana hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 8. This Ordinance shall become effective thirty (30) days after its adoption.

Section 9. The Clerk of the Council shall certify the adoption of this ordinance and shall cause the same to be published as required by law.

ADOPTED this _____ day of _____, 2022.

Vicente Sarmiento
Mayor

APPROVED AS TO FORM
Sonia R. Carvalho, City Attorney

By: John M. Funk
John M. Funk
Chief Assistant City Attorney

AYES: Councilmembers: _____

NOES: Councilmembers: _____

ABSTAIN: Councilmembers: _____

NOT PRESENT: Councilmembers: _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, DAISY GOMEZ, Clerk of the Council, do hereby attest to and certify that the attached Ordinance No. NS-_____ to be the original ordinance adopted by the City Council of the City of Santa Ana on _____, 2022 and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: _____

Clerk of the Council
City of Santa Ana