



City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Staff Report
June 21, 2022

TOPIC: Zoning Ordinance Amendment No. 2022-01 (Billboards Ordinance)

AGENDA TITLE:

Public Hearing - The City of Santa Ana is Proposing to Repeal Article XII (Off-Premise Commercial Advertising Signs) of Chapter 41 (Zoning) of the Santa Ana Municipal Code (SAMC) and Adopt a New Ordinance that Would Allow the Construction of New Digital Billboards and Reconstruction of Existing Billboards with Digital Displays, Subject to Certain Location and Development Standards

RECOMMENDED ACTIONS

1. Adopt the resolution for Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, Environmental Review No. 2022-19, and
2. Approve first reading of an ordinance approving Zoning Ordinance Amendment (ZOA) No. 2022-01 to repeal Article XII of Chapter 41 of the Santa Ana Municipal Code and adopt a new off-premise commercial advertising signs (billboards) ordinance, and to modify thresholds for development project plan approvals for billboards.

EXECUTIVE SUMMARY

The City of Santa Ana is proposing to repeal Article XII (Off-Premise Commercial Advertising Signs) of Chapter 41 (Zoning) of the Santa Ana Municipal Code (SAMC) and re-adopt a new ordinance that would allow the construction of new digital billboards and reconstruction of existing billboards with digital displays, subject to certain location and development standards. The existing ordinance, adopted in 1984 and last modified in 1987, is out of compliance with State laws and does not address the evolving nature of the billboard industry. Under the proposed ordinance, digital billboards would be allowed subject to certain permit requirements, as well as obligations to remove static billboards in Santa Ana or community and economic benefit plan agreements.

Planning Commission Action

At its regularly scheduled meeting on April 25, 2022, the Planning Commission voted 6:0 (Vice-Chair Pham absent) to recommend that the City Council approve and adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and adopt an ordinance approving ZOA No. 2022-01. The recommendation to approve also includes modifications to the operating agreement section to address minimum local hiring requirements to be considered for alternatives to required billboard reductions in

the operating agreement template, and to incentivize local hiring from Santa Ana residents, which have been incorporated into the draft ordinance in Section 41-1113 and into the Economic and Community Benefits Plan segment in Section 1 of the draft Operating Agreement template that is described in further detail on page 5 of this report.

DISCUSSION

Background and Existing Conditions

Article XII of the Zoning Code was first adopted in 1984 (Ordinance NS-1722), allowing and regulating off-premise commercial advertising signs (billboards) subject to certain location and development standards. In 1987, the City Council adopted Ordinance NS-1915 to amend and update billboard regulations by excluding such advertising signs from “Critical Development Areas” and “Improvement Areas,” which restricted billboard placement in many areas of the City.

Beginning in 2017, the City Council directed staff to explore updating the existing billboard ordinance to allow for new digital billboards and the conversion (reconstruction) of existing billboards to digital displays subject to providing net economic and community benefits that may include public service announcements, reduction of existing static billboards within the City, and revenue sharing. Areas of exploration for new digital billboards included freeway corridors, Downtown parking structures, and the Santa Ana Stadium. Following this evaluation, in November 2018, staff provided feedback on the research to the former Economic, Development, Infrastructure, Budget & Technology (EDIBT) Committee in place at the time to proceed with regulations allowing digital billboards along freeways within City limits.

The City of Santa Ana Public Works Agency is in a concurrent process to enter into an agreement with a vendor for the installation of digital billboards and other digital advertisements on City-owned sites along freeways, major roadways, bus shelters, and City-owned parking structures in Downtown. This agreement was subject to separate consideration by the City Council and approved with modifications on April 19, 2022. However, the development regulations drafted for the agreement are consistent with those proposed by the ordinance that is the subject of this request.

There are currently 92 billboard structures in Santa Ana for off-premise advertising. These billboards are all static (non-digital) and are located along freeways and roadways, such as at major intersections and on major arterials. The existing billboards range in size, with small, medium, and large displays; displays with or without external illumination; and displays that are either single- or double-sided.

Nearly all of the existing off-premise billboards are legal nonconforming because they are located in areas identified as “Critical Development Areas” and “Improvement Areas” on a map adopted in 1987, and because of their size, location, and lack of billboard permit. Because the proposed ordinance would allow only digital billboards, these existing static

billboards would remain legal nonconforming. However, the proposed ordinance would allow installation of digital billboards in exchange for removal of static billboards citywide.

Proposed Ordinance

The proposed ordinance would allow the construction of new digital billboards and reconstruction of eligible existing, static billboards to contain digital displays. Digital billboards would be permitted only on sites near a freeway, and new static displays would be prohibited. Depending on the type of construction or conversion proposed, digital billboards would require administrative (staff) review and approval, or approval of a conditional use permit (CUP) by the Planning Commission. Table 1 of this report outlines the proposed review and approval process.

Table 1: Proposed Review and Approval Process

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 Sign	Development Project Plan	Director of PBA	Yes
	Conditional Use Permit	Planning Commission	
	Operating Agreement	City Manager	
Relocation of Existing Static or Digital Billboards ⁽¹⁾	Development Project Plan	Director of PBA	Yes
	Conditional Use Permit	Planning Commission	
	Operating Agreement	City Manager	
Notes:			
1. If required and permitted by the California Outdoor Advertising Act, as amended from time to time.			

All digital billboards would be subject to execution of an operating agreement of form and content acceptable to the City Manager. The use of operating agreements is similar to existing procedures and templates in use for other unique project types, such as commercial cannabis businesses. Table 2 of this report illustrates the proposed development standards for digital billboards.

Table 2: Proposed Development Standards

Item	Existing Ordinance	Proposed Ordinance
Site Use or Zoning	Prohibited on sites zoned Residential Estate (RE), Single-Family Residence (R1), Two-Family Residence (R2), Multiple-Family Residence (R3)/High-Density Multiple-Family Residence (R3H), Suburban Apartment (R4), Professional (P), and Civic Development (CD), as well as Critical Development Areas and Improvement Areas map.	Allowed sites zoned and used for non-residential purposes; may be modified with issuance of a CUP in specific development zones, specific plan areas, and overlay zones where mixed-use residential/commercial developments are permitted.
Location near Freeway	Prohibited within 750 feet of a freeway right-of-way.	Allowed within 300 feet of the edge of payment of a freeway.
Separation from Residential	Prohibited within 300 feet of residentially-zoned or used property.	Minimum 500-foot separation from residentially-zoned property; may be reduced to 150-foot separation subject to issuance of a CUP in specific development zones, specific plan areas, and overlay zones where mixed-use residential/commercial developments are permitted.
Overall Height	Maximum 35 feet.	Maximum 60 feet.
Size of Billboard Face	Maximum 300 square feet.	As permitted by Caltrans (maximum 25 feet by 60 feet, and maximum 1,200 square feet).
Separation Between Billboards	Minimum 800 feet.	Minimum 1,000 feet between digital billboards (as permitted by Caltrans)
Lighting	No external or internal (digital) illumination permitted.	No external illumination permitted; maximum illumination of digital display 0.3 foot-candles above ambient lighting conditions.
Permit Requirement	Billboard permit subject to Zoning Administrator review and approval; Relocation subject to billboard permit review and approval by the Zoning	New billboard: CUP + Operating Agreement Conversion/Reconstruction: Administrative Approval + Operating Agreement

Item	Existing Ordinance	Proposed Ordinance
	Administrator, and relocation agreement review and approval by the Planning Commission and City Council.	Conversion of Existing Digital On-Premise Sign and Relocation of Existing Billboard: CUP + Operating Agreement.
Operating Agreement	None required.	All billboards would be subject to execution of an Operating Agreement demonstrating provisions providing net economic and community benefits.
Billboard Removal and Economic and Community Benefits Obligations	None required.	All billboards would be subject to removal of static billboards from within Santa Ana, with an option for obligations to fulfill economic and community benefits.

Operating Agreement

Pursuant to Section 41-1113 of the draft ordinance, all billboards would be subject to execution of an Operating Agreement (OA) providing a minimum annual guarantee fee to the City equivalent to \$90,000 per face of the digital billboard in General Fund revenue and demonstrating provisions providing net economic and community benefits through an Economic and Community Benefits Plan.

Examples of the benefits include 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.

The OA template also contains provisions allowing sites to reduce obligations to remove nonconforming billboards, subject to certain criteria. These include being a regional automobile dealership, business, or commercial center, and demonstration of large volumes of taxable sales and minimum 20 percent local employment, commitment to physical onsite improvements, as well as committing to minimum 30 percent displays of goods or products sold onsite.

Analysis

Since the adoption of Ordinance Nos. NS-1722 and NS-1915, amendments to the 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 the 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.

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. 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 from areas of the city that may be inappropriate or cause blight.

Construction of new billboards is prohibited along highways designated as landscaped freeways with certain exceptions, including the construction of relocated billboards pursuant to California Business and Professions Code Section 5443.5 or the construction of new billboards along portions of landscaped freeways that have been declassified. Business and Professions Code Section 5412 further empowers a city to adopt ordinances or resolutions providing for the relocation of billboards. However, the relocation provisions contained in the current ordinance effectively prohibit relocation of billboards within the City; therefore, the proposed ordinance would bring the City's off-premise commercial advertising signs ordinance into compliance with State law.

Improvements in technology have also allowed for the modernization of advertising by way of the creation of digital messaging, which have been utilized by advertising companies throughout the nation for both on- and off-premise commercial advertising displays. In Santa Ana, digital on-premise advertising signs have been permitted by the Zoning Code since 2014; five such displays currently exist at MainPlace, the Discovery Cube, Tom's Trucks Center, McFadden Place, and the Auto Mall and will remain permitted through their respective Regional Planned Sign Program applications, pursuant to SAMC Sec. 41-885. The regulations applicable to these types of on-premise digital displays are reflected in the draft ordinance for off-premise digital signs, as they have been proven to effectively reduce the visual impact of digital signs based on ambient lighting conditions (i.e., sunny, cloudy, dawn/dusk, and nighttime brightness).

Should the ordinance be adopted and implemented, it is estimated that a total of 10-15 new digital or converted digital billboards may be constructed along either the Santa Ana

(I-5), Garden Grove (SR-22), and Costa Mesa (SR-55) freeways. The segments include portions of I-5 between MainPlace Mall and the Santa Ana Zoo, a small segment of SR-22 near Grand Avenue, and SR-55 between I-5 and MacArthur Boulevard. Portions of SR-22 and SR-55 near residential areas would be largely excluded due to proximity to residential areas and Caltrans designation as landscaped freeways. The ordinance's proposed development regulations would require that all displays be freeway-oriented to reduce visual impact onto any nearby private properties, such as residential uses, schools, and parks. As Santa Ana contains some of the region's most heavily-travelled freeways, the City is in a position to maximize visibility and revenue-generating capacities from the new billboards. The proposed ordinance is also drafted to be in compliance with all current applicable State and Federal regulations, including prohibitions against locating new digital billboards in any areas designated as landscaped freeway and/or scenic highways.

Public Notification and Community Outreach

The Planning Commission held three work-study sessions on the proposed ordinance in June and July 2020 and in February 2022. The three work-study sessions were published on each meeting's respective agendas. The Planning Commission posed questions and provided feedback to staff during each study session regarding location, separation, and digital display brightness, as well as economic and community benefits. The proposed ordinance is reflective of this feedback. As the work-study sessions were published on the meetings' agendas, opportunities were provided to the community to provide feedback and pose questions.

As part of the ordinance preparation process, including the release of the Mitigated Negative Declaration for the 30-day public comment period, the City notified and received communication from 10 established Neighborhood Associations that could be affected by construction or reconstruction of new digital billboards. These Neighborhood Associations include: Morrison/Eldridge Park, Fisher Park, Floral Park, Santa Ana Triangle, Park Santiago, Logan, Grand Sunrise, Mabury Park, Saddleback View, and Lyon Street. As of the date of this report's publication, no significant issues or concerns were identified by any of these 10 Neighborhood Associations' contacts or residents.

In accordance with Assembly Bill No. 52, the City sent invitations for consultation to local Native American tribes. Following the 30-day invitation period for consultation, no requests were received. Lastly, notifications of the proposed ZOA were published in accordance with City and State regulations. A copy of the public notice is provided in Exhibit 5.

ENVIRONMENTAL IMPACT

A Mitigated Negative Declaration (MND) including one technical study evaluating air quality and greenhouse gas, was prepared for the project. No areas of significance or unavoidable impacts were determined to occur from the construction or operation of the proposed project with the implementation of mitigation measures (Exhibit 1). The MND

was available for public review and comment for 30 days as required by CEQA between March 7 and April 6, 2022. One comment was received from the City of Orange. A written response to the comment were prepared and incorporated into the environmental document.

The project requires adoption of a Mitigation Monitoring and Reporting Program (MMRP), which will reduce all identified impacts to less than significant with implementation of the MMRP. Based on the environmental checklist form completed for the proposed project and supporting environmental analysis, the project would have no impact or a less than significant impact on the following environmental issue areas: Aesthetics, Agriculture and Forestry Resources, Air Quality, Biological Resources, Energy, Greenhouse Gas Emissions, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Transportation, Utilities and Service Systems, and Wildfire. The proposed project's impacts on the following issue areas would be less than significant with the implementation of mitigation: Cultural Resources, Geology and Soils, Hazards and Hazardous Materials, Tribal Cultural Resources. All impacts would be less than significant after mitigation.

FISCAL IMPACT

Applications for new or reconstructed/converted billboards are expected to generate up to \$95,000 in cost recovery monies stemming from application processing over the life of the ordinance, based on the current conditional use permit application fee of \$6,150.89 and up to 15 locations, subject to annual fee rate adjustments.

In addition, the estimated value of the economic and community benefits deriving from each billboard in monetary value is expected to generate a minimum of \$180,000 in General Fund revenue per double-sided billboard annually, subject to three-percent annual increases, or 30 percent of the annual net advertising revenue. The total expected minimum revenues based on up to 15 locations is \$2.7 million annually, an annual figure expected to be achieved over a five- to ten-year period.

EXHIBIT(S)

1. Resolution Approving and Adopting Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program
2. Ordinance approving Zoning Ordinance Amendment No. 2022-01.
3. Billboard Potential Areas Maps
4. Map of Existing Billboards in Santa Ana
5. Draft Operating Agreement Template
6. Copy of Public Notice

Submitted By: Minh Thai, Executive Director, Planning and Building Agency

Approved By: Kristine Ridge, City Manager