

Location:	Citywide
Assessor's Parcel Number:	N/A
Proposal:	In response to City Council Resolution No. 88463 the City is proposing to amend Oakland Planning Code Section 17.104.060, General Limitations on Advertising Signs, to add the ability of Advertising Signs to be permitted by Real Estate Agreement authorized by the Oakland City Council as a type of legislative approval accompanied by agreement required for new Advertising Signs on City-owned or City-leased property, and City-owned-rights-of-way.
Applicant:	City of Oakland
Phone Number:	(510) 238 3981
Owner:	City of Oakland
Case File Number:	ZA22009
Planning Permits Required:	Amendment to Oakland Planning Code Section 17.104.060
General Plan:	All General Plan Designations
Zoning:	All Zoning Districts
Environmental Determination:	The proposed amendments to the Oakland Municipal Code rely on the previous set of applicable California Environmental Quality Act (CEQA) documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs- West Oakland (2003), Central City East (2003), Coliseum (1995), and Oakland Army Base (2002); and various Redevelopment Plan Final EIRs (collectively, "Previous CEQA Documents"). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).
Historic Status:	N/A
City Council district:	All districts
Status:	Proposed amendments to Planning Code Section 17.104.060 to permit consideration by the City Council of Advertising Signs by Real Estate Agreement - in addition to the current allowance for consideration by Relocation Agreement and/or Franchise Agreement.
Staff Recommendation	Recommendation to City Council following receiving public comment and conducting public deliberation on item.
Finality of Decision:	Recommendation to City Council following receiving public comment and conducting public deliberation on item.
For further information:	Contact case planner Daniel Findley at (510) 238-3981 or by email at dfindley@oaklandca.gov

SUMMARY

In response to City Council Resolution No. 88463, the Planning Commission under Planning Code Section 17.144.030 (b) is receiving a proposal from the Bureau of Planning for amendments to Planning Code Section 17.104.060, General Limitations on Advertising Signs, to add “Real Estate Agreement” as a type of legislatively approved agreement required for the City Council to consider new or relocated Advertising Signs. Amending Section 17.104.060 of the Planning Code will enable the City to consider permitting Advertising Signs on City-owned property, private property leased by the City, or City-owned rights-of-way when an application is submitted in response to a request for proposals issued by the City for an Advertising Sign along with one or more of the following types of legislative agreements: Real Estate Agreement, Franchise Agreement, and/or Relocation Agreement.

The Bureau of Planning conducted the following to advance recommendations for the Planning Commission’s consideration: public outreach and engagement sessions; analysis of the City’s instruments and methods to address both public and private property (e.g. Development Agreements, leases, etc.); and public hearings before Planning Commission and the Zoning Update Committee during the development of this proposal.

The proposed code amendments would create an open, fair, and transparent competitive process for considering new Advertising Signs. They would allow the City to control the number, location, use and terms for any new Advertising Signs in order to safeguard the public interest in minimizing land use impacts while maximizing public and community benefit; and would allow the City to re-evaluate and renegotiate the terms of any such Advertising Sign approvals in the future once the term ends. It would also allow the City to consider all outstanding proposals it has recently received for new Advertising Signs.

While the proposed amendments to the Municipal Code cover several chapters, the Planning Commission’s review and recommendation shall be specific to the amendments for Title 17 of the Municipal Code (Oakland Planning Code). The background and references to other code provisions in this report are included to provide necessary context for understanding the proposal’s implication on location, character, and extent on the City’s land use under the Planning Commission purview.

BACKGROUND

On December 15, 2020, the City Council passed Resolution No. 88463 directing the Planning Commission under Planning Code Section 17.144.030(b) to: (a) initiate a process to consider amendments to Section 17.104.060 of the Planning Code (Oakland Advertising Signs Ordinance) and Section 14.04.270 of the Municipal Code (Oakland Sign Code) to amend the mechanisms by which the City may approve the installation and operation of new Advertising Signs via Development Agreements in very limited geographic areas in the City, to the extent legally permissible, and (b) upon the conclusion of such process, recommend specific text amendments to the Planning and Municipal Codes for the City Administrator to incorporate into a future ordinance.

The Resolution directed the City Administrator, upon the recommendations of the Planning Commission, to present to the City Council for review and consideration an ordinance amending the Oakland Advertising Signs Ordinance and Oakland Sign Code, and other such sections of the Oakland Municipal Code necessary to effectuate the amendment of mechanisms by which the City may approve the installation and operation of new Advertising Signs via Development Agreement in limited geographic areas of the city.

The current Planning Code Section 17.104.060 does not permit Advertising Signs in Oakland, except through a Franchise or Relocation Agreements, which does not go before the Planning Commission, but directly before the City Council for approval. The approval process is not within the Planning Commission's jurisdiction. In addition, the current Planning Code Chapter 17.138 Development Agreement Procedure does not list Advertising Signs as an eligible project for a Development Agreement. If the Planning Code was amended to allow Advertising Signs as an eligible project for a Development Agreement, it would have to be accompanied by a new type of planning permit for an Advertising Sign in a new Combining Zone that shows where Advertising Signs can be permitted. Both the Advertising Sign permit and Development Agreement would have to go to Planning Commission for a recommendation before it could be considered for approval by the City Council.

In February 2021, Planning staff presented an informational report to the Planning Commission, which then directed Staff to conduct a study session with the Zoning Update Committee (ZUC) of the Planning Commission. At the March 10, 2021 meeting with the ZUC, City Staff discussed the challenges of changing the Code to allow Advertising Signs through a Development Agreement, which would also require the creation of a new type of Planning permit to approve an Advertising Sign as well.

One of the main concerns a ZUC member brought up at the March 10, 2021 meeting was to look at the policy implications of Advertising Signs, and how to tie the approval of an Advertising Sign back to community benefits. There was some concern of how that could be done through a Development Agreement. A ZUC member suggested using a different permit type, similar to what was used for permitting scooters that was able to require community benefits. The City Attorney responded at the meeting that the scooter program was only on City rights-of-way, which permitted community benefits to be required because they are on City-controlled land. Another ZUC member noted that on City property a Development Agreement is not required for community benefits, which can be enacted instead through a Real Estate Agreement.

City Staff stated that they could not guarantee that a Development Agreement would be the most effective means for approval of an Advertising Sign because of the difficulty in ensuring that a Development Agreement can be applied in this circumstance for community benefits. The ZUC requested that the Bureau of Planning do more research on the policy implications of allowing Advertising Signs through a Development Agreement and how to tie them back to community benefits over the life of the Advertising Sign installation. The ZUC directed staff to provide an update to the Planning Commission in the future.

In November 2021, staff presented a subsequent informational report to the Planning Commission that described a potential permitting and approvals process whereby an applicant could apply for a new type of planning permit (Major Sign Permit) to install or relocate an Advertising Sign within an adopted freeway-adjacent Advertising Sign Combining Zone. The Major Sign Permit would need to be approved by the Planning Commission and City Council and be accompanied by one or more legislative agreements that would be specified within Title 14 of the Municipal Code. The report mentioned four types of agreements that could be used, which included the already allowed Relocation Agreement and Franchise Agreement, along with the newly proposed additions of a Development Agreement and Real Estate Agreement. The Development Agreement would be added as an allowance if Advertising Signs are to be considered on private property, while a Real Estate Agreement could be used if they are to be allowed on public property. The Planning Commissioners again discussed in their comments that they wanted to facilitate community benefits specifically for groups nearby where the Advertising Signs are built.

In winter 2021-2022, City Staff convened two virtual stakeholder meetings in which Advertising Sign company representatives and community stakeholders agreed that there was a mutual desire to limit excessive proliferation of Advertising Signs to prevent oversaturating the advertising market as well as for aesthetic purposes. In addition, there were many comments about using revenue from Advertising Signs to help non-profit community organizations. Also, there was interest in using Advertising Signs to alert the community with Amber Alerts and public service messages, such as where and how someone can receive a COVID vaccination.

Therefore, after hearing feedback from the ZUC, Planning Commission, and stakeholder meetings, there were three major themes that City Staff heard:

1. Limit the total number of new Advertising Signs to not dilute the market as well as for aesthetic reasons,
2. Create the best agreement process to allow for maximum community benefits,
3. Allow for a fair competitive process for Advertising Sign companies that do not have existing Advertising Signs in Oakland.

Staff concluded that the best way to address these concerns is by allowing new Advertising Signs on City-owned properties, private property leased by the City, and City-owned rights-of-way. Staff further concluded that the most appropriate mechanisms to facilitate community benefits is through the following: (1) a Real Estate Agreement; (2) existing Relocation Agreement mechanism, and (3) existing Franchise Agreement mechanism.

There is concern that permitting Advertising Signs on private property by Development Agreement uses such statutory agreements under Government Code sections 65864-65869.5 for a purpose that was not contemplated under State law. Further, by permitting Advertising Signs on private property not controlled by the City, there is a concern that the City would confer a vested right for the Advertising Sign to continue operation on the property in the face of subsequent City regulation. While some case law appears to allow the City to put a time limit on Advertising Signs through regulatory permits, the analysis is fact-based and does not cover every situation, such as where a private property owner has come to rely on the stream of income for their business.

Staff currently sees this situation manifest throughout Oakland as more than 400 Advertising Signs within neighborhoods and away from freeways continue to negatively impact neighborhoods

traditionally subjected to historically inequitable zoning laws, while the City is limited to negotiating relocation agreements.

These are among the reasons City Staff recommends limiting Advertising Signs to City-owned and leased properties, and City-owned rights-of-way. In addition, by adding the Real Estate Agreement, it allows for new Advertising Sign companies to compete equally with existing Sign companies.

OVERVIEW OF PROPOSED PLANNING CODE AMENDMENTS AND RFP PROGRAM

The City of Oakland has received several unsolicited proposals to install digital Advertising Signs in areas adjacent to freeways within the past few years on public and private property. The Oakland Municipal Code (OMC) currently does not allow for new Advertising Signs, except in extremely limited circumstances (by Relocation Agreement or Franchise Agreement).

In response to Council Resolution No. 88463, City Staff is proposing new regulations to govern the review and approval of new or relocated Advertising Signs. These regulations seek to clarify requirements, ensure fair and transparent competition, preserve neighborhood and transportation corridor character, promote orderly and equitable development in Oakland, and maximize public and community benefits.

The Bureau of Planning, with support from the Economic and Workforce Development (EWD) Department, has researched the legal and statutory considerations including Caltrans' requirements that regulate the Outdoor Advertising Act, as well as best practices from other cities for administering the review and approval of Advertising Signs. The Bureau of Planning proposes amending the Oakland Planning Code, as well as other titles of the OMC, to update and clarify the way in which the City may consider new Advertising Signs for review and approval.

The proposed new regulations would allow for the consideration of new or relocated Advertising Signs pursuant to a competitive Request for Proposals (RFP) process. An applicant could "apply" for an Advertising Sign only by submitting a proposal in response to the City's issuance of an RFP. Advertising Signs would only be allowed on City-owned or leased property or City-owned rights-of-way. City owned property, inclusive of right-of-way, constitutes a substantial land-base as mapped in **Attachments B and C**.

The RFP would have a point-based evaluation system that would award points to each Advertising Sign proposal submitted based on a set of public benefit criteria, including consideration paid to the City or City-approved nonprofit organizations located in impacted communities. Applicants with existing Advertising Signs within neighborhoods and along street corridors in Oakland would be required to remove a minimum number or percentage of those existing signs as part of their proposal. Such removal would not earn points under the RFP evaluation so as to not unfairly favor applicants with existing Advertising Signs. The RFP criteria will make it clear that the City's decision-making criteria is content-neutral, with points awarded on public benefit criteria only.

The applicant's right to install such Advertising Signs would be memorialized in one or more of

the following types of legislative agreements between the City and the applicant:

- **Real Estate Agreement:** for Advertising Signs on City-owned or leased property, or City-owned rights-of-way.
- **Relocation Agreement:** when removing existing Advertising Signs within neighborhoods and along corridors in the City (such as those within currently equity-impacted neighborhoods), and building fewer new Advertising Signs along the interstate in areas where people would be less impacted;
- **Franchise Agreement:** applicable if the City grants a franchise right for a public good or service that also includes advertising rights. Examples of these types of signs are public serving wayfinding signs or kiosks in the right-of-way, or public information signs on bus shelters.

The process to approve an Advertising Sign on City-owned or leased property or City-owned rights-of-way would only require City Council’s final approval of the Real Estate Agreement (and lease if on private property), Relocation Agreement, and/or Franchise Agreement. If a Development Agreement and new planning permit process were required, then Planning Commission review would also be required prior to consideration by the City Council. However, under staff’s recommended approach, the Planning Commission would not be involved in the approval process for an Advertising Sign since it would be a City Real Estate-related project, as opposed to a Planning-related entitlement. Staff’s proposed approach would also be a more efficient use of City staff resources, particularly in the Bureau of Planning, which must prioritize the approval of housing as expeditiously as possible. Therefore, by keeping the approval process under the sole purview of City Council, then Planning Staff and the Planning Commission would be able to focus on approving housing, especially affordable housing, in order to help address the housing crisis.

City-owned properties offered for Advertising Sign development would generally be very small, located in commercial and industrial areas and in some cases within the right-of-way, and would generally not be suitable for housing development. Staff would follow disposition procedures required by the Surplus Land Act (SLA), although it is expected that these transactions will be exempt from the SLA in most or all cases.

OVERVIEW OF AMENDMENTS TO OTHER TITLES OF THE OAKLAND MUNICIPAL CODE NOT UNDER THE PURVIEW OF THE PLANNING COMMISSION

The RFP program requirements are proposed to be set forth in OMC Title 5 – Business Tax, Permits, and Regulations (specifically OMC Chapter 5.97). Staff also proposes changes to OMC Title 14 – Signs, which would set forth the requirements for location, design, construction, and operation of Advertising Signs. The only change to the Planning Code would be to Section 17.104.060 which would expand the ability of the City Council to consider Advertising Signs by allowing them by Real Estate Agreement in addition to the existing allowance for Relocation Agreements and/or Franchise Agreements.

Title 5 – Business Tax, Permits, and Regulations (OMC Chapter 5.97)

Because staff recommends an RFP process for the selection of Advertising Sign proposals, it recommends the addition of OMC Chapter 5.97, Advertising Signs Selection Process For City-Owned Land, City-Leased land, and City-Owned Rights-of-Way within OMC Title 5 – Business Taxes, Permits, and Regulations.

The purpose of OMC Chapter 5.97 is to establish the selection process for the approval of new or relocated Advertising Signs on City-owned or leased property, including City rights-of-way. (See **Attachment D** for informational purposes). This new Chapter would also include procedures for the City's issuance of RFPs, evaluation and selection of proposals, and approval of such Advertising Signs via execution of a Real Estate Agreement (and lease if on private property), Franchise Agreement, and/or Relocation Agreement between the City and applicant. The new section would identify potential evaluation criteria such as:

1. Guaranteed one-time, up-front fee to the City or City-approved nonprofit(s);
2. Guaranteed minimum annual revenue payable to the City or a City-approved nonprofit(s) that are directly linked to the impacted community.
3. Total percentage of annual revenue to be shared with the City or City-approved nonprofit(s) directly linked to the impacted community;
4. Whether an Advertising Sign would require rehabilitation of public property, vacation of a public right-of-way, disruption to public services, or otherwise require use of public resources to prepare the site for an Advertising Sign;
5. Lease terms for use of private property, including amount of consideration due to private property owner; and
6. Other content-neutral, location-based considerations the City is required or entitled to consider under its police power. Such considerations would include: proximity to freeways, distance from residentially zoned areas, and impacts on sensitive receptor neighbors such as churches, schools, or historic resources. These findings help the City control any negative impacts the billboard may have, while also protecting the public health, safety and welfare.

In addition, if an applicant for the RFP program has existing Advertising Signs on private property in neighborhoods and along street corridors within the City, they would be required to propose removal or relocation of a minimum number or percentage of those signs as a *requirement for entry* into the RFP selection process.

Title 14 – Signs

Staff proposes amending Title 14 – Signs, in nearly its entirety such that the sole purpose of Title 14 is to establish requirements for the location, design, construction, and operation of Advertising Signs (see **Attachment E** for informational purposes). Examples of requirements include the following: the Advertising Sign be located in areas zoned industrial or commercial, within 500 feet of the freeway right-of-way, and no taller than 75 feet in height measured from finished grade of the freeway travel lane closest to the uppermost point of the Advertising Sign, except as may be approved for good cause as demonstrated by the applicant and determined in the sole discretion of the City. In addition to location and physical requirements, Title 14 also describes operational requirements for digital Advertising Signs such as minimum display time for rotating advertising

messages and brightness levels of the advertising display as well as utilize the most energy efficient lighting.

BENEFITS OF THE PROPOSED APPROACH

Staff recommends the above approach to considering Advertising Signs for the following reasons:

1. The RFP process would create a fair and transparent competitive process. This is similar to the existing process required by the OMC for disposition and development of public land.
2. All outdoor advertising companies would be allowed to compete, whereas existing regulations only allow participation from companies that can remove existing Advertising Signs in Oakland.
3. In order to participate in the RFP process, companies that have existing Advertising Signs would have to agree to remove them in accordance with existing regulations before they could submit a proposal.
4. The RFP process would allow the City to control the number of new or relocated Advertising Signs, thereby facilitating orderly development.
5. Not requiring a planning entitlement in the form of a Major Sign Permit and accompanying Development Agreement would allow for a more streamlined approval process that would go directly to City Council for approval and preserve staff resources for the production of housing.
6. By limiting Advertising Signs to City-controlled land, the City can control where Advertising Signs may be allowed, including on private land if warranted, based on public health, safety and welfare considerations.
7. Advertising Signs on City-owned land would maximize public and community benefits because revenue derived from the Advertising Sign on City-owned land would not need to be shared with a private property owner. This could significantly increase the amount of revenue available for the public and community organizations and would be evaluated in the RFP process.
8. By limiting Advertising Signs to City-controlled land, the City can capture more of the revenue generated by the new Advertising Signs, offsetting any lost revenue to the City and community partners caused by potential devaluation of existing Advertising Sign agreements due to market dilution. See below for additional discussion of market dilution.
9. The City would be able to re-evaluate and renegotiate the terms of all Advertising Signs approved through this process once the term of the legislative agreement expires. There is risk that the City would be unable to do so if the signs were placed on private property that is not leased to the City for this purpose, as discussed further below.
10. The RFP's point-based evaluation system would reward proposals that generate maximum public benefit. Some examples of consideration given on a points-based system may include: a percentage revenue given to the City and/or a designated non-profit on a yearly basis, minimum guaranteed annual revenue, and/or the amount of upfront money provided to the City and/or a designated non-profit. Other public benefits may also be considered by the City Council based on their ability to regulate under the police power.
11. The proposed process would facilitate the removal of Advertising Signs in

- neighborhoods and along street corridors by requiring that applicants with existing signs in Oakland remove some of those signs. Applicants without existing signs would not be disadvantaged because this would be structured as a requirement for entry into the RFP process rather than an evaluation criterion.
12. The RFP process would allow the City to control for negative impacts that new Advertising Signs may have on the community by selecting which City-controlled land may be used for Advertising Signs. An Advertising Sign's location characteristics, such as distance from residentially zoned areas and impacts on sensitive places such as churches, schools, or historic resources buildings would all be considered when choosing the sites.
 13. This approach would allow the City to consider all outstanding proposals it has recently received for new Advertising Signs. Proposals on private property would need to be modified so that the property is leased to the City rather than to the Advertising Sign developer.
 14. This approach would also allow the City to solicit, evaluate and negotiate new Advertising Signs more efficiently by treating them as a real estate and economic development opportunity rather than a strictly land use regulatory matter.
 15. The Bureau of Planning's limited staff resources can be focused on approving housing, including affordable housing and Accessory Dwelling Units (ADUs), as well as meeting State housing production requirements and timeframes for approval.

KEY ISSUES AND IMPACTS

Economic Development

Allowing for new Advertising Signs is expected to generate economic development benefits by stimulating economic activity in the form of new advertising. In addition, because any new Advertising Sign would require an agreement with the City and payment of consideration, the proposed approach is expected to generate revenue that the City and/or City-selected nonprofit organizations can spend on public services and community-serving programs, which will go to directly compensate areas traditionally impacted by inequitable zoning decisions like past Advertising Sign location decisions that continue to impact communities today.

Market Dilution

Currently, the City and City-designated non-profits derive revenue from at least nine existing Advertising Signs along major freeways, which are used to fund a variety of public services and community-serving programs. Staff is concerned that allowing additional Advertising Signs without meaningful limit within the City may reduce these revenues because of a saturation in the market. However, by limiting new Advertising Signs to City-controlled land (owned or leased from a private party), staff expects that any revenue lost under existing agreements could be recovered in the revenue derived from new agreements. Allowing new Advertising Signs broadly on private property without a corresponding lease to the City, could compromise the City's ability to recapture this revenue and maximize the public benefit of new or relocated Advertising Signs, which would otherwise be invested back into communities that are traditionally impacted by Advertising Signs.

Greater Control of Competition For Limited Sites

Because Caltrans regulations do not allow any Advertising Signs within 500 feet of each other or electronic Advertising Signs within 1,000 feet of other electronic Advertising Signs on the same side of the freeway, whenever there are two or more Advertising Signs proposed by competing applicants closer than 500/1,000 feet from each other, this would cause a conflict. By having applicants respond through an RFP process, it allows the City to strategically select those proposals based on location considerations, which enhances the City's use of its authority to regulate the location of Advertising Signs.

Private Property Owner and Advertising Sign Operator Initiated Development Agreement and Potential for Vested Rights on Private Property

There is concern that permitting Advertising Signs on private property by Development Agreement uses statutory Development Agreements under Government Code sections 65864-65869.5 for a purpose that was not contemplated. Further, by permitting Advertising Signs on private property not controlled by the City, there is a concern that the City would confer a vested right for the Advertising Sign to continue operation on the property in the face of subsequent City regulation. Staff currently sees this situation manifest throughout Oakland as more than 400 Advertising Signs within neighborhoods and away from freeways continue to negatively impact neighborhoods traditionally subjected to historically inequitable zoning laws, while the City is limited to negotiating relocation agreements. Were these Advertising Signs subject to a lease with the City, the City could cause their removal at the end of an agreed-upon term. These are among the reasons City staff recommends limiting Advertising Signs to City-owned property, private property leased by the City, and City-owned rights-of-way and requiring Advertising Sign owners with existing Advertising Signs to remove a corresponding number of their existing Advertising Signs as a requirement to participate in the RFP process.

GENERAL PLAN ANALYSIS

The Land Use and Transportation Element (LUTE) identifies two policies pertaining to Oakland's long-term strategy for Advertising Signs (referred to as billboards in the LUTE). Those policies are as follows:

Policy N12.7 and Policy I/C4.3 Billboard Reduction

Billboards should be reduced or eliminated in commercial and residential areas in Oakland neighborhoods through mechanisms that minimize or do not require the expenditure of City funds.

Policy T6.5 Protecting Scenic Routes

The City should protect and encourage enhancement of the distinctive character of scenic routes within the city, through prohibition of billboards, design review, and other means.

The Scenic Highways Element of the General Plan, adopted by City Council in 1974, addresses itself to the preservation and enhancement of designated scenic highways and routes, namely: 1) the segment of the MacArthur Freeway (I-580) between the I-580/I-980 interchange and the border

with San Leandro, and 2) the Skyline Boulevard/Grizzly Peak Boulevard/Tunnel Road corridors. One of the general policies of the Scenic Highways Element is that: “Billboards should be prohibited, and other signs should be controlled along freeways and parkways” - which is consistent with LUTE Policy T6.5, Protecting Scenic Routes. The City’s Scenic Highways Element defers to the State’s Outdoor Advertising Act as “sufficient to satisfy the billboard treatment demanded by the State’s guidelines for scenic highways.” However, the Scenic Highways Element goes on to explain that although billboards are prohibited in the I-580 corridor, there is a lack of strict implementation and enforcement of the Oakland Sign Code and the Outdoor Advertising Act.

By amending Titles 14 and 17 of the Oakland Municipal Code, and through the creation of O.M.C. Chapter 5.97 in Title 5, staff proposes the process described in the Overview of Proposed Planning Code Amendments and RFP Program as a mechanism through which some Advertising Signs could be considered along non-scenic highway designated freeway corridors; and Advertising Sign companies can help reduce or eliminate Advertising Signs in commercial and residential neighborhoods in exchange for new or relocated Advertising Signs in less impactful areas near designated freeways. While some expenditure of City funds could be expected to administer the proposed RFP procedure, the requirement for an agreement with the City and payment of consideration guarantees a maximum public benefit to the City with each approved Advertising Sign. Furthermore, since the Scenic Highways Element suggests that there is a lack of implementation and enforcement of the Oakland Sign Code, by amending O.M.C. Titles 14 and 17, and creating a new Chapter in O.M.C. Title 5, Oakland can implement and enforce the Oakland Sign Code and the Outdoor Advertising Act by designating O.M.C. Title 14 solely for the administration of Advertising Signs.

ENVIRONMENTAL DETERMINATION

The proposed amendments to the Oakland Municipal Code rely on the previous set of applicable California Environmental Quality Act (CEQA) documents including: the Coliseum Area Specific Plan EIR (2015); Broadway Valdez Specific Plan EIR (2014); West Oakland Specific Plan EIR (2014); Central Estuary Area Plan EIR (2013); Land Use and Transportation Element of the General Plan EIR (1998); the Oakland Estuary Policy Plan EIRs (1999, 2006) and Supplemental EIR (2013); the Redevelopment Area EIRs- West Oakland (2003), Central City East (2003), Coliseum (1995), and Oakland Army Base (2002); and various Redevelopment Plan Final EIRs (collectively, “Previous CEQA Documents”). No further environmental review is required under CEQA Guidelines Sections 15162 and 15163. Moreover, each as a separate and independent basis, this proposal is also exempt from CEQA pursuant to Public Resources Code Section 21080.17 and CEQA Guidelines Sections 15183 (projects consistent with General Plan and Zoning) and 15061(b)(3) (general rule, no significant effect on the environment).

ACTION REQUESTED OF THE PLANNING COMMISSION:

Staff encourages the Planning Commission to review the proposed amendments to Planning Code Section 17.104.060 General Limitations on Advertising Signs, receive public comment, provide any feedback to Planning staff, and make a recommendation to the City Council for its consideration.

Staff requests that the Planning Commission

1. Affirm Planning staff's Environmental Determination; and
2. Recommend that the City Council approve the proposed amendments to Planning Code Section 17.104.060 to permit consideration of Advertising Signs by Real Estate Agreement in addition to Relocation Agreement and/or Franchise Agreement.

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ATTACHMENTS:

- A. Proposed Planning Code Amendments – Title 17 (OMC Section 17.104.060)
- B. Advertising Signs & City-owned Lands & ROW West Oakland
- C. Advertising Signs & City-owned Lands & ROW East Oakland
- D. Proposed Oakland Municipal Code Amendments – Title 5 (OMC Chapter 5.97)
- E. Proposed Oakland Municipal Code Amendments – Title 14

Attachment A: Proposed Planning Code Amendments – Title 17 (OMC Section 17.104.060)

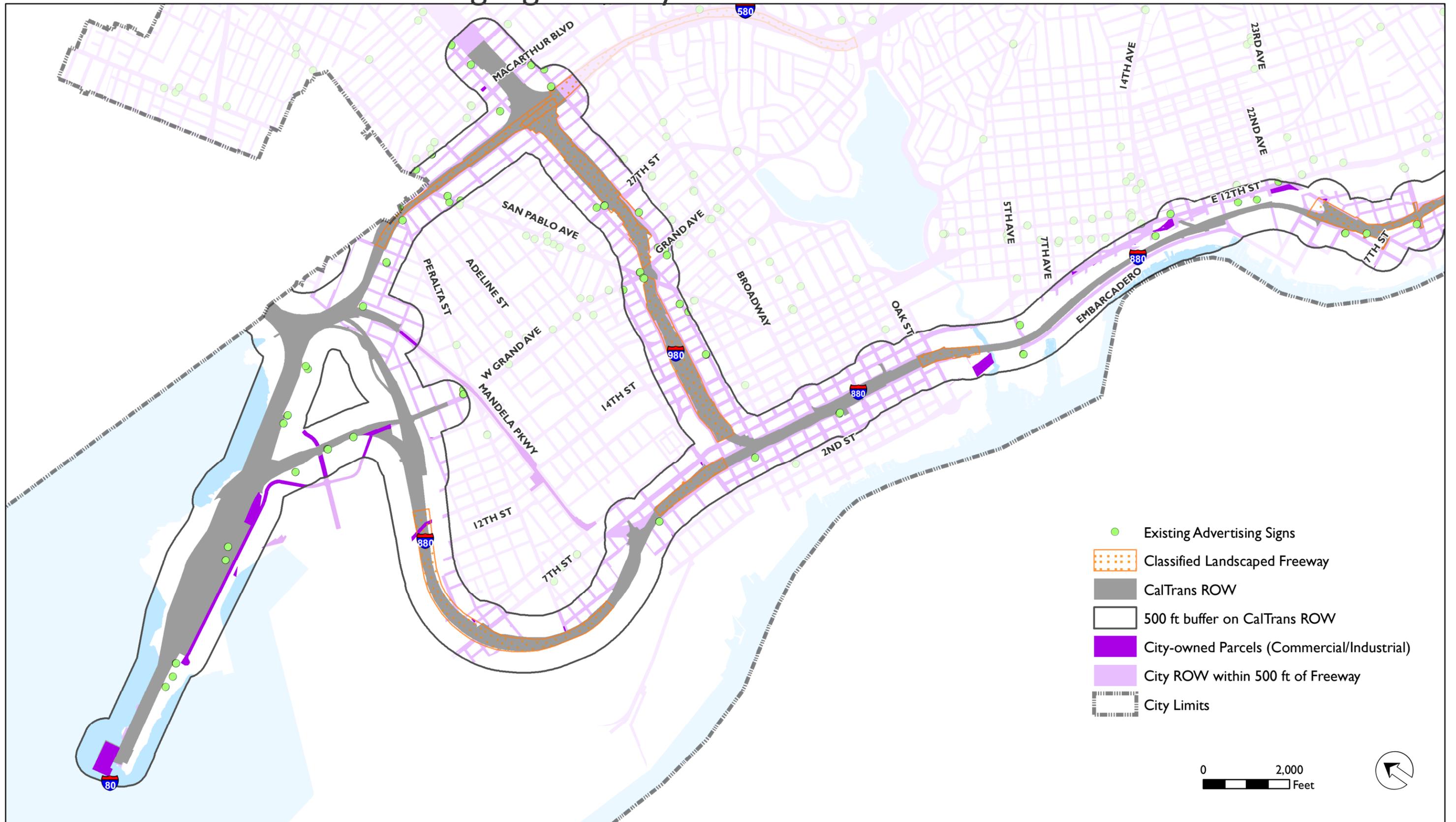
PROPOSED PLANNING CODE AMENDMENTS

The following are the Planning Code amendments proposed by staff. Deletions are in ~~strike out~~ and additions are underlined.

17.104.060 – General Limitations on Advertising Signs

Notwithstanding any provisions to the contrary contained within the ~~Planning Code~~ Municipal Code, Advertising Signs are not permitted in Oakland except: (1) as otherwise provided for in this Code, or (2) pursuant to a Franchise Agreement, Real Estate Agreement, or Relocation Agreement authorized by the Oakland City Council, which expressly allows Advertising Signs and then only under the terms and conditions of such agreements. Advertising Signs are only allowed under the procedures and regulations set forth in Oakland Municipal Code (OMC) Chapter 5.97 Advertising Signs Selection Process for City-Owned Land, City-Leased Land, and City-Owned Rights-of-Way and OMC Title 14 Advertising Sign Regulations.

Attachment B: Advertising Signs & City-owned Lands & ROW West Oakland



Advertising Signs & City-owned Lands & ROW West Oakland

Planning and Building Department
October 14, 2022

Attachment C: Advertising Signs & City-owned Lands & ROW East Oakland



Advertising Signs & City-owned Lands & ROW East Oakland

Planning and Building Department
October 14, 2022

Attachment D: Proposed Oakland Municipal Code Amendments – Title 5 (OMC Chapter 5.97)

PROPOSED MUNICIPAL CODE AMENDMENTS

The following are the Municipal Code amendments proposed by staff and is an entirely new chapter to be inserted into Title 5 of the Municipal Code. This is for informational purposes only.

Chapter 5.97—ADVERTISING SIGNS SELECTION PROCESS FOR CITY-OWNED LAND, CITY-LEASED LAND, AND CITY-OWNED RIGHTS-OF-WAY

5.97.010—Purpose.

The purpose of this Chapter is to establish the selection process for the approval of new or relocated Advertising Signs on City-owned land, City-leased land, and City-owned rights-of-way, and includes procedures for the City’s issuance of a Request for Proposals (RFPs), evaluation and selection of proposals, and approval of such Advertising Signs via execution of a Real Estate Agreement, Franchise Agreement, or Relocation Agreement.

5.97.020—Findings.

Allowing for the installation of new or relocated Advertising Signs on City-owned, City-leased land, or City-owned rights-of-way allows for the provision of the following public benefits:

- A. Removal of blight from existing Advertising Signs (i.e., billboards) in traditionally impacted neighborhoods;
- B. Economic development;
- C. Delivery of public service messages on such Advertising Signs; and
- D. Generation of revenue to finance public services and community-serving programs, specifically in communities historically impacted by: (1) inequitable zoning laws and (2) previous billboard location decisions.

5.97.030—Definitions.

As used in this Chapter, the following terms are defined herein, and to the extent a Planning Code and/or Municipal Code Chapter and/or Section is referenced herein, such reference shall also include future amendments, if any:

“Advertising Sign” means the same as defined in Planning Code Section 17.10.850.

“City-controlled property” means land, buildings, structures and other fixtures or immovable property affixed to land either owned by the City or over which the City has a leasehold estate, rental, license or other exclusive or non-exclusive right under a less than fee simple estate to use or occupy such real property.

“City-owned rights-of-way” means the surface of and the space above and below any street, road, highway, freeway, bridge, lane, path, alley, court, sidewalk, parkway, parkstrip, drive, or right-of-way generally available to and used for travel by the public, now or hereafter existing within the City which may be properly used and the City has the authority to permit any party to use for the placement of Advertising Signs.

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“Franchise Agreement” means an agreement by which the City grants non-exclusive rights to use the public right-of-way to install and operate an Advertising Sign that has a primary purpose of delivering a public-serving message or otherwise communicating a message or set of messages that provide public benefits or services. Examples of Advertising Signs that may be permitted through Franchise Agreements include, but are not limited to, public transportation signs, such as those located on bus shelters, wayfinding signs and kiosks, or signs with public safety messages. The City Council has broad discretion in determining whether a Franchise Agreement is the appropriate agreement for the approval of a specific Advertising Sign. A Franchise Agreement does not confer a real property interest.

“Real Estate Agreement” means an agreement by which the City grants rights to use or occupy City-controlled property or a City-owned right-of-way for a set term. Such agreement shall be in the form of a lease meeting the requirements of Oakland Municipal Code (O.M.C.) Chapter 2.42.

“Relocation Agreement” means an agreement between the City and an existing owner of Advertising Sign(s) to remove and/or relocate existing Advertising Sign(s) in order to build a lesser number of Advertising Signs or facilitate a more appropriate location for existing Advertising Sign(s), such as along freeways, pursuant to location requirements under O.M.C. Title 14. Such agreements are encouraged under the California Outdoor Advertising Act (Business and Professions Code section 5200 et seq.)

5.97.040—Process to Apply for Advertising Signs By Real Estate Agreement on City-Controlled Property or City-Owned Right-of-Ways.

- A. **Competitive Process for Advertising Signs by Real Estate Agreement.** Applicants may only apply for an Advertising Sign on City-controlled property or City-owned rights-of-way by Real Estate Agreement in response to a Request for Proposals (RFP) issued by the City. Upon receipt of proposals, the City may conduct such investigations of the proposals as are necessary to consider the proposals. The City Administrator may request such additional information as set forth in the RFP program’s technical bulletin, Advertising Sign Design Guidelines, or Administrative Regulations as may be adopted pursuant to Section 5.97.060 of this Chapter.
- B. **Notice.** Notice of the RFPs shall be published once in an official local newspaper of general circulation or posted on the City's website for a period of not less than thirty (30) days. Notice of RFPs shall also be provided by email upon request from an Advertising Sign company or member of the public.
- C. **Approval by Ordinance.** New or relocated Advertising Signs approved pursuant to this Chapter shall be authorized only by an ordinance adopted by the City Council pursuant to City Charter.
- D. **Consideration.** Rent, revenue-sharing, upfront payment and/or other forms of consideration shall be required to utilize City-controlled property or City-owned rights-of-way for the installation and operation of Advertising Signs. City Council may approve the payment of such consideration to nonprofit organization(s) in lieu of payment to the City, provided the City Council adopts a finding that the nonprofit organization(s) provide community benefits in Oakland and that such payment is in the best interest of the City.
- E. **Removal of Existing Advertising Signs.** Applicants who own or control existing Advertising Signs must include in their proposals an offer to permanently remove existing Advertising Signs in order to be eligible for consideration in the RFP program, in accordance with criteria set forth in the RFP.
- F. **Proposals.** A written proposal shall be filed with the City Administrator or their designee for the review of RFP response proposals for Advertising Signs.

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1. To be acceptable for filing, a signed original of the proposal application shall be submitted along with copies as may be required in the RFP. The proposal must conform with the requirements of the applicable RFP, and contain all information required under Section 5.97.040. All proposals shall include the names and addresses of persons authorized to act on behalf of the applicant with respect to the proposal.
 2. The City Administrator may specify the information that must be provided in connection with an RFP. At a minimum, each proposal must: identify the applicant, where it plans to install or relocate the Advertising Sign(s), approval and construction schedule; evidence demonstrating that the applicant is financially, technically and legally qualified to install or relocate and operate the Advertising Sign; and rent, revenue-sharing provisions, upfront payment and/or other forms of consideration to be paid to the City and/or proposed nonprofit organization(s).
 3. A proposal shall respond to requests for information completely, and within the time directed by the City, and must strictly comply with procedures, instructions, and requirements the City may establish in the RFP or its supporting technical bulletins, Advertising Design Guidelines or administrative regulations.
 4. A proposal may be rejected if it is incomplete or the applicant fails to follow applicable RFP procedures or respond fully to information requests.
 5. Should staff determine that it has not received adequate proposals in volume and content, after the submission deadline has passed, staff reserves the right to:
 - i. Extend the submission deadline to a reasonable extension date of its choosing;
 - ii. Revise and publish a new RFP or an addendum to the RFP; or
 - iii. Close the RFP.
- G. **Evaluation Criteria.** In evaluating a proposal for new Advertising Sign, the City may consider awarding points to proposals that demonstrate public benefit criteria including but not limited to the following criteria. The applicable evaluation criteria shall be set forth in the RFP.
1. Guaranteed one-time, up-front payment to the City or City-approved nonprofit(s) for the mitigation of community impacts resulting from historically inequitable zoning decisions, including past billboard placement decisions;
 2. Guaranteed minimum annual revenue payable to the City or City-approved nonprofit(s) for the mitigation of community impacts resulting from historically inequitable zoning decisions, including past billboard placement decisions;
 3. Total percentage of annual revenue to be shared with the City or City-approved nonprofit(s) for the mitigation of community impacts resulting from historically inequitable zoning decisions, including past billboard placement decisions;
 4. Whether an Advertising Sign would require rehabilitation of public property, vacation of public right-of-way, disruption to public services, or otherwise require use of public resources to prepare the site for an Advertising Sign;
 5. Lease terms for use of private property, including amount of consideration due to private property owner; and
 6. The specific location characteristics of the Advertising Sign proposal ensures the Advertising Sign will have no or very minimal impact on neighboring uses, specifically sensitive receptors, such as churches, schools, historic resources, residential uses, and similar land uses.

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7. Whether the Advertising Sign also includes public-serving amenities which may include but not limited to examples such as community bike share, charging station for electric vehicles, or air filtration system

- H. **Proceedings.** If the City Administrator or their designee finds that it is in the public interest to approve an Advertising Sign considering some or all the factors as stated in Section 5.97.040(F), the City shall initiate proceedings with the applicant to negotiate one of the agreements (Franchise Agreement, Real Estate Agreement, and Relocation Agreement) set forth in O.M.C. Section 5.97.30.

5.97.050—Construction, design, and location requirements for Advertising Signs.

The applicant shall comply with mechanical construction, design, and location requirements for Advertising Signs set forth in O.M.C. Title 14.

5.97.060—Technical Bulletins, Advertising Sign Design Guidelines and Administrative Regulations.

The City Administrator or their designee is responsible for the administration of this Chapter, and is authorized to develop and require compliance with one or more technical bulletins, Off-site Advertising Sign Design Guidelines, and/or administrative regulations containing interpretations, clarifications, forms, design renderings, and commentary to facilitate implementation of any requirements set forth in this Chapter.

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PROPOSED MUNICIPAL CODE AMENDMENTS

The following are the Municipal Code amendments proposed by staff. Deletions are in ~~strike-out~~ and additions are underlined. This is for informational purposes only.

Title 14 SIGNS ADVERTISING SIGNS

Chapters:

~~Chapter 14.04 Oakland Sign Code Advertising Sign Standards~~

Sections:

14.04.010 Title — ~~Uniform Sign Code, Purpose~~

A. ~~This title shall be known as the "Oakland Sign Code," may be cited as such, and will be referred to herein as "this title" or "this code."~~

B. ~~The Uniform Sign Code, Copyright 1976 by International Conference of Building Officials, copies of which have been placed on file with the City Clerk for use and examination by the public and by Resolution No. 56311 C.M.S. declared to be public records, as the Uniform Sign Code has been deleted, changed and supplemented with approval of this Council, and each and all of the regulations, provisions, conditions, requirements and terms thereof are adopted as Oakland sign code for regulating the design, quality of materials, construction, location, electrification, and maintenance of all sign and sign structures not located within a building in the city of Oakland, and by this reference is incorporated herein and made a part hereof to the same effect as though set forth herein in full.~~

The purpose of this Chapter is to establish City requirements for the location, design construction, and operation of Advertising Signs. See OMC Chapter 5.97 for the procedure for the review of Advertising Signs and OMC Section 17.104.060 for permissible use of Advertising Signs.

14.04.020 ~~Changes, additions and deletions~~ General Limitations on Advertising Signs

A. ~~The changes, additions and deletions in the copies of the Uniform Sign Code placed on file with the City Clerk, hereinafter set forth and designated, are approved and adopted.~~ Notwithstanding any provisions to the contrary contained within the Municipal Code, Advertising Signs are not permitted in the City of Oakland except as provided below:

1. New, relocated or wholly reconstructed Advertising Signs as part of a billboard relocation agreement authorized by the City of Oakland or Oakland Redevelopment Agency prior to November 18, 1997 provided further that the restrictions contained in Ordinance No. 12025 C.M.S., as amended by Ordinance No. 12085 C.M.S., shall apply so that there shall be no increase in the number of billboard faces allowed to promote the sale of Tobacco Products or Alcoholic Beverages, regardless of the location of said billboard faces;
2. Relocated or wholly reconstructed Advertising Signs pursuant to a Franchise Agreement, Real Estate Agreement, or Relocation Agreement as per the procedure set forth in Chapter 5.97 Advertising Sign Procedure authorized by the City Council, which expressly allows Advertising Signs and then only under the terms and conditions of such Agreements;
3. New or relocated Advertising Signs located on City-controlled property and/or City-owned public right-of-way as approved and authorized in accordance with Chapter 5.97

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Advertising Signs Selection Process for City-Owned Land, City-Leased Land, and City-Owned Rights-of-Way and Title 14. Advertising Sign Regulations.

14.04.030 ~~Section 101 amended~~ Application.

Section 101 is changed to read as follows:

~~—Sec. 101. This Ordinance shall be known as the Oakland Sign Code, may be cited as such, and will be referred to herein as "this Ordinance" or "this Code." Where reference is made to the Uniform Building Code, it shall mean the Oakland Building Code.~~

A. Application for an Advertising Sign meeting the definition in Section 14.04.050 and the criteria for allowed consideration in Section 14.04.020 shall be made in accordance with Chapter 5.97 of the Oakland Municipal Code. The application shall be accompanied by such information including, but not limited to, site plans, drawings and elevations, and operational data, as may be required to enable the pertinent Physical and Operational Standards in Sections 14.04.050 and 14.04.060 to be applied to the proposal.

B. Applications for Advertising Signs shall be consistent with the provisions set forth by the California Outdoor Advertising Act.

14.04.040 ~~Section 102 amended~~ Definitions.

The third paragraph of Section 102 is amended to read as follows:

~~—The regulations of this Code are not intended to permit any violation of the provisions of any other lawful City ordinance, or State or Federal law.~~

As used in this Chapter:

"Advertising Sign" means any sign described in Oakland Planning Code Section 17.10.850.

"Digital Advertising Sign" means any Advertising Sign utilizing digital message technology, capable of changing the static message or copy on the sign electronically, such that the alphabetic, pictographic, or symbolic informational content of which can be changed or altered on a fixed display surface composed of electronically illuminated or electronically actuated or motivated elements can be changed or altered electronically. A Digital Advertising Sign may be internally or externally illuminated. This includes Advertising Signs with displays that are preprogrammed to display only certain types of information and Advertising Signs whose informational content can be changed or altered by means of computer-driven electronic impulses. This includes, without limitation, Advertising Signs also known as Electronic Advertising Signs or LED Advertising Signs.

14.04.050 ~~Section 103(c) amended~~ Physical Standards.

Section 103(c) is changed to read as follows:

~~—Sec. 103(c). Appeals. The Board of Examiners and Appeals created by virtue of Section 204 of the Oakland Building Code shall have the same powers and exercise the same function with respect to the Oakland Sign Code as it presently has and exercises with respect to the Oakland Building Code.~~

A. Location. Application for an Advertising Sign shall only be considered if located: (1) on city-controlled land, real estate, or City-owned public right-of-way; (2) within five hundred (500) feet from the edge of the right-of-way of an interstate or primary highway, with its copy oriented toward the highway with the purpose of its message being visible and readable from the main traveled way; and (3) in areas zoned Industrial or Commercial, as defined and specified in Title 17 of the Oakland Municipal Code.

B. Cal-Trans Requirements. The Advertising Sign shall meet all relevant California Department of Transportation (Caltrans) requirements where applicable.

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- C. Maximum Height. No Advertising Sign shall exceed seventy-five (75) feet in height inclusive of supporting structures, measured from finished grade of the freeway travel lane closest to the sign to the uppermost point of the Advertising Sign, except as may be approved for good cause as demonstrated by the applicant and determined in the sole discretion of the City.
- D. Minimum Clearance. All Advertising Signs projecting over a freeway shall comply with all Caltrans requirements for placement, minimum height over freeway lanes, and operation. All Advertising Signs projecting over a pedestrian path of travel shall have a minimum clearance of twenty (20) feet between the lowest point of the sign and path of travel grade.
- E. Number of faces. No Advertising Sign shall have more than one face (display surface) oriented in the same vertical plane.
- F. Visibility. All Advertising Signs shall plainly display the Advertising Sign number and name of the person or company owning or operating the Advertising Sign, to be readable by a person with average eyesight from no less than one hundred (100) feet.

14.04.060 Section 103(d) amended Operational Standards.

Section 103(d) is changed to read as follows:

~~SECTION 103(d). VIOLATIONS AND PENALTIES~~

- ~~—a. It shall be unlawful for any person, firm or corporation to construct, locate, electrify, or maintain any sign or sign structure in the City or cause the same to be done contrary to or in violation of any of the provisions of this code.~~
- ~~—b. Any person, firm or corporation violating any provisions of this code shall be deemed guilty of an infraction unless otherwise provided in this Code.~~
- ~~—c. Each, person, firm or corporation shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this code is committed, continued or permitted by such person and shall be punishable accordingly.~~
- ~~—d. In addition to the penalties here and above provided, any condition caused or permitted to exist in violation of any of the provisions of this code shall be deemed a public nuisance and may be by the City of Oakland summarily abated as such.~~
- ~~—e. Any person convicted of an infraction under the provisions of this code shall be punishable upon a first conviction of a fine of not more than \$50.00, and for a second conviction within a period of one year by a fine of not more than \$100.00, and for a third or any subsequent conviction within a one year period by a fine of not more than \$250.00. Any violation beyond the third conviction within a one year period may be charged by the City Attorney or the District Attorney as a misdemeanor and the penalty for conviction of the same shall be punishable by a fine of not more than \$500.00 or by imprisonment in the county jail for a period of not more than six months or by both.~~
- ~~—f. In addition to the punishment provided by law, a violator is liable for such costs, expenses and disbursements paid or incurred by the City or any of its contractors in correction, abatement and prosecution of the violation.~~
- ~~—g. Pursuant to section 836.5 of the California Penal Code, the Chief Building Inspector or his authorized representatives are hereby authorized to enforce this Code and arrest violators thereof.~~
- ~~—h. The City Manager shall have the power to designate by written order that particular officers or employees shall be authorized to enforce particular provisions of this code in addition to those officers enumerated in subsection g. Officers or employees so designated shall have the authority to arrest persons who violate any of said provisions.~~

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- A. No Advertising Sign shall display any statement or words of an “obscene, indecent, or immoral character,” as it applies to the California Business and Professions Code Section 5402 and judicial decisions interpreting the same.
- B. Advertising Signs shall not create a hazard to public safety or provide an attractive nuisance and shall be continually maintained free from graffiti.
- C. Advertising Signs shall not be operated in such a fashion as to constitute a hazard to safe and efficient operation of vehicles on streets or freeways and shall comply with all applicable Federal, State, and local laws and regulations. Advertising Signs and Digital Advertising Signs when operated in accordance with the operational standards and pursuant to Federal, State and local laws, shall be deemed to be in compliance with this subsection C.
- D. No Advertising Sign shall simulate or imitate any directional, warning, danger or information sign, or any display likely to be mistaken for any permitted traffic sign intended or likely to be construed as giving warning to traffic, by, for example, the use of the words “stop” or “slow down.”
- E. No Advertising Sign shall involve any red or blinking or intermittent light likely to be mistaken for warning or danger signals nor shall its illumination impair the vision of travelers on the adjacent freeway and/or roadways. Digital Advertising Signs, when operated in accordance with the operating criteria in subsection B. above, shall be deemed to be in compliance with this subsection E.
- F. No Advertising Sign shall be operated or maintained so as to constitute an improper display, as defined or described in Business and Professions Code Section 5403.
- G. Digital Advertising Sign operating requirements.
 - 1. Each static message shall not include flashing lights or the varying of light intensity, nor have movement, or the appearance or optical illusion of movement.
 - 2. Minimum display time of each message shall be no less than four (4) seconds
 - 3. Digital Advertising Signs shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter at a pre-set distance.
 - 4. Pre-set distances to measure the foot candles’ impact vary with the expected viewing distances of each size Advertising Sign. Measure distance criteria shall be:

<u>Nominal Face Size</u>	<u>Distance to be measured from:</u>
<u>12’ x 25’</u>	<u>150’</u>
<u>10’6 x 36’</u>	<u>200’</u>
<u>14’ x 48’</u>	<u>250’</u>
<u>20’ x 60’ or 25’ x 48’</u>	<u>350’</u>

- 5. Each Digital Advertising Sign must have a light sensing device that adjusts the brightness as ambient light conditions change.
- 6. In the event of a Digital Advertising Sign malfunction, each Digital Advertising Sign shall be designed to freeze the display in one static position, display a full black screen, or turn off completely.
- 7. Each Digital Advertising Sign shall be connected to the National Emergency Network and provide emergency information, including child abduction alerts (e.g., “Amber Alerts”), in accordance with local and regional first responder protocols.
- 8. Digital Advertising Signs must utilize the most energy efficient lighting and technology that is possible and available

14.04.070 ~~Section 202 amended~~ Restricting the placement of outdoor advertisements for alcoholic beverages and tobacco products.

Section 202 is changed to read as follows:

~~—Sec. 202. ADVERTISING SIGN is any sign, poster, placard, device, graphic display, or any other form of advertising promoting the sale of a commodity which is not sold, produced, conducted, or offered by any activity on the same lot.~~

No Person shall place any Advertising Sign promoting the sale of Alcoholic Beverages or Tobacco Products in Publicly Visible Locations. This Section shall be construed to apply only to Commercial Speech.

14.04.080 ~~Section 206.1 added~~ Technical Bulletins, Advertising Sign Design Guidelines and Administrative Regulations.

Section 206.1 is added to read as follows:

~~—Sec. 206.1. Freeway. The term "Freeway" shall be deemed to mean a highway in respect to which the owners of abutting lands have no right or easement of access to or from their abutting lands or in respect to which such owners have only limited or restricted right or easement of access, and which is declared to be such in compliance with the Streets and Highways Code of the State of California.~~

The City Administrator or their designee is responsible for the administration of this Chapter, and is authorized to develop and require compliance with one or more technical bulletins, Advertising Sign Design Guidelines, and/or administrative regulations containing interpretations, clarifications, forms, design renderings, and commentary to facilitate implementation of any requirements set forth in this Chapter.

~~14.04.090 Section 207.1 added.~~

Section 207.1 is added to read as follows:

~~—Fire Retardant Treated Wood is lumber or plywood impregnated with chemicals and when tested in accordance with U.B.C. Standard No. 42-1 for a period of 30 minutes, shall have a flame spread of not over 25 and show no evidence of progressive combustion. Materials which may be exposed to the weather shall maintain this fire-retardant classification when tested in accordance with the rain and weathering tests of U.B.C. Standard No. 32-7.~~

~~—All materials shall bear identification showing the fire performance rating thereof and, if intended for exterior use, shall be further identified to indicate suitability for exposure to the weather. Such identifications shall be issued by an approved agency having a service for inspection of materials at the factory.~~

~~14.04.100 Section 212 amended.~~

Section 212 is amended to add:

~~—PERSON is any individual, firm, organization, corporation, partnership, cooperative, association, receiver, trustee, assigns, public or private entity, or other legal entity.~~

~~—PUBLICLY VISIBLE LOCATION is any location that is open to or visible to the public from any street, sidewalk, or other public thoroughfare, and shall include the placement of outdoor signs such as billboards, signs attached to the sides of buildings, signs attached to poles, posts or other figures, and freestanding signboards on the sidewalk.~~

~~14.04.110 Section 215 amended.~~

Section 215 is amended to add:

~~—Sec. 215. TOBACCO PRODUCTS are any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipes, tobacco, snuff, chewing tobacco and dipping tobacco; cigarette papers; or any other instrument or~~

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paraphernalia that is designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any controlled substance.

14.04.120 Section 304 amended.

Section 304 is changed to read as follows:

—Sec. 304. Checking Fees and Permit Fees. A checking fee and permit fee for each sign permit shall be paid to the Building Official. Such fees shall be established by the Master Fee Schedule.

—A determination of valuation under any of the provisions of this Code shall be made by the Building Official.

—Where work for which a permit is required by this Code is started or proceeded with prior to obtaining said permit, the fees established by the Master Fee Schedule shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of this Code in the execution of the work nor from any other penalties prescribed herein.

14.04.130 Section 307 added.

Section 307 is added to read as follows:

—Sec. 307. Expiration. Every sign permit issued by the Building Official under the provisions of this Code shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 120 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 120 days. Before such work can be recommenced, a new permit shall first be obtained so to do and the fee therefor shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided, further, that such suspension or abandonment has not exceeded one year.

14.04.140 Section 401(c) amended.

The title and first paragraph of Section 401(c) are changed to read as follows:

—Sec. 401(e). Allowable Stresses; Structural Design. Structural design shall conform to the requirements of the Oakland Building Code.

14.04.150 Section 402(a) amended.

Section 402(a) is amended to add:

—Lights used for illuminating signs not herein classified as electric signs may extend over the sidewalk for a distance not to exceed four (4) feet beyond the property line, provided such lights are installed with a vertical clearance of at least ten (10) feet above the sidewalk.

14.04.160 Section 402(c) amended.

Section 402(c) is changed to read as follows:

—Sec. 402(c). Restrictions on Combustible Materials. All signs and sign structures erected in Fire Zone No. 1 shall have structural members of non-combustible material.

—Ground signs may be constructed of any material meeting the requirements of this Code, except as provided above.

—Combination signs, roof signs, wall signs more than sixteen (16) square feet, and signs on marquees shall be constructed of noncombustible materials, except as provided in subsection (d) of this Section. No combustible materials other than approved plastics shall be used in the construction of electric signs.

—EXCEPTION: Use of fire-retardant treated wood or other alternate methods or materials may be substituted for non-combustible materials in non-electric signs only, when approved by Building Official and Fire Marshal.

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14.04.170 Section 403(a) amended.

Section 403(a) is changed by deletion of the words "and No. 4-C."

14.04.180 Section 403(d) amended.

Section 403(d) is changed to read as follows:

—Sec. 403(d). Obstruction of Openings. No sign shall obstruct any opening to such an extent that light or ventilation is reduced to a point below that required by any law or ordinance.

14.04.190 Section 503(b) amended.

Section 503(b) is changed to read as follows:

—Sec. 503(b). Thickness. The thickness of that portion of a fin sign which projects over public property shall not exceed a maximum of three feet (3').

14.04.200 Section 803(b) amended.

Section 803(b) is changed to read as follows:

—Sec. 803(b). Clearance and Access. Roof signs exceeding five feet (5') in height shall have vertical clearance above the roof directly beneath not less than five feet (5') with vertical supports at least six feet (6') apart. No less than fifty percent (50%) of the spaces so defined shall be and remain clear of obstruction. The face of such sign shall be set back at least three feet (3') from the inside of the parapet, or wall adjacent thereto, and the ends of the sign shall be not less than one foot (1') inside the inside face of the parapet or wall adjacent to such end.

14.04.210 Section 903 amended.

Section 903 is changed to read as follows:

—Sec. 903. No wall sign shall have a projection over public property greater than the distances set forth in Table No. 4-B, except that working platforms for the servicing and maintenance of such signs may extend a distance not to exceed thirty-six (36") inches if not less than fourteen feet (14') above the sidewalk.

—Wall signs not exceeding one third (1/3) the length of the wall on which attached may extend a maximum of six feet (6') above the top of the wall.

14.04.220 Section 1003(b) amended.

Section 1003(b) is changed to read as follows:

—Sec. 1003(b). Thickness. The thickness of a projecting sign shall not exceed three feet (3').

14.04.230 Section 1103(b) amended.

Section 1103(b) is changed to read as follows:

—Sec. 1103(b). Thickness. The thickness of that portion of a combination sign which projects over public property shall not exceed a maximum of three feet (3').

14.04.240 Table 4-B amended.

Table 4-B, Projection of signs, is changed to read as follows:

TABLE 4-B — PROJECTION OF SIGNS

~~CLEARANCE~~ — ~~MAXIMUM PROJECTION~~

~~Less than 7'~~ — ~~Not permitted~~

~~7' to 9'~~ — ~~1'~~

~~9' to 10'~~ — ~~2' (Maximum for all wall signs)~~

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Over 10' ————— 8'

~~14.04.250 Table 4-C deleted.~~

~~Table 4-C, Thickness of projecting sign, is deleted.~~

~~14.04.260 Section 1302 amended.~~

~~Section 1302 is changed to read as follows:~~

~~—Sec. 1302(a). Construction and Installation. Electric signs shall be constructed and installed in accordance with the requirements of the Electrical Ordinance of the City of Oakland (Chapter 9 of the Oakland Municipal Code) and the rules and regulations prescribed and established pursuant thereto (Electrical Code).~~

~~—(b). Erector's Name. Every electric sign shall have placed within easy view the following information:~~

- ~~—1. Name of sign erector~~
- ~~—2. Date of erection~~
- ~~—3. Electrical power consumption (in amperes)~~
- ~~—4. Lamp complement~~

~~—Such information shall be in sufficient size and contrast to be readable from a reasonable distance. Failure to provide such information shall be grounds for rejection of the sign by the Building Official.~~

~~14.04.270 Chapter 15 added.~~

~~Chapter 15 is added to read as follows:~~

~~CHAPTER 15 SIGNS ADJACENT TO FREEWAYS~~

~~—Sec. 1501. Signs Prohibited Adjacent to Freeways. No sign shall be erected, constructed, relocated or maintained in the City of Oakland if such sign is designed to have or has the advertising thereon maintained primarily to be viewed from a freeway, provided that the provisions of this section shall not apply to any sign constructed, painted or maintained on which the advertising is limited to one or all of the following:~~

- ~~—1. The name of the person, firm or corporation occupying the premises and the type of business conducted by such person, firm or corporation.~~
- ~~—2. The name of the product manufactured on the premises.~~
- ~~—3. A sign not exceeding six square feet in area appertaining only to the lease, hire, sale, or display of the building or premises.~~
- ~~—4. Time and temperature units.~~
- ~~—5. New, relocated or wholly reconstructed advertising signs in the M-40 Heavy Industrial Zone as part of a billboard relocation agreement authorized by the City of Oakland or Oakland Redevelopment Agency prior to November 18, 1997 provided further that the restrictions contained in Ordinance No. 12025 C.M.S., as amended by Ordinance No. 12085 C.M.S., shall apply so that there shall be no increase in the number of billboard faces allowed to promote the sale of Tobacco Products or Alcoholic Beverages, regardless of the location of said billboard faces.~~
- ~~—6. Relocated or wholly reconstructed advertising signs pursuant to a franchise agreement or relocation agreement authorized by the City Council, which expressly allows advertising signs and then only under the terms and conditions of such agreements.~~

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~~—Sec. 1502. Existing Signs Not Conforming to Sec. 1501. Any sign which does not conform to the provisions of Sec. 1501, but which conformed to the rules and regulations in effect at the time of its erection, shall be deemed a nonconforming sign and may exist, except that:~~

~~—(a) Within three years from the effective date of the rule or regulation rendering such sign illegal; or within three years from the date of a freeway, or portion thereof, is opened to public travel; or, as to any such sign which is being maintained pursuant to the terms of a written lease with a sign company, within the term of said lease or within five years from the vacation or change of occupancy of the premises upon which said sign is located, whichever date shall occur first; all such nonconforming signs shall be removed, or shall be rearranged or relocated so as to eliminate any conflict with the provisions of said section; provided, however, that any existing sign which has been permitted by a variance granted by the City Council, prior to the adoption of these provisions, shall not be required to be so removed, rearranged, or relocated until within three years from the date of a freeway, or portion thereof, from which such sign is viewed, has been landscaped. For the purposes of this section, a landscaped freeway shall be deemed to mean a section or sections of a freeway which has or have been improved by the planting, on at least one side of the freeway right-of-way, of lawns, trees, shrubs, flowers, or other ornamental vegetation which shall require reasonable maintenance. Planting for the purpose of soil erosion control, traffic safety requirements, reduction of fire hazards, or traffic noise abatement, shall not change the character of a freeway to a landscaped free-way. The Building Official and Director of City Planning and Traffic Engineer shall determine by a majority decision whether any sign is nonconforming as herein provided.~~

~~—(b) No such nonconforming sign shall be altered, reconstructed, or relocated unless the same when so altered, reconstructed or relocated will not be in conflict with any of the provisions and will conform with all the requirements of Section 1501.~~

~~—For the purposes of this section only, the terms "altered", "reconstructed" or "maintained" shall not include normal maintenance; changing of the surface sign space, ornamental moulding, pilasters or ornamental features below the base line; or the addition, construction, installation or changing of electrical wiring or electrical devices, backgrounds, letters, figures, characters, or representation in cutout or irregular form.~~

~~—Sec. 1503. Signs Constituting Hazard to Freeway Traffic. No sign constructed, painted or maintained on any building which is permitted by Sections 1501 and 1502 of this Code shall be permitted in any event if it, because of its location, size, nature or type constitutes or tends to constitute a hazard to the safe and efficient operation of vehicles upon a freeway, or creates a condition which endangers the safety of persons or property thereon.~~

~~—Sec. 1504. Statement in Application. Every application for a sign shall contain a statement by the applicant that said sign is not designed to have or has the advertising thereon maintained primarily to be viewed from a freeway, or that if said sign is so designed it falls within one or more of the exceptions provided for in Section 1501.~~

~~—Sec. 1505. Consideration of Application by Building Official, Traffic Engineer and Director of City Planning. Every application for a sign shall be considered by the Building Official, Traffic Engineer and Director of City Planning for the purpose of determining whether or not the proposed sign falls within the prohibitions of Section 1501 or Section 1503. This determination shall be by a majority decision.~~

~~—Sec. 1506. Appeal to City Council. Any person aggrieved by the decision of the Building Official, Traffic Engineer and Director of City Planning made pursuant to the provisions of Sections 1502, 1503 and 1505 may appeal to the City Council. The appeal shall be filed with the City Clerk within ten days from the date of decision. The Clerk shall, with the approval of the Council, set the time and place of hearing, and give notice thereof to all interested parties. The Council shall fully advise itself in the premises and render its decision affirming, modifying, or reversing the determination of the Building Official, Traffic Engineer, and Director of City Planning. The Council's decision shall be final.~~

(Ord. 12425 § 3, 2002; Ord. 12234 § 5, 2000; Ord. 9468 § 2 (part), 1977)

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~~14.04.280 Chapter 16 added.~~

Chapter 16 is added to read as follows:

CHAPTER 16

RESTRICTING THE PLACEMENT OF OUTDOOR ADVERTISEMENTS FOR ALCOHOLIC BEVERAGES AND TOBACCO PRODUCTS AND ESTABLISHING ENFORCEMENT PROCESSES

~~—Purpose~~

~~—Sec. 1601. The primary purpose of this Section is to promote the general welfare and reduce illegal consumption and purchase of Alcoholic Beverages and Tobacco Products by minors. This is accomplished by limiting the exposure of minors to Publicly Visible Advertisements of Alcoholic Beverages and Tobacco Products.~~

~~—Restrictions~~

~~—Sec. 1602. Outdoor Advertising of Alcoholic Beverages or Tobacco Products. No Person may place any Advertising Sign promoting the sale of Alcoholic Beverages or Tobacco Products in Publicly Visible Locations.~~

~~—Exceptions~~

~~—Sec. 1603. Exceptions.~~

~~—(a) The provisions of Section 1602 shall not apply to:~~

~~—1. Any sign located on a property designated with one of the following General Plan Land Use categories:~~

~~—Business Mix~~

~~—General Industrial/Transportation~~

~~—Mixed Use Waterfront/Estuary Plan Area~~

~~—Regional Commercial~~

~~—And that portion of the Central Business District, bound by Castro Street, 11th Street, Franklin Street, 13th Street, Harrison Street, Grand Avenue, Telegraph Avenue, Broadway, 14th Street to Castro Street.~~

~~—Except that no alcohol or tobacco Advertising Sign in these areas shall face into other adjoining land use designations and that no alcohol or tobacco Advertising Sign shall be placed within 1,000 ft. of schools, City-owned youth recreation centers, licensed child care facilities, places of worship, and Raimondi Field.~~

~~—2. The placement of Signs: (a) inside premises that lawfully sell Alcoholic Beverages or Tobacco Products, including without limitation, any neon or electrically charged Sign that is provided as part of a promotion of a particular brand of product; (b) on commercial vehicles used for transporting Alcoholic Beverages or Tobacco Products; or (c) in conjunction with a one-day Alcoholic Beverage sales license or temporary license issued by the California Department of Alcoholic Beverage Control;~~

~~—3. Any Sign that contains the name or slogan of a business that sells Alcoholic Beverages or Tobacco Products that has been placed for the purpose of identifying the business;~~

~~—4. Any Advertising Sign that does not refer to a specific brand of Alcoholic Beverages or Tobacco Products;~~

~~—5. Any Advertising Sign on a taxicab;~~

~~—6. Any Advertising Sign adjacent to and facing an interstate highway.~~

~~—(b) This section shall not be construed to permit any Advertising Sign that is otherwise restricted or prohibited by law.~~

~~—Public Service Advertising~~

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~~—Sec. 1604. Construction. This Chapter shall be construed to apply only to Commercial Speech.~~

~~—Sec. 1605. Administrative Enforcement. Any person who violates, disobeys, omits, neglects, refuses to comply with, or resists the enforcement of any of the provisions of this ordinance shall be subject to procedures contained in the Municipal Code Chapter 1.08; Chapter 1.12; and Chapter 1.16.~~

~~—Sec. 1606. Administrative Penalties. When an Authorized Enforcement Official finds that a violation of this Chapter has taken place or is likely to take place, the Enforcement Official may assess: a) civil penalties pursuant to the standards and procedures established in Chapter 1.08 of the Oakland Municipal Code; b) administrative citations pursuant to the standards and procedures established in Chapter 1.12 of the Oakland Municipal Code; and/or c) property use limitations pursuant to the standards and procedures established in Chapter 1.16 of the Oakland Municipal Code; and any amendments or revisions thereto.~~

~~—Sec. 1610. Civil Actions. In addition to other remedies provided in this Chapter, any violation of this Chapter may be enforced by a civil action brought by the City. In such action, the City may seek, and the Court shall grant, as appropriate, any or all of the following remedies:~~

~~—a) A temporary and/or permanent injunction;~~

~~—b) Assessment of the violator for costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for reasonable costs of preparing and bringing legal action under this subsection, including but not limited to attorney compensation;~~

~~—c) Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation.~~

~~—Sec. 1611. Continuing Violation. Unless otherwise provided, a person shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this Chapter is committed, continued or permitted by the person and shall be punishable accordingly as herein provided.~~

~~—Sec. 1612. Concealment. Causing, permitting, aiding, abetting or concealing a violation of any provision of this Chapter shall constitute a violation of such provision.~~

~~—Reinspection Fees~~

~~—Sec. 1613. Reinspection Fees. Whenever an Authorized Enforcement Official determines that upon reinspection of the premises there has been a failure to comply with any orders, notices or directions of the City, the Enforcement Official may charge a reinspection fee.~~

~~—Remedies Not Exclusive~~

~~—Sec. 1614. Remedies Not Exclusive. Remedies under this Chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive. The Enforcement Official shall have the discretion to select a particular remedy to further the purposes and intent of the Chapter, depending on the particular circumstances. The Enforcement Official's decision to select a particular remedy is not subject to appeal.~~

~~—Joint and Several Liability~~

~~—Sec. 1615. Joint and Several Liability. The property owner and the Advertising Sign owner/operator shall be jointly and severally liable for violations of this Chapter.~~

~~—Disclaimers~~

~~—Sec. 1616. Disclaimers. By prohibiting the advertising or promotion of alcoholic beverages and tobacco products in outdoor or publicly visible locations, the City of Oakland is assuming an undertaking only to promote the general welfare by discouraging and reducing the illegal purchase and consumption of alcoholic beverages and tobacco products to minors. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.~~

~~—Severability and Validity~~

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~~—Sec. 1617. Severability and Validity. If any portion of this Chapter or the application thereof to any person or circumstances is declared invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Chapter and the application of such portions to other persons or circumstances are to be considered valid. To this end, the provisions of this Chapter are severable.~~

~~14.04.290 Violations and penalties.~~

~~A. — It is unlawful for any person, firm or corporation to construct, locate, electrify, or maintain any sign or sign structure in the city or cause the same to be done contrary to or in violation of any of the provisions of this code.~~

~~B. — Any person, firm or corporation violating any provisions of this code shall be deemed guilty of an infraction unless otherwise provided in this code.~~

~~C. — Each, person, firm or corporation shall be guilty of a separate offense for each and every day during any portion of which any violation of any of any provision of this code is committed, continued or permitted by such person and shall be punishable accordingly.~~

~~D. — In addition to the penalties here and above provided, any condition caused or permitted to exist in violation of any of the provisions of this code shall be deemed a public nuisance and may be by the city of Oakland summarily abated as such.~~

~~E. — Any person convicted of an infraction under the provision of the code shall be punishable upon a first conviction by a fine of not more than one hundred dollars (\$100.00) and, for a second conviction within a period of one year, by a fine of not more than two hundred dollars (\$200.00) and, for a third or any subsequent conviction within a one-year period, by a fine of not more than five hundred dollars (\$500.00). Any violation beyond the third conviction within a one-year period may be charged by the City Attorney or the District Attorney as a misdemeanor and the penalty for conviction of the same shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the County Jail for a period of not more than six months or by both.~~

~~F. — In addition to the punishment provided by law, a violator is liable for such costs, expenses and disbursements paid or incurred by the city or any of its contractors in correction, abatement and prosecution of the violation.~~

~~G. — Pursuant to section 836.5 of the California Penal Code, the Chief Building Inspector or his authorized representatives are authorized to enforce this Code and arrest violators thereof.~~

~~H. — The City Manager shall have the power to designate by written order that particular officers or employees shall be authorized to enforce particular provisions of this code in addition to those officers enumerated in subsection G of this section. Officers or employees so designated shall have the authority to arrest persons who violate any of the provisions.~~