

Location:	Citywide subject to location restrictions
Proposal:	The City is proposing to amend Oakland Planning Code (O.P.C.) Section 17.104.060, General Limitations on Advertising Signs, to allow new outdoor Advertising Signs on private and City-owned properties subject to certain location restrictions with discretionary approval by the City Council.
Applicant:	City of Oakland
Case File Number:	ZA22009
Planning Permits Required:	Oakland Planning Code Amendment to O.P.C. 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). In addition, the proposed amendments are exempt pursuant CEQA Guidelines Sections 15301 (Existing Facilities); 15302 (Small Structures); 15303 (Minor Alterations to Land) and 15332 (Infill Development Projects). No exceptions to these exemptions apply.
Historic Status:	N/A
City Council district:	District 3 within 250 feet of Interstates 80, 580 and 880; Districts 2, 5, 6, and 7, within 250 feet of Interstate 880
Status:	Review of draft amendment to O.P.C. Section 17.104.060 to allow new outdoor Advertising Signs on private and City-owned properties subject to certain location restrictions with discretionary approval by the City Council.
Staff Recommendation	Planning Commission will receive public comment, discuss, and make a recommendation to City Council on the proposed Planning Code amendment
Finality of Decision:	Recommendation to City Council after receiving public comment and conducting public deliberation on the 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 Oakland Planning Code Section 17.144.030(b) is receiving a proposal from the Bureau of Planning to amend Oakland Planning Code (O.P.C.) Section 17.104.060, General Limitations on Advertising Signs, to allow new outdoor Advertising Signs on private and City-owned properties in the City of Oakland (City) subject to certain location restrictions with discretionary approval by the City Council. Staff is returning to Planning Commission to present its recommended amendments after further analysis of proposed changes by the Commission and members of the public at the public meeting held on October 19, 2022.

Amending Section 17.104.060 of the Planning Code will enable the City to consider permitting Advertising Signs on private and City-owned properties with one or more of the following types of legislative agreements: Real Estate Agreement, Franchise Agreement, and/or Relocation Agreement.

While the proposed amendments to the Oakland Municipal Code include changes to Titles 5 and 14, the Planning Commission’s jurisdiction is limited to Title 17 of the Municipal Code (Oakland Planning Code), and its review and recommendation should be specific to the amendment proposed to Title 17. The brief overview of other Municipal Code provisions in this report are included to provide necessary context for understanding the proposed amendments’ implications 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 for the City to 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 as may otherwise be allowed through Franchise or Relocation Agreements authorized by the Oakland City Council. These Agreements do not go before the Planning Commission, but instead directly before the City Council for approval. Therefore, the approval process for Advertising Signs 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, the Code would need to be further amended to also create a new type of accompanying planning permit for an Advertising Sign in a new Combining Zone that shows where Advertising Signs can be permitted.

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 Planning 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, and would require Planning Commission recommendation before an Advertising Sign permit could be considered by the City Council.

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 for how that could be done through a Development Agreement. A ZUC member suggested using a different permit or agreement type, similar to what was used for permitting scooters, that may 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 and the City was acting in its proprietary capacity. 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 both 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 informational report included a discussion of how Development Agreements could be added as the potential vehicle for consideration of Advertising Signs 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 nonprofit community organizations. There was also 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.

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 so as to not dilute the market and for aesthetic reasons;
2. Create the best agreement process to allow for maximum community benefits; and
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 was to allow new Advertising Signs on City-owned properties, private property through a Real Estate Agreement involving the City, and City-owned rights-of-way. Thus, staff concluded that the most appropriate mechanisms to facilitate community benefits is through the following: (1) a Real Estate Agreement; (2) the existing Relocation Agreement mechanism, and (3) the existing Franchise Agreement mechanism.

Finally, in October 2022, the Bureau of Planning with support from the Economic and Workforce Development Department (EWD), proposed to the Planning Commission new regulations in Titles 5, 14, and 17 that governed the review and approval of new or relocated Advertising Signs through a competitive Request for Proposals (RFP) process whereby an applicant could “apply” for an Advertising Sign. Consideration of proposals would only have been in response to a formal RFP issued by the City. Staff proposed a point-based evaluation system that awarded points to each proposal based on a set of public benefit criteria, including consideration of monies paid to the City or City-approved nonprofit organizations located in impacted communities. Amendments to Title 5 described the RFP process and selection criteria and amendments to Title 14 described the physical criteria including geographic location, character, and extent of Advertising Signs.

The proposal to amend three Titles of the OMC to support an RFP process was met with opposition, in part, by some members of the public. Prior to the duly noticed meeting on October 19, 2022, the Planning Commission received and entered into the record an alternative proposal from a coalition of organizations referring to itself as the Billboard Economic Development Coalition to amend certain parts of Titles 14 and 17. That proposal requested the amendments to the Planning Code exclude private property from the recommended RFP process.

PROJECT DESCRIPTION

On October 19th, 2022, Advertising Sign-related amendments to Title 17 were reviewed by the Planning Commission and recommended for approval by the City Council. Staff is returning to the Planning Commission with a revised recommendation from the October 19, 2022 meeting,

which is summarized below. Title 17 is within the jurisdiction of the Planning Commission and is subject to non-substantive changes. Titles 5 and 14 are outside the jurisdiction of the Planning Commission and are subject to more substantive changes, including changes to allow for new Advertising Signs on private property subject to a Real Estate Agreement involving the City.

Title 17.104.060 – General Limitations on Advertising Signs

Staff has revised its recommended changes to Title 17 to permit use of a Real Estate Agreement authorized by the City Council for Advertising Signs on private property where currently Real Estate Agreements are used exclusively for projects on City-owned or leased property, and City-owned Rights-of-Way.

For reference, Staff recommended the following amendments to Section 17.104.060 of the Planning Code at the October 19, 2022 Planning Commission hearing, with deletions in ~~strike-out~~ and additions in underline:

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.

Staff are now recommending the following revised amendments to Section 17.104.060 of the Planning Code, with deletions in ~~strike-out~~ and additions in underline:

Notwithstanding any provisions to the contrary contained within the Planning Code, Advertising Signs are not permitted in Oakland except: (1) as otherwise provided for in this Code, or (2) pursuant to a ~~Franchise a~~ Franchise Agreement, Real Estate Agreement, or ~~Relocation a~~ 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 (O.M.C.) Chapter 5.97 Advertising Signs - Application Process for New Advertising Signs, and O.M.C. Title 14 - Advertising Sign Regulations.

Title 5 – Business Tax, Permits and Regulations

O.M.C. Chapter 5.97 would be added to establish the application process for new Advertising Signs on both public and private property. In either case, applicants would submit proposals for new Advertising Signs to the City for consideration by City Council in a duly-noticed public hearing. The application must include proposed location information, term of occupancy, procedures for decommissioning the Advertising Sign(s) at the end of the term, evidence of conformance with all Chapter 14.04 requirements, and community benefits to the City and/or non-profit organization(s) providing services to Oakland residents or Oakland businesses.

O.M.C Chapter 5.97 would set forth that applicants seeking to develop Advertising Signs on private property could do so by entering into a Real Estate Agreement with the City, which could

be in the form of a City lease of the private property or a recordable restrictive covenant and equitable servitude against the private property that allows the City to enforce use and operational restrictions and requirements. Applicants seeking to develop Advertising Signs on City-owned property could do so by entering into a Franchise Agreement or Relocation Agreement, as currently allowed, or a Real Estate Agreement such as a lease of the City property.

Title 14 – Signs (O.M.C. Chapter 14.04)

In O.M.C. Chapter 14.04, currently titled “Oakland Sign Code,” an entirely new Chapter would replace the existing O.M.C Chapter and be renamed “Advertising Signs.” The purpose of O.M.C. Chapter 14.04 is to establish City requirements for the location, distribution, design, construction, and operation of all Advertising Signs in accordance with Federal, State, and local regulations.

Initially, staff proposed that all new or relocated Advertising Signs be no farther than 500 feet from the freeway right-of-way and in areas zoned Industrial or Commercial. After an in-depth analysis of viable sites and in consultation with industry experts, staff now proposes that all new or relocated Advertising Signs be located no farther than 250 feet from the freeway right-of-way and prohibited in historic neighborhoods such as Areas of Primary Importance (API), on local landmarks, all areas with a residential zoning designation, and in other specified zoning designations.

Additional details related to O.M.C. Chapters 5.97 and 14.04 will be presented to the City Council’s Community & Economic Development Committee for consideration, which is currently scheduled for March 14, 2023.

GENERAL PLAN ANALYSIS

The General Plan 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 NI2.7 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 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.

The recommended changes to Planning Code Section 17.104.060 and O.M.C. Chapter 14.04, and the addition of Chapter 5.97, would put in place a clear mechanism through which some Advertising Signs could be considered along non-scenic highway designated freeway corridors. Advertising Sign companies with control over existing Advertising Signs could propose to reduce or eliminate some of those signs located in commercial and residential neighborhoods in exchange for new or relocated signs in less impactful areas near designated freeways.

While some expenditure of City funds could be expected to administer review of applications and implementation of successful applications, that would be mitigated by the requirement for an agreement with the City that must include payment of consideration to the City. Furthermore, since the Scenic Highways Element suggests that there is a lack of implementation and enforcement of the Oakland Sign Code, by amending Planning Code Section 17.104.060 and O.M.C. Chapter 14.04, and creating a new Chapter in the O.M.C. (Chapter 5.97), Oakland can implement and enforce the Oakland Sign Code and the Outdoor Advertising Act by designating O.M.C. Chapter 14.04 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). In addition, the proposed amendments are exempt pursuant CEQA Guidelines Sections 15301 (Existing Facilities); 15302 (Small Structures); 15303 (Minor Alterations to Land) and 15332 (Infill Development Projects). No exceptions to these exemptions apply.

The amendments would, subject to City Council discretion, allow a limited number of new Advertising Signs on a case-by-case basis along existing highway corridors not deemed to be a Landscaped Freeway by the California Department of Transportation (Caltrans). Eligible areas within the City are already highly urbanized. Moreover, new Advertising Signs could only be allowed in conformance with state law, design guidelines in the City's municipal code, and subject to outdoor advertising permit application approval from the California Department of Transportation (Caltrans) Office of Outdoor Advertising as to the location, design, zoning, driver safety considerations, and proximity to other Advertising Signs. Furthermore, due to the total length of highways in Oakland, and to Caltrans requirements prohibiting proximity to existing Advertising Signs, full knowledge of the exact location of each potential Advertising Sign is not

possible, and as such, it would be speculative to address site-specific impacts at this time. If, pursuant to these amendments, an Advertising Sign were proposed at a location where significant environmental impacts could occur, a site-specific CEQA analysis could be required prior to approval of any Advertising Sign-related agreement by the City Council.

ACTION REQUESTED OF THE PLANNING COMMISSION:

Staff requests that the Planning Commission 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 specifically 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 allow use of a Real Estate Agreement authorized by the City Council for Advertising Signs on private property.

Prepared by:

Daniel Findley

Daniel Findley
Planner III
Bureau of Planning

Reviewed by:

Laura B. Kaminski

Laura Kaminski
Strategic Planning Manager
Bureau of Planning

Approved for forwarding to the Planning Commission:

Laura B. Kaminski

for Ed Manasse

Ed Manasse
Deputy Director
Bureau of Planning