

BILLBOARDS

SETTLEMENT AGREEMENT AND SIGN CODE
AMENDMENTS PROPOSED BY
LAMAR ADVERTISING

Planning and Development Services
Office of the City Attorney

Tacoma City Council Study Session
October 10, 2017

BACKGROUND

- **1997 - Amortization provisions enacted:** The City Council enacted an ordinance imposing a ten-year amortization period for removing non-conforming billboards.
- **July 2007 - Lawsuit:** Clear Channel sued the City alleging the City's Sign Code unconstitutionally regulated speech (e.g. regulations were impermissibly content based and impermissibly favored one form of speech over another).
- **2010 - Settlement:** The City and Clear Channel settled and dismissed the lawsuit through a settlement agreement, allowing Clear Channel to re-file its lawsuit if the City Council did not adopt an ordinance allowing digital billboards.

BACKGROUND (cont'd)

- **Spring 2011 – Rejection of digital billboards:** The Planning Commission and City Council rejected a proposed ordinance allowing digital billboards.
- **August 2011 – City's Lawsuit:** The City filed a complaint for Declaratory Judgment to invalidate the settlement agreement, and adopted Ordinance No. 28009, implementing additional billboard regulations and prohibiting digital billboards.
- **December 2011 – Court's Order:** The Court grants in part, and denies in part, Clear Channel's Motion to Dismiss the City's lawsuit, leaving in place some of the City's claims for declaratory relief.

BACKGROUND (cont'd)

- **August 2012 - Agreement:** The City and Clear Channel enter into a Standstill Agreement,
 1. Dismissing the City's complaint without prejudice;
 2. Tolling the statute of limitations for the claims raised by the City and Clear Channel;
 3. Staying for two years enforcement of the 2011 ordinance updating billboard regulations and prohibiting digital billboards;

BACKGROUND (cont'd)

4. Agreeing to continue discussions toward a possible resolution;
5. Clear Channel relinquishes its rights in banked signed permits; and
6. Clear Channel removes 31 sign panels (faces) and undertakes maintenance of 18 billboards.

BACKGROUND (cont'd)

- **September 2014:** Tacoma Billboards Community Working Group (CWG) convened to explore alternative options for billboard regulation.
- **March 2015:** The City Council receives recommendations from CWG and directs the City Manager (Resolution No. 39145) to work with billboard owners, community stakeholders and the Planning Commission to develop recommendations for removing and consolidating billboards.

BACKGROUND (cont'd)

- **March 2015 - December 2016:** City staff and the Planning Commission continue to review proposed amendments to the Sign Code and continue discussions with Clear Channel.
- **December 2016:** The City considers enforcement options for non-conforming billboards.
- **January 2016:** Lamar acquires all Clear Channel billboards in the Tacoma-Seattle region.

BACKGROUND (cont'd)

- **Summer 2016:** City staff begin discussions with Lamar of a proposed resolution.
- **September 2017:** Discussions concluded with Lamar's proposal.



LAMAR'S PROPOSAL

SUMMARY

- **Removal of Billboard Face:** Lamar would remove 111 out of a total of 294 existing billboard faces over a five-year period upon passage of Lamar's proposed ordinance amending the billboard sign code regulations.
- **Future Amendments to Code:** If the proposed ordinance is adopted and the City Council subsequently amends the sign code in a way that requires removal of a Lamar sign, the City would be obligated to pay Lamar fair market value for the removed sign.

LAMAR'S PROPOSAL (cont'd)

- **How would the proposal be implemented?**

The obligations of the City and Lamar will be set forth in a settlement agreement that includes, as an exhibit, a proposed ordinance amending the Sign Code.

- **When would the obligations be effective?** The City's and Lamar's obligations under the settlement agreement will not be effective unless and until the proposed ordinance is adopted.

LAMAR'S PROPOSAL (cont'd)

- Is the City obligated to enact the ordinance?

No.

- What are Lamar's Obligations?

If the ordinance is adopted, Lamar will be obligated to remove 111 billboard faces over a five-year period.

- How many billboard faces does Lamar own?

Lamar currently has 294 billboard faces located on billboards in the City.

LAMAR'S PROPOSAL (cont'd)

- What is the schedule for removal of the 111 billboard faces?

Year 1: 64 Billboard faces.

Year 2: 12 Billboard faces.

Year 3: 12 Billboard faces.

Year 4: 12 Billboard faces.

Year 5: 11 Billboard faces.

- Total: 111 Billboard faces removed.

LAMAR'S PROPOSAL (cont'd)

- Can Lamar replace any of the 111 billboard faces that have been removed?

Yes. However, Lamar would be limited to installing billboards in zones (locations) allowed under the Code.

- Will there be a limit on how many new billboards can be installed?

Lamar would be limited to a total of 225 billboard faces throughout the City.

LAMAR'S PROPOSAL (cont'd)

- What is the net reduction of billboard faces if Lamar reaches the cap of 225 billboard faces?

If Lamar installed new billboard faces up to the cap of 225, the net number of billboard faces removed would be 69 ($294 - 225 = 69$).

- When can Lamar begin installing new billboards?

If the proposed ordinance is adopted, Lamar could not install a new billboard until 61 billboard faces are first removed.

LAMAR'S PROPOSAL (cont'd)

- Can Lamar challenge the ordinance after it is enacted?

Lamar would agree that if the ordinance is adopted, neither Lamar nor its subsidiaries or affiliates will bring an action challenging the validity of the ordinance.

- What if someone else challenges the ordinance?

The City must defend any legal challenges to the ordinance.

LAMAR'S PROPOSAL (cont'd)

- Will the Sign Code continue to require removal of legal nonconforming billboard signs?

The amortization provisions requiring removal of nonconforming billboard signs would be removed from the Code. Other nonconforming sign code requirements would remain (e.g., limitations upon substantial alterations to billboards).

- What will happen with over-height billboards?

The proposed ordinance will authorize permits to be issued establishing the existing height as the lawful height of those billboards.

LAMAR'S PROPOSAL (cont'd)

- What happens if the City Council amends the sign code after the proposed ordinance is adopted?

The City Council retains its authority to amend the sign code; however, in the event that a future amendment would require Lamar to remove a sign face or billboard sign, then the City must compensate Lamar at fair market value for each sign face and billboard sign removed.

PROPOSED CODE AMENDMENTS

- **Exchange Program:**

The proposed ordinance would establish an Exchange Program. This program would prohibit installation of a new billboard or sign face without a corresponding reduction in billboard face square footage.

- **Would the exchange program include the 111 billboard faces to be removed by Lamar?**

Yes.

PROPOSED CODE AMENDMENTS

- Would Lamar be allowed to use billboard faces removed before the ordinance is adopted?

Yes. Lamar would be allowed to use the square footage of the 32 billboard faces removed under the standstill agreement

PROPOSED CODE AMENDMENTS

- **Billboard Free Zones:** All billboards would be removed from the R, S, Cons., and C-1 zones, and rooftops in all zones
- **Cap and Replace Zones:** Billboards in the NCX, DR, WR and T would be removed as follows:
 - NCX 17 of 33 (52%)
 - DR 6 of 10 (60%)
 - WR 4 of 10 (40%)
 - T 6 of 10 (60%)

PROPOSED CODE AMENDMENTS

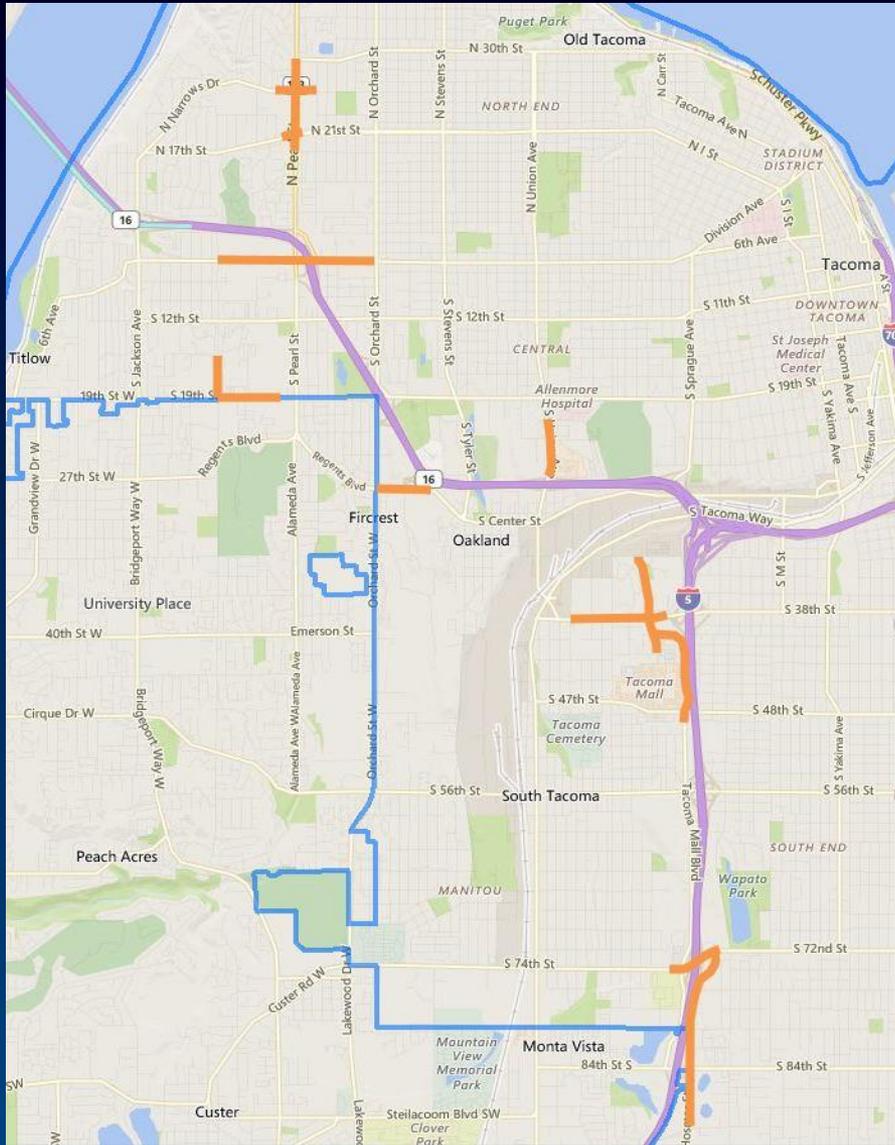
- **Cap and Replace Zones:** Once those numbers are removed, only replacements would be allowed, by zoning district.
- **New Receiving Areas:** Seven (7) new receiving areas to be established in the Sign Code for bulletin size (672 sq. ft.) billboards.
 - Arterial streets in high-intensity mixed-use and commercial districts;
 - Subject to dispersal and buffering standards.

PROPOSED CODE AMENDMENTS

- **New Receiving Areas – Bulletins**
 - 38th, Steele, and Tacoma Mall Boulevard
 - 6th Avenue, Mildred to Orchard
 - Mildred and 19th in James Center
 - Union Avenue near Tacoma Central
 - 72nd and Hosmer
 - Pearl, 21st, 26th, and Westgate
 - Center Street between Tyler & Orchard

Bulletin Billboards New Receiving Areas

(shown as orange lines)



PROPOSED CODE AMENDMENTS

Comparison of allowed zones					
	Existing Code (Aug. 2011)	Community Working Group (Feb. 2015)	Planning Commission (Oct. 2015)	Previous Alternative (Nov. 2015)	Lamar Proposal (Dec. 2016)
Allowed Zones	C-2, M-1, M-2, PMI	C-2, M-1, M-2, PMI	C-2, M-1, M-2, PMI	C-2, M-1, M-2, PMI	C-2, M-1, M-2, PMI
		<u>Added:</u> <u>Commercial:</u> PDB	<u>Added:</u> <u>Commercial:</u> PDB*	<u>Added:</u> <u>Commercial:</u> PDB	<u>Added:</u> <u>Commercial:</u> PDB, T^
		<u>Mixed-Use:</u> UCX, CCX, CIX	<u>Mixed-Use:</u> UCX*, CCX*, CIX*, NCX*	<u>Mixed-Use:</u> UCX, CCX, CIX, NCX^	<u>Mixed-Use:</u> UCX, CCX, CIX, NCX^
		<u>Downtown:</u> DCC, DMU, WR	<u>Downtown:</u> DCC*, DMU*, WR*	<u>Downtown:</u> DCC*, DMU*, WR^, DR^	<u>Downtown:</u> DCC*, DMU*, WR^, DR^
Symbols: * Wall Billboards Only; Freestanding are replacement only ^ Cap & Replace Only					

PROPOSED CODE AMENDMENTS

- **Other Changes**
 - No size limitation for wall billboards in DCC {?}
 - Some buffer and dispersal standards have been reduced
 - Poster-sized billboards allowed in all billboard zones, subject to dispersal and buffering
 - Design restrictions reduced (e.g., cantilevering)
 - Side-by-side posters incentivized to convert to a bulletin
 - Permits available for over-height billboards

NEXT STEPS

- **October 18** – Presentation of proposed amendments to Planning Commission.
- **November 14** – Public hearing to take testimony regarding proposed amendments to sign code.
- **December 5** – First Reading of Ordinance.
- **December 12** –
 - a. Consideration of resolution approving Settlement Agreement.
 - b. Second reading of Ordinance.

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