Austin City Code Amendment
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION

AGENDA ITEM NO.: 36
AGENDA DATE: Thu 09/01/2005

SUBJECT: Approve an ordinance on second/third reading amending Chapter 25-10 of the City Code relating to nonconforming signs to allow location of new off-premise signs (billboards) in various locations in the City if an existing off-premise sign is removed.

AMOUNT & SOURCE OF FUNDING: N/A

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

REQUESTING DEPARTMENT: Watershed Protection and Development Review **DIRECTOR'S AUTHORIZATION:** Joe Pantalion

FOR MORE INFORMATION CONTACT: Luci Gallahan, 974-2669

PRIOR COUNCIL ACTION: Council passed the amendment on first reading on January 13, 2005.

BOARD AND COMMISSION ACTION: Planning Commission voted for no change to the current code.

The proposed amendment would amend Chapter 25-10 of the Land Development Code to allow the relocation of nonconforming off-premise signs. The proposed amendment would allow a nonconforming off-premise sign to be relocated to a tract that meets the following requirements:

- it is located in an expressway corridor sign district or commercial sign district,
- it is not in the area bounded by Lamar Boulevard to Martin Luther King Boulevard, Martin Luther King Boulevard to Interstate 35, Interstate 35 to Manor Road, Manor Road to Highway 183 Highway 183 to State Highway 71, State Highway 71 to Riverside Drive, Riverside Drive to Lamar Boulevard; and both sides of each named roadway.
- it is not located in a Scenic Roadway sign district,
- it is not within 500 feet of a historic sign district,
- it is not within 200 feet of a residential structure in a residential base zoning district, and
- it is zoned as a commercial or industrial base district.

The proposed amendment also would require that the sign height and face size of the relocated sign may not be increased, and the application to remove and relocate must be submitted at least 90 days before removing the sign. It would require that the applicant provide a statement from the owner of the tract from which the sign is to be removed agreeing to the permanent removal of the sign or provide a form indemnifying the city for any costs or claims arising from the sign relocation. It would require the applicant to relocate the sign not later than 3 years after the application is approved.

The proposed ordinance provides the following criteria that must be met for the original location of the sign:

- the original sign must be in the area bounded by Lamar Boulevard to Martin Luther King Boulevard, Martin Luther King Boulevard to Interstate 35, Interstate 35 to Manor Road, Manor Road to Highway 183 to State Highway 71, State Highway 71 to Riverside Drive, Riverside Drive to Lamar Boulevard; and both sides of each named roadway.
- in a Scenic Roadway Sign District,
- within 500 feet of a historic sign district, or
- within 200 feet of a residential structure in a residential base zoning district.

The proposed ordinance recommends a new fee of $120 to be collected by the Watershed Protection and Development Review Department for removal and relocation permits.

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 25-10-152 OF THE CITY CODE RELATING TO THE RELOCATION OF NONCONFORMING OFF-PREMISE SIGNS; AND AMENDING ORDINANCE NUMBER 040913-05 TO ADD A SIGN REMOVAL AND RELOCATION FEE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 25-10-152(B) of the City Code is amended to read:

(B) A person may not change or alter a nonconforming sign except as provided in this subsection.

(1) The face of the sign may be changed.

(2) The sign may be changed or altered if the change or alteration does not:

(a) increase the degree of the existing nonconformity;

(b) change the method or technology used to convey a message; or

(c) increase the illumination of the sign.

(3) The sign may be relocated on a tract, if the building official determines that the relocated sign will not be hazardous, and the sign is:

(a) located on a tract that is partially taken by condemnation or partially conveyed under threat of condemnation; or

(b) moved to comply with other regulations.

(4) Except as provided in Subsection (B)(5), a nonconforming sign may be modified or replaced in the same location, if the modification or replacement reduces:

(a) the sign area by at least 20 percent;

(b) the height of the sign by at least 20 percent; or

(c) both sign area and height of the sign by an amount which, combined, is equal to at least 20 percent of the sign area and height.

(5) A nonconforming off-premises sign may be replaced if:

(a) each owner of a property from which a sign is to be removed or on which a sign is to be replaced agrees to the sign removal or replacement, as applicable;

(b) each owner of a property from which a sign is to be removed designates the person who is responsible for removing the sign; and

(c) the replacement sign:

(i) does not direct illumination onto a property zoned or used for a residential use;

(ii) does not exceed the height of the sign it replaces; and

(iii) is constructed in the same location with same type of materials and construction design as the sign it replaces, and:

1. the face height and width of the replacement sign are each at least 25 percent less than the face height and width of the sign being replaced; or

2. the replacement sign is not located in, or within 500 feet of, a historic sign district, its sign area is at least 25 percent smaller than the sign area of the sign it replaces, and:

a. one other nonconforming off-premises sign is permanently removed, the location of the sign to be removed is not included in a site plan that is pending approval, and if, before removal, the sign to be removed is:

i. located in a scenic road-way sign district;

ii. located in, or within 500 feet of, a historic sign district; or

iii. of monopole construction; or

b. two other non-conforming off-premises signs are

permanently removed, and the location of a sign to be removed is not included in a site plan that is pending approval.

(6) A nonconforming off-premise sign may be relocated to another tract if the requirements of this paragraph are met.

(a) The original location of the sign must be:

(i) in an urban renewal or redevelopment area designated by council or the revitalization area described in Section 11-1-83(A) *(Revitalization Area Program)*;

(ii) in a scenic roadway sign district;

(iii) within 500 feet of a historic sign district; or

(iv) within 200 feet of a residential structure in a residential base zoning district.

(b) The sign must be permanently removed from the original tract and may not be replaced.

(c) The tract to which the sign is relocated:

(i) must be in a expressway corridor sign district or commercial sign district;

(ii) may not be in an urban renewal or redevelopment area designated by the council or the revitalization area described in Section 11-1-83(A) *(Revitalization Area Program)*;

(iii) may not be in a scenic roadway sign district;

(iv) may not be within 500 feet of a historic sign district;

(v) may not be within 200 feet of a residential structure located in a residential base zoning district; and

(vi) if the tract is within the zoning jurisdiction, it must be zoned as a commercial or industrial base district.

(d) Sign district restrictions on sign height and face size otherwise applicable to the relocation tract do not apply to the relocated sign, but the sign height and face size of the relocated sign may not exceed that of the original sign.

(e) An applicant must:

(i) file an application for sign relocation with the director of the Watershed Protection and Development Review Department at least 90 days before relocating the sign; and

(ii) include with the application:

1. a statement from the owner of the tract from which the sign is to be removed agreeing to the permanent removal of the sign; or

2. a document approved by the city attorney indemnifying the city for all costs and claims arising from the sign relocation or permit issuance and providing that the city attorney may hire counsel for and shall direct the defense of the claims.

(f) An applicant must relocate the sign not later than three years after the date the director of the Watershed Protection and Development Review Department approves the application.

PART 2. The Fee Schedule in Ordinance Number 040913-05 is amended to add for the Watershed Protection and Development Review Department a "Sign Removal and Relocation Fee" in the amount of $120.00.

PART 3. This ordinance takes effect on _____, 2005.

PASSED AND APPROVED

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§
_____, 2005 § _____
Will Wynn
Mayor

APPROVED: _____ **ATTEST:** _____
David Allan Smith
City Attorney

Shirley A. Brown
City Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 25-10-152 OF THE CITY CODE RELATING TO THE RELOCATION OF NONCONFORMING OFF-PREMISE SIGNS; AND AMENDING ORDINANCE NUMBER 040913-05 TO ADD A SIGN REMOVAL AND RELOCATION FEE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 25-10-152(B) of the City Code is amended to read:

(B) A person may not change or alter a nonconforming sign except as provided in this subsection.

(1) The face of the sign may be changed.

(2) The sign may be changed or altered if the change or alteration does not:

(a) increase the degree of the existing nonconformity;

(b) change the method or technology used to convey a message; or

(c) increase the illumination of the sign.

(3) The sign may be relocated on a tract, if the building official determines that the relocated sign will not be hazardous, and the sign is:

(a) located on a tract that is partially taken by condemnation or partially conveyed under threat of condemnation; or

(b) moved to comply with other regulations.

(4) Except as provided in Subsection (B)(5), a nonconforming sign may be modified or replaced in the same location, if the modification or replacement reduces:

(a) the sign area by at least 20 percent;

(b) the height of the sign by at least 20 percent; or

(c) both sign area and height of the sign by an amount which, combined, is equal to at least 20 percent of the sign area and height.

(5) A nonconforming off-premises sign may be replaced if:

(a) each owner of a property from which a sign is to be removed or on which a sign is to be replaced agrees to the sign removal or replacement, as applicable;

(b) each owner of a property from which a sign is to be removed designates the person who is responsible for removing the sign; and

(c) the replacement sign:

(i) does not direct illumination onto a property zoned or used for a residential use;

(ii) does not exceed the height of the sign it replaces; and

(iii) is constructed in the same location with same type of materials and construction design as the sign it replaces, and:

1. the face height and width of the replacement sign are each at least 25 percent less than the face height and width of the sign being replaced; or

2. the replacement sign is not located in, or within 500 feet of, a historic sign district, its sign area is at least 25 percent smaller than the sign area of the sign it replaces, and:

a. one other nonconforming off-premises sign is permanently removed, the location of the sign to be removed is not included in a site plan that is pending approval, and if, before removal, the sign to be removed is:

i. located in a scenic road-way sign district;

ii. located in, or within 500 feet of, a historic sign district; or

iii. of monopole construction; or

b. two other non-conforming off-premises signs are permanently removed, and the location of a sign to be

removed is not included in a site plan that is pending approval.

(6) A nonconforming off-premise sign may be relocated to another tract if the requirements of this paragraph are met.

(a) The original location of the sign must be:

(i) in the area bounded by Highway 183 from Burnet Road Highway 71, Highway 71 from Highway 183 to Lamar Boulevard, Lamar Boulevard from Highway 71 to 45th Street, 45th Street from Lamar Boulevard to Burnet Road, and Burnet Road from 45th Street to Highway 183, including tracts that abut a boundary street, but excluding property in an expressway corridor sign district;

(ii) in a scenic roadway sign district;

(iii) within 500 feet of a historic sign district; or

(iv) within 200 feet of a residential structure in a residential base zoning district.

(b) The sign must be permanently removed from the original tract and may not be replaced.

(c) The tract to which the sign is relocated:

(i) must be in a expressway corridor sign district or commercial sign district;

(ii) may not be in the area bounded by Highway 183 from Burnet Road Highway 71, Highway 71 from Highway 183 to Lamar Boulevard, Lamar Boulevard from Highway 71 to 45th Street, 45th Street from Lamar Boulevard to Burnet Road, and Burnet Road from 45th Street to Highway 183, including tracts that abut a boundary street, but excluding property in an expressway corridor sign district;

(iii) may not be in a scenic roadway sign district;

(iv) may not be within 500 feet of a historic sign district;

(v) may not be within 500 feet of the right-of-way or proposed right-of-way of Highway 130 or Highway 45;

(vi) may not be within 200 feet of a residential structure located in a residential base zoning district; and

(vii) if the tract is within the zoning jurisdiction, it must be zoned as a commercial or industrial base district.

(d) Sign district restrictions on sign height and face size otherwise applicable to the relocation tract do not apply to the relocated sign, but the sign height and face size of the relocated sign may not exceed that of the original sign.

(e) The relocated sign may remain on the relocation tract for not more than [number] years from the date the application for relocation is approved. At the expiration of that time period, the relocated sign must be permanently removed from the relocation tract.

(f) An applicant must:

(i) file an application for sign relocation with the director of the Watershed Protection and Development Review Department at least 90 days before relocating the sign; and

(ii) include with the application:

1. a document approved by the city attorney waiving all claims against the city for the permanent removal of the relocated sign at the expiration of the time period prescribed by Subparagraph (e); and

2. either:

a. a statement from the owner of the tract from which the sign is to be removed agreeing to the permanent removal of the sign; or

b. a document approved by the city attorney indemnifying the city for all costs and claims arising from the sign relocation or permit issuance and providing that the city attorney may hire counsel for and shall direct the defense of the claims.

(g) An applicant must relocate the sign not later than three years after the date the director of the Watershed Protection and Development Review Department approves the application.

PART 2. The Fee Schedule in Ordinance Number 040913-05 is amended to add for the Watershed Protection and Development Review Department a "Sign Removal and Relocation Fee" in the amount of $120.00.

PART 3. This ordinance takes effect on _____, 2005.

PASSED AND APPROVED

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§
§

_____, 2005

_____
Will Wynn
Mayor

APPROVED: _____
David Allan Smith
City Attorney

ATTEST: _____
Shirley A. Brown
City Clerk

MEMORANDUM

TO: Mayor and Council Members

FROM: Joseph G. Pantalion, P.E., Director
Watershed Protection and Development Review Department

DATE: March 2, 2005

SUBJECT: Economic analysis of billboard relocations

On January 13, 2005 the City Council conducted a public hearing to consider an amendment to Chapter 25-10 of the Land Development Code related to the relocation of existing billboards. During the discussion of this item, the Council asked staff to prepare an economic analysis to determine what would be a reasonable time limit to establish for relocated billboards, in order to encourage sign companies to relocate billboards.

In order to prepare an economic analysis of such an incentive to billboard companies, and make a recommendation as to a period of time for which relocated billboards would be allowed to remain, staff assumes that certain data must be available. The data would include such factors as location, lease payments to land owners, and advertising revenue. Staff has attempted to obtain some data from two sources. Reagan National Advertising and Acme Partnership, L.P. In response to our request Nikelle Meade, who represents Reagan Advertising and Lamar Advertising, has provided the attached letter. Acme has not provided any information.

The letter indicates that an expert appraiser would be required to conduct an appraisal to determine the value of a billboard, which is based largely on the life of a billboard at a certain location. The letter also states that without perfect conditions a billboard company would need to keep a billboard at a new location for 100 years or there would be no incentive to relocate. Staff concludes that this is not sufficient information upon which to base conclusions about a time limitation for relocated billboards. Further, staff does not have expertise that would enable staff to perform such a study without the cooperation of the affected parties.

Staff has been able to obtain the following information from other Texas cities. The City of Houston does not have a relocation program but if there is an existing billboard in an area that is designated scenic or historic, the billboard must be removed within 6 years of the designation. San Marcos has a relocation program that allows a sign to be relocated to a lot with commercial zoning. If the original location of the billboard is on IH-35, the new location must be on IH-35. San Antonio has a relocation program that requires that two billboards be removed in order to relocate one billboard. They do not have a time limit on the relocated sign but they limit the amount of advertising display area that can be permitted by a licensed billboard operator per year.

If I can provide additional information on this issue, please let me know.

Joseph G. Pantalion, P.E., Director
Watershed Protection and Development Review Department

cc: Toby Futrell, City Manager
Laura Huffman, Assistant City Manager

Attachment: Letter from Lamar Advertising Co., and Reagan National Advertising, Inc.

Ms. Gallahan:

Concerning what factors or conditions provide enough incentive to relocate a sign from a site where its life is infinite to a site where its life is amortized, it is a difficult issue to address because a multitude of variables – not just the difference in location -- go into the economics of the placement of a sign.

When determining the value of a billboard, not just the term of the lease but also the likelihood of continuance of the lease must be considered. Typically, if there is a need to determine such value, an expert MIA is retained to conduct the determination and the specific characteristics of the sign are taken into consideration. The Suttee book published by the American Appraisal Association is usually a reference material that these experts follow in their appraisals, and that book includes in its list of factors to be considered in assessing value such factors as governmental attitudes concerning signs, site locations, type of copy displayed, and demographics of area where the sign is located. All of these items, and others, must be taken into consideration.

If estimating the life of a sign without the benefit of an expert appraisal, we would typically deem the life of the sign to be infinite in a perfect world but about 100 years in reality. Given that typical 100-year life, several practical factors would go into a determination of whether to relocate an existing board from a site where it would likely exist for 100 years to a site where it would exist for a seven, or ten, or twenty –year period. To justify that loss of so many years of revenue, we would have to have almost perfect conditions on the site to where the sign would be relocated in that the revenue would be higher, the money paid to the landowner for the lease would be less, and the visibility of the sign would be perfect. Not many of those sites exist, and there is almost no site where the revenue from the sign at that location would be so much more than that from the existing location that it would take the place of the years of income that would be earned if the sign were just left on the existing site.

Concerning what revenue is earned on signs in a particular area of the City versus a another area of the City, that revenue is difficult to characterize or to state. Revenue from signs is based on distribution rather than just on the location meaning that a sign is worth more if it fills the need for an advertiser to have coverage in a place where coverage is lacking so to say that a sign along I35 is "worth more" than a sign on East 7th Street is non-conclusive and not necessarily accurate.

So, if the goal of the Council is to provide an incentive to the owners of signs to move those signs from places where they create blight – such as residential neighborhood, redevelopment areas, scenic areas, etc. – to places where they are more acceptable and where the public expects them to be and can utilize them for what they are – advertisements of businesses, concepts, events, directions, etc. – the places to where they can be relocated can be limited but must remain broad enough that signs are not all concentrated in one area and the life of the sign has to be the same (or very close to the same) as it is on the site where the sign currently exists.

I hope this information is helpful. We are ready to assist with this process and are happy to provide any additional information that you may need.

Chris Stokes, Esq., LAMAR ADVERTISING COMPANY

Bill Reagan, REAGAN NATIONAL ADVERTISING, INC.