

**Appendix A:
Draft Billboard Ordinance**

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DRAFT ORDINANCE NO. 11-18

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE ADOPTING MITIGATED NEGATIVE DECLARATION NO. 1860-18, REPEALING AND DELETING CHAPTER 5.62 OF THE ORANGE MUNICIPAL CODE IN ITS ENTIRETY, AND AMENDING TITLE 17 OF THE ORANGE MUNICIPAL CODE BY ADDING SECTION 17.36.180 REGULATING THE CONVERSION OF EXISTING BILLBOARDS ALONG FREEWAY CORRIDORS TO ELECTRONIC BILLBOARDS.

WHEREAS, Section 5412 of the Outdoor Advertising Act (Bus. & Profs. Code, § 5200 et seq) encourages local governments and owners of billboards to enter into relocation agreements, pursuant to which local governments can continue development in a planned manner without expenditure of public funds, while allowing the continued maintenance of private investment and a medium of public communication; and

WHEREAS, the City's municipal code does not currently allow the construction and operation of a digital billboard within the City's jurisdictional boundaries through a relocation agreement, though California state law authorizes such, and the City municipal code would require the adoption of an ordinance amendment establishing standards that, pursuant to the provisions of the Orange Municipal Code, Minor Site Plan Review, and the terms of a relocation agreement, an outdoor advertising media company may rehabilitate and operate a digital billboard in place of an existing static billboard in exchange for the removal of existing billboards at other locations (the "ordinance amendment"); and

WHEREAS, the City has entered into an agreement with Outfront Media, LLC, for the right to operate a digital billboard, wholly contingent upon the City adopting an ordinance that would regulate the conversion of the existing static billboard to a digital billboard; and

WHEREAS, the City has not committed to any particular course of action by tentatively entering into the aforementioned agreement, but is making an effort to reduce visual blight within its jurisdictional boundaries and other nearby areas visible to the City's residents, by removing existing billboards on local roadways in exchange for allowing digital billboards along the freeway corridor; and

WHEREAS, to the extent that the passage of the ordinance amendment would have any reasonably foreseeable, non-speculative environmental impacts, the ordinance amendment has been evaluated in Mitigated Negative Declaration No. 1860-18, prepared pursuant to the California Environmental Quality Act ("CEQA"), consistent with the findings in Section III below.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I:

Title 5 is hereby amended to repeal and delete Chapter 5.62, Signs and Billboards, in its entirety.

SECTION II:

Title 17, Chapter 17.36 is hereby amended to add Section 17.36.180, which shall read as follows:

17.36.180 Billboards

A. Prohibition. Notwithstanding any other provision of this Code, except for the relocation of existing billboards pursuant to this section, no new billboards shall be constructed within the City limits. For purposes of this section, “relocation” includes the removal of a display and construction of a new display to substitute for the display removed, as defined in California Business and Professions Code Section 5412.

B. Relocation of Existing Billboards. An owner of an existing billboard located within the City may apply for a billboard relocation subject to the following procedure and criteria:

1. Process. An applicant for a billboard relocation shall file an application for Minor Site Plan Review approval with the City, pursuant to Orange Municipal Code Section 17.10.060.

2. Criteria. The Community Development Director shall apply the following criteria in making his determination on the site plan:

- a. The structure shall be constructed on two or less steel supports;
- b. The relocation site shall be at least 500 feet from any other existing billboard structure, and shall also comply with the distance requirements set forth in section E, if applicable;
- c. Except as otherwise provided in subsection F, the height of the top of the sign face shall not exceed 60 feet, as measured from finished grade;
- d. The structure shall incorporate aesthetically pleasing architectural elements to the extent feasible so as to promote compatibility with surrounding properties;
- e. The applicant shall present proof of compliance with any applicable State or Federal law requirements relating to billboard signing and freeway location;
- f. The structure shall not result in a significant adverse aesthetic impact upon any surrounding residential neighborhoods or exceed the illumination thresholds set forth in this Section.

3. Conditions of Approval. The Community Development Director may require reasonable conditions of approval to protect the public health, welfare, and safety of the community

4. Findings. The Community Development Director shall make a finding in approving such a request that the construction of the structure and approval of the Minor Site Plan Review will not have an adverse effect on the public health, welfare, and safety of the community.

C. Publicly Caused Billboard Relocations. Any proposal to relocate an existing billboard structure, which relocation is caused by a City or State project, shall be subject to the Minor Site Plan Review process above.

D. Electronic Billboards Within the Freeway Corridor.

1. For purposes of this section, the following terms shall have the following meanings:

- a. “Billboard” has the same meaning as those advertising displays defined in California Business and Professions Code Section 5202.
- b. “Electronic billboard” means an internally or externally illuminated billboard that utilizes digital message technology capable of instantaneously changing the static message or copy on the sign electronically.
- c. “Freeway Corridor” means the area within the City comprised of the land within 300 feet of either edge of the right of way of the following freeways: California Interstate Highway 5; California State Route 22; California State Route 55; and California State Route 57.

2. Notwithstanding any other provision of this code, subject to the discretionary approval of a Minor Site Plan Review application above, entry into a relocation agreement with the City in accordance with Business and Professions Code Section 5412, and compliance with the additional requirements set forth below, the owner of an existing billboard within the City may convert a static copy billboard to an electronic billboard, provided such billboard is located within the Freeway Corridor, subject to approval of a Minor Site Plan Review application pursuant to section B.

3. In addition to such conditions as may be imposed pursuant to approval of a Minor Site Plan Review application for a billboard relocation pursuant to subsections B.3., above, electronic billboards shall be subject to the following criteria and conditions:

- a. An electronic billboard may only be located within the Freeway Corridor.
- b. Electronic billboards shall comply with all applicable location, distance, size, operational, permit or licensing, and/or other requirements or limits imposed by Federal, State or local law, including, without limitation,

the California Outdoor Advertising Act, California Business and Professions Code Section 5200 et seq., and its implementing regulations, including applicable amendments thereto. To the extent a conflict arises between any provisions of this section and applicable Federal, State or local law, unless otherwise preempted, local law shall control.

- c. Each sign face of an electronic billboard shall be oriented primarily for viewing from the Freeway Corridor and away from any residentially zoned property.
- d. No electronic billboard shall be located on or within 300 feet of any property zoned single-family residentially, as measured from the base of the structural support column of the electronic billboard to nearest property line.
- e. Each electronic billboard proposal must have undergone the proper level of environmental analysis required under the California Environmental Quality Act.

E. No electronic billboard shall be located within 500 feet of any other billboard located on the same side of the freeway or within 1,000 feet of any other electronic billboard or on-premises electronic sign located on the same side of the freeway.

F. The permitted height of an electronic billboard shall be determined through the Minor Site Plan Review process and shall be limited to the maximum height necessary to ensure adequate visibility of the display from the Freeway Corridor, however in no event shall an electronic billboard exceed 60 feet in height, as measured from finished grade to the top of the billboard structure, or in the case of the conversion of an existing billboard, the height of the existing billboard, whichever is greater.

G. The area of each electronic billboard sign face, including framing and trim, shall not exceed 680 square feet.

H. Electronic billboard displays shall contain still or static messages or images only, and no part of the sign structure or image being displayed may move or present the appearance or optical illusion of movement, or include flashing, blinking, or traveling lighting, the varying of light intensity, or any other means not providing constant illumination. Each static message or image shall be displayed for a minimum of eight (8) consecutive seconds before changing, and the transition or blank screen time between one display message and the next shall not exceed one second.

I. The maximum intensity of light output produced by an electronic billboard display shall not exceed 0.3 foot-candles above the ambient light level at any time, as measured using a foot-candle meter at a distance of 250 feet, and shall otherwise comply with section 5403(g) of the Outdoor Advertising Act and section 21466.5 of the California Vehicle Code.

J. Electronic billboard owners and/or operators shall make space available for the display of emergency messaging in accordance with local, regional, and/or State protocols.

K. As a condition to approval of the relocation and/or conversion of a billboard to an electronic billboard, the owner of the electronic billboard shall execute a relocation agreement with the City pursuant to California Business and Professions Code Section 5412 on terms approved by the City Council in its sole and absolute discretion. At a minimum, such a relocation agreement shall: (i) require the permanent removal of a minimum of five existing billboard faces within the city or visible from a City street for each relocated electronic billboard consisting of two faces, (ii) provide for mitigation by the owner of aesthetic and/or other impacts caused by the electronic billboard(s), (iii) require the owner to comply with any and all required mitigation measures, conditions of approval, and applicable provisions of this section and this code, (iv) require notice to be mailed to all residential property owners located within 500 feet of the proposed electronic billboard installation, 14 days prior to City Council consideration of the relocation agreement; (v) provide for the payment by the owner of applicable fees and costs, (vi) require each owner to indemnify, defend and hold harmless the City from any and all claims, lawsuits, awards and judgments, including any reasonable attorney's fees and court costs, that may arise from the approval of the relocation and/or conversion of a billboard to an electronic billboard and/or the removal of other existing billboards, pursuant to this section or any other provision of the code, subject to the terms of the agreement, (vii) require the owner(s)/operator(s) of the electronic billboard to donate up to 10% of the total advertising time on the electronic billboard to community events, as requested by the City Manager; and (viii) any other terms and conditions the City may find reasonable in approving said agreement, and consistent with applicable law. Nothing herein shall be construed to require the City to enter into such an agreement or to allow the relocation of an existing billboard or the conversion of an existing billboard to an electronic billboard.

L. The owner of an electronic billboard authorized pursuant to this section may, at its sole option, remove the digital display from the billboard structure at any time, for any reason, and temporarily or permanently replace such digital display with state-of-the-art non-electronic static sign faces of the same or smaller dimensions.

SECTION III:

The City Council finds and determines as follows:

Ordinance No. 11-18 was adequately described and evaluated in accordance with the California Environmental Quality Act (CEQA) in Mitigated Negative Declaration No. 1860-18 to determine the level of environmental impacts associated with the project that could result in: 1) the potential removal of existing billboard faces within the City of Orange; and, 2) potential upgrade of up to five existing static billboard signs to LED signs within the City of Orange. The analysis contained in the Mitigated Negative Declaration (MND) determined that implementation of the project may result in potentially significant environmental effects without mitigation to the following environmental factors: Aesthetics, Biological Resources, Hazards and Hazardous Materials, Noise, and Transportation/Traffic. Incorporation of the mitigation measures into the project results in a reduction of significant impacts to less than significant levels.

SECTION IV:

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION V:

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. A summary of this Ordinance shall also be published once within fifteen (15) days after this Ordinance's passage in a newspaper of general circulation, published, and circulated in the City of Orange. The City Clerk shall post in the Office of the City Clerk a certified copy of the full text of such adopted Ordinance along with the names of those City Council members voting for and against the Ordinance in accordance with Government Code Section 36933. This Ordinance shall take effect thirty (30) days from and after the date of its final passage

ADOPTED this ____ day of _____, 2018.

Teresa E. Smith, Mayor, City of Orange

ATTEST:

Robert Zornado, Chief Clerk, City of Orange

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, ROBERT ZORNADO, Chief Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the ___ day of _____, 2018, and thereafter at the regular meeting of said City Council duly held on the ___ day of _____, 2018, was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Robert Zornado, Chief Clerk, City of Orange

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