

Date August 6, 2007

WHEREAS, on June 4, 2007, by Roll Call No. 07-1071, the City Council received a communication from the Plan and Zoning Commission advising that at a public hearing held on May 17, 2007, the members voted 9-3-1 in support of a motion to recommend approval of a set of proposed amendments to the Zoning Ordinance to place limitations on electronic signs and off-premises advertising signs generally as follows:

- Add new definitions for Electronic Display Sign, Multi-vision Display Sign, and Video Display.
- Add regulations for electronic display signs over 24 square feet in area restricting the duration of any message to 20 seconds minimum, requiring transition to be instantaneous, establishing maximum brightness, requiring dimmer control mechanism to adjust to changing light conditions, and establishing residential separation of 100 feet for Electronic and Multi-Vision Display Signs.
- Add Video Display signs to the general list of prohibited signs.
- Add several additional locations to the list of Designated Scenic and Gateway corridors where off-premises signs are prohibited within 500 feet.
- Add provisions changing the standards for legal non-conforming signs prohibiting them from being converted to electronic display and limiting the ability of any type of sign reuse by changing the way destruction of a sign is defined.
- As part of the changes to the non-conforming provisions, an existing legal non-conforming off-premises advertising sign on a Designated Scenic and Gateway corridor could be converted to an electronic sign only if the applicant agrees to cause a second existing legal non-conforming sign of equal or larger size to be removed from the same designated Scenic or Gateway Corridor prior to such conversion.

WHEREAS, on June 18, 2007, by Roll Call No. 07-224, the City Council closed the public hearing on the proposed amendments to the Zoning Ordinance and directed that the proposed amendments corresponding to the last three bullet points above be removed from the proposed ordinance for further study, and that the moratorium on digital signs originally imposed on February 12, 2007 by Roll Call No. 07-275 be renewed and extended until August 6, 2007; and,

WHEREAS, by Ordinance No. 14,668 passed July 9, 2007, the City Council enacted the proposed amendments to the Zoning Ordinance corresponding to the first three bullet points identified above; and,

(continued)

August 6, 2007

Date

-2-

WHEREAS, after further study, the Community Development Director recommends that the City Council proceed with consideration of an ordinance enacting the the recommendations from the Plan and Zoning Commission corresponding to the last three bullet points identified above, and more specifically described in the accompanying Exhibit "A"; NOW THEREFORE,

BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa as follows:

1. That the meeting of the City Council at which the proposed amendments to the Zoning Ordinance are to be considered shall be held in the Council Chambers, City Hall, Des Moines, Iowa at 5:00 p.m. on August 20, 2007, at which time the City Council will hear both those who oppose and those who favor the proposal.
2. That notice of said proposal be given by publication once, not less than seven (7) days and not more than twenty (20) days before the date of hearing, all as specified in Section 362.3 and Section 414.4 of the Iowa Code.
3. The notice referred to shall be in the form hereto attached, and the City Clerk is hereby authorized and directed to publish such notice as provided above.

(Council Communication No. 07- 489)

MOVED by _____ to adopt.

FORM APPROVED:

Roger K. Brown
 Roger K. Brown
 Assistant City Attorney

(10-2007-5.01)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

MOTION CARRIED

APPROVED

 Mayor

 City Clerk

Date 28 29
 Agenda Item _____
 Roll Call # _____

June 4, 2007

Honorable Mayor and City Council
 City of Des Moines, Iowa

Members:

Communication from the City Plan and Zoning Commission advising that at their meeting held May 17, 2007, the following action was taken:

COMMISSION RECOMMENDATION:

After public hearing, the members voted 9-3-1 as follows:



CITY PLAN AND ZONING COMMISSION
 ARMORY BUILDING
 602 ROBERT D. RAY DRIVE
 DES MOINES, IOWA 50309 -1861
 (515) 283-4182

ALL-AMERICA CITY
 1949, 1976, 1981
 2003

Commission Action:	Yes	Nays	Pass	Absent
David Cupp	X			
Shirley Daniels				X
Dann Flaherty	X			
Bruce Heilman	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz				X
Kaye Lozier	X			
Jim Martin	X			
Brian Millard			X	
Brook Rosenberg		X		
Mike Simonson		X		
Kent Sovern	X			
Tim Urban		X		
Marc Wallace	X			

APPROVAL of a set of proposed amendments to Chapter 134 (Zoning Ordinance) to place limitations on electronic signs and off-premises advertising signs generally as follows, and as more specifically described in the accompanying communication: (10-2007-5.01)

- Add new definitions for Electronic Display Sign, Multi-vision Display Sign, and Video Display.
- Add regulations for electronic display signs over 24 square feet in area restricting the duration of any message to 20 seconds minimum, requiring transition to be instantaneous, establishing maximum brightness, requiring dimmer control mechanism to adjust to changing light conditions, and establishing residential separation of 100 feet for Electronic and Multi-Vision Display Signs.
- Add Video Display signs to the general list of prohibited signs.
- Add several additional locations (see included map) to the list of Designated and Gateway scenic corridors where off-premises signs are prohibited within 500 feet.
- Add provisions changing the standards for legal non-conforming signs prohibiting them from being converted to electronic display and limiting the ability of any type of sign reuse by changing the way destruction of a sign is defined.

- As part of the changes to the non-conforming provisions, an existing legal non-conforming off-premises advertising sign on a Designated Scenic and Gateway corridor could be converted to an electronic sign only if the applicant agrees to cause a second existing legal non-conforming sign of equal or larger size to be removed from the same Designated Scenic and Gateway corridor prior to such conversion.

By separate motion and vote members moved 12-0-1 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
David Cupp	X			
Shirley Daniels				X
Dann Flaherty	X			
Bruce Heilman	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz				X
Kaye Lozier	X			
Jim Martin	X			
Brian Millard	X			
Brook Rosenberg			X	
Mike Simonson	X			
Kent Sovern	X			
Tim Urban	X			
Marc Wallace	X			

APPROVAL of a motion to recommend to the City Council that the City work with the appropriate authorities to determine the proper assessed values of land and/or structures that contain very valuable billboards, and to encourage the City Council to work with billboard companies to promote community service announcements such as Amber Alerts; and,

by a separate motion the members further voted 12-1 as follows:

<u>Commission Action:</u>	<u>Yes</u>	<u>Nays</u>	<u>Pass</u>	<u>Absent</u>
David Cupp	X			
Shirley Daniels				X
Dann Flaherty	X			
Bruce Heilman	X			
Jeffrey Johannsen	X			
Greg Jones	X			
Frances Koontz				X
Kaye Lozier	X			
Jim Martin	X			
Brian Millard	X			
Brook Rosenberg	X			
Mike Simonson	X			
Kent Sovern		X		
Tim Urban	X			
Marc Wallace	X			

in support of a motion to recommend to the City Council that it would be in the public's interest to phase out billboards in the community.

STAFF RECOMMENDATION AND BASIS FOR APPROVAL

Staff recommends approval of the proposed text amendments as attached. Based on input from the stakeholders meeting on May 14 and the Regulation and Ordinances Committee meeting on May 16, a revised recommendation may be forthcoming at the meeting.

STAFF REPORT

I. GENERAL INFORMATION

On February 12, 2007 the City Council established a temporary moratorium on off-premises signs with electronic displays. The Plan and Zoning Commission created a sub-committee in response to the moratorium on February 15, 2007. The sub-committee along with staff was charged with investigating issues surrounding electronic signs. On April 9, 2007 the finding of the sub-committee and the Regulation and Ordinances Committee of the Plan and Zoning Commission reported to the City Council with the following findings:

- Electronic/digital display signs (both off-premises and on-premises) can present a direct and substantial impact to community aesthetics, property values, traffic and pedestrian safety.
- Electronic/digital display advertising signs are highly visible from long distances and at wide viewing angles both day and night and are designed to catch the eye of persons in their vicinity and hold it for extended periods of time.
- Without changes in the City of Des Moines Zoning Ordinance with regard to Electronic/Digital Display signs (in particular billboard sized signs), these signs will continue to present an increased threat to community aesthetics, property values, and traffic safety.

At that time the City Council then voted to extend the moratorium to develop proposed changes to the Zoning Ordinance text to mitigate potential impacts related to those findings. The Council also required that stakeholders in the sign industry be included in the review of any proposed Ordinance changes.

The attached Ordinance text changes recommended by the Regulation and Ordinances Committee will be presented at a stakeholders meeting on Monday, May 14, 2007. The Committee will review the input provided at the meeting on Wednesday May 16, 2007 prior to the Commission final consideration of text amendments. The City Council required that a recommendation from the Commission be forwarded on to them for their consideration at their June 4, 2007 meeting.

The proposed text changes generally make the following modifications to the sign regulations in the Zoning Ordinance:

- Add new definitions for Electronic Display Sign, Multi-vision Display Sign, and Video Display.
- Add regulations restricting the duration, transition, brightness, dimmer control, and residential separation for Electronic and Multi-Vision Display Signs.
- Add Video Display signs to the general list of prohibited signs.
- Add several additional locations (see included map) to the list of Designated scenic corridors where off-premises signs are prohibited within 500 feet.
- Add provisions changing the non-conforming provisions for signs prohibiting non-conforming signs to be converted to electronic display and limiting the ability of sign reuse by changing the way destruction of a sign is defined.

(Revisions noted in discussion and motion)

SUMMARY OF DISCUSSION

Erik Lundy: Presented staff report and recommendation. Noted the subject request was originally before the City Council on February 12, 2007 in response to a sign that was installed at SW 63rd & Grand Avenue. The Plan and Zoning Commission followed up and established a subcommittee, which met once; Brian Millard was the Chairman. He thanked Commissioner Millard and the members of the R&O Committee and the contributions of all the Commissioners in the process. He explained it is not desired for moratoriums to be continually extended.

Larry Hulse: Commended Commissioner Millard for the research he did and noted there are few cities that have responded to the subject issue. Commissioner Millard found some websites that helped in the research of ordinances. Indicated if the installation is regulated there will be more calls. It has been cutting-edge review.

Brook Rosenberg: Expressed concern with regard to the 20 seconds and suggested people that slow down to view the signs would create a hazard.

Erik Lundy: Suggested the 20 minutes in the original language was looked at by R&O and determined that to be longer than necessary to reduce an impact. The idea behind setting a duration was to limit the number of messages that would be viewed. The thought was to reduce the duration to 20 seconds from the 20 minutes.

Mike Ludwig: Noted the discussion was to limit the number of sign changes to 2-3 times per minute. Most of the billboards are visible from 1/3 to 1/4 of a mile in travel distance from the billboard, which is roughly 1600 feet. At the speeds that are on most of the streets, 20 seconds covers between 700 and 1000 feet. On average the sign will change 2-3 times while the sign is visible.

Bruce Heilman: The Committee did not specifically consider the 20-second duration as a safety issue. R&O did not consider people slowing down so they could view all the changes the signs would have. The issue has to do not with the frequency, but whether changing signs should be allowed at all.

Brian Millard: Noted the Bloomington, MN ordinance details 20 minutes between sign changes. Suggested that was due to the speed of the vehicles going by so that in most cases there would be zero changes as they go high speed down the highway.

Mike Ludwig: Noted staff emailed the staff in Bloomington and indicated their intent was to have no change in signs.

Brian Millard: Asked how R&O decided the 20 seconds would be appropriate for the Des Moines Ordinance.

Bruce Heilman: Explained the email from Bloomington disavowed any safety concerns for establishing the 20 minutes. Static billboards are a distraction or they would not exist because they are advertising designed to attract attention. The introduction of changes could increase the distraction for people driving by. R&O discussed traffic light changes and estimated they average approximately 20 seconds in Des Moines. Noted that could be increased or decreased. The industry standard of 8-seconds was set by the industry.

Tim Urban: Noted he called municipalities to inquire how they regulate off-premise signs and whether they would address the use of electronic messaging. None of the five jurisdictions he spoke with had directly grappled with electronic messaging as a current technology issue. Most of them have provisions in the ordinances to disallow animated or electronic devices on off-premise signs at all; they would not allow them. He also discovered most of Des Moines' suburban neighbors do not allow off-premise advertising at all other than industrial districts. Also discovered 20-30 years ago the City Council grappled with the issue to set up an amortization plan to put them

out of business except for industrial areas. Council changed its mind in 2000 and opened the door again allowing multiple panels on single poles. West Des Moines stuck with an amortization plan from 1973 to 1983 and they are basically gone with the exception of Fuller Road, which is an industrial district. Expressed concern that the real subject discussion should be what to do with off premise signs. Noted the safety issue of the electronic signs could not be proven.

Bruce Heilman: Noted the Commission could not dismiss the directive from the City Council.

Larry Hulse: Suggested the Commission could do both. The primary part of the discussion was digital, changeable signs. The Mayor brought up the possibility of the issue being the off-site advertising in general and asked for a report on that issue as well. Noted the Commission could address and give policy recommendations on both.

Tim Urban: Noted the ordinance has a section on scenic corridors that prohibits billboards and argued that was a new initiative and would have nothing to do with the electronic signs.

Larry Hulse: Noted it would because signs that are existing could still be there.

Tim Urban: Argued how non-conforming signs are dealt with is an entirely different issue. How signs are characterized as appropriate or inappropriate in the urban landscape of Des Moines compared to the rest of the metropolitan community is the issue.

Mike Simonson: Agreed with the direction of Commissioner Urban's arguments and suggested if the Commission does not like the billboards, suggested allowing them to change them once per week and there won't be any because they won't be able to afford to put them up.

Bruce Heilman: Noted the Commission has to have a reason for doing what they do. Noted there is precedent for amortization of billboard for lack of aesthetics and the Commission has discussed it, but it is not what they are being tasked with. It would be within the Commission's purview to turn the request down and recommend eliminating all billboards within 10 years.

Mike Ludwig: Noted there were two actions by City Council. The first was to determine regulations for digital billboards; the second was a referral from the City Manager's office to the Community Development department to discuss amortization of billboards.

Erik Lundy: Completed the staff report and recommendation and highlighted the suggestions of changes in the language of the ordinance that resulted from the discussion at the stakeholders' meeting relative to the following:

- Definition of Electronic Display Signs;
- Dimmer controls;
- Roof mounted sign restrictions;
- Non-conforming provisions.

Noted the members of the stakeholders' group were very open to being involved in the process.

Brian Millard: Asked if any of the stakeholders had met with staff or talked to staff about any other ideas since the meeting with the stakeholders.

Erik Lundy: Indicated none had specifically.

CHAIRPERSON OPENED THE PUBLIC HEARING

There was no one in the audience to speak in favor of this request.

The following individuals spoke in opposition:

Tim Jamison General Manager of Clear Channel, 3101 SW 61st Street: Noted their industry has been around for 150 years and is in every major metropolitan market in the United States and globally and noted Clear Channel has 57,000 employees. He indicated the digital billboards are on the cutting edge; it is technology that has evolved. Explained Clear Channel has over 600 of the digital billboards. Noted 98% of all boards are on 8-second spots. The premise of the City Council's concern was on safety. He noted that according to the Des Moines Police Department's accident records, on SW 63rd & Grand there was one accident in February of 2006 and since the billboard was converted to digital, there was one accident in March of 2007. Suggested if digital billboards were causing traffic accidents it would be all over the news. Asked if anyone asked Bloomington, MN if they had digital billboards. He noted they don't because of the 20 minutes intervals. Minneapolis, St. Paul, Maple Grove and Minnetonka, MN all have digital billboards, all of which were 8-second intervals, which is the average. Cedar Rapids, Waterloo and Dubuque, Iowa all have 8-second digital billboards. Questioned how Des Moines could be progressive if they don't want to participate in new technology.

Mike Simonson: Questioned how much it cost to construct the electronic billboard on SW 63rd and Grand. Also asked if they own the piece of property the billboard sits on.

Tim Jamison: Indicated the cost of the structure is less than \$400,000 because they buy them in bulk. Noted they not only own the property the existing digital billboard sits on, but they deeded a piece of it over to the City of Des Moines for the new bike trail. They placed the billboard legally and promoted the City of Des Moines for approximately \$60,000 worth of free advertising.

Mike Simonson: Noted he does not like billboards and he felt there is appropriate discussion about whether or not to have them and stressed that not having them does not mean Des Moines is not progressive. Indicated he would prefer the electronic over paper because they look better.

Dann Flaherty: Noted the easement for the bike trail was required because the bike trail was redirected.

Tim Urban: Noted billboards were a hot issue when he was on the City Council. Indicated he would vote for 20-minute intervals if it would eliminate the ability to have electronic billboards, although the real issue is the appropriateness of large signs in the cityscape.

Tim Jamison: Noted Clear Channel has built one new billboard in the last 24 months. They have taken down six due to natural attrition. Billboards disappear slowly with development. There are over 100 less billboards in the Des Moines than there were 24 years ago. Currently there are 653 faces, which would be 320 plus signs.

Brian Millard: Asked if Mr. Jamison had asked West Des Moines about traffic accident reports since it faces West Des Moines.

Tim Jamison: Noted he had not because the billboard is in Des Moines. They chose that location because it is a high traffic area. Indicated the City of Windsor Heights has contacted them to place digital billboards.

Brian Millard: Stressed it is a critical issue that needs to be covered thoroughly.

Mike Ludwig: Explained the City Council directed the Commission to review it. Indicated a motion be made and suggested if the Commission wants amortization, a motion needs to be made as well. Noted one of the provisions considered by the R&O was that on scenic/gateway corridors an existing legal non-conforming billboard could be converted to digital only if a second billboard of equal or larger size on the same corridor was removed.

