

## Members

Jeremy C. Doty, Chair  
Thomas C. O'Connor, Vice-Chair  
Chris Beale  
Peter Elswick  
Donald Erickson  
Sean Gaffney  
Scott Morris  
Ian Morrison  
Matthew Nutsch

## Community and Economic Development Department

Ryan Petty, Director  
Peter Huffman, Assistant Director  
Charles Solverson, P.E., Building Official

## Public Works and Utilities Representatives

Jim Parvey, City Engineer/Assistant Director, Public Works Department  
Heather Pennington, Resource Planning Manager, Tacoma Water  
Diane Lachel, Community and Government Relations Manager, Click! Network, Tacoma Power



# Agenda

## Tacoma Planning Commission

747 Market Street, Room 1036  
Tacoma, WA 98402-3793  
253-591-5365 (phone) / 253-591-2002 (fax)  
[www.cityoftacoma.org/planning](http://www.cityoftacoma.org/planning)

(Agenda also available online at: [www.cityoftacoma.org/planning](http://www.cityoftacoma.org/planning) > "Planning Commission" > "Agenda Packets")

**MEETING:** Regular Meeting

**TIME:** Wednesday, February 16, 2011, 4:00 p.m.

**PLACE:** Room 16, Tacoma Municipal Building North  
733 Market Street, Tacoma, WA 98402

### A. CALL TO ORDER

### B. QUORUM CALL

**C. APPROVAL OF MINUTES** – Regular Meeting of January 5, 2011  
Regular Meeting of January 19, 2011

### D. GENERAL BUSINESS

#### (4:05 p.m.) 1. Billboard Regulations

Description: Continue to discuss potential code revisions pertaining to billboards  
Actions Requested: Review and authorize for public comment and set public hearing date for March 16, 2011.  
Support Information: See "Agenda Item GB-1"  
Staff Contact: Shirley Schultz, 591-5121, [shirley.schultz@cityoftacoma.org](mailto:shirley.schultz@cityoftacoma.org)

#### (5:05 p.m.) 2. Master Program for Shoreline Development

Description: Consider potential revisions to the upcoming public hearing draft of the Shoreline Master Program.  
Actions Requested: Review, Comment, Direction  
Support Information: See "Agenda Item GB-2"  
Staff Contact: Steve Atkinson, 591-5531, [satkinson@cityoftacoma.org](mailto:satkinson@cityoftacoma.org)



**E. COMMUNICATION ITEMS**

**F. COMMENTS BY LONG-RANGE PLANNING DIVISION**

**G. COMMENTS BY PLANNING COMMISSION**

**H. ADJOURNMENT**

**Members**

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# Minutes

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**(For Review/Approval on 2-16-11)**

MEETING: Regular Meeting

TIME: Wednesday, January 5, 2011 4:00 p.m.

PLACE: Room 16, Tacoma Municipal Building North  
 733 Market Street, Tacoma, WA 98402

Members Present: Jeremy Doty (Chair), Thomas O'Connor (Vice-Chair), Chris Beale, Peter Elswick, Donald Erickson, Scott Morris, Matthew Nutsch, Ian Morrison

Members Absent: Sean Gaffney

Staff Present: Donna Stenger, Jana Magoon, Steve Atkinson, Brian Boudet, Ian Munce, Shirley Schultz, Lucas Shaddock, Lisa Spadoni, Lihuang Wung, Noah Yacker (BLUS); Jeff Capell (Legal); Josh Diekmann (Public Works)

Others Present: Shelley Kerslake (legal counsel); Kim Van Zwalenburg (DOE)

Chair Doty called the meeting to order at 4:03 p.m. There were no minutes to approve.

**GENERAL BUSINESS****1. Master Program for Shoreline Development**

Mr. Steve Atkinson continued to facilitate the Planning Commission's review and discussion of the public comments received on the preliminary draft Shoreline Master Program released in September 2010. The discussion focused on issues relating to public access.

Mr. Atkinson highlighted the many facets that are involved in developing a fair and equitable public access provisions to balance such questions as public versus privately owned land, water-dependent versus non-water-dependent uses, and industrial versus non-industrial uses of the City's shoreline. He also provided information concerning constitutionality issues, the



requirements of the Shoreline Management Act, and the Department of Ecology's guidance on public access.

Mr. Jeff Capell, Deputy City Attorney, further explained the legal context that must be considered when developing public access requirements and answered questions from the Commissioners concerning nexus and proportionality. Mr. Capell also reviewed prior court cases and their findings.

Mr. Atkinson sought the Commission's guidance on the following four questions:

- (a) *Applicability – Should the use/development provide access?*  
The Commission concurred with staff's recommendations that public access should apply to shoreline permits when certain conditions exist: the use creates/increases demand, the proposed development impacts existing access or interferes with the public's use of navigable waters, the development/use is on public land or proposed by a public entity and the use is water-related, water enjoyment or non-water dependent. The Commission felt that this should be clearly defined in the code.
- (b) *Preference – Should the access, where applicable, be on-site or off-site?*  
The Commission concurred with staff's recommendations that on-site access should always be preferred to off-site access unless off-site access would provide greater public benefit.
- (c) *Waiver – Can on-site access be achieved?*  
The Commission concurred with staff's approach that an analysis is needed to determine whether on-site access is feasible. The review should consider off-site access as part of the review before waiving the access requirement.
- (d) *Options – Should we consider off site alternatives?*  
The Commission indicated that off site should be considered only after on-site access is determined infeasible. The Commission discussed the proposed option for a voluntary contribution to a public access fund instead of providing the off-site access directly. This provision is also referred to as a fee-in-lieu provision. Mr. Atkinson noted that this option generated public comments both for and against the option and staff suggests that the option be eliminated due to its controversial nature.

Commissioner Morrison distributed four pieces of information for the Commissioners' reference; they were the court cases on *Nollan v. California Coastal Commission*, *Dolan v. City of Tigard*, *Henderson Homes v. City of Bothell*, and *Trimen Development v. King County*.

## **2. Billboard Regulations**

Ms. Shirley Schultz returned with answers to concerns that were expressed by Commissioners regarding signs visible from highways and how they are regulated by State and federal laws. Discussion ensued on the size of signs in relation to sightlines and the speed of the traffic on adjacent roadway. The Commissioners expressed a desire to hear from the Traffic Engineering staff to obtain more information to aid them in making a final recommendation.

Ms. Schultz also presented a video that showed an example of a digital billboard in another jurisdiction. This led to a discussion on the size and scale of billboards and how they fit in with

overall goals for pedestrian orientation particularly in Mixed-Use Centers. Ms. Schultz reported on the upcoming public meeting that is scheduled for January 31, 2011.

The Commissioners again expressed that in addition to their recommendations to the City Council on code revisions that there should also be included a statement to the effect that they have reservations about the proposed regulations because they are to satisfy a settlement agreement with Clear Channel which may not be the best way to determine public policy. The Commissioners also expect that staff will return with more information regarding electrical performance, “off” times for billboards, benchmarking for how height is measured and state requirements for billboards before they pass on final recommendations to the City Council.

### **3. Annual Amendment #2011-09 – SEPA Regulations Amendment**

Ms. Shirley Schultz briefly went over salient points about this amendment. She pointed out that the bulk of the proposed changes are organizational rather than substantial. She highlighted some of the proposed changes, the conditions that trigger the need to have a SEPA applied to a project and how appeals occur. The Commission requested that Ms. Schultz provide the final language in the appeal section that was missing from the draft staff report, and with that, the Commission concluded that the staff report would be complete and the draft code ready for distribution for public review.

### **4. Annual Amendment #2011-06 – Regional Centers & CPTED**

Ms. Donna Stenger continued to facilitate the Commissioners’ review and discussion of the proposed amendments contained in this application, focusing on the proposed text and policy additions to the Comprehensive Plan to address the use of Crime Prevention Through Environmental Design (CPTED) and its principles. Ms. Stenger provided a brief overview of the proposed changes to be incorporated into the Urban Aesthetics and Design section of the Generalized Land Use Element of the Comprehensive Plan. She pointed out that the proposed policies are mostly aimed at public development and public spaces. The City at this point does not have any formal design review process in place but consideration of safety issues could be a key element if a design review process is established in the future.

The Commissioners suggested not placing undue emphasis on the “crime prevention” aspect. They stated that “Safety-Oriented Design” or “Safety by Design” would be more in keeping with what the original purpose of the amendment and that is to assure that there is “equity in the use of public spaces through incorporation of safer design principles.” Ms. Stenger responded that staff will modify the proposed text changes accordingly.

## **COMMUNICATION ITEMS**

Chair Doty acknowledged receipt of the following:

1. Hearing Examiner’s Reports and Decisions
2. Memo of December 21, 2010 from Jeff Capell, Assistant City Attorney, regarding Appearance of Fairness Doctrine
3. Memo of December 22, 2010 from Jennifer Kammerzell, Public Works, regarding Arterial designation of East 34<sup>th</sup> Street

## **COMMENTS BY LONG-RANGE PLANNING DIVISION**

Ms. Stenger stated that the proposed Amendment application for the Container Port Element will not be under consideration as a part of the 2011 annual amendments. Developing the element is a joint effort between the City and the Port of Tacoma. This unusual collaboration needs additional discussions among all the effected parties which cannot be completed before the annual amendments are scheduled for public review. Development of the plan element will continue but will be proceed on a different timeline.

## **COMMENTS BY PLANNING COMMISSION**

In keeping with the principles under the “Appearance of Fairness Doctrine”, Commissioner Beale disclosed that he had met with Gary Brackett and Mike Weinman of the Chamber of Commerce on December 17, 2010, regarding the Shoreline Master Program Update. Commissioner Erickson disclosed that he had also met with the same gentlemen. Commissioner Morrison disclosed that he had met with a representative from Schnitzer Steel regarding the same subject. Commissioner Morrison also mentioned that he has accepted a part-time job with a local law firm and has requested from his employer that he would not be involved in any land use work concerning the City of Tacoma.

## **ADJOURNMENT**

The meeting adjourned at 6:40 p.m.

**Members**

Jeremy C. Doty, Chair  
 Thomas C. O'Connor, Vice-Chair  
 Chris Beale  
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# Minutes

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**(For Review/Approval on 2-16-11)**

MEETING: Regular Meeting

TIME: Wednesday, January 19, 2011 4:00 p.m.

PLACE: Room 16, Tacoma Municipal Building North  
 733 Market Street, Tacoma, WA 98402

Members Present: Thomas O'Connor (Vice-Chair), Chris Beale, Peter Elswick, Donald Erickson, Sean Gaffney, Scott Morris, Matthew Nutsch, Ian Morrison

Members Absent: Jeremy Doty (Chair)

Staff and Others Present: Donna Stenger, Jana Magoon, Steve Atkinson, Elliott Barnett, Brian Boudet, Philip Kao, Reuben McKnight, Ian Munce, Shirley Schultz, Barbara Serry, Jennifer Ward, Lihuang Wung, Noah Yacker (BLUS); Joshua Diekmann (Public Works); Kim Van Zwalenburg (DOE); Lois Stark (Metro Parks)

Vice Chair Thomas O'Connor called the meeting to order at 4:05 p.m. The minutes for the December 19, 2010 meeting were reviewed. Commissioner Erickson pointed out that a statement in "Appearance of Fairness Doctrine" that indicated that he disagreed with Mr. Capell (the presenter) was inaccurate. He suggested a correction be made to clarify that he was asking Mr. Capell whether disclosure of all forms of communication would always be needed for all ex parte contacts. The minutes were approved as amended.

**GENERAL BUSINESS****1. Master Program for Shoreline Development**

Mr. Steve Atkinson continued to facilitate the Planning Commission's review and discussion of the public comments received on the preliminary draft Shoreline Master Program released in September 2010. The discussion focused on the proposed policies and development regulations pertaining to the S-7 Schuster Parkway Shoreline District.



Mr. Atkinson indicated that the public comments on the S-7 district were primarily concerning the issues relating to environment designation, intent statement, district boundary, uses, and public access. He highlighted the existing conditions and the public access requirements in S-7, as well as explaining the Dome to Defiance Study of 1988 that had been mentioned repeatedly in the public comments. Mr. Atkinson then presented three policy options developed in response to the public comments and sought the Commissioners' feedback. The three options were:

Option 1 – This option would maintain the High Intensity designation from Sperry to TEMCO, and rezone the Chinese Reconciliation Park to S-6 Ruston Way. This option would carryover the intent for S-7 from the current code. The intent is to prioritize light industrial deep water uses, but also require preservation of the quality of life for the adjacent neighborhood. Water-dependent industrial uses and recreation, water-enjoyment uses would be allowed.

Option 2 – This option would maintain the High Intensity designation from Sperry to TEMCO, and rezone the Chinese Reconciliation Park to S-6 Ruston Way, same as Option 1, but would put greater emphasis in the S-7 district on promoting industrial uses and deep water moorage, while minimizing impacts to surrounding areas. This option would permit specific shoreline modifications and uses that would enable expansion of industrial uses.

Option 3 – This option has two sub-options. Option 3a would establish the Urban Conservancy designation and rezone the Chinese Reconciliation Park and Sperry Ocean Dock sites into S-6 Ruston Way. Option 3b would establish the Urban Conservancy designation and rezone the entire S-7 district either into S-6 or something consistent with S-6. Both Options 3a and 3b would prioritize water-enjoyment uses and recreation/open space. The main idea under this option is to prohibit new development of industry, lower height limits, and make Schuster Parkway development resemble activities that occur along Ruston Way.

The Commissioners were divided in their approval of the three options. The Commission asked if the public review draft to be released in spring 2011 could have two zoning alternatives for Sperry Dock site for the purpose of seeking public comment. One option would have the Sperry site remain in the S-7 district and the other option would include the site within the S-6 designation. Mr. Atkinson indicated he would return with options for the Commission's consideration.

## **2. Billboard Regulations**

Ms. Shirley Schultz suggested several decision points in developing the proposed code revisions. She asked that the Commissioners consider the following questions regarding the permitting of digital billboards:

- a. Where will digital billboards be allowed?
- b. How many will be allowed in a specific area and how will they be limited?
- c. What will be the height restrictions?
- d. What areas will they allowed in?
- e. What will be the dispersal standards?

Mr. Josh Diekmann, Public Works Engineering, gave a brief summary of the issues for putting up billboards from a traffic engineering viewpoint. Some points that he stressed were making



sure that billboards had static images and not be overly bright to avoid acting as a distraction to drivers. There are no clear cut engineering standards to follow; therefore federal regulations are the standards followed by the Engineering Division. The main standard enforced that would be applicable to billboards (regular and digital) is not to obstruct the ability to see traffic signals or act as a distraction to drivers.

Ms. Schultz will return after researching the concerns regarding transition time, address the concerns of Traffic Engineering, research what other cities are doing, research dispersal standards, and bring back the comments from the public meeting (scheduled for January 31). Mr. Diekmann will also do further research on safety concerns that other jurisdictions may have experienced and bring that information back for discussion.

### **3. Annual Amendment #2011-07 – Parks Zoning and Permitting**

Mr. Elliott Barnett facilitated the Commissioners' review of the proposed text changes as contained in the staff report. He pointed out that the new objective of streamlining the requirements for parks would mean that parks would be allowed either as an outright permitted use in residential zones or if the park had specific features that could impact residential uses would be allowed under a Conditional Use Permit.

The Commissioners were interested in how signs are approved or allowed in parks. They would like to see signs not be automatically allowed, but have City have some measure of control within the Code to govern them as to placement, size, and type. Mr. Barnett provided examples of what type of signs would be permitted outright and under what conditions different types of signs are allowed. The Commissioners asked that Mr. Barnett bring back some examples of what other cities have enacted in permitting signage for parks. There was also some concern expressed from Commissioners about informing neighbors of when parks are going to expand and how the City plans on assuring that the Code addresses this point.

### **4. Annual Amendment #2011-02 – Historic Preservation Plan and Code**

Mr. Reuben McKnight, Historic Preservation Officer, reviewed some key items – Conservation District and demolition section – that have been changed in the draft Code. He pointed out that the purpose of the proposed amendment is to streamline the Code, remove antiquated language contained therein, and make it more compatible with other sections of the Land Use Code.

The Commissioners asked if owner consent was required when property is submitted for historic designation. Mr. McKnight explained the nomination process for informing property owners when their property was under consideration for being designated as a landmark or when included as part of a proposed Historic District. He indicated that owner consent is not required and this is a national standard practice for designating landmark buildings. The Commissioners also were concerned that the lead time to inform property owners and to respond was not long enough. Mr. McKnight indicated that he would review this section to provide notice to the property owner and to allow adequate time for a response to the nomination. The Commissioners had additional inquiry as to what the section on "economic hardship" meant and Mr. McKnight explained what the rationale was for adding this section to the Code. There was also debate on establishing the criteria for determining how old a building should be for consideration to be placed on the registry.

## **5. Annual Amendment #2011-06 – Regional Centers & Safety-Oriented Design**

Ms. Donna Stenger explained that one component of the proposed plan changes included in this amendment is to update and clarify existing explanatory language concerning the Growth Management Act and other State planning laws. New text is proposed concerning the Shoreline Management Act and the State Environmental Policy Act. She indicated other revisions will achieve consistency and better articulate the use of the Generalized Land Use Intensity Map and Plan policies. The Commissioners concurred with the proposed revisions as presented.

## **6. Annual Amendment #2011-08 – Regulatory Code Refinements**

Mr. Brian Boudet provided an overview of the process and practice that are done annually to make refinements and modifications to the regulatory code. He also reviewed the proposed changes concerning the Transparency Requirements for industrial uses and parking garages.

Mr. Philip Kao reviewed the landscaping requirements for development that are to be added to the Code. He focused on applicability standards for landscaping requirements during development. The Commission wanted to know if a substantial interior or exterior remodel of a commercial building would have an impact as to whether or not landscaping plans should be a requirement under the development standards. The Commissioners had some concerns about planting of street trees and it was noted that there are options in the amendment that address this issue and Mr. Kao addressed their concerns.

Ms. Barbara Serry reviewed the changes for accessory structures on residential lots. The proposal is to limit the size of accessory structures to 75% of the floor area of main dwelling. Since the adoption of this provision, some questions as to what counts as floor area have been raised, such as square footage of finished basements or attic spaces. In order to better apply the intent of creating a visual distinction between the smaller accessory structures and the larger main dwellings, a new proposal is being made to limit accessory structures by building footprint, rather than floor area. Staff would also propose to increase the allowance from 75% to 85% of the main dwelling footprint, to account for larger lots where the footprint may be much smaller than the size of the lot.

Ms. Serry also addressed the “Eating and Drinking” uses within the C-1 Districts. The C-1 Currently, restaurants are allowed in C-1, but a Conditional Use Permit is required for restaurants that also serve alcohol, which has deterred businesses in the past. Staff is proposing to allow restaurants outright while further differentiating restaurant-type uses from primary drinking uses, such as bars or taverns, which would continue to require an issuance of a Conditional Use Permit.

Mr. Noah Yacker reviewed the proposed changes to the Land Use Code concerning (a) Pipe-stem lots; (b) Accessory Dwelling Units; (c) Solar-Panels, and (d) Definitions. He summarized these points in the following manner:

- Pipe-stem Lots – They are not currently prohibited although they are typically achieved by using easements rather than extending the property to the right-of-way. The code change being proposed would more clearly define what a pipe-stem lot is, state when it is allowed and encouraged, and provide setback and lot frontage exemptions for pipe-

stem lots. The Commissioners expressed the concern about limiting the creation of these lots to a greater degree than is currently allowed. The Commissioners supported infill development and would like to see the proposed language and diagrams modified to better illustrate when pipe-stem lots are appropriate and when they are not allowed.

- Accessory Dwelling Units (ADUs) – The proposed Code changes would make the ADU permitting process clearer and more predictable by replacing the Concomitant Agreement with a Notice on Title and removing the public notice process. No objections were raised.
- Solar Panels – This would allow solar panels to be exempt from the height requirements provided they only extend 12 inches above the roof and do not extend above the ridge line. No objections were raised.
- Definitions – Combining the definitions sections in TMC 13.06 and 13.06A. No objections were raised.

### **COMMUNICATION ITEMS**

Vice-Chair O'Connor acknowledged receipt of the announcements for the following events:

1. Community Workshop on Billboards, January 31, 2011
2. Pierce Transit Open Houses on Proposition 1, January 12-26, 2011
3. Sound Transit Open Houses on Souder Station Access Planning Study, January 18-26, 2011
4. The Government Leadership Institute, January-March 2011

### **COMMENTS BY LONG-RANGE PLANNING DIVISION**

None.

### **COMMENTS BY PLANNING COMMISSION**

Commissioners Beal and Morrison disclosed that they met with David Schroedel today regarding the Shoreline Master Program Update. Commissioner Erickson disclosed that he met with Sharon Winters of Historic Tacoma, on January 4, 2011.

Vice-Chair O'Connor distributed, for Commissioners' information, a pamphlet published by the National Association of Home Builders: "Climate Change, Density and Development – Better Understanding the Effects of Our Choices."

### **ADJOURNMENT**

The meeting adjourned at 7:45 p.m.





City of Tacoma  
Community and Economic Development Department

Agenda Item  
GB-1

TO: Planning Commission  
FROM: Shirley Schultz, Principal Planner, Current Planning Division  
SUBJECT: Billboard Code Revisions  
DATE: February 10, 2011

At the next meeting on February 16, 2011, the Planning Commission will continue its review of the proposed amendments to the *Tacoma Municipal Code* pertaining to billboard regulations.

Attached is a staff report for the proposed amendments, along with a copy of the revised draft code amendments (shown in strikethroughs and underlines) and associated exhibits. This new draft of the code amendments incorporates a number of improvements over the partial draft version reviewed at the February 2 Commission meeting. These include changes based on input from the Planning Commission, as well as additional review comments from the Traffic Division, Legal Department, and Long-Range Planning Division.

The proposed code amendments will change how the City regulates billboards and allow the installation of digital billboards. Further, the proposed amendments will facilitate a reduction in the overall number of billboards in the city.

After the Commission's review and discussion, staff intends to request that the Commission authorize the proposed code amendments for public distribution and review and set March 16, 2011 as the date for a public hearing to receive public testimony.

If you have any questions, please contact Shirley Schultz at (253) 591-5121 or at [shirley.schultz@cityoftacoma.org](mailto:shirley.schultz@cityoftacoma.org).

Attachment





## Billboard Code Revisions

### STAFF REPORT

<b>Applicant:</b>	City of Tacoma, Community & Economic Development Dept
<b>Contact:</b>	Shirley Schultz, 591-5121
<b>Type of Amendment:</b>	Regulatory Code Text Change
<b>Current Land Use Intensity:</b>	City-wide
<b>Current Area Zoning:</b>	City-wide
<b>Size of Area:</b>	City-wide
<b>Location:</b>	City-wide
<b>Neighborhood Council area:</b>	All
<b>Proposed Amendment:</b>	Revising the regulations which apply to billboards (off-premises signs) to permit digital billboards in exchange for a significant reduction in standard billboards.

#### General Description of the Proposed Amendment:

The proposed amendments apply to the regulation of billboards. Some of the proposed changes apply to all billboards, and others are meant to implement an exchange program whereby digital billboards would be permitted if existing standard billboards are removed and/or permits for standard billboards are relinquished. The framework and impetus for the proposal is a negotiated settlement agreement between Clear Channel Outdoor and the City which was approved by the City Council in 2010. The proposed changes build upon the intent of that Agreement and propose additional performance criteria for both the initial phase of the agreement (the installation of the first 10 digital billboards) and for any future installation of digital billboards.

Billboards are off-premises signs, which means that they are not located on the premises of the use or activity to which the sign pertains. Digital billboards operate like large digital picture frames – a single image is displayed for a certain amount of time, and is then replaced by a different image. As proposed, digital billboards would not be able to have any animation (moving pictures) or flashing lights, like some other electronic signs might have. A billboard “face” is one side of a billboard sign and consists of one screen. A single billboard structure may have more than one face.

The proposed changes would modify the Land Use Regulatory Code (Sections 13.06.520 - .522). In addition to adding new provisions for permitting digital billboards, the proposed changes would modify and add definitions, consolidate and relocate sections for retaining or exchanging billboards, and revise provisions for non-conforming off-premises signs. The proposed changes would apply city-wide; however, they would apply especially to the zoning districts where billboards are currently allowed:

- C-2 (General Community Commercial)
- M-1 and M-2 (Light and Heavy Industrial)
- PMI (Port Maritime Industrial)

Under the current regulations, existing billboards are allowed to relocate within these four zoning districts, subject to certain restrictions which are further discussed below. The proposed regulations would also allow new *digital* billboards to be erected on properties within these four zoning classifications, again subject to certain restrictions. The overall intent of the proposed changes is a substantial reduction in the number of existing billboards, in exchange for allowing the placement of digital billboards. If the program is continued to its fullest extent, the number of billboards within the city could drop from 253 to 38; all of which would be digital billboards. In addition, the digital technology will allow almost instantaneous communication on multiple signs for Amber Alerts and other emergency announcements.

The major components of the changes are set forth in the next few subsections. The following should be read in conjunction with explanatory notes on the Public Review Draft of the code, which is attached as Exhibit A.

### **Changes to Definitions section and general sign regulations:**

1. Currently the definition of “billboard” is related to its content. That is, a billboard is a billboard because it contains a commercial message for a product or service. Billboards may be regulated based on their size or location – but not based on what they say. A new definition is proposed that doesn’t rely on what a billboard says, but more upon where it is and how big it is. The changes to the billboard definition also require changes in several other definitions in the section. Based upon a review of definitions used by other cities, the proposed changes should improve the City of Tacoma regulations, making them more consistent internally and making them more comparable to other cities in the state.
2. Currently, the code only briefly mentions the State regulations regarding signage, in the intent section. The State of Washington has laws and administrative rules related to the federal Scenic Vistas Act, which controls signs that are visible from certain state and federal highways. Off-premises signs and electronic signs require special review and permitting when located in these areas. An additional subsection is proposed that strengthens the reference to State law and notes that, notwithstanding any provision in the City’s Code, State laws apply and may supersede local regulations. This is meant as a reminder to any applicant for a sign in Tacoma that other regulations may apply, depending on the type and location of sign.

### **Changes to Billboards Section:**

1. Substantial changes are proposed to the way the City regulates billboards. In general, introductory phrases have been added to the beginning of each section in order to highlight the purpose of that section. Also, throughout the code, text has been modified to emphasize and regulate the number and size of billboard *faces* rather than referring to faces and structures. Use of a consistent reference throughout streamlines the regulations and allows accurate comparisons between removed signage and installed signage. Language within the code has also been rearranged to place “like with like” – for instance, all the regulations about locations where billboards may be constructed have been grouped together, and all the regulations about performance standards (height, size, etc.) have been situated near each other. Some language has been consolidated as well.
2. A great deal of language relating to the former exchange program has been removed. This deletion updates the code in light of the presently proposed changes, and also puts an end to the system of relocation certificates.
3. The existing cap on the number of billboard faces and total square footage for billboard signs is not proposed to change, nor is the existing 1:1 exchange program for standard billboards. A new section



is proposed for the exchange of standard billboard faces for digital faces. The ratio operates as follows:

Digital Billboards	Existing Faces Removed	Relocation Certificates surrendered	Remaining faces/Certificates
Initial 10	53	100	200/69
Next 7	At least 35	Up to 69	165/0
Final 21	Up to 168	0	0/0

Briefly, for each digital billboard face proposed after the first 10 permitted digital faces, a minimum of 5 standard faces must be removed and relocation certificates surrendered for a total of 15 faces, until all relocation certificates have been remitted. At that point 8 faces must be removed for each digital billboard face constructed. Demolition permits for the faces to be removed must be issued and inspected prior to construction of a new digital billboard face.

4. The first 53 billboard faces to be removed are listed in the settlement agreement and are specified in the draft code revisions. The next 25 faces to be removed are at the discretion of Clear Channel Outdoor according to the terms of the settlement agreement. After that, the proposed changes indicate a priority preference for removals to those faces that are close to residentially zoned areas or other sensitive uses, followed by those which are close to the relocated billboard, and then those which are outside the four allowed zoning districts. This means that, after the initial 78 faces are removed, the first billboards to be removed should be those which are 250 feet or less from a residential zone, school, church, park, open space, or historic district. (There are currently about 100 existing billboards that don't meet these buffering standards.)
5. Performance standards are added to address digital billboard faces and sign lighting. These lighting standards would apply to all digital billboards constructed in the city. They regulate static image time (the amount of time a single picture is displayed on the screen), the transition time between images (to avoid complicated scrolling or animation on the screens), the motion on the screen (none is allowed), and the brightness of the screen. Brightness is proposed to be measured in two ways – first, from a light-meter reading taken from a certain distance from the sign to ensure the sign isn't creating an undue increase in the light levels in the area. The second is a measurement at the surface of the sign and the level of light actually emitted from the device. The operating hours of billboards are also limited. The proposed regulations would require the digital image to be turned off between the hours of 10 pm and 5 am.

These regulations are developed from research of other jurisdictions and are also somewhat based upon industry standards. Traffic safety studies also contribute to these standards, showing how quickly a message may change without becoming a distraction and hazard. Brightness regulations are intended to minimize excess lighting in the vicinity of the sign as well as to avoid glare or nuisance to people who are looking at the sign. All digital billboards will have a light sensor integrated into their electronics which will adjust the brightness of the sign based upon the amount of light in the surrounding area. For example, signs will be brighter on a sunny day than they are during the nighttime hours.

6. No changes are proposed to the existing allowable height and size of billboard structures and faces for the new digital billboards; it was determined that these regulations should be the same for both digital billboards and standard billboards. The maximum height is 30 ft except in PMI (Port Maritime Industrial), where the maximum height is 45 ft. The maximum size of a billboard face is 300 square

feet. It should be noted that the size limits will not apply to the first 10 permitted billboards installed in the special receiving areas (see below).

These regulations on size and height were instituted in the 1980s and have been in place since then. Many billboards which were constructed prior to that date are larger or taller than currently allowed. While many of the billboards located in the city are 288 square feet per face, the larger billboards are 672 square feet per face. For examples of billboards throughout the city, see the document titled “Billboard Tour” on the Planning Division’s website: [www.cityoftacoma.org/planning](http://www.cityoftacoma.org/planning).

7. Dispersal regulations – i.e. how far billboards must be from other billboards – has been simplified from the existing code. The existing code measures dispersal in four different ways: it limits the number of faces within a certain distance, it states that structures must be 100 feet apart, it sets out a minimum “appropriate zoning” distance to locate billboards, and it specifies the appropriate zoning across the street from a proposed billboard face. The proposed language limits billboard faces to 500 feet between faces, unless they are on the same structure, and maintains the existing opposite-side of the street zoning requirement. Dispersal will be calculated on a radius, and might work roughly as shown in the drawing below. The goal of dispersal regulations is to limit the concentration of billboard faces in any one neighborhood. This benefits both the neighborhood (less signage) and also the advertisers and sign company (fewer signs competing for attention).



8. Buffering regulations, meaning how far new billboards must be from “sensitive uses,” are not proposed to change. Currently, the code says that a new billboard face must be located 250 feet from a residential zoning district, a school, park, church, or other public use, and 375 feet from a shoreline district. (For reference, a typical block is about 330 feet by 240 feet.) Those same buffers would apply to digital billboards, except for the first 10 permitted billboards in the special receiving areas. Therefore, even if a billboard was proposed for an appropriate zoning district, like the C-2 district, it could not go everywhere in that district. It would have to be off-set from sensitive uses by 250 feet. The attached map that shows zoning districts (Exhibit C) as dark purple lines also includes the

buffers, with the left over area shown as lavender. These are the areas where a new billboard could be located.

9. Special receiving areas for the first ten (10) digital billboards were determined in the Settlement Agreement. These areas are shown on the map attached as Exhibit B. In these areas – where up to 10 and only 10 digital faces may be located – the standard size regulations do not apply. The agreement states that the first ten digital billboards will be “bulletin” billboards, which are defined as up to 672 square feet. These areas were chosen by both Clear Channel Outdoor and the City Council. Most of the locations already have other billboards, and all of them are along arterials.
10. Under the current code a billboard may be nonconforming to buffering (located too close to a sensitive use), dispersal (located too close to other billboards), zoning (located in the wrong zoning district), and/or performance standards (too big or too tall).
11. Revisions to nonconforming sign regulations are proposed to reflect the changes to the billboard exchange program for digital billboards. Currently, changes to off-premises signs are very restricted; language has been added to allow maintenance and repair or replacement, as well as to allow for installation of digital billboards in compliance with the code. Also, the current code prohibits any new signage on a site where a nonconforming billboard is located. This restriction is regardless of ownership of the site or the buildings on the site – meaning, for instance, if a tenant moving into an existing building wanted new signage at the site, they would be denied permits until the billboard was brought into compliance (typically, removed). The other option for someone requesting signage would be to sign a legal agreement with the City that they would terminate their lease with the billboard company as soon as possible.

The goal of the revised billboard code is to have removal of billboards occur over time and not place the burden of removal on a business owner, who might not have any control over the billboard lease on the property.

The code also requires that, when a site or structure is being substantially altered, nonconforming billboards are brought into compliance or removed. This language will remain in the code, but will be changed to reflect redevelopment thresholds that are in other parts of the zoning code. Specifically, the amount of work that can be completed within a two-year period has been revised to reflect either a “level II” or a “level III” alteration, similar to that level of work which would require compliance with certain design and landscaping standards. This language is consistent with other sections of the zoning code that talk about nonconforming uses and structures and when they need to be brought into compliance.

12. Only minimal changes would be made to the sign code tables. Digital Billboards (other than the initial 10) would only be allowed in the “C-2” General Community Commercial, “M-1” Light Industrial, “M-2” Heavy Industrial, and “PMI” Port Maritime Industrial districts. A map of these zones – including the remaining areas after the existing buffer requirements are applied – is attached as Exhibit C.

### **Additional Information:**

The City of Tacoma made major amendments to its sign code for billboards in the mid-1980s and the mid-1990s. The number of billboards that can locate in the city and their total square footage has been capped since 1988. No new billboards are permitted but existing billboards can be relocated. In the 1997 code changes, the City instituted an exchange program by which a nonconforming billboard could be removed and exchanged for a building permit or a “relocation certificate” in a conforming location.

Billboards and relocation certificates could be transferred to other owners. This means that if someone wants to install a billboard on their property, they must own or purchase another billboard that they can remove.

The 1997 code also instituted an amortization clause which stated that all nonconforming billboards must be removed by 2007.

Currently, there are 253 billboard faces in the City and relocation certificates for 169 more. Approximately 193 of the existing billboard faces are nonconforming for one reason or another.

The sign code placed strict limitations on nonconforming billboards regarding their maintenance and alteration. On sites where billboards were located, other uses were not allowed to have any new signage unless the billboard was removed or a legal agreement was put into place promising the removal of the billboard.

Enforcement of these regulations resulted in a lawsuit in 2007 from the owner of nearly all the billboards and all the relocation certificates, Clear Channel Outdoor. The suit claimed that the City's code was unconstitutional as it was based on the content of the sign, that the adopted amortization provision was not adequate compensation for their billboard inventory and that the Scenic Vistas Act did not allow amortization in the manner dictated by the City's Code. Following more than two years of negotiation, the City Council determined that a legal settlement, which substantially reduces billboards across the City, was in the best interest of the City. The terms of the agreement provide a framework for the proposed revisions to the sign regulations. This Settlement Agreement is available on the Planning Division's website: [www.cityoftacoma.org/planning](http://www.cityoftacoma.org/planning).

The key terms of the agreement set forth the intent and created a framework for the proposed changes. There are two parts to the exchange program for billboards under the agreement: the first ten digital billboard faces and then subsequent digital billboard faces. Many of the standards for the first ten (10) digital billboard faces were set forth in the settlement agreement. These first ten billboard faces will be 672 square feet in area and the possible locations for them are also determined – these locations are referred to in the draft code as the “special receiving areas.” These “special receiving areas” are also shown on the map attached as Exhibit B.

In exchange for permits to install these first ten digital billboard faces, Clear Channel Outdoor will remove 53 faces throughout the city. These 53 faces are located on 33 different structures. In cases where this represents removal of all the faces on a billboard structure, the structure will be removed to ground level. Clear Channel Outdoor will also give up the relocation certificates for 100 billboard faces.

For all billboards which come after the first ten, a permit can be issued for a digital billboard on the condition that at least five faces are removed and enough relocation certificates are given up to total 15 billboard faces surrendered.

Another 25 standard billboard faces will be removed within 5 years after the agreement is executed, whether or not permits for additional digital billboards beyond the first 10 faces are issued.

Per the Agreement, the City is also considering code revisions to regulate certain aspects of digital billboards, including for the initial ten (10) faces, such as regulations regarding lighting, static image time, and emergency communication. These regulations would also apply to subsequent digital billboards if, and when, they are installed. In addition, the proposed regulations would adopt size, height, and location standards for the additional digital billboards (which can be considered a secondary phase).

If the Agreement is carried out to its fullest extent, the eventual number of billboard faces in Tacoma could be as little as 38. Regardless of future installation of digital billboard faces, there will be a reduction of 78 standard billboard faces within the first five years.

The draft code amendments were compiled based upon research of other cities in Washington and how they regulate billboards and other signs. Additional information was garnered from court cases regarding billboards, and technical information was received from sign companies, billboard owners, and city engineers. Traffic safety measures have been reviewed and incorporated where appropriate in the draft amendments. This research and information was provided to the Planning Commission in their decision-making process to direct the drafting of the code.

### **Public Outreach:**

City staff have met with representatives from the Cross-District Association (Design Committee) and the Community Council – representatives from all the Neighborhood Councils. A general public meeting was held on January 31. Approximately 35 people attended; the notes from that meeting are attached as Exhibit D.

### **Applicable Provisions of the Growth Management Act (and other state laws):**

Sign regulation is a typical part of zoning and land use controls authorized under state law. In addition, the State regulates certain signs that are visible from certain highways. These laws are contained in Chapter 47.42 RCW: Highway Advertising Control Act – Scenic Vistas Act and the implementing rules at Chapter 468-66 WAC – Highway Advertising Control Act. These regulations will further restrict billboards visible from Interstates 5 and 705, as well as State Routes 7 and 16. Nothing in the proposed changes conflicts with these State laws and State regulations will supersede City regulations where applicable.

### **Applicable Provisions of the Comprehensive Plan:**

The *Comprehensive Plan* discusses signage in the context of urban design, aesthetics, and pedestrian orientation in several sections of the *Plan*. In most cases it sets forth goals and policies for integrating signage plans into sub-area development plans, ensuring high quality signage, and encouraging pedestrian-scaled signs in mixed-use districts. Commercial district design goals are to integrate signage into the overall design and scale of the district, and ensuring that commercial district development does not act as a detriment to surrounding neighborhoods. The *Plan* states outright that billboards should be prohibited in the Shoreline districts and freestanding signs should be prohibited in the UCX-TD district (Tacoma Dome Urban Center Mixed-Use).

Individual signs proposed for some of the special receiving areas (specifically, those proposed for location in the UCX-TD between “D” and “G” Streets along Puyallup Avenue) could be seen as in conflict with the stated goal of the *Comprehensive Plan* to not allow freestanding signs in these areas. In addition, to the extent that billboards are considered to be auto-oriented (that is, they are directed toward busy streets and the attention of motorists), it can also be argued that they are not appropriate for location in mixed-use districts generally. Six of the 19 Special Receiving Areas are located in mixed-use districts and one is located in a Downtown district. These proposed locations are along busy arterial streets with high volumes of vehicular traffic. See Exhibit B.

Certain special receiving areas also are located within the required buffer distance from residential districts. Digital billboards placed in these locations may impact the residential area – depending on how the sign is designed and oriented.

In the aggregate, however, the exchange program should result in fewer billboards overall (both digital and traditional) in the city, with fewer billboards located close to residential districts and fewer billboards in all districts – including mixed-use districts. While some areas may be impacted temporarily or permanently by additional billboards, overall the city will see a reduction.

### **Applicable Provisions of the Land Use Regulatory Code:**

The proposed changes to the Land Use Regulatory code are intended to meet the intent of the Settlement Agreement – achieve an overall reduction in the number of billboards in the city by allowing the installation of digital billboards. The proposed changes are limited to Sections 13.06.520-.522, the Sign Code.

The intent of this section of the zoning code is to establish regulations which support land use objectives, to recognize signs as important communication devices, to protect safety and welfare, and to promote an attractive community. The objectives of the section are to provide for uniform and balanced requirements, to ensure compatibility with surroundings, to balance sign users' needs with aesthetics, and to achieve quality design and maintenance for all signs in the city.

The Sign Code is comprised of an intent section, a definitions section, a general regulations section, a section which applies to regulation of signs by type, and a section which applies to signage per district (the tables). Modifications are proposed to each section.

The proposal is intended to better meet the stated intent of the Sign Code by meeting the sign user's need (in this case Clear Channel Outdoor and its clients) and at the same time improving the aesthetics of the community overall. The reduction in the number of billboard faces in the city will benefit neighborhoods throughout the city. In addition, changes proposed to the nonconforming billboards section will remove some of the existing disincentives for sign maintenance and repair. The existing regulations regarding aesthetics are proposed to be somewhat strengthened, as well, and new digital billboards will be controlled for brightness, light pollution, and noise.

The proposal is intended to support the implementation of *Comprehensive Plan* goals for mixed-use centers, as, over time, most the billboards in these areas will be removed in exchange for billboards in other districts. The same can be said for billboards which are located close to residential districts – thus promoting the protection of residential areas as set forth in the *Comprehensive Plan*. Digital billboards will also be regulated so that they do not present a safety hazard – with lighting restrictions, minimum static image times, prohibition of interfering with or imitating a traffic control device, and the like.

Further, the proposed changes to the code should streamline the review of billboards in general. Changes are proposed to simplify the regulations for dispersal (how far billboards have to be from one another), and changes are proposed to the definitions to clarify what a billboard is and remove the focus on content.

### **Amendment Criteria:**

*Applications for amendments to the Comprehensive Plan and Land Use Regulatory Code are subject to review based on the adoption and amendment procedures and the review criteria contained in TMC 13.02.045.G. Proposed amendments are required to be consistent with or achieve consistency with*

*the Comprehensive Plan and meet at least one of the eleven review criteria to be considered by the Planning Commission. The following section provides a review of each of these criteria with respect to the proposal. Each of the criteria is provided, followed by staff analysis of the criterion as it relates to this proposal.*

**1. There exists an obvious technical error in the pertinent Comprehensive Plan or regulatory code provisions.**

Staff Analysis: There are technical errors and inefficiencies in the current code. The definition of “billboard” is defined by its content. Given court cases about commercial free speech under the Constitution, it has been determined to be an inappropriate definition. Further, there is not adequate distinction between off-premises and on-premises signs. Language regarding billboards is organized poorly – for example, subsections regarding location are not placed together, and redundant language is included and can be consolidated.

**2. Circumstances related to the proposed amendment have significantly changed, or a lack of change in circumstances has occurred since the area or issue was last considered by the Planning Commission.**

Staff Analysis: An amortization clause was adopted in 1997 stating that all nonconforming billboards were to be removed by August 1, 2007. That clause was challenged when the deadline passed. Court cases regarding commercial free speech, content-based regulation, and property takings have been adjudicated since that time. Pursuant to the legal challenge, and in light of court cases subsequent to the 1997 ordinance, the City Council determined that a settlement was in the best interest of the City.

**3. The needs of the City have changed, which support an amendment.**

Staff Analysis: The amendment is needed to implement a Settlement Agreement, that compromise which is intended to avoid protracted legal issues.

**4. The amendment is compatible with existing or planned land uses and the surrounding development pattern.**

Staff Analysis: In most cases, digital billboards are planned to be located where traditional billboards already exist. In all cases, digital billboards are planned for high-traffic locations, along arterial street routes with a high volume of automobile traffic. The initial 10 billboards are not necessarily compatible with the planned development of the area, as some of them are within mixed-use districts; however, the exchange program as a whole is consistent with the intent of the sign code and with aesthetic improvements city-wide.

**5. Growth and development, as envisioned in the Plan, is occurring faster, slower, or is failing to materialize.**

Staff Analysis: This criterion is not applicable.

**6. The capacity to provide adequate services is diminished or increased.**

Staff Analysis: This criterion is not applicable.

**7. Plan objectives are not being met as specified, and/or the assumptions upon which the plan is based are found to be invalid.**

Staff Analysis: The 1997 code changes anticipated exchange of billboards at a 1:1 ratio and the removal of all nonconforming billboards by 2007. Very few billboards have been relocated, and the remaining nonconforming billboards have not been removed.

**8. Transportation and and/or other capital improvements are not being made as expected.**

Staff Analysis: This criterion is not applicable.

**9. For proposed amendments to land use intensity or zoning classification, substantial similarities of conditions and characteristics can be demonstrated on abutting properties that warrant a change in land use intensity or zoning classification.**

Staff Analysis: This criterion is not applicable.

**10. A question of consistency exists between the Comprehensive Plan and its elements and RCW 36.70A, the County-wide Planning Policies for Pierce County, Multi-County Planning Policies, or development regulations.**

Staff Analysis: This criterion is not applicable.

**Economic Impact Assessment:**

The economic impacts of the proposed amendment are difficult to anticipate and quantify. Certain land owners will lose income as their leases for standard billboards are terminated. Other landowners may receive new leases for digital billboards. In addition, the City will benefit in that digital billboards will be made available for emergency services alerts. The owners of digital billboards will benefit greatly from the increased advertising revenues on digital billboards, which can support several advertisers at once, compared to a traditional billboard with just one advertiser. At the same time, parties wishing to use billboard advertising will benefit from more opportunities on those digital billboards.

**Staff Recommendation:**

Staff recommends that the draft amendment (Exhibit A) be released for public review in preparation for a public hearing on March 16, with the recognition that changes may be made to refine the language before a final recommendation is forwarded to the City Council.

**Exhibits:**

- A. Draft Code Amendments, annotated
- B. Map of Special Receiving Areas for the first 10 digital billboards
- C. Map of allowed zoning districts, with buffers, for subsequent digital billboards
- D. Notes from the public meeting on January 31, 2011



Billboard Code Revisions**13.06.520 Signs.**

A. Purpose. The purpose of this section is to establish sign regulations that support and complement land use objectives set forth in the Comprehensive Plan, including those established by the Highway Advertising Control Act (Scenic Vistas Act). Signs perform important communicative functions. The reasonable display of signs is necessary as a public service and to the proper conduct of competitive commerce and industry. The sign standards contained herein recognize the need to protect the safety and welfare of the public and the need to maintain an attractive appearance in the community. This code regulates and authorizes the use of signs visible from public rights-of-way, with the following objectives:

1. To establish uniform and balanced requirements for new signs;
2. To ensure compatibility with the character of the surrounding area;
3. To promote optimum conditions for meeting sign users' needs while, at the same time, improving the visual appearance of an area which will assist in creating a more attractive environment;
4. To achieve quality design, construction, and maintenance of signs so as to prevent them from becoming a potential nuisance or hazard to pedestrian and vehicular traffic.

**B. Scope.**

1. The provisions and requirements of this section shall apply to signs in all zones as set forth in this chapter. Applicable sign regulations shall be determined by reference to the regulations for the zone in which the sign is to be erected.
2. The regulations of this section shall regulate and control the type, size, location, and number of signs. No sign shall hereafter be erected or used for any purpose or in any manner, except as permitted by the regulations of this section.
3. The provisions of this code are specifically not for the purpose of regulating the following: traffic and directional signs installed by a governmental entity; signs not readable from a public right-of-way or adjacent property; merchandise displays; point of purchase advertising displays, such as product dispensers; national flags, flags of a political subdivision, and symbolic flags of an institution or business; legal notices required by law; historic site plaques; gravestones; structures intended for a separate use, such as Goodwill containers and phone booths; scoreboards located on athletic fields; lettering painted on or magnetically flush-mounted onto a motor vehicle operating in the normal course of business; and barber poles.

4. Regulations pertaining to signs in Shoreline Districts are found in Chapter 13.10.

C. Definitions.

Abandoned sign. A sign that no longer correctly directs any person or advertises a bona fide business, lessor, owner, product, or activity conducted or available on the premises where such sign is located.

A-Board sign (sandwich board sign). A sign which consists of two panels hinged or attached at the top or side, designed to be movable and stand on the ground.

Animated sign. A sign that uses movement, by either natural or mechanical means, to depict action to create a special effect or scene.

Architectural blade. A sign structure which is designed to look as though it could have been part of the building structure, rather than something suspended from or standing on the building.

Awning sign. A sign affixed to the surface of an awning and which does not extend vertically or horizontally beyond the limits of such awning.

Banner sign. A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentations applied to paper, plastic, or fabric of any kind.

1. Commercial banner. A banner used for commercial purposes, which includes "For Lease," "Grand Opening," "Sale," etc.

2. Cultural, civic, and educational banner. A banner used for cultural, civic, or educational events, displays, or exhibits.

Blade sign - pedestrian oriented. A double-faced sign intended for pedestrian viewing installed perpendicular to the building facade for which it identifies.

Billboard ~~sign, standard~~. An off-premises sign greater than 72 square feet in size. This type of sign is generally composed of poster panels or bulletins mounted on a building wall or freestanding structure, or painted directly on the wall or freestanding structure. ~~which advertises goods, products, events, or services not necessarily sold on the premises on which the sign is located; however, a person, business, or event located on the premises shall not be identified. The sign may consist of:~~

~~1. Poster panels or bulletins normally mounted on a building wall or freestanding structure with advertising copy in the form of posted paper.~~

This language defines billboard in terms of size rather than content. The definition is also condensed.

Size is referenced to distinguish a billboard from an off-premises directional sign; the smallest billboard is 72 square feet.

Standard billboard is defined to differentiate them from digital billboards for the purposes of the exchange program.

~~2. Painted bulletins, where the message of the advertiser is painted directly on the background of a wall-mounted or freestanding display area.~~

Billboard, digital. An off-premises sign greater than 72 square feet in size, utilizing digital message technology capable of changing the message or copy on the sign electronically. Digital billboards are not considered under the definitions of animated sign, changing message centers, electrical signs, illuminated sign, flashing sign.

Building face or wall. All window and wall area of a building in one plane or elevation.

Center identification sign. Any sign which identifies a shopping, industrial center, or office center by name, address, or symbol. Center identification signs may also identify individual businesses and activities located within the center.

Changing message center. An electronically controlled sign, message center, or readerboard where copy changes of a public service or commercial nature are shown on the same lamp bank (i.e., time, temperature, date, news, or commercial information of interest to the traveling public).

Changeable copy sign (manual). Any sign that is designed so that characters, letters, or illustrations can be changed or rearranged by hand, without altering the face or the surface of the sign (i.e., readerboards with changeable pictorial panels).

Construction sign. A temporary sign giving the name or names of principal contractors, architects, lending institutions, or other persons or firms responsible for construction on the site where the sign is located, together with other information included thereon.

Corporate logo sign. A logo sign consists of a symbol or identifying mark(s) used as part of a corporation identification scheme that is meant to identify a corporation, company, or individual business or organization. Internally illuminated cabinet signs shall not be allowed for use as a logo sign above 35 feet in any of the downtown districts.

Directional sign. Any sign which serves solely to designate the location of any place, area, or business within the City limits of Tacoma, whether on-premises or off-premises.

Directory sign. A sign on which the names and locations of occupants or the use of a building is given.

Electrical sign. A sign or sign structure in which electrical wiring, connections, and/or fixtures are used as any part of the sign.

Flashing sign. An electrical sign or portion which changes light intensity in sudden transitory bursts, but not including signs which

Digital billboard is defined for the purposes of the exchange program, and is based on location (off-premises), size, and technology.

Digital billboards have specific standards and do not have the same regulations as other types of changing message signs.

appear to chase or flicker and not including signs where the change in light intensity occurs at intervals of more than one second.

Freestanding sign. A permanently installed, self-supporting sign resting on or supported by means of poles, standards, or any other type of base on the ground.

Frontage.

1. Freestanding sign. For the purpose of computing the size of a freestanding sign, frontage shall be the length of the property line parallel to and abutting each public right-of-way bordered.

2. Building mounted sign. For the purpose of computing the size of building mounted signs, frontage shall be the length of that portion of the building containing the business oriented onto a right-of-way or parking lot. For a business with more than one frontage, the largest frontage with a public entrance shall be used.

Graphics. An aggregate of designs, shapes, forms, colors, and/or materials located on an exterior wall and relating to or representing a symbol, word, meaning, or message.

Ground sign. A sign that is six feet or less in height above ground level and is supported by one or more poles, columns, or supports anchored in the ground.

Identification or directory sign. A combination sign used to identify numerous buildings, persons, or activities which relate to one another, which is used as an external way-finding for both vehicular and pedestrians traffic.

Illuminated sign. A sign designed to give forth any artificial or reflected light, either directly from a source of light incorporated into or connected with such sign or indirectly from a source intentionally directed upon it, so shielded that no direct illumination from it is visible elsewhere than on the sign and in the immediate proximity thereof.

Incidental sign. A small sign intended primarily for the convenience and direction of the public on the premises, which does not advertise but is informational only, and includes information which denotes the hours of operation, telephone number, credit cards accepted, sales information, entrances and exits, and information required by law. Incidental information may appear on a sign having other copy as well, such as an advertising sign.

Landscaping. Any material used as a decorative feature, such as planter boxes, pole covers, decorative framing, and shrubbery or planting materials, used in conjunction with a sign, which expresses the theme of the sign but does not contain advertising copy.

Marquee sign. A sign attached to and made part of a marquee. A marquee (or canopy) is defined as a permanent roof-like structure attached to and supported by the building and projecting beyond a building, but does not include a projecting roof.

Multiple business center. A grouping of two or more business establishments which either share common parking and/or access drives on the lot where they are located or which occupy a single structure or separate structures which are physically or functionally related or attached. In order to be considered a separate business establishment, a business shall be physically separated from other businesses; however, businesses which share certain common internal facilities, such as reception areas, checkout stands, and similar features shall be considered one business establishment.

Mural. A decorative design or scene intended to provide visual enjoyment that is painted or placed on an exterior building wall. A mural contains no commercial messages, logo, or corporate symbol.

Nonconforming sign. A nonconforming sign shall mean any sign which does not conform to the requirements of this section.

Neutral surface. The building surface, cabinetry, and opaque surfaces which are not an integral part of the sign message.

Off-premises sign. A permanent sign not located on the premises of the use or activity to which the sign pertains.~~A sign that identifies or gives directional information to a commercial establishment not located on the premises where the sign is installed or maintained.~~

Removes the regulation of content from the definition.

Off-premises open house or directional sign. A sign advertising a transaction involving:

1. A product sold in a residential zone;
2. A product that cannot be moved without a permit; and/or
3. A product with a size of at least 3,200 cubic feet.

On-premises sign. Any sign identifying or advertising a business, person, activity, goods, products, or services primarily located on the premises where the sign is installed or maintained.

Parapet. A false front or wall extension above the roof line.

Person. Person shall mean and include a person, firm, partnership, association, corporation, company, or organization, singular or plural, of any kind.

Political sign. A temporary sign which supports the candidacy of any candidate for public office or urges action on any other matter on the ballot in a primary, general, or special election.

Portable sign. Any sign not permanently attached to the ground or a building. (Includes A-frame, sandwich boards, and portable readerboards.)

Projecting sign. A sign, other than a wall sign, which is attached to and projects from a structure or building face.

Public Facility. Any facility funded in whole or part with public funds, which provides service to the general public, including, but not limited to, public schools, public libraries, community centers, public parks, government facilities, or similar use.

Public information sign. A sign erected and maintained by any governmental entity for traffic direction or for designation of, or direction to, any school, hospital, historical site, or public service, property, or facility. Public signs include those of such public agencies as the Port of Tacoma, Pierce Transit, the Tacoma School District, and the MetroParks Tacoma.

Readerboard. A sign consisting of tracks to hold letters, which allows for frequent changes of copy; usually such copy is not electronic.

Real estate sign. Any sign which is only used for advertising the sale or lease of ground upon which it is located or of a building located on the same parcel of ground.

Repair. To paint, clean, or replace damaged parts of a sign, or to improve its structural strength, but not in a manner that would change the size, shape, location, or character.

Roof line or ridge line. The top edge of the roof or top of a parapet, whichever forms the top line of the building silhouette.

Roof sign. Any sign erected upon, against, or directly above a roof or parapet of a building or structure.

Rotating signs. Any sign or portion thereof which physically revolves about an axis.

Searchlight. An apparatus for projecting a beam or beams of light.

Sign. Any materials placed or constructed, or light projected, that (a) convey a message or image and (b) are used to inform or attract the attention of the public, but not including any lawful display of merchandise. Some examples of "signs" include placards, A-boards, posters, murals, diagrams, banners, flags, billboards, or projected slides, images or holograms. The applicability of the term "sign" does not depend on the content of the message or image conveyed. Any object, device, display, structure, or part thereof, which is used to advertise, identify, direct, or attract attention to a product, business, activity, place, person, institution,

Refines the definition of sign to a generally-accepted standard definition. Notes that the content of a sign has nothing to do with its regulation.

~~or event using words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images.~~

Sign area. The total area of a sign, as measured by the perimeter of the smallest rectangle enclosing the extreme limits of the letter, module, or advertising message visible from any one viewpoint or direction, excluding the sign support structure, architectural embellishments, decorative features, or framework which contains no written or advertising copy. (Includes only one side of a double-faced sign, unless noted otherwise.)

1. Individual letter signs, using a wall as the background without added decoration or change in wall color, shall be calculated by measuring the smallest rectangle enclosing each letter. The combined total area of each individual letter shall be considered the total area of the sign.
2. For a multiple face sign, the sign area shall be computed for the largest face only. If the sign consists of more than one section or module, all areas will be totaled.
3. Neutral surfaces (i.e., graphic design, wall murals and colored bands), shall not be included in the calculation. (See definition of "Neutral Surface.")
4. The area of all regulated signs on a business premises shall be counted in determining the permitted sign area.

Sign height. The vertical distance measured from the adjacent grade at the base of the sign to the highest point of the sign structure; provided, however, the grade of the ground may not be built up in order to allow the sign to be higher.

Sign structure. Any structure which supports, has supported, is designed to support, or is capable of supporting a sign, including a decorative cover.

Street. A thoroughfare which provides the principal means of access to abutting property.

Swinging sign. A sign installed on an arm or spar that is fastened to an adjacent wall or upright pole, which sign is allowed to move or swing to a perceptible degree.

Temporary off-premises sign. An off-premises advertising sign attached to temporary fencing during the time of construction.

Temporary sign. An on-premises sign, banner, balloon, pennant, valance, A-board, or advertising display constructed of cloth, canvas, fabric, paper, cardboard, plywood, wood, wallboard, plastic, sheet metal, or other similar light material, with or without a frame, which is not permanently affixed to any sign structure and which is intended to be displayed for a limited time only.

Under-marquee sign. Signs or other information-conveying devices that are affixed to the underside of a marquee and project down from the bottom of the marquee.

User. A user shall be understood to mean the lessee or purchaser of any sign.

Unlawful sign. Any sign which was erected in violation of any applicable ordinance or code governing such erection or construction at the time of its erection, which sign has never been in conformance with all applicable ordinances or codes.

Wall sign (fascia sign). A sign painted on or attached to or erected against the wall of a building with the face in a parallel plane of the building wall.

Warning Sign. Any sign which is intended to warn persons of prohibited activities such as “no hunting” and “no dumping.”

Window sign. A sign painted on, affixed to, or installed inside a window for purposes of viewing from outside the premises.

**13.06.521 General sign regulations.**

A. Administration.

1. Land Use Administrator. The Land Use Administrator shall interpret, administer, and enforce the sign code in accordance with Chapter 13.05.

2. Building Official. The Building Official shall issue all permits for the construction, alteration, and erection of signs in accordance with the provisions of this section and related chapters and titles of the Tacoma Municipal Code (see Chapter 2.05). In addition, all signs, where appropriate, shall conform to the current Washington State Energy Code (see Chapter 2.10), National Electrical Code, and the National Electrical Safety Code. Exceptions to these regulations may be contained in the Tacoma Landmarks Special Review District regulations, Chapters 1.42 and 13.07.

3. Applicability. All new permanent signs, painted wall signs, and temporary off-premises advertising signs require permits. Permits require full conformance with all City codes, particularly Titles 2 and 13. Signs not visible from a public right-of-way or adjacent property are not regulated herein, but may require permits pursuant to the provision of Title 2.

4. In addition to and notwithstanding the provisions of this section, all signs shall comply with all other applicable regulations and authorities, including, but not limited to, Chapter 47.42 RCW: Highway Advertising Control Act – Scenic Vistas Act and Chapter 468-66 WAC – Highway Advertising Control Act.

States that regardless of the Tacoma Municipal Code, there are other permits and review that may be required under state and federal law.



B. Exempt signs. The following signs shall be exempt from all requirements of this section and shall not require permits; however, this subsection is not to be construed as relieving the user of such signage from responsibility for its erection and maintenance, pursuant to Title 2 or any other law or ordinance relating to the same.

1. Changing of the advertising copy or message on a sign specifically designed for the use of replaceable copy.
2. Repainting, maintenance, and repair of existing signs or sign structures; provided, work is done on-site and no structural change is made.
3. Signs not visible from the public right-of-way and beyond the boundaries of the lot or parcel.
4. Incidental and warning signs.
5. Sculptures, fountains, mosaics, murals, and other works of art that do not incorporate business identification or commercial messages.
6. Signs installed and maintained on bus benches and/or shelters within City right-of-way, pursuant to a franchise authorized by the City Council.
7. Seasonal decorations for display on private property.
8. Memorial signs or tablets, names of buildings and date of erection, when cut into any masonry surface or when constructed of bronze or other incombustible material.
9. Signs of public service companies indicating danger and aid to service or safety.
10. Non-electric bulletin boards not exceeding 12 square feet in area for each public, charitable, or religious institution, when the same are located on the premises of said institutions.
11. Construction signs denoting a building which is under construction, structural alterations, or repair, which announce the character of the building enterprise or the purpose for which the building is intended, including names of architects, engineers, contractors, developers, financiers, and others; provided, the area of such sign shall not exceed 32 square feet.
12. Window sign.
13. Political signs, as set forth in Title 2.
14. Real estate signs, 12 square feet or less, located on the site. Condominiums or apartment complexes shall be permitted one real estate sign with up to 12 square feet per street frontage. Such sign(s) may be used as a directory sign that advertises more than one unit in the complex.

15. Off-premises open house or directional signs, subject to the following regulations:

a. The signs may be placed on private property or on the right-of-way adjacent to said private property, with the permission of the abutting property owner. The signs shall be displayed in such a manner as to not constitute a traffic hazard or impair or impede pedestrians, bicycles, or disabled persons. If either condition is not met, the abutting property owner or the City may remove the sign.

b. Signs shall not be fastened to any utility pole, street light, traffic control device, public structure, fence, tree, shrub, or regulatory municipal sign.

c. A maximum of three off-premises open house or directional signs will be permitted per single-family home. One additional open house or directional sign identifying the open house shall be permitted at the house being sold.

d. Signage shall not exceed four square feet in area per side (eight square feet total) and three feet in height. Off-premises open house or directional signs shall not be decorated with balloons, ribbons, or other decorative devices.

e. Signage shall only be in place between the hours of 11:00 a.m. and 6:00 p.m., when the seller of the product, or the seller's agent, is physically present at the location of the product.

f. Each off-premises open house or directional sign that is placed or posted shall bear the name and address of the person placing or posting the sign in print not smaller than 12 point font. The information identifying the name and address of the person placing or posting the sign is not required to be included within the content of the speakers' message, but may be placed on the underside of the sign or in any other such location.

g. New plats may have up to a maximum of eight plat directional signs for all new homes within the subdivision. New plat directional signs shall identify the plat and may provide directional information but shall not identify individual real estate brokers or agents. New plat directional signs shall be limited in size and manner of display to that allowed for off-premises open house or directional signs. Off-premises open house or directional signs shall not be permitted for new homes within new plats.

h. A maximum of three off-premises open house or directional signs shall be allowed per condominium or apartment complex.

16. Professional name plates two square feet or less.

17. Changing plex-style faces in existing cabinets; provided, work is done on-site without removing sign.

C. Prohibited signs. The following commercial signs are prohibited, except as may be otherwise provided by this chapter:

1. Signs or sign structures which, by coloring, wording, lighting, location, or design, resemble or conflict with a traffic control sign or device, or which make use of words, phrases, symbols, or characters in such a manner as to interfere with, mislead, or confuse persons traveling on the right-of-way or which, in any way, create a traffic hazard.
  2. Signs which create a safety hazard by obstructing the clear view of pedestrians or vehicular traffic, or which obstruct a clear view of official signs or signals.
  3. Signs, temporary or otherwise, which are affixed to a tree, rock, fence, lamppost, or bench; however, construction, directional, and incidental signs may be affixed to a fence or lamppost.
  4. Any sign attached to a utility pole, excluding official signs as determined by Tacoma Public Utilities.
  5. Signs on public property, except when authorized by the appropriate public agency.
  6. Signs attached to or placed on any stationary vehicle or trailer so as to be visible from a public right-of-way for the purpose of providing advertisement of services or products or for the purpose of directing people to a business. This provision shall not apply to the identification of a firm or its principal products on operable vehicles operating in the normal course of business. Public transit buses and licensed taxis are exempt from this restriction.
  7. Roof signs, except where incorporated into a building to provide an overall finished appearance.
  8. All portable signs not securely attached to the ground or a building, including readerboards and A-frames on trailers, except those allowed by the regulations of the appropriate zoning district.
  9. Abandoned or dilapidated signs.
  10. Portable readerboard signs.
  11. Inflatable signs and blimps.
  12. Off-premises sign, except pursuant to Section 13.06.521.L and M.
- D. Special regulations by type of sign. In addition to the general requirements for all signs contained in this section, and the specific requirements for signs in each zone, there are special requirements for the following types of signs:
1. Wall signs.
  2. Projecting signs.
  3. Freestanding signs.
  4. Marquee signs.
  5. Under-marquee signs.

- 6. Canopy and awning signs.
- 7. Temporary signs.
- 8. Off-premises directional signs.
- 9. Billboards ~~(outdoor advertising sign).~~

The special requirements for these signs are contained in subsections E through M of this section.

\* \* \*

L. Off-premises directional signs. Special regulations governing off-premises directional signs are as follows:

- 1. Off-premises directional signs shall be limited to a maximum of 15 square feet in area and 6 feet in height.
- 2. Off-premises directional signs shall contain only the name of the principal use and directions to the use in permanent lettering.
- 3. Off-premises directional signs shall be placed on or over private property, except that business district identification signs may be located and comply with the applicable requirements of Title 9.
- 4. Off-premises directional signs are permitted when on-premises signs are inadequate to identify the location of a business. If applicable, only one such sign shall be allowed.

M. Billboards ~~(outdoor advertising signs).~~ Special regulations governing billboards are as follows:

- 1. a. New Billboard Faces. No new billboards shall be allowed in the City, unless the applicant for a new billboard reduces the total number of billboards and relocation permits in existence as of June 1, 2011. New billboards will only be allowed in receiving areas designated in M.11, below. For purposes of this regulation, “reduce” shall mean to relinquish relocation permits held by an applicant and/or physical removal of billboard faces and related structures prior to the issuance of any permit to construct a new billboard.

~~Any person, firm, or corporation who maintains billboard structures and faces within the City of Tacoma shall be authorized to maintain only that number of billboard structures and faces that they maintained on April 12, 1988, except for transfers permitted in subsection 1.c of this section. A person who maintains any such billboard structures and faces may, thereafter, relocate a billboard face or structure to a new location as otherwise authorized by this section. No other billboards shall be authorized, and there shall be no greater total number of billboard structures and faces within the City than the number that were in existence on April 12, 1988.~~

~~That number of structures and faces shall include those for which permit applications had been filed prior to April 13, 1988. As~~

Clarifying text has been added, and text has been consolidated.

Emphasis is being taken off structures and limited more to faces, so that equivalent comparisons can be made.

In light of the revised exchange program and new dates, unnecessary and repetitive language and explanation has been removed.

~~unincorporated areas are annexed to the City of Tacoma, the total number of billboard structures and faces in that area will constitute an addition to the number authorized in the City of Tacoma.~~

~~bb. Exchange of standard billboard faces. Upon removal, to be confirmed by a site inspection, of an existing standard billboard face ~~or structure~~, a relocation ~~building~~ permit shall be issued authorizing relocation of the face ~~construction of a billboard face at~~ ~~to~~ a new site. Building permits shall not be extended beyond their normal expiration date. ~~There shall be no time limit on the billboard owner's eligibility to utilize such relocation permits. In the event that a billboard owner wishes to remove a billboard and does not have immediate plans for replacement at a new location, an inactive relocation permit shall be issued. There shall be no time limit on the activation of the inactive permit and such permits are transferable. The application for a relocation permit shall include an accurate site plan and vicinity map of the billboard face or structure to be removed, as well as a site plan and vicinity map for the new location. Site plans and vicinity maps shall include sufficient information to determine compliance with the regulations of this chapter. The above provisions shall not apply to billboards whose permit applications were applied for prior to April 13, 1988, and not erected, unless the applicants or owners agree within 60 days to have such billboards, subject to all the provisions of this chapter.~~~~

~~c. Relocation permits shall be transferable upon the billboard owner's written permission.~~

~~d. Exchange of digital billboards. A digital billboard permit may be issued with the condition that construction may begin upon removal, to be verified by a site inspection, of at least five (5) existing standard billboard faces and exchange of up to ten (10) relocation permits (or any combination of at least 5 existing faces with an adequate number of relocation permits to equal at least 15). If the applicant does not have relocation permits, eight (8) faces shall be removed.~~

~~d. In no case shall the number of billboard faces or structures increase, and the square footage of billboard sign area to be relocated shall be equal to or less than the square footage of billboard sign area to be removed.~~

~~e. Removal priorities. The removed billboards shall be those which are nonconforming to the buffering standards in subsections 9 and 10, below. If no billboards remain nonconforming to buffering standards, the billboards to be removed shall be those which are nonconforming to the dispersal standards from the new billboard as set forth in subsection 7, below. If the new billboard meets~~

The intent of the changes is that the inventory of "banked permits" goes away; therefore no new ones should be issued. When a billboard owner wants to exchange a nonconforming for a conforming billboard, they will get the building permit immediately, and it will have the normal life of a building permit (6 months) or be permitted.

This text has been deleted because it's a general requirement of all sign permits and repeating here is not necessary.

Digital billboards can be exchanged differently, with a different removal ratio.

This language has been relocated to (1.a) above.

This language has been clarified. The language regarding the accumulation of permits has been deleted. As that is already implied in earlier sections. Also, it does not apply to the exchange program for digital billboards.

dispersal standards, the billboards to be removed shall be at the discretion of the owner and may be located anywhere in the City.

f. Demolition permits. Removal of all faces from a billboard structure shall also require the issuance of a demolition permit for the structure itself, and removal of billboard faces (and their associated structures, if necessary) shall be completed prior to the installation of issuance of permits for relocated billboard faces. Structures, when removed, shall be removed to grade and the grade restored at the site. or structures. The billboard owner shall have the right to accumulate the amount of square footage to be allowed, at the owner's discretion, to new sign faces and structures permitted under this chapter.

2. Maintenance. All billboards, including paint and structural members, shall be maintained in good repair in compliance with all applicable building code requirements. Signs shall be kept clean and free of debris. The exposed area of backs of billboards must be covered to present an attractive and finished appearance.

3. Aesthetics. The following standards apply to all billboards.

a. Each sign structure must, at all times, include a facing of proper dimensions to conceal back bracing and framework of structural members and/or any electrical equipment. During periods of repair, alteration, or copy change, such facing may be removed for a maximum period of 48 consecutive hours.

b. No more than two billboard faces shall be located on a single structure.

c. Billboard faces located on the same structures shall be back-to-back with the two faces at no greater than a 30 degree angle from each other..

4. Landscaping. The following standards apply to all billboards installed after {the adoption of this code}.

a. No code-required landscaping may be diminished for the installation of a billboard.

b. The base of the billboard support shall be surrounded with a 5-foot-wide landscaping buffer composed of trees, shrubs, and groundcover.

c. No street tree may be removed or pruned to create or improve visibility at the time of installation

5. Lighting.

a. No flashing signs shall be permitted.

b. Signs shall not imitate or resemble traffic control devices.

Additional sections are included regarding aesthetics.

Limits the number of faces. Typically only two, but this language places that limit and prohibits three faces in a triangle.

c. All images shall be static; no animation or motion pictures are allowed.

d. For digital billboards, the minimum static image time is 8 seconds.

e. For digital billboards, the maximum transition time for images is 2 seconds.

f. Brightness, foot-candles. Digital Billboards shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured at the following distances, depending on the size of the Digital Billboard sign face:

Face Size	Distance to be measured perpendicular to the pole:
Up to 300 square feet-	150'
300 – 672 square feet	250'

Brightness may be measured at any time and from any location at the identified distance and shall not exceed the prescribed levels.

g. Brightness, intensity levels. The digital sign may not display light of excessive intensity or brilliance to cause glare or otherwise impair the vision of the driver. Digital sign light intensity exceeding the following intensity levels (nits) constitutes “excessive intensity or brilliance.”

INTENSITY LEVELS (NITS)

Color	Daytime	Nighttime
<u>Red Only</u>	<u>3,150</u>	<u>1,125</u>
<u>Green Only</u>	<u>6,300</u>	<u>2,250</u>
<u>Amber Only</u>	<u>4,690</u>	<u>1,675</u>
<u>Full Color</u>	<u>7,000</u>	<u>2,500</u>

Prior to the issuance of a sign permit, the applicant shall provide written certification from the sign manufacturer that the light intensity has been factory pre-set not to exceed 7,000 NITS and that the intensity level is protected from end-user manipulation by password-protected software or other method as deemed appropriate by the City Engineer.

h. Each digital billboard must have a light sensing device that will continuously adjust the brightness as ambient light conditions change.

i. Each digital billboard must have a “fail safe” that turns the screen to black in the case of malfunction.

j. Billboards shall not be illuminated between the hours of 10:00 p.m. and 5:00 a.m.

Some of this language is currently in the code about lighting.

Additional language that applies to digital billboards controls the brightness and the digital display time.

Transition time is controlled to prohibit scrolling, overly-long fading, and other methods which have the potential to be distracting.

This language has been inserted by the City’s engineering reviewers as another way to measure brightness and ensure that there is no glare. The technical specifications will be further refined.

~~6. Size. The maximum area of any one sign face shall be 300 square feet, except for digital billboards in the Special Receiving Areas set forth in (11), below, where the maximum area is 672 square feet, with a maximum vertical sign face dimension of 12.5 feet and maximum length of 25 feet, inclusive of any border and trim, but excluding the base or apron, supports, and other structural members; provided, cut-outs and extensions may add up to 20 percent of additional sign area.~~

Simplifies the regulation for sign size.

~~9. Rooftop (billboard) signs are prohibited.~~

This text has been deleted because *all* rooftop signs are prohibited.

~~107. Height. The maximum height of all billboard signs shall be 30 feet, except in the PMI District, where the maximum height shall be 45 feet. For the purpose of this section, height shall be the distance to the top of the normal display face from the main traveled way of the road from which the sign is to be viewed.~~

This text has been moved from a different location and two subsections have been combined.

~~48. Dispersal.~~

~~a. Not more than a total of four billboard faces attached to not more than two support structures shall be permitted on both sides of a street within any distance of 1,000 feet measured laterally along the right-of-way, with a minimum of 100 feet between such structures. Billboard faces not located on the same structure shall be a minimum of 500 feet apart.~~

Simplifies the regulation for dispersal, results in essentially the same dispersal standards.

~~b. There shall be at least 300 linear feet of land, which is properly zoned, which permits billboards on one side of the street in order to erect one billboard structure on that side of the street. There shall be at least 600 linear feet of land, which is properly zoned, which permits billboards on one side of the street in order to erect more than one billboard structure on that side of the street.~~

“b” is deleted because with other dispersal and buffering regulations it doesn’t affect placement of billboards.

~~e.b. The property on the opposite side of the street from the proposed billboard location must also be properly zoned to permit billboards.~~

~~5. The maximum area of any one sign shall be 300 square feet, with a maximum vertical sign face dimension of 12.5 feet and maximum length of 25 feet, inclusive of any border and trim, but excluding the base or apron, supports, and other structural members; provided, cut-outs and extensions may add up to 20 percent of additional sign area.~~

This text (5 & 6) has been moved to a different location.

~~6. Indirect or internal lighting shall be the only allowable means of illumination. No flashing signs shall be permitted.~~

~~79. Buffering – sensitive uses. No billboard shall be located on, in, or within 250 feet of:~~

~~a. A residential district;~~



b. Any publicly-owned open space, playground, park, or recreational property, as recognized in the adopted ~~“Recreation and Open Space Facilities Plan,”~~ “Open Space Habitat and Recreation Element” of the Comprehensive Plan, as amended;

c. Any church or school; or

d. Any designated historic district, whether on the federal, state, or local register of historic properties.

~~8.10. Buffering – shoreline districts.~~ No billboard shall be located on, in, or within 375 feet of any shoreline district.

11. Location – special billboard receiving areas. In addition to the standards set forth in the district sign tables (Section 13.06.522) which state that billboards are allowed in the C-2, M-1, M-2, and PMI districts, digital billboards shall also be allowed as follows.

a. Limit on number of faces in special receiving areas. A maximum of 10 total faces may be located in the following areas.

b. Exception to certain performance standards. In the following locations, the regulations of Sections M.8 and M.9 (buffering and dispersal) above, and Section 13.06.522.a (sign tables), do not apply.

c. Special receiving areas defined. The special receiving areas are designated as follows:

(1) Portland Avenue and Puyallup Avenue. 600 feet to the north, south, east and west of the center point of the intersection of Portland and Puyallup Avenues.

(2) Puyallup Avenue. Along Puyallup Avenue from the midpoint of the intersection of Puyallup Avenue and D Street to the midpoint of the intersection of Puyallup Avenue and L Street.

(3) Pacific Avenue. Pacific Avenue from the midpoint of the intersection of Pacific Avenue and S. 23<sup>rd</sup> Street to the midpoint of Pacific Avenue and S. 30<sup>th</sup> Street.

(4) 6<sup>th</sup> Avenue and Division Avenue. From the midpoint of the intersection of 6<sup>th</sup> Avenue and Division, 600 feet northeast on Division Avenue, 525 feet to the west on 6<sup>th</sup> Avenue, east on 6<sup>th</sup> Avenue to N. Grant Street and 300 feet north and south on S. Sprague Avenue.

(5) 6<sup>th</sup> Avenue and Junett Street. 150 feet to the east and west of the midpoint of the intersection of 6<sup>th</sup> Avenue and Junett Street.

(6) 6<sup>th</sup> Avenue and Union Avenue. 150 feet in all directions from the midpoint of the intersection of 6<sup>th</sup> Avenue and Union Avenue.

Name change.

These are the specified receiving areas in the Settlement Agreement, and are shown on the attached map.

Only 10 digital billboards may be allowed in these areas.

These billboards are not subject to the regulations for size, height, dispersal, or buffering because their locations have been established by agreement.

(7) 6<sup>th</sup> Avenue between S. Pearl Street to the east and S. Mildred Street to the west. From the midpoint of the intersection of 6<sup>th</sup> Avenue and S. Pearl Street to the midpoint of 6<sup>th</sup> Avenue and S. Mildred Street.

(8) S. Union Avenue and S. 23rd Street. S. Union Avenue 150 feet north and 900 feet to the south of the midpoint of the intersection of S. Union and S. 23rd Street.

(9) S. Union Avenue and Center Street. 150 feet to the north, east and west of the midpoint of the intersection of S. Union and Center Street and 300 feet south of said intersection on S. Union Avenue.

(10) S. Union Avenue. 300 feet in all directions from the midpoint of the intersection of S. Pine Street and Center Street.

(11) S. 38<sup>th</sup> Street and S. Pine Street. 450 feet east and west from the midpoint of the intersection of S. 38<sup>th</sup> Street and S. Pine Street and 300 feet north and south from the midpoint of said intersection.

(12) S. Tacoma Way and S. Pine Street. 450 feet in all directions from the midpoint of the intersection of S. Tacoma Way and S. Pine Street.

(13) Steele Street and S. 38<sup>th</sup> Street. 150 feet from the midpoint of the intersection of Steele Street and N. 38<sup>th</sup>, to the north on S. Idaho Street, 450 feet from said midpoint to the east and west on S. 38<sup>th</sup> Street, all of S. Steele Street and the north portion of Tacoma Mall Boulevard from Steele Street on the west and 375 feet east of S. State Street.

(14) West End of S. 56<sup>th</sup> Street. South 56<sup>th</sup> Street between the midpoint of the intersection of S. 56<sup>th</sup> and S. Tyler to the midpoint of the intersection of S. 56<sup>th</sup> and Burlington Way to the East.

(15) S. 56<sup>th</sup> Street and S. Tacoma Way. 300 feet in all directions from the midpoint of the intersection of S. 56<sup>th</sup> Street and S. Tacoma Way.

(16) S. 74<sup>th</sup> Street and S. Tacoma Way. 450 feet in all directions from the midpoint of the intersection of S. 74<sup>th</sup> Street and S. Tacoma Way.

(17) S. 74<sup>th</sup> Street and S. Tacoma Mall Boulevard. S. 74<sup>th</sup> Street between the midpoint of the intersection of S. 74<sup>th</sup> and S. Wapato Street, and the midpoint of the intersection of S. 74<sup>th</sup> and S. Tacoma Mall Boulevard.

(18) S. 72<sup>nd</sup> Street and S. Hosmer Street. That portion of S. 72<sup>nd</sup> Street between I-5 and the midpoint of the intersection of S. 72<sup>nd</sup> and S. Alaska Street and S. Hosmer Street 300 feet south of S. 72<sup>nd</sup>

Street and the midpoint of the intersection of S. Hosmer and S. 72<sup>nd</sup>.

~~9. Rooftop (billboard) signs are prohibited.~~

~~10. The maximum height of all billboard signs shall be 30 feet, except in the PMI District, where the maximum height shall be 45 feet. For the purpose of this section, height shall be the distance to the top of the normal display face from the main traveled way of the road from which the sign is to be viewed.~~

~~11. Billboard signs which advertise a business, event, or person located on the same premises as the billboard sign shall be considered an on-premises sign and must meet all criteria for the location of on-premises signs.~~

N. Nonconforming signs. It is the intent of this subsection to allow the continued existence of legal nonconforming signs, subject, however, to the following restrictions:

1. No sign that had previously been erected in violation of any City Code shall, by virtue of the adoption of this section, become a legal nonconforming sign.

2. No nonconforming on-premises sign shall be changed, expanded, or altered in any manner which would increase the degree of its nonconformity, or be structurally altered to prolong its useful life, or be moved, in whole or in part, to any other location where it would remain nonconforming. However, a legal nonconforming on-premises sign may be altered if the degree of nonconformity for height and sign area is decreased by 25 percent or greater. For purposes of this subsection, normal maintenance and repair, including painting, cleaning, or replacing damaged parts of a sign, shall not be considered a structural alteration.

3. A nonconforming off-premises sign shall not be changed, expanded, moved, or altered in any manner which would increase the degree of its nonconformity, unless the alteration is to change a standard billboard to a digital billboard in compliance with this section. For purposes of this subsection, normal maintenance and repair, including painting, cleaning, or replacing damaged parts of a sign, shall not be considered an alteration.

~~34.~~ Any sign which is discontinued for a period of 90 consecutive days, regardless of any intent to resume or not to abandon such use, shall be presumed to be abandoned and shall not, thereafter, be reestablished, except in full compliance with this chapter. Any period of such discontinuance caused by government actions, strikes, material shortages, acts of God, and without any contributing fault by the sign user, shall not be considered in

This text reiterates a definition and is not necessary in this part of the code.

Nonconforming off-premises signs can be maintained. Essentially this is the same as what (2) says but now specific to off-premises for clarity.

calculating the length of discontinuance for purposes of this section.

45. Any nonconforming sign damaged or destroyed, by any means, to the extent of one-half of its replacement cost new shall be terminated and shall not be restored.

56. All existing billboards within the City which are not in compliance with the requirements of this section on July 22, 1997, are considered to be nonconforming billboards. Nonconforming billboards shall be made to conform with the requirements of this section under the following circumstances:

a. When ~~any new sign for which a sign permit is required by this section is proposed to be installed~~ any substantial alteration is proposed for a building on a premises upon which is located a nonconforming billboard, the billboard shall be removed or brought into conformance with this section for each new sign installed for a particular business. “Substantial alteration” means all alterations within a two year period whose cumulative value exceeds 200% of the value of the existing structure, as determined by the applicable Building Code

b. Whenever a building, or portion thereof, to which a nonconforming billboard is attached (such as upon the roof or attached to a wall), is proposed to be expanded or remodeled, all nonconforming billboards shall be removed or brought into compliance with this section if the value of the alteration is greater than or equal to 50 percent of the assessed value of the existing building within any two-year period. ~~Whenever a building, or portion thereof, upon which is located a nonconforming rooftop (billboard) sign is proposed to be expanded or remodeled, all nonconforming rooftop billboard signs located on that portion of the building being remodeled or expanded shall be removed or brought into compliance with this section if such expansion or remodel adds to the building the lesser of:~~

~~(1) Twenty percent or more of the floor area of the existing building;~~

~~(2) One thousand square feet floor area; and~~

~~(3) A value for the new construction or remodeling greater than or equal to 50 percent of the assessed value of the existing building.~~

~~e. Whenever any modification is to be made to the structure, frame, or support of any nonconforming billboard sign, such nonconforming billboard sign shall be removed or brought into conformance with this section.~~

~~d. Whenever the facade of a building upon which is located a nonconforming billboard wall sign is remodeled or renovated, all~~

Revised because this presents a burden to property owners and proposed tenants/development over which they may have no control. In light of affirmatively removing billboards with exchange program, becomes less necessary to have this in place to remove nonconforming billboards. Now removal is tied to a major remodels (“Level III”) as used elsewhere in the code.

This language now applies to billboards attached *anywhere* on a building, not just rooftop or the remodeled facade.

This language is consistent with language elsewhere in the TMC, called a “Level II Alteration”, which triggers compliance with other regulations such as landscaping and design.

This language is deleted because it’s a disincentive for maintenance.

Combined into (a), above.

~~nonconforming billboard wall signs located on the portion of the facade being renovated shall be brought into conformance with this section.~~

~~6. The provisions of subsection 5 shall control, except in those instances where an applicant or owner can demonstrate that there exists a binding contract to allow a billboard sign that contains financial penalty provisions for early termination or the absence of termination provisions in the contracts with billboard companies. In those instances, a permit may be issued on the condition that when the contract for the billboard expires, or an option for renewal occurs, the billboard will then be removed, pursuant to subsection 5 above.~~

~~a. To insure compliance with this section, the property owner shall enter into an agreement with the City that identifies the termination date of the contract to allow the billboard and a provision that, if the billboard is not removed, the sign permit issued pursuant to this section will be revoked and the sign will be removed, pursuant to subsection c below.~~

~~b. This provision shall only apply to contracts entered into prior to the adoption of these regulations (July 22, 1997).~~

~~c. Any business owner or property owner seeking to obtain a sign permit for a property that has a nonconforming billboard located on it, and can demonstrate that there are either penalty provisions or the absence of termination provisions in the contracts with billboard companies in the City, shall apply for approval in accordance with the following procedures:~~

~~(1) Application. Prior to installation of a sign, the property owner shall apply for a sign permit with Building and Land Use Services. A complete application shall include a properly completed application form, structural plans, and fees, as prescribed in subsection c.(2) below.~~

~~(2) Fees. An applicant shall pay a fee for the inspection, notification, recording, and enforcement related to the continuation of nonconforming billboards, pursuant to Section 2.09.080, and is in addition to any other required fees.~~

~~(3) Concomitant agreement. Prior to the approval of the sign permit, the property owner shall execute a concomitant agreement with the City. Such agreement shall be in a form as specified by Building and Land Use Services, and approved by the City Attorney, and shall include, at a minimum: (a) the legal description of the property which has been permitted for the sign permit; and (b) the conditions necessary to apply the restrictions and limitations contained in this section. The concomitant agreement~~

Since the section above about no signs being allowed on a site where there's a nonconforming billboard is deleted, this section is no longer necessary.

~~will be recorded prior to issuance of a sign permit by Building and Land Use Services. The concomitant agreement shall run with the land until the nonconforming billboard is removed from the property. The property owner may, at any time, apply to Building and Land Use Services for a termination of the concomitant agreement. Such termination shall be granted, upon proof that the business sign no longer exists on the property or upon proof that the nonconforming billboard no longer exists on the property.~~

~~(4) Permit issuance. Upon receipt of a complete application, application fees, completed concomitant agreement, and upon approval of the structural plans, a sign permit shall be approved.~~

~~(5) Violations. A violation of this section regarding provision of ownership shall be governed by Section 13.05.100.~~

~~(6) Amortization. All legal nonconforming billboard signs shall be discontinued and removed or made conforming within ten years from the effective date of this section, on or before August 1, 2007, and all billboard signs, which are made nonconforming by a subsequent amendment to this section, shall be discontinued and removed or made conforming within ten years after the date of such amendment (collectively the "amortization period"). Upon the expiration of the amortization period, the billboard sign shall be brought into conformance with this section, with a permit obtained, or be removed. Nonconforming billboard signs that are removed prior to the end of the amortization period shall be given an inactive relocation permit, pursuant to subsection M.1.b. of this section.~~

O. Sign variances. Refer to Section 13.06.645.B.5.

**13.06.522 District sign regulations.**

[See table.]

The following pages show the changes proposed for the district sign tables.

Billboard Code Revisions

<b>Section 13.06.522.J</b>	<b>DCC, DMU</b>	<b>WR</b>	<b>DR</b>
<b>Signage Allocation</b>			
Total sign area allocation for signs attached to buildings and freestanding signs	Each business, 1-1/2 square feet per 1 foot building or street frontage on which the sign(s) will be located (area is calculated from frontage occupied by the business it identifies).	Same as DCC.	1 square foot per 1 foot of building frontage occupied by the business.
<b>Signs Attached to Buildings</b>			
Maximum number	Each business allowed 2 signs per frontage, but no more than 3 signs total for the business, no maximum number for public facility over 5 acres.	Same as DCC.	Same as DCC.
Maximum area per sign	Non-residential, 150 square feet per sign. Public facility over 5 acres, 300 square feet. Residential, 20 square feet.	Non-residential, 200 square feet per sign. Residential, 20 square feet.	Non-residential, 100 square feet per sign. Residential, 20 square feet.
Minimum sign area	First floor, 30 square feet. Second floor, 25 square feet.	Same as DCC.	Same as DCC.
Wall	Provisions of Section 13.06.521.E shall apply. Shall not exceed 35 feet above grade level, except for 1 corporate logo sign of 150 square feet allowed per building above 35 feet. Public facility over 5 acres not limited to 35 feet above grade.	Same as DCC.	Same as WR, except no corporate logo allowed.
Awning, canopy, marquee, under marquee	Provisions of Sections 13.06.521.H, I, and J shall apply.	Same as DCC.	Same as DCC.
Projecting	Provisions of Section 13.06.521.F shall apply with one per building allowed if no freestanding sign exists on the same frontage, shall not extend above 35 feet. Public facility over 5 acres not limited to 35 feet above grade.	Same as DCC.	Same as DCC.
Blade	1 per business, shall not exceed 8 square feet per side, shall be illuminated only by indirect lighting, maximum projection of 3-1/2 feet, maximum wide thickness of 12 inches, and shall maintain a minimum clearance of 8 feet above the sidewalk. Area increase of 25% when using symbolic shape, rather than rectangle or square.	Same as DCC.	Same as DCC.
Rooftop signs	Prohibited.	Prohibited.	Prohibited.
Billboards	Prohibited except <a href="#">as provided in 16.06.521.M</a>	<del>Prohibited.</del> <a href="#">Same as DCC</a>	Prohibited. <a href="#">Same as DCC</a>
<b>Freestanding Signs</b>			
Maximum number	1 per street frontage, per site not use and no more than 2 per site. 1 per street frontage(s) for public facility over 5 acres.	Same as DCC.	Same as DCC.
Maximum area per sign	30 square feet. 300 square feet for public facility over 5 acres.	100 square feet.	30 square feet.

Billboard Code Revisions

<b>Section 13.06.522.J</b>	<b>DCC, DMU</b>	<b>WR</b>	<b>DR</b>
When not allowed	When building signage exceeds the sign area limit, not allowed on the same frontage as a projecting sign.	Same as DCC.	Same as DCC.
Maximum height	6 feet. 30 feet for public facility over 5 acres.	20 feet.	6 feet.
Directionals	Shall be limited to 4 feet in height.	Same as DCC.	Same as DCC.
Setback	None, but signs shall be on private property.	Same as DCC.	Same as DCC.
Billboards	Prohibited.	Prohibited.	Prohibited.
<b>Sign Features</b>			
Lighting	Indirect, flood lighting, internal illumination, neon, and bare bulb allowed.	Same as DCC.	Bare bulb illumination prohibited.
Rotating, animated	Allowed.	Same as DCC.	Prohibited.
Flashing	Prohibited.	Prohibited.	Prohibited.
Changing message center	Allowed.	Same as DCC.	Same as DCC.
<b>Temporary Signs</b>			
A-boards	1 permitted each business, shall not exceed 12 square feet in area nor 4 feet in height and shall not be placed on sidewalks less than 12 feet in width.	Same as DCC.	Same as DCC.
Banners	1 banner per business with a 60 square feet maximum displayed no longer than 6 months per year. Banners for cultural purposes shall not exceed 400 square feet and are not limited in number or duration.	1 banner per business with a 60 square feet maximum displayed no longer than 6 months per year.	Not allowed.
Flags	Shall be on private property, no advertising allowed except logos.	Same as DCC.	Same as DCC.
Window signs	Exempt, but shall not exceed 25 percent of the window area.	Same as DCC.	Same as DCC.
Searchlights, beacons	1 allowed per site, displayed no longer than 7 days per year. No restrictions during an event for public facility over 5 acres.	Same as DCC.	Prohibited.
Temporary off-premises advertising signs	Section 13.06.521.C shall apply, except public facility sites in DCC shall be allowed temporary advertising signs of 32 square feet, including banners not to exceed 160 square feet, attached to temporary fencing during the time of construction.	Prohibited.	Prohibited.



Billboard Code Revisions

Section 13.06.522.K	C-2, CIX, CCX, UCX, UCX-TD, M-1, M-2, PMI	C-1
<b>Signage Allocation</b>		
Maximum total sign area	Wall signage, 1 square foot per 1 linear foot of the building frontage with the public entrance. Freestanding signage, 1 square foot per 1 linear foot of street frontage(s).	Same as C-2.
<b>Signs Attached to Buildings</b>		
Maximum number	3 per business, 25 percent allocation allowed on building wall(s) without a public entrance. (Note: 50 percent is allowed provided only 2 signs are installed at the business.) No maximum number for public facility over 5 acres.	Same as C-2.
Maximum area per sign	200 square feet. 400 square feet for public facility over 5 acres.	100 square feet.
Minimum sign area	Each business allowed 30 square feet regardless of frontage.	Same as C-2.
Wall	Provisions of Section 13.06.521.E shall apply.	Same as C-2.
Awning, canopy, marquee, under-marquee	Provisions of Section 13.06.521.H, I, and J shall apply.	Same as C-2.
Projecting	Provisions of Section 13.06.521.F shall apply, maximum projection 6-1/2 feet. Single business, in lieu of freestanding sign. Multi-business, not allowed.	Same as C-2.
Blade	1 per business, maximum 8 square feet per side, illuminated only by indirect lighting, maximum projection of 3-1/2 feet, maximum wide thickness of 12 inches, and shall maintain a minimum clearance of 8 feet above the sidewalk. Area increase of 25% when using symbolic shape, rather than rectangle or square.	Same as C-2.
Roof signs	Prohibited.	Prohibited.
Billboards	Allowed only in C-2, M-1, M-2, and PMI. <del>Provisions of and as provided in</del> Section 13.06.521.M <del>shall apply.</del>	Prohibited <u>except as provided in 16.06.521.M.</u>
<b>Freestanding Signs</b>		
Maximum number	1 per street frontage, each 300 feet considered separate street frontage, corner sites require a minimum 300 feet on both frontages for an additional sign.	Same as C-2.
Maximum area per sign	200 square feet (additional 100 square feet allowed for name of shopping center), sites with freeway frontage shall not exceed 75 percent of the maximum allowed. 400 square feet for public facility over 5 acres.	100 square feet.
When not allowed	No freestanding sign shall be on same frontage as a projecting sign.	Same as C-2.
Maximum height	35 feet maximum; signs located 300 feet or less from residential district shall not exceed height of building it identifies. Sign height for site with freeway frontage is prohibited to exceed height of building it identifies. 45 feet for public facility over 5 acres.	6 feet for sites with less than 100 feet of frontage, 15 feet for sites with frontage between 100 feet and 300 feet, no sign shall exceed the height of the building it identifies.
Directionals	Shall be limited to 4 feet in height, except 15 feet shall be allowed in PMI.	Same as C-2.

Billboard Code Revisions

<b>Section 13.06.522.K</b>	<b>C-2, CIX, CCX, UCX, UCX-TD, M-1, M-2, PMI</b>	<b>C-1</b>
Off-premises directionals	Provisions of Section 13.06.521.L shall apply, except 25 square feet shall be allowed in PMI with a maximum height of 15 feet and a maximum number of four per business.	Same as C-2.
Setback	Provisions of Section 13.06.521.G shall apply, minimum 200 feet separation from other freestanding signs, sites with freeway frontage shall locate signs on the abutting parallel frontage, no signs shall be allowed adjacent to the freeway.	Same as C-2.
Billboards	Allowed only in C-2, M-1, M-2, and PMI. Provisions of Section 13.06.521.M shall apply.	Prohibited.
<b>Sign Features</b>		
Lighting	Indirect, flood lighting, internal illumination, neon and bare bulb allowed.	Bare bulb illumination prohibited.
Rotating, animated	Allowed.	Prohibited.
Flashing	Not to exceed 15 percent of sign face, nor visible within 400 feet of residential zone.	Prohibited.
Changing message center	Allowed.	Same as C-2.
<b>Temporary Signs</b>		
A-boards	1 per business, on private property, 12 square feet per side, 4 feet height.	Same as C-2.
Banners	1 per business, 60 square feet maximum, 6 months per year. Banners for cultural purposes shall not exceed 400 square feet and are not limited in number or duration.	Prohibited.
Flags, pennants	Shall be on private property, no advertising allowed, except logos.	Same as C-2.
Window signs	Exempt, but shall not exceed 25 percent of the window area.	Same as C-2.
Searchlights, beacons	One allowed per site, displayed no longer than 7 days per year. No restrictions during an event for public facility over 5 acres.	Prohibited.
Temporary off-premises advertising signs	Provisions of Section 13.06.521.C shall apply, except public facility sites in UCX-TD shall be allowed temporary advertising signs of 32 square feet each, including banners not to exceed 160 square feet, attached to temporary fencing during the time of construction.	Prohibited.

Billboard Code Revisions

<b>13.06.522.L</b>	<b>T, NCX, URX, Non-Residential Districts with VSD</b>	<b>HM, HMX</b>
<b>Signage Allocation</b>		
Maximum total sign area	1-1/2 square feet per 1 linear feet of building frontage abutting a street frontage, applies to the first 50 feet, with 1/2 square foot per 1 linear foot of building frontage over 50 feet.	HM and HMX sign regulations for use by hospitals only, all other uses in HM and HMX to follow T sign regulations.
<b>Signs Attached to Buildings</b>		
Maximum number	2 per primary frontage (1 may be ground sign), 1 per perpendicular frontage(s), 1 per alley frontage with a public entrance.	One per elevation.
Maximum area per sign	Shall not exceed size allocation on primary frontage, 50 square feet on perpendicular frontage(s), 25 square feet on alley frontage, 10 square feet on upper story or basement uses.	Identification signs at 75 square feet. Directional signs at 25 square feet.
Minimum sign area	30 square feet, except for upper story or basement uses.	
Wall	Provisions of Section 13.06.521.E shall apply.	Same as T.
Awning, canopy	Provisions of Section 13.06.521.J shall apply.	Same as T.
Marquee, under-marquee	Provisions of Section 13.06.521.H and I shall apply.	Same as T.
Projecting	40 square feet with frontage of at least 25 feet and not allowed on alleys, provisions of Section 13.06.521.F shall apply.	Provisions of Section 13.06.521.G shall apply.
Roof signs	Prohibited.	Same as T.
Billboards	Prohibited.	Same as T.
<b>Freestanding Signs</b>		
Maximum number	1 per site, sign area shared with building sign allocation (not allowed on an alley).	1 per right-of-way frontage or 1 per access, regardless the number of major accesses on one right-of-way frontage.
Maximum area per sign	30 square feet.	Identification or directory signs at 50 square feet. Directional signs at 25 square feet.
When not allowed	When the building signage has utilized the allowed sign area for wall signage or when a projection sign exists on the site.	N/A.
Maximum height	6 feet.	Identification or directory signs at 15 feet.
Directionals	Shall be limited to 4 feet in height.	Shall be limited to 6 feet in height.
Setback	None, but signs shall be on private property.	Same as T.
Billboards	Prohibited <u>except as provided in 16.06.521.M.</u>	Same as T.
<b>Sign Features</b>		
Lighting	Indirect, flood lighting, or internal illumination allowed. No bare bulb illumination allowed. All external lighting to be directed away from adjacent properties to minimize effects of light and glare upon adjacent uses.	Same as T.

Billboard Code Revisions

<b>13.06.522.L</b>	<b>T, NCX, URX, Non-Residential Districts with VSD</b>	<b>HM, HMX</b>
Rotating, animated	Prohibited.	Same as T.
Flashing	Prohibited.	Same as T.
Changing message center	Allowed.	Same as T.
<b>Temporary Signs</b>		
A-boards	1 per business, on private property, 12 square feet per side, 4 feet height.	Prohibited.
Banners, pennants	Prohibited.	Banners allowed at 30 square feet.
Flags	Prohibited, except for the national flag, state flag, flags of other political subdivisions.	Same as T.
Window signs	Exempt, but shall not exceed 25 percent of the window area.	Same as T.
Incidental public service signs	Less than 4 square feet, contains no advertising, intended to provide messages such as "no parking," "exit," "entrance," etc.	Same as T.
Searchlights, beacons	Prohibited.	Same as T.

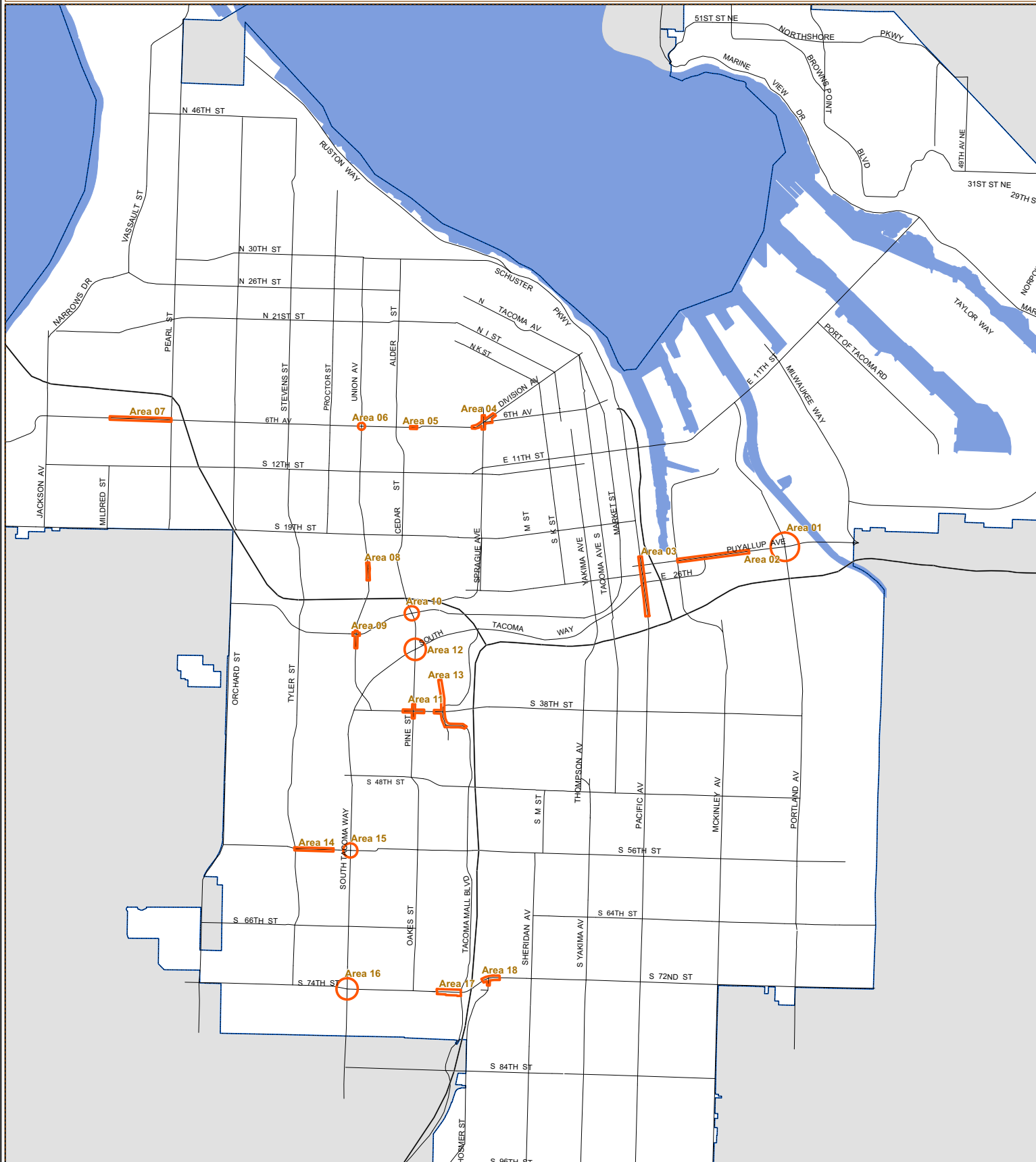
<b>Section 13.06.522.M</b>	<b>PDB</b>	<b>RCX</b>
<b>Signage Allocation</b>		
Maximum total sign area	Single business (wall signs), ½ square foot per 1 linear foot of building frontage.	1 square foot per 1 linear foot of building frontage abutting a street frontage, applies to the first 50 feet, with 1/2 square foot per 1 linear foot of building frontage over 50 ft.
<b>Signs Attached to Buildings</b>		
Maximum number	Single business, 1 per elevation, 2 total. Multi-business, 1 per business.	2 per primary frontage (1 may be a ground sign), 1 per perpendicular frontage(s), 1 per alley frontage with a public entrance.
Maximum area per sign	Single business, 75 square feet per elevation, total 150 square feet for all signs. Multi-business, 20 square feet.	30 square feet maximum on perpendicular frontage(s), but not to exceed size area allocation, 10 square feet on alley frontage, upper story and basement uses.
Minimum sign area	Single business, 30 square feet each business regardless of frontage. Multi-business, 20 square feet each business regardless of frontage.	20 square feet each business regardless of frontage.
Wall	Provisions of Section 13.06.521.E shall apply.	Same as PDB.
Awning, canopy, marquee, under-marquee	Provisions of Section 13.06.521.H, I, and J shall apply .	Same as PDB.
Roof signs	Prohibited.	Prohibited.
Billboards	Prohibited <u>except as provided in 16.06.521.M.</u>	<del>Prohibited.</del> <u>Same as PDB</u>

Billboard Code Revisions


<b>Section 13.06.522.M</b>	<b>PDB</b>	<b>RCX</b>
<b>Freestanding Signs</b>		
Maximum number	1 per site (single or multi-business) located in landscaped area.	1 per site (not allowed on an alley).
Maximum area per sign	30 square feet.	25 square feet.
Maximum height	6 feet.	4 feet.
Directionals	Shall be limited to 4 feet in height.	Same as PDB.
Setback	Minimum 5 feet from property lines.	None, but signs shall be on private property.
Billboards	Prohibited.	Prohibited.
<b>Sign Features</b>		
Lighting	Indirect, flood lighting, or internal illumination allowed. No bare bulb or neon illumination allowed. All external lighting shall be directed away from adjacent properties to minimize effects of light and glare upon adjacent uses.	Same as PDB.
Rotating, animated	Prohibited.	Same as PDB.
Flashing	Prohibited.	Same as PDB.
Changing message center	Allowed.	Prohibited.
<b>Temporary Signs</b>		
A-boards	Prohibited.	1 per business, on private property, 12 square feet per side, 4 feet in height.
Banners, pennants	Prohibited.	Prohibited.
Window signs	Exempt, but shall not exceed 25 percent of the window area.	Same as PDB.
Flags	Prohibited, except the national flag, state flag, flags of other political subdivisions.	Same as PDB.
Incidental public service signs	Less than 4 square feet, contains no advertising, intended to provide messages such as “no parking,” “exit,” “entrance,” etc.	Same as PDB.
Searchlights, beacons	Prohibited.	Prohibited.



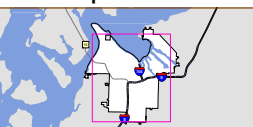
# Special Receiving Areas



**Legend**


 Digital Billboards Receiving Areas


**Map Location**



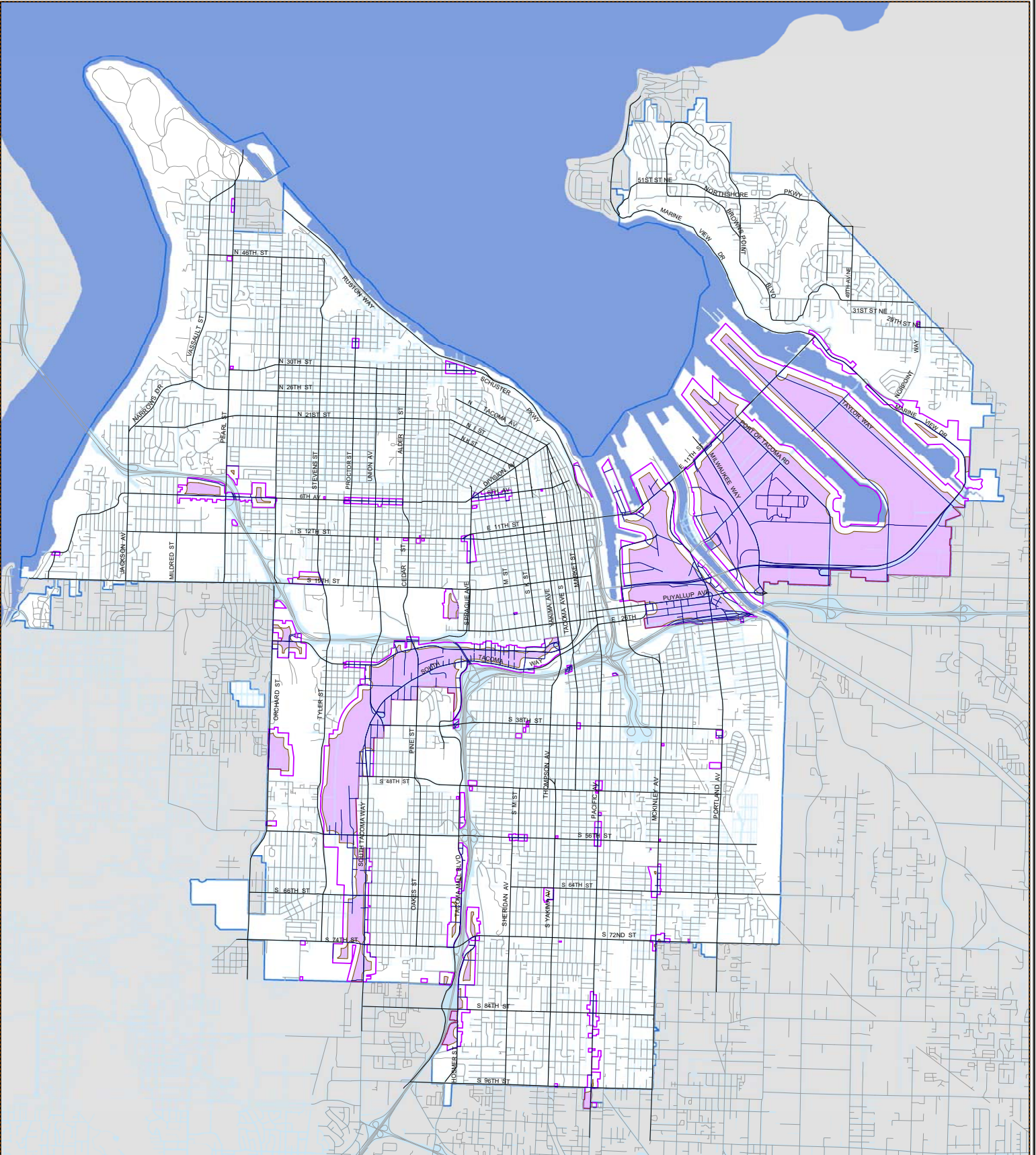
**City of Tacoma**  
 Community & Economic Development Department  
 GIS Analysis & Data Services

2,500 0 2,500  
 Feet

 This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. It is to be used for study purposes only.



# Zones Allowing Billboards & Net Allowed Area (Less Buffers)

Exhibit C


### Legend

- Streets Inboard Area
- Billboards - Allowed by Zoning [BASE\_ZONE IN ('C2', 'M1', 'M2', 'PM1')]
- Net Allowed Area [Less Buffers for Resid Dist, Shoreline Dist, Historic, Parks, Open Space, Religious, Educ]

### Map Location

### City of Tacoma

#### Community & Economic Development Department

#### GIS Analysis & Data Services

2000 0 2000 4000 6000  
Foot

This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. It is to be used for reference purposes only.





# Community Meeting

POTENTIAL REVISIONS TO THE SIGN CODE FOR BILLBOARDS  
JANUARY 31, 2011

Exhibit D

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## SUMMARY

The public meeting format was designed to inform the public about potential revisions to the sign code for billboards and to allow attendees the chance to share their thoughts or ideas on the information presented. The room was set up with two informational stations which included four large maps detailing the 18 potential locations for digital billboards (also potential locations for the 10 new billboards or 'receiving areas'), the 53 existing billboard faces to be removed, the current billboards within the city, and where billboards are currently allowed.

There were approximately 35 meeting attendees. Attendees were given approximately one-half hour to review the content of the maps on display, to sign in, and to engage in informal conversation with City Staff and representatives from Clear Channel prior to the start of the presentation.

At approximately 5:30 PM the formal presentation began and lasted until about 5:50 PM. During the presentation, Shirley Schultz, Principal Planner from the City of Tacoma, and Shelley Kerlake, the attorney advising the City on this process, presented the background, existing conditions, and the potential outcomes of the process which are dependent on the Planning Commission and community input.

A time for questions and answers followed the presentation and lasted until about 6:30 PM. In general, the major concerns or questions posed were:

- Light emissions- especially during the darker hours
- Traffic impacts- safety issues
- The allowed height of new billboards
- The perceived negative aesthetic qualities of billboards
- The likelihood of eliminating all billboards within the city
- If the City can determine which of the billboards can come down
- How to regulate the billboards going forward

Additional comments received from meeting attendees were:

- That priority should be given to billboards in residential areas for removal
- Impact of light and glare of existing billboards in residential area is negative
- Urged to continue with only allowing currently allowed square footage of billboard faces

The participants were informed when and how they can receive more information and how they can participate in the process moving forward. The meeting was concluded when all of the participants left at around 6:45 PM.





City of Tacoma  
Community and Economic Development Department

Agenda Item  
GB-2

TO: Planning Commission  
FROM: Donna Stenger, Manager, Long-Range Planning Division  
SUBJECT: Shoreline Master Program Update  
DATE: February 9, 2011

Since January 5<sup>th</sup>, the Commission has been reviewing public comments on the preliminary draft Shoreline Master Program (TSMP), with specific attention to general public access requirements and use and development standards for the S-7 Schuster Parkway and S-8 Thea Foss Waterway Shoreline Districts. On February 16<sup>th</sup>, staff will be reviewing the issues and comments that have been presented to the Planning Commission and the Commission's direction thus far. In addition, staff will be providing responses to several questions that have been raised by Commissioners during the course of their review of the Preliminary Draft Shoreline Master Program, including questions related to the status of the Bayside Trail and questions related to the compatibility of public access and industrial uses. Staff will also provide an update on the discussions and presentation that staff and Department of Ecology provided to the City Council at the joint EDC/EPW Committee meeting on February 8<sup>th</sup>. Tadas Kisielius, a Partner in the firm GordonDerr, LLP will be present to answer questions related to the public access overview that was presented to the City Council.

In support of this discussion, staff is providing the following materials as background for the Commission's review:

1. A memorandum from Jay Derr, GordonDerr, LLP, to the City Council providing an overview of public access, February 8, 2011
2. A copy of a PowerPoint presentation prepared by the Department of Ecology that was presented to the joint City Council committee meeting on February 8<sup>th</sup>
3. A comparison table of public access regulations as contained in the existing TSMP, the preliminary draft, with key distinctions, a summary of public comments, and a summary of Planning Commission direction
4. A comparison table on the S-7 Schuster Parkway Shoreline District that summarizes Planning Commission direction, as well as a map of the proposed S-7 boundary at Sperry Ocean Dock, as requested by the Commission
5. A comparison table on S-8 Thea Foss Waterway Shoreline District that summarizes the Planning Commission's direction, as well as a map of the proposed S-8 boundary at the NuStar site, as requested by the Commission

**Planning Commission**

February 9, 2011

Page 2 of 2

If you have any questions on any of the attached materials, please contact Stephen Atkinson at 591-5531 or [satkinson@cityoftacoma.org](mailto:satkinson@cityoftacoma.org).

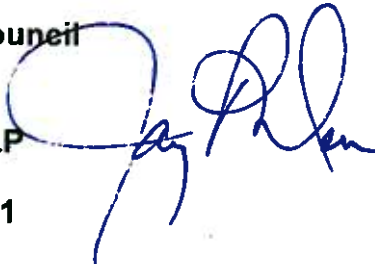
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Attachments

c. Peter Huffman, Assistant Director

## MEMORANDUM

**TO: Tacoma City Council**

**FROM: Jay Derr**  
GordonDerr, LLP 

**DATE: February 8, 2011**

**RE: Tacoma Shoreline Master Program Update**  
**Public Access Overview**

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This memorandum briefly summarizes the legal framework for public access requirements in the City of Tacoma Shoreline Master Program update (SMP). Public access requirements in the SMP must be developed taking into consideration the following: (1) the Public Trust Doctrine, (2) the Shoreline Management Act (SMA) and Ecology Guidelines, (3) constitutional limitations (especially nexus and rough proportionality), and (4) potentially, the limitations found in RCW Chapter 82.02.

### 1. Public Trust Doctrine

In a nutshell, the "public trust doctrine" recognizes the public's overriding interest in navigable waterways and protects public ownership interests in certain uses of navigable waters and underlying lands, including navigation, commerce, fisheries, recreation, and environmental quality. While this doctrine of law protects public use and access rights in the public waters of the state below the ordinary high water mark, it does not, in and of itself, establish public rights to access across private lands above the ordinary high water mark.

### 2. SMA and Ecology Guidelines

The SMA and Ecology guidelines clearly indicate that public access is a desired and favored use. However, the SMA and the Ecology Guidelines recognize that the City's ability to impose conditions requiring public access may be constrained by Constitutional and statutory limitations discussed below.

Specific requirements of the SMA and Ecology Guidelines related to public access include the following:

- Public access planning. The SMA requires the City to prepare a public access element in its SMP that identifies specific public needs and opportunities to provide public access.
- Public access is both physical and visual. The Ecology Guidelines clarify that public access includes not only physical but also visual access to the shorelines.
- Property rights. Both the SMA and the Ecology Guidelines recognize that public access must be provided within the confines of constitutional and other legal limitations that protect private property rights.
- Public access to public shorelines. The SMA and the Ecology Guidelines generally require the City to plan for and “increase” public access to publicly-owned shorelines.
- Public access included in shoreline development by public entities. The Ecology Guidelines state that the City should require shoreline development by public entities to include public access measures as part of each development project, with exceptions where the access would be incompatible with the public project due to reasons of safety, security, or impact to the shoreline environment and the City’s public access planning identifies more effective public access through alternative means or locations.
- Public access to private shorelines. The Ecology Guidelines also suggest that public access to privately-owned shorelines should generally be required “in developments for water-enjoyment, water-related, and non-water-dependent uses and for the subdivision of land into more than four parcels.” However, the Guidelines recognize that this private shoreline access requirement must be tempered with consideration of “constitutional or other legal limitations,” and also provide for exceptions where public access to private shorelines is infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment.

Relevant excerpts from the SMA and Ecology guidelines are attached to this memorandum as **Appendix A** and **Appendix B**.

### **3. Constitutional Limitations**

The most critical constitutional limit on development conditions requiring public access is the doctrine of “regulatory takings,” which requires local government to show a “nexus” and “rough proportionality” for such conditions (also known as the “Nollan/Dolan” analysis). These principles, which originated under a federal constitutional takings analysis have similarly been applied in a Washington constitutional context:

- Nexus. The City must show that an “essential nexus” exists between a legitimate state interest and the permit condition. The focus here is on the nature of the permit condition and the need to show that its nature is related to an adverse impact of the proposed development.

- Rough proportionality. The City must show that the degree of the exactions demanded by the permit conditions bears the required relationship to the projected impact of the proposed development. The focus here is on the degree of the permit condition and the need to show that its degree is related to the extent of the adverse impact.

A few practical applications may help illustrate these concepts as applied to private shorelines:

- If a private project proposes to remove or impact existing public access (physical or visual), then the City can probably impose a condition related to public access to mitigate this impact to a degree similar to the impact to existing public access that is created by the proposed project.
- If a private project increases the demand for public access to shorelines, then the City can probably impose a condition related to public access to mitigate this impact, again, to a degree that is proportional to the amount of increased demand.
- If a private project impacts navigability (the public trust doctrine), then the City may be able to impose a condition related to public access to mitigate this impact if the City can show that the access condition is reasonably tailored to preventing impairment of the public's interest in navigability. This link between navigability and upland public access is probably one of the most difficult to establish and, as such, the City would want to proceed carefully and on a case-by-case basis to evaluate nexus and proportionality.

Public access conditions may raise other constitutional issues, such as substantive due process and equal protection, but the takings evaluation outlined above typically addresses most issues related to public access. A publication providing guidance on these and other legal issues has been produced by the Washington Attorney General's Office. Public access policies and regulations proposed by the City should be evaluated under the takings framework described in the Attorney General Guidance to satisfy the requirements of RCW 36.70A.370.

#### **4. Statutory Limitations on Exactions under RCW 82.02.020**

RCW 82.02.020 provides another limit on the City's ability to require dedications of land or easements, and Washington courts have often applied this statutory analysis in lieu of the constitutional nexus/rough proportionality analysis discussed above, when evaluating local land use regulations. This statute only permits exactions that are "reasonably necessary as a direct result of the proposed development or plat"). However, this statutory limitation may not apply to local shoreline plans and regulations because they are considered to be state requirements, which are not subject to RCW 82.02.020. This issue is pending review before the State Supreme Court.

## APPENDIX A

### Excerpts from Shoreline Management Act, RCW Chapter 90.58

#### RCW 90.58.020:

The legislature finds that the shorelines of the state are among the most valuable and fragile of its natural resources and that there is great concern throughout the state relating to their utilization, protection, restoration, and preservation. In addition it finds that ever increasing pressures of additional uses are being placed on the shorelines necessitating increased coordination in the management and development of the shorelines of the state. The legislature further finds that much of the shorelines of the state and the uplands adjacent thereto are in private ownership; that unrestricted construction on the privately owned or publicly owned shorelines of the state is not in the best public interest; and therefore, coordinated planning is necessary in order to protect the public interest associated with the shorelines of the state while, at the same time, recognizing and protecting private property rights consistent with the public interest. There is, therefore, a clear and urgent demand for a planned, rational, and concerted effort, jointly performed by federal, state, and local governments, to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines.

It is the policy of the state to provide for the management of the shorelines of the state by planning for and fostering all reasonable and appropriate uses. This policy is designed to insure the development of these shorelines in a manner which, while allowing for limited reduction of rights of the public in the navigable waters, will promote and enhance the public interest. This policy contemplates protecting against adverse effects to the public health, the land and its vegetation and wildlife, and the waters of the state and their aquatic life, while protecting generally public rights of navigation and corollary rights incidental thereto.

The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

- (1) Recognize and protect the statewide interest over local interest;
- (2) Preserve the natural character of the shoreline;
- (3) Result in long term over short term benefit;
- (4) Protect the resources and ecology of the shoreline;
- (5) Increase public access to publicly owned areas of the shorelines;
- (6) Increase recreational opportunities for the public in the shoreline;
- (7) Provide for any other element as defined in RCW 90.58.100 deemed appropriate or necessary.

In the implementation of this policy the public's opportunity to enjoy the physical and aesthetic qualities of natural shorelines of the state shall be preserved to the greatest extent feasible



consistent with the overall best interest of the state and the people generally. To this end uses shall be preferred which are consistent with control of pollution and prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline. Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures, ports, shoreline recreational uses including but not limited to parks, marinas, piers, and other improvements facilitating public access to shorelines of the state, industrial and commercial developments which are particularly dependent on their location on or use of the shorelines of the state and other development that will provide an opportunity for substantial numbers of the people to enjoy the shorelines of the state. Alterations of the natural condition of the shorelines and shorelands of the state shall be recognized by the department . . .  
**(emphasis added)**

#### **RCW 90.58.100**

(2) The master programs shall include, when appropriate, the following:

(a) An economic development element for the location and design of industries, projects of statewide significance, transportation facilities, port facilities, tourist facilities, commerce and other developments that are particularly dependent on their location on or use of the shorelines of the state;

(b) A public access element making provision for public access to publicly owned areas;

(c) A recreational element for the preservation and enlargement of recreational opportunities, including but not limited to parks, tidelands, beaches, and recreational areas;

(d) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other public utilities and facilities, all correlated with the shoreline use element;

(e) A use element which considers the proposed general distribution and general location and extent of the use on shorelines and adjacent land areas for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public buildings and grounds, and other categories of public and private uses of the land;

(f) A conservation element for the preservation of natural resources, including but not limited to scenic vistas, aesthetics, and vital estuarine areas for fisheries and wildlife protection;  
**(emphasis added)**

## APPENDIX B

### Excerpts from Ecology Guidelines, WAC Chapter 173-26

#### **WAC 173-26-221, General master program provisions.**

The provisions of this section shall be applied either generally to all shoreline areas or to shoreline areas that meet the specified criteria of the provision without regard to environment designation. These provisions address certain elements as required by RCW 90.58.100(2) and implement the principles as established in WAC 173-26-186.

[...]

#### **(4) Public access.**

(a) **Applicability.** Public access includes the ability of the general public to reach, touch, and enjoy the water's edge, to travel on the waters of the state, and to view the water and the shoreline from adjacent locations. Public access provisions below apply to all shorelines of the state unless stated otherwise.

#### **(b) Principles.** Local master programs shall:

(i) Promote and enhance the public interest with regard to rights to access waters held in public trust by the state while protecting private property rights and public safety.

(ii) Protect the rights of navigation and space necessary for water-dependent uses.

(iii) To the greatest extent feasible consistent with the overall best interest of the state and the people generally, protect the public's opportunity to enjoy the physical and aesthetic qualities of shorelines of the state, including views of the water.

(iv) Regulate the design, construction, and operation of permitted uses in the shorelines of the state to minimize, insofar as practical, interference with the public's use of the water.

(c) **Planning process to address public access.** Local governments should plan for an integrated shoreline area public access system that identifies specific public needs and opportunities to provide public access. Such a system can often be more effective and economical than applying uniform public access requirements to all development. This planning should be integrated with other relevant comprehensive plan elements, especially transportation and recreation. The planning process shall also comply with all relevant constitutional and other legal limitations that protect private property rights.

Where a port district or other public entity has incorporated public access planning into its master plan through an open public process, that plan may serve as a portion of the local government's public access planning, provided it meets the provisions of this chapter. The planning may also justify more flexible offsite or special area public access provisions in the master program. Public participation requirements in WAC 173-26-201 (3)(b)(i) apply to public access planning.

At a minimum, the public access planning should result in public access requirements for shoreline permits, recommended projects, port master plans, and/or actions to be taken to develop public shoreline access to shorelines on public property. The planning should identify a variety of shoreline access opportunities and circulation for pedestrians (including disabled persons), bicycles, and vehicles between shoreline access points, consistent with other comprehensive plan elements.

(d) **Standards.** Shoreline master programs should implement the following standards:

(i) Based on the public access planning described in (c) of this subsection, establish policies and regulations that protect and enhance both physical and visual public access. The master program shall address public access on public lands. The master program should seek to increase the amount and diversity of public access to the state's shorelines consistent with the natural shoreline character, property rights, public rights under the Public Trust Doctrine, and public safety.

(ii) Require that shoreline development by public entities, including local governments, port districts, state agencies, and public utility districts, include public access measures as part of each development project, unless such access is shown to be incompatible due to reasons of safety, security, or impact to the shoreline environment. Where public access planning as described in WAC 173-26-221 (4)(c) demonstrates that a more effective public access system can be achieved through alternate means, such as focusing public access at the most desirable locations, local governments may institute master program provisions for public access based on that approach in lieu of uniform site-by-site public access requirements.

(iii) Provide standards for the dedication and improvement of public access in developments for water-enjoyment, water-related, and non-water-dependent uses and for the subdivision of land into more than four parcels. In these cases, public access should be required except:

(A) Where the local government provides more effective public access through a public access planning process described in WAC 173-26-221 (4)(c).

(B) Where it is demonstrated to be infeasible due to reasons of incompatible uses, safety, security, or impact to the shoreline environment or due to constitutional or other legal limitations that may be applicable.

In determining the infeasibility, undesirability, or incompatibility of public access in a given situation, local governments shall consider alternate methods of providing public access, such as offsite improvements, viewing platforms, separation of uses through site planning and design, and restricting hours of public access.

(C) For individual single-family residences not part of a development planned for more than four parcels.

(iv) Adopt provisions, such as maximum height limits, setbacks, and view corridors, to minimize the impacts to existing views from public property or substantial numbers of residences. Where there is an irreconcilable conflict between water-dependent shoreline uses or physical public access and maintenance of views from adjacent properties, the water-

dependent uses and physical public access shall have priority, unless there is a compelling reason to the contrary.

(v) Assure that public access improvements do not result in a net loss of shoreline ecological functions.

[...]

**WAC 173-26-020, Definitions.**

[...]

(36) "**Water-dependent use**" means a use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations.

[...]

(37) "**Water-enjoyment use**" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.

[...]

(40) "**Water-related use**" means a use or portion of a use which is not intrinsically dependent on a waterfront location but whose economic viability is dependent upon a waterfront location because: (a) The use has a functional requirement for a waterfront location such as the arrival or shipment of materials by water or the need for large quantities of water; or (b) The use provides a necessary service supportive of the water-dependent uses and the proximity of the use to its customers makes its services less expensive and/or more convenient.

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## Washington's Shoreline Management Act and Shoreline Master Program Updates

Tacoma City Council Joint EDC/EPW  
Committee Meeting  
February 8, 2011

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**ECOLOGY**  
State of Washington

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## Why are we doing updates?

- Most local plans have not been updated since original adoption 20 to 30 years ago
- Address recent initiatives such as Puget Sound cleanup and updated critical area provisions
- Legislatively required – timetable defined
- Our shorelines have changed

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State of Washington

## Tacoma's shoreline then (1977) and now (2006)



Washington Coastal Atlas photos

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D.O.E. PIERCE

## Shoreline Management Act

Passed by the Legislature in 1971; voters approved through public referendum (statewide vote) in 1972.

Three basic policies:

- Protect the environmental resources of state shorelines
- Promote public access and enjoyment opportunities
- Give priority to uses that require a shoreline location



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## Local-State Partnership

Local governments:

- Lead shoreline planning within your jurisdictional boundary
- Prepare, adopt, oversee and enforce your locally-crafted shoreline master program
- Update and keep your shoreline master program current



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State of Washington



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## Local-State Partnership

Ecology:

- Provides state “Guidelines” outlining essential elements of shoreline master programs
- Provides financial support and technical assistance
- Department Director must approve each local master program before it can take effect
- Ecology will be a full partner in defending an approved SMP



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State of Washington



## Shoreline Master Program Guidelines

- Negotiated settlement in 2003 between business interests, ports, environmental groups, user groups, cities and counties
- Used by Ecology and Growth Management Hearings Boards to review and approve local shoreline master program updates
- Sets minimum procedural and substantive standards for local governments updating their programs



## Shoreline Master Program Guidelines

Contain standards for shoreline environment designations, shoreline uses and activities and general provisions including:

- Industrial, commercial and residential development
- Shoreline modifications such as piers, docks, bulkheads and fill
- Public Access





## Shoreline Master Program Guidelines

### Public Access (WAC 173-26-221(4))

- Provisions should apply to all shorelines of the state
- Existing and potential future access needs and opportunities should be documented
- Planning for an integrated public access system is encouraged
- Prescriptive standards are also needed



## An updated shoreline program will

- Help realize your vision for future waterfront development and uses
- Allow appropriate new development to occur
- Respect private property rights
- Help protect shoreline ecological functions
- Promote recreational opportunities in shoreline areas
- Support Puget Sound cleanup efforts



## Ecology resources

- Guidance materials
- Staff assistance
- Data and information
- Funding
- Workshops and training

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Web site: [www.ecy.wa.gov/programs/sea/sma/index.html](http://www.ecy.wa.gov/programs/sea/sma/index.html)



DEPARTMENT OF  
**ECOLOGY**  
State of Washington

**Master Program for Shoreline Development Update**  
**Public Access Requirements Comparison Table**  
**Joint EDC/EPW Meeting**  
**February 8, 2011**

The following table summarizes some of the key provisions in Tacoma’s existing Shoreline Master Program and compares these provisions with the preliminary draft of the Shoreline Master Program that was released in September 2010. The table also provides a summary of the public comments received on the preliminary draft proposal. The Planning Commission is discussing these comments and looking at possible revisions to the preliminary draft. Their initial comments are summarized in the final column. Additional discussion on these and other topics are continuing with the Commission and modifications may occur. The Commission is scheduled to release a revised draft for the purpose of seeking additional public comment and conducting a public hearing this spring prior to making their recommendations to the City Council

	<b>Existing Master Program</b>	<b>Preliminary Draft (09.15.10)</b>	<b>Key Distinctions</b>	<b>Public Comments</b>	<b>Planning Commission</b>
<b>Applicability</b>	Public access is required for all uses and development except single-family residential development.	Public access is required for all uses and development except single-family residential development and other development that is exempt from a shoreline substantial development permit.	The preliminary draft provides more specificity with regard to uses and development that are not required to provide public access. The draft specifically exempts activities that are not considered substantial developments per the Department of Ecology Guidelines.	<p>Access requirement should only be applied to public properties</p> <p>Access should not be required for water dependent uses</p> <p>Maintain access requirements that are in the existing code: apply to all substantial development</p> <p>The State Shoreline Management Act does not mandate public access across private properties</p> <p>All uses and development should be required to provide public access</p> <p>Public access requirements are not constitutional</p>	<p>Generally concur with preliminary draft proposal but support the following additions consistent with DOE guidance.</p> <ul style="list-style-type: none"> <li>• Public access is required if the use creates demand or increases demand for public access</li> <li>• Access is required for water enjoyment, water-related and non water dependent uses</li> <li>• Access is required by development proposed by public entities and/or on public land (except for safety, security and ecological impact reasons)</li> <li>• Access is required if proposed use will interfere with existing access or block access or discourage access</li> <li>• The proposed development will interfere with public use of waters subject to the public trust doctrine</li> </ul>

	Existing Master Program	Preliminary Draft (09.15.10)	Key Distinctions	Public Comments	Planning Commission
					<ul style="list-style-type: none"> <li>Access requirements will not apply directly to private water-dependent uses unless the use or development is having an impact on public access; or, if it is demonstrated that a strict application of the access requirements would violate private or Constitutional rights.</li> </ul>
<p><b>Waiver Criteria</b></p>	<p>When a shoreline permit application is filed, the permit is reviewed for applicable public access requirements. Where access is required on site, the applicant has the opportunity to demonstrate that a specific site condition exists that would make the implementation of on site access undesirable or infeasible.</p> <p>The following is an excerpt from TMC 13.10.175.A.1.a that outlines these waiver options.</p> <p>(1) Unavoidable health or safety hazards to the public exist, which cannot be prevented by any practical means;</p> <p>(2) Inherent security requirements of the use cannot be satisfied through the application of alternative design features;</p> <p>(3) Unacceptable environmental harm will result from the public access which cannot be mitigated; or</p> <p>(4) Significant undue and unavoidable conflict between the proposed access and adjacent uses would occur and cannot be mitigated; and provided, further, that the applicant has first demonstrated and it has been determined that all reasonable alternatives have been exhausted, including but not limited to:</p> <p>(a) regulating access by such means as</p>	<p>The preliminary draft updates the waiver options consistent with Ecology Guidelines, adds a waiver option for Port, Terminal, and Industrial uses, and includes that in determining a use or development meets the waiver criteria, alternative types of access and site plans as well as options for the provision of offsite access in lieu of onsite access shall be considered.</p> <p>Excerpt from Preliminary Draft TSMP:</p> <p>“Public access shall be provided on-site, except for projects which meet one of the following criteria as determined by the Land Use Administrator:</p> <p>i. It is demonstrated to be infeasible due to unavoidable reasons of incompatibility of uses, public health and safety, security or where significant harm to the ecological function of the shoreline environment cannot be mitigated. In determining the infeasibility or incompatibility of public access in a given situation, the City shall consider alternate methods of providing public access, such as off-site improvements, viewing platforms, separation of uses through site planning and design, and restricting hours of public access.</p>	<p>The Preliminary Draft contains the same waiver options as found in the existing code with some differences.</p> <p>First, additional options (ii and iii) have been added. Second, the draft provides a waiver for on-site access but not an altogether exemption from requirements to provide or enhance public access to the shoreline.</p> <p>Lastly, in determining the infeasibility or incompatibility of access on site, the City shall consider alternate methods for providing access either on-site or off-site. The existing code contains similar language but only as a sub-bullet of waiver option (4). The preliminary draft applies this review to all waiver criteria.</p>	<p>Access is incompatible with industrial development</p> <p>Access cannot be provided where there are Homeland Security concerns</p> <p>The City should require a more rigorous test in determining whether there is a safety or security concern on site that would preclude public access</p> <p>Onsite access is preferred.</p> <p>Industrial uses need to demonstrate that access cannot be provided on site and should not be exempted from meeting the waiver criteria</p> <p>Access cannot be required on private property</p>	<p>Public access is preferred onsite in all shoreline districts. (removes the waiver proposed in initial draft for S-10 shoreline district and industrial uses in the S-7 and S-8 districts)</p> <p>Provide waiver options where the access requirements are determined to be disproportionate to the long term costs of the project and where it is determined that an access requirement would not have a demonstrated nexus to an impact on public access.</p>

	<b>Existing Master Program</b>	<b>Preliminary Draft (09.15.10)</b>	<b>Key Distinctions</b>	<b>Public Comments</b>	<b>Planning Commission</b>
	<p>limiting hours of use to daylight hours.</p> <p>(b) designing separation of uses and activities; i.e., fences , terracing, hedges, landscaping, etc.</p> <p>(c)providing access at a site physically separated from the proposal, such as a nearby street end, an offsite view point, or a trail system</p>	<p>ii. More meaningful access that is better than that provided by the application of the goals, objectives, and policies of this plan can be provided off-site.</p> <p>iii. The project is located in the S-10 shoreline district or is associated with a water-oriented Port, Terminal and Industrial use in the S-7 or S-8 shoreline districts.”</p>			
<b>Public access preferences</b>	<p>Generally, access is preferred on site, but specific preferences are not identified.</p>	<p>The preliminary draft contains different preferences for different uses and situations.</p> <p>Preference should generally be given to provision of on-site public access. Off-site public access is appropriate where it would provide more meaningful public access, prevent or minimize safety or security conflicts, or where off-site public access is consistent with an approved public access plan.”</p> <p>Preference for water-oriented Port, Terminal and Industrial uses is to provide access off-site or through a contribution to public access fund.</p> <p>Preference for water-enjoyment uses to provide access on-site, between the development and the shoreline.</p>	<p>The draft maintains the general preference for access on-site that enables the public to reach or touch the water. However, the draft also provides for other preferences, recognizing that different shoreline areas and different uses provide different opportunities and constraints for providing access. For example, it may be possible through design considerations for an industrial site to provide access, but it may not be a desirable project for the community. Rather than achieving a sub-optimal or undesirable access site, the preliminary draft attempts to direct those access improvements where they would be most beneficial.</p>	<p>Access is incompatible with the uses and development in the S-10 and S-7 shorelines</p> <p>Access is always preferred on site</p> <p>Access should only be provided off site when it is demonstrated to be infeasible at an onsite location</p>	<p>Off-site access is allowed only after demonstrating on-site is not feasible. Remove preference for port terminal and industrial uses to provide off-site.</p>
<b>Options for Meeting Access Requirements</b>	<p>Access requirements are “on-site.” Under the waiver criteria, off-site access is provided as an option in circumstances where on-site access would cause unavoidable harm to adjacent uses.</p>	<p>The Preliminary Draft provides four primary options for implementing public access objectives in the shoreline:</p> <ol style="list-style-type: none"> <li>1. On-site</li> <li>2. Off-site</li> <li>3. 2% project cost contribution</li> <li>4. Inter-local agreement or public access master plan (for public agencies only)</li> </ol>	<p>The Preliminary Draft TSMP provides more options for meeting public access requirements.</p>	<p>The fee-in-lieu option should be rejected, it is overly burdensome, does not meet the nexus and proportionality tests and is not consistent with State RCW and case law</p> <p>The fee in lieu option should not be a preferred option for Port, Terminal and Industrial uses</p>	<p>Eliminate voluntary contribution option (fee-in lieu)</p>

	Existing Master Program	Preliminary Draft (09.15.10)	Key Distinctions	Public Comments	Planning Commission
				If a use or development meets the waiver criteria it should not have to pay a fee in lieu	
<b>Protection of Private Property Rights</b>	Public access policies and development regulations do not specifically cite private property rights, nexus and proportionality tests or other Constitutional limitations in the application of public access requirements. That is also true of the regulations that apply elsewhere in the city. Property rights and constitutional limitations are factors that are considered in the development of regulatory controls.	The draft proposal contains policies that give preference to water-dependent uses, protect water-dependent uses where there are conflicts with public and private views, and includes policies requiring that access requirements be consistent with constitutional limitation, nexus and proportionality tests, as well as being fair and commensurate with the scale of development.	Consistent with the Washington Administrative Code, the Draft TSMP includes policies that recognize and support private property rights within shoreline jurisdiction. While these legal and Constitutional rights apply to the existing code, the draft proposal gives explicit reference.	The Shoreline Management Act does not require that private uses and development provide access  Access can only be required where it meets a nexus and proportionality test	Consider additional language recognizing the need for nexus and proportionality tests.
<b>Public Access Fund</b>	Not applicable.	Projects which meet the criteria for not providing access on site must either construct off-site improvements or, if approved by the Land Use Administrator, contribute to a public access fund established by the City to construct off-site public access improvements of comparable value.  The Public Access Fund contribution is one option for meeting public access requirements. The contribution would be based upon the cost of the project minus costs associated with land acquisition, environmental remediation costs, and other costs associated with the project that are not subject to access requirements. The cost would be determined only for that portion of the project that is within shoreline jurisdiction. The funds would be managed by City staff for expenditures on projects listed in the Public Access Alternatives Plan that increase public access capacity in the City's shorelines.	The Public Access Fund is a proposed option. It is not currently available to permit applicants within the City's shorelines. This option shifts the burden for planning, constructing, and maintaining access to the City rather than the applicant.	The fee in lieu is unconstitutional and does not meet nexus and proportionality tests.  The fee in lieu provisions are not supported or consistent with RCW  If a use or development meets the waiver criteria it should not have to pay a fee in lieu	Remove voluntary contribution as an option for providing public access.

**COMPARISON TABLE:  
Existing and Proposed S-7 Schuster Parkway Shoreline District**

**Intent Statement**

<b>Existing</b>	<b>Proposed (preliminary draft)</b>	<b>Public Comments</b>	<b>Planning Commission</b>
<p>The intent of the “S-7” Shoreline District is to allow development of deep water terminal and light industrial facilities, but to preserve the character and quality of life in adjoining residential areas, school and park properties.</p>	<p>The intent of the “S-7” Schuster Parkway Shoreline District is to allow development of deep water terminal and light industrial facilities, but to preserve the character and quality of life in adjoining residential areas, school and park properties.</p>	<p>Suggested language: Recognize that water-dependent uses are the preferred use and therefore allow and encourage the continuation of uses that require deep-water access while minimizing impacts to surrounding properties and improving public access along non-industrial areas if no health, safety, or security concerns exist.</p>	<p><i>Concurrence with proposed intent for S-7 District.</i></p>
		<p>Create new intent language that gives public access more deference when TEMCO seeks permits</p>	
		<p>Retain the existing intent language</p>	
		<p>The intent protects adjacent residences, schools, and park properties and their quality of life, but does not enforce this through use and development regulations</p>	

<b>Environment Designation</b>			
<b>Existing</b>	<b>Proposed (preliminary draft)</b>	<b>Public Comments</b>	<b>Planning Commission</b>
“Urban”	“High Intensity”	Not an appropriate area for high intensity development due to close proximity to residences, schools, parks.	<i>Concurs with proposed environment designation for S-7.</i>
		Maintain existing designation	
		Make consistent with the S-6 Ruston Way shoreline district – Urban Conservancy Designation	
<b>District Boundary</b>			
<b>Existing</b>	<b>Proposed (preliminary draft)</b>	<b>Public Comments</b>	<b>Planning Commission</b>
The “S-7” Shoreline District is hereby described as an area bounded by: a line lying 200 feet landward and generally parallel to the ordinary high water mark of Commencement Bay; the centerline (extended) of the 4th Street bridge; the Outer Harbor Line of Commencement Bay; the east line of Block 74 of Tacoma Tidelands.	The S-7 Shoreline District extends from the boundary line between the Chinese Reconciliation Park and Tahoma Salt Marsh to the northernmost extent of Thea’s Park, including those areas upland within 200’ of the OHWM and the entirety of the Sperry Ocean Dock access road.	Sperry Ocean Dock property is more appropriately located in S-6 Ruston Way shoreline district	<i>Revise district boundary map to include Sperry Ocean Dock property and Chinese Reconciliation Park in the S-6 District and Urban-Conservancy environment designation, for the purpose of soliciting public comment.</i>
		All of the S-7 district should be included in the S-6 Ruston Way shoreline district.	
<b>Permitted Uses</b>			



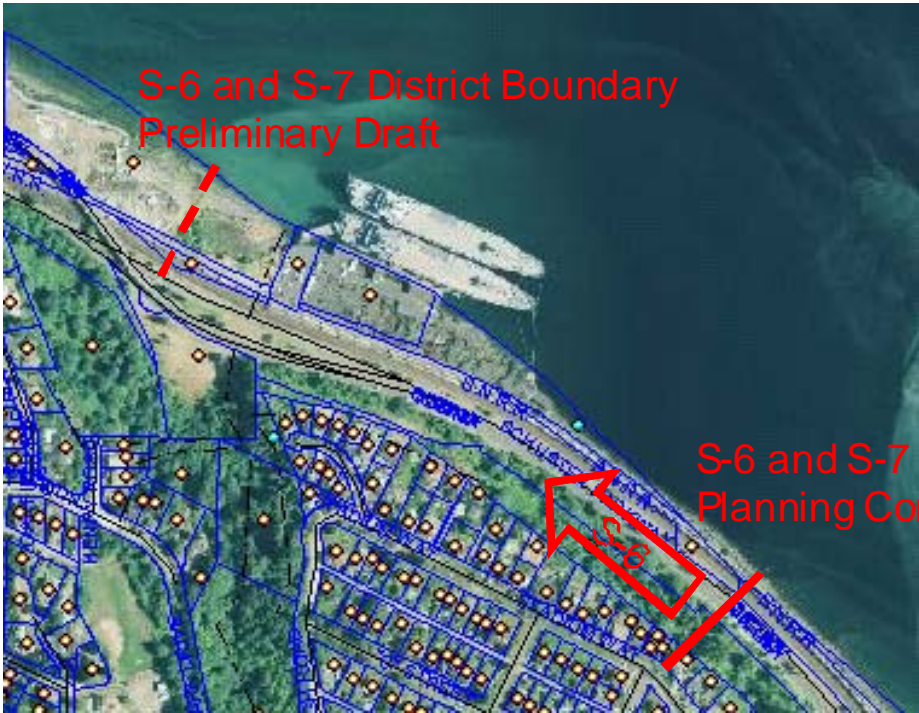
<b>Existing</b>	<b>Proposed (preliminary draft)</b>	<b>Public Comments</b>	<b>Planning Commission</b>
Permitted uses include water-oriented commercial, piers, wharves, docks and floats, port, terminal and industrial uses, utilities (underground), road and railroad construction, marinas and boat launch facilities.	Permitted uses are generally consistent with the existing Master Program, but with the addition of water-oriented recreation as a permitted use in the district. In addition, non-water-oriented commercial and industrial uses, new railway facilities, and fill and excavation below the OHWM are not allowed.	Permit above ground utilities	<i>Concurs with preliminary draft.</i>
		Do not prohibit new railway	
		Permit fill and excavation below OHWM	
		Do not allow expansion of existing uses	
		Do not allow new ships or in water moorage	
		Do not permit uses that will interfere with continuous public access	
		Sperry Ocean Dock should be relocated to the port/tideflats	
		Industrial activities in S-7 could be accommodated elsewhere	
		Existing and permitted uses are inconsistent with adjacent	

		zoning	
		Make the permitted uses consistent with Ruston Way zoning – no industrial uses permitted.	
Public Access			
Existing	Proposed (preliminary draft)	Public Comments	Planning Commission
<p>Except where a waiver is granted for security or safety considerations, required access consists of a “continuous, unobstructed, publicly accessible esplanade or boardwalk fronting directly on the shoreline edge” and improved to a minimum of 15’.</p>	<p>“S-7” Schuster Parkway Shoreline District</p> <p>a. All new development that fronts on the shoreline, except water-oriented Port, Terminal and Industrial use, shall provide a continuous public access walkway along the entire site’s shoreline, improved to a minimum average width of 15 feet and ADA accessible.</p> <p>b. When public access requirements cannot be met or are not required on-site, off-site improvements shall occur in the following order of preference:</p> <p>i. Completion of the multi-modal Schuster Parkway Trail, as identified in the Public Access Plan, including site amenities;</p> <p>ii. Completion of the Bayside</p>	<p>Promote/do not abandon the “Dome to Defiance” vision of a continuous trail system along the water.</p>	<p><i>Maintain continuous walkway as a preferred access alternative, subject to the general access requirements, including determination of nexus and proportionality and waiver options.</i></p> <p><i>Maintain a package of access options, including Bayside Trail.</i></p>

	<p>Trail, including site amenities;</p> <p>iii. Improving connections between Schuster Parkway and the Bayside Trail;</p> <p>iv. Provide access directly along the water when the protection of private property rights, public safety and the environment can be ensured. This access may require connections to existing points of public access through creative means such as flyovers.</p>		
		<p>The City could benefit greatly from a connected waterfront, from Thea Foss to Point Defiance – do not allow private developments that will interfere with this vision</p>	
		<p>On site 15’ walkway should be the preferred access alternative</p>	
		<p>When public access requirements cannot be met on site, off site improvements should incorporate one of more of the listed access projects</p>	
		<p>“Either-or” of public access and industrial use is an outdated way of thinking</p>	

		Provide for the public's right to access the waters of the state	
		Support a safe and continuous waterfront walkway from Tacoma Dome to Point Defiance	
		Bayside Trail and Schuster sidewalk should be removed as options due to the destabilizing effects they could have on hillside	
		The Bayside Trail is not an adequate replacement for a waterfront walkway	
		The Schuster Parkway sidewalk is unsafe and an undesirable form of access	
		Sperry Ocean Dock is supportive of public access to public properties	
		TEMCO is supportive of restoring the Bayside Trail and using the existing rules to achieve contiguous and connected access along the water or with views of the water	

# S-6 AND S-7 DISTRICT BOUNDARY CHANGE



S-6 and S-7 District Boundary Preliminary Draft

S-6 and S-7 District Boundary Planning Commission Proposal



## Comparison Table S-8 Thea Foss Waterway Shoreline District

Existing Shoreline Master Program	Preliminary Draft TSMP	Public Comments	Planning Commission
<b>District Boundary</b>			
Please see attachment 2.	No proposed change.	Rezone NuStar from S-8 to S-10  Delete any division of property by shoreline district boundaries	Expand S-8 District to include all of NuStar site. Provide guidance on split zoning in updated draft.
<b>New and Existing Industrial Uses</b>			
Please see attachment 3. New industrial uses may be permitted on the East Foss north of 15 <sup>th</sup> street where specific conditions are met and subject to public access requirements. Existing industrial uses are not subject to the public access requirements, but cannot expand within the S-8 District beyond their boundaries as they existing on January 1, 1996.	No significant change proposed.	Allow existing industrial uses to expand their operations	Concurs with preliminary draft.
<b>Design Guidelines</b>			
Please see attachments 4 and 5. The existing TSMP and Foss Plan include design guidelines that apply to the entirety of the Thea Foss Waterway, including that area N of East 15 <sup>th</sup> Street.	Please see attachment 6. No proposed change in applicability of design guidelines.	Delete design guidelines N of East 15 <sup>th</sup> Street  Include the requirement for City Council Resolution No. 36702 to assure shoreline development contains “design standards” to “discourage nonindustrial uses east of East D Street.”	Concurs with preliminary draft. Revise design guidelines to discourage tree grates and promote alternatives.

<b>Mixed-Use</b>			
<p>Regulations pertaining to mixed-use development are generally specific to the Foss Waterway. Primary regulations include:</p> <ul style="list-style-type: none"> <li>• Ground floor is primarily developed with water-oriented uses</li> <li>• 50% of the esplanade frontage shall contain pedestrian-oriented uses</li> <li>• 20% of the view corridor and Dock Street frontage shall contain pedestrian-oriented uses</li> <li>• Pedestrian-oriented uses shall be clustered at the corners of the structure</li> </ul>	<p>The Preliminary Draft treats mixed-use more generally than the existing TSMP. General requirements include:</p> <p>The mixed-use structure may contain non-water-oriented uses so long as the uses support a water-oriented use or development</p> <p>Non-water-oriented uses shall not locate on the waterside or shoreline frontage of the ground floor</p> <p>Residential uses shall not be permitted on the ground floor</p> <p>Mixed-use shall also provide significant public benefit in the form of public access and shoreline or marine buffer enhancement</p> <p>Mixed-use regulations specific to the Foss Waterway include:</p> <p>20% of the Dock Street frontage shall contain water-oriented uses</p> <p>75% of the esplanade frontage shall contain water-oriented uses</p>	<p>What is meant by “the use is part of a mixed-use project that supports a water-oriented use?”</p> <p>Clarify the definition of “mixed use” – should explain the words “and other uses,” are water-oriented uses required as part of the definition?</p> <p>Language should clarify that non-water-oriented uses, even as part of a mixed use development, requires a conditional use permit.</p> <p>What is the appropriate mix of uses for a mixed use structure – 50% residential, 25% office? Other?</p> <p>Office uses are generally discouraged by the State – we should not be making it easier for offices with no water-relation to locate on our shorelines when there is a glut of vacant office space elsewhere in the City.</p>	<p>Provide flexibility for mixed-use structures on the Foss Waterway. Provide 10 year horizon for non-water-oriented uses with 5-year extension. Do not require occupancy plan.</p>



**Temporary Uses**

<p>The existing draft only includes provisions for temporary surface parking. Otherwise, mixed-use structures are required to meet both the use and development regulations at the time of construction.</p>	<p>The Preliminary Draft provides some additional flexibility for mixed-use developments on the Foss Waterway to respond to short term market conditions by allowing more non-water-oriented uses on a temporary basis. The Draft establishes two paths for permitting an existing or new structure that does not meet the use requirements.</p> <p>Path one: May be permitted outright so long as 25% of the shoreline frontage is occupied by water-oriented uses and the rest of the frontage requirements are built to suit future conversion to water-oriented uses.</p> <p>Path two: May be permitted as a conditional use if no water-oriented uses will be provided so long as the required frontages are built to suit future conversion to water-oriented uses.</p>	<p>Strongly object to these provisions – when are short term market conditions over? How will we know? This is a blatant attempt at avoiding City and State regulations.</p> <p>Are these provisions in the best interests of the public or a small group of real estate people?</p>	
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# DISTRICT BOUNDARY - S8

