ORDINANCE NO. 2014-03

AN ORDINANCE OF THE ALBANY CITY COUNCIL AMENDING CHAPTER XX, THE PLANNING AND ZONING CHAPTER OF THE MUNICIPAL CODE TO ALLOW DIGITAL BILLBOARDS IN THE COMMERCIAL MIXED USE ZONING DISTRICT

WHEREAS, the City of Albany has adopted a Zoning Ordinance in the form of Chapter XX of the Albany Municipal Code, Planning and Zoning; and

WHEREAS, on October 21, 2013, the City Council provided direction to staff on options for the financing and construction of a new Public Works Service Center at 540 Cleveland Avenue, including utilization of revenues from a lease for a digital billboard; and

WHEREAS, the Planning & Zoning Commission approved a resolution of intention to consider potential amendments to the Planning and Zoning Code to accommodate a digital billboard at their October 30, 2013 meeting; and

WHEREAS, the Planning & Zoning Commission discussed potential amendments to the Planning and Zoning Code to accommodate a digital billboard at their October 30, 2013 meeting and their November 13, 2013 meeting; and

WHEREAS, on January 22, 2014, the Planning & Zoning Commission approved a motion recommending to the City Council amendments to the Planning and Zoning Code potential amendments; and

WHEREAS, the Albany Planning and Zoning Commission, on January 22, 2014, after due public notice, held a public hearing on the proposed amendments to Chapter XX, recommending that the Council introduce for first reading Ordinance No. 2014-03, Amendments
to the Planning and Zoning Chapter of the Municipal Code to allow digital billboards in the Commercial Mixed Use zoning district; and

WHEREAS, the proposed amendments are consistent with the General Plan, which does not address signage; and

WHEREAS, implementation of the Public Works facility is consistent with the General Plan in that it would contribute to the economic vitality of the “Industrial and Light Industry” district by redeveloping an existing vacant contaminated property; and

WHEREAS, pursuant to the California Environmental Quality Act, the City has determined that the proposed amendments to Chapter XX are exempt from the provisions of CEQA pursuant to Guidelines Section 15194, “Affordable Housing Exemption”; and

WHEREAS, the Albany City Council, on January 21, 2014, after due public notice, held a public hearing on the proposed amendments to Chapter XX.

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

SECTION 1: CHAPTER XX OF THE ALBANY MUNICIPAL CODE, SECTION 20-32.030 TITLED “DEFINITIONS” IS HEREBY AMENDED AS FOLLOWS:

As used in this section:

Awning means a temporary shelter, usually constructed of canvas, which is supported entirely from the exterior wall of a building.
Banner means a sign made of flexible materials, suspended from one (1) or two (2) corners, including a design or logo.

**Digital Billboard** means an off-premises sign utilizing digital message technology, capable of changing the static message or copy on the sign electronically.

Fascia Sign means a sign painted on or affixed to a building face, parallel to and not extending more than twelve (12) inches from the surface.

**Franchise or relocation agreement** means an agreement between the City and a digital billboard operator that provides that a specified number of static billboards be removed in exchange for allowing a digital billboard. A franchise or relocation agreement shall include provisions related to message content including restrictions on types of products or services, public service messages, local marketing, public safety alerts, etc.

Freestanding Sign means a permanently fixed, separate and detached sign or advertising structure, supported from one (1) or more poles, columns, braces or similar devices.

Fully Animated Signs means an on-premises identification sign with flashing, blinking, animated, rotating signs, or signs whose illumination or surface changes with time; this shall not include barber poles, reader boards or public service messages such as time and temperature.

Hold Harmless means an agreement between the property owner and the City which indemnifies and relieves the City of all financial responsibility, liability and other costs including
attorney's fees, for any injury or damages that result by virtue of a claim against the City by a third party.

In-window Permanent Sign means any sign placed in or painted on a window for more than forty-five (45) days.

In-window Temporary Sign means any sign or combination of signs used for identification placed or painted on a window for not more than forty-five (45) days.

Marquee Sign means a sign attached to, painted on, or suspended from a marquee, roof overhang or awning.

Monument Sign means a low profile freestanding sign supported on a solid foundation.

Occupant means each business establishment having its own outside entrance. “Occupant” does not refer to individual tenants who may share the space within the establishment.

Off-premises Sign means one that, at any time, carries any advertisement identification, or directions not strictly incidental to the lawful use of the premises upon which it is located.

Partially Animated Signs means flashing, blinking, animated, rotating signs or signs whose illumination or surface changes with time, on a very limited basis. This shall not include barber poles, reader boards or public service messages such as time and temperature.
Pennant or Streamer means a sign made of flexible materials suspended from one (1) or two (2) corners, used in combination with other pennants and streamers to create the impression of a line.

Permanent Sign means one for which a sign permit is approved and issued with no time restriction.

Portable Sign means "A" frame, merchandise display or other advertising materials which can be readily moved. A vehicle carrying advertising, parked at a curb for other than normal transportation purposes, will be considered a portable sign.

Projecting Sign means a sign affixed to the face of a building and projecting more than twelve (12) inches either perpendicularly or at an angle from the surface.

Reader Board means a sign or portion of a sign designed for use with interchangeable letters.

Roof Sign means a sign which extends or is erected above the roof line or parapet wall.

Sign means all letters, figures, symbols or objects designed or used to attract or direct attention for identification, directional or advertising purposes. "Signs" include all banners, placards, posters, car pictures, strings of lights, outdoor displays and similar items used to attract attention.
Sign Area means the area within the smallest perimeter that will enclose all of the letters, figures or symbols which comprise the sign, but excluding essential supports. Supports will be subject to design approval and engineering approval. For multi-faced signs, area will be the total of all faces.

Sign Permit means the granting of design approval for a specific sign by the Planning Commission or City staff in conformance with the requirements of this section. An additional building permit from the Building Department is necessary to erect any sign.

Temporary Sign means one approved with a specific time limitation. Area of temporary signs shall not be included in computation of allowable area for permanent signing.

(Ord. #78-07, §501.2; Ord. #03-01, §1; Ord No. 04-09)

SECTION 2: CHAPTER XX OF THE ALBANY MUNICIPAL CODE, SECTION 20-32-040 TITLED “PROHIBITED SIGNS” IS HEREBY AMENDED AS FOLLOWS:

The following signs are not allowed:

A. Fully animated signs;

B. Dilapidated or abandoned signs;

C. Off-premises signs, other than pursuant to a franchise or relocation agreement as provided in 20.32.060.B.2.
D. Portable signs in the public right-of-way, except real estate "open house" and "garage sale" signs;

E. Pennants or streamers.

All other types of signs are allowable either with or without a permit as provided in this section.

(Ord. #78-07, §501.3; Ord. #03-01, §1; Ord. No. 04-09)

SECTION 3: CHAPTER XX OF THE ALBANY MUNICIPAL CODE, SECTION 20-32-060 TITLED “SIGNS ALLOWED WITH A PERMIT” IS HEREBY AMENDED AS FOLLOWS:

A. The following are allowable with a sign permit issued by the Planning and Zoning Commission, subject to the limitation on size and location:

1. Banners;

2. Fascia signs;

3. Freestanding signs;

4. In-window permanent signs;

5. Marquee signs;
6. Monument signs;

7. Projecting signs;

8. Roof signs.

B. The following signs are allowable with a use permit issued by the Planning and Zoning Commission:

1. Partially animated signs, subject to the following criteria:

   a. The Planning and Zoning Commission shall determine the frequency of the use of color and the changing of messages, type of animation, number and types of messages allowed to be displayed, hours of operation, intensity of illumination, compatibility of the height of the sign with the surrounding area, and such other aspects which affect visual presentation of the proposed sign or its functions;

   b. They can only be located on parcels more than twenty-five (25) acres in size;

   c. No more than one (1) partially animated sign may be placed on property;

   d. Proposed animated sign displays shall be submitted to the Community Development and Environmental Resources Director for administrative approval. The Community Development and Environmental Resources Director will accept or reject the proposed display within seven (7) days of the submission.

2. Digital billboards, subject to the following criteria:
Operational Limitations.

a. A maximum of one installation with two screens is allowed in CMX zoning district only.

b. Digital billboard shall be oriented away from residential area.

c. Visual appearance of ladders or catwalks for service access shall be minimized.

c. Such displays shall contain static messages only, and shall not have movement, or the appearance or optical illusion of movement during the static display period, of any part of the sign structure, design, or pictorial segment of the sign, including the movement or appearance of movement. Each static message shall not include flashing lighting or the varying of light intensity.

d. Installation subject to a franchise or relocation agreement authorized by the City Council, which expressly allows advertising signs and then only under the terms and conditions of such agreements, including removal of existing static billboards.

e. Displays visible from California Highways shall comply with California Business and Professions Code, California Vehicle Code requirements, the requirements of the California Department of Transportation, and the requirements of the Federal Highway Administration.

f. Minimum display time. Each message on the sign must be displayed for a minimum of eight seconds. Transition time between messages shall be no more than two seconds.
g. Digital billboards shall utilize light sensors to adjust brightness for ambient light conditions. Billboards shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter at a pre-set distance. Pre-set distances to measure the foot candles impact vary with the expected viewing distances of each size sign. Measurement distance criteria:

<table>
<thead>
<tr>
<th>Nominal Distance to Face Size be measured from:</th>
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<tbody>
<tr>
<td>12' x 25' 150'</td>
</tr>
<tr>
<td>10'6&quot; x 36' 200'</td>
</tr>
<tr>
<td>14' x 48' 250'</td>
</tr>
<tr>
<td>20' x 60' 350'</td>
</tr>
</tbody>
</table>

f. Placement on a parcel and height shall be determined by the Planning and Zoning Commission on a use permit/design review basis.

g. Maintenance activities are limited to normal cleaning, painting, and repair of damaged parts, or other activities necessary to keep the facility in sound condition. Modernization of display technology or enlargement of sign or display area shall be subject to a new conditional use permit.

h. The Digital Billboard shall employ the latest photovoltaic technology to ensure it generates one hundred percent of electrical energy used by the facility, unless demonstrated by the applicant to be infeasible. Operator shall use “green power” programs offered by utility provider.

i. The Digital Billboard shall be designed to be incorporated into the architectural style of the adjacent structure.
C. The following signs may be approved administratively by the Community Development Director:

1. Signs which entail only a change in the existing message if the area and type of sign remains unchanged.

(Ord. #78-07, §501.5; Ord. #82-03; Ord. #99-06, §1; Ord. #03-01 §1; Ord. No. 04-09)

SECTION 4: SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 5: PUBLICATION AND EFFECTIVE DATE.

This ordinance shall be posted at three public places within the City of Albany and shall become effective thirty days after the date of its posting.

PASSED AND ADOPTED by the City Council of the City of Albany at its meeting on the 3rd day of March 2014, by the following vote:

AYES: Council members: Atkinson, Barnes, Maase
and Vice Mayor Hill

NOES: None
ABSENT: None
ABSTAIN: Mayor Thomsen

[Signature]
PEGGY THOMSEN, MAYOR
ORDINANCE NO. 2014-03

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,

this 3rd day of March, 2014, by the following votes:

AYES: Council Members Atkinson, Barnes, Maass, and Vice Mayor Wile

NOES: none

ABSTAINED: Mayor Thomsen

ABSENT: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this


Eileen Harrington
DEPUTY CITY CLERK
NOTICE OF POSTING

STATE OF CALIFORNIA
COUNTY OF ALAMEDA

I, Eileen A. Harrington, Deputy City Clerk of the City of Albany, County of Alameda, State Of California, say:

That on the 4th day of March, 2014, I posted notices in the following areas designated as the official posting areas for the City of Albany:

CITY HALL
SENIOR CENTER
LIBRARY/COMMUNITY CENTER

The notice was for: ORDINANCE 2014-03 – Amending Chapter XX, the Planning and Zoning Chapter of the Municipal Code to Allow Digital Billboards in the Commercial Mixed Use Zoning District – passed at City Council Meeting, March 3, 2014.

I declare under penalty of perjury that the foregoing is true and correct. Executed on the 4th Day of March, 2014, at Albany, California.

EILEEN A. HARRINGTON
DEPUTY CITY CLERK