

ORDINANCE 566-AC

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEEDLES
TO AMEND THE NEEDLES MUNICIPAL CODE (NMC) SECTION 104.17.6
BY ADDING SUBSECTION "P" "OUTDOOR ADVERTISING DISPLAYS WITH A
DEVELOPMENT AGREEMENT"**

WHEREAS, the City of Needles permitted Outdoor Advertising Displays, also referred to as "Billboards", until 1987; and

WHEREAS, each applicant was required to enter into a development agreement with the city; and

WHEREAS, the city desires to permit new billboards through a permitting process with an approved development agreement; and

WHEREAS, an approved Development Agreement between the city and a new outdoor advertising sign operator will offer the city the ability to extract improvements or benefits for the city that are not possible by way of a conditional use permit; and

WHEREAS, an approved Development Agreement between the city and a new outdoor advertising sign operator will provide the city the leverage to control the placement of additional billboards and the terms thereof.

WHEREAS, a public hearing notice for the Needles Planning Commission meeting was published in the Needles Desert Star on August 10, 2014, 10 days prior to said meeting; and

WHEREAS, the public hearing was continued to October 1, 2014 Planning Commission meeting; and

WHEREAS, on October 1, 2014, the Needles Planning Commission held a duly noticed and advertised public hearing to receive oral and written testimony relative to amendment of the Needles Municipal Code (NMC), and following the conclusion thereof, adopted its Resolution No. 10-1-2014-1PC, recommending that the City Council of the City of Needles make such amendment to the Needles Municipal Code (NMC); and

WHEREAS, a public hearing notice for the needles City Council meeting was published in the needles Desert Star on August 10, 2014, 10 days prior to said meeting; and

WHEREAS, the public hearing was continued to the October 28, 2014 City Council meeting; and

WHEREAS, on October 28, 2014, the Needles City Council held a duly noticed and advertised public hearing to receive oral and written testimony relative to the amendment to the Needles Municipal Code (NMC); and

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WHEREAS, the Needles City Council has sufficiently considered all testimony and any documentary evidence presented to them in order to make the following determination:

SECTION 1. The City Council HEREBY FINDS AND DETERMINES that this activity is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Section §§ 15060 (c)(2), the activity will not result in a direct or reasonable foreseeable indirect physical change in the environment

SECTION 2. The City Council HEREBY FINDS AND DETERMINES that facts do exist to approve an amendment to the Needles Municipal Code (NMC).

SECTION 3. The City Council HEREBY APPROVES Ordinance 556-AC for an amendment to the Needles Municipal Code (NMC) as follows:

SECTION 104.17.6 "P" OUTDOOR ADVERTISING DISPLAYS

1. DEFINITIONS. For purposes of this Chapter, the following words or phrases shall have the following definitions.

- a. "Abandoned Outdoor Advertising Display" means either:
 1. Any outdoor advertising display that is in existence for more than three (3) months without a poster, bill printing, painting, or other form of advertisement or message on its display face; or
 2. Any outdoor advertising display that does not appear on the inventory required by Section 104.17.6 P.5(a)
- b. "Automatic Changeable Message Display" means an advertising display which mechanically changes the fixed display face at synchronized programmable intervals through the use of a series of multiple-faced (generally three faces) rotating panels or louvers. These displays are also known by proprietary product names such as "Tri-Vision and/or "Tri-Face."
- c. "City Manager" means the City Manager of the City or his/her designee.
- d. "Digital Display" means an outdoor advertising display using light emitting diodes (L.E.D.) or similar technology to display static images controlled by electronic communications.
- e. "Display Face" means the surface area of an outdoor advertising display available for the purpose of displaying an advertising message. Display Face does not include the structural supports or lighting.
- f. "Edge of Right-of-Way" means a measurement from the edge of a right-of-way horizontally along a line normal or perpendicular to the centerline of the freeway or highway.
- g. "Free Standing Sign" means any sign which is supported by one (1) column or upright imbedded in the ground, and which is not attached to any building or structure.

- h. "Freeway" means a divided arterial highway for through traffic with full control of access and with grade separations at intersections under state control which requires a State Outdoor Advertising Permit to erect an outdoor advertising display
- i. "Illegal Outdoor Advertising Display" means any of the following:
 - 1. An outdoor advertising structure or outdoor advertising sign erected without first complying with all applicable city regulations in effect at the time of its construction, erection or use.
 - 2. An outdoor advertising structure or outdoor advertising sign that was legally erected but whose use has ceased, or the structure upon which the advertising display is placed has been abandoned by its owner, and not maintained or used for a period of at least six (6) months.
 - 3. An outdoor advertising structure or outdoor advertising sign which does not comply with this Chapter, or any applicable permit referenced in the Needles Municipal Code.
 - 4. An outdoor advertising structure or outdoor advertising sign which is a danger to the public or is has been determined to be unsafe by the City Manager, as supported by findings made in connection with the California building code, including applicable provisions of the Needles Municipal Code.
- j. "Maximum Height" means the highest point of the structure or sign measured from the roadbed of the adjacent freeway or highway to which the sign is oriented or from the average natural ground level at the base of the supporting structure, whichever is greater.
- k. "Off-Site Sign" means structures and signs that are erected or maintained to advertise goods sold, business conducted, or services rendered on a parcel other than the land upon which the sign is located. An off-site sign may be commonly referred to as an "outdoor advertising display" or "off-premise billboard."
- l. "Outdoor Advertising Display" means an outdoor advertising structure or outdoor advertising sign used for outdoor advertising purposes. An outdoor advertising display may be commonly known or referred to as an "off-site" or an "off-premises" billboard.
- m. "Outdoor Advertising Sign" means any card, cloth, paper, metal, painted, plastic or wooden sign of any character placed for outdoor advertising purposes and affixed to an outdoor advertising display or structure.
- n. "Outdoor Advertising Structure" means a structure of any kind or character erected, used or maintained for outdoor advertising purposes, upon which any poster, bill, printing, painting or other advertisement of any kind whatsoever may be placed, including statuary, for outdoor advertising purposes. Such structure shall be constructed or erected upon a permanent foundation.
- o. "Primary Highway" means any roadway under state control which requires a State Outdoor Advertising Permit to erect an outdoor advertising display.

p. "Scenic Highway" means any officially designated state scenic highway as defined in Streets and Highway Code Sections 154 and 261 *et seq.*

2. Permit Procedure. No person shall erect, use or maintain an outdoor advertising display in the City, except in accordance with the following provisions.

a. Application. A separate application shall be required for each advertising structure whether or not the advertising structure is proposed alone or as one of any number of advertising structures proposed to be placed on the same parcel, contiguous" parcels, or any set of related or unrelated parcels that are the subject of a single development proposal.

The application shall consist of 5 copies of a plot plan and elevations drawn to scale, containing the name, address, and telephone number of the applicant, owner of the property, assessor's parcel number (APN), and a general description of the property upon which the outdoor advertising display is proposed to be placed. The plot plan shall show the precise location, type and size, maximum height, and dimensions of the proposed outdoor advertising display and display face, and property lines, zoning and the dimensions, location of the distance to the nearest advertising displays, buildings, public and private roads, and other rights-of-way, setback lines, and specifically planned future road right-of-way lines, and any and all other information required by the City Manager such that the proposed display may be readily ascertained, identified, and evaluated.

b. A Conditional Use Permit shall be required for the installation of any new, relocated, or enlarged billboard sign or to allow a second face addition to an existing billboard sign.

c. Development Agreement. An approved development agreement shall be required for: each new sign structure, any existing illegal sign structure, any existing sign structure with an expired development agreement. The provisions of this subparagraph shall govern the processing of applications for a Development Agreement for an outdoor advertising sign. The development agreement shall include language allowing the city to use up to 20% of the billboard face, free of charge during the term of the agreement, for displays aimed at promoting the City, facilities and/or programs, for charitable or civic advertising. The development agreement shall also include language providing discount advertising of ten percent (10%) off applicable rates for the display of advertising on the billboard to any business that has its principal place of business in Needles. The City Council shall render its decision on an application for a Development Agreement for an outdoor advertising sign within three (3) months of the date of acceptance of the application, unless an extension is agreed to in writing by the applicant. An application for a Development Agreement for an outdoor advertising sign shall be approved by the City council if the proposed sign structure conforms to the requirements of this code and applicable laws.

d. Denial. If the Permit is denied and applicant wishes to appeal the decision, the applicant will file with the city clerk a written request for an appeal hearing within thirty (30) days of the date the denial notice was mailed, otherwise, the City Council's decision to deny the application will be considered final. Failure to timely file a written request for an appeal hearing constitutes a waiver of the right to an appeal hearing. Notice of the appeal hearing shall be given by mail to the applicant. The appeal hearing will be conducted in the same manner as set forth in Chapter 14 of the Needles Municipal Code.

3. Building Permit Required. No person shall place, erect, use, maintain, alter, repair or relocate an outdoor advertising display or connect an outdoor advertising display to a power supply without first also obtaining a building permit from the Building Dept.
4. Revocation. Any Outdoor Advertising Display Permit or any related building permit may be revoked by the City Manager, if the City Manger finds that any permittee, his or her agent or any other person exercising management or control of the business, including, but not limited to, a member, partner, director, officer or general manager who is exercising authority on behalf of the permittee, has:
 - a. Knowingly made any false, misleading or fraudulent statement of a material fact in an application for a permit, or in any report or record required to be filed with the City Manager; or
 - b. Committed any act which violates any rule or regulation adopted by any governmental agency relating to the permittee's business, including, but not limited to, failure to pay local taxes, fees or assessment imposed by the City, or any district created by the City; or
 - c. Violated any condition or restriction of the permits; or
 - d. Conducted the permitted business in a manner contrary to the peace, health, safety and the general welfare of the public; or
 - e. Failed or refused to notify the City Manager of any material change in facts stated in the application for any permit; or
 - f. Failed to maintain the Outdoor Advertising Display in good condition;
 - g. Maintained the outdoor advertising display in a state of disrepair.

4.1. Notice of Revocation Hearing:

If the City Manager concludes that grounds for revocation exist, the City Manger shall:

- a. Serve the permittee with notice of the revocation hearing ("Notice") by certified mail, and/or by regular U.S. mail, to the address last shown on the application for the permit, unless the permittee has provided the City Manager with written notice of a change in address, in which case the notice shall be sent to such address. Such hearing date shall be at least 15 days from the date of the Notice, and no longer than 30 days from the date of the Notice. Notwithstanding the foregoing, permittee and City Manager may mutually agree on any hearing date.
- b. The Notice shall state the reasons for the proposed action, the right of the permittee to attend the hearing, the right for the permittee to submit testimony in writing and/or orally, the right to provide other forms of evidence.

4.2. Revocation Hearing:

- a. The City Manager is the hearing officer for purposes of this Chapter.
- b. The City Manager shall receive written and oral testimony at such hearing regarding the revocation.
- c. Within thirty (30) days of the hearing, the City Manager shall find and determine whether the City shall revoke the permit.
- d. The City Manager, or the City Council on appeal, shall base its decision on the evidence and issue his/her decision in writing to the permittee no later than thirty (30) days from the date of the hearing.

4.3. Appeal.

- a. Unless appealed, in accordance with provisions of Chapter 14, the City Manager's decision is final and conclusive.
- b. The appeal hearing will be conducted in the same manner as set forth in Chapter 14 of the Needles Municipal Code.

4.4. Final decision

Upon a final decision by the City Manager, it shall thereafter be unlawful for any person to place, erect, use or maintain an Outdoor Advertising Display after the permit has been revoked. Failure to abide by the final decision of either the City Manager or City Council shall be deemed a separate violation of this Chapter.

5. PERMIT STANDARDS.

- a. **General Plan.** Outdoor advertising displays shall be consistent with the Comprehensive General Plan, and all federal, state, and local laws.
- b. **Placement.** Outdoor advertising displays oriented towards and primarily viewed from freeways and highways are preferred.
- c. **Zoning.** Outdoor advertising displays are permitted only in the Commercial Resort Residential, Commercial and Industrial Zones, provided that the display meets all of the other requirements of those zoning classifications and this Chapter. Outdoor advertising displays are expressly prohibited in all other zones.
- d. **Height.** The maximum height of an outdoor advertising display shall not exceed a height of thirty- five (35) feet from the roadbed of the adjacent freeway or highway to which the display is oriented, or a maximum height of thirty-five (35) feet from the grade on which it is constructed, whichever is greater.
- e. **Setbacks.** No outdoor advertising display shall be erected within a road right-of-way line or future road right-of-way line as shown on any General Plan. A minimum setback from the property line of one foot shall be required. No person shall place, erect, use or maintain any

outdoor advertising display located within six hundred sixty (660) feet from the edge of the right-of-way of any freeway or primary highway without first obtaining a valid state outdoor advertising permit.

- f. Spacing. No outdoor advertising display shall be located within five hundred (500) feet in any direction from any outdoor advertising display on the same side of the highway or freeway.
- g. Scenic Highway. No outdoor advertising display shall be permitted adjacent to a scenic highway.
- h. Display Face Size. No outdoor advertising display shall exceed a maximum total surface area of seven hundred (700) square feet per face.
- i. Number of Display Faces. No more than two (2) display faces per outdoor advertising display shall be permitted. Only single face, back-to-back and V-type displays shall be allowed, provided that they are on the same outdoor advertising structure and further provided that the V-type displays have a separation between display faces of not more than thirty (30) feet. Display faces shall not be stacked.
- j. Number of Displays. No more than one (1) proposed outdoor advertising display per application shall be permitted.
- k. Poles. A maximum of one (1) steel pole is allowed for support of an outdoor advertising display, subject to approval of the City Manager.
- l. Lighting and Illumination of Displays. An outdoor advertising display may be illuminated, unless otherwise specified, provided that the displays are so constructed that no light bulb, tube, filament, or similar source of illumination is visible beyond the display face. Displays making use of lights to convey the effect of movement or flashing, intermittent, or variable intensity shall not be permitted. Displays shall use the most advanced methods to insure the most energy efficient methods of display illumination.
- m. Digital Displays and Automatic Changeable Message Displays are allowed providing the message displayed is static and displayed for a minimum duration of six (6) seconds and the transition time between messages is no longer than four (4) seconds. Animated images, images that give the appearance of movement or changes in illumination intensity during the static display period are prohibited.
- n. Display Movement. No outdoor advertising display shall move, rotate or display any moving and/or rotating parts except for automatic changeable message displays. No propellers, flags, or other noise creating devices, and no architectural embellishments which utilize mechanical or natural forces for motion, shall be permitted. Use of daylight reflective materials or electronic message boards using flashing, intermittent or moving light or lights is prohibited.
- o. Mobile Displays. No person shall place, use, maintain, or otherwise allow a mobile vehicle, trailer, or other advertising display not permanently affixed to the ground to be used as an outdoor advertising display.

- p. Roof Mounts. No outdoor advertising display shall be affixed on or over the roof of any building and no display shall be affixed to the wall of a building so that it projects above the parapet of the building. For the purposes of this Chapter, a mansard style roof shall be considered a parapet.
- q. Identification. No outdoor advertising display shall be placed, erected, used or maintained anywhere unless there is securely fastened thereto the name of the outdoor advertising display owner in such a manner that the name is visible. Any display placed, erected, or maintained without this identification shall be deemed to be placed, erected, and maintained in violation of this Chapter.
- r. Display Inventory. In order to evaluate and access outdoor advertising displays within the City, within one hundred eighty (180) days of the effective date of this Chapter and on each fifth anniversary after the effective date of this Chapter, and upon notice, each business with outdoor advertising displays within the incorporated area of the City shall submit to the City Manager, a current inventory of the outdoor advertising displays maintained within the incorporated area of the City. Failure to submit a current or accurate inventory within thirty (30) days of receipt of such notice shall be deemed to be a violation of this Chapter and subject to the issuance of a Notice of Violation by Code Enforcement. Failure to comply with a Notice of Violation may result in the issuance of a Field Citation, an Administrative Citation, or a Notice of Public Nuisance, or such other action or proceeding pursuant to Title 4 of the Needles Municipal Code.

6. ENFORCEMENT.

Wherever the officials responsible for the enforcement of administration of the City Zoning Code or their designated agents, have cause to suspect a violation of this Chapter, or whenever necessary to investigate either an application for the granting, modification, or any action to suspend or revoke an outdoor advertising display permit, or whenever necessary to investigate a possible violation, such persons may lawfully gain access to the appropriate parcel of land upon which a violation is believed to exist. The following provisions shall apply to the violations of this Chapter:

- a. All violations of this Chapter committed by any person, whether as agent, employee, officer, principal, or otherwise, shall be a misdemeanor.
- b. Every person who knowingly provides false information on an outdoor advertising display permit application shall be guilty of a misdemeanor.
- c. Every person who fails to stop work on an outdoor advertising display, when so ordered by the City Manager shall be guilty of a misdemeanor.
- d. A misdemeanor may be prosecuted by the City or may be redressed by civil action. Each violation is punishable by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment in jail for a term of not more than six (6) months, or by both fine and imprisonment.

- e. Every person found guilty of a violation shall be deemed guilty of a separate offense for every day during a portion of which the violation is committed, continued, or permitted by such person.
- f. Every illegal outdoor advertising display and every abandoned outdoor advertising display is hereby declared to be a public nuisance and shall be subject to abatement by repair, rehabilitation, or removal in accordance with the procedures contained in the City's Zoning Code.

7. NON-CONFORMING OUTDOOR ADVERTISING DISPLAYS.

The following sections shall apply to nonconforming Outdoor Advertising Displays:

a. CONTINUATION

Any nonconforming Outdoor Advertising Display may be maintained through the abatement period set forth in this Section, provided there are no alterations of the display whatsoever, except as provided in this Chapter.

b. ALTERATIONS

1. A nonconforming outdoor advertising display may not be moved, enlarged, relocated, or altered in any way except as otherwise provided herein:
 - a. Where any nonconforming Outdoor Advertising Display is damaged or partially destroyed, the nonconforming outdoor advertising display may be restored to the condition in which it existed immediately prior to the occurrence of such damage so long as all of the following conditions are met:
 - i. The cost of such reconstruction does not exceed fifty percent (50%) of the replacement cost of such outdoor advertising display at the time such damage occurred; and
 - ii. The reconstruction may not result in any greater degree of nonconformity than previously existed; and
 - iii. The reconstruction shall meet all current requirements of the Needles Municipal Code, and shall be completed within one (1) year of the commencement of the construction.
 - b. When a subsequently adopted ordinance or regulation of the City requires specific alterations, those alterations shall be made.
 - c. Minor repairs to and routine maintenance of an outdoor advertising display are permitted and encouraged. Minor repairs and routine maintenance means repairs or maintenance that cost less than twenty percent (20%) of the replacement cost.

2. If, in the process of reconstructing an outdoor advertising display pursuant to this subsection, certain nonconformities can be brought into conformity, they shall be brought into conformity.

8. Abatement and Termination—Upon Expiration of Time Periods

- a. Nonconforming outdoor advertising displays shall be abated and such nonconformity shall be terminated based on assessed valuation as is used by San Bernardino County:
- b. An extension of the abatement period may be granted by the City Manager upon good cause. In no case shall such an extension be granted for a period of more than one (1) year.

9. ILLEGAL AND ABANDONED OUTDOOR ADVERTISING DISPLAYS.

All illegal outdoor advertising displays and all abandoned outdoor advertising displays shall be removed or brought into conformance with this Chapter immediately upon receipt of Notice given to owner of the property and also given to the owner of the Outdoor Advertising Display, if the identification plate required by Business and Professions Code Sections 5362 and 5363 is affixed; and (ii) the advertiser, if any, identified on the sign provided the address of the advertiser can reasonably be determined.

10. RELOCATED OUTDOOR ADVERTISING DISPLAYS.

Nothing in this Chapter shall prevent the City from entering into an outdoor advertising display relocation agreement, which agreement shall require the prior approval of the City Council, when: (1) the original location of the outdoor advertising display is within a contemplated public right-of-way; and (2) the outdoor advertising display complied with all applicable regulations in effect at the time it was erected. An outdoor advertising display located on a parcel that is zoned to prohibit outdoor advertising displays may, pursuant to such an agreement, be relocated to another location on that same parcel. An outdoor advertising display located in an area defined in this Chapter as a scenic highway may also, pursuant to such an agreement, be relocated to an area defined as a scenic highway whether the area is on the same parcel or a different parcel. Except as provided in this Section, a relocated outdoor advertising display shall be subject to all the permit procedures and standards described in this Chapter.

SECTION 4. This action shall become final and effective thirty (30) days after this decision by the City Council as provided by the Needles City Code.

SECTION 5. The City Clerk shall certify to the adoption of this Ordinance and shall transmit copies of the same to the applicant.

NOW, THEREFORE, BE IT ORDAINED that the City Council of the City of Needles, California, approve an amendment to the City Code.

INTRODUCED AND READ for the first time and ordered posted at a regular meeting of the City Council of the City of Needles, California, held on the 28th day of October, 2014, by the following roll call vote:

AYES: Councilmembers Lopez, Kidd, Frazier and Campbell
NOES: Councilmember Gudmundson
ABSENT: Councilmember Darcy
ABSTAIN: None


Mayor

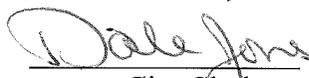
Attest: 
Deputy City Clerk

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Needles, California, held on the ~~14~~¹²th day of November, 2014.
12th

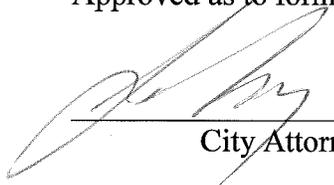
AYES: Council Members Lopez, Kidd, Frazier, Campbell and Darcy
NOES: Council Member Gudmundson
ABSENT: None
ABSTAIN: None


Mayor

(Seal)

Attest: 
City Clerk

Approved as to form:


City Attorney