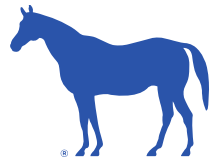


DIGITAL BILLBOARDS

Thursday, August 29th, 2024
General Government and Planning Committee



LEXINGTON

Background

- Topic originally brought to Council in 2017
- Presented to EQPW in 2017 and 2018
 - SCOTUS decision: *Reed v. Gilbert* (Content Based Ruling)
- 2019 Subcommittee was formed with August 2020. Work was paused due to pending litigation.

Static vs. Electronic Billboards: Daytime



Static



Digital

Static vs. Electronic Billboards: Nighttime

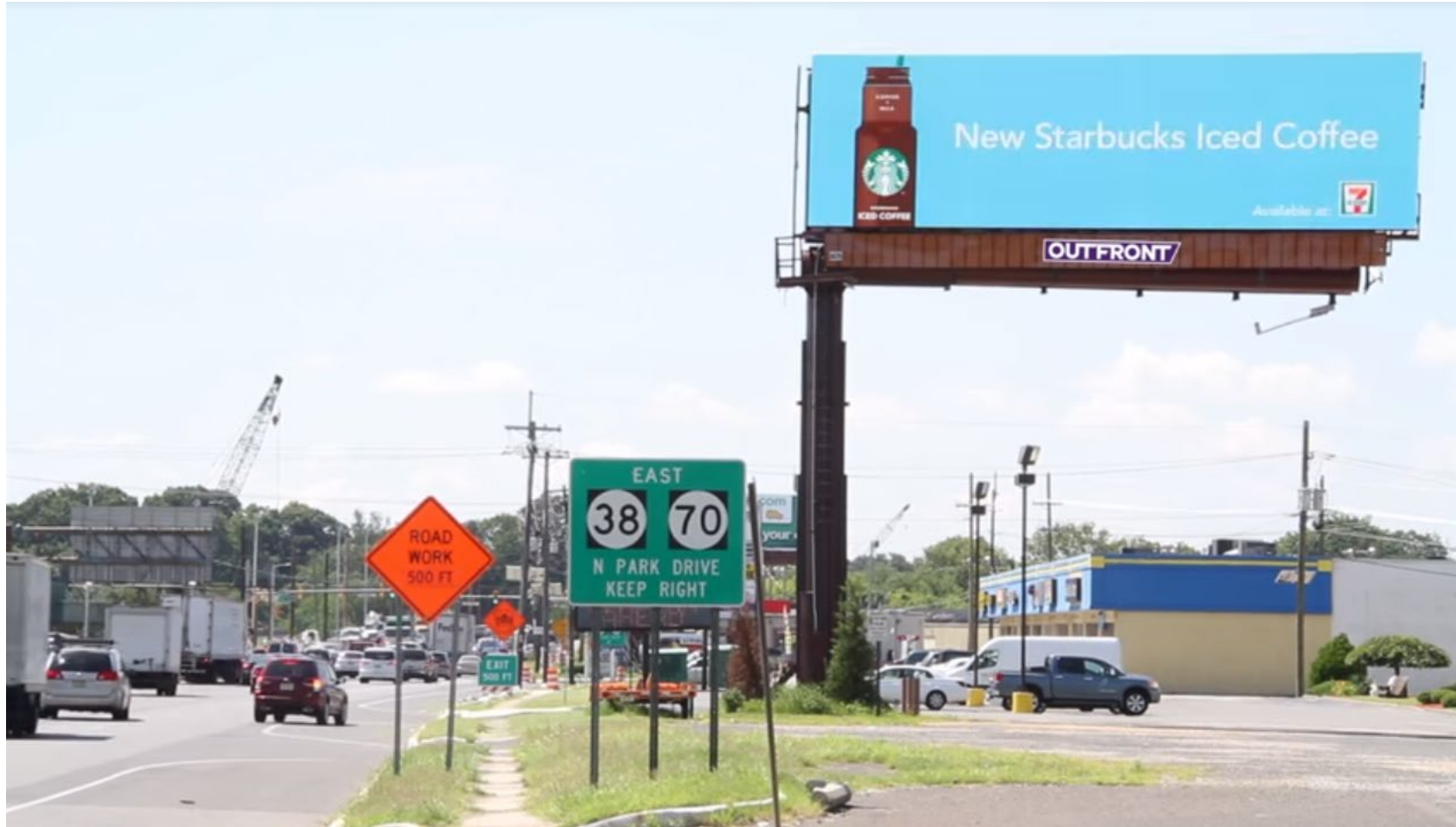


Static



Digital

Electronic Billboard Video Example



Current Kentucky Billboard Regulation

- 603 KAR 10:040; updated 1/26/2022
- Law governs digital billboards in Kentucky:
 - Cannot be larger than 672 sq. ft.;
 - Cannot have more than one face per facing or have extensions;
 - Interior angles between facings not to exceed 45 degrees;
 - Be equipped with sensors to determine ambient light with auto-dimmers;
 - Must be static for 8 seconds and not blink, scroll or contain animation;
 - Change messages in less than 2 seconds
 - Freeze on one display if malfunction occurs
 - In an urban area – only erected within 660 feet of right-of-way of a highway
 - Have 2,500 ft. between digital devices in one direction;
 - Have 500 ft between digital and static devices; and
 - Exchange 6 billboards for 1 new digital device; 5 devices for 1 one conversion (challenges with enforcement)

Current Lexington Billboard Regulation

- Currently have no provisions for digital billboards
 - Billboards currently allowed in B-3, B-4, I-1 and I-2 zones.
 - Must abut a federal or state highway.
 - Shall not exceed 40 ft. in height and 400 sq. ft. in area.
 - Not permitted within 150 ft. of any residential zone.
 - Must be set back 20 ft. from street right-of-way.
 - Generally, no closer than 500 ft. from another billboard.
-
- Current digital signage locations in Lexington are government entities which are exempt from zoning (University of Kentucky, LCC, etc.) and must be on-premise advertising.
-
- 137 Structures in Fayette County

Key Issues

- Brightness of signs
- Message hold times
 - Transition method
 - Transition duration
- Size
- Locations

Proposed Regulation

Article 17 – Sign Regulations

Sec. 17-5. - Nonconforming signs.

A legal, nonconforming sign may continue in existence as long as it is properly maintained in good condition.

These provisions shall not prevent the repair or restoration to a safe condition of any sign, but a nonconforming sign shall not be:

- a) Changed to another nonconforming sign except where only the face or copy is changed;
- b) Structurally altered so as to increase the degree of nonconformity of the sign;
- c) Expanded or enlarged;
- d) Reestablished after its removal;
- e) Moved to a new location on the building or lot



Proposed Regulation

Article 17 – Sign Regulations

Sec. 17-8. - General requirements.

All signs in all zones shall meet the following requirements:

- a) Illuminated signs shall be located in a fashion which prevents all direct rays of light from shining beyond the property lines of the lot on which the sign is located.
- b) No light, sign, billboard or other advertising device shall be designed or erected to imitate or resemble any official marker erected by a government entity or any official traffic sign, signal, or device or use any words, phrases, symbols, or characters implying the existence of danger, or the need to stop or maneuver the vehicle.
- c) No sign shall be attached to or painted on the surface of any tree, utility pole, or street light.
- d) Projecting signs shall have at least 8 feet of clearance above a road or sidewalk.
- e) Neon lighting and other lighted tubing signs may be used on signs where signs are permitted to be directly illuminated as defined in this Article.
- f) No sign, except for government signs, shall be located within the sight triangle of any intersection.
- g) No sign shall be placed in or project into the public or private street right-of-way, except as specifically permitted herein.
- h) Every sign, including those for which a permit is not required, shall be maintained in good and safe structural condition at all times.
- i) The immediate premises occupied by a sign shall be maintained by the owner in a clean, sanitary and healthful condition. The premises shall be kept free and clear of weeds, debris, trash and refuse.
- j) Electronic message display systems shall be inspected by the Division of Building Inspection upon installation to ensure compliance with approved plans, permits and requirements of Article 17.



Proposed Regulation

Article 17 – Sign Regulations

(g) Highway Service Business, Warehouse/Wholesale, and Industrial Zones (B-3, B-4, I-1, I-2). Permitted signs may be free-standing or wall mounted, as specified; signs may be non-illuminated, indirectly illuminated, internally illuminated or directly illuminated unless specified otherwise; no free-standing sign shall exceed twenty-five (25) feet in height; no free-standing billboard shall exceed forty (40) feet in height.



Proposed Regulation

Article 17 – Sign Regulations

(6) In addition, billboards shall be permitted as follows:

a) Location.

- i. The lot on which the billboard is constructed must abut a federal or state highway.
- ii. Billboards shall be required to be set back from any street right-of-way twenty (20) feet, or at the same setback as any principal building on the lot, whichever is less.
- iii. Billboards shall not project over the public or private right-of-way.
- iv. No billboard shall be permitted within one hundred fifty (150) feet of any residential zone.

b) Maximum Size.

- i. No billboard shall exceed four hundred (400) square feet in area.
- ii. Temporary embellishments may be attached, but are limited to ten percent (10%) of the maximum sign area.

c) Minimum Spacing.

- i. Standard billboards shall be located at least five hundred (500) feet from another standard billboard.
- ii. Digital billboards shall be located at least two-thousand five hundred (2,500) feet from another digital billboard.

d) Duration of message for digital billboard. The sign shall remain static for a period of not less eight (8) seconds. The transition from one (1) message or image to the next shall be direct and immediate.

e) Luminance for digital billboard. Between sunrise and sunset, the maximum luminance shall be five thousand (5,000) nits, and between sunset and sunrise, the maximum luminance shall be five hundred (500) nits. Sunrise and sunset shall be determined by the National Oceanic and Atmospheric Administration (NOAA), US Department of Commerce, for Lexington-Fayette Urban County. The sign must be equipped with an automatic dimmer control or other mechanism that automatically controls the sign's luminance.

Proposed Regulation

Article 17 – Sign Regulations

Sec. 17-12. - Advertising on interstate highways.

No billboard shall be permitted adjacent to interstate or limited-access highways except in conformance with the all requirements established by the Federal Highway Administration, the Kentucky Transportation Cabinet, and the requirements of this Zoning Ordinance with respect to the zoning district involved.

Sec. 17-18. - Definitions.

The following definitions unique to this Article are listed below.

- h) Billboard: Signage intended for lease to a variety of businesses, organizations, and/or individuals. In such case, the sign itself shall be an income generator and a commercial use of the property.

Standard Billboard: A billboard erected using traditional materials such as metal, wood, plastic and/or vinyl without internal illumination.

Digital Billboard: A billboard erected using an electronic message display system. Such sign shall have no moving or scrolling messages, special effects, animations, or video display.

Proposed Regulation

Article 17 – Sign Regulations

Sec. 17-18. - Definitions.

OTHER RELEVANT DEFINITIONS

- (p) Electronic Message Display System: A sign with copy or images which includes, but is not limited to reflective disc, direct illumination, rotating veins, light emitting diodes (L.E.D.s), or liquid crystal diodes (L.C.D.s), and is controlled by means of a central computer or video control system and which has no audible sound.
- (q) Flashing or Blinking: Intermittent or sequential illumination for the purpose of attracting attention to the sign.
Flashing includes scintillation, light bursts, sparkling, and twinkling.
- (aa) Luminance: The light that is emitted by or reflected from a surface, measured in nits.
- (gg) Nit: A photometric unit of measurement describing luminous intensity (candelas) per unit area. Expressed in SI units, one nit is equal to one cd/m².
- (ll) Rotating or Moving Sign: Any portion of which moves by mechanical means or the wind; does not refer to changing copy with an electronic message display system.
- (mm) Sign: Any copy, including material used to differentiate the copy from the background, which is applied to a surface as a means of identifying, advertising, announcing, or illustrating products, services, and/or events.

Next Steps

- Urban County Council initiated text amendment
- Council advances amendment to Planning Commission
- Ordinance returns to Urban County Council for review and adoption

Questions?



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