

MUNICIPALITY OF MONROEVILLE  
ALLEGHENY COUNTY, PENNSYLVANIA

ORDINANCE NO. 2358

AN ORDINANCE OF THE COUNCIL OF THE MUNICIPALITY OF MONROEVILLE, ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING ORDINANCE 1443, AS AMENDED, ARTICLE TWO, DISTRICT REGULATIONS, SECTION 201, ZONING DISTRICTS, AND SECTION 202, DISTRICT BOUNDARIES, TO CREATE AN OUTDOOR ADVERTISING OVERLAY ZONING DISTRICT LOCATED ALONG THE INTERSTATE ROADWAY CORRIDORS OF THE PENNSYLVANIA TURNPIKE/INTERSTATE 76 AND THE PENN-LINCOLN PARKWAY/INTERSTATE 376

**NOW, THEREFORE, BE IT HEREBY ORDAINED AND ENACTED**, by the Council of the Municipality of Monroeville, and it is hereby ordained and enacted by the Council of the Municipality of Monroeville, County of Allegheny, Pennsylvania as follows:

**SECTION 1. ARTICLE TWO, DISTRICT REGULATIONS, SECTION 201, ZONING DISTRICTS**, shall be amended to read as follows:

**201 ZONING DISTRICTS:** The Municipality is divided into the Districts stated on Table 201 as shown by the District boundaries on the Zoning Map, and shall include Overlay Zoning Districts as highlighted on the Zoning Map.

**202 DISTRICT BOUNDARIES:**

**202.1** Zoning District boundaries shown on the lines of roads, streams, and transportation rights of way shall be deemed to follow their centerlines. Neither the vacation of roads nor the change of stream beds shall affect the location of such District boundary by such centerlines, by the scale of dimensions stated on the Zoning Map, or by the fact that it clearly coincides with a property line, he shall refuse action, and the Zoning Hearing Board, upon appeal, shall interpret the location of the district boundary with reference to the scale of the Zoning Map and the purposes set forth in all relevant provisions of this Ordinance.

**202.2** Zoning Overlay Districts have been incorporated into specified Zoning Districts for providing special regulations to accomplish stated purposes set forth for that Overlay Zoning District.

**214 OVERLAY ZONING DISTRICTS**

**214.1 OUTDOOR ADVERTISING SIGN (OAS) OVERLAY ZONING DISTRICT:** The location of the OAS Overlay Zoning District shall be located on each side of Interstate Highways, Pennsylvania Turnpike/ Interstate 76 and the Penn-Lincoln

Parkway/Interstate 376, and extend one-hundred and eighty (180) feet beyond the right of ways of these Interstate Roadways as highlighted on the Zoning Map. This overlay zoning district shall not include: any "R" Residential Zoning District nor be within two-thousand (2,000) feet of the interchange areas for Pennsylvania Turnpike/ Interstate 76 and the Penn-Lincoln Parkway/Interstate 376; or within seven-hundred and fifty (750) feet of Overpasses for the Penn-Lincoln Parkway/Interstate 376 at Old William Penn East, at Garden City Drive, and Old William Penn West; or within one-thousand (1,000) feet of Overpasses for the Pennsylvania Turnpike/ Interstate 76 at Center Road, at Beatty Road, at Old William Penn Highway at William Penn Highway, or Abers Creek Road. The following provisions shall govern the OAS Overlay Zoning District

214.1(a) Bulletin Billboards and/or outdoor advertising signs located in the OAS Overlay Zoning District shall be permitted as a Conditional Use when approved by Council, after submission and review by the Planning Commission.

214.1(b) Each Bulletin Billboard or outdoor advertising sign shall not be considered a principal structure, and as per Section 207.2, Lot and Yard Requirements.

214.1(c) A Bulletin Billboard and/or outdoor advertising sign may have two faces; either placed back-to-back or in a V-shaped configuration on a single pole.

214.1(d) Maximum gross surface area of each sign face shall not exceed seven-hundred (700) square feet.

214.1(e) Minimum Setback: Measurements for Bulletin Billboards shall be taken at the bottom corner adjacent to the roadway right of way and shall be located at a minimum of five (5) feet from any side yard or front yard.

214.1(f) Minimum Separation: Bulletin Billboards located upon the same side of a public right of way with four (4) or more lanes shall be spaced no less than five hundred (500) feet apart. This separation distance shall be measured along a straight line along the highway to which the signs are primarily directed between the two (2) nearest points of the signs. The minimum separation requirement shall not apply to back-to-back or in a V-shaped configuration viewed from different directions which share a common support structure.

214.1(g) Maximum Height: Because of the varying topography of the OAS Overlay Zoning District, the Maximum Height of a Bulletin Billboard above the adjacent curb of the road way of either the Pennsylvania Turnpike/Interstate 76 or the Penn-Lincoln Parkway/Interstate 376 shall be eighty (80) feet to the top of the sign.

214.1(h) No Bulletin Billboard or outdoor advertising sign located in an OAS Overlay Zoning District shall have computer graphics or electronic message center. In addition, no Bulletin Billboard and/or outdoor advertising sign; its display face or display lighting shall move, flash or emit noise. No display face or display lighting shall cause a hazard to traffic, aircraft or other properties. The

use of colored lighting on any Bulletin Billboard or outdoor advertising sign located in an OAS Overlay Zoning District shall be prohibited.

214.1(i) No Bulletin Billboard or outdoor advertising sign located in an OAS Overlay Zoning District shall contain advertisements for adult sexually orientated entertainment or adult sexually oriented businesses.

214.1(j) Illumination: The lighting of any Bulletin Billboard or outdoor advertising sign shall be permitted, restricted to the hours of operation of sunrise to midnight. All lighting shall be located at the top of the Bulletin Billboard or outdoor advertising sign and aimed downwards to the ground: designed so as to be place their light outlay only on the face of the Bulletin Billboard or outdoor advertising sign and shall not project pass the sign onto adjoining properties.

214.1(k) The entire base of the Bulletin Billboard or outdoor advertising sign located in an OAS Overlay Zoning District shall be permanently landscaped with suitable shrubbery of a situated height to screen the foundation of the structure. All landscaping shall be maintained by the sign owner in an attractive manner in accordance with municipal ordinances. No bare earthen cuts from the installation of any Bulletin Billboard or outdoor advertising sign shall be permitted to remain on a hillside. Any cuts or fills created by the installation of any Bulletin Billboard or outdoor advertising sign shall be permanently seeded or planted and maintained in accordance with the municipal codes and ordinances.

214.1(l) Any Bulletin Billboard or outdoor advertising sign located in an OAS Overlay Zoning District using removable paper, plastic covering or other temporary display materials shall be maintained in such condition as to eliminate loose or frayed material protruding or hanging or falling from the structure.

214.1(m) Maintenance: All Bulletin Billboards or outdoor advertising signs located in an OAS Overlay Zoning District shall be entirely painted every ten (10) years. Additionally, every ten (10) years the owner of the Bulletin Billboard or outdoor advertising sign shall have a structural inspection made of the Bulletin Billboard by a qualified Pennsylvania registered civil engineer and shall provide to the municipality a certificate from the engineer certifying that the Bulletin Billboard is structurally sound. Any Bulletin Billboard or outdoor advertising sign found to be in substandard condition, whether through an independent Pennsylvania registered civil engineer contracted by the Municipality of Monroeville, or as a result of the findings of the required Inspection report, the owner of the Bulletin Billboard or outdoor advertising sign shall have thirty (30) days to correct any structural deficiencies. Should those deficiencies not be corrected, the Municipality of Monroeville shall serve notice of intent to the owner of the Bulletin Billboard or outdoor advertising sign to remove the substandard Bulletin Billboard or outdoor advertising sign.

214.1(n) No Bulletin Billboard or outdoor advertising sign located in an OAS Overlay Zoning District shall be permitted which, because of its size, shape, or location, may obscure or obstruct the view of vehicular or pedestrian traffic to the roadway or be confused with any traffic control sign, signal, or device.

214.1(o) Construction Standards: The Applicant shall be responsible for submitting Building Permits and a Geo Technical Report to the Department of Community Development documenting that the Bulletin Billboard shall be securely anchored in a fixed location on the ground, and those building plans submitted shall show a cross section of the proposed Bulletin Billboard structure, support pole(s) and the soil types located in the area, and that building plan shall further demonstrate that the Bulletin Billboard meets the structural compliance requirements and shall demonstrate that the construction and installation meets or exceeds Municipal standards through documentary evidence from a Registered Professional Engineer that the proposed structure is located in stable soil and will withstand wind, storm, ice, lightning and other natural forces, and will signed and sealed by a Registered Professional Engineer.

214.1(p) The Bulletin Billboard on outdoor advertising signs located in an OAS Overlay Zoning District should comply with the provisions set forth herein and such provisions shall control to the extent that other provisions of the municipality zoning ordinance are inconsistent.

SECTION 2. ARTICLE SIX, DEFINITIONS, of Ordinance 1443, as amended, is hereby amended to read as follows:

**BULLETIN BILLBOARDS:** A single sheet of vinyl covering a billboard structure which has changeable copy advertising a business, organization, event, person, place, service or product not sold on the premises on which the Bulletin Billboard is located and is restricted only to the Outdoor Advertising Sign (OAS) Overlay Zoning District on interstates and other limited access highways.

**SECTION 3.** All Ordinances or parts of Ordinances which are inconsistent with this Ordinance shall be superseded by this within Ordinance.

SECTION 4. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Commissioners that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

ORDAINED AND ENACTED into law this 10<sup>th</sup> day of January 2006.

ATTEST:

MUNICIPALITY OF MONROEVILLE

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Marshall W. Bond  
Municipal Manager

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James J. Lomeo  
Mayor

ENTERED INTO THE LEGAL BOOK:

MAYOR LOMEIO'S VETO MESSAGE  
ORDINANCE NO. 2358  
OVERLAY DISTRICT FOR BILLBOARDS

In accordance with the Home Rule Charter of the Municipality of Monroeville, I am, as Mayor, exercising the Mayor's veto power to the Ordinance passed by Council on January 10, 2006, commonly referred to as the Billboard Ordinance. I am submitting my objections to Council in writing. Though not required by our Home Rule Charter, I think it is a good practice, so that Council may carefully review my objections upon their re-consideration of the Ordinance at our February Council meeting.

In summary, this ordinance would allow billboards to be erected in certain, previously restricted, areas of Monroeville. The ordinance also would permit the billboards to have a surface area of 700 square feet and 80 feet high above the roadway. It must be noted that it is 80 feet above the roadway, not 80 feet from the bottom of the supporting pole.

This ordinance amends our zoning code and ordinance by developing an overlay zoning district for certain properties, as detailed in the map attached to this ordinance. The overlay districts would provide an exception, called a conditional use, to properties that would otherwise be prohibited from erecting billboards. For example, this ordinance allows for billboards on parkland, which currently is zoned for a park and where such commercial activity is not permitted.

My first objection is that Monroeville has not complied with state law in notifying effected landowners, adjacent landowners, and the general public. The administration of Monroeville believes and assumes that the normal notifications required by state law do not apply to overlay districts, if I correctly understand their position.

Pennsylvania law, as stated in *Title 53 Section 10609*, requires that all property owners in the effected change area are to be notified by first class mail. This section also requires said notice to be conspicuously posted along the effected properties to notify the general public. In other words, those ugly orange notices that you see posted on the telephone poles in other circumstances.

Recent cases decided by the Commonwealth Court of Pennsylvania, stand for the proposition that overlay districts are amendments to the zoning ordinance and that all proposed amendments shall comply with *Section 10609* notice requirements. These cases state that if the Municipality does not follow the requirements of *Section 10609*, then the ordinance passed is a nullity. In our situation, the Municipality has been forthright in stating no notices were given. Therefore, this ordinance is null and void according to state law, Council should vote to sustain my veto, due to the fact the procedural requirements afforded the citizens of Pennsylvania were not met.

It is not my intention to have a legal debate with the Municipality. As Mayor of Monroeville, my position has to focus on the policy issues of our government. However, I mention this violation in hopes of convincing those Council members who might not be persuaded by my other objections, to vote with me at this time, so that Monroeville will not be in violation of state law. I fully understand that any notice violation can be cured by providing the proper notifications and then having another ordinance presented for passage, but I am seeking to have Council take any delays as a time of reflection.

My second objection has to do with the policy of permitting a developer to actively assist in changing our zoning code for their own self-interest. I do not object to any developer trying to change the law for their advantage, but I do object to the government allowing the advantage. In this case, Interstate Outdoor Advertising was denied their billboard request sometime in 2005, since their request exceeded the size requirements and other requirements of our current zoning code.

Upon rejection, Interstate Outdoor Advertising contacted our administration and requested a zoning change, which would permit the larger billboards on their leased properties. This request is the genesis of the ordinance currently being questioned.

Council is setting a dangerous precedent by passing this ordinance, which clearly would benefit Interstate Outdoor Advertising after their recent rejection. The precedent being set is that any developer whose request is denied will lobby future Councils to change the law to suit their specific needs.

This is bad public policy for a number of reasons. First, we are making zoning changes without clearly stating how the zoning change will impact Monroeville's desire to improve our streetscape and beautification programs. Second, our zoning code provides a level of expectation to our residents and developers.

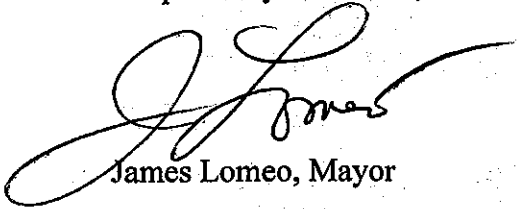
It is important for property owners and residents to expect certain properties to be used in certain ways. A buyer of a property would naturally expect the nature of his property and that of his neighbor's to remain the same, unless there is a substantial change in the character and nature of his area. If developers could constantly request law changes from Council upon rejection of their zoning applications, then every property owner must diligently attend every Planning Commission, Zoning Hearing Board and Council meeting to voice their objections to prevent such changes. Under this scenario, our residents could not rely on the laws, and would be under the constant threat of their neighborhoods changing without any concern for their property values or quality of life.

My third objection is very simple and short. Billboards are ugly and will pollute our landscape.

Lastly, I never consider any developer's zoning request based on the level of tax revenues the business activity will generate. We should not mix land use requests with potential tax revenues, otherwise you are asking the government to determine which businesses will succeed and which ones will fail. I think we can all agree, the government is not the best at determining the prospect of a business venture, and such determination should be left to the private markets. However, in this case, the tax revenues to be generated are so small as not to be a strong argument for erecting billboards in Monroeville.

I respectfully submit these objections to Council, and request that Council reconsider this ordinance and sustain my veto.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'James Lomeo', with a long, sweeping flourish extending to the right.

James Lomeo, Mayor