

ORDINANCE NO. 2010-358

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
AMENDING TITLE 9 OF THE LOS ALTOS MUNICIPAL CODE BY ADDING A NEW
CHAPTER 9.26 ENTITLED "SIGNS ON CITY PROPERTY"**

WHEREAS, by adopting this Ordinance, the City Council intends to balance the right of free speech by sign display against the community interests in limiting the impacts of excessive and/or inappropriate signs on City Property; and

WHEREAS, the City Council further intends by this Ordinance to regulate signs on City Property in a manner which is consistent with the Constitutions and laws of the State of California and the United States; and

WHEREAS, the Ordinance amendments set forth below further the goals and policies of the City's General Plan and are necessary to promote the health, safety and welfare of the City; and

WHEREAS, the Ordinance amendments set forth below have been reviewed and considered by the City Council in accordance with the provisions of the California Environmental Quality Act of 1970, as amended ("CEQA"), and the guidelines promulgated thereunder and, further, the Council finds that it can be seen with certainty that there is no possibility that said amendments may have a significant adverse effect on the environment and said amendments are therefore exempt from the requirements of the CEQA pursuant to the provisions of Section 15061(b)(3) of Division 6 of Title 14 of the California Code of Regulations.

The City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. AMENDMENT OF CODE: Title 9 of the Los Altos Municipal Code entitled "STREETS, SIDEWALKS AND PUBLIC PLACES" is hereby amended to add a new Chapter 9.26 entitled "Signs on City Property" to read as follows:

Chapter 9.26 Signs on City Property

Sections:

- 9.26.010 Proprietary Capacity**
- 9.26.020 Intent as to Public Forum; Message Substitution Inapplicable**
- 9.26.030 Definitions**
- 9.26.040 Private Party Signs Prohibited Unless Specifically Allowed**
- 9.26.050 Temporary Signs Displaying Noncommercial Messages**
- 9.26.060 Government Speech On Signs; Legally Authorized Signs**
- 9.26.070 Encroachments**
- 9.26.080 Banners**
- 9.26.090 A-frames in Certain Areas**
- 9.26.100 Real Estate Open House**
- 9.26.110 Immediate Removal of Signs on City Property**

9.26.010 Proprietary Capacity

In adopting this Chapter, the City acts in its proprietary capacity as to City Property, as defined herein, within the City. This Chapter is adopted pursuant to the City's general and police powers, California Constitution Article XI, section 7; the City's ownership rights, California Government Code sections 38774, 38775, 65000 *et seq.*, 65850(b), 38774; Business and Professions Code sections 5200 *et seq.*, 5230, and 5490 *et seq.*; Penal Code 556, and other applicable state laws. This Chapter does not apply to matters covered by or regulated by the Signs on Private Property Ordinance (Chapter 14.68), or Chapters 9.24 (Public Parks) or 9.25 (Special Events).

9.26.020 Intent as to Public Forum; Message Substitution Inapplicable

When this Chapter declares that certain property may function as a public forum of one particular type, that declaration shall apply only and strictly to the specified area and for the specified time period. The message substitution policy of Chapter 14.68 applies only to sections of this Chapter which so state.

9.26.030 Definitions

Definitions from Signs on Private Property, Chapter 14.68, are incorporated herein, unless modified by the following definitions, which apply specifically to this Chapter.

City Property. Land or other property in which the City of Los Altos holds a present right of possession and control, city road easements, and all public rights-of-way, regardless of ownership.

Co-Sponsored. An event for which the City Council authorizes the City to be listed as a co-sponsor, or the City bears some of the cost of the event.

Heritage Event. Those community events which have been traditionally celebrated or observed in Los Altos, or are otherwise tied to community history, including the events listed in City Resolution No. 2010-32, City Special Event Sponsorship, said resolution may be amended from time to time by the City Council.

Protected. Means that a message on a sign is not within one of the categories of expression which the courts have declared to be outside the protection of the First Amendment to the U.S. Constitution or the corollary provisions of the California Constitution.

9.26.040 Private Party Signs Prohibited Unless Specifically Allowed

City Property may be used by private parties for the display of signs only as explicitly allowed by this Chapter. All other private use of City Property, for display of signs, is prohibited. Any unauthorized sign posted on City Property may be summarily removed by the City as a trespass and a public nuisance.

9.26.050 Temporary Signs Displaying Noncommercial Messages

In traditional public forum areas, private persons may display temporary signs with protected noncommercial messages thereon, provided that their sign(s) conform(s) to all of the following:

- A. The sign(s) must be personally worn or held by a person, or personally attended by one or more persons. "Personally attended" means that a person is physically present within five (5) feet of the sign at all times.

- B. The signs may be displayed only during the time period of sunrise to sunset, except on occasions when the City Council or other public body of the City is holding a public hearing or meeting which is open to the public; on such occasions, the display period is extended to thirty minutes after such meeting is officially adjourned.
- C. The maximum aggregate size of all signs held by a single person is six (6) square feet, measured one side only. Visible images which are displayed as part of personal apparel do not count toward this maximum. For purposes of this rule, apparel and other aspects of personal appearance do not count towards the maximum aggregate sign area.
- D. The maximum cumulative size of signs which are personally attended by two or more persons acting in concert is twelve (12) square feet measured one side only. This rule does not apply when persons acting in concert are physically located more than one hundred (100) feet from one another.
- E. Signs displayed under this provision may have no more than two display faces, may not be inflated, air-activated, specially illuminated, project any sharp edges or points, emit smoke or fumes or sounds, pose a fire hazard or other threat to public health safety and welfare, and may not be used to obstruct or impede pedestrian or vehicular traffic.
- F. To serve the City's interests in traffic flow and safety, persons displaying signs under this section may not stand in any vehicular traffic lane when a public roadway is open for use by moving vehicles, and persons displaying signs on public sidewalks must give clearance of at least five (5) feet in width for pedestrians to pass by unless the sidewalk in question is less than five feet in width, in which case clearance of sufficient width shall be provided so as not to impede or block pedestrian flow on the sidewalk. Persons holding signs may not block the view or line of sight within the visibility triangle.
- G. The message substitution policy of Chapter 14.68 applies to this section. However, that policy does not authorize the display of commercial messages on traditional public forum areas within the City.
- H. The signs authorized by this section do not require a sign permit, but are subject to all other applicable permits and approvals.

9.26.060 Government Speech on Signs; Legally Authorized Signs

The following signs may be erected and displayed on City Property, subject to the rules set herein:

- A. Traffic control and traffic directional signs erected by the City or other governmental agencies acting in scope of their authority, including temporary traffic and traffic direction signs.
- B. Official notices required or authorized by law or valid court order.
- C. Signs placed by the City in furtherance of its governmental functions.
- D. Signs placed by the City on City Property which express the City's own message(s).
- E. The signs authorized by this section do not require a sign permit, but are subject to all other applicable permits and approvals.

9.26.070 Encroachments

When authorized by Chapter 14.68, private party signs mounted on private property may project into or over City Property or the public right-of-way only with an encroachment permit. Sign encroachment permits must satisfy all requirements of the sign ordinance, plus all requirements applicable to encroachments generally, plus all applicable safety codes (building, plumbing, electrical, etc.) and all City rules, regulations and policies regarding encroachments.

9.26.080 Banners

- A. Private parties may place banners on City-owned banner poles and across-the-street banners to promote qualifying special events, subject to the following:
1. Local Special Events Only. The banners may be used only to announce and promote special events which take place within zip codes 94022 and 94024;
 2. Open to Public. The advertised event must be suitable for persons of all ages, and must be open to the public on substantially the same basis as members of the sponsoring organization;
 3. No Commercial, Religious or Political Promotions. The banner program is not open to events which are primarily commercial or profit-seeking, sectarian religious or partisan / advocacy political in nature. This does not prevent non-profit groups from holding fund-raising events, or from charging admission.
 4. Expected Attendance. The special event must be organized to accommodate at least 500 attendees, or be designated by Council as a heritage event.
 5. This section is intended to create a limited purpose forum, the purpose of which is to promote noncommercial special events, occurring within the City, which are sponsored by local organizations or local affiliates of broader organizations, and which events are not highly controversial (such as partisan religion or politics), and which are open to all ages on substantially the same terms as members of the sponsoring organizations.
- B. Available Locations. This program applies to the banners in the following locations: Lincoln Park, across Main Street between First and Second Streets, Grant Road and Fremont Avenue intersection, and San Antonio Road and El Camino Real intersection.
- C. Display Time and Place. Qualifying special event banners may be displayed not more than fourteen (14) days in advance of the event (seven (7) days for Lincoln Park), and not more than seven (7) days after the event concludes. Banners advertising the same event may be displayed at up to three (3) locations at the same time; however, no event shall be displayed concurrently in both the Lincoln Park and Main Street Banner locations. Banners for a given event may be displayed a maximum of one time per calendar year.
- D. Scheduling Priority. Time conflicts will be resolved based on time of the event, prioritized as follows: a) events sponsored or co-sponsored by the City of Los Altos; b) events sponsored or co-sponsored by the Town of Los Altos Hills; and c) date and time of request.
- E. Permits. A banner display permit is required for all private party banners. The Director of Recreation Department shall prepare a standard form application which will also serve as a

permit, when approved. Banner applications will be reviewed for compliance with the rules set forth in this section; non-complying applications will be denied with a statement detailing the points of non-compliance. A denied application may be amended and resubmitted. Denied applications may be appealed to the Director, who will hold an informal hearing on the matter, after which the applicant may appeal to the City Council. Any banners installed without proper permitting may be summarily removed by the City as a trespass and a public nuisance.

- F. Fees. All applications will be subject to a non-refundable processing fee in an amount to be set by Council Resolution. When an application is approved, an additional fee may be assessed to allow the City to recover its actual costs associated with the banner display. Such costs may be reasonably estimated.
- G. Construction and Installation. Banners must be constructed of quality materials, and satisfy size and construction standards set by the Maintenance Services and Recreation Department. The event sponsor is responsible for delivering the banners to the City, which shall use its own crew to install and remove the banners.
- H. Insurance. The City may require that the sponsoring organization indemnify, defend and hold the City harmless, and/or have the City named as an additional insured, with minimum coverage of one millions dollars (\$1,000,000) per claim.

9.26.090 A-frames in Certain Areas

Establishments with principal public entrances on City sidewalks in the Downtown Commercial Retail Sales Zoning Districts, including the CRS, CRS/OAD, CD and CD/R3 Districts, may display one A-frame or similar portable sign by placing it on the public sidewalk pursuant to the "City's Downtown Outdoor Display Permit Guidelines."

9.26.100 Real Estate Open House

Licensed Realtors and "for sale by owners" may display "open house" type signs on City sidewalks as follows:

- A. Display Time. Only during the hours of 9:00 a.m. to 1:30 p.m. on Fridays, and 11:30 a.m. to 6:00 p.m. on Saturdays, Sundays and legal holidays.
- B. Display Face. No illumination or be digital or have moving parts.
- C. Dimensions. May not exceed four (4) square feet per display face (maximum two display faces per sign), plus two "riders," each not more than one square foot, and not to exceed thirty-two (32) inches in height.
- D. Location and Number of Signs. On a public sidewalk and placed so as to minimize interference with pedestrian traffic. For any given property currently open for inspection, a maximum of one open house sign may be placed on public property at an intersection and restricted to one sign per intersection. The sign is not allowed on the City street medians and expressway right-of-ways.
- E. The message substitution policy of Chapter 14.68 applies to this section.

- F. The signs authorized by this section do not require a sign permit, but are subject to all other applicable permits and approvals.

9.26.110 Immediate Removal of Signs on City Property

- A. **Removal.** Any sign, flag or banner placed on City Property in violation of the provisions of this Chapter, or any sign which constitutes an immediate peril to persons or property, may be removed without prior notice by any officer or employee of the City designated to do so by the Director.
- B. **Charge for Cost of Removal.** The City may recover the cost of removing signs as authorized by this Section. When the City has incurred any expense in removing the sign or other matter or in repairing City Property damaged because of the posting or removal of the sign or other matter, any such expense incurred shall constitute a debt owed to the City. The Director or designee shall send a bill to the persons responsible for posting or causing to be posted the sign or other matter for the actual or estimated cost of removal. The Director may establish administrative regulations to govern the billing procedures. Each bill shall include the cost, both direct and indirect, involved in the removal of the sign or other matter and in administering the billing procedure. The bill shall describe the basis of the amount billed by indicating the number of signs or other matter posted illegally, the time necessary for removal, the hourly cost for removal, the right to a hearing and other relevant information. The bill shall also specify a date by which the bill is to be paid which date shall be not less than fifteen (15) calendar days after the bill is mailed.
- C. **Post Removal Hearing Regarding Signs Summarily Removed.** The owner or person in charge of any lettering, advertisement, card, poster, sign or notice of any kind placed upon City Property, or constituting an immediate peril to persons or property, which has been removed by an officer or employee of the City without prior notice to the owner or person in charge pursuant to this Chapter is entitled to an informal hearing to be conducted by the Director or designee. The request for hearing shall be made in writing to the Director no later than fifteen (15) calendar days from the date the Director mails the billing statement specified in subsection B or within thirty (30) calendar days of the date of the removal, whichever occurs first. The hearing shall be limited to determining whether the lettering, advertisement, card, poster, sign, notice or other matter was located upon City Property in violation of the provisions of this Chapter or constituted an immediate peril to persons or property and the accuracy of the amount billed. Upon receiving a written request for the hearing, the Director shall set a hearing, which shall be held within thirty calendar days from the date of receipt of the request. The Director shall provide written notification of the hearing to the applicant. The notification shall include the date, time and place of the hearing. Following the hearing, the Director shall within ten (10) calendar days after the date of the hearing notify the person billed of any adjustment to the bill or any determination not to make an adjustment. This notification shall specify the date by which such bill shall be paid, which date shall in no event be less than thirty (30) calendar days after the date of the hearing. Any person who fails to pay the amount billed to such person within the period specified therein shall also be liable for expenses incurred by the City in collecting the debt, including, but not limited to, the cost of paying City employees or other persons engaged in debt collection.
- D. **Appeal of Decision.** The Director's decision may be appealed, within fifteen (15) calendar days, to the City Council, which shall hold a noticed public hearing on the matter, take

evidence, and issue a written decision within thirty (30) calendar days. Said decision shall be final as to internal City review.

- E. Return of Materials. Any lettering, advertisement, card, poster, sign or notice which has been removed under this section may be returned to the owner only upon payment to the City of the costs of removal as specified in this section. If no timely request is made for a hearing or if no demand is made for the return of the materials removed within the time permitted for requesting a hearing, the Director or his designee is authorized to destroy or dispose of the removed material with no further notice.

SECTION 2. CONSTITUTIONALITY / SEVERANCE. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Los Altos hereby declares that it would have passed and adopted this Ordinance, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be declared invalid or unconstitutional.

SECTION 3. PUBLICATION. This Ordinance shall be published as provided in Government Code section 36933.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be effective upon the commencement of the thirty-first day following the date the adopted Ordinance is attested by the City Clerk.

The foregoing ordinance was duly and regularly introduced at a meeting of the City Council of the City of Los Altos on November 9, 2010 and was thereafter, at a regular meeting held on November 23, 2010 passed and adopted by the following vote:

AYES: SATTERLEE, CARPENTER, PACKARD, BECKER, CASAS
NOES: NONE
ABSTAIN: NONE
ABSENT: NONE



David C. Casas, MAYOR

Attest:


Susan Kitchens, CITY CLERK

Date: November 30, 2010