

ORDINANCE NO. 10-352

**AN URGENCY ORDINANCE OF THE CITY OF LOS ALTOS AMENDING
TITLE 11 OF THE LOS ALTOS MUNICIPAL CODE CHAPTER 11.04
ENTITLED "SIGNS"**

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; and

WHEREAS, the City Council further intends by this Ordinance to regulate signs 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 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 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: Chapter 11.04 of the Los Altos Municipal Code ("LAMC") entitled "SIGNS" Sections 11.04.010 and 11.04.310 entitled "Signs relating to elections" are hereby repealed in their entirety.

SECTION 2. AMENDMENT OF CODE: Chapter 11.04 of the LAMC entitled "SIGNS" is hereby amended to add a new Section 11.04.010 entitled "Message substitution" to read as follows:

11.04.010 Message substitution.

A. Subject to the property owner's consent, a constitutionally protected non-commercial message of any type may be substituted, in whole or in part, for the message displayed on any sign for which the sign structure or mounting device is legal without consideration of message content. Such substitution of message may be made without any additional approval, permitting, registration or notice to the City. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. Message substitution does not apply to messages which are outside the protection of the First Amendment to the U.S. Constitution or the corollary protections of the California Constitution.

B. In addition, whenever a given parcel or land use has not used all of its permissible sign area, then the unused portion may be utilized for signs displaying non-commercial messages; in such a case, a permit is required only if the new or additional sign qualifies as a structure which is subject to a building permit under the Building Code.

C. This message substitution provision does not: (1) create a right to increase the cumulative display area of all signs subject to permit on a given parcel, lot or land use; (2) affect the requirement that a sign structure or mounting device be properly permitted when such change is subject to a building permit; (3) allow a change in the physical structure of a sign or its mounting device; or (4) authorize the substitution of an off-site commercial message in place of an on-site commercial message or in place of a non-commercial message.

SECTION 3. AMENDMENT OF CODE: Chapter 11.04 of the LAMC entitled "SIGNS" is hereby amended to add a new Section 11.04.011 entitled "Noncommercial messages on temporary signs - Residential" to read as follows:

11.04.011 Noncommercial messages on temporary signs - Residential.

A. In addition to the noncommercial messages allowable under the message substitution policy, noncommercial messages which are within the protection of the First Amendment to the U.S. Constitution and/or the liberty of speech provisions of the California Constitution, may be displayed on temporary signs on private residential property at all times and on all land parcels, subject to the following:

1. **Maximum Area - Residential.** On residential properties, the maximum display area of all signs is twelve (12) square feet total.
2. **Measurement of area.** In the case of a free standing sign, display area is measured by counting one side of the sign.
3. Such signs shall not be mounted not to exceed six (6) feet from the finished grade to the highest point of the sign structure. Finished grade is the general finished ground surface where the sign is erected and takes into account mounding or other alterations to the surface made in regard to the sign. For multi-family residential properties, a property owner or resident who has no first floor living area, may use glazed surface area (windows).
4. Except for signs pertaining to multi-family residential properties, such signs may be freestanding or mounted on walls, doors, or fences, but shall not be attached to trees.
5. Such signs shall not be specially illuminated; this rule does not prohibit ambient lighting.
6. Such signs shall not be placed on City property, including City streets, roads, and sidewalks and parking areas; but may be placed in the front yard areas in the public right-of-way adjacent to private property, with the private property owner's permission, and that do not present a safety or visual hazard.
7. Such signs shall be limited to front yards, with the exception of corner lots, where side yards may be utilized.
8. This section 11.04.011 does not override terms of private contracts, such as leases and rental agreements, or private covenants, conditions, restrictions.

9. This section 11.04.011 does not authorize temporary signs displaying commercial messages, although other provisions of this Chapter may do so.

SECTION 4. AMENDMENT OF CODE: Chapter 11.04 of the LAMC entitled "SIGNS"

Section 11.04.030 "Definitions" is hereby amended to repeal the definition of "Election sign" and to add the following new definitions to read as follows:

"Billboard" means any permanent structure sign in a fixed location which meets any one or more of these criteria: 1) it is used for general advertising for hire; 2) it is used for the display of commercial messages which pertain to products or services now offered, or expected to be offered in the near future, at the same location or on the same premises; 3) it is not an auxiliary or appurtenant use serving another principal use on the same land, but rather is a separate principal use of the land.

"Digital Sign" means a sign which displays visible images to the public by means of panels of light emitting diodes, liquid crystal or plasma displays or functionally equivalent technology, and the panels are capable of displaying still images, a series of still images in "slide show" fashion, or images which appear animated or in motion. Such signs are typically programmable and changeable by remote control or automated control devices such as computers.

"Temporary sign" means a sign which, by virtue of its physical nature, is not suitable for long term display. Such signs are typically made of lightweight or flimsy materials, and installed by hand or by using ordinary hand tools.

SECTION 5. AMENDMENT OF CODE: Chapter 11.04 of the LAMC entitled "SIGNS" is hereby amended to add a new Section 11.04.012 entitled "Billboard prohibition" to read as follows:

11.04.012 Billboard prohibition.

Billboards, as defined in this Chapter, are prohibited. No new billboard(s) may be erected, installed, maintained or mounted within the city limits of Los Altos. This prohibition does not affect any existing, legal billboards, or prevent relocation agreements, as authorized by Business and Professions Code section 5412, so long as such agreements are not contrary to other applicable law. This prohibition does not apply to permanent signs not exceeding four (4) square feet in display area per side and which provide only directional information. No permit shall be issued for any sign which violates this "no new billboards" provision, and the City will take immediate action against any billboard constructed, installed or maintained in violation of this policy. Violation of this prohibition is declared to be a public nuisance which may be abated by any method authorized by law.

SECTION 6. AMENDMENT OF CODE: Chapter 11.04 of the LAMC entitled "SIGNS" is hereby amended to add a new Section 11.04.013 entitled "Digital sign prohibition" to read as follows:

11.04.013 Digital sign prohibition.

Digital signs, as defined in this Chapter, are prohibited. This prohibition applies to both "slide show" and "full motion" digital displays. This prohibition further applies to both temporary and

permanent signs, and to commercial and noncommercial messages on signs. However, as to any signs which currently exist in the City, and were installed in conformance with existing law, including all necessary permits and approvals, this provision does not require removal of the digital portion(s) of such signs.

SECTION 7. CONSTITUTIONALITY / SEVERANCE: If any section, subsection, sentence, clause or phrase of this urgency 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 8. PUBLICATION: This Ordinance shall be published as provided in Government Code section 36933.

SECTION 9. EFFECTIVE DATE: This Ordinance, pursuant to Government Code section 36937, is hereby declared to be necessary as an urgency measure for the preservation of the public peace, health, safety and property in the City, and as such shall take effect immediately and be in full force and effect after its adoption after publication at least once in an official newspaper of the City for the following reasons:

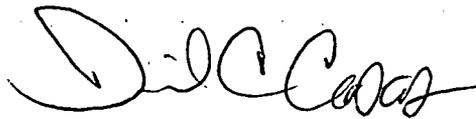
The City wishes to immediately adopt and implement this Ordinance because the City currently does not have any formally adopted ordinances, policies or regulations governing and/or prohibiting temporary signs, billboards and digital signs.

The City Council finds that this Ordinance must be adopted as an urgency ordinance and is necessary: (1) to correct any conflicts between existing City policies and this Ordinance; (2) to avoid confusion and to assure the public what rules, regulations and procedures will apply to temporary signs, billboards and digital signs; and (3) to eliminate rules which treat election-oriented signs as a separate and discrete class of sign.

In order to accomplish these goals, Los Altos Municipal Code Chapter 11.04, as amended, must be adopted by means of this urgency Ordinance.

PASSED FOR THE PURPOSE OF PUBLICATION this 22nd day of June 2010, 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: June 22, 2010