



MEMORANDUM

TO: CITY COUNCIL

FROM: TERESA McCLISH, COMMUNITY DEVELOPMENT DIRECTOR

BY: MATTHEW DOWNING, PLANNING MANAGER

SUBJECT: CONSIDERATION OF ADOPTION OF ORDINANCE - DEVELOPMENT CODE AMENDMENT 17-004; AMENDMENTS TO TITLE 16 OF THE ARROYO GRANDE MUNICIPAL CODE REGARDING EXEMPT SIGNS; LOCATION – CITYWIDE; APPLICANT – CITY OF ARROYO GRANDE

DATE: MAY 22, 2018

SUMMARY OF ACTION:

Adoption of the Ordinance will modify the City's current sign ordinance to replace regulations governing "Political and Religious Signs" with "Temporary Noncommercial Signs", maintaining consistency with the City's longstanding policy of regulating signage in a constitutional manner.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

No financial impact is projected as a result of adopting the Ordinance. Enforcement of the new sign regulations will continue to be on complaint basis and therefore impacts associated with enforcement are anticipated to be limited.

RECOMMENDATION:

It is recommended that the City Council adopt an Ordinance amending portions of Title 16 of the Arroyo Grande Municipal Code regarding temporary noncommercial signs.

BACKGROUND:

On May 8, 2018, the City Council introduced, without modification, the proposed Ordinance amending Title 16 of the Arroyo Grande Municipal Code (AGMC) regarding temporary noncommercial signs for compliance with recent United States Supreme Court decisions.

ANALYSIS OF ISSUES:

The ordinance is now ready for adoption. The ordinance will become effective thirty (30) days after adoption.

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ALTERNATIVES:

The following alternatives are provided for the Council's consideration:

1. Adopt the Ordinance as proposed;
2. Modify and reintroduce the Ordinance; or
3. Provide direction to staff.

ADVANTAGES:

Adoption of the Ordinance will bring the AGMC into conformance with Supreme Court decisions and provide consistency with the First Amendment of the United States Constitution.

DISADVANTAGES:

None identified.

ENVIRONMENTAL REVIEW:

In accordance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the Arroyo Grande Procedures for the Implementation of CEQA, the proposed project has been determined to be categorically exempt per Section 15308 of the Guidelines regarding actions by regulatory agencies for protection of the environment.

PUBLIC NOTIFICATION AND COMMENTS:

A summary of the Ordinance was published in The Tribune on May 14, 2018, pursuant to State law. The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2. At the time of report publication, no comments have been received.

ORDINANCE NO.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF ARROYO GRANDE AMENDING PORTIONS OF TITLE
16 OF THE ARROYO GRANDE MUNICIPAL CODE
REGARDING TEMPORARY NONCOMMERCIAL SIGNS**

WHEREAS, the purpose of the City's sign regulations is to protect the character, quality of life, and economic health of the City by maintaining the suitability and appropriateness of allowed signs in a manner that benefits the public and minimizes visual clutter; and

WHEREAS, the City has for many years provided opportunities for temporary political and religious signs on private property, exempt from sign permitting requirements but subject to certain size limitations and requirements, consistent with the United States Supreme Court's decision in City of LaDue v. Gilleo (1994) 114 S.Ct. 2038; and

WHEREAS, in the case of Reed v. Town of Gilbert (2015) 135 S. Ct. 2218, the United States Supreme Court held that absent a compelling reason, a city may not provide preferential treatment in providing opportunities for posting noncommercial messages on signs based on the sign's content; and

WHEREAS, the proposed amendments contained in this ordinance are intended to further the City's longstanding policy of regulating signage in a constitutional manner; and

WHEREAS, the Planning Commission of the City of Arroyo Grande has reviewed the proposed amendments to the City's sign regulations and recommended adoption of the regulations; and

WHEREAS, the City Council held a duly noticed public hearing on May 8, 2018; and

WHEREAS, after consideration of all testimony and all relevant evidence, the City Council has determined that the following Development Code Amendment findings can be made in an affirmative manner:

- A. The proposed changes to Title 16 of the Municipal Code will allow for temporary noncommercial signage to be located in a manner that is appropriate and suitable to protect the character, quality of life and economic health of the City while being consistent with the United States Constitution and rulings of the Supreme Court regarding signage issues.
- B. The proposed revisions to Title 16 will not adversely affect the public health, safety, and welfare or result in an illogical land use pattern.

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- C. The proposed revisions to Title 16 are consistent with the purpose and intent of Title 16, satisfy the intent of Chapter 16.60 of the Municipal Code, and provide for internal consistency.

The proposed revisions to Title 16 are exempt from review under the California Environmental Quality Act (CEQA) per 14 CCR § 15308.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Arroyo Grande as follows:

SECTION 1. The above recitals are true and correct and incorporated herein by this reference.

SECTION 2. The following definition of “noncommercial sign” is hereby added to Arroyo Grande Municipal Code Subsection 16.04.070.C to read as follows:

“Noncommercial Sign” means a sign, or portion of a sign, which displays noncommercial speech, e.g., commentary or advocacy on topics of public debate and concern. This definition shall be construed and interpreted in light of relevant court decisions. Noncommercial messages do not have a location factor, such as on-site or off-site.

SECTION 3. Arroyo Grande Municipal Code Section 16.60.030 is hereby amended to add Subsection H in its entirety as follows:

- H. Message Substitution. Subject to the property owner’s consent, a noncommercial message of any type may be substituted, in whole or in part, for any duly permitted or authorized commercial message or any duly permitted or allowed noncommercial message, provided that the sign structure or mounting device is legal without consideration of message content. Such substitution of message, if in conformance with the originally approved sign design, may be made without any additional approval or permitting. In addition, on non-residential uses, any display area for permanent signs, which is unused, may be used for display of noncommercial messages on temporary signs for a maximum of sixty (60) days in any one (1) calendar year. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message. This provision:
1. Does not create a right to increase the total amount of permanent signage on a parcel, lot or land use;
 2. Does not affect the requirement that a sign structure or mounting device be property permitted;
 3. Does not allow a change in the physical structure of a sign or its mounting device;
 4. Does not allow the substitution of an off-site commercial message in place of an on-site commercial message or noncommercial message.

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However, simple face changes not involving off-site commercial advertising or changes to the physical structure or mounting device of the sign may be made without further permitting when the sign structure has already been permitted and is in full compliance with all applicable laws, rules, and regulations.

SECTION 4. Arroyo Grande Municipal Code Subsection 16.60.050.I. is hereby replaced in its entirety as follows:

I. Temporary Noncommercial Signs.

1. Limited to a maximum of one (1) sign per property, no larger than six (6) square feet, four feet (4') in height as measured from the ground underneath the sign, placed on private property with the express consent of the property owner, and directly affixed to the ground, located on, or located in the window of a permanent structure, and which comply with all other applicable provisions of this chapter.
2. Up to two (2) times per year, additional temporary noncommercial signs are permitted, with increases in sign size of no larger than sixteen (16) square feet, limited to sixty (60) days in duration. These times are typically, but not required to be, during any "election period", which shall mean the period before any national, state, or local election in which city electors may vote, up through the date of the election.

SECTION 5. If any section, subsection, subdivision, paragraph, sentence, or clause of this Ordinance or any part thereof is for any reason held to be unlawful, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, or clause thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, or clause be declared unconstitutional.

SECTION 6. Upon adoption of this Ordinance, the City Clerk shall file a Notice of Exemption pursuant to Section 15062 of the State CEQA Guidelines.

SECTION 7. A summary of this Ordinance shall be published in a newspaper published and circulated in the City of Arroyo Grande at least five (5) days prior to the City Council meeting at which the proposed Ordinance is to be adopted. A certified copy of the full text of the proposed Ordinance shall be posted in the office of the City Clerk. Within fifteen (15) days after adoption of the Ordinance, the summary with the names of those City Council Members voting for and against the Ordinance shall be published again, and the City Clerk shall post a certified copy of the full text of such adopted Ordinance.

SECTION 8. This Ordinance shall take effect thirty (30) days after its adoption.

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On motion of Council Member _____, seconded by Council Member _____, and on the following roll call vote to wit:

AYES:

NOES:

ABSENT:

The foregoing Ordinance was adopted this 22nd day of May, 2018.

JIM HILL, MAYOR

ATTEST:

KELLY WETMORE, CITY CLERK

APPROVED AS TO CONTENT:

JAMES A. BERGMAN, CITY MANAGER

APPROVED AS TO FORM:

HEATHER K. WHITHAM, CITY ATTORNEY

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