

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: April 4, 2007

Approved

Kay Wimer

Date

4/8/07

COUNCIL DISTRICTS: Citywide
SNI AREA: N/A

SUBJECT: AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING TITLE 23 (THE SIGN CODE) TO MODIFY SECTION 23.04.610 TO INCREASE THE SIZE AND NUMBER OF ALLOWED TEMPORARY SIGNS, SHORTEN THEIR DISPLAY TIME, AND REQUIRE TEMPORARY SIGNS TO INCLUDE SPECIFIC INFORMATION INCLUDING DISPLAY DATES; TO MODIFY SECTION 23.04.030 TO ALLOW ADDITIONAL FREESTANDING SIGNAGE FOR PARCELS WITH LONG STREET FRONTAGES IN SPECIFIC COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS AND ASSOCIATED CLARIFYING LANGUAGE; TO MODIFY SECTION 23.04.020(E)(1) TO AUTHORIZE SMALL PEDESTRIAN-ORIENTED SIGNS FOR BUILDING ARCADES; TO MODIFY SECTION 23.04.020(E)(3) TO ALLOW SLIGHTLY LARGER SIGNS ON GASOLINE SERVICE STATION CANOPIES; TO MODIFY SECTION 23.04.120(K) TO CLARIFY THE REQUIREMENTS FOR PROGRAMMABLE DISPLAY KIOSKS IN THE DOWNTOWN SIGN ZONE; AND TO MODIFY SECTION 23.02.1010 TO CLARIFY THAT BALLOON SIGNS ARE PROHIBITED EXCEPT WHERE EXPRESSLY ALLOWED BY THE SIGN ORDINANCE.

RECOMMENDATION

Staff recommends that the City Council adopt the proposed ordinance amending Title 23 of the San Jose Municipal Code as it pertains to temporary signs, freestanding signs on parcels with long street frontages within specific zoning districts, arcade signs, attached signs on gasoline station canopies, programmable display kiosks and balloons.

OUTCOME

The proposed ordinance would allow businesses to display larger temporary signs for a shorter period of time and require such signs to include specific information to facilitate enforcement. It would allow more equitable treatment of freestanding signs for large commercial and industrial sites,

new pedestrian-oriented signs for building arcades, and slightly larger signs on gasoline service station canopies. The ordinance would clarify provisions for programmable display signs in the Downtown Sign Zone and for balloons.

BACKGROUND

On June 30, 2006, staff received a request to review the temporary sign requirements of the Sign Ordinance (Title 23 of the San Jose Municipal Code) to identify opportunities and recommendations for improving enforcement. On September 6, 2006, staff transmitted an information memorandum to the Council summarizing the current temporary sign provisions and the challenges of enforcing these provisions (see attached). On November 20, 2006, the Building Stronger Neighborhoods Committee considered staff's recommendation that the temporary sign provisions of the Sign Ordinance be amended to clarify these provisions, enhance enforcement efforts, and shorten the time period for display of temporary signs (see attached memorandum dated November 8, 2006), and directed staff to prepare such an ordinance for consideration by the City Council. The current memorandum recommends specific amendments to the temporary sign provisions of Title 23 in response to that direction and addresses additional changes to the Sign Ordinance, the need for which has become apparent as staff has worked with signage issues in connection with new and expanding businesses through the development review process. These changes address freestanding signs, arcade signs, gasoline station canopy signs and include clarifying language regarding programmable display signs and balloons.

ANALYSIS

Temporary Signs

“Temporary signs”, as defined by the Sign Ordinance, are signs that are displayed for a limited duration of time and do not require a permit from the Planning Division. Section 23.04.610 includes provisions for temporary signs in the commercial and industrial zoning districts in regard to the number, size and display time for temporary signs on individual business occupancy frontages,¹ buildings, construction sites, and properties for sale or lease. The purpose of the Sign Ordinance provisions regarding temporary signs is to ensure that such signs are accommodated in a manner that does not result in excessive visual clutter. The current provisions fall short in achieving this purpose because they are overly complex and difficult to enforce. The signage currently allowed is not very temporary (signs are allowed on a single occupancy frontage eleven out of twelve months within a calendar year), and currently, because permits are not required, there is no practical means to keep track of how long a sign has been displayed or if multiple signs have been displayed within the year.

The proposed amendments seek to simplify the sign regulations for temporary signs, ensure that the signs are truly temporary, and make it easier for the City to monitor temporary signs for conformance with the requirements of the Sign Ordinance. The revisions focus on provisions for individual business occupancy frontage signs and building signs because these signs are the most

¹Section 23.02.360 defines occupancy frontage as “...the length of that portion of a building occupied exclusively by an individual tenant or owner and abutting a parking lot or a public right-of-way including, but not limited to, a street, plaza or alley”.

prevalent and the regulations most amendable to improvement. Table 1 provides a summary of the proposed changes.

Table 1. Existing and Proposed Temporary Sign Requirements (Section 23.04.610)

	Existing	Proposed
Number of Signs for Each Occupancy Frontage	2 per year	3 per year
Size of Signs for Each Occupancy Frontage	1 @ 5 square feet 1 @10 square feet	20 square feet
Display Time for Each Occupancy Frontage Sign	8 months (5 sq.ft. sign) 3 months (10 sq.ft. sign)	30 days per sign
Signage for Each Building with a Footprint of 5,000 square feet or greater	1 per year 65 square feet 45 days	1 per year 65 square feet 30 days
Signage for Each Building with a Footprint of 20,000 square feet or greater	1 per year 125 square feet 45 days	1 per year 125 square feet 30 days
Requirements that information be included on temporary signs	None	Any occupancy frontage or building signs must identify the dates the sign will be displayed, the number of signs displayed in a calendar year must be numbered consecutively and building signs must identify the number of sign segments.

The proposed regulations provide a single maximum size for all occupancy frontage signs and a standard time limit of 30 days for both occupancy frontage and building signs. The proposed increase in the number of permitted occupancy frontage signs from two to three partially off-sets the reduction in display time, allowing a total display time of 90 days per calendar year, and ensures that businesses and organizations can continue to advertise special events and activities on a temporary basis. Based on observation that most existing temporary sign displays exceed the five (5) and ten (10) square feet limitations, and input from sign professionals, who indicated that the current limits are too small to provide an effective message, staff is recommending that the maximum size for occupancy frontage signs be increased to twenty (20) square feet.

Staff is proposing only one, minor change to the allowable temporary signage for buildings with footprints larger than 5,000 or 20,000 square feet. Under the current ordinance, these buildings are allowed one temporary sign per year which may be displayed for up to 45 days in addition to the temporary signs allowed for a building's individual occupancy frontages. The proposed amendment reduces the display time for these signs to 30 days, consistent with the proposed display time for occupancy frontage signs.

Temporary Sign Enforcement Considerations

The amendments also require that proposed display dates be identified on each temporary sign in a manner that can be read from a publicly accessible location, that all signs displayed in a calendar year be numbered consecutively, and that non-contiguous segments of building signs be numbered. This is intended to assist both business owners and Code Enforcement staff in identifying when it is time for a sign to be removed, how many signs remain for that calendar year and to clarify when a building sign includes separate segments. These self-reporting measures will improve the ability of Code Enforcement staff to assess the legality of a temporary sign without imposing a cumbersome permit process, and will allow enforcement action if a sign does not include the required information.

The proposed ordinance will improve the enforceability of the City's sign regulations, but does not address other enforcement constraints. Proactive enforcement of Sign Ordinance violations has been significantly limited over the past several years as General Fund deficits have necessitated focusing Code Enforcement field inspection services on violations that pose an immediate threat to health and safety. Any desire to focus enforcement resources on the Sign Ordinance would require either a reduction in current services provided by Code Enforcement or an increase in available staff resources.

Freestanding Signs

Section 23.04.030 of the Sign Ordinance sets forth regulations for free-standing signs on property located within the commercial and industrial zoning districts. One freestanding sign is allowed on a parcel for each street frontage of 100 linear feet in length or greater. An additional provision (specific to the CG Commercial General District, all of the industrial zoning districts, and the Planned Development Districts with allowed uses of the CG or industrial districts) allows one additional sign with a maximum size of 20 square feet for each additional 500 linear feet of street frontage beyond the first 500. The total area of all freestanding signs on the parcel is limited to one square foot of sign area for each five linear feet of street frontage, and the maximum area for any one sign is limited to 120 square feet.

The net effect of the current provisions is that large parcels qualify for less signage relative to their size than small parcels.² Table 2 illustrates this disparity by comparing the signage allowed under the current Sign Ordinance for 2,400 linear feet of street frontage in the CG Commercial General

² Section 23.04.030(F) of the Sign Ordinance specifies that the term "parcel" shall apply to multiple parcels subject to a single development permit. This means that large shopping centers or industrial campuses developed under a single permit are treated as a single parcel for purposes of allowed signage, even if they consist of multiply parcels.

Zoning District for two different parcel configuration scenarios: the first assumes the 2,400 linear feet is developed as four separate parcels, while the second assumes a single large parcel with a street frontage of 2,400 linear feet. As Table 2 indicates, the single large parcel qualifies for less than half the signage allowed for the four small parcels in the aggregate, even though the street frontage is the same. Under the current provisions for freestanding signs, large parcels, including the City’s regional shopping centers and major industrial campuses, are disadvantaged in their ability to display freestanding signs.

Table 2. Comparison of Signage Currently Allowed Based on Parcel Configuration

Parcel Configuration	Number of Signs Allowed	Maximum Size of Each Sign	Total Allowed Sign Area	Ratio of Sign Area (sq. ft.) to Street Frontage (linear ft.)
Four Adjacent Parcels with 600 Linear Feet of Street Frontage Each (2,400 Linear Feet Total)	4	120 sq.ft. each	480 sq.ft.	1 to 5
One Single Parcel with 2,400 Linear Feet of Street Frontage	4	1 sign-120 sq.ft. 3 signs-20 sq.ft. each	180 sq.ft.	1 to 13.3

This amendment proposes to revise Section 23.04.030(A)(b) to increase the allowed signage for properties that have a street frontage of greater than 500 linear feet and are located in the CG General Commercial Zoning District, in any of the industrial zoning districts, or in a Planned Development Zoning District that allows the uses of the aforementioned districts. As indicated in Table 3, the proposed amendment allows an additional sign for every 400 (rather than the current 500) linear feet of street frontage beyond the first 500 linear feet, and eliminates the 20 square-foot maximum area for these additional signs. The size of any individual sign would continue to be subject to the current maximum of 120 square feet and the area of all signs in the aggregate would continue to be limited to a maximum area equal to one square foot of sign area for each linear foot of street frontage. By removing the 20 square-foot maximum size for additional signs, the proposed amendment relates the allowable sign area entirely to the length of the street frontage, eliminating the proportional disparity between large and small sites. One additional sign for every additional 400 linear feet of street frontage, allows slightly more flexibility in the allocation of allowed sign area, so that a site may choose to display fewer signs of maximum size or the maximum number of signs at a smaller size.

Table 3. Existing and Proposed Requirements for Freestanding Signs

	Existing	Proposed
Number of Freestanding Signs	One sign allowed for each street frontage measuring 100 feet or more, plus one sign for each <u>500</u> linear feet of street frontage beyond the initial 500 linear feet.	One sign allowed for each street frontage measuring 100 feet or more, plus one sign for each <u>400</u> linear feet of street frontage beyond the initial 500 linear feet.
Size of Freestanding Signs	Allowed sign area for all signs in the aggregate is one square-foot of sign area per 5 linear feet of street frontage. First sign: maximum of 120 square feet. Additional signs: up to twenty (20) square feet each.	Allowed sign area for all signs in the aggregate is one square-foot of sign area per 5 linear feet of street frontage. Each sign subject to 120 square foot maximum.

In addition to these substantive changes regarding freestanding signs, staff is proposing to further modify the existing language pertaining to the number and allowable area of freestanding signs to clarify that these requirements are applied separately to each street frontage. This clarification is consistent with staff's current and historic interpretation of these provisions.

The proposed amendments regarding freestanding signs would allow large commercial and industrial properties greater flexibility in the display of freestanding signs without compromising the goal of preventing excessive visual clutter. Such signage would continue to be subject to maximum height and area limitations and to architectural and site review through the discretionary sign permit process. Furthermore, the proposed amendments would not allow more signage than could currently be implemented on the same street frontage if the property were developed in smaller increments. Based on this analysis, staff concludes that the proposed ordinance provides appropriate flexibility for the display of freestanding signs on parcels with long street frontages in a manner that is consistent with City's rationale for its sign regulations.

Arcade Signs

As the City seeks to encourage pedestrian-friendly environments in Neighborhood Business Districts, the Downtown and other areas, pedestrian-oriented signage plays an increasingly important role. Fin signs (small two-sided signs that project from a building wall), awning signs, and window signs are currently allowed for businesses seeking to provide signage at the pedestrian level without reducing otherwise allowable sign area (Section 23.04.020(E) of the Sign Ordinance). The proposed ordinance adds an additional option that does not reduce allowable sign area, in the form of an "arcade sign". An arcade sign is defined as a two-sided sign that is suspended from the ceiling of a covered walkway attached to a building and that is oriented perpendicular to the wall of the building to which the walkway is attached. The proposed amendment allows each occupancy frontage with a covered walkway of at least six feet in width to display one arcade sign of up to 10 square feet in area at a minimum height of 7 feet above grade. The proposed arcade sign is expected to be limited in use because it is applicable only to buildings with arcades or other covered walkways; however, it

provides an additional signage option for such buildings that is consistent with the City's goals for pedestrian-oriented development.

Gasoline Service Station Canopy Signs

Section 23.04.020(E) (3) (a) of the Sign Ordinance allows two signs with maximum dimensions of eighteen (18) by eighteen (18) inches to be mounted on a gasoline service station canopy. In processing permits for such signs, staff has found that the current maximum dimensions allow a sign that is often disproportionately small relative to the size of the canopy face on which it is mounted. In order to ensure that such signs can be appropriately sized, staff is proposing to increase the maximum canopy sign dimension to two (2) feet by two (2) feet. The existing requirement for a three-inch clearance between the sign and the edge of the canopy will ensure that signs are not too large for the width of the canopy face. The amendment also includes a minor correction to clarify that two signs are allowed per canopy, rather than per light box.

Clean-Up Amendments

Two additional minor amendments provide clarifying language in regard to programmable display kiosks in the Downtown Sign Zone and balloon signs.

Section 23.04.120(K) of the Sign Ordinance provides regulations for programmable display kiosks in the Downtown Sign Zone. Section 23.04.120(K) (3) specifies that no kiosk shall be located closer than 40 feet to another kiosk. Section 23.04.120(K) (5) limits the number of programmable display kiosks in the Downtown Sign Zone to a number equivalent to one per five acres in the Urban Mixed Use Development Area Sign Zone. Staff is proposing to delete the erroneous reference to acreage in the Urban Mixed Use Sign Zone and to increase the separation requirement to 200 feet in place of the deleted 5-acre requirement. The greater separation requirement will be easier to implement than a minimum acreage provision and will ensure that the kiosks are not unduly concentrated.

Inflatable or balloon signs were authorized on a limited basis in the Downtown Sign Zone in an ordinance approved by the City Council on September 19, 2006. The current proposed amendment revises Section 23.02.1010 to clarify that balloons are prohibited except where expressly allowed in Title 23.

POLICY ALTERNATIVES

The following are the alternative actions available to the Council in regard to this item:

Alternative No. One: This alternative consists of approval of an ordinance requiring a permit process for temporary signs in place of the current proposal to require display dates and other information on temporary signs. Such a permit process could consist of an on-line, free, self-permit by which the applicant would register a proposed temporary sign and identify display dates.

Pros: A permit process of this type would assist staff in assessing conformance with Sign Code requirements by providing information regarding the size and location of a proposed sign, proposed display dates, a mechanism for tracking the number of signs registered within a calendar year, and

telephone and other contact information that would assist Code Enforcement staff in contacting a business owner or other responsible party. Such a process would allow enforcement against any temporary sign that is not registered via the required permit process.

Cons: Approval of such an ordinance would add new process hurdles for businesses seeking to display temporary signs. Such a requirement could be burdensome to small businesses, especially those that do not have internet access. Many of the benefits of a permit process could be achieved through the proposed ordinance requirement that display dates and other information be included on temporary signs.

Alternative No. Two: Staff initially considered a more modest change in the requirements for freestanding signs that would allow an additional sign for commercial or industrial properties with frontage on a street of greater than 500 linear feet, but would require that this sign, together with the currently allowed sign, be limited to an area of 120 square feet (the current maximum size for any single sign).

Pros: This alternative would increase flexibility for the display of existing allowed sign area on large commercial and industrial properties. By allowing two smaller signs in place of one large sign, the alternative could assist some businesses in achieving their objectives for signage without any increase in sign area. This alternative avoids any potential increase in visual clutter that could be associated with an increase in sign area.

Cons: This alternative would continue the existing disparity between the amount of signage allowed for small sites in proportion to that allowed for large sites and continue to disadvantage large commercial and industrial facilities in regard to the display of signage.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

A description of the proposed amendments, the Draft Negative Declaration and notification of the City Council hearing was emailed to sign companies, the Developer's Roundtable email list, representatives of commercial and industrial businesses and neighborhood and business associations, and was posted on the City's web site. An initial version of this proposed amendment was presented to the Developer's Roundtable Meeting on February 16, 2007. A notice of the intent to adopt a

April 4, 2007

Subject: Sign Ordinance Amendments

Page 9

Negative Declaration and a public hearing notice for the proposed ordinance were published in the Mercury News. A brief summary of the proposed amendments, the staff report, the Negative Declaration and Initial Study, and the proposed hearing dates have been posted on the Department's website. Staff has been available to discuss the proposal with interested members of the public.

Comments received in response to the proposed ordinance from Sharon Carmichael, a retail merchandise and leasing expert, are attached. Comments in response to a prior version of the proposed ordinance, received from Scott Knies of the Downtown Association and from Don Gagliardi of the 13th Street NAC, are also attached. The current ordinance proposal responds to many of the issues raised in these latter comments.

COORDINATION

This ordinance has been coordinated with the City Attorney's Office, the Office of Economic Development and the Redevelopment Agency.

FISCAL/POLICY ALIGNMENT

N/A.

BUDGET REFERENCE

N/A

CEQA

A Draft Negative Declaration was circulated for public review on March 26, 2007, File No. PP07-043.

For 
JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Carol Hamilton, Senior Planner, at 535-7837.



Memorandum

TO: BUILDING STRONGER
NEIGHBORHOODS COMMITTEE

FROM: Joseph Horwedel

SUBJECT: REVIEW OF THE TEMPORARY
SIGN SECTION OF THE SIGN
ORDINANCE

DATE: November 8, 2006

Approved

Date

11/9/06

RECOMMENDATION

Consideration of staffs' recommendation to draft proposed language to amend the Temporary Sign Ordinance.

BACKGROUND

On June 30, 2006, staff received a request to review the Temporary Sign Section of the Sign Ordinance (Chapter 23.04, Part 7 of the San Jose Municipal Code) and enforcement of the same, to identify opportunities and recommendations for improvement.

On September 6, 2006, staff issued an informational memorandum to the Council summarizing the current temporary sign provisions and the challenges of enforcing these provisions. A copy of this memorandum is attached for reference.

On October 11, 2006, the Rules Committee approved adding this item for discussion to the revised Building Stronger Neighborhoods Committee workplan for November 20, 2006.

ANALYSIS

The temporary sign provision of the Sign Ordinance is designed to accommodate the changing environment of commercial and retail businesses. These signs, when in conformance with size, placement and time provisions, do not require a city permit. This is in recognition of the practical use of the majority of these signs that are used on a temporary basis to convey information from the business to the public such as special events or offers. These signs provide a cost effective display important to the changing business environment and are especially important to small businesses. Temporary signs may only be placed where a permanent sign would be permitted. Allowable temporary signs include the following:

BUILDING STRONGER NEIGHBORHOODS COMMITTEE

November 8, 2006

Subject: Review of the Temporary Sign Section of the Sign Ordinance

Page 2 of 4

Banners

Banners are common in retail and commercial areas and the most visible type of temporary signs. The Sign Ordinance restricts the placement, size and number of these signs allowed based on the size and design of the building. Only two temporary signs may be on display at any one time for each occupancy of frontage. Commercial buildings are allowed to display a temporary sign up to five square feet for a period of up to eight months. In addition, these businesses may also display a temporary sign of up to ten square feet for a period of up to three additional months. As a result, during only one month of each calendar year would a banner sign be prohibited.

Buildings with a footprint of over 5,000 square feet may display an additional sign up to sixty-five square feet for up to 45 days. And buildings with a footprint of 20,000 or more may display a sign of up to 125 square feet in size for up to 45 days and may be animated.

As there is no current way to determine when a temporary sign was first placed, the time provision of the Sign Ordinance is not enforceable.

Window Signs

Commercial businesses may cover up to 25% of windows with additional signage with no specified time restrictions or size limitations controlled by the window size. This type of signage is most common for convenience markets and liquor stores.

On February 7, 2006, the San Jose City Council adopted the Off-Sale Alcohol Ordinance and Inspection Program for all businesses selling alcoholic beverages for off site consumption. The implementation of the inspection program began on May 1, 2006 and includes pro-active Sign Ordinance compliance for these businesses as an inspection component.

For Sale or Lease

One sign of up to 45 square feet may be displayed and must be removed within ten days after the property is no longer for Sale or Lease.

Construction Signs

Construction signs may be freestanding or attached and are limited to a height of no more than ten feet in height except in the downtown where the height is up to 24 feet. The allowable size is determined upon the sign code district in which it is displayed and length of the street frontage. Two signs are allowed for corner properties and may be displayed for 180 days prior to the construction, during the construction and are required to be removed thirty days after the completion.

BUILDING STRONGER NEIGHBORHOODS COMMITTEE

November 8, 2006

Subject: Review of the Temporary Sign Section of the Sign Ordinance

Page 3 of 4

Other Jurisdictions

Staff contacted Oakland and San Diego regarding regulation of temporary signs in those jurisdictions. Oakland requires a permit for temporary signs, allows four per year per property, limits the duration to 30 days for grand opening signs and 5 days for special event signs, and requires that size conform to the sign requirements of the relevant zoning district. Oakland reports that many illegal signs exist in the city, but that they have not been a priority for code enforcement action. San Diego regulates temporary signs based on the purpose of the sign. Temporary banner signs in the commercial and industrial zoning districts do not require a permit, but are allowed only for grand openings of totally new establishments. Two such signs are allowed per premise for up to 60 consecutive days and are limited in size to a total of half of the allowable wall signage. San Diego reported few code enforcement complaints regarding illegal signage.

Options and Opportunities

Staff believes that it is possible to amend the temporary sign provisions as to sign display and removal, and would suggest the following revisions:

1. As referenced in staff's September 6, 2006 memorandum, temporary signs of various sizes are permitted for certain time periods, dependent upon building footprint or activity. Therefore, staff would suggest that size and time periods for displaying temporary signs be clarified in the Sign Ordinance;
2. Amending the temporary sign provisions to require that these signs be marked or posted with the date the sign was erected. Such a marking and/or posting would facilitate enforcement efforts as staff would be able to discern whether the sign has exceeded the statutory time-period.
3. Consider reducing the time period that a temporary sign may be displayed. *Temporary Sign*, as defined in 23.02.540, "means a sign placed for a *limited* duration of time." (emphasis added). Therefore, staff would suggest reducing the time-period for displaying a temporary sign to no longer than 30 days for each calendar quarter.

Staffing Considerations

Code Enforcement is responsible for enforcing the Sign Ordinance. Through the late 1990's, Code Enforcement dedicated 1.0 FTE Code Enforcement Inspector, funded through the General Fund, to address sign complaints and to proactively enforce violations of the Sign Ordinance. Unfortunately, the General Fund deficit, over these past several years, has necessitated the refocusing of Code Enforcement field inspection services to address violations that pose an immediate threat to health and safety. Therefore, unless a fee is established to cover the cost for increased enforcement efforts, staff would recommend that additional staffing be funded through the General Fund since increased enforcement would be necessary Citywide. Any desire to focus enforcement resources on the Sign Ordinance would require either a reduction in current services provided by Code Enforcement or an increase in available staff resources.

BUILDING STRONGER NEIGHBORHOODS COMMITTEE

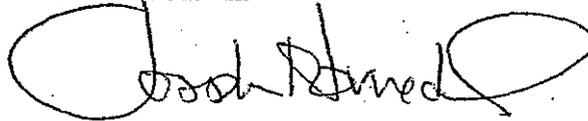
November 8, 2006

Subject: Review of the Temporary Sign Section of the Sign Ordinance

Page 4 of 4

CONCLUSION

If the Building Stronger Neighborhoods Committee recommends staff pursue amendments to the temporary sign provisions of the Sign Ordinance, staff would return to the Committee in January 2007 for comment on a staff recommendation on a draft amendment to the Temporary Sign Ordinance and future Committee recommendation to Council.

A handwritten signature in black ink, appearing to read "Joseph Horwedel", written in a cursive style.

JOSEPH HORWEDEL, ACTING DIRECTOR
Planning, Building and Code Enforcement

Attachment



Distributed on:

SENT TO COUNCIL: ~~SEP 07~~ 2006

by City Manager's Office

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Les White
Richard Doyle

SUBJECT: REVIEW OF THE TEMPORARY
SIGN SECTION OF THE SIGN
ORDINANCE

DATE: September 6, 2006

INFORMATION

On June 30, 2006, staff received a memorandum from Councilmember Nora Campos requesting that staff review the Temporary Sign Section of the Sign Ordinance and its enforcement, to identify opportunities and recommendations for improvement.

BACKGROUND

The Department of Planning, Building and Code Enforcement administers several provisions of the City's Sign Ordinance (Title 23 of the San Jose Municipal Code). Furthermore, the Code Enforcement Division is responsible for enforcing much of the Sign Ordinance, which provisions include those regulating *temporary signs*.

Temporary signs, as defined in the Sign Ordinance, are signs that are placed for a limited duration of time, and do not require a permit from the Planning Division. In addition, temporary sign regulations, depending upon the size of the sign or building/building footprint, allow for temporary signs to be displayed for varying periods of time, which in itself creates enforcement challenges. For example, Section 23.04.610 (B) states:

"Permissible temporary signs include:

1. One temporary sign, not larger than five square feet in sign area, may be displayed for up to a total of *eight months (emphasis added)* in any calendar year.
2. One temporary sign larger than five square feet, but not larger than ten square feet in sign area, may be displayed for up to a total of *three months (emphasis added)* in any calendar year.
3. Any building with a building footprint of five thousand (5,000) square feet or more may display one temporary sign larger than ten square feet in sign area for up to *forty-five (45) days (emphasis added)* in any calendar year..."

Furthermore, the temporary sign regulations allow varying durations of times for certain activities. Regarding the display of temporary signs related to construction activity, Section

HONORABLE MAYOR AND CITY COUNCIL

September 6, 2006

Subject: Review of the Temporary Sign Section of the Sign Ordinance

Page 2 of 3

23.04.610(B)(6)(a) states that, "Construction signs may be displayed *one-hundred eighty (180) days (emphasis added)* prior to the commencement of construction, during construction and for a period no longer than *thirty (30) days (emphasis added)* after completion of construction..." And, regarding the display of temporary signs on unimproved parcels, Section 23.04.610(C)(1)(b) states that, "Such sign shall be removed within *ten days (emphasis added)* after the property to which it refers is no longer for sale or lease."

In reviewing possible amendments to Title 23, the City Council may want to consider requiring temporary signs to be posted with the date the sign was erected, which would enable Code Enforcement staff to determine whether the temporary sign has exceeded the statutory duration of time. Such an amendment to the Sign Code could greatly facilitate effective and efficient enforcement of these timing provisions in the Code.

Another factor that must be considered is the staffing necessary to enforce violations of the Sign Ordinance. Due to recent budget reductions, the Code Enforcement Division has needed to categorize violations of the Sign Ordinance as "routine response" complaints for Code Enforcement Division staff. In other words, complaints from constituents regarding violations of the Sign Ordinance do not receive an immediate field inspection. Instead, an initial warning letter is mailed to the property owner requiring the removal of the alleged unpermitted sign. If the property owner fails to comply with the initial warning, a field inspection will be conducted only after Code violations that pose an immediate health and safety condition are first resolved.

Staff will be seeking Council input and direction to address what has become a commercial blight issue. Staff has noted that the use of temporary signage has increased, possibly the result of a down economy, as businesses are struggling to rebound. The use of temporary signage, which is evident throughout the City of San Jose, has increased as businesses attempt to attract consumers. Staff has noted an increase in prohibited signs including balloons, portable signs, inflatable signs, streamers, and flags.

An additional key consideration in this area of regulation is that changes or additions to the City's Sign Ordinance need to be carefully drafted. Legal challenges to sign regulations on free speech and other grounds have been a very active area of litigation over the last several years. The interpretation of the constitutional requirements relating to sign code regulations continues to evolve. Significant legal research of the current state of the law in this area will need to be undertaken in conjunction with this review.

However, there are some positive changes that have occurred recently. In adopting the *Off-Sale of Alcoholic Beverage Ordinance*, which included a Code Enforcement Inspector position, the City Council recognized that certain businesses and uses mandate a proactive enforcement to identify and address nuisance-related activities. Code Enforcement Division staff will inspect roughly 450-500 *Off-Sale of Alcoholic Beverage* businesses over the next 1-2 years, and one of the issues to be addressed will be violations of the Sign Code, including temporary signs, at these locations.

HONORABLE MAYOR AND CITY COUNCIL

September 6, 2006

Subject: Review of the Temporary Sign Section of the Sign Ordinance

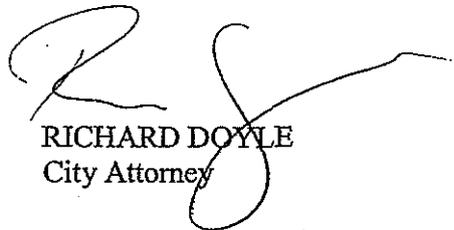
Page 3 of 3

CONCLUSION

If the City Council is desirous of proceeding to a Council Committee for further discussions, staff would recommend to add this to the Building Strong Neighborhoods (BSN) Committee work plan for a review of the temporary sign provisions of the Sign Ordinance and to identify possible opportunities that will improve enforcement.



LES WHITE
City Manager



RICHARD DOYLE
City Attorney

From: Hamilton, Carol
Sent: Tuesday, April 24, 2007 10:08 AM
To: Nader, Nadine
Cc: Isa, Liz
Subject: FW: Proposed Amendments to the City of San Jose Sign Code

This is an attachment for Item 4.2 on today's agenda.

Subject: Re: Proposed Amendments to the City of San Jose Sign Code

Carol, the San Jose Downtown Association appreciates the opportunity to comment on the proposed changes. Our comments are in all CAPS/blue imbedded below:

1. Temporary Signs

Objective: Simplify temporary sign requirements and make them easier to enforce. **THE SECOND HALF OF THIS OBJECTIVE IS OBJECTIONABLE — THE PURPOSE OF TEMPORARY SIGNS IS TO INCREASE BUSINESS AND ATTRACT CUSTOMERS. SIGN CODES SHOULD BE CHANGED TO ENSURE BETTER SIGNS AND HELP BUSINESSES, NOT CODE ENFORCERS.**

Proposed Provisions

Each Occupancy Frontage: Increase size of signs to 20 square feet each **GOOD, LARGER SIGNS.**

Reduce display time to 30 consecutive days. **FROM 45 DAYS. 30 DAYS SEEMS REASONABLE AND ACCEPTABLE -- OTHERWISE SIGNS CEASE TO BE "TEMPORARY."**

Continue to allow two signs per year but allow only one sign at a time. **THREE OR FOUR TIMES A YEAR IS MORE REASONABLE . . . WITH 30 DAYS REQUIREMENT, 3-4 WELL-MADE SIGNS COULD SERVE A BETTER PURPOSE.**

Each Building: Retain current maximum sizes. Eliminate provision regarding noncontiguous segments. **IT IS NOT CLEAR WHAT IS MEANT BY ELIMINATING NONCONTIGUOUS SEGMENT . . . ARE YOU TRYING TO SAY ONE TEMPORARY SIGN PER BUILDING? THAT DOES NOT WORK FOR ALL BUSINESSES SINCE THE BUILDING ITSELF MAY NEED A SIGN (OR TWO IF ON A CORNER WITH DIFFERENT FRONTAGES) AND THEN ANOTHER AT SIDEWALK LEVEL, ETC.**

All Temp Signs: Require display dates to be provided on the sign, limit sign display to these dates and require dates to be readable from the site or adjacent public-right-of-way. Require signs to specify whether sign is first or second.

THIS SHOULD BE REMOVED FROM THE PROPOSAL. THIS IS AN ENFORCEMENT ISSUE BUT REMEMBER WHO THE SIGNS REALLY NEED TO SERVE. EXTRA LETTERING/DATES ARE CONFUSING TO THE TRUE AUDIENCE (CUSTOMERS). SUCH MARKINGS REQUIRED BY THE CITY WOULD CONFUSE CUSTOMERS AND PATRONS -- DEFEATING THE PURPOSE OF MAKING SIGNS IN THE FIRST PLACE.

From: "Hamilton, Carol"

Date: Wed, 21 Feb 2007 10:53:43 -0800

Subject: Proposed Amendments to the City of San Jose Sign Code

Attached is a summary of proposed amendments to the City of San Jose Sign Code, for your review and comment. We anticipate that these amendments will be scheduled for consideration by the City Council on March 27, 2007. If you have questions or comments, please contact me by email or phone as indicated below.

Carol Hamilton

Senior Planner

City of San Jose

Department of Planning, Building and Code Enforcement

200 East Santa Clara Street, Third Floor Tower

San Jose, CA 95113

Phone: (408) 535-7837

Email: carol.hamilton@sanjoseca.gov

From: Hamilton, Carol
Sent: Tuesday, April 24, 2007 10:10 AM
To: Nader, Nadine
Cc: Isa, Liz
Subject: FW: Proposed Amendments to the City of San Jose Sign Code

[Here is an additional attachment for item 4.2 on today's agenda.](#)

From: dpg2003@aol.com
Sent: Thursday, February 22, 2007 8:56 AM
To: Hamilton, Carol;
Subject: Re: Proposed Amendments to the City of San Jose Sign Code

Carol --

Thank you for sending this. My cursory impression of the proposals is positive. My general view is that allowing greater flexibility in signage, including larger signage, is helpful for economic development and assists customers in finding small businesses. I do not subscribe to the once prevalent notion that business signage, per se, constitutes a blight.

This is the first I've heard of these particular proposals regarding temporary signage. Have there been any community meetings?

Also, what are the comparable standards regarding permanent signage, and what efforts are being made to similarly relax those standards, if any?

Thanks.

Don Gagliardi
President,

-----Original Message-----

From: Carol.Hamilton@sanjoseca.gov
Sent: Wed, 21 Feb 2007 5:05 PM
Subject: Proposed Amendments to the City of San Jose Sign Code

Attached is a summary of proposed amendments to the City of San Jose Sign Code, for your review and comment. These amendments are tentatively scheduled to be consideration by the City Council on March 27, 2007. Your questions and comments are welcome. You may contact me by email, phone or mail as indicated below.

Carol Hamilton
Senior Planner
City of San Jose
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, Third Floor Tower

Sign Ordinance Amendment



Goal: Vibrant Signage

San Jose City Council
April 24, 2007

Recent Sign Code Changes for the Downtown Sign Zone



New programmable display kiosk signs



New architectural signs



New Parking Garage Signs



Larger 3-dimensional signs

Proposed Sign Code Changes



More freestanding signage for large parcels



Larger temporary signs displayed for a shorter period



New arcade signs that do not reduce allowable sign area



Larger gas station canopy signs

Implementation Challenges



Beautiful Amici's façade accommodates only tiny signs.



Other buildings with no place to mount tenant signs.

Additional Efforts to Achieve Vibrant Signage

- Working with building designers to plan for effective signage
- Working with tenants and building owners to design creative and effective signage
- Getting the word out about new signage options

