



City Council Agenda Report

From: Susan DeCarli, City Planner

Subject: Rezone 18-009 – Amend Zoning Code, Section 21.19, Sign Ordinance, to change the definition of “Political” signs to “Temporary Non-Commercial” signs, and other minor text modifications.

Date: August 7, 2018

Facts

1. The City of El Paso de Robles regulates signs as specified in Chapter 21 (“Signs”) and exempts political signs from its permit requirements, while minimally regulating them.
2. The U.S. Supreme Court case of Reed v. Town of Gilbert clarified that special treatment of political signs may amount to improper content-based regulation.
3. The court in Reed also suggested various content neutral options available to address aesthetic and safety concerns relating to signs, such as size, building materials, lighting, moving parts, and portability, among other things.
4. Long-standing case law also recognizes that differing levels of protection may be afforded to noncommercial and commercial speech.
5. Signs significantly affect the aesthetic appeal of the City and its streetscapes, influence the quality of the visual environment, and shape perceptions of local economic conditions, as well as present safety, traffic, and circulation issues.
6. The City has a reputation as a community with native beauty, unique visitor attractions such as wineries, and distinctive architecture with a historic downtown, all of which makes tourism a staple of the City’s economy.
7. Therefore, it is appropriate to amend its existing sign rules to remove regulations specific to political signs, except as it pertains to electioneering prohibitions, which continues to be legal to regulate pursuant to federal and state law.
8. This ordinance provides for regulating all temporary signs in an even-handed manner that safeguards fundamental free speech rights, while also protecting the community’s aesthetic and safety objectives, enhances the City’s visual environment so as to foster commerce and tourism, minimize visual clutter, and serves the public health, welfare, and safety and traffic safety and circulation concerns.
9. Signs that are not intended to be temporary require different rules in order to ensure stability, safety, and resilience to the elements. These requirements are set forth in in Chapter 21.19.
10. This Zoning Code amendment to the Sign Ordinance is exempt from environmental review under the California Environmental Quality Act (CEQA), per CEQA Guidelines, Section 15061(b)(3), General Rule, since it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
11. The Planning Commission considered this proposed Sign Ordinance amendment at their meeting on July 10, 2018, and recommended approval of the code amendment to the City Council.

Options

1. Take no action. Allow the sign ordinance to remain out of compliance with recent Supreme Court decisions;
2. The City Council introduce for 1st reading by title only, Ordinance No. 18-XXX , (Attachment 1), to change the definition of “Political” signs to “Temporary Non-Commercial” signs, and other minor text modifications to integrate this change into this section of the Code;
3. Continue the item and refer back to Planning Commission and/or staff for additional analysis.

Analysis and Conclusions

The proposed Zoning Code amendment to the Sign Ordinance would protect the City's ability to regulate signs for the benefit of the community as a whole, and ensure protection of free speech as it relates to temporary signs for election-related purposes. The amendment would align the City's regulations with current Supreme Court case law related to sign regulation.

CEQA Analysis

In accordance with CEQA Guidelines Section 15061(b)(3), General Rule, this Zoning Code amendment to the City's Sign Ordinance is exempt from the California Environmental Quality Act (CEQA), since it would not in and of itself result in environmental impacts. Therefore, no environmental analysis is required for this action.

Fiscal Impact

None.

Recommendation (from both Planning Commission and staff)

Introduce for first reading by title only, Ordinance No. 18-XXX approving Zoning Code Amendment (ZC 18-009) amending the City's Sign Ordinance.

Attachments

1. Draft Ordinance No. 18-XXX – Zoning Code Amendment ZC 18-004
2. Legal Notice

ORDINANCE NO. XXXX N.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES TO AMEND CHAPTER 21.19 OF THE MUNICIPAL CODE TO EXEMPT TEMPORARY NON-COMMERCIAL SIGNS

Rezone 18-009
(P18-0090)

WHEREAS, the City of El Paso de Robles (“City”) regulates signs as specified in Chapter 21 (“Signs”) and exempts political signs from its permit requirements while minimally regulating them; and

WHEREAS, the U.S. Supreme Court case of *Reed v. Town of Gilbert* clarified that special treatment of political signs may amount to improper content-based regulation;

WHEREAS, the court in *Reed* also suggested various content-neutral options available to address aesthetic and safety concerns relating to signs, such as size, building materials, lighting, moving parts, and portability, among other things; and

WHEREAS, long-standing case law also recognizes that differing levels of protection may be afforded to noncommercial and commercial speech; and

WHEREAS, signs significantly affect the aesthetic appeal of the City and its streetscapes, influence the quality of the visual environment, and shape perceptions of local economic conditions, as well as present safety, traffic, and circulation issues; and

WHEREAS, the City has a reputation as a community of native beauty with its hot springs, abundant wineries and tasting rooms, agricultural production of olive oil and almonds, host to the California Mid-State Fair, and distinctive architecture and historic tradition, all of which makes tourism a staple of the city’s economy; and

WHEREAS, the City Council therefore desires to amend its existing sign rules to remove regulations specific to political signs except as pertains to electioneering prohibitions, which continues to be legal to regulate pursuant to federal and state law;

WHEREAS, this ordinance provides for regulating all temporary signs in an even-handed manner that safeguards fundamental free speech rights while also protecting the community’s aesthetic and safety objectives, enhances the City’s visual environment so as to foster commerce and tourism, minimize clutter, and serve the public health, welfare and safety and traffic safety and circulation concerns; and

WHEREAS, signs that are not intended to be temporary require different rules in order to assure stability, safety, and resilience to the elements and these requirements are further set forth in in Chapter 21.19; and

WHEREAS, the Paso Robles Planning Commission considered this proposed Sign Ordinance amendment at their meeting on July 10, 2018, and recommended approval of the code amendment to the City Council.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Recitals. The above recitals are incorporated as though set forth in this section as well the findings set forth in 21.19.010 in 2004, which are hereby re-adopted as findings.

Section 2. Editorial guidance. The following non-substantive editorial style is used. Words that are underlined are additions, words with a ~~line through~~ are deleted; and words in [brackets] are editorial direction for the Code publisher and which instructions are not to be published in the City’s Code. In addition, the Code publisher will insert definitions and other changes alphabetically to conform to the Code’s current style and will, as needed, re-order numbering and lettering changes caused by these amendments.

Section 3. Amendment The following definitions are hereby added to Section 21.19.030 (Definitions) of Chapter 21 (Signs) of the Paso Robles Municipal Code, to read as follows:

“Temporary Commercial Sign” means a sign that is designed, constructed, and intended to be on display for a limited period of time, typically made of lightweight or flimsy materials, that can be easily and quickly mounted or removed, and that is used to advertise or convey an image or message primarily for commercial or economic interests or to propose a commercial transaction to the intended audience.

“Temporary Noncommercial Sign” means a sign that is designed, constructed, and intended to be on display for a limited period of time, typically made of lightweight or flimsy materials, that can be easily and quickly mounted or removed, and that is used to display a message that primarily pertains to debate on topics of public concern, not including commercial messages, including, by way of example and not limitation, politics, religion, philosophy, science, art, or social commentary.

[Code Publisher: All subsections remain unchanged except to add the above definitions of “Temporary Commercial Signs” and “Temporary Non-commercial Signs” as well as accompanying alpha-numeric changes as needed.]

Section 4. Amendment. Section 21.19.080 (Signs exempt from permit) of Chapter 21 (Signs) of the Paso Robles Municipal Code is hereby amended as follows:

21.19.080 – Signs exempt from permit.

Signs specified in this section are exempt from the fee and permit requirements of Section 21.19.050 to the extent allowed by this chapter. Signs prohibited by Section 21.19.110 are not included in this section.

~~L. Non-commercial Signs. Notwithstanding any provision herein to the contrary, any sign that may be permitted for a commercial purpose may also be used for a noncommercial purpose.~~

~~O. Political Signs. Political signs shall conform to the following regulations:~~

S. Temporary Commercial Signs. Temporary commercial signs to the extent allowed by and in conformance with the specific provisions of this chapter. Further, no temporary commercial sign shall be placed in the public right of way or on public property unless such sign satisfies the regulations and criteria specified in Chapter 11.30 (Street Furniture).

T. Temporary Noncommercial Signs. Temporary noncommercial signs shall conform to the following regulations:

1. Residential Zoning Districts. In residential zoning districts, ~~political signs~~ temporary noncommercial signs shall not in the aggregate exceed thirty-two square feet in area and shall be subject to the following height limits:

a. They shall not exceed a height of three feet within the required front yard setback and, for corner lots, the required setback for the side yard abutting a street.

b. Outside of the setback areas mentioned above, they shall be six feet or less in height.

2. All Other Zoning Districts. In all other zoning districts, they shall be six feet or less in height and thirty-two square feet or less in area.

3. ~~Removal if Associated with an Election.~~ If a ~~political sign is related to an election,~~ temporary noncommercial sign is related to a specific event, it shall be removed no later than seven (7) days following ~~an election.~~ said event to avoid misleading or confusing the public and to mitigate against blight created by excessive and unnecessary signs.

4. Public Right-of-Way. Unless such sign satisfies the regulations and criteria specified in Chapter 11.30 (Street Furniture), ~~no political sign~~ temporary noncommercial sign shall be placed in the public right-of-way or on public property.

~~5. Location. They~~ Political signs, as defined in Section 21.19.030, ~~shall not be located within one hundred feet of any polling place on election day.~~

5. Signs shall not be displayed without the consent of the property owner.

6. Message Substitution. Subject to the property owner's consent and subject to the limitations on size, placement, and height set forth in this chapter, a noncommercial message may be substituted for a commercial message.

~~67. Non-Temporary Political Signs.~~ Political signs Signs that are not temporary, or are otherwise not within the exemptions of this section, are permitted in all zones subject to the provisions of this chapter pertaining to signs generally.

[Code Publisher: The remainder of this Section 21.19.080 is unchanged except as to alpha-numeric numbering.]

Section 5. Amendment. Section 21.19.085 is hereby added, to read as follows:

21.19.085. Location. Political signs, as defined in Section 21.19.030, shall not be located within one hundred feet of any polling place on election day.

Section 6. Amendment. Section 21.19.130 (Abatement) is amended to read as follows:

Section 21.19.130 Abatement

A. Nuisance Abatement. Signs not in compliance with this chapter may be declared to be a public nuisance, and be abated in accordance with the requirements of the El Paso de Robles City Code Chapter 9.06. Alternatively, signs not in compliance with this chapter and deemed to be a minor violation by the enforcement officer may be enforced through the City's administrative citation process as set forth in Chapter 1.03 of this Code.

B. Summary Abatement. Signs located in the public right-of-way may be declared to be a public nuisance subject to summary abatement by the city's enforcement official, as defined in Chapter 9.06. In addition to any criminal or civil penalties prescribed by law, the actual costs of abatement of such signs shall become a debt owed to the city by the person responsible for or causing placement of the sign.

C. Abandoned Signs. A sign shall be deemed abandoned in the following circumstances:

1. Change in Use. Any sign advertising a use, occupancy or product that has not existed for a period of one hundred eighty consecutive calendar days shall be deemed obsolete or abandoned. Notice shall be given to any or all owners of the sign, the occupant of the premises where the sign is located, or the owner of the premises where the sign is located, that such sign is obsolete or abandoned, and shall order that the sign and its supports, poles and structure be removed. It shall be unlawful for any sign owner, the occupant of such premises, or the owner of any such premises to fail or refuse to remove an abandoned or obsolete sign or sign support, pole or structure following an order to do so.

2. Expiration of event. The property owner or person responsible for the installation of a temporary sign authorized by this Chapter relating to a specific event shall remove the sign promptly following the expiration of the event unless different time limits apply to the sign as specifically provided for in this chapter. Any such sign relating to a specific event shall be deemed obsolete or abandoned seven (7) days following said event. If the City removes the sign following its abandonment, the removed sign will be held by the City for a period of thirty (30) days and the property/sign owner notified of the same. Failure to respond to the notification may result in the destruction of the sign or disposal by the City.

~~3. Failure to Maintain.~~ All signs shall be kept in a good state of repair and preservation. A sign may be deemed abandoned if, after ninety days written notice to the permit holder, the permit holder has failed or refused to maintain the sign. Upon such declaration, the sign may be considered abandoned and abated as provided in subsection A of this section.

[Code Publisher: The remainder of Section 21.19.130 remains unchanged.]

Section 7. California Environmental Quality Act (CEQA). This ordinance is not a “project” pursuant to Section 21065 of the Public Resource Code because it does not change the existing regulatory scheme except to remove content based limitations that previously pertained to political signs.

Section 8. Severability. If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

Section 9. Effective Date. This Ordinance shall take effect thirty (30) days after its adoption and, within fifteen (15) days after its passage, shall be published at least once in a newspaper of general circulation published and circulated within the City.

Section 10. Publication. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published at least five (5) days prior to the meeting at which the proposed Ordinance is to be adopted and shall post a certified copy of the proposed Ordinance in the Office of the City Clerk. Within fifteen (15) days of the adoption of the Ordinance, the City Clerk shall cause a summary of the Ordinance to be published, including the vote for and against the same, in accordance with Government Code Section 36933.

INTRODUCED on the 7th day of August, 2018, and PASSED AND ADOPTED by the City Council of the City of El Paso de Robles on this _____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Steven W. Martin, Mayor

ATTEST:

Kristin L. Buxkemper, Deputy City Clerk