

**DRAFT**

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 23.02.870 OF CHAPTER 23.02 AND SECTION 23.04.1310 OF CHAPTER 23.04 OF TITLE 23 OF THE SAN JOSE MUNICIPAL CODE TO ALLOW SIGNS ON CITY-OWNED PROPERTY, INCLUDING BILLBOARDS, PROGRAMMABLE ELECTRONIC SIGNS, AND SIGNS DISPLAYING OFF-SITE COMMERCIAL SPEECH, AND TO MAKE UPDATES OR OTHER TECHNICAL, NON-SUBSTANTIVE CHANGES, OR FORMATTING CHANGES WITHIN THOSE SECTIONS OF TITLE 23.**

**WHEREAS**, prior to making its determination on the adoption of this Ordinance, the City Council reviewed and considered an Initial Study/Negative Declaration for an amendment to the Envision San José 2040 General Plan to delete General Plan Land Use Policy CD-10.4, to revise Council Policy 6-4, and to update Sections 23.02.870 and 23.02.1310 of Title 23 of the San José Municipal Code to allow signs on City-owned property, including billboards, programmable electronic signs, and signs displaying Off-site commercial speech, as defined in Council Policy 6-4, and to make updates or other technical, non-substantive changes, or formatting changes within those sections of Title 23 (Planning File No. PP18-058) and adopted the Negative Declaration by Resolution No. \_\_\_\_\_; and

**WHEREAS**, the City of San José is the lead agency on the Project, and the City Council is the decision-making body for the proposed approval to undertake the Project; and

**WHEREAS**, since 1972, the City of San José has had a policy prohibiting new billboards on City-owned land and directing the removal of billboards from City-owned land within five (5) years; and

**WHEREAS**, since 1974, the San José Municipal Code has prohibited the placement of billboards within five hundred (500) feet of the right-of-way of certain freeways if designed to be visible to the freeway; and in 1985, the City Council adopted a Citywide ban on new billboards and continued in effect its prohibitions of other types of signs displaying off-site commercial speech; and

**WHEREAS**, the City Council conducted a public hearing in 2010 to consider a strategy for updating the Sign Code and addressing billboards on public and private property; and

**WHEREAS**, at the conclusion of the 2010 public hearing, the City Council approved maintaining the cap on the number of billboards in the City and directed staff to explore opportunities for moving existing billboards from residential areas to commercial areas; and

**WHEREAS**, electronic digital off-site advertising signs and billboard installations has been a City Council priority since March 7, 2017; and

**WHEREAS**, on December 19, 2017, the City Council accepted the Community and Economic Development Committee status report on implementing a phased work plan to investigate removing existing barriers to off-site commercial advertising on City-owned and non-City-owned sites in the City of San José, that could allow:

1. New off-site advertising on City-owned sites throughout the City, including the exchange of existing legal static billboards on other sites for new electronic billboards on City-owned sites (Phase 1);

2. Exchange of existing legal static billboards for new electronic billboards on non-City-owned existing freeway-facing billboard sites and/or new freeway-facing sites in the North San José Development Policy Area (Phase 2); and
3. New off-site advertising on non-City-owned sites in the Downtown Sign Zone, including exchange of existing legal static billboards for new electronic billboards in the Downtown Sign Zone (Phase 2).

**WHEREAS**, this Ordinance is necessary to allow the City to implement Phase 1 of the December 19, 2017 Council direction in order to generate revenue for the City, and/or eliminate visual clutter and blight by reducing the overall number of existing billboards City-wide or eliminating existing billboards from locations where they are particularly unsightly or incompatible with surrounding land uses; and

**WHEREAS**, this Ordinance is necessary to allow the City to continue consideration of Phase 2 of the December 19, 2017 Council direction, including the development of options for criteria and best practices and additional environmental review for non-City-owned sites, based on the City's experience with implementation of Phase 1;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:**

**SECTION 1.** Section 23.02.870 of Chapter 23.02 of Title 23 of the San José Municipal Code is amended to read as follows:

**23.02.870 Administrative Authority; Appeals**

A. Administrative authority for the implementation of the Sign regulations set forth in this Title and for the issuance of permits, if required under Part 4 of this Chapter, shall be as follows:

<b>District or Type of Sign</b>	<b>Administrative Authority</b>
CO, CP, CN, CG, IP, LI, HI, OS, A, R-1-RR, R-1-1, R-1-2, R-1-5, R-1-8, R-2, R-M and R-MH Zoning Districts; Neighborhood Business Districts; Downtown Sign Zone; Urban Mixed-Use Development Area Sign Zone; Capitol Expressway Auto Mall Signage Area, Billboard Relocation; Rotation Message Billboards; Temporary Signs	Department of Planning, Building and Code Enforcement
Public Right-of-Way Signs	Department of Transportation
Signs on Public Property other than Public Right-of-Way	Department of Public Works for Signs at City facilities, <u>provided that signs approved pursuant to Council Policy 6-4 require City Council authorization</u> ; Department of Parks, Recreation and Neighborhood Services for Signs in parks.
Signs within Airport Sign Zone	Airport Department, <u>provided that signs approved pursuant to Council Policy 6-4 require City Council authorization.</u>

“Director” as used in this Title and not otherwise identified shall refer to the Director of the applicable administrative authority.

- B. Enforcement authority for this Title shall be in the Code Enforcement Division of the Department of Planning, Building and Code Enforcement, except that the Department of Transportation shall have enforcement authority for Signs in Public Right-of-Way, the Department of Parks, Recreation and Neighborhood Services shall have enforcement authority for Signs in parks, the Department of Public Works shall have enforcement authority for Signs at City facilities, and the Director of Aviation shall have enforcement authority for Signs in the Airport Sign Zone.

**SECTION 2.** Section 23.02.1310 of Chapter 23.02 of Title 23 of the San José Municipal Code is amended to read as follows:

**23.02.1310 Exemption from Permit.**

- A. The following Signs shall comply with all other requirements of this Title but are exempted from the permit requirements of Section 23.02.1300, unless otherwise expressly required elsewhere:

1. Temporary Signs.
2. Safety or Directional Signs of four (4) square feet or less that are not Programmable Electronic Signs.
3. Safety or Directional Signs regardless of size if erected by a public entity or public utility.

~~4. Signs erected by the City.~~

~~45.~~ Election Signs.

~~56.~~ Window Signs.

- 67. U.S. Flags; any other Flags displayed on flagpoles erected in conformance with all applicable laws.
- 78. Required Signs as described in Section 23.02.1030.
- 89. Signage for residential uses where there are four (4) or fewer residential occupancy units on the parcel.
- 409. Signs allowed on outdoor vending facilities under Section 20.80.870 of Part 10 of Chapter 20.80 of Title 20 of this Code.
- 104. Signs allowed on recycling facilities by Sections 20.80.1130.B.5. and C.11. of Part 13 of Chapter 20.80 of Title 20 of this Code.
- 112. Signs allowed on temporary trailers by Section 20.80.1740.6. of Part 18 of Chapter 20.80 of Title 20 of this Code.
- B.** Signs erected by the City are exempt from permit requirements but shall comply with all other requirements of this Title, provided, however that signs erected on City owned land pursuant to Council Policy 6-4, shall comply with Council Policy 6-4, in lieu of the requirements of this Title.

RD:MD1  
09/11/18

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk