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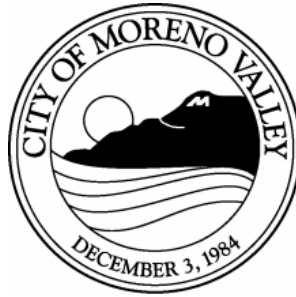
**PLANNING COMMISSIONERS**

ALVIN DEJOHNETTE  
Chairperson

OMAR COBIAN  
Vice Chairperson

JOANN STEPHAN  
Commissioner

RAY BAKER  
Commissioner



ERLAN GONZALEZ  
Commissioner

DARYL C. TERRELL  
Commissioner

DAVID ZEITZ  
Commissioner

NICOLE TAYLOR  
Alternate Commissioner

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# PLANNING COMMISSION

## Regular Meeting

### Agenda

Thursday, March 28, 2024 at 6:00 PM  
City Hall Council Chamber – 14177 Frederick Street

#### CALL TO ORDER

#### ROLL CALL

#### PLEDGE OF ALLEGIANCE

#### APPROVAL OF AGENDA

#### PUBLIC COMMENTS PROCEDURE

*Any person wishing to address the Commission on any matter, either under the Public Comments section of the Agenda or scheduled items or public hearings, must fill out a "Request to Speak" form available at the door. The completed form must be submitted to the Secretary prior to the Agenda item being called by the Chairperson. In speaking to the Commission, members of the public may be limited to three minutes per person, except for the applicant for entitlement. The Commission may establish an overall time limit for comments on a particular Agenda item. Members of the public must direct their questions to the Chairperson of the Commission and not to other members of the Commission, the applicant, the Staff, or the audience.*

#### PUBLIC COMMENTS

#### CONSENT CALENDAR

*All matters listed under Consent Calendar are considered to be routine and non-controversial, and may be enacted by one roll call vote. There will be no discussion of these items unless a member of the Planning Commission requests that an item be removed for separate action*

1. Planning Commission Minutes – Regular Meeting – February 22, 2024 6:00 PM

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*Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities, in compliance with the Americans with Disabilities Act of 1990. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such request to the ADA Coordinator, at 951.413.3350 at least 72 hours before the meeting. The 72 hour notification will enable the City to make reasonable arrangements to ensure accessibility to this meeting.*

**NON-PUBLIC HEARING ITEMS**

No items for discussion.

**PUBLIC HEARING ITEMS**

- 1. Case: Municipal Code Amendment (PEN24-0036)  
Applicant: City of Moreno Valley  
Prepared By Steve Quintanilla, City Attorney  
Council District: All Districts  
Proposal: Resolution recommending introduction and adoption of an Ordinance revising Temporary Sign Regulations.  
CEQA: Exempt from the California Environmental Quality Act.

**OTHER COMMISSION BUSINESS**

No items for discussion.

**STAFF COMMENTS**

**PLANNING COMMISSIONER COMMENTS**

**ADJOURNMENT**

Planning Commission Regular Meeting Thursday, April 11<sup>th</sup> at 6:00 P.M., City of Moreno Valley, City Hall Council Chamber, 14177 Frederick Street, Moreno Valley, CA 92553.

**OFFICIAL MINUTES OF THE  
PLANNING COMMISSION  
OF THE CITY OF MORENO VALLEY**

**REGULAR MEETING  
February 22, 2024**

**CALL TO ORDER**

This regular meeting of the Planning Commission of the City of Moreno Valley was called to order at 6:00 p.m. by Chairperson DeJohnette in the Council Chambers, located at 14177 Frederick Street, Moreno Valley, California.

**ROLL CALL**

Planning Commission:	Alvin DeJohnette	Chairperson	Present
	Omar Cobian	Vice-Chairperson	Present
	JoAnn Stephan	Commissioner	Present
	Ray L. Baker	Commissioner	Present
	Erlan Gonzalez	Commissioner	Present
	Daryl C. Terrell	Commissioner	Present
	David Zeitz	Commissioner	Present

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Commissioner Zeitz.

**APPROVAL OF AGENDA**

**RESULT:** APPROVED [7 TO 0]  
**MOVER:** Ray L. Baker, Commissioner  
**SECONDER:** Erlan Gonzalez, Commissioner  
**AYES:** Ray L. Baker, Erlan Gonzalez, Alvin DeJohnette, Omar Cobian, JoAnn Stephan, Daryl C. Terrell, David Zeitz

**PUBLIC COMMENTS PROCEDURE**

Chair DeJohnette read procedures aloud for the public and the record.

**PUBLIC COMMENTS**

No public comments.

**CONSENT CALENDAR**

Planning Commission - Regular Meeting - Nov 9, 2023 6:00 PM  
Planning Commission - Regular Meeting - Jan 11, 2024 6:00 PM  
Planning Commission - Regular Meeting - Feb 8, 2024 6:00 PM

**RESULT:** APPROVED [7 TO 0]  
**MOVER:** David Zeitz, Commissioner  
**SECONDER:** Ray L. Baker, Commissioner  
**AYES:** David Zeitz, Ray L. Baker, Alvin DeJohnette, Omar Cobian, JoAnn Stephan, Daryl C. Terrell

Commissioner Zeitz moved to approve the Minutes with a revision to mark him “Present” for all of the meetings.

### NON-PUBLIC HEARING ITEMS

No items for discussion.

### PUBLIC HEARING ITEMS

1. CONDITIONAL USE PERMIT TO PERMIT A CHARTER SCHOOL WITHIN THE ALESSANDRO PLAZA SHOPPING CENTER
  - A. Staff recommends that the Planning Commission **ADOPT Resolution No. 2024-13:**
    1. **DETERMINING** that the Proposed Project (CUP PEN23-0068) is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under Class 1 (“Existing Facilities”) and Class 32 (In-Fill Development Projects) Categorical Exemptions, and the Common Sense Exemption, in accordance with CEQA Guidelines Sections 15301, 15332, and 15061(b)(3); and
    2. **APPROVING** the Proposed Project (CUP PEN23-0068), subject to the attached Conditions of Approval included as Exhibit A.

**Public Hearing Opened:** 6:23 p.m.

Speakers:  
David Rivera

**Public Hearing Closed:** 6:25 p.m.

**RESULT:** APPROVED [7 TO 0]  
**MOVER:** David Zeitz, Commissioner  
**SECONDER:** JoAnn Stephan, Commissioner  
**AYES:** David Zeitz, JoAnn Stephan, Alvin DeJohnette, Omar Cobian, Ray L. Baker, Erlan Gonzalez, Daryl C. Terrell, David Zeitz

2. **CONDITIONAL USE PERMIT FOR THE DEVELOPMENT OF A SELF-STORAGE FACILITY PROJECT**

A. Staff recommends that the Planning Commission **ADOPT Resolution No. 2024-15:**

1. **DETERMINING** that the Proposed Project (Conditional Use Permit [PEN22-0251]) is categorically exempt from the provisions of the California Environmental Quality Act (CEQA), as a Class 32 Exemption (CEQA Guidelines, Section 15332, In-Fill Development Projects), and
2. **APPROVING** the Proposed Project (Conditional Use Permit [PEN22-0251]) based on the Recitals, Evidence contained in the Administrative Records, and Findings as set forth in this Resolution, subject to the approved conditions of approval.

**Public Hearing Opened: 6:41 p.m.**

No public comment.

**Public Hearing Closed: 6:43 p.m.**

**RESULT: APPROVED [7 TO 0]**  
**MOVER:** Daryl C Terrell, Commissioner  
**SECONDER:** Erlan Gonzalez, Commissioner  
**AYES:** Daryl C. Terrell, Erlan Gonzalez, Alvin DeJohnette, Omar Cobian, JoAnn Stephan, Ray L. Baker, David Zeitz

3. **PLOT PLAN (PEN23-0017) AND TENTATIVE TRACT MAP 38676 FOR CONDOMINIUM PURPOSES (PEN23-0016) FOR A SIXTEEN (16) UNIT, MULTI-FAMILY RESIDENTIAL PROJECT**

A. Staff recommends that the Planning Commission **ADOPT Resolution 2024-14:**

1. **DETERMINING** that the Proposed Project Tentative Tract Map 38676 for Condominium Purposes (PEN23-0016) and Plot Plan (PEN23-0017) is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) as a Class 32 Exemption (CEQA Guidelines, Section 15332, In-Fill Development Projects), and
2. **APPROVING** the Proposed Project (Tentative Tract Map 38676 for Condominium Purposes and Plot Plan (PEN23-0017)), based on the Recitals, Evidence contained in the Administrative Records, and Findings as set forth in Resolution No. 2024-14, subject to the conditions of approval attached thereto.

Minutes Acceptance: Minutes of Feb 22, 2024 6:00 PM (CONSENT CALENDAR)

**Public Hearing Opened: 6:56 p.m.**

No public comment

**Public Hearing Closed: 6:57 p.m.**

<b>RESULT:</b>	<b>APPROVED [7 TO 0]</b>
<b>MOVER:</b>	Alvin DeJohnette, Chairperson
<b>SECONDER:</b>	Ray L. Baker, Commissioner
<b>AYES:</b>	Alvin DeJohnette, Ray L. Baker, Omar Cobian, JoAnn Stephan, Erlan Gonzalez, Daryl C. Terrell, David Zeitz

**OTHER COMMISSION BUSINESS**

No items for discussion.

**STAFF COMMENTS**

Planning Official, Robert Flores, thanked the Commission and informed them that this is his first meeting.

**PLANNING COMMISSIONER COMMENTS**

Commissioners thanked the Planning Official and the Community Development Director. Commissioner Gonzalez requested information pertaining to the Academy event. The Planning Official indicated staff will send them the information.

**ADJOURNMENT**

Chairperson adjourned the meeting at 7:02 PM to the next regularly scheduled meeting.

Submitted by:

Approved by:

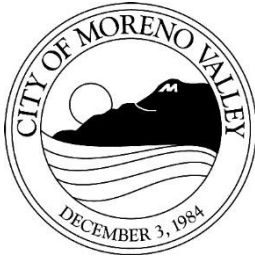
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Patty Castreje  
Planning Commission Secretary

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Alvin DeJohnette  
Chairperson

Minutes Acceptance: Minutes of Feb 22, 2024 6:00 PM (CONSENT CALENDAR)



## PLANNING COMMISSION

### STAFF REPORT

Meeting Date: March 28, 2024

#### RESOLUTION RECOMMENDING INTRODUCTION AND ADOPTION OF AN ORDINANCE REVISING TEMPORARY SIGN REGULATIONS

Case: Municipal Code Amendment (PEN24-0036)

Applicant: City of Moreno Valley

Prepared By: Steve Quintanilla, City Attorney

Council District: All Districts

Proposal: Resolution recommending introduction and adoption of an Ordinance revising Temporary Sign Regulations

CEQA: Exempt from the California Environmental Quality Act

#### **SUMMARY**

The City Attorney's Office reviewed the City's Temporary Sign regulations as set forth in Title 9 (Planning & Zoning) of the Moreno Valley Municipal Code and identified certain provisions which should be revised in a manner that is consistent with the latest legal opinions of the US Supreme Court regarding sign regulations.

#### **BACKGROUND**

Drafting sign regulations is an incredibly challenging task for cities since the law governing the scope of a jurisdiction's sign regulations seems to be in constant flux with the US Supreme Court, and there is a lot of ambiguity associated with the practical application of any given US Supreme Court decision pertaining to sign regulations. For example, although all nine justices of the US Supreme Court agreed in the latest significant sign case, known as Reed vs. Town of Gilbert, that the Town of Gilbert's sign regulations governing **Political Signs, Temporary Directional Signs, and Ideological Signs were unconstitutional, there was a** Majority Opinion signed by Justice Thomas, which was joined by five other justices; one Concurrence signed by Justice Alito, which

was joined by two other Justices; and two Concurrences in the judgment signed by former Justice Breyer and Justice Kagan, which was joined by the late Justice Ginsburg. Essentially, the US Supreme Court's decision in the Reed case epitomizes the complexity of drafting sign regulations that are capable of passing Constitutional muster with not only the composition of the US Supreme Court as it existed in 2015, but with the current composition of Justices on the US Supreme Court. Bottom line is that although a city may have a set of sign regulations that conform to the Reed opinion, there is a probable risk that the current US Supreme Court could further refine or modify the scope of the Reed opinion by imposing additional restrictions on the regulation of signs by cities.

**Notwithstanding the multiple perspectives reflected in the Reed case, the Majority Opinion held that: 1) Different standards for different categories of noncommercial speech are content-based; 2) Content-based regulation is presumptively unconstitutional and a strict scrutiny test applies, which is the highest level of judicial scrutiny applied to a government action; and 3) Government regulation of speech is content-based if a law applies to particular speech because of the topic discussed or the idea or message expressed in the signs. Again, in the Reed case, the Town of Gilbert's sign regulations (at issue) were different dependent upon whether the signs were **Political Signs, Temporary Directional Signs, or Ideological Signs, and this was the primary reason why the aforementioned regulations were deemed unconstitutional by the US Supreme Court. Basically, if one has to read the sign to determine what type of regulations apply, it is presumably "content-based" which makes such sign regulations unconstitutional unless the challenged regulations survive the extremely stringent judicial scrutiny test. (There are exceptions for government posted signs.) Specifically, the US Supreme Court in the Reed case zeroed in on the Town of Gibert's sign regulations that placed strict limits on temporary event signs but more freely allowed ideological signs—despite the fact that both types of signs have the same effect on safety and aesthetics.****

Without getting into the nuances of the Reed case, here are some take-aways from the Majority Opinion signed by Justice Thomas, the Concurrence signed by Justice Kagan, and other US Supreme Court cases which have not been impacted by the Reed opinion with regard to limiting the regulation of signs based on time, place and manner regulations. Permissible regulations include the following:

1. Cities may regulate signs by zoning districts, which is a "place" restriction.
2. Cities may prohibit the placement of non-governmental signs on most public property except for some vacant parkways not used for vehicular or pedestrian travel adjacent to public sidewalks, which is a "place" restriction.
3. Cities may regulate the size and height of signs, which is a "manner" restriction.
4. Cities may regulate signs by the types of structures, such as whether it is a freestanding or building-mounted sign, which is a "manner" restriction.
5. Cities may regulate signs based on the type of material the sign is made of, which is a "manner" restriction.
6. Cities may regulate signs based on whether they are lighted or non-lighted, which is a "manner" restriction.



7. Cities may regulate signs by placing limits on the number of signs, which is a “place” restriction.
8. Cities may regulate signs depending on whether they contain fixed or changing messages (e.g. electronic, changeable copy, etc.), which is a “manner” restriction.
9. Cities may regulate signs based on a one-time event which is a “time” restriction.

If the sign regulations are based on time, place and manner restrictions, the following test would be applied by a court pursuant to the prevailing case law on the issue.

1. *Whether the noncommercial temporary signs are uniformly regulated and the regulations are content neutral?*
2. *Whether the regulations are narrowly tailored to serve a significant governmental interest?*
3. *Whether there are open ample alternative channels for communicating the speaker’s message?*

In light of the foregoing, it is being recommended that the City’s Temporary Sign regulations be modified so that all Temporary Sign regulations are uniform in nature, the regulations serve a significant government interest, and there are open ample opportunities to communicate the sign owner’s message. The proposed changes are set forth in the attached proposed ordinance.

The City Attorney’s Office has determined that the Temporary Sign regulations as revised will be uniformly regulated and the regulations are content neutral in that enforcement of the revised Temporary Sign regulations will not be dependent on the content of the message contained in the signs and will be uniformly enforced regardless of the message contained in the sign based on “Time,” “Place” and “Manner” restrictions. The City Attorney’s Office has also determined that the Temporary Sign regulations are narrowly tailored to serve a significant governmental interest in that the purposes of the revised Temporary Sign regulations are based on “aesthetics,” “vehicular traffic safety,” “pedestrian safety,” “de-cluttering,” and “free expression.” Finally, the City Attorney’s Office has determined that the Temporary Sign regulations leave open ample alternative channels for communicating the speaker’s message in that it does not prohibit Temporary Signs to be placed on private property nor does it prohibit handheld Temporary Signs.

### **CEQA ANALYSIS**

The proposed consideration of an Ordinance amending the Temporary Sign Regulations set forth in the Moreno Valley Municipal Code is exempt from the California Environmental Quality Act (CEQA) pursuant to 14 California Code of Regulations (CEQA Guidelines) Sections 15061(b)(3) (it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment), 15305 (Minor alterations to land use limitations) and 15311 (accessory structures).

### **FISCAL IMPACT**

If the Temporary Sign regulations are not revised to be consistent with the prevailing US Supreme Court opinions pertaining to sign regulations, the City risks incurring litigation costs and possible attorney's fees in a case challenging the City's current Temporary Sign regulations. Adoption of the proposed revisions reduces the risk of having the City's Temporary Sign regulations challenged in court as being unconstitutional.

## **NOTIFICATION**

The amendment to the Municipal Code is City-wide. As such, the public hearing notice for the proposed Municipal Code Amendment was published in the Press-Enterprise newspaper on March 15, 2024.

## **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission **APPROVE** Resolution No. 2024-20, and thereby **RECOMMEND** that the City Council:

1. **FIND** the amendments exempt from the California Environmental Quality Act; and
2. **APPROVE** the Municipal Code Amendments revising the City's Temporary Sign regulations as set forth in Title 9 (Planning & Zoning) of the Moreno Valley Municipal Code, based on the findings contained set forth and/or referenced in this Resolution and **INTRODUCE** and **ADOPT** an ordinance to effectuate the amendments included in this Resolution.

Prepared by:  
Robert Flores  
Planning Division Manager/Official

Approved by:  
Robert Flores  
Planning Division Manager/Official

## **ATTACHMENTS**

To view large attachments, please click your "bookmarks"  on the left hand side of this document for the necessary attachment.

1. Resolution 2024-20 Sign Code Amendments with Exhibits

## RESOLUTION NUMBER 2024-20

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORENO VALLEY, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL INTRODUCE AND ADOPT THE ORDINANCE REVISING THE TEMPORARY SIGN REGULATIONS OF TITLE 9 PLANNING AND ZONING TO CONFORM WITH THE UNITED STATES SUPREME COURT DECISIONS PERTAINING TO SIGN REGULATIONS

**WHEREAS**, the City of Moreno Valley (“City”) is a general law city and a municipal corporation of the State of California, and

**WHEREAS**, drafting sign regulations is an incredibly challenging task for cities since the law governing the scope of a jurisdiction’s sign regulations seems to be in constant flux with the US Supreme Court, and there is a lot of ambiguity associated with the practical application of any given US Supreme Court decision pertaining to sign regulations; and

**WHEREAS**, although all nine justices of the US Supreme Court agreed in the latest significant sign case, known as Reed vs. Town of Gilbert, that the Town of Gilbert’s sign regulations governing Political Signs, Temporary Directional Signs, and Ideological Signs were unconstitutional, there was a Majority Opinion signed by Justice Thomas, which was joined by five other justices; one Concurrence signed by Justice Alito, which was joined by two other Justices; and two Concurrences in the judgment signed by former Justice Breyer and Justice Kagan, which was joined by the late Justice Ginsburg, which epitomizes the complexity of drafting sign regulations that are capable of passing Constitutional muster with not only the composition of the US Supreme Court as it existed in 2015, but with the current composition of Justices in US Supreme Court; and

**WHEREAS**, notwithstanding the multiple perspectives reflected in the Reed case, the Majority Opinion held that: 1) Different standards for different categories of noncommercial speech are content-based; 2) Content-based regulation is presumptively unconstitutional and a strict scrutiny test applies, which is the highest level of judicial scrutiny applied to a government action; and 3) Government regulation of speech is content-based if a law applies to particular speech because of the topic discussed or the idea or message expressed in the signs; and

**WHEREAS**, in the Reed case, the Town of Gilbert’s sign regulations (at issue) were different dependent upon whether the signs were Political Signs, Temporary Directional Signs, or Ideological Signs, and this was the primary reason why the aforementioned regulations were deemed unconstitutional by the US Supreme Court; and

**WHEREAS**, the United States Supreme Court has consistently held that if one has to read a sign to determine what type of regulations apply, it is presumably “content-based” which makes such sign regulations unconstitutional unless the challenged

regulations survive the extremely stringent judicial scrutiny test, with exceptions for government posted signs; and

**WHEREAS**, the City Attorney's Office has determined that the proposed Temporary Sign regulations as revised will be uniformly regulated and the regulations are content neutral in that enforcement of the revised Temporary Sign regulations will not be dependent on the content of the message contained in the signs and will be uniformly enforced regardless of the message contained in the sign based on "Time," "Place" and "Manner" restrictions; and

**WHEREAS**, the City Attorney's Office has also determined that the proposed Temporary Sign regulations are narrowly tailored to serve a significant governmental interest in that the purposes of the revised Temporary Sign regulations are based on "aesthetics," "vehicular traffic safety," "pedestrian safety," "de-cluttering," and "free expression"; and

**WHEREAS**, the City Attorney's Office has determined that the proposed Temporary Sign regulations leave open ample alternative channels for communicating the speaker's message in that it does not prohibit Temporary Signs to be placed on private property nor does it prohibit handheld Temporary Signs.

**NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1. Recitals and Exhibits**

That the foregoing Recitals and attached exhibits are true and correct and are hereby incorporated by this reference.

**Section 2. Notice**

That public notice of consideration of the Planning Commission's recommendation that the City Council introduce and adopt an Ordinance revising the temporary sign regulations of Title 9 Planning and Zoning to conform with the United States Supreme Court decisions pertaining to sign regulations, was posted at least ten (10) days prior to the Planning Commission meeting.

**Section 3. Recommendation**

That the Planning Commission hereby recommends that the City Council introduce and adopt the attached Ordinance revising the temporary sign regulations of Title 9 Planning and Zoning to conform with the United States Supreme Court decisions pertaining to sign regulations and further find that the attached Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to 14 California Code of Regulations (CEQA Guidelines) Sections 15061(b)(3) (it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment), 15305 (Minor alterations to land use limitations) and 15311 (accessory

structures).

**Section 4. Repeal of Conflicting Provisions**

That all the provisions as heretofore adopted by the Planning Commission that are in conflict with the provisions of this Resolution are hereby repealed.

**Section 5. Severability**

That the Planning Commission declares that, should any provision, section, paragraph, sentence or word of this Resolution be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this Resolution as hereby adopted shall remain in full force and effect.

**Section 6. Effective Date**

That this Resolution shall take effect immediately upon the date of adoption.

**Section 7. Certification**

That the Secretary of the Planning Commission shall certify to the passage of this Resolution.

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**PASSED AND ADOPTED THIS 28th DAY OF MARCH 2024.**

CITY OF MORENO VALLEY  
PLANNING COMMISSION

\_\_\_\_\_  
Alvin DeJohette, Chairperson

ATTEST:

\_\_\_\_\_  
Robert Flores, Planning Official

APPROVED AS TO FORM:

\_\_\_\_\_  
Steven B. Quintanilla, City Attorney

Exhibits:

Exhibit A: Draft Ordinance

Exhibit A

DRAFT ORDINANCE

## ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, REVISING THE TEMPORARY SIGN REGULATIONS OF TITLE 9 (PLANNING AND ZONING) TO CONFORM WITH THE UNITED STATES SUPREME COURT DECISIONS PERTAINING TO SIGN REGULATIONS**

**WHEREAS**, the City of Moreno Valley (“City”) is a general law city and a municipal corporation of the State of California, and

**WHEREAS**, drafting sign regulations is an incredibly challenging task for cities since the law governing the scope of a jurisdiction’s sign regulations seems to be in constant flux with the US Supreme Court, and there is a lot of ambiguity associated with the practical application of any given US Supreme Court decision pertaining to sign regulations; and

**WHEREAS**, although all nine justices of the US Supreme Court agreed in the latest significant sign case, known as Reed vs. Town of Gilbert, that the Town of Gilbert’s sign regulations governing Political Signs, Temporary Directional Signs, and Ideological Signs were unconstitutional, there was a Majority Opinion signed by Justice Thomas, which was joined by five other justices; one Concurrence signed by Justice Alito, which was joined by two other Justices; and two Concurrences in the judgment signed by former Justice Breyer and Justice Kagan, which was joined by the late Justice Ginsburg, which epitomizes the complexity of drafting sign regulations that are capable of passing Constitutional muster with not only the composition of the US Supreme Court as it existed in 2015, but with the current composition of Justices in US Supreme Court; and

**WHEREAS**, notwithstanding the multiple perspectives reflected in the Reed case, the Majority Opinion held that: 1) Different standards for different categories of noncommercial speech are content-based; 2) Content-based regulation is presumptively unconstitutional and a strict scrutiny test applies, which is the highest level of judicial scrutiny applied to a government action; and 3) Government regulation of speech is content-based if a law applies to particular speech because of the topic discussed or the idea or message expressed in the signs; and

**WHEREAS**, in the Reed case, the Town of Gilbert’s sign regulations (at issue) were different dependent upon whether the signs were Political Signs, Temporary Directional Signs, or Ideological Signs, and this was the primary reason the aforementioned regulations were deemed unconstitutional by the US Supreme Court; and

**WHEREAS**, the US Supreme Court has consistently held that if one has to read a sign to determine what type of regulations apply, it is presumably “content-based” which makes such sign regulations unconstitutional unless the challenged regulations survive the extremely stringent judicial scrutiny test, with exceptions for government posted signs; and



**WHEREAS**, the City Attorney's Office has determined that the proposed Temporary Sign regulations as revised will be uniformly regulated and the regulations are content neutral in that enforcement of the revised Temporary Sign regulations will not be dependent on the content of the message contained in the signs and will be uniformly enforced regardless of the message contained in the sign based on "Time," "Place" and "Manner" restrictions; and

**WHEREAS**, the City Attorney's Office has also determined that the proposed Temporary Sign regulations are narrowly tailored to serve a significant governmental interest in that the purposes of the revised Temporary Sign regulations are based on "aesthetics," "vehicular traffic safety," "pedestrian safety," "de-cluttering," and "free expression"; and

**WHEREAS**, the City Attorney's Office has determined that the proposed Temporary Sign regulations leave open ample alternative channels for communicating the speaker's message in that it does not prohibit Temporary Signs to be placed on private property nor does it prohibit handheld Temporary Signs.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY DOES ORDAIN AS FOLLOWS:**

**Section 1. RECITALS**

That the above recitals are true and correct and are incorporated herein as though set forth at length herein.

**Section 2. AUTHORITY**

That this Ordinance is adopted pursuant to the authority granted by Article XI, Section 7 of the Constitution of the State of California and California Government Code Section 37100, and it is not intended to be duplicative of state law or be preempted by state legislation.

**Section 3. PURPOSES**

That the purposes on this Ordinance are to revise the City's Temporary Sign regulations as set forth in Title 9 (Planning & Zoning) of the Moreno Valley Municipal Code so that the Temporary Sign regulations as revised: 1) will be uniformly regulated and the regulations are content neutral in that enforcement of the revised Temporary Sign regulations will not be dependent on the content of the message contained in the signs and will be uniformly enforced regardless of the message contained in the sign based on "Time," "Place" and "Manner" restrictions; 2) are narrowly tailored to serve a significant governmental interest in that the purposes of the revised Temporary Sign regulations are based on "aesthetics," "vehicular traffic safety," "pedestrian safety," "de-cluttering," and "free expression"; and 3) the Temporary Sign regulations as revised leave open ample alternative channels for communicating the speaker's message in that it does not prohibit Temporary Signs to be placed on private property nor does it prohibit handheld Temporary Signs.

#### **Section 4. AMENDMENT TO SECTION 9.12.040 (EXEMPT SIGNS)**

That Section 9.2.040, subsection A, (Exempt Signs) shall be amended as follows:

##### § 9.12.040 Exempt Signs.

- A. Exempt Signs. The following signs shall be exempt from the minor development review permit requirements and shall be permitted subject to the limitations contained in this chapter. However, exempt signs shall be required to adhere to the regulations established for each sign type and a building permit may be required.
1. Change of copy involving no change in the structure, materials or dimensions of the sign;
  2. Temporary holiday decorations;
  3. Interior signs;
  4. Licensed commercial vehicles (see Section 9.12.050(C) of this chapter regarding prohibited vehicle signs);
  5. Memorial tablets and plaques;
  6. Official and legal notices;
  7. Public transportation vehicles and bus shelters;
  8. Public utility signs;
  9. Safety signs;
  10. Residential identification signs (see subsection B of this section);
  11. Temporary site identification signs (see subsection C of this section);
  12. Window signs (see subsection D of this section);
  13. For sale, lease or rent and personal message signs (see subsection E of this section);
  14. Open house signs (see subsection F of this section);
  15. On-site subdivision sale signs (see subsection G of this section);
  16. Temporary ~~political~~ signs **during an election period** (see subsection H of this section);
  17. Signs for projects under construction (see subsection I of this section);
  18. Directional, warning and informational signs (see subsection J of this section);
  19. Flags (see subsection K of this section);
  20. Incidental signs (see Section 9.12.040(L));
  21. Agricultural signs (see Section 9.12.040(M));
  22. Under-canopy signs (see Section 9.12.040(N)).

Subsection H shall be amended as follows:

- H. Temporary ~~Political~~ Signs **During an Election Period.**
1. **"Election period" means the period of time ninety (90) days prior and ten (10) days after any official (1) local, (2) state, (3) regional or (4) national election.**
  2. Temporary ~~political~~ signs are permitted in all zoning districts **during an election period** subject to the following limitations:

- a. No ~~such~~ **temporary** sign shall exceed 32 square feet;
  - b. No freestanding temporary ~~political~~ sign shall exceed six feet in height;
  - c. No lot shall contain temporary ~~political~~ signs having an aggregate surface area in excess of 80 square feet;
  - d. No ~~such~~ **temporary** sign shall be artificially lighted;
  - e. ~~No such sign shall be erected or placed more than 90 days prior to the scheduled election to which it pertains, except that a sign erected or placed for a candidate who prevails in a primary election may be maintained until 10 days after the final election; all other signs shall be removed within 10 days after the scheduled election to which they pertain;~~
  - f. No **temporary** ~~such~~ sign shall be erected, placed or maintained upon any private property without the consent of the owner, lessee or person in lawful possession of such property;
  - g. No temporary sign shall be erected, placed or maintained on any publicly owned building, structure, tree or shrub; or upon any portion of a public street or highway right-of-way which is used for traffic or parking;
  - h. No **temporary** sign shall be erected, placed or maintained so that it does any of the following:
    - i. Mars, defaces, disfigures or damages any public building, structure or other property,
    - ii. Endangers the safety of persons or property,
    - iii. Obscures the view of any fire hydrant, traffic sign, traffic signal, street sign or public informational sign,
    - iv. Blocks lines of sight to areas of vehicular or pedestrian traffic.
3. **No temporary sign shall be permitted on any median separating opposite vehicular traffic on any public streets or other public rights-of-way.**
4. Any temporary ~~political~~ sign erected, placed or maintained in violation of any provisions of this section will be removed by the city five days after notice of the violation is given to ~~the concerned candidate or sponsor,~~ and the owner, lessee or person in lawful possession of the property, **or to a contact person listed on the sign itself**; provided however, that any temporary sign erected, placed or maintained on any public property or right-of-way in violation of subsections (H)(1)(e), (H)(1)(g) or (H)(1)(h) of this section, or which constitutes an immediate danger to the safety of person or property may be removed by the city summarily and without notice. The city may bill for and/or bring an action to recover the reasonable cost of sign removal from any party or parties found to be responsible for the violation under this section. **Any removed signs will be held for no longer than 30 days for retrieval by the owner.**

## Section 5.

## FINDINGS

That based on the Recitals set forth above, the related Planning Commission staff report, the City Council staff report and public comments received at the Planning Commission public hearing and City Council public hearing, the City Council finds as follows:

- 1) The Temporary Sign regulations as revised will be uniformly regulated and the regulations are content neutral in that enforcement of the revised Temporary Sign regulations will not be dependent on the content of the message contained in the signs and will be uniformly enforced regardless of the message contained in the sign based on “Time,” “Place” and “Manner” restrictions;
- 2) The Temporary Sign regulations as revised are narrowly tailored to serve a significant governmental interest in that the purposes of the revised Temporary Sign regulations are based on “aesthetics,” “vehicular traffic safety,” “pedestrian safety,” “de-cluttering,” and “free expression”; and
- 3) The Temporary Sign regulations as revised leave open ample alternative channels for communicating the speaker’s message in that it does not prohibit Temporary Signs to be placed on private property nor does it prohibit handheld Temporary Signs.
- 4) The Temporary Sign regulations are consistent with the General Plan, specifically with its policies and goals of maintaining an orderly and aesthetically pleasing visual environment while balancing the needs of the community to participate in democratic government.
- 5) The Temporary Sign regulations will not adversely affect the public health, safety, or general welfare.
- 6) The Temporary Sign regulations are consistent with the purposes and intention of the Zoning Code.

#### **Section 6. CEQA COMPLIANCE**

The proposed consideration of an Ordinance amending the Temporary Sign Regulations set forth in the Moreno Valley Municipal Code is exempt from the California Environmental Quality Act (CEQA) pursuant to 14 California Code of Regulations (CEQA Guidelines) Sections 15061(b)(3) (it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment), 15305 (Minor alterations to land use limitations) and 15311 (accessory structures).

#### **Section 7. SEVERABILITY**

That the City Council declares that, should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

#### **Section 8. REPEAL OF CONFLICTING PROVISIONS**

That all the provisions of the Municipal Code as heretofore adopted by the City of

Moreno Valley that are in conflict with the provisions of this Ordinance are hereby repealed.

**Section 9. EFFECTIVE DATE**

That this Ordinance shall take effect thirty (30) days after its second reading.

**Section 10. CERTIFICATION**

That the City Clerk shall certify to the passage and adoption of this Ordinance, enter the same in the book for original ordinances of the City, and make a minute of passage and adoption thereof in the records of the proceedings of the City Council, in the minutes of the meeting at which this Ordinance is passed and adopted.

INTRODUCED at a regular meeting of the City Council on \_\_\_\_ \_\_, \_\_\_\_\_, and PASSED, APPROVED, and ADOPTED by the City Council on \_\_\_\_\_ \_\_, \_\_\_\_, by the following vote:

\_\_\_\_\_  
Ulises Cabrera, Mayor  
City of Moreno Valley

**ATTEST:**

\_\_\_\_\_  
Jan Halstead, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Steven B. Quintanilla, City Attorney

Attachment: Resolution 2024-20 Sign Code Amendments with Exhibits [Revision 1] (6588 : PEN24-0036 Recommending PC Resolution revising

ORDINANCE JURAT

STATE OF CALIFORNIA )

COUNTY OF RIVERSIDE )

ss. CITY OF MORENO VALLEY)

I, \_\_\_\_\_, City Clerk of the City of Moreno Valley, California, do hereby certify that Ordinance No. 2024 - XX was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem and Mayor)

CITY CLERK \_\_\_\_\_

(SEAL)