

ORDINANCE NO. 1395

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FOUNTAIN VALLEY AMENDING THE FOUNTAIN VALLEY MUNICIPAL CODE REGARDING REAL ESTATE AND OTHER SIGNS

WHEREAS, the City has adopted a strict sign law to preserve the aesthetics of the City while maintaining public safety; and

WHEREAS, Realtors have proposed that their interests and sellers' interests in selling residential real estate could be better served by allowing additional signage while City continues to prohibit signs in the public right of way; and

WHEREAS, government regulation of signs implicate first amendment free speech protections; and

WHEREAS, government may not discriminate based on the content of speech, making discrimination in favor of certain types of signs in most cases impermissible; and

WHEREAS, the state has afforded real estate signs special status under the law (Civil Code Section 713) by providing that sellers and their agents may display "for sale" signs on property owned by others provided that consent is obtained and provided that the public safety is not affected; and

WHEREAS, Civil Code Section 713 does not allow the placement of signs within the public right of way; and

WHEREAS, City does hereby desire to comply with the constitution and the Civil Code while maintaining a strict sign code that does not allow signs in the public right of way; and

WHEREAS, the City Council, Planning Commission and staff have reviewed various sign ordinances and heard from the Realtors' Association regarding sign needs and does hereby determine that the accommodations provided in City's sign ordinance are reasonable and necessary for sellers' needs while protecting City aesthetics and public safety; and

WHEREAS, City desires to allow an increase in open house signs provided those meet the requirements set forth in this ordinance; and

WHEREAS, City also desires to afford a right to express noncommercial messages on signs similar to real estate signs as mandated by the United States Supreme Court in *City of Ladue v. Gilleo* (1994) 114 Sup.Ct. 2038;

NOW, THEREFORE, the City Council of the City of Fountain Valley does hereby ORDAIN as follows:

Section 1. That Section 21.24.060 is amended to read:

“21.24.060 Exemptions from sign permits.

The following signs are exempt from the permit requirements of this chapter, provided they conform with the standards provided herein.

(1) Bus Bench Sign. Bus bench signs and bus shelter signs that are erected for public transit with the city’s approval;

(2) Notices. Notices required to be posted by law;

(3) Community Interest Events. Signs related to civic, patriotic, seasonal or special events of community interest subject to approval of the director;

(4) Official Flags. Official flags of the nation, the state of California and other official government flags. Not more than one each of local, state and national governmental flags per business. Flagpoles shall not exceed thirty-five feet in height;

(5) Noncommercial signs.

(A) Signs required for the discharge of a government function or required by law.

(B) Noncommercial signs shall be allowed in residential areas provided they are the same dimensions as residential real estate signs as described in subsection (8) below. Political signs, provided they are installed on private property with permission of the property owner and are not installed within any public right-of-way. Political signs related to an election or elective office shall be removed within ten days following the election pertaining to the candidate/issues advertised by the signs. Signs not removed within ten days shall be removed by the city at the expense of the political candidate or responsible organization.

(6) Project Signs. One project sign shall be allowed per street frontage. Signs may be externally illuminated only. For sites less than one acre: maximum sign area, thirty-two square feet; maximum height, eight feet. For sites one acre or larger: maximum sign area, sixty square feet; maximum height, fifteen feet. Signs shall be set back a minimum of five feet from any property line.

(7) Real Estate Signs-Commercial.

(A) Number and Size. Not more than one commercial real estate sign with a maximum size of sixteen square feet per sign face, advertising property for sale, rent or lease shall be allowed per commercial or industrial parcels. However, corner commercial or industrial parcels shall be allowed two commercial real estate signs, one along each street frontage, with a maximum size of sixteen square feet per sign face each. No more than a total of nine square feet of rider signs shall be attached to a commercial real estate sign. Commercial real estate signs shall be a maximum of eight feet in height.

(B) Materials and Illumination. Commercial real estate signs shall not be illuminated and shall be constructed with a wood, plastic or metal face.

(C) Time Periods. Commercial real estate signs shall be removed within seven days after the property has been sold or rented, or the sale or rent is terminated. Maximum time period shall be one hundred eighty days from date sign permit is issued, unless otherwise extended by the director upon submittal of proof that property is still on market.

(8) Residential Real Estate Signs. All residential real estate signs shall be subject to the following requirements:

(A) On-site FOR SALE / RENT / LEASE signage.

i) Each residential property is permitted one (1) for sale, rent or lease sign per street frontage.

- a) Maximum sign area – 9 sq. ft.
 - b) Maximum height – 6 ft.
 - ii) Sign shall be set back a minimum of 2 ft. from the property line.
 - iii) One (1) additional for sale, rent or lease sign shall be permitted for properties adjoining arterials.
 - a) Arterial side sign may not extend into the public right-of-way.
 - b) The sign may be located on top of, or behind the tract wall but sign cannot extend into the public right-of-way.
 - iv) An additional six square feet (6 sq. ft.) of rider signage (e.g., pool, great view, price reduced) shall be permitted per on-site real estate sign.
 - v) Sign, including any structural support, can only remain on site during the period the home is listed for sale, rent or lease, and in any event, shall be removed within seven (7) days after the property is sold, rented or leased, or the offer is terminated. Property shall be deemed sold upon the close of escrow.
- (B) Directional OPEN HOUSE signage – tract entrance(s)
- i) For the purposes of this section, “tract” shall refer to any quadrant bound by adjacent arterial streets.
 - ii) Off-site directional open house signs are permitted in accordance with California Civil Code Section 713.
 - iii) Open house signs must direct traffic to a property that is offered for sale, rent or lease.
 - iv) A maximum of two open house directional signs shall be permitted at tract entrance per house for sale; the tract entrance is limited to one entrance per arterial street.
 - v) Open house sign at a tract entrance shall limit its message to “Open House” but can be personalized to include directional arrow, name of agent, real estate company, phone number, etc.
 - vi) Maximum sign area – 24” x 18”
 - vii) Maximum height – 42”; except for those flush mounted on tract wall
 - viii) No flags, pennants, or balloons are permitted on the open house directional signs.
 - ix) Sign can only be displayed between 6:00 a.m.–8:00 p.m. on the day of open house.
 - x) Sign must be set back a minimum of 2 ft. from the property line, except for those flush mounted or on top of or behind the tract wall but sign cannot extend into the public right-of-way.
 - xi) One additional open house sign may be placed within the tract at each change of direction from the entrance to the most direct route to the open house.
 - xii) Sign can only be placed on private property with consent of owner; no sign shall be placed on any public property, including, but not limited to, the public right of way, parkway strips, sidewalks, medians, tree wells, power poles, wires and appurtenances, etc.
- (C) Directional OPEN HOUSE signage – arterial intersections
- i) Off-site directional open house signs are permitted in accordance with California Civil Code Section 713

- ii) The purpose of the directional open house sign is to direct homebuyer to an open house, not to market an individual agent or real estate company.
- iii) Open house signs must direct traffic to a property that is currently offered for sale, rent or lease.
- iv) A maximum of four off-site open house directional signs shall be permitted per home for sale; a maximum of two signs at any of the four (4) nearest arterial intersections, not to exceed a total of four (4) signs, provided not more than one sign is placed at any single street corner.
- v) Maximum sign area – 24” x 9”
- vi) Maximum height – 42” (except for flush mounted signs on tract walls)
- vii) Sign shall be limited to the following:
 - a) One red, blue or green directional arrow
 - b) Sign may include the name of agent and phone number or email address in a single colored font not to exceed one and one half inches (1.5”).
- viii) No flags, pennants, or balloons are permitted on the open house directional signs.
- ix) Signs can only be displayed between 6:00 a.m.–8:00 p.m. on day of the open house.
- x) Must be set back a minimum of 2 ft. from the property line.
- xi) Sign can only be placed on private property with the consent of owner; no sign shall be placed on any public property, including, but not limited to, the public right of way, parkway strip, sidewalks, medians, tree wells, power poles, wires and appurtenances, etc.”

Section 2. That Section 21.24.100 of the Fountain Valley Municipal Code is amended to read:

“21.24.100 Abatement and charges.

(a) City has performed an inventory of illegal signs and abandoned signs within six months of the adoption of the sign code.

(b) Authority to abate illegal and abandoned signs. With respect to those signs identified as illegal or abandoned, the Director of Planning shall commence abatement of those signs within the time limits allowed by law.

(c) Disposition of seized illegal signs. Signs placed in the public right of way shall be removed immediately without notice or any hearing. Signs with an apparent value of less than twenty dollars (\$20) may be disposed of immediately. For those signs for which the owner can be identified and which may have a value of greater than twenty dollars (\$20) or more, those signs shall be disposed of as follows: for a first violation, a warning will be given and the sign may be obtained by the owner without charge; for subsequent violations, the City Council may provide a scale of ascending charges for each subsequent violation based on the cost to retrieve, store, document the removal and contact the owner. Such charges shall be set forth by separate resolution. Said resolution may also set forth the time period such signs shall be kept.

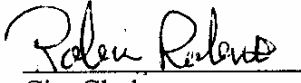
(d) The above charges shall not be a limit on the authority to bring a criminal prosecution against those persons who intentionally fail to comply with city laws.”

Section 3. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The city council declares that it would have passed this ordinance and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

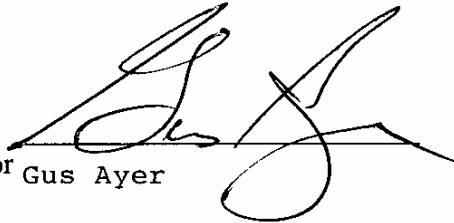
Section 4. The City Clerk shall certify to the adoption of this Ordinance and cause it to be published as required by law.

PASSED and ADOPTED this 1 day of May, 2007.

ATTEST:




City Clerk
Robin Roberts



Mayor Gus Ayer

APPROVED AS TO FORM:



City Attorney