



CITY OF EUREKA
DEVELOPMENT SERVICES DEPARTMENT
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EUREKA CITY COUNCIL

Notice of Public Hearing

Notice Is Hereby Given that the Eureka City Council will hold a public hearing on Tuesday, September 17, 2019, at 6:00 p.m., or as soon thereafter as the matter can be heard, in the Council Chamber, Eureka City Hall, 531 “K” Street, Eureka, California, to consider the following:

Project Title: Extension of Moratorium on Digital Signs and Off-premise Signs

Project Applicant: City of Eureka Case No: CITY-18-0004 (mod)

Project Location: Coastal Zone

Project Description: Extend for one year the coastal zone urgency ordinances originally adopted for 45-days on September 18, 2018 and extended for 10 months and 15 days on October 16, 2018, prohibiting the submission or acceptance of applications for the installation, erection, construction, replacement, modification, or improvement of digital signs and off-premise signs in the coastal zone.

All interested persons are invited to comment either in person at the scheduled public hearings, or in writing. Written comments may be submitted at the hearing, or prior to the hearing by mailing or delivering them to the City Clerk, with a carbon copy to the Development Services Department, 531 K Street, Eureka, CA, 95501. Accommodations for handicapped access to City meetings must be requested of the City Clerk, 441-4175, five working days in advance of the meeting. If you challenge the nature of the proposed action in court, you may be limited to raising only those issues that you or someone else raised at the public hearing described in this notice or written correspondence delivered to the public entity conducting the hearing at or prior to the public hearing. If you have questions regarding the project or this notice, please contact Kristen M. Goetz, Senior Planner, *phone*: (707) 441-4160; *e-mail*: planning@ci.eureka.ca.gov



AGENDA SUMMARY EUREKA CITY COUNCIL

TITLE: Extension of Moratorium on Digital Signs and Off-premise Signs

DEPARTMENT: Development Services

PREPARED BY: Kristen M. Goetz

PRESENTED FOR: Action Information only Discussion

RECOMMENDATION

1. Hold a public hearing.
2. Waive reading, read by title only and adopt Bill No. 971-C.S., an urgency measure extending an Interim Ordinance of the City Council of the City of Eureka imposing a Moratorium on the installation, erection, construction, replacement, modification or improvement of off-premise signs and digital signs in the coastal zone portion of the City.

FISCAL IMPACT

No Fiscal Impact Included in Budget Additional Appropriation

COUNCIL GOALS/STRATEGIC VISION

DISCUSSION

California Government Code (CGC) §65858 allows the City Council to adopt, as an urgency measure, an interim ordinance prohibiting any use that may be in conflict with a contemplated General Plan or Zoning Code, when the Council, Planning Commission, or Planning staff intends to study the conflict within a reasonable time.

CGC §65858 allows a moratorium to be adopted for an initial period of 45 days with or without a noticed public hearing. Adoption of a moratorium requires a four-fifths vote of the Council. Prior to expiration of the initial 45 days, the Council may, after a noticed public hearing, extend the ordinance for an additional 10 months and 15 days and subsequently extend the interim ordinance for another one year, if necessary. CGC §65858 does not allow an extension of the original urgency ordinance for a period less than 10 months and 15 days, or for more than a total of two years. However, the adoption of a subsequent

ordinance, such as a Text Amendment, automatically terminates the moratorium. Additionally, at least ten (10) days prior to the expiration of the interim ordinance or any extension, the City Council must issue a written report describing the measures taken to alleviate the condition that led to the adoption of the ordinance.

The City Council adopted interim ordinances on September 18, 2018 placing an initial 45-day citywide moratorium on applications for digital signs and off-premise signs in all zone districts, both inland and coastal. That moratorium expired on November 2, 2018, and the City Council, by a four-fifths vote, extended the interim ordinances for an additional 10 months and 15 days.

In order to implement the final one-year extension, the City Council must notice and hold a hearing, and issue a report at least 10 days prior to the expiration of the initial moratorium period. Notice of today's hearing was published in compliance with California Government Code Section 6101. The required report is presented concurrently with this agenda summary in Exhibit A, and if approved by the City Council will be issued immediately.

Staff has prepared, as an urgency measure, an interim ordinance, Exhibit B, pursuant to California Government Code § 65858 that extends the moratorium on applications for digital signs and off-premise signs in the coastal zone portion of the City for one year. The one-year extension will allow time to continue to study the impacts of digital signs and off-premise signs in the coastal zone, and prepare the necessary amendment of the Eureka Municipal Code. In order to adopt the interim ordinance pursuant to § 65858, the ordinance must contain legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that approval of modification, alteration, or installation of digital signs and off-premise signs in the coastal zone would result in that threat to public health, safety or welfare.

The nature and objective of advertising signage is to distract pedestrians and drivers by capturing or "hooking" their attention. Electronic or digital signs may be that much more effective of achieving this goal. This creates safety concerns. The welfare of the community is implicated by the aesthetics of signage, to the extent that the height, size, concentration, lighting intensity, rapidity of message changes, and other characteristics of electronic messaging signs are legitimate potential subjects of regulation. The purpose of this moratorium is to give the community, staff, Planning Commission, City Council, and the Coastal Commission the opportunity to consider the boundaries of reasonable regulation in this field.

If adopted, the extension would apply in the coastal zone areas of the City. The ordinance would prohibit the installation, erection, construction, replacement, modification, or improvement of digital signs and off-premise signs. The extension does not require existing digital signs or off-premise signs to cease

operation, or to be removed. Adoption of a new ordinance regarding digital signs and off-premise signs in the coastal zone would automatically end the moratorium.

CEQA

Pursuant to Section 15001 of the California Environmental Quality Act ("CEQA") Guidelines, this urgency interim ordinance is exempt from CEQA based on the following:

- a. The extension to the moratorium interim ordinance is not considered a "project" within the meaning of CEQA Guidelines Section 15378 because the ordinance has no potential to result in a direct or indirect physical change to the environment. Rather, the ordinance has the potential to temporarily prevent such changes for the term of the interim ordinance.
- b. The extension is exempt pursuant to CEQA Section 15061(b)(3) since the proposed ordinance preserves the status quo in regard to digital signs and off-premise signs in the coastal zone, and therefore does not have the potential to significantly impact the environment.

REVIEWED AND APPROVED BY:

- City Attorney
- City Clerk/Information Services
- Community Services
- Development Services
- Finance
- Fire
- Personnel
- Police
- Public Works

Exhibit A
Urgency Ordinance Report



**EUREKA CITY COUNCIL
Report Issued Pursuant to
Government Code § 65858(d)**

September 6, 2019

SUBJECT: REPORT ON STATUS OF ACTIONS FOLLOWING ADOPTION OF BILL NO. 956-C.S. AND BILL NO. 957-C.S., URGENCY MEASURES IMPOSING A MORATORIUM ON THE INSTALLATION, ERECTION, CONSTRUCTION, REPLACEMENT, MODIFICATION OR IMPROVEMENT OF OFF-PREMISE SIGNS AND DIGITAL SIGNS IN THE INLAND AND COASTAL PORTIONS OF THE CITY.

California Government Code (CGC) §65858 allows the City Council to adopt, as an urgency measure, an interim ordinance prohibiting any use that may be in conflict with a contemplated General Plan or Zoning Code, when the Council, Planning Commission, or Planning staff intends to study and remedy the conflict within a reasonable time.

CGC §65858 allows a moratorium to be adopted for an initial period of 45 days with or without a noticed public hearing. Adoption of a moratorium requires a four-fifths (4/5) vote of the Council. Prior to expiration of the initial 45 days, the Council may, after a noticed public hearing, extend the ordinance for an additional 10 months and 15 days and subsequently extend the interim ordinance for another one year, if necessary. CGC §65858 does not allow an extension of the original urgency ordinance for a period less than 10 months and 15 days.

On September 18, 2018, the City Council introduced and adopted two interim urgency ordinances (Bill Nos. 956-C.S. and 957-C.S.), which established a moratorium on digital signs and off-premise signs in the inland and coastal portions of the City for 45 days. On October 16, 2018, Council held a public hearing and adopted Bill Nos. 960-C.S. and 961-C.S. extending both urgency ordinances for an additional 10 months and 15 days.

The ordinances prohibit the installation, erection, construction, replacement, modification, or improvement of digital signs and off-premise signs. The ordinances do not require existing digital signs or off-premise signs to cease operation, or to be removed.

Once the inland Zoning Code became effective in June, 2019, the inland interim ordinance was no longer in effect. The coastal zoning code (implementation plan) has not been adopted and the coastal interim ordinance is still in effect. However, the coastal interim ordinance is set to expire on September 18, 2019.

California Government Code §65858(a) allows for an additional one-year extension of the interim ordinance upon a four-fifths vote of the City Council.

California Government Code § 65858(d) provides that at least ten (10) days prior to the expiration of the interim ordinance, the City Council is required to issue a written report describing the measures taken to alleviate the condition that led to the adoption of the interim ordinance. This report satisfies that requirement.

The subject interim ordinance was adopted to allow sufficient time for the City to receive community input and for staff to study how to permanently regulate the digital signs and off-premise signs in the coastal portion of the City.

Since the ordinance was passed, staff has continued to work on drafting the Local Coastal Program Amendment which will update both the Land Use Plan, and the coastal Zoning Code (Implementation Plan). The coastal zoning code will specifically address both digital signs and off-premise signs. Staff hopes to bring the amendment to the City Council within the next 6 months.

Exhibit B
Coastal Bill No. 971-C.S.

EXTENSION OF AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EUREKA IMPOSING A MORATORIUM ON DIGITAL SIGNS AND OFF-PREMISE SIGNS IN THE COASTAL PORTION OF THE CITY

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:

WHEREAS, California Government Code §65858 authorizes the City Council of the City of Eureka to adopt as an urgency measure an interim ordinance imposing a moratorium; and

WHEREAS, the City has previously adopted a sign ordinance codified at Chapter 10-5.1701 et seq. of the Eureka Municipal Code regulating signs and the display and operation of signs in all zone districts to protect the public health, safety and welfare; and

WHEREAS, digital signs and off-premise signs are currently allowed in all coastal zone districts that allow signs; and

WHEREAS, digital signs are being installed throughout the United States that include digital technology, light emitting diodes ("LEDs"), and electronic graphic displays that permit signs to display an electronic image similar to a color television set and permit a displayed image to quickly change from one image to another; and

WHEREAS, digital signs that allow operators to change content from remote locations in a matter of seconds, are erected for the purpose of trying to get the attention of pedestrians and motorists by displaying messages and pictures for a short duration using a series of contrasting images produced mainly by LED technology; and

WHEREAS, new studies of the effects and impacts of digital signs and off-premise signs have been completed; and

WHEREAS, the City has approved permits for the installation of a number of digital signs; and

WHEREAS, the City experiences issues with gaining and maintaining compliance with the existing regulations governing existing digital signs; and

WHEREAS, the City continues to receive complaints from the public regarding the operation of digital signs and off-premise signs; and

WHEREAS, the City intends to continue its comprehensive review of the sign standards and regulations for both digital signs and off-premise signs in relation to traffic safety and abatement of visual clutter within the City; and

WHEREAS, California Government Code § 65858 provides that a city, including a charter city, without following the procedures otherwise required prior to the adoption of a zoning ordinance, to protect the public safety, health and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to

study within a reasonable time; and

WHEREAS, the City adopted an interim ordinance, Bill No. 957-C.S., on September 18, 2018 to prohibit the installation, erection, construction, replacement, modification, or improvement of digital signs and off-premise signs. The ordinance did not require existing digital signs or off-premise signs to cease operation, or to be removed; and

WHEREAS, on October 16, 2018, the City adopted an additional interim ordinance, Bill No. 961-C.S. and extended the interim ordinance for an additional 10 months and 15 days as allowed pursuant to California Government Code Section 65858; and

WHEREAS, the ordinance passed by the City Council on October 16, 2018 will expire on September 18, 2019 unless the City Council passes an extension. California Government Code Section 65858 allows the City Council to extend a moratorium, after notice and a hearing, for an additional one year. No additional extensions of the interim ordinance can be allowed. The City Council has published notice of and will hold a hearing at its September 17, 2019 meeting; and

WHEREAS, ten days prior to the expiration of an interim ordinance or any extension, the City Council must issue a report describing the efforts taken to alleviate the condition that led to the adoption of the ordinance. The City Council will consider and issue that report at its September 17, 2019 meeting; and

WHEREAS, the City Council of the City of Eureka desires to extend the existing moratorium in the coastal portion of the City for the installation, erection, construction, replacement, modification, or improvement of digital signs and off-premise signs in all coastal zone districts to prevent additional issues resulting from new signs, or modification or replacement of existing signs; and

WHEREAS, the City Council desires to extend said moratorium in order to continue its comprehensive review of the sign standards and regulations pertaining to digital signs and off-premise signs; and

WHEREAS, the City Council finds that a continuation of the moratorium is necessary and appropriate within all coastal zoning districts of the City to preserve the status quo and prevent significant investment pending continued review of the regulations pertaining to digital signs and off-premise signs; and

WHEREAS, the City Council finds, determines, and concludes that an emergency exists, in that (a) neither City staff nor the Planning Commission have had sufficient opportunity during the 12 months of the initial moratorium to review the effects of digital signs or off-premise signs in the coastal zone with regard to concerns for economic development, preservation and/or promotion of traffic and pedestrian safety, prevention of visual clutter, and public nuisances that may be a result of inadequate code provisions and regulation of digital signs and off-premise signs, and development of a comprehensive plan, program or regulation of digital signs and off-premise signs within all coastal zoning districts of the City; and (b) the continuation of this moratorium will preserve the status quo to enable the City to continue to study the effects of such uses and to devise appropriate zoning and regulatory controls to address the effects of such uses; and

WHEREAS, this extension of the moratorium is exempt from CEQA pursuant to §15001 of the California Environmental Quality Act ("CEQA") Guidelines because this moratorium interim ordinance would not be considered a "project" within the meaning of CEQA Guidelines Section 15378 since it has no potential for resulting in a direct or indirect physical change to the environment, and instead has the potential to temporarily prevent such changes for the term of the interim ordinance; and further, this ordinance is exempt pursuant to CEQA §15061(b)(3) since the proposed ordinance preserves the status quo in regard to digital signs and therefore does not have the potential to significantly impact the environment; and

WHEREAS, for the reasons set forth above, this extension of the ordinance is declared by the City Council of the City of Eureka to be necessary for preserving the public health, safety and welfare and to avoid a current and immediate threat to the public health, safety and welfare, and the findings clauses above taken together constitute the Council's statement of the reasons constituting such necessity and urgency.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF EUREKA DOES ORDAIN AS FOLLOWS:

SECTION 1. Interim Ordinance. During the term of this Urgency Interim Ordinance, the installation, erection, construction, replacement, modification or improvement of digital signs or off-premise signs in any coastal zone district is prohibited. Any application that is complete at the time this ordinance becomes effective will continue to be processed, subject to any amendments to the zoning code.

SECTION 2. Term. The moratorium imposed by this ordinance extension shall be effective September 17, 2019, as an extension of an interim urgency ordinance, in order to protect the public health, safety and welfare, and continue in full force and effect for the extended period of one year from September 18, 2019. After September 18, 2020, In accordance with the provisions of California Government Code §65858, no additional extensions may be allowed.

SECTION 3. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 4. Posting. Within fifteen (15) days after its passage, the City Clerk shall cause this Ordinance to be published once in a newspaper of general circulation.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the ____ day of _____, 2017 by the following vote:

AYES: COUNCILMEMBERS
NOES: COUNCILMEMBERS
ABSENT: COUNCILMEMBERS

THE ABOVE ORDINANCE WAS PRESENTED TO THE MAYOR on the ____ day of _____, 2018,
and hereby approved.

Susan Seaman, Mayor

Approved as to Administration:

Approved as to form:

Greg L. Sparks, City Manager

Robert Black, City Attorney

THE ABOVE ORDINANCE WAS ATTESTED BY THE CITY CLERK OF THE CITY OF EUREKA on the ____
day of _____, 2019.

Pamela J. Powell, City Clerk