ORDINANCE NO. 28641

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 23.02.410 OF CHAPTER 23.02 OF TITLE 23 OF THE SAN JOSE MUNICIPAL CODE AND AMENDING SECTION 23.04.120 OF CHAPTER 23.04 OF TITLE 23 OF THE SAN JOSE MUNICIPAL CODE TO MODIFY THE REGULATIONS RELATING TO PROGRAMMABLE DISPLAY SIGNS IN THE DOWNTOWN SIGN ZONE

WHEREAS, on August 6, 2009, this Ordinance was found to be categorically exempt from environmental review per the provisions of Section 15061(b)(3) of the California Environmental Quality Act of 1970, as amended, under File No. PP09-159;

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

SECTION 1. Section 23.02.410 of Chapter 23.02 of Title 23 of the San José Municipal Code is amended to read as follows:

23.02.410 Programmable Display Sign

"Programmable display sign" means an animated sign made up of a field of individual electronic elements or mechanical grids that, when programmed and activated, create still or moving images or words. The elements may be internally illuminated or may be illuminated by reflected light. The sign may be attached to permanent, nonmoving signage.

SECTION 2. Section 23.04.120 of Chapter 23.02 of Title 23 of the San José Municipal Code is amended to read as follows:

23.04.120 Types of Signs

A. Any Combination of Signs

1. Signage allowed by Section 23.04.110 may consist of any combination of allowed free-standing signs, flat-mounted signs, projecting signs, awning signs, banners, inflatable or balloon signs, skyline signs and roof signs. Segmented signs are allowed.

2. Each occupancy frontage may also display window signs, temporary signs, safety or directional signs, and any other signs expressly authorized by this Code.

B. Free-Standing Signs

1. Except as provided in this Subsection, free-standing signs shall not exceed eight (8) feet in height above grade.

2. Free-standing signs that are less than six feet wide may be up to twenty-five (25) feet in height above grade.

3. The height of construction signs shall be as set forth in Section 23.04.610B.6.

4. Free-standing roof signs in accordance with Subsection G below and free-standing programmable display signs in accordance with Subsection J below shall not be subject to the foregoing height restrictions.

C. Flat-Mounted Signs.

1. Flat-mounted signs (except for permitted skyline signs, flat roof-top signs and banner signs) shall be displayed no higher than thirty (30) feet above grade,

except as otherwise specifically allowed in this Section.

2. Flat-mounted signs (except for permitted skyline signs, flat roof-top signs and banner signs) shall be displayed no higher than eighty (80) feet above grade when the building meets all of the following criteria:

   a. The building is eighty (80) feet or greater in height above grade; and

   b. The building has a building footprint of one hundred fifty thousand (150,000) square feet or greater.

3. Flat-mounted signs shall not project more than two (2) inches from the face of the building, except for:

   a. Flat-mounted signs consisting of individual letters or letters attached to raceways; or

   b. Flat roof-top signs that may project no more than sixty (60) inches from the face of the roof.

D. Projecting Vertical Signs and Fin Signs.

1. Projecting vertical signs:

   a. Shall be located at least twenty (20) feet but no higher than sixty (60) feet above grade; and

   b. Shall project no more than five (5) feet six (6) inches, and

   c. Shall not project above the cornice or parapet of a building.

2. Fin signs:

   a. Shall be located no higher than thirty (30) feet above grade or the height of the finished floor elevation of the third floor of the building, whichever is less; and

   b. Shall project no more than one-half the width of the sidewalk over which the sign projects or seven feet six inches, whichever is less.

E. Awning Signs; Porte-Cochere Signs.

1. Awning signs shall be located no higher than thirty (30) feet above grade.

2. Signage on awnings shall be limited to twenty-five (25) percent of the exterior surface area of the awning.

3. Signage on porte-cocheres shall be allowed only on vertical surfaces of the porte-cochere and shall be limited to twenty-five (25) percent of the exterior surface area of the vertical surfaces of the porte-cochere.

F. Banner Signs.

1. Free-standing banners shall comply with the provisions of Section 23.04.120.B above.

2. Projecting banners shall comply with the provisions of Section 23.04.120.D above.

3. Flat-mounted banners:

a. Shall not exceed twenty (20) feet in width; and

b. Shall be located no higher than fifty (50) feet above grade, provided that banners located higher than thirty (30) feet above grade shall be mounted within building recesses or portals.

4. Notwithstanding any provision of this Chapter to the contrary, buildings with a footprint of seventy-five thousand (75,000) square feet or greater may erect banners only in compliance with all of the following criteria:

a. A total maximum of five banners shall be allowed at any time;

b. One banner may be up to a maximum of one thousand two hundred (1,200) square feet in total area and any and all remaining banners may be up to a maximum of six hundred (600) square feet in total area; and

c. All banners shall be placed no higher than eighty (80) feet above finished grade; and

d. All banners shall contain and display noncommercial messages only.

G. Skyline Signs; Roof signs

1. Applicability

a. Buildings one hundred forty (140) feet or greater in height above grade may have either skyline signs or roof signs; and

b. Buildings greater than eighty (80) feet and less than one hundred forty

(140) feet in height above grade may have skyline signs; and

c. Non-garage uses on the top floor of parking garages may have skyline signs.

2. Dimensions

a. The total amount of square footage of sign area for all skyline signs or roof signs on buildings two hundred twenty-five (225) feet or greater in height above grade shall not exceed two thousand (2,000) square feet per building. Any one such skyline sign or roof sign shall not be larger than one thousand (1,000) square feet.

b. The total amount of square footage of sign area for all skyline signs or roof signs on buildings one hundred ninety (190) feet or greater in height above grade and less than two hundred twenty-five (225) feet in height above grade shall not exceed one thousand four hundred (1,400) square feet per building. Any one such skyline sign or roof sign shall not be larger than seven hundred (700) square feet.

c. The total amount of square footage of sign area for all skyline signs or roof signs on buildings one hundred forty (140) feet or greater in height above grade and less than one hundred ninety (190) feet in height above grade shall not exceed one thousand one hundred (1,100) square feet per building. Any one such skyline sign or roof sign shall not be larger than five hundred fifty (550) square feet.

d. The total amount of square footage of sign area for all skyline signs on buildings greater than eighty (80) feet and less than one hundred forty (140) feet in height above grade shall not exceed five hundred (500)

square feet per building. Any one such skyline sign shall not be larger than two hundred fifty (250) square feet.

e. The total amount of square footage of sign area for skyline signs for non-garage uses on the top floor of parking garages shall not exceed seven hundred fifty (750) square feet per building. Any one such skyline sign shall not be larger than five hundred (500) square feet.

3. Each skyline sign or roof sign shall be designed as an integral part of the building design and placed on a permanent architectural element which has been designed to accommodate it.

4. There shall not be both a skyline sign and a roof sign on the same building or on connected buildings.

5. Skyline signs and roof signs may be illuminated with external lighting; halolighting; and internal lighting if only the letters or symbols are illuminated. Such signs shall be illuminated only with continuous lighting except that gradual color changes shall be allowed if there is no perception of flashing lights created.

6. Skyline signs and roof signs on buildings greater than eighty (80) feet in height above grade shall not reduce otherwise allowable signage for the building.

7. A total of two skyline or roof signs are allowed per building.

H. Window Signs. Window signs consistent with Section 23.02.1060 of this Title shall be allowed on first- and second-story windows.

I. Marquees.

1. Marquees are allowed for theatres and movie houses and on buildings containing marquees that historically were theatres or movie houses.

2. A marquee, including any vertical projection, is a single sign and an architectural element. The vertical projection of a marquee may project above the cornice line of a building.

3. Marquees may be animated signs or have animated sections.

4. Marquee signage shall not be subject to the size and placement limitations elsewhere in this Part, but instead shall be subject to the provisions of Section 23.04.110B.2.

J. Programmable Display Signs.

1. For a single building with a footprint of at least one hundred twenty-five thousand (125,000) square feet, a maximum of two (2), attached programmable display signs are allowed, subject to the approval of the Director, whose approval shall be issued when the sign or signs meet all of the following criteria:

   a. The sign(s) shall be located no higher than twelve (12) feet from grade unless the Director finds that a greater height achieves a pedestrian-level orientation; and

   b. The sign(s) shall not reduce or obscure glazing; and

   c. Each sign does not exceed a maximum size of eighteen (18) square feet

in sign area; and

d. No sign is displayed on the exterior of that portion of a building containing residential uses.

2. For a building with one (1) or more single ground-floor occupancy frontages of at least one hundred fifty (150) linear feet, a maximum of one (1) attached programmable display sign is allowed per single ground-floor occupancy frontage of at least one hundred fifty (150) linear feet, subject to approval of the Director, whose approval shall be issued when the sign meets all of the following criteria:

   a. The sign shall be mounted to the building and located no higher than twenty-five (25) feet above grade; and

   b. The sign shall not reduce or obscure glazing; and

   c. The sign shall not exceed a maximum size of thirty-five (35) square feet in sign area; and

   d. The sign shall not be mounted on the exterior of or illuminate that portion of a building façade or wall containing residential living units on the other side.

K. <u>Programmable Display Kiosk Signs</u>

Programmable Display Kiosk Signs are allowed subject to the following criteria and conditions:

1. The total sign area on kiosks shall not exceed eighteen (18) square feet per kiosk face in the aggregate, and no Programmable Display Kiosk Sign shall be located higher than eight (8) feet in height above grade.

2. Programmable Display Kiosk Signs may be animated and/or may be illuminated with continuous external or internal lighting.

3. Programmable Display Kiosk Signs shall not be displayed on kiosks located within two-hundred (200) feet of another kiosk displaying a Programmable Display Kiosk Sign.

4. A minimum width of unobstructed sidewalk clearance of four (4) feet shall be maintained around a kiosk for pedestrian traffic.

L. Time and Temperature Signs.

1. Any sign otherwise permitted in this Part may include a time and temperature sign, provided that a time and temperature sign may not be established within three hundred (300) feet of another time and temperature sign.

2. Each time and temperature sign shall be limited to fifteen (15) square feet in sign area, excluding any frame.

3. Time and temperature signs may not be located higher than thirty (30) feet above grade.

M. Lightbox Signs for Gasoline Service Stations. Lightbox signs at gasoline service stations shall not exceed twenty (20) percent of the surface area of the lightbox up to a maximum of eight square feet.

N. Architectural Signs

1. The total amount of Architectural Signs allowed on any one building shall not exceed a total maximum area of two hundred (200) square feet per building, in the aggregate.

2. Each Architectural Sign shall be limited in area to a maximum of thirty-two (32) square feet, except that one Architectural Sign of up to one hundred (100) square feet in area may be located on one building frontage, all subject to the total maximum area allowed under Subsection 23.04.120.N.1 above.

3. Architectural Signs may be allowed on the exterior of that portion of a building containing residential uses.

O. Public Parking Garage Signs.

1. Notwithstanding any other provisions of this Code, one (1) additional sign shall be allowed on any building containing a garage that provides public parking, under the following circumstances:

   a. The building contains five hundred (500) or more public parking spaces.

   b. Any part of the building is within one thousand (1,000) feet of an expressway or freeway.

2. Such sign:

   a. Shall be flat-mounted.

   b. Shall be a maximum of one hundred (100) square feet in sign area.

c. Shall be located at least thirty (30) feet but no higher than seventy (70) feet above grade and shall not project above the cornice or parapet of the building.

d. Shall be displayed so as to be visible from the expressway or freeway.

e. May be illuminated only with external lighting or internal lighting and only to the extent illumination does not create any traffic safety hazard.

3. The message on such sign shall be limited to "Public Parking" and/or any authorized City public parking symbol(s).

4. Such sign shall not reduce otherwise allowable signage for the building.

P. Freeway or Highway Off-Ramp Signs.

1. Subject to the provisions of Section 23.02.1180, a building greater than eighty (80) feet in height above grade located on a parcel of real property that is directly adjacent to a freeway off-ramp or highway off-ramp may have only the following skyline or roof signs:

a. A maximum of two skyline or roof signs that conform to all of the applicable requirements set forth in Section 23.04.120.G; or

b. A maximum of one skyline or roof sign that conforms to all of the applicable requirements set forth in Section 23.04.120.G and one flat-mounted sign that meets all of the following criteria:

(1) The size of the sign shall not exceed a maximum of one hundred

(100) square feet in sign area;

(2) The sign shall be mounted to the building with an orientation that is perpendicular to, and is not directly facing, the centerline of the freeway or highway off-ramp; and

(3) The sign shall not be visible from the main freeway or highway to which the off ramp is attached.

Q. Flat Roof-Top Signs.

1. Buildings with a footprint of one hundred fifty thousand (150,000) square feet or greater may install a maximum of two flat roof-top signs that meet all of the following criteria:

a. Each flat roof-top shall not exceed a maximum of sixteen thousand (16,000) square feet in sign area, and the total sign area of two flat roof-top signs shall not exceed a maximum of thirty-two thousand (32,000) square feet; and

b. A flat roof-top sign may be externally or internally illuminated with continuous lighting between the hours of 7:00 a.m. and 12:00 a.m., but shall not be illuminated by any means after 12:00 a.m. and before 7:00 a.m.; and

c. Any illumination of a flat roof-top sign shall fully conform with the City's lighting policies, unless an exception is granted therefor or applicable thereto; and

d. Any illumination of a flat roof-top sign shall not produce light that is visible

with the naked eye from public areas located within one hundred (100) feet of the building on which the sign is installed.

R. Inflatable or Balloon Signs.

1. Inflatable or balloon signs may be allowed on sites and in a manner meeting all of the following criteria:

   a. The size of the parcel on which the inflatable or balloon sign would be located shall be a minimum of seven (7) acres; and

   b. A maximum of one (1) inflatable or balloon sign may be installed on a building on each such parcel; and

   c. The sign must be safely and securely mounted to the roof of a building with a minimum floor area of fifty thousand (50,000) square feet and a maximum height of fifty (50) feet.

2. The inflatable or balloon sign allowed under this Section must meet the additional following criteria:

   a. The inflatable or balloon sign shall be no greater than three thousand six hundred (3,600) cubic feet in size; and

   b. The inflatable or balloon sign shall extend no higher than the lesser of the following heights:

      (1) Thirty (30) feet above the building parapet or building roof surface if there is no parapet; or

(2) The height set forth in a no hazard determination by the Federal Aviation Administration; and

c. The inflatable or balloon sign shall extend no more than ten (10) feet below the building parapet or building roof surface if there is no parapet.

S. Projected Light Signs.

1. A building with a footprint of 100,000 square feet or greater may allow one (1) projected light sign on the building per calendar year that meets all of the following criteria:

a. A Projected Light Sign shall be no greater than 700 square feet in area; and

b. A Projected Light Sign shall be located no higher than sixty (60) feet above grade; and

c. A Projected Light Sign shall not be of an illumination intensity or character that creates a safety hazard or undue disturbance for vehicles, pedestrian or occupants in the area and shall conform to all applicable Federal Aviation Administration requirements; and

d. A Projected Light Sign and associated projection equipment may be allowed only during such time period as specified in a permit issued by the Director finding that all the criteria specified in this Section are met for a proposed Projected Light Sign, and which time period in all instances shall not exceed a maximum period of sixty (60) days per calendar year; and

2. A permit application for a Projected Light Sign shall be signed by all private property owners upon whose real property a Projected Light Sign is projected, upon whose property associated projection equipment is located, and upon whose property the associated projected light directly traverses.

3. A Projected Light Sign may be animated.

4. A Projected Light Sign shall not reduce otherwise allowed signage area for the building upon which it is projected nor for any other affected property.

PASSED FOR PUBLICATION of title this 25th day of August, 2009, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, HERRERA, KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE, REED.

NOES: NONE.

ABSENT: CONSTANT.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk