

ORDINANCE NO. 17-966

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR ADDING SECTION 11.72.315 TO CHAPTER 11.72 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO TEMPORARY OFF-SITE SUBDIVISION DIRECTIONAL KIOSKS

WHEREAS, Chapter 11.72 of the Montclair Municipal Code currently sets forth regulations for the permitting of signs, including temporary subdivision directional signs; and

WHEREAS, temporary off-site subdivision directional kiosks (real estate directories) are currently not allowed upon public or private property; and

WHEREAS, the City Council finds that it is in the public interest to allow for temporary real estate directional kiosks to be erected in order to assist the public in locating housing opportunities within the City, and in order to promote orderly development of needed housing opportunities within the City; and

WHEREAS, it is determined to be in the best interests of the City and its residents to amend Chapter 11.72 of the Montclair Municipal Code to allow for temporary off-site subdivision directional kiosks to be erected upon public or private property within the City, subject to reasonable regulations to protect public health, safety, and welfare.

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

SECTION I. Addition to Code. Section 11.72.315 of Title 11 of the Montclair Municipal Code is hereby added as follows:

11.72.315 Temporary off-site subdivision directional kiosks.

Temporary off-site subdivision directional kiosks (real estate directories) directing prospective purchasers to a housing subdivision or subdivisions having lots, houses, or units for sale may be erected and maintained on private property or in the public right of way by an association of builders or developers, provided such kiosks do not create hazardous traffic conditions as determined by the Public Works Director or City Engineer. Such kiosks shall be subject to the following limitations:

A. The subdivision(s) identified for sale on individual display panels on a kiosk shall be limited to subdivisions located within City limits and subdivisions no more than one-half mile outside of City limits as measured from the subdivision to the nearest City boundary reference point.

B. The association of builders or developers shall obtain a sign permit from the Community Development Department prior to installation. The design and location of a kiosk is subject to approval of the Community Development Department.

C. A kiosk may be placed on private property with written consent of the property owner, and only after such written consent has been filed with the Community Development Department and a permit has been issued. Written consent provided by the property owner and approved by the Community Development Department cannot exceed 24-months in duration. As a condition of issuance of a permit, the permittee shall provide proof of an indemnity agreement naming the property owner as additional insured or proof that the property owner has declined indemnification.

D. A kiosk may be placed on public property within the parkway area of the public right of way, subject to the further issuance of an encroachment permit by the Public Works Director or City Engineer pursuant to Section 9.16.040. No kiosk shall be permitted in the median area of the public right of way. As a condition of issuance of an encroachment permit, the Public Works Director or City Engineer shall require execution of an indemnity agreement and a posting of proof of liability insurance naming the City as additional insured, in a form approved by the City Attorney.

E. The construction of any such kiosk shall be in strict compliance with the provisions of this chapter and all other laws of the City including requirements necessary for permits and associated fees.

F. No more than six kiosks shall be permitted on any arterial street within the City limits as defined by the City's General Plan. A minimum distance of 1,000 feet shall be maintained from other on- or off-site signs or kiosks advertising any of the same subdivision(s). The Community Development Department shall also establish distance restrictions from other on- or off-site signs to prevent visual blight.

G. No kiosk shall (1) display panels cumulatively exceeding forty square feet in area; (2) no kiosk shall exceed eight feet in overall height and five feet in overall width; and (3) the bottom edge of the lowest display panel shall not be lower than four feet above ground.

H. Kiosks shall be used only for the identification of subdivision(s) by name with an arrow for directional purposes. Such kiosks may also include the name of the builder or developer of each subdivision(s).

I. Kiosks and/or individual display panels installed thereon shall be removed within 10 days from the date of the final lot, house, or unit sale of the subdivision(s) identified thereon, or within 24-months after issuance of the sign permit provided for in paragraph "B" of this Section, whichever comes first. Extension of the 24-month time limit may be approved by the Community Development Department upon submittal of a written request by the permittee, or written consent of the property owner, prior to the sign permit expiration date, such extension not to exceed 6-months from the date of the sign permit expiration date.

J. All kiosks shall be (1) regularly updated to reflect subdivisions with lots, houses, or units still available for sale; and (2) maintained in good repair and free of graffiti at all times. The permittee shall repair any damage to public and/or private property, including repairs to irrigation systems, caused by installation, maintenance, or removal of the kiosk.

K. Any installed kiosk which fails to comply with the provisions of this chapter and all other laws of the City, may, upon 48 hour notice to the permittee and the permittee's failure to correct the non-compliance within 7 calendar days, be deemed a public nuisance and may be removed by the City.

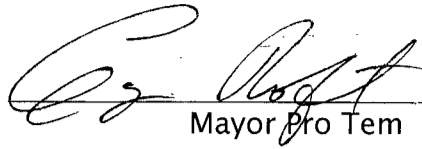
L. A refundable cash deposit of \$500.00 shall be required for each kiosk application. Such deposit shall be made at time of permit issuance to ensure compliance with this chapter and timely removal of such kiosk. The deposit shall be refunded to the permittee upon kiosk removal by the permittee and repair of any damage caused to public and/or private property, including repairs to irrigation systems, caused by removal of the kiosk. If the City removes any kiosk due to failure of the permittee to comply with provisions of this Chapter, or if City repairs any damage to public property resulting from permittee's failure to repair damage caused by installation, maintenance, or removal of the kiosk, the deposit provided for herein shall be forfeited in its entirety.

SECTION II. Severability. If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION III. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after passage.

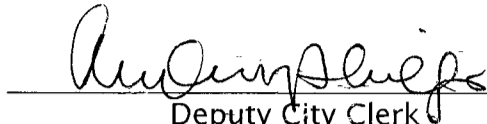
SECTION IV. Posting. The Deputy City Clerk shall certify to the passage of this Ordinance and cause the same to be posted pursuant to Government Code Section 36933.

APPROVED AND ADOPTED this 3rd day of April, 2017.



Mayor Pro Tem

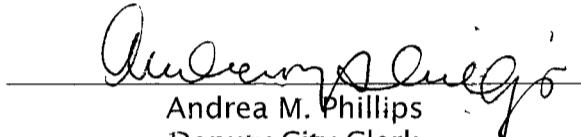
ATTEST:



Deputy City Clerk

I, Andrea M. Phillips, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 17-966 of said City, which was introduced at a regular meeting of the City Council held on the 20th day of March, 2017, and finally passed not less than five (5) days thereafter on the 3rd day of April, 2017, by the following vote, to-wit:

AYES: Martinez, Ruh, Dutrey, Raft
NOES: None
ABSTAIN: None
ABSENT: Eaton



Andrea M. Phillips
Deputy City Clerk