

ORDINANCE NO. 16-957

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF MONTCLAIR AMENDING SECTIONS 11.02.010
AND 11.72.370 OF THE MONTCLAIR MUNICIPAL
CODE RELATED TO ELECTRONIC MESSAGE CENTER
SIGNS**

WHEREAS, California Government Code Section 65800 et seq. authorizes the adoption and administration of zoning laws, ordinances, rules and regulations by cities as a means of implementing the General Plan; and

WHEREAS, Section 11.72.370 of Chapter 11.72 of the Montclair Municipal Code (MMC) sets forth regulations for the use of "electronic message board signs" in the City; and

WHEREAS, the City's zoning code currently restricts the use of Electronic Message Board Signs to uses or businesses occupying a minimum 20 acres in land area and other criteria set forth in Section 11.72.370 of the Montclair Municipal Code; and

WHEREAS, it is determined to be in the best interest of the City and its residents to amend Section 11.72.370 of Chapter 11.72 of the Montclair Municipal Code to allow the use of electronic message board signs in other locations; and

WHEREAS, the proposed code amendment adds the new term "Electronic Message Centers (EMCs)" and defines them as "programmable digital signs or message boards that utilize computer-generated messages, text and/or images, or some other electronic means of changing copy;" and

WHEREAS, the proposed code amendment also includes new locational criteria, design standards, and operational measures, which are aimed at controlling the undesirable effects of EMCs; and

WHEREAS, the proposed code amendment requires the approval of a Conditional Use Permit (CUP) prior to the installation of any Electronic Message Center within the City. The Conditional Use Permit process and conditions of approval will ensure compatibility with surrounding uses in the same zoning district; and

WHEREAS, on August 8, 2016, commencing at 7:00 p.m. in the Council Chambers at Montclair City Hall, the Planning Commission conducted a duly noticed public hearing at which time all persons wishing to testify in connection with said code amendment were heard, and said code amendment was fully studied; and

WHEREAS, on August 8, 2016, the Planning Commission unanimously recommended that the City Council approve the proposed code amendment; and

WHEREAS, on September 19, 2016, October 3, 2016, and October 17, 2016, the City Council held duly noticed public hearings on this Ordinance, at which time it considered all evidence presented, both written and oral; and

WHEREAS, the proposed amendment to the Municipal Code is consistent with the City's General Plan and each element thereof, which seek to guide and direct the orderly development of the City; and

WHEREAS, the proposed amendment will not adversely affect the public health, safety, or welfare in that it will provide for orderly and consistent development in the City; and

WHEREAS, the City Council finds that the proposed Ordinance is consistent with the General Plan's goals and policies to protect and enhance community character and appearance; and

WHEREAS, the City Council finds that this Ordinance is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Sections 15305 and 15311 of the State CEQA Guidelines. The proposed code amendment does not approve any construction activities but, instead, establishes standards, permit requirements, and other measures that regulate the locations and number of EMCs within the community; and

WHEREAS, the Director of Community Development is directed to file a Notice of Exemption in accordance with CEQA and the State CEQA Guidelines.

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

SECTION I. Chapter 11.02.010. (Definitions) of Title 11 ("Zoning and Development") of the Montclair Municipal Code, "Signs" Definition No. 16 ("Electronic Message Display") is hereby repealed and replaced with the following new term and definition:

"Electronic Message Centers (EMCs) are programmable digital signs or message boards that utilize computer-generated messages, text and/or images, or some other electronic means of changing copy."

SECTION II. Chapter 11.72.370 ("Electronic Message Board Sign") of Title 11 ("Zoning and Development") of the Montclair Municipal Code is hereby repealed and replaced in its entirety as follows:

Chapter 11.72.370
ELECTRONIC MESSAGE CENTER SIGNS

11.72.370 Electronic Message Center Displays.

Electronic Message Centers (EMCs) are programmable digital signs or message boards that utilize computer-generated messages, text and/or images, or some other means of changing copy. EMCs shall be allowed in specific locations and subject to the criteria set forth in this Section, subject to approval of a Conditional Use Permit (CUP) by the Planning Commission. The criteria in this Section shall be for freestanding EMCs. Building- and wall-mounted EMCs are prohibited.

A. Locational Criteria

EMCs shall be permitted on developed parcels within the City with a legally established land use and/or business, subject to the following locational criteria:

1. Non-Freeway-Oriented Signs. Non-Freeway-Oriented EMCs are subject to the following restrictions:

a. Shall be located on parcels having a minimum of 200 feet of lineal frontage on any of the following public arterial streets: Holt Boulevard, Mission Boulevard, Central Avenue, and Monte Vista Avenue; and

b. Shall be located on a parcel or adjoining parcels under common use and/or ownership cumulatively totaling a minimum of three (3) acres. If a parcel, or adjoining parcels, is being leased, the lease must have a minimum of five (5) or more years remaining on the term of the lease, calculated from the date a complete application is received by the City, and as evidenced by a copy of an executed lease agreement; and

c. Shall not be located within 200 lineal feet of any other permitted EMC, or within 50 lineal feet of any existing freestanding identification (monument) sign located on a separate parcel which is not associated with the subject site.

2. Freeway-Oriented Signs. Freeway-Oriented EMCs are subject to the following restrictions:

a. Shall be located on parcels, commercial businesses, regional centers, auto centers, or contiguous shopping centers occupying a minimum of seven (7) acres with a minimum of 700 lineal feet of continuous frontage along the Interstate 10 right-of-way; and

b. Shall be located on a parcel or adjoining parcels under common use and/or ownership cumulatively totaling a minimum of three (3) acres. If a parcel, or adjoining parcels, is being leased, the lease must have a minimum of five (5) or more years remaining on the term of the lease, calculated from the date a complete application is received by the City, and as evidenced by a copy of an executed lease agreement; and

c. Shall not be located within 1,200 lineal feet of any other permitted EMC ; and

d. Shall be located within 50 feet of the freeway right-of-way line of Interstate 10.

3. EMCs On City-Owned Property.

The City may construct and maintain civic signs for community entrance, identification, direction, and information, which are located on City-owned property or off premises in the public right-of-way, including but not limited to electronic, digital, programmable, and/or illuminated signs.

B. **EMC Structure Height and Display Size Limits.**

1. Non-Freeway-Oriented EMCs shall be subject to the following maximum dimensions/limits:

- a. Maximum height: 14'-0" above adjacent finished grade or adjacent sidewalk elevation.
- b. Maximum area of EMC display: 60 square feet.

2. Freeway-Oriented EMCs shall be subject to the following maximum dimensions/limits:

- a. Maximum height: 65'-0" above adjacent finished grade for the structure to which an EMC is attached. In addition, the top of the EMC display screen shall be a maximum of 50'-0" above adjacent finished grade to ensure safe readability to motorists on Interstate 10.
- b. Maximum area of EMC display: 260 square feet.

The height and EMC display size limits are summarized in the following table:

EMC Structure Height and Display Size Limits			
<i>Location/Type</i>	<i>Number of EMCs</i>	<i>EMC Display</i>	<i>Structure Height*</i>
<u>Non-Freeway-Oriented</u>	1	60 s.f. max.	14'-0" max
<u>Freeway-Oriented</u>	1	260 s.f. max.	65'-0" max
*Measured from adjacent finished grade or adjacent finished sidewalk or roadway.			

C. **Illumination and Display Requirements**

1. Maximum Illumination. No EMC sign display shall exceed a maximum illumination level of 0.3 foot-candles (fc) above ambient light level when measured at the recommended distance, based on the EMC size. All signs shall be equipped with an automatic dimmer control or other mechanism that automatically controls the sign's brightness to continually comply with this requirement. If brightness levels exceed the above standard, an adjustment shall be made within one (1) business day upon Notice of Non-Compliance from the City, or the sign shall be immediately turned off until the adjustment is completed.

- a. Pixel Pitch (resolution). All EMC display components shall be full color with a minimum pitch resolution of 20 millimeter spacing or better.
- b. Pixel Calibration. Pixel-to-pixel, module-to-module pixel calibration.

2. Measurement Criteria. The illuminance of an EMC shall be measured with an illuminance meter set to measure foot-candles accurate to at least two (2) decimals. Illuminance shall be measured with the EMC off, and again with the EMC displaying a white image. Measurements shall be taken after sunset with the site fully illuminated by installed site lighting. All measurements shall be taken perpendicular to the face of the EMC at the distance determined by the total area of the EMC display as set forth in the table below:

<i>EMC sign area (square feet)</i>	<i>Distance (feet)</i>	<i>EMC sign area (square feet)</i>	<i>Distance (feet)</i>	<i>EMC sign area (square feet)</i>	<i>Distance (feet)</i>
10	32	65	81	140	118
15	39	70	84	150	122
20	45	75	87	160	126
25	50	80	89	170	130
30	55	85	92	180	134
35	59	90	95	190	138
40	63	95	97	200	141
45	67	100	100	220	148
50	71	110	105	240	155
55	74	120	110	260	161
60	77	130	114	---	---

a. **Illumination Limits.** The difference between the “off” and “solid white” image measurements using the EMC measurement criteria shall not exceed 0.3 foot-candles on either side of the sign. If the measurement of illumination levels on each side of the sign is different, the side of the sign facing residentially-zoned properties shall take precedent.

b. **Dimming Capabilities.** All EMC displays shall be equipped with a sensor or other device that automatically determines the ambient illumination and is programmed to automatically dim the EMC display according to ambient light conditions, or that can be continuously adjusted to comply with the 0.3 foot-candle measurements.

c. **Initial Certification.** At least one week prior to initial operation of the EMC, the applicant shall submit written documentation from the manufacturer of the sign to certify to the City that the EMC is properly equipped with an automatic dimmer control or other mechanism that automatically controls the sign’s brightness to continually comply with the brightness levels specified in this ordinance.

D. Architectural and Siting Standards.

All EMCs shall be subject to the following standards:

1. **Design.** The EMC shall be designed to complement the design of the primary building on the property, including colors and materials. The design of the EMC shall include the following elements:

- a. A full/solid base structure (with no exposed poles or supports) extending the full width of the EMC; and
- b. A display screen framed by no less than six (6) inches on all sides; and
- c. A minimum clearance of four feet (4’-0”) between the bottom edge of the display screen and adjacent finished grade.
- d. Except for the name of the center or the primary business, no other individual sign faces of other businesses or entities shall be attached to the EMC structure.

2. **City Identification Required.** Freeway-Oriented EMCs shall incorporate and identify the “City of Montclair” as a permanent element in the overall design of the structure supporting the EMC display.

3. **Street Address Required.** Non-Freeway-Oriented EMCs shall display the numerical street address of the property/business in a location on the support structure. Numerical characters shall be individual, internally or halo-illuminated characters attached to, or routed into, the base and no less than eight inches (8”) in height. Numerals shall be permanently affixed to or displayed on the support structure a minimum of 24 inches above finished grade.

4. **Setbacks.** EMCs located on private property shall observe the following setback requirements:

- a. A minimum of five feet (5’-0”) from the adjacent public right-of-way or private street sidewalk. Where no sidewalk exists, no portion of the EMC display or associated support structure shall be closer than ten feet (10’-0”) from the adjacent curb face; and
- b. A minimum of ten (10’-0”) from side property line of adjacent property; and

c. A minimum of 25 lineal feet away from any vehicular driveway; and

d. A minimum of 10 lineal feet away from any pedestrian path-of-travel from the public sidewalk to any building on the subject property or adjacent property.

5. Line of Sight. All EMCs shall be sited on the subject parcel in a location offering optimal visibility to motorists and shall not be located in such a manner to obstruct the sight lines of motorists or pedestrians entering or leaving the subject property or adjacent properties. Further, EMCs located at an intersection shall be sited outside of the required corner cut-off area as set forth in Chapter 11.38 of this Title.

6. EMC Display Orientation. EMCs may be single-faced or double-faced. Double-faced EMCs shall be oriented perpendicular to Interstate 10 or the street to which they are adjacent, or, if located at an intersection of two streets, shall be oriented diagonally (perpendicular to the adjacent radius of the intersection) so as to be easily visible to motorists on the street segments adjacent to the property. Single-faced EMCs may only be installed at an intersection of two streets or at the end of a cul-de-sac. Single-faced EMCs at an intersection shall be oriented diagonally (generally parallel with the adjacent radius of the intersection) so as to be easily visible to motorists on the street segments distant from the property and so that the back side of the sign is not directly visible to a public right-of-way.

7. Landscaping. EMCs shall be placed within a landscaped area to provide sufficient protection from unintentional damage by vehicles on the property. Landscape material shall not obstruct the EMC display, business identification sign, and/or numerical address at the time of landscape installation or at maturity. It is further recommended that non-living landscape materials, such as decomposed granite, gravel, mulch, or the like, be used in lieu of live plant materials for a distance extending 24 inches around the base of the monument structure.

8. Durability. All EMC displays shall be silicone-sealed for adequate weather protection, shall have integral protective louvers (injection molded or aluminum) to ensure optimal daytime visibility and minimize vandalism, and carry a minimum five-year warranty from the manufacturer. Detailed plans demonstrating compliance with said construction standards and evidence of said warranty shall be submitted at the time of plan check prior to issuance of building permits.

9. Maximum Number. No more than one EMC shall be permitted per qualifying parcel, including parcels with multiple street frontages. Parcels with an EMC shall not be entitled to a monument sign on the same street frontage to identify the name(s) of the business(es) on the property. Any existing pylon or monument sign on a qualified site and on the same street frontage as a proposed EMC, which would be in conflict with the requirement of this Section, shall be required to be permanently removed as a condition of approval.

10. Compliance with Regulations. All EMCs shall comply with all regulations related to electronic displays imposed by federal and state agencies.

E. EMC Operational Standards.

1. Digital images shall contain static messages only. Scrolling or flashing messages are prohibited.

2. EMCs shall display each static message for a minimum of four (4) seconds.

3. The only permissible transitions between static messages shall be a "cut" (an instant change from one image to the next) or a "dissolve" or "crossfade" (gradual fade from one image to the next).

4. EMCs shall display a single message at any one time. Split screens shall not be permitted.

5. Hours of Operation. No restrictions on the hours of operation for approved Freeway oriented EMC displays. For Non-Freeway-Oriented signs, hours of operation shall be determined by the Planning Commission on a case by case basis depending on the size of the EMC, the proposed location, and proximity of the EMC to residential properties or other sensitive land uses.

6. Representatives of the Community Development Department shall have the right to inspect the EMC on a periodic basis to ensure that it is operating in compliance with this Section.

7. Subject to the property owner's consent, a noncommercial message of any type may be substituted for any duly permitted or allowed commercial message or any duly permitted or allowed noncommercial message, unless otherwise prohibited by law.

F. EMC Maintenance Standards.

1. Paint and other finishes on the EMC display and support structure shall be maintained in good condition. Damaged or substandard finishes shall be repaired within 14 days of notification by the City.

2. Mineral deposits and stains shall be removed on a regular basis. Vandalism, graffiti, or damaged surfaces shall be repaired immediately. All repairs shall demonstrate high quality workmanship (e.g., straight, level, plumb, square, etc., as the situation requires) and restore the exterior materials and finishes of the EMC or EMC structure to its original appearance, subject to approval of the Community Development Director.

3. The owner of the EMC shall maintain an ongoing written maintenance agreement with a qualified licensed sign maintenance contractor. The Community Development Department shall be provided documentation of such an agreement upon request.

G. Malfunction.

EMC signs shall be designed and equipped to immediately discontinue the display of images or text if sign malfunctions. If, at any time more than 25 percent of the digital display lights malfunction or are no longer working, the owner of an EMC shall turn off the display until repairs are made. The owner of an EMC sign shall provide to the City of Montclair, the name and number of a contact person that is on call at all times and who is able to turn off the digital sign promptly if a malfunction occurs.

H. Enforcement/Penalties.

Noncompliance with any of the provisions of this section or the conditions of approval of an EMC shall be grounds for revocation of any issued Conditional Use Permit as provided in Section 11.78.100A. Prior to initiating revocation proceedings, the City shall provide written notice of such violation(s) to the owner of the EMC and a reasonable timeframe, not to exceed 30 days from the date of written notice, to cure the noncompliant conditions.

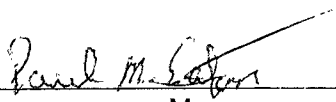
Any person or entity violating or failing to comply with any of the requirements of this chapter shall be guilty of a violation pursuant to Chapter 1.12 of this Code.

SECTION III. Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional.

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

SECTION V. 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 17th day of October, 2016.



Mayor

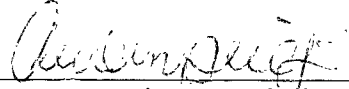
ATTEST:



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. 15-957 of said City, which was introduced at a regular meeting of the City Council held on the 3rd day of October, 2016, and finally passed not less than five (5) days thereafter on the 17th day of October, 2016, by the following vote, to-wit:

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



Andrea M. Phillips
Deputy City Clerk