

# EMAILS RECEIVED REGARDING AGENDA ITEMS

## CITY OF ALBANY, CALIFORNIA



ALBANY CITY HALL  
1000 SAN PABLO AVENUE  
ALBANY, CALIFORNIA 94706

***Item 10-1:  
Repeal and Replace Sign  
Ordinance, Proposed Ordinance  
No. 2019-10***

**CITY COUNCIL MEETING  
December 2, 2019**

**From:** [Preston Jordan](#)  
**To:** [citycouncil](#)  
**Subject:** draft sign ordinance flaws?  
**Date:** Sunday, December 1, 2019 8:01:50 AM

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[EXTERNAL EMAIL.]

Hello City Council-

Please do not pass the draft sign ordinance without addressing the apparent errors and including the clarifications described below.

Thank you for your consideration.

Preston

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### **Time limitation**

According to *Ladue v. Gilleo*, 512 U.S. 43 (1994), "Local governments cannot enforce a general rule forbidding all signs on residential property." <https://supreme.justia.com/cases/federal/us/512/43/> Proposed section 20.32.50(A) prohibits noncommercial signs on residential property outside of the proscribed period surrounding elections. This violates the aforementioned U.S. Supreme Court decision because it would prohibit all signs on residential property for more than a year at a time (the period from one general election to the next primary election).

Adoption of the ordinance in its current form would require the City to enforce the removal of the hundreds of non-commercial signs residents have placed in their yards outside of the proscribed period. Signs such as those declaring, in part, "science is real," among other phrases. It is unlikely the City intends to expend the effort, and therefore funds, to carry out this action. This suggests the City's will selectively enforce the prohibition only with regard to campaign signs. If so, this action would de facto violate *Reed v. Town of Gilbert*, 576 U.S. \_\_\_\_ (2015) <https://supreme.justia.com/cases/federal/us/576/13-502/>, which generally requires government action to apply to all noncommercial signs equally without regard to their content.

### **Maximum sign area limitation**

The combination of 20.32.040(C), 20.32.050(C), and 20.32.080(A) limits the number of four-square foot signs to two per residential property. This limit has been struck down as too restrictive by the Fourth Federal Circuit Court (*Arlington County Republican Committee v. Arlington County*, 983 F.2d 587 (4th Cir., 1993)).

### **City sponsored-signs**

20.32.045(E) allows "City sponsored signs" "for up to thirty (30) days on City property." "City sponsored" is not defined. As such it could be construed to include signs such as those that comprise "Fall into Haiku". However, those signs are up for more than 30 days. It would be useful to include a definition of "city sponsored signs" in the ordinance. If the signs comprising Fall into Haiku fall under that definition then upward adjustment of the 30 day

limit should be considered.

### **Sign noticing**

20.32.045(E) allows "City sponsored signs" "for up to thirty (30) days on City property with prior notice and authorization by City of Albany staff. The notice shall include the time duration for installation and locations of City property." The ordinance does not include the timing and distribution requirements of the notice. Without such requirements, notice could be provided in a manner that fulfills the ordinance without meeting the intended goal of informing interested residents.

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Preston Jordan  
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*"If you don't like the news ... go out and make some of your own."* - Scoop Nisker