

April 19, 2005

**Honorable Mayor and Members of the  
Hermosa Beach City Council**

**Regular Meeting of  
April 26, 2005**

SUBJECT: TEXT AMENDMENT 05-1 -- TO ALLOW SIGN OWNERS TO SUBSTITUTE  
NON-COMMERCIAL SPEECH ON A COMMERCIAL SIGN

INITIATED BY THE CITY ATTORNEY

**Planning Commission Recommendation:**

To recommend the City Council amend Section 17.50.010, to add a substitution clause that will allow the substitution of non-commercial sign copy on commercial signs.

**Background:**

The City Attorney is recommending that the City make this amendment to be consistent with case law regarding freedom of speech under the First Amendment to the Constitution.

**Analysis:**

The City is not generally permitted to regulate signs on the basis of what the sign says (the content), only on physical characteristics and location. A substitution clause will allow an owner to substitute non-commercial speech for any commercial speech on an otherwise legal sign. For example, a sign owner could remove the name of a store and substitute a political or religious message. Currently the sign ordinance favors commercial speech over non-commercial speech, which is not consistent with case law.

The City Attorney is advising that without this substitution clause the City is open to potential lawsuits, which may either cost the City in legal fees, or invalidate other provisions of the sign ordinance.

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Sol Blumenfeld, Director  
Community Development Department

Concur:

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Stephen R. Burrell  
City Manager

**Attachments:**

1. Proposed Ordinance

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## RESOLUTION P.C. 05-

### AN ORDINANCE OF THE CITY OF HERMOSA BEACH, CALIFORNIA, TO AMEND THE ZONING ORDINANCE, SECTION 17.50.010, TO ALLOW NON-COMMERCIAL SPEECH ON COMMERCIAL SIGNS

The City Council of the City of Hermosa Beach does ordain as follows:

Section 1. The Planning Commission held a duly noticed public hearing on March 15, 2005, to consider amending the Zoning Ordinance, Chapter 17.50, to allow sign owners to substitute non-commercial sign speech on commercial signs and recommended that said section be amended.

Section 1. The City Council held a duly noticed public hearing on April 19, 2005, to consider the recommendation of the Planning Commission to amend the Zoning Ordinance, Chapter 17.50, to allow sign owners to substitute non-commercial sign speech on commercial signs.

Section 2. Based on the evidence considered at the public hearing and the record of the Planning Commission, the City Council makes the following findings:

1. The Zoning Ordinance, Chapter 17.50, Signs, currently is not consistent with case law regarding non-commercial speech as it favors commercial speech.

Section 3. Based on the foregoing, the City Council hereby ordains that the Hermosa Beach Municipal Code, Title 17-Zoning, Chapter 17.50 be amended as follows:

1. Amend Section 17.50.010 by adding sub-section D as follows:

“D. Notwithstanding any other provision of this Code, any noncommercial copy may be substituted for any commercial copy on any sign permitted by this Code. If noncommercial sign copy is substituted, the resulting sign will continue to be treated as the original commercial sign under this Code and will not be deemed or treated as an off-premises sign. The content of any noncommercial copy on any sign otherwise permitted by this Code may be changed without complying with any provisions of this Code normally required for sign copy or design approval.”

Section 4. This ordinance shall become effective and be in full force and effect from and after thirty (30) days of its final passage and adoption.

Section 5. Prior to the expiration of fifteen (15) days after the date of its adoption, the City Clerk shall cause this ordinance to be published in the Easy Reader, a weekly newspaper of general circulation published and circulated, in the City of Hermosa Beach in the manner provided by law.

Section 6. The City Clerk shall certify to the passage and adoption of this ordinance, shall enter the same in the book of original ordinances of said city, and shall make minutes

of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted.

**PASSED, APPROVED and ADOPTED** this        day of        , 2005, by the following  
vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

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PRESIDENT of the City Council and MĀYOR of the City of Hermosa Beach,  
California

ATTEST: \_\_\_\_\_ APPROVED AS TO  
FORM: \_\_\_\_\_  
                    City Clerk

City Attorney