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## Orinda Weighs Blight vs First Amendment

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Signs - visual clutter or free speech? This question was on the minds of the Orinda Planning Commission recently as it discussed amending the City's Sign Code to ensure that area signage will not diminish the community's character - an issue made thornier since the American Civil Liberties Union of Northern California (ACLU) advised City leaders in 2010 that their efforts to avert the proliferation of temporary signs were unconstitutional.

"To prevent visual clutter, the Ordinance No. 10-05 only permits one temporary sign on a residential property without a permit," according to the detail-rich staff report available on the City's web site: [www.ci.orinda.ca.us](http://www.ci.orinda.ca.us). This ordinance also "restricted the placement of temporary signs in the public right-of-way to Tuesday, Saturday and Sunday between the hours of 8:00 am and 6:00 pm and only in residential districts."

Those regulatory specifics, among others, did not sit well with several Orindans during the 2010 campaign season, prompting the ACLU to advise the City:

"This severe limitation on Orinda residents' right to engage in political speech violates the First Amendment. Speech through residential signs is a 'venerable means of communication ... the Supreme Court has accordingly afforded it a high level of First Amendment protection.'" The ACLU also noted that "the court invalidated [a Virginia] ordinance that was in fact more permissive than Ordinance 10-5."

In response, the City Council directed staff to draft new regulations. Those were presented to the Planning Commission on January 10. The proposed ordinance would create a new one-day sign category and place temporary signs in a separate category including sandwich boards and other signs for political campaigns, garage sales, and real estate.

For temporary signs in the public right-of-way, reads the proposed ordinance, "any number of portable temporary signs can be posted at the eight key intersection [sic] designated by the City" - as long as those signs comply with 13 general restrictions relating to the signs' size, construction and design, and location. Content would not be regulated for non-commercial signs.

Planners were mindful of the need for businesses to advertise and expressed support for the free speech process, but were also concerned about the possible implications of Council's decision to allow the unlimited placement of signs in designated areas, citing not only the potential visual impact to public and private property but also the possibility that backers of a single political candidate or ballot initiative could actually hinder freedom of speech because they would be permitted to take over a public right-of-way to exclusively promote one candidate or issue. The City Council will formally review the draft ordinance at its February 7 meeting.

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