

REPORT TO CITY COUNCIL

DATE: NOVEMBER 28, 2011

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

BY: RAMIRO ADEVA, DIRECTOR OF PUBLIC WORKS/CITY ENGINEER

SUBJECT: INTRODUCTION OF ORDINANCE NO. 11-390, AN ORDINANCE OF THE CITY OF AGOURA HILLS, CALIFORNIA, REGARDING MOBILE BILLBOARD ADVERTISING DISPLAYS AND AMENDING THE AGOURA HILLS MUNICIPAL CODE

This report addresses the introduction of an ordinance prohibiting mobile billboard advertising displays.

In 2010, the Legislature enacted AB 2294 and AB 2756 to amend the Vehicle Code to authorize local jurisdictions to regulate “mobile billboard advertising displays.” Among other findings, the Legislature determined that communities across the state are experiencing a surge in mobile billboards, that mobile billboards cause safety hazards and visual blight, and local governments have been unsuccessful dealing with mobile billboards due to litigation and code enforcement difficulties. Thus, the Legislature declared “it is necessary to empower local jurisdictions to address this serious public nuisance and to protect public safety.”

The mobile billboard advertising displays can also be dangerous. Parked improperly, they can limit visibility to drivers and be a danger to cyclists. In addition, their lightweight size makes them vulnerable to movement or displacement by mischief-makers.

In one instance, Code Enforcement Officers found a sign tipped over onto the roadway. In total, staff found six mobile billboards scattered throughout the City at the following locations: intersections of Lake Lindero and Thousand Oaks Boulevard, Forest Cove and Thousand Oaks Boulevard, Grey Rock and Thousand Oaks Boulevard, Kanan Road – south of Hillrise, Canwood Street-west of Reyes Adobe Road, and City Hall. Efforts to address this situation using existing Municipal Code ordinances and remedies were not as effective as desirable. Staff, the City Prosecutor, and the City Attorney, therefore, are recommending that the City Council exercise the powers granted by AB 2294 and AB 2756.

California Vehicle Code Section 395.5 defines a “mobile billboard advertising display” as “an advertising display that is attached to a wheeled, mobile, nonmotorized vehicle, that carries, pulls, or transports a sign or billboard, and is for the primary purpose of advertising.” The proposed ordinance incorporates this definition by reference and makes it unlawful to park or leave standing a mobile billboard advertising display on any public street or public place in

which the public has the right of travel. Additionally, the ordinance authorizes the removal of a mobile billboard advertising display after the owner has been issued a warning citation, and provides for a post-storage impound hearing. The ordinance implements Vehicle Code Sections 21100(m), 22651(v), and 22852.

Under the new ordinance, the City would be required to issue a warning citation to the mobile billboard owner upon a first time offense. Subsequently, the City would be permitted to remove and impound the mobile sign after a period of 24 hours. The mobile advertising owner would be notified in writing within 48 hours of the impound. The sign owner would then have 10 days to request an administrative hearing, which must be held within 48 hours of the request.

The attached ordinance, if adopted, would permit the City to initiate quick action against mobile advertising displays and discourage their placement in the City. Following the first reading, this item would return to the Council at the December 14, 2011, meeting for final approval. The ordinance will officially go into effect January 14, 2012, 30 days after City Council approval.

RECOMMENDATION

Staff respectfully recommends that the City Council introduce, read by title only, and waive further reading of Ordinance No. 11-390; An Ordinance of the City of Agoura Hills, California, Regarding Mobile Billboard Advertising Displays and Amending the Agoura Hills Municipal Code.

Attachment: Ordinance No. 11-390

ORDINANCE NO. 11-390

**AN ORDINANCE OF THE CITY OF AGOURA HILLS, CALIFORNIA,
REGARDING MOBILE BILLBOARD ADVERTISING DISPLAYS
AND AMENDING THE AGOURA HILLS MUNICIPAL CODE**

**THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES ORDAIN AS
FOLLOWS:**

Section 1. Findings and Intent.

A. Mobile billboard advertising displays create significant safety hazards when motorists and cyclists are forced to veer around them into the next lane of traffic, or are forced to come to sudden stops when these unhitched trailers or vehicles are pushed into traffic lanes by the wind or by vandals.

B. Mobile billboard advertising displays create significant safety hazards by impairing the sight distances for pedestrians, cyclists and drivers.

C. Mobile billboard advertising displays are a visual blight, and are especially susceptible to vandalism that can diminish the aesthetic appearance of Agoura Hills and the quality of life of its residents.

D. State law authorizes municipalities to adopt regulations for mobile billboard advertising displays, which may include removal of a mobile billboard advertising display and misdemeanor criminal penalties.

E. The California Court of Appeal decision in the case of *SHARK v. City of West Hollywood*, 166 Cal.App.4th 815 (2008), holds that a content-neutral ban on mobile billboard advertising displays does not violate free speech protections of the federal and state constitutions.

F. The purpose of this Ordinance is to establish a content-neutral prohibition on mobile billboard advertising displays within Agoura Hills in order to promote the safe movement of traffic and the aesthetic appearance of the City.

Section 2. Code Amendment. Article III (“Public Safety”) of the Agoura Hills Municipal Code is hereby amended by adding a new Chapter 9 to read as follows:

**“CHAPTER 9
MOBILE BILLBOARD ADVERTISING DISPLAYS**

3900. Title.

This Chapter shall be known and may be cited as the “Mobile Billboard Advertising Displays Ordinance.”

3901. Intent.

It is the intent of this Chapter to implement the provisions of California Vehicle Code Sections 21100(m), 22651(v), and 22852.

3902. Definition.

For purposes of this chapter, the term “mobile billboard advertising display” has the meaning provided by California Vehicle Code Section 395.5 as such statute now reads and may hereafter be amended.

3903. Prohibition.

It shall be unlawful for any person to park or leave standing a mobile billboard advertising display on any public street or public property within the City. Any such mobile billboard advertising display shall be considered to be parked or left standing in violation of this section if it has not been moved more than one-quarter (1/4) of a mile (one thousand three hundred and twenty feet) away after having been parked or left standing for up to a one-hour (60 minutes) period.

3904. Impound Authorization.

Any peace officer, or any regularly employed and salaried City employee who is engaged in directing traffic or enforcing parking laws and regulations, may remove a mobile billboard advertising display found upon any public street or public property within the City when all of the following are true:

- A. The mobile billboard advertising display is parked or left standing in violation of this chapter.
- B. The registered owner of the mobile billboard advertising display was previously issued a warning citation for violation of this chapter.
- C. The warning citation was issued to a first-time offender at least twenty-four (24) hours prior to the removal of the mobile billboard advertising display and the warning citation advised the registered owner of the mobile billboard advertising display that upon a subsequent violation of this chapter he or she may be subject to penalties that may include removal of the mobile billboard advertising display.

3905. Post-Impound Hearing.

A. Whenever a peace officer, non-sworn code enforcement officer, or non-sworn parking enforcement officer of the City directs the storage of a mobile billboard advertising display, the City shall provide the registered and legal owner(s) of record of the mobile billboard advertising display, or their agent(s), opportunity for a post-storage hearing to determine whether reasonable grounds justified the removal. Notice of the storage shall be mailed or personally delivered to the registered and legal owner(s) within forty-eight (48) hours, excluding weekends and holidays.

B. The owner(s) of record, or their agent(s), must request a hearing in person, in writing, or by telephone to the City Clerk within ten (10) days of the date appearing on the notice or the right to hearing is waived.

C. The City shall conduct the hearing within forty-eight (48) hours, excluding weekends and holidays, of receipt of the request, unless such timeframe is waived in writing by the person requesting the hearing. The City shall inform the person(s) requesting the hearing of the time and place for the hearing.

D. The City may authorize any officer or employee to conduct the hearing, provided that the hearing officer is not the person who directed the storage of the vehicle. The hearing officer shall determine the validity of the removal and storage of the mobile billboard advertising display at the conclusion of the hearing.

E. Following the hearing, if the hearing officer finds that the mobile billboard advertising display was improperly removed and stored, it shall be released to the owner at the storage facility and the City shall bear the cost of removal and storage. Otherwise, the mobile billboard advertising display shall be returned to the owner only after payment of any and all fines or fees, any outstanding amounts owed to the City for previous violations involving the same or similar mobile billboard advertising displays, and the costs of removal and storage incurred by the City up to the time of release. The hearing officer shall determine the total amount to be paid prior to release of the mobile billboard advertising display, consistent with this subsection.

3906. Violations.

After an initial warning citation, any subsequent violation of this chapter is a misdemeanor, punishable pursuant to Chapter 2 (Penalties) of Article I (General Provisions) of this Code.”

Section 4. **CEQA.** The City Council hereby finds that it can be seen with certainty that there is no possibility the adoption of this Ordinance may have a significant effect on the environment because the adoption of this Ordinance will impose greater limitations on mobile billboard advertising displays in the City, and will thereby serve to reduce potential significant adverse environmental impacts. It is therefore exempt from California Environmental Quality Act review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations.

Section 5. **Severability.** If any section, subsection, 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 declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 6. Certification and Posting. The City Clerk of the City of Agoura Hills shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law. This Ordinance shall go into effect on the 31st day after its adoption.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2011.

CITY OF AGOURA HILLS:

Harry Schwarz, Mayor

ATTEST:

Kimberly M. Rodrigues, MMC
City Clerk

APPROVED AS TO FORM:

Craig A. Steele
City Attorney