



## REPORT TO CITY COUNCIL

**DATE:** DECEMBER 14, 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. 11-394, AMENDING CHAPTER 6 OF ARTICLE V OF THE AGOURA HILLS MUNICIPAL CODE RELATING TO THE CITY'S NUISANCE ABATEMENT ORDINANCE

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This report addresses the introduction of an ordinance amending Chapter 6 of Article V of the Agoura Hills Municipal Code relating to the City's Nuisance Abatement Ordinance.

In the past, private developments, both residential and commercial, have been occasionally conditioned as part of their entitlement to install landscaping improvements within the public right-of-way (ie: parkways, medians, etc). Furthermore, once the developments were completed, the City remained the underlying owner of the land, while the maintenance responsibility of those areas remained with the development, in perpetuity. Therefore, Homeowners Associations (HOA) and/or Property Owners Associations (POA) were being held accountable for the maintenance of such areas in the public right-of-ways.

Despite this maintenance arrangement, there have been several instances where HOA's and/or POA's have not complied with their maintenance requirements, and as a result, these areas have become blighted eyesores full of dead landscaping and/or overgrown brush.

Currently, the City's code contains nuisance abatement language, but it is specific to private homeowners keeping their private lots maintained, and is silent in this regard to entities such as HOA's and POA's maintaining these areas in the public right-of-way.

Therefore, staff is proposing to amend the current nuisance abatement section of the code to include "private property owners, developers, homeowners associations, and property owners associations." By broadening the code in this way, the City will extend the due process of code enforcement as currently outlined for private homeowners, which in turn includes the penalties associated with violations of this code section, namely recurring citations and fines. Furthermore, if this process still proves ineffective in gaining compliance, the City can pursue the option of completing the work, and then back charging the non-compliant entity.

In addition, the revised ordinance seeks to insert the words "City Manager" in place of all the references to "Community Development Director."

Following the first reading, this item would return to the Council at the January 11, 2012, meeting for final approval. The ordinance will officially go into effect February 10, 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. 11-394; An Ordinance of the City of Agoura Hills, California, amending Chapter 6 of Article V of the Agoura Hills Municipal Code Relating to the City's Nuisance Abatement Ordinance

Attachment: Ordinance No. 11-394

## ORDINANCE NO. 11-394

### AN ORDINANCE OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING CHAPTER 6 OF ARTICLE V OF THE AGOURA HILLS MUNICIPAL CODE, RELATING TO THE CITY'S NUISANCE ABATEMENT ORDINANCE

The City Council of the City of Agoura Hills does hereby ordain as follows:

**SECTION 1.** Section 5602 of Chapter 6 of Article V of the Agoura Hills Municipal Code is hereby amended to add the following term and definition after the term "Building" and before the term "Completion":

**SECTION 2.** Section 5605 of Chapter 6 of Article V of the Agoura Hills Municipal Code is hereby amended to read as follows:

**"5605. Substandard property.**

The existence or maintenance of substandard property is prohibited, unlawful and constitutes a public nuisance. Any one or more of the following conditions shall constitute substandard property.

- (1) Substandard buildings;
- (2) Unpainted buildings causing dry rot, warping and termite infestation;
- (3) Broken, missing or inoperable windows or doors;
- (4) Overgrown vegetation which is detrimental to public health, safety or welfare or which detracts from the appearance or property values of the immediate neighborhood. Overgrown vegetation is defined to include any of the following, without limitation:
  - a. Vegetation likely to harbor rats, vermin and/or pestilence.
  - b. Vegetation hanging over, or obstructing, public rights-of-way or creating a pedestrian or vehicular hazard in the use of public property.
  - c. Vegetation causing or adding to a fire hazard, including, without limitation, plants, hedges, shrubs or trees growing on or upon the roof of any structure, or within such close proximity of a roof structure or utility line so as to constitute a fire code violation.
  - d. Vegetation, with any of the characteristics or conditions listed in this subsection (4) of this section, located in the public right-of-way (i.e.: medians, parkways, etc) conditioned or required to be maintained by private property owners, developers, homeowner associations, or property owners associations.

- (5) Dead vegetation which is detrimental to public health, safety or welfare. Dead vegetation is defined to include any of the following, without limitation:
- a. Decayed, diseased or hazardous vegetation, including neglected, poorly watered or unwatered, untrimmed or otherwise uncared for, trees, weeds, ground cover, shrubs, hedges, bushes, plants and other vegetation that cause or contribute to any one of the following conditions:
    - (i). A danger to public health, safety and welfare.
    - (ii). A detriment to nearby property, or the value thereof.
    - (iii). Causing or adding to a fire hazard.
    - (iv). The creation or promotion of dust or soil erosion.
    - (v). Unattractive or unsightly appearance that is contrary to community standards as established by surrounding or nearby properties.
    - (vi). The absence of any vegetation where approved or required by the City of Agoura Hills.
  - b. Vegetation, with any of the characteristics or conditions listed in this subsection (5) of this section, located in the public right-of-way (medians, parkways, etc) conditioned or required to be maintained by private property owners, developers or homeowner associations.
- (6) Trailers, campers, recreational vehicles, boats and other related apparatus placed or stored in an area that is visible from a public street;
- (7) Trailers, campers, recreational vehicles, trucks, and boats that exceed six (6) feet in height and that are parked for more than forty-eight (48) hours within five (5) feet of any side property line.
- (8) Inoperable or abandoned motor vehicles, or parts thereof, placed or stored in an area that is visible from a public street;
- (9) Abandoned, broken, discarded, or neglected equipment, machinery or furniture placed or stored for a period of more than forty-eight (48) hours in an area that is visible from a public street;
- (10) Clothesline in front yard areas;
- (11) Garbage cans placed or stored in front or side yards and visible from a public street, except when placed in places of collection at the times permitted;
- (12) Packing boxes, paper products or other debris placed, accumulated, or stored in yard areas visible from a public street or adjacent private property;

- (13) Maintenance of premises in such condition as to be detrimental to the public health, safety or welfare, or in such manner as to constitute a public nuisance as defined by Civil Code Section 3480.
- (14) Property, including, but not limited to, building exteriors which are visible from a public right-of-way or adjacent private property and maintained in such condition as to become so defective, unsightly, or in such condition of deterioration or disrepair that the same detracts from the appearance of the immediate neighborhood. This includes, but is not limited to, the keeping or disposing, of or the scattering over, the property or premises of any of the following:
  - a. Lumber, junk, trash or debris;
  - b. Abandoned, discarded or unused objects of equipment such as automobiles, furniture, stoves, refrigerators, freezers, cans or containers;
  - c. Stagnant water, or excavations;
  - d. Any device, decoration, design, fence, structure, clothesline or vegetation which is unsightly by reason of its condition or its inappropriate location;
- (15) Grading which does not meet the minimum standards set forth in the building code of the City of Agoura Hills, or which is done in violation of this Code or any other city or state law regulating grading.
- (16) Any other condition or activity on real property that violates any local, state or federal law or regulation, or that is contrary to any public agency approval, permit, or condition thereof.”

**SECTION 3.** If any section, subsection, sentence, clause, portion, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, portion, or phrase without regard to whether any other section, subsection, sentence, clause, portion, or phrase of the Ordinance would be subsequently declared invalid or unconstitutional.

PASSED, APPROVED AND ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2011.

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John M. Edelston, MAYOR

ATTEST:

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Kimberly Rodrigues, City Clerk

Approved as to Form

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Craig A. Steele, City Attorney