

MOTION

I HEREBY MOVE that the Council ADOPT the following recommendation of the City Attorney relative to prohibiting the parking of mobile billboard advertising displays (Item No. 14, Council file No. 11-1532), **SUBJECT TO THE APPROVAL OF THE MAYOR:**

PRESENT and ADOPT the accompanying revised Ordinance repealing and replacing Los Angeles Municipal Code Sections 87.53 and 87.54 to conform to amendments made to California law that allow the City to prohibit mobile billboard advertising displays, either standing alone or attached to a motor vehicle, from parking on City streets and public lands, and to regulate the size, width, and height of advertisements attached to motor vehicles.

PRESENTED BY _____
DENNIS ZINE
Councilmember, 3rd District

SECONDED BY _____
MITCHELL ENGLANDER
Councilmember, 12th District

March 7, 2012

CF 11-1532

ORDINANCE NO. _____

An Ordinance amending Los Angeles Municipal Code Sections 87.53 and 87.54 to conform with amendments made by the California Legislature to California Vehicle Code Section 21100, which allow the City to regulate the parking of mobile billboard advertising displays, either standing alone or attached to motor vehicles, on public streets or any public lands in the City and to regulate the size, width and height of advertisements attached to motor vehicles.

The City finds and declares the following:

WHEREAS, the City has experienced a surge in mobile billboard advertising displays that are attached to vehicles or trailers that are then driven to a location where they are detached and parked on City streets for hours, and often several days;

WHEREAS, mobile billboard advertising displays are not only a visual blight, but also pose significant safety hazards when motorists are forced to veer around them into the next lane of traffic, or forced to come to sudden stops when these unhitched trailers are pushed into traffic lanes by the wind or by vandals;

WHEREAS, mobile billboard advertising displays, standing alone in the street or attached to motor vehicles, reduce available on-street parking and impair the visibility of pedestrians and drivers;

WHEREAS, mobile billboard advertising displays are a public nuisance that are routinely vandalized, diminishing the aesthetic appearance of the City and the quality of life of its residents;

WHEREAS, the owners and operators of mobile billboard advertising displays have routinely parked the devices in residential neighborhoods for weeks at a time, blighting the neighborhoods and provoking arguments with residents, including one highly publicized incident where an owner of a mobile billboard advertising display parked in front of a residence and confronted a resident at gunpoint;

WHEREAS, the California Legislature amended Section 21100 of the California Vehicle Code in 2010 to allow local authorities to adopt rules and regulations by ordinance or resolution regulating mobile billboard advertising displays as defined in Section 395.5 of the California Vehicle Code, including the establishment of penalties, which may include, but are not limited to, removal of the mobile billboard advertising display pursuant to Section 22651(v)(2) of the California Vehicle Code, and misdemeanor criminal penalties for a violation of the ordinance or resolution;

WHEREAS, the City in 2010 adopted a local ordinance, Los Angeles Municipal Code Section 87.53, prohibiting mobile billboard advertising displays as defined in California Vehicle Code Section 395.5;

WHEREAS, violators of Los Angeles Municipal Code Section 87.53 have attached mobile billboard advertising displays, as defined under California Vehicle Section 395.5, to bicycles and other devices in an effort to circumvent the law;

WHEREAS, the California Legislature amended Section 395.5 of the California Vehicle Code in 2011, effective January 1, 2012, to clarify to violators of a local ordinance prohibiting mobile billboard devices, as defined under Section 395.5, that a “mobile billboard advertising display means an advertising display that is attached to a mobile, non-motorized vehicle, device, or bicycle, that carries, pulls, or transports a sign or billboard, and is for the primary purpose of advertising;”

WHEREAS, the California Legislature has amended Subdivision (p)(1) of Section 21100 of the California Vehicle Code to allow local authorities to regulate advertising signs on motor vehicles parked or left standing upon a public street, including establishing, through a local ordinance or resolution, a minimum distance that the advertising sign shall be moved after a specified time;

WHEREAS, the California Legislature has amended Subdivision (p)(2) of Section 21100 of the California Vehicle Code to state that Subdivision (p)(1) of Section 21100 does not apply to advertising signs that are painted directly upon or are permanently affixed to the body of, an integral part of, or fixture of a motor vehicle for permanent decoration, identification, or display and that do not extend beyond the overall length, width or height of the vehicle;

WHEREAS the California Legislature in amending Subdivision (p)(2) of Section 21100 of the California Vehicle Code did not include an exception to Subdivision (p)(1) that would exclude local authorities from regulating mobile billboard displays, either by resolution or ordinance, including prohibiting the standing or parking of a mobile billboard display pursuant to California Vehicle Code Section 22651(v)(2), either standing alone or attached to a motor vehicle, on any public street or public lands in the City;

WHEREAS, mobile billboard advertising displays, standing alone or attached to motor vehicles, have been routinely observed to be lacking the safety equipment as required under California Vehicle Sections 24250, 24600, 24603, 24604, 24607, 24950 and 29000, *et seq.*, in order to be safely hitched, driven, moved, parked or left standing on the public streets in the City; therefore, posing a safety hazard for vehicular traffic;

WHEREAS, mobile billboard advertising displays, either standing alone or attached to a motor vehicle, have been routinely observed to be in violation of California Vehicle Code Section 4000, which prohibits a trailer from being driven, moved, or left standing on a highway unless it is registered and appropriate fees have been paid under the permanent trailer identification program set forth in California Vehicle Code Section 5014.1;

WHEREAS, mobile billboard advertising displays attached to motor vehicles parked or left standing on City streets have been observed to be in violation of California Vehicle Code Section 5017, which makes it unlawful to attach or use a trailer identification plate issued to a trailer pursuant to California Vehicle Code Section 5014.1 on any other trailer or equipment;

WHEREAS, mobile billboard advertising displays attached to motor vehicles parked or left standing on City streets have been observed to be in violation of California Vehicle Code Sections 22511.56 and 22511.57, which make it unlawful to misuse a disabled person placard or plate, including when a disabled placard or plate is displayed on a vehicle that is not being used to transport, and is not in the reasonable proximity of, the person to whom the license plate or placard was issued or a person who is authorized to be transported in the vehicle displaying that placard or license plate; or when the license plate or placard has been reported as lost, stolen, surrendered; canceled, revoked, or expired, or was issued to a person who has been reported as deceased for a period exceeding 60 days;

WHEREAS, the California Legislature has amended Subdivision (v)(1) of Section 22651 of the California Vehicle Code to allow a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or a regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city, county or jurisdiction of a state agency in which a vehicle is located, to remove a vehicle located within the territorial limits when a vehicle is a mobile billboard advertising display, as defined in Section 395.5 of the California Vehicle Code, and is parked or left standing in violation of a local resolution or ordinance adopted pursuant to Subdivision (m) of Section 21100, if the registered owner of the vehicle was previously issued a warning citation for the same offense;

WHEREAS, the California Legislature has amended Subdivision (v)(2) of Section 22651 of the California Vehicle Code, notwithstanding Subdivision (a) of Section 22507, to allow a city or county, in lieu of posting signs noticing a local ordinance prohibiting mobile billboard advertising displays adopted pursuant to Subdivision (m) of Section 21100, to provide notice by issuing a warning citation advising the registered owner of the vehicle that he or she may be subject to penalties upon a subsequent violation of the ordinance, that may include the removal of the vehicle as provided in paragraph (1) of Subdivision (v) of Section 22651;

WHEREAS, the California Legislature has amended Subdivision (v)(2) of Section 22651 of the California Vehicle Code so that a city or county is not required to provide further notice for a subsequent violation prior to the enforcement of penalties for a violation of a local ordinance as authorized under Subdivision (m) of Section 21100 of the California Vehicle Code;

WHEREAS, the California Legislature has amended Subdivision (w)(1) of Section 22651 of the California Vehicle Code to allow local authorities to impound motor vehicles parked or left standing in violation of a local ordinance or resolution adopted

pursuant to subdivision (p) of Section 21100 of the California Vehicle Code, if the registered owner of the vehicle was previously issued a warning citation for the same offense;

WHEREAS, the California Legislature has amended Subdivision (w)(2) of Section 22651 of the California Vehicle Code, notwithstanding Subdivision (a) of Section 22507, to allow a city or county, in lieu of posting signs noticing a local ordinance regulating advertising signs adopted to Subdivision (p) of Section 21100, to provide notice by issuing a warning citation advising the registered owner of the vehicle that he or she may be subject to penalties upon a subsequent violation of the ordinance, that may include the removal of the vehicle as provided in paragraph (1) of Subdivision (w) of Section 22651;

WHEREAS, the California Legislature has amended Subdivision (w)(2) of Section 22651 of the California Vehicle Code so that a city or county is not required to provide further notice for a subsequent violation prior to the enforcement of penalties for a violation of a local ordinance as authorized under Subdivision (p) of Section 21100 of the California Vehicle Code; and

WHEREAS, advertising signs improperly attached to a motor vehicle or placed entirely over the windows of the motor vehicle or that exceed the length, width or height of the vehicle pose a safety risk to vehicular traffic and to pedestrians.

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Section 87.53 of the Los Angeles Municipal Code is amended to read as follows:

SEC. 87.53. REGULATION OF MOBILE BILLBOARD ADVERTISING DISPLAYS.

It shall be unlawful for any person to park a mobile billboard advertising display, as defined under Section 395.5 of the California Vehicle Code, either standing alone or attached to a motor vehicle, on any public street or public lands in the City of Los Angeles.

(a) **Mobile Billboard Advertising Display Definition.** Section 395.5 of the California Vehicle Code applies to this Chapter with respect to the definition of a mobile billboard advertising display. Section 395.5 of the California Vehicle Code is incorporated by reference and states:

"395.5. A "mobile billboard advertising display" means an advertising display that is attached to a mobile, non-motorized vehicle, device, or

bicycle that carries, pulls, or transports a sign or billboard, and is for the primary purpose of advertising.”

(b) Removal of Mobile Billboard Advertising Displays Authorized.

Pursuant to Section 22651, Subdivisions (v) and (w), of the California Vehicle Code, any peace officer, or any regularly employed and salaried employee of the City, who is authorized to engage and is engaged in directing traffic or enforcing parking laws and regulations may remove, or cause to be removed, the mobile billboard advertising display, or anything that the mobile billboard display is attached to including a motor vehicle, located within the territorial limits of the City when the mobile billboard advertising display is found upon any public street or any public lands, if all of the following requirements are satisfied:

1. When a mobile billboard advertising display, as defined in Section 395.5 of the California Vehicle Code, either standing alone or attached to a motor vehicle, and is parked or left standing in violation of this Code, if the registered owner of the vehicle or display was previously issued a warning citation for the same offense;

2. A warning citation was issued to a first-time offender at least 24 hours prior to the removal of the vehicle or display. The City is not required pursuant to Section 22651(v)(2) and Section 22651(w)(2) of the California Vehicle Code to provide further notice for a subsequent violation prior to enforcement; and

3. The warning citation advised the registered owner of the vehicle or display that he or she may be subject to penalties upon a subsequent violation of the ordinance that may include the removal of the vehicle or display.

(c) Post Storage Impound Hearing. Section 22852 of the California Vehicle Code applies to this Section with respect to the removal of any mobile billboard advertising display vehicle. Section 22852 is incorporated by reference as if set forth in full herein and provides, in summary, that whenever an authorized employee of the City directs the storage of a vehicle, the City shall direct the storage operator to provide the vehicle’s registered and legal owner(s) of record, or their agent(s), with the opportunity for a post-storage hearing to determine the validity of the storage. Notice of the storage shall be mailed or personally delivered to the registered and legal owner(s) within 48 hours, excluding weekends, as specifically provided for under Section 22852 of the California Vehicle Code. To receive a post-storage hearing, the owner(s) of record, or their agent(s), must request a hearing in person, in writing, or by telephone within ten days of the date appearing on the notice. The City may authorize its own officer or employee to conduct the hearing as long as the hearing officer is not the same person who directed the storage of the vehicle.

(d) Violation – Penalties. After the initial warning citation, a subsequent offense of this Section is a misdemeanor, punishable upon conviction by a fine of not

less than Two Hundred Fifty Dollars (\$250), nor more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not more than six months, or by both fine and imprisonment. The City Council may establish from time to time by resolution an increase in the amount of the fine.

(e) **Severability.** If any subsection, sentence, clause, or phrase of this Section is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this Section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Sec. 2. Los Angeles Municipal Code Section 87.54 is amended to read as follows:

SEC. 87.54. REGULATION OF ADVERTISING SIGNS ON MOTOR VEHICLES PARKED OR LEFT STANDING ON CITY STREETS OR PUBLIC LANDS.

A motor vehicle may contain advertising signs that are painted directly upon or are permanently affixed to the body of, an integral part of, or fixture of a motor vehicle for permanent decoration, identification, or display and that do not extend beyond the overall length, width, or height of the vehicle. Advertising signs that are painted directly upon or permanently affixed to a motor vehicle shall not be painted directly upon or permanently affixed in such a manner as to make the motor vehicle unsafe to be driven, moved, parked or left standing on any public street or public lands in the City. Motor vehicles that pose a safety hazard shall be impounded pursuant to California Vehicle Code Section 22651(b).

(a) **Post Storage Impound Hearing.** Section 22852 of the California Vehicle Code applies to this Section with respect to the removal of any motor vehicle for being in an unsafe condition pursuant to California Vehicle Code Section 22651(b). Section 22852 is incorporated by reference as if set forth in full herein and provides, in summary, that whenever an authorized employee of the City directs the storage of a vehicle, the City shall direct the storage operator to provide the vehicle's registered and legal owner(s) of record, or their agent(s), with the opportunity for a post-storage hearing to determine the validity of the storage. Notice of the storage shall be mailed or personally delivered to the registered and legal owner(s) within 48 hours, excluding weekends, as specifically provided for under Section 22852 of the California Vehicle Code. To receive a post-storage hearing, the owner(s) of record, or their agent(s), must request a hearing in person, in writing, or by telephone within ten days of the date appearing on the notice. The City may authorize its own officer or employee to conduct the hearing as long as the hearing officer is not the same person who directed the storage of the vehicle. A motor vehicle may contain advertising signs that are painted directly upon or are permanently affixed to the body of, an integral part of, or fixture of a motor vehicle for permanent decoration, identification, or display and that do not extend

beyond the overall length, width, or height of the vehicle. Advertising signs that are painted directly upon or permanently affixed to a motor vehicle shall not be painted directly upon or permanently affixed in such a manner as to make the motor vehicle unsafe to be driven, moved, parked or left standing on any public street or public lands in the City.

The City finds and declares the following:

WHEREAS, temporary signs affixed to motor vehicles pose a significant public safety risk, particularly when the vehicle is involved in a collision, or is parked or driven during high wind conditions; therefore, permanently affixed signs for purposes of enforcement under this ordinance means that signs must be painted directly on the body of the vehicle, or decaled on the body of the vehicle, or placed in a location on the body of the vehicle that was specifically built by a registered manufacturer, in compliance with both federal and state safety guidelines or law, for the express purpose of containing an advertising sign.

(b) **Violation – Penalties.** After the initial warning citation, a subsequent offense of this Section is a misdemeanor, punishable upon conviction by a fine of not less than Two Hundred Fifty Dollars (\$250), nor more than One Thousand Dollars (\$1,000), or by imprisonment in the county jail for not more than six months, or by both fine and imprisonment. The City Council may establish from time to time by resolution an increase in the amount of the fine.

(c) **Severability.** If any subsection, sentence, clause, or phrase of this Section is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this Section, and each and every subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Sec. 3. Urgency Clause. Based on the findings set forth above, the Council adopts this ordinance as an urgency ordinance that is required for the preservation of the public peace, health and safety. Pursuant to Charter Section 253, this ordinance shall become effective upon publication.

Sec. 4. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than three-fourths** of all its members, at its meeting of _____.

JUNE LAGMAY, City Clerk

By _____
Deputy

Approved _____

Mayor

Approved as to Form and Legality

CARMEN A. TRUTANICH, City Attorney

By Michael D. Nagle
MICHAEL D. NAGLE
Deputy City Attorney

Date 2/13/2012

File No. _____