

## ORDINANCE NO. 47

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WILDOMAR, CALIFORNIA, AMENDING SECTIONS 17.252.020 AND 17.252.030 OF THE WILDOMAR MUNICIPAL CODE PERTAINING TO OUTDOOR ADVERTISING DISPLAYS

THE CITY COUNCIL OF THE CITY OF WILDOMAR ORDAINS AS FOLLOWS:

SECTION 1. Findings. The City Council finds as follows:

- (a) On March 13, 2007, the County of Riverside adopted as an urgency measure interim zoning Ordinance No. 449.230 establishing a moratorium on the approval and issuance of any outdoor advertising display permits within 500 feet of the edge of each right-of-way line along Mission Trail between Malaga Street and Palomar Street, the boundaries of which area are now within the newly incorporated City of Wildomar. These interim zoning regulations were twice extended by the County through Ordinances Nos. 449.232 and 449.235 (collectively, the "Interim Outdoor Advertising Regulations").
- (b) The Interim Outdoor Advertising Regulations were adopted, in part, in response to numerous applications for outdoor advertising displays in areas that are now part of the City. The Riverside County Board of Supervisors found that such applications and the potential placement of outdoor advertising displays within the designated area of the City constituted a threat to the public health, safety and welfare in that the proliferation of such outdoor advertising displays would detract from the scenery along Mission Trail, serve as a dangerous distraction to motorists, adversely impact natural resources, and generally degrade the environment.
- (c) Subsequent to the commencement of the Interim Outdoor Advertising Regulations, the County also adopted General Plan Amendment No. 844 on January 29, 2008. Among other things, this General Plan Amendment established revised policies intended to revitalize and reinforce the residential, commercial, industrial, and scenic elements in the area of Wildomar affected by the Interim Outdoor Advertising Regulations. In extending the Interim Outdoor Advertising Regulations, the Board of Supervisors further found that permitting outdoor advertising displays may conflict with such policies and that the extension of the moratorium was necessary in order to protect significant resources in the Wildomar area.
- (d) Subsequent to the commencement of the Interim Outdoor Advertising Regulations, the County Planning Department began to study whether to prohibit outdoor advertising displays in the affected area of Wildomar.
- (e) This planning effort has been continued by the City's Planning Department subsequent to the City's incorporation. For the reasons set forth in this Ordinance and in the accompanying staff report, the Planning Department has recommended that

outdoor advertising displays and their accompanying signs and structures be prohibited City-wide as provided in this Ordinance.

(f) It is well-established that without adequate regulation signage can endanger the public, distract drivers, create confusion, and foster a negative image of the City on the part of the public.

(g) Excessive, improperly located, or poorly designed signage can damage view corridors, diminish property values and detrimentally affect the quality of life of City residents, business and property owners, visitors, and the traveling public.

(h) The proliferation of outdoor advertising displays along scenic corridors, such as Interstate 15, Clinton Keith Road, and Grand Avenue, can adversely impact community aesthetics and community.

(i) Outdoor advertising displays can adversely effect scenic viewsheds and vistas of the surrounding mountains, hills and valleys that define the community's character.

(j) The Land Use, Circulation, and Open Space Elements of the General Plan discuss the importance of conserving skylines, view corridors and scenic vistas, and the need to impose conditions on development, including outdoor advertising displays, to protect scenic resources and corridors.

(k) Outdoor advertising displays create distractions for drivers that, like cellphone usage, can distract drivers from road conditions, other drivers, and traffic hazards.

(l) In addition to negative aesthetic impacts, the use of mobile outdoor advertising displays can interfere with the safe movement of vehicles and adds to air pollution and vehicle emissions.

(m) The United States Supreme Court has recognized that certain types of signs, particularly outdoor advertising displays (also referred to as "off-site signs" or "billboards"), may constitute "real and substantial hazards to traffic safety" and can also be perceived as an aesthetic harm. (*Metromedia, Inc. v. City of San Diego* (1981) 453 U.S. 490, 511-12)

(n) Traffic safety and aesthetics are substantial interests that justify the regulation of signs. (*Metro Lights, L.L.C. v. City of Los Angeles* (9<sup>th</sup> Cir. 2009) 551 F.3d 898, 904; *National Advertising v. City of Orange* (9th Cir. 1988) 861 F.2d 246, 248; *Showing Animals Respect and Kindness v. City of West Hollywood* (2008) 166 Cal.App.4th 815, 823-24).

(o) The United States Supreme Court and other federal and state courts have upheld the right of cities to prohibit or restrict outdoor advertising displays. (*Metromedia, Inc. v. City of San Diego* (1981) 453 U.S. 490; *Metro Lights, L.L.C. v. City of Los Angeles* (9<sup>th</sup> Cir. 2009) 551 F.3d 898; *Ackerly Communications of the Northwest, Inc. v. Krochalis* (9th Cir. 1997) 109 F.3d 1095; *Outdoor Systems, Inc. v. City of Mesa*

(9th Cir. 1993) 997 F.2d 604; *Showing Animals Respect and Kindness v. City of West Hollywood* (2008) 166 Cal.App.4th 815; *Tahoe Regional Planning Agency v. King* (1991) 233 Cal.App.3d 1365; and *City and County of San Francisco v. Eller Outdoor Advertising* (1987) 192 Cal.App.3d 643).

(p) Based on the examples of the respective public entities in the above cases and in accordance with the judicial precedent established by such cases, the City Council finds that that the City's substantial interests in traffic safety and aesthetics is most directly and effectively furthered by prohibiting outdoor advertising displays in the City. The City's Municipal Code currently prohibits outdoor advertising displays along Interstate 15, Grand Avenue, and parts of Clinton Keith Road, and the City Council desires to expand such protections against aesthetic and traffic safety impacts on a city-wide basis.

(q) The City Council further finds, consistent with the examples of many of the respective public entities in the aforementioned cases and in accordance with the judicial precedent established by such cases, that the primary purpose of commercial signage should be for identification of the businesses, products, services or facilities available on the premises on which a sign is located and not the use or leasing of available space for the purpose of advertising commercial businesses, products, services or facilities located elsewhere.

(r) The City's proposed prohibition on outdoor advertising displays and other off-site commercial signs is consistent with the legislative intent expressed by the California Legislature in enacting the Outdoor Advertising Act (Business & Professions Code section 5200 and following), which specifically provides in Section 5230 that the "governing body of any city may enact ordinances, including, but not limited to, land use or zoning ordinances, imposing restrictions on advertising displays adjacent to any street, road, or highway equal to or greater than those imposed by" the Act.

(s) The City Council further desires to make textual and procedural clarifications and amendments to the City's current outdoor advertising display regulations consistent with the proposed prohibition on such signage.

(t) The Planning Commission conducted a duly noticed public hearing on this Ordinance on February 10, 2010. At this meeting, the Planning Commission adopted Resolution PC10-003, recommending that the City Council approve the proposed amendments to Sections 17.252.020 and 17.252.030.

(u) The City Council conducted a duly noticed public hearing on this Ordinance on March 10, 2010 at City Hall, Wildomar, California.

(v) The City has caused to be prepared an Initial Study regarding the adoption of this Ordinance and based on that Initial Study the City Council finds that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") under Section 15061(b)(3) of the State CEQA Guidelines, which provides that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where, as here, it can be seen with certainty that there is no possibility

that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 2. Amendment to Wildomar Municipal Code Section 17.252.020. The following definitions are hereby added to Wildomar Municipal Code Section 17.252.020 as follows:

“COMMERCIAL SIGN” means any sign that is intended to attract attention to a commercial or industrial business, occupancy, product, good, service, or other commercial or industrial activity for a commercial or industrial purpose.

“MOBILE OUTDOOR ADVERTISING SIGN” means the use of a moving trailer, automobile, truck, or any other vehicle to display a commercial or non-commercial sign primarily for advertising purposes.

“NONCOMMERCIAL MESSAGE” means any wording, logo or other representation that does not directly or indirectly, name, advertise or calls attention to a commercial or industrial business, product, good, service or other commercial or industrial activity.

“NONCOMMERCIAL SIGN” means a sign that does not name, advertise or call attention to a commercial or industrial business, commodity, product, good, service or other commercial or industrial activity for a commercial or industrial purpose.

“OFF-SITE SIGN” means a commercial sign not located on the site of the business or entity indicated or advertised by the sign, or a commercial sign advertising a commodity, good, product, service or other commercial or industrial activity which originates on a site other than where the sign is maintained.

“ON-SITE SIGN” means any sign which directs attention to an occupancy, business, commodity, good, product, service or other activity conducted, sold or offered upon the site where the sign is maintained. For the purposes of this chapter, all signs with noncommercial messages are deemed to be “on-site,” regardless of location.

“SIGN” means any device, display, fixture, painting, placard or structure, including its component parts, which draws attention to an object, product, place, activity, opinion, person, institution, organization, or place of business, or which identifies or promotes the interests of any person and which is to be viewed from any public street, road, highway, right-of-way or parking area.

“STATE OUTDOOR ADVERTISING PERMIT” means a permit required and issued for an outdoor advertising display by the state under the Outdoor Advertising Act (California Business & Professions Code §5200 and following).”

SECTION 3. Amendment to Wildomar Municipal Code Section 17.252.020. The following definition contained in Wildomar Municipal Code Section 17.252.020 is hereby amended to read as follows:

“OUTDOOR ADVERTISING DISPLAY” means an off-site sign, outdoor advertising structure, outdoor advertising sign, or mobile outdoor advertising sign used

for outdoor advertising purposes, not including on-site advertising signs as defined in this chapter and directional sign structures as provided in this code.”

SECTION 4 Amendment to Wildomar Municipal Code Section 17.252.030. Wildomar Municipal Code Section 17.252.030 is amended and restated to read as follows:

**“17.252.030 Outdoor advertising displays.**

A. General Prohibition. Outdoor advertising displays are prohibited within the city.

B. Legal Nonconforming Outdoor Advertising Displays.

1. Outdoor advertising displays previously erected, used and maintained pursuant to a valid outdoor advertising display permit issued prior to the effective date of this section may continue to operate in the manner originally approved and be maintained subject to the provisions of this section and the general provisions in this code applicable to legal nonconforming uses. Customary maintenance includes the changing of an advertising message, but does not include any expansion of the use such as modifications to the height or composition of the display structure, increases in size or shape of the advertising display surface, or the addition of nighttime illumination inconsistent with the provisions of the Mount Palomar Lighting Ordinance. The customary maintenance of any such legal nonconforming outdoor advertising display does not require any special city sign approval or sign permit.

2. Revocation. Any outdoor advertising display permit which has been issued as a result of a material misrepresentation of fact by the applicant or the applicant's agent, whether or not a criminal prosecution is initiated therefore, or which does not comply with this chapter, the applicable State Outdoor Advertising Permit or any related building permit may be revoked by the planning director. Upon such determination, the planning director will give a written notice of revocation to the permittee. Unless the permittee files with the planning department a written request for a hearing within 10 days of the date the notice was mailed, the planning director's decision to revoke will be considered final. Failure to timely file a written request for a hearing constitutes a waiver of the right to a hearing. Notice of the hearing will be given by mail to the permittee. The timely filing of a written notice to appeal stays the revocation until such time as the planning director issues a decision to grant or deny the appeal. Within 30 days after notice of revocation is given, or if a hearing is requested, within 30 days from the date of mailing the planning director's decision to deny the appeal, the applicable outdoor advertising display must be removed at the permittee's expense. Failure to remove the display within such 30-day period will be deemed a separate violation of this title.

C. Enforcement and Additional Violations. Wherever the officials responsible for the enforcement of administration of this code or their designated agents, have cause to suspect a violation of this section, or whenever necessary to investigate any action to suspend or revoke an outdoor advertising display permit, or whenever necessary to investigate a possible violation, such persons may lawfully gain access to

the appropriate parcel of land upon which a violation is believed to exist. The following acts constitute additional violations of this section:

1. All violations of this section committed by any person, whether as agent, employee, officer, principal, or otherwise, will be a misdemeanor.

2. Every person who knowingly provides false information on an outdoor advertising display permit application will be guilty of a misdemeanor.

3. Every person who fails to stop work on an outdoor advertising display, when so ordered by the director of the building and safety department or the planning director, or their designees will be guilty of a misdemeanor.

4. Every person who, having received notice to appear in court to answer a related charge, willfully fails to appear, will be guilty of a misdemeanor.

5. A misdemeanor may be prosecuted by the city in the name of the People of the State of California, or may be redressed by civil action. Each violation is punishable by a fine of not more than one thousand dollars (\$1,000.00), or by imprisonment in the county jail for a term of not more than six months, or by both fine and imprisonment.

6. Every person found guilty of a violation shall be deemed guilty of a separate offense for every day during a portion of which the violation is committed, continued, or permitted by such person.

7. Every illegal outdoor advertising display and every abandoned outdoor advertising display is hereby declared to be a public nuisance and will be subject to abatement by repair, rehabilitation, or removal in accordance with the applicable procedures of this code.

D. **Illegal and Abandoned Outdoor Advertising Displays.** All illegal outdoor advertising displays and all abandoned outdoor advertising displays must be removed or brought into conformance with this chapter immediately. Any notice required to be given to owner of the property on which such illegal or abandoned sign is located must also be given to: (1) the owner of the sign, if the identification plate required by Business and Professions Code Sections 5362 and 5363 is affixed; and (2) the advertiser, if any, identified on the sign provided the address of the advertiser can reasonably be determined.

E. **Relocation of Outdoor Advertising Displays.** Notwithstanding the general provisions of this section, a legal nonconforming outdoor advertising display may be relocated within the same parcel or to another parcel pursuant to an agreement with the city when such relocation is necessary due to a city project or other public project and such relocation will avoid the need for the public agency to pay just compensation for a taking of the display."

SECTION 5. Severability. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of

any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 6. Publication. The City Clerk is directed to cause this ordinance to be published or posted in accordance with Government Code Section 36933.

**PASSED, APPROVED AND ENACTED** this 24th day of March, 2010.



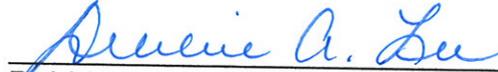
\_\_\_\_\_  
Bridgette Moore  
Mayor

APPROVED AS TO FORM:

ATTEST:



\_\_\_\_\_  
~~Julie Hayward Biggs~~ *THOMAS D. JEX*  
Assistant City Attorney



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Debbie A. Lee, CMC  
City Clerk

STATE OF CALIFORNIA )  
COUNTY OF RIVERSIDE )  
CITY OF WILDOMAR )

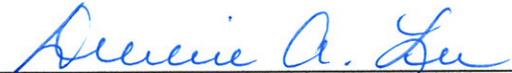
I, Debbie A. Lee, CMC, City Clerk of the City of Wildomar, California, do hereby certify that the foregoing Ordinance No. 47 was introduced at a regular meeting of the City Council of the City of Wildomar, California, on March 10, 2010, and was duly adopted at a regular meeting held on March 24, 2010, by the City Council of the City of Wildomar, California, by the following vote:

AYES: Mayor Moore, Mayor Pro Tem Swanson, Council Members Ade, Cashman, Farnam

NOES: None

ABSTAIN: None

ABSENT: None

  
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Debbie A. Lee, CMC  
City Clerk  
City of Wildomar