



Legislation Text

File #: 21-0139, **Version:** 1

TO:

Honorable Mayor and Members of the City Council

THROUGH:

Bruce Moe, City Manager

FROM:

Bruce Moe, City Manager

SUBJECT:

Ordinance Repealing Manhattan Beach Municipal Code Section 14.36.070 - Parking for Demonstration, and Making a Determination of Exemption under CEQA (City Manager Moe).

- a) **ADOPT URGENCY ORDINANCE NO. 21-0004-U**
- b) **INTRODUCE ORDINANCE NO. 21-0004**

RECOMMENDATION:

Staff recommends that the City Council adopt Urgency Ordinance No. 21-0004-U and introduce Ordinance No. 21-0004.

BACKGROUND:

Periodically, staff reviews the Municipal Code to ensure internal consistency. During a recent review, staff found an internal inconsistency regarding signs on parked vehicles between the City's Sign Code--Manhattan Beach Municipal Code (MBMC) Chapter 10.72-and an archaic provision in MBMC Chapter 14.36.

MBMC Section 10.72.030 defines "Portable sign" as "any unattached sign which can be readily moved or relocated." MBMC Section 10.72.070 (Prohibited Signs) expressly prohibits:

- "Portable, A-frame, or sidewalk signs, excluding business identification signs affixed flat on the body of a vehicle which provides services to said business other than identification or advertising."

The City has consistently interpreted the clear language of its Municipal Code to prohibit signs on cars parked on public property, with the exception of business identification signs. At least since 1955 (if not before), the Municipal Code has prohibited on-street parking of vehicles displaying "for sale" signs. In 1968, the City Council adopted Ordinance No. 1149, which is the precursor to MBMC Title 14 (Traffic). Buried in the 39-page Ordinance is a Section titled "Parking for Demonstration," which contains the identical language found in current MBMC Section 14.36.070. Consistent with MBMC Section 10.72.070, MBMC Section 14.36.070 (Parking for Demonstration) provides that:

- No operator of any vehicle shall park said vehicle upon any street in this city for the purpose of advertising or displaying it for lease...."

However, contrary to MBMC Section 10.72.070, MBMC Section 14.36.070 states that the Council may authorize “advertising or displaying [a vehicle] for lease or for sale” by adopting a resolution. Based upon a search of City records, the City staff has not found any resolution authorizing such signs, either a general resolution authorizing such signs provided they meet certain criteria, or a specific resolution authorizing a sign in a specific instance. There is no evidence that the City ever utilized the process described in Section 14.36.070 to deviate from its long established rule prohibiting signs on cars parked on public property, such as streets.

In any event, as shown in the following section, the City Council implicitly repealed Section 14.36.070 in 1976 by adopting Ordinance No. 1951, which amended the Zoning Ordinance, including the City’s Sign Code.

DISCUSSION:

The City’s Sign Code (Chapter 10.72 of the City’s Zoning Ordinance) is the City’s ordinance that regulates all signs in the City. The Sign Code lists both permitted signs, and prohibited signs. As noted above, signs on parked cars are expressly prohibited. MBMC Chapter 14.36 is part of Title 14, the City’s Traffic Regulations. Chapter 14.36 regulates vehicular “Stopping, Standing And Parking For Certain Purposes Or In Certain Places.” Within Chapter 14.36 is the archaic Section 14.36.070 titled, “Parking for Demonstration.” Consistent with the Zoning Code, Section 14.36.070 prohibits signs on parked cars. However, it states that, without explanation or describing a process, the City Council may authorize such signs by adopting a resolution.

It does not appear that the City Council or City officials were aware of this provision at the time the Council adopted the Sign Ordinance, or of the inconsistency. Standard language in ordinances adopted over the last several years contain the following provision to remedy internal inconsistencies:

- “INTERNAL CONSISTENCY. Any provisions of the Municipal Code, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Municipal Code for internal consistency.”

Likewise, Ordinance 1951, which amended the Zoning Ordinance, including the Sign Code, in 1976, contains virtually the identical provision:

- “Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.”

Accordingly, the inconsistent language in Section 14.36.070-“unless authorized by resolution of the Council”-was most likely repealed by operation of law by the very terms of Ordinance No. 1951. Nevertheless, for purposes of clarity and to eliminate duplicity and inconsistency, staff recommends that the City Council adopt Urgency Ordinance No. 21-0004-U and introduce Ordinance No. 21-0004 to formally repeal Section 14.36.070 - Parking for Demonstration.

LEGAL REVIEW:

The City Attorney has approved as to form both ordinances.

ATTACHMENTS:

1. Urgency Ordinance No. 21-0004-U
2. Draft Ordinance No. 21-0004