



## AGENDA REPORT

**Meeting Date:** February 7, 2012

**Item Number:** D-1

**To:** Honorable Mayor & City Council

**From:** Noel Marquis, Assistant Director of Administrative Services - Finance

**Subject:** **AN ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING ORDINANCE NO. 10-O-2584 AND CHAPTER 1 OF TITLE 6 OF THE BEVERLY HILLS MUNICIPAL CODE TO IMPOSE A REAL PROPERTY LIEN FOR DELINQUENT SEWAGE, WATER AND STORM WATER SERVICE CHARGES AND PENALTIES**

**Attachments:** 1. Ordinance

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### **RECOMMENDATION**

Staff recommends that the City Council introduce for 1<sup>st</sup> reading the ordinance which will allow the City to place liens on the real property served by the City's utilities for the amount of any delinquent utility charge or penalty.

### **INTRODUCTION**

This action makes the amount of any utility charge or penalty a debt to the city. As such, an action may be commenced on behalf of the city in any court of competent jurisdiction for the amount of any delinquent utility charge or penalty. In addition, delinquent charges and all penalties thereon, when recorded as provided in Section 54355 of Chapter 6 of Part 1 of Division 2 of Title 5 of the California Government Code, shall

constitute a lien upon the real property served. Such lien shall continue until the charges and all penalties thereon are fully paid.

This action would only be used in the most egregious circumstances or where this action would provide relief for a customer and would only be undertaken with the approval of the City Council in every individual circumstance. While a lien would allow the City to foreclose upon property for an unpaid debt (the City would have to take action to file a lien foreclosure lawsuit), the City does not expect to execute this authority. Instead, as a practical matter a potential buyer will likely cause the debt to be paid and the lien removed as a condition of closing escrow on a property. Therefore, the lien would likely have the salutary purpose of causing the debt to be paid at the time of sale of property without any further action by the City.

**DISCUSSION**

This action will allow the Director of Administrative Services and Chief Financial Officer an additional tool in the administration and collection of City utility accounts receivable by allowing liens to be placed on the property served for any delinquent utility charges and penalties.

**FISCAL IMPACT**

This ordinance provides one additional tool for use by City staff in administering and collecting delinquent utility accounts and providing the revenue the City's utility funds need to operate.



Noel Marquis

Finance Approval



Scott Miller

Approved By

# **Attachment 1**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF BEVERLY HILLS  
AMENDING ORDINANCE NO. 10-O-2584 AND CHAPTER  
1 OF TITLE 6 OF THE BEVERLY HILLS MUNICIPAL  
CODE TO IMPOSE A REAL PROPERTY LIEN FOR  
DELINQUENT SEWAGE, WATER AND STORM WATER  
SERVICE CHARGES AND PENALTIES**

WHEREAS, California Government Code Section 54354 provides that a local agency that acquires, constructs, or improves a system, plant, works, facilities or undertaking for the collection, treatment, or disposal of sewage, for the obtaining, conserving, treating, and supplying of water, or for the collection, treatment, or disposal of storm water, including drainage, may declare in the resolution or ordinance prescribing or revising charges for the services or facilities furnished by the enterprise that delinquent charges and all penalties thereon when recorded with the county recorder shall constitute a lien upon the real property served; and

WHEREAS, on June 22, 2010, the City of Beverly Hills adopted Ordinance No. 10-O-2584 establishing rates (the "Rate Ordinance"); and

WHEREAS, the City of Beverly Hills desires to amend the Rate Ordinance in order to provide for a lien on property for delinquent charges and all penalties thereon pursuant to Government Code Section 54354.

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS DOES HEREBY ORDAIN AS FOLLOWS:

**Section 1.** Section 8 is hereby added to the Rate Ordinance to read as follows:

**Section 8.** Section 6-1-113 of Title 6, Chapter 1, Article 1 of the Beverly Hills Municipal Code is hereby amended and restated to read as follows:

"6-1-113: **DEBT TO CITY:** The amount of any utility charge or penalty imposed by the provisions of this chapter shall be deemed a debt to the city. An action may be commenced on behalf of the city in any court of competent jurisdiction for the amount of any delinquent utility charge or penalty. In addition, delinquent charges and all penalties thereon, when recorded as provided in Section 54355 of Chapter 6 of Part 1 of Division 2 of Title 5 of the California Government Code, shall constitute a lien upon the real property served, except that no such lien shall be created against any publicly-owned property. Such lien shall continue until the charges and all penalties thereon are fully paid. The Director of Administrative Services and Chief Financial Officer is hereby authorized to prepare and record a list of delinquent unpaid charges and penalties in the form and manner prescribed by California Government Code Section 54355, as may be amended from time to time, or any successor statute."

**Section 2.** This ordinance has been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA

Guidelines, and the environmental regulations of the City. The ordinance is not a "project" and is therefore exempt from CEQA pursuant to Section 15378(b)(4) of Title 14 of the California Code of Regulations.

**Section 3. Severability.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, or invalid, or ineffective.

**Section 4. Publication.** The City Clerk shall cause this Ordinance to be published at least once in a newspaper of general circulation published and circulated in the City within fifteen (15) days after its passage, in accordance with Section 36933 of the Government Code; shall attest and certify to the adoption of this Ordinance and shall cause this Ordinance and the City Clerk's certification, together with proof of publication, to be entered in the Book of Ordinances of the Council of this City.

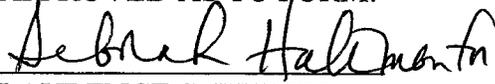
**Section 5. Effective Date.** This ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

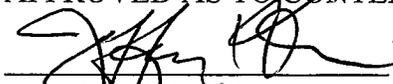
Adopted:  
Effective:

\_\_\_\_\_  
BARRY BRUCKER  
Mayor of the City of  
Beverly Hills, California

ATTEST:

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(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:  
  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:  
  
JEFFREY KOLIN  
City Manager

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SCOTT G. MILLER  
Director of Administrative Services/  
Chief Financial Officer