



AGENDA REPORT

Meeting Date: September 10, 2013
Item Number: F-6
To: Honorable Mayor & City Council
From: City Attorney
Subject: ORDINANCE OF THE CITY OF BEVERLY HILLS CHANGING REFERENCES TO "COMMUNITY DEVELOPMENT DEPARTMENT" TO "CITING DEPARTMENT" IN THE CODE VIOLATIONS SECTION OF THE BEVERLY HILLS MUNICIPAL CODE; AND FURTHER DEFINING UNLAWFUL USE OF DISABLED PLACARD.
Attachments: 1. Ordinance

RECOMMENDATION

Staff recommends that the City Council waive full reading and move to approve the ordinance entitled, "ORDINANCE OF THE CITY OF BEVERLY HILLS CHANGING REFERENCES TO "COMMUNITY DEVELOPMENT DEPARTMENT" TO "CITING DEPARTMENT" IN THE CODE VIOLATIONS SECTION OF THE BEVERLY HILLS MUNICIPAL CODE; AND FURTHER DEFINING UNLAWFUL USE OF DISABLED PLACARD."

INTRODUCTION

This Ordinance proposes amendments to the Municipal Code regarding Code Violations by changing references from Community Development Department" to "Citing Department" and further defining the unlawful use of invalid disabled placard.

DISCUSSION

At its meeting of August 20, 2013, the City Council conducted a first reading of this ordinance.

FISCAL IMPACT

The ordinance will have no fiscal impact on the City.

rv



Laurence S. Wiener, City Attorney

Attachment 1

ORDINANCE NO. 13-O- _____

**ORDINANCE OF THE CITY OF BEVERLY HILLS
CHANGING REFERENCES TO “COMMUNITY
DEVELOPMENT DEPARTMENT” TO “CITING
DEPARTMENT” IN THE CODE VIOLATIONS SECTION
OF THE BEVERLY HILLS MUNICIPAL CODE; AND
FURTHER DEFINING UNLAWFUL USE OF DISABLED
PLACARD**

THE CITY COUNCIL OF THE CITY OF BEVERLY HILLS HEREBY ORDAINS AS
FOLLOWS:

Section 1. Citing Department. The definition of “CITING DEPARTMENT” is hereby added to Section 1-3-302 (“DEFINITIONS”) of Article 3. (“Administrative Penalties”) of Chapter 3 (“CODE VIOLATIONS”) of Title 1 (“GENERAL PROVISIONS”) of the Beverly Hills Municipal Code to read as follows:

“CITING DEPARTMENT: The City department that issued the citation pursuant to section 1-3-201 of this chapter.”

Section 2. Payment of Administrative Fine. The City Council hereby amends and restates Section 1-3-312 (“PAYMENT OF ADMINISTRATIVE FINE”) of Article 3. (“Administrative Penalties”) of Chapter 3 (“CODE VIOLATIONS”) of Title 1 (“GENERAL PROVISIONS”) of the Beverly Hills Municipal Code to read as follows:

“The administrative fine shall be paid to the Citing Department within twenty (20) days from the date of service of the administrative citation. If, after a hearing requested pursuant to section 1-3-313 of this article, the hearing officer determines that the administrative citation should be canceled, the administrative fine shall be refunded in accordance with section 1-3-320 of this article.”

Section 3. Request for Administrative Hearing. The City Council hereby amends and restates Section 1-3-313 (“REQUEST FOR ADMINISTRATIVE HEARING”) of Article 3. (“Administrative Penalties”) of Chapter 3 (“CODE VIOLATIONS”) of Title 1 (“GENERAL PROVISIONS”) of the Beverly Hills Municipal Code to read as follows:

“A. Any responsible person to whom an administrative citation is issued may contest the citation by: 1) completing a request for hearing form and returning it to the Citing Department; and 2) either depositing the administrative fine with the Citing Department or providing notice that a request for an advance deposit hardship waiver has been filed pursuant to section 1-3-314 of this article. A request for hearing form may be obtained from the Citing Department.

B. The Citing Department must receive a completed request for hearing form and the administrative fine or completed hardship waiver form pursuant to section 1-3-314 of this article within twenty (20) days from the date of service of the administrative citation. If not, the responsible person waives the right to a hearing.

C. The citing official shall notify the person requesting the hearing by regular mail in accordance with section 1-3-303 of this article of the time and place of the hearing at least ten (10) days before the date of the hearing. The citing official shall serve any documentation, other than the administrative citation, that the citing official has submitted or will submit to the hearing officer on the person requesting the hearing by regular mail in accordance with section 1-3-303 of this article at least five (5) days before the date of the hearing.”

Section 4. Advance Hardship Waiver Deposit. The City Council hereby amends and restates Section 1-3-314 (“ADVANCE HARDSHIP WAIVER DEPOSIT”) of Article 3. (“ADMINISTRATIVE PENALTIES”) of Chapter 3 (“CODE VIOLATIONS”) of Title 1 (“GENERAL PROVISIONS”) of the Beverly Hills Municipal Code to read as follows:

“A. Any responsible person who requests a hearing to contest an administrative citation and who is financially unable to deposit the administrative fine required in section 1-3-312 of this article may file a request for an advance deposit hardship waiver. The request shall be filed with the Citing Department on an advance deposit hardship waiver application form, available from the Citing Department, no later than twenty (20) days after service of the administrative citation. The Citing Department's failure to receive a completed form with all supporting documents within twenty (20) days after service of the administrative citation shall constitute a waiver of the right to receive a hardship waiver.

B. The director of the Citing Department or designee may issue an advance deposit hardship waiver only if the person requesting the waiver submits a sworn affidavit, together with any supporting documents, demonstrating to the satisfaction of the director or designee the person's financial inability to deposit with the city the full amount of the fine in advance of the hearing. The director or designee shall issue a written decision specifying the reasons for issuing or not issuing the waiver. The decision shall be served upon the person requesting the waiver as specified in section 1-3-303 of this article. If the director or designee determines that the waiver is not warranted the person shall remit the full amount of the fine to the Citing Department within ten (10) days of receipt of the director's written decision. The director or designee's decision whether to issue a hardship waiver shall be final."

Section 5. Time for Administrative Hearing. The City Council hereby amends and restates Section 1-3-315 ("TIME FOR ADMINISTRATIVE HEARING") of Article 3. ("ADMINISTRATIVE PENALTIES") of Chapter 3 ("CODE VIOLATIONS") of Title 1 ("GENERAL PROVISIONS") of the Beverly Hills Municipal Code to read as follows:

"Only after a request for hearing form is received by the Citing Department within the required period, and the responsible person requesting the hearing has either deposited the administrative fine in full or obtained an advance deposit hardship waiver (hereinafter a "perfected appeal"), shall the city set the date and time for the administrative hearing. The hearing shall be set for a date not less than fifteen (15) days, nor more than sixty (60) days after a perfected appeal."

Section 6. Appeal of Decision of Administrative Hearing Officer. The City Council hereby amends and restates Section 1-3-324 ("APPEAL OF DECISION OF ADMINISTRATIVE HEARING OFFICER") of Article 3. ("ADMINISTRATIVE PENALTIES") of Chapter 3 ("CODE VIOLATIONS") of Title 1 ("GENERAL PROVISIONS") of the Beverly Hills Municipal Code to read as follows:

"Within twenty (20) days after service of the administrative hearing officer's decision upon the responsible person, the responsible person may seek review of the administrative hearing officer's decision by filing a notice of appeal with the Los Angeles superior court, 11701 S. La Cienega Blvd., Los Angeles, CA 90045. The responsible person shall serve a copy of the notice of appeal either in person or by first class mail upon the Citing Department. If the

responsible person fails to timely file a notice of appeal, the administrative order shall be deemed confirmed.”

Section 7. Unlawful Use of Invalid Disabled Placard. The City Council hereby amends and restates paragraph A of Section 7-3-117 (“UNLAWFUL USE OF INVALID DISABLED PLACARD”) of Article 1. (“GENERAL STANDING, STOPPING, AND PARKING PROVISIONS”) of Chapter 3 (“STANDING, STOPPING, PARKING”) of Title 7 (“TRAFFIC, PARKING, AND PUBLIC TRANSPORTATION”) of the Beverly Hills Municipal Code to read as follows:

“A. No person shall park or stand a vehicle upon any street, highway or in a parking stall or space of an off-street parking facility when the vehicle displays, in order to obtain special parking privileges, a disabled placard and: (1) the department of motor vehicles record for the identification number assigned to such placard indicates that such placard either (a) has been reported as lost, stolen, surrendered, canceled, revoked or expired; or (b) was issued to a person who has been reported as being deceased for a period exceeding sixty (60) days; (2) the placard 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 (3) the placard is counterfeit, forged, altered or mutilated.”

Section 8. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 9. 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 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 10. 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.

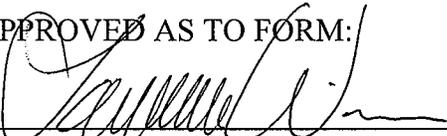
Adopted:
Effective:

JOHN A. MIRISCH
Mayor

ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY C. KOLIN
City Manager