



AGENDA REPORT

Meeting Date: September 10, 2013
Item Number: F-8
To: Honorable Mayor & City Council
From: City Attorney
Subject: ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO ACCOUNT FOR THE REORGANIZATION OF THE PUBLIC WORKS AND TRANSPORTATION DEPARTMENT.
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 AMENDING THE BEVERLY HILLS MUNICIPAL CODE TO ACCOUNT FOR THE REORGANIZATION OF THE PUBLIC WORKS AND TRANSPORTATION DEPARTMENT."

INTRODUCTION

This Ordinance dissolves the Public Works and Transportation department and director titles. It reflects the two new department names: Department of Public Works Services and Department of Capital Assets, and outlines the job duties and responsibilities for each respective department due to the reorganization.

DISCUSSION

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

FISCAL IMPACT

The reorganization of the Public Works and Transportation Department will result in a savings of approximately \$8,500 per year.

for 

Laurence S. Wiener, City Attorney

Attachment 1

**ORDINANCE OF THE CITY OF BEVERLY HILLS
AMENDING THE BEVERLY HILLS MUNICIPAL CODE
TO ACCOUNT FOR THE REORGANIZATION OF THE
PUBLIC WORKS AND TRANSPORTATION
DEPARTMENT**

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

Section 1. The City Council hereby amends and restates paragraph M of Section 2-3-001 (“DEPARTMENT AND POSITION NAME MODIFICATIONS”) of Article 0 (“NAME MODIFICATIONS”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2 (“ADMINISTRATION, PERSONNEL, AND PROCEDURES”) of the Beverly Hills Municipal Code to read as follows:

“M. All references to the "department of public works" shall now mean "department of public works **services**”.”

Section 2. The City Council hereby amends and restates paragraph N of Section 2-3-001 (“DEPARTMENT AND POSITION NAME MODIFICATIONS”) of Article 0 (“NAME MODIFICATIONS”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2 (“ADMINISTRATION, PERSONNEL, AND PROCEDURES”) of the Beverly Hills Municipal Code to read as follows:

“N. All references to the "department of transportation" shall now mean "department of **community development**”.”

Section 3. The City Council hereby amends and restates paragraph Q of Section 2-3-001 (“DEPARTMENT AND POSITION NAME MODIFICATIONS”) of Article 0 (“NAME MODIFICATIONS”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2 (“ADMINISTRATION, PERSONNEL, AND PROCEDURES”) of the Beverly Hills Municipal Code to read as follows:

“Q. Reserved”

Section 4. The City Council hereby amends and restates paragraph X of Section 2-3-001 (“DEPARTMENT AND POSITION NAME MODIFICATIONS”) of Article 0 (“NAME MODIFICATIONS”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2 (“ADMINISTRATION, PERSONNEL, AND PROCEDURES”) of the Beverly Hills Municipal Code to read as follows:

“X. All references to the "director of public services" shall now mean "director of public works **services** ".”

Section 5. The City Council hereby amends and restates paragraph Y of Section 2-3-001 (“DEPARTMENT AND POSITION NAME MODIFICATIONS”) of Article 0 (“NAME MODIFICATIONS”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2 (“ADMINISTRATION, PERSONNEL, AND PROCEDURES”) of the Beverly Hills Municipal Code to read as follows:

“Y. All references to the “director of public works” shall now mean “director of public works **services**”.”

Section 6. The City Council hereby amends and restates paragraph AA of Section 2-3-001 (“DEPARTMENT AND POSITION NAME MODIFICATIONS”) of Article 0 (“NAME MODIFICATIONS”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2 (“ADMINISTRATION, PERSONNEL, AND PROCEDURES”) of the Beverly Hills Municipal Code to read as follows:

“AA. All references to the “director of the department of public works” shall now mean “director of public works **services**”.”

Section 7. The City Council hereby amends and restates paragraph BB of Section 2-3-001 (“DEPARTMENT AND POSITION NAME MODIFICATIONS”) of Article 0 (“NAME MODIFICATIONS”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2 (“ADMINISTRATION, PERSONNEL, AND PROCEDURES”) of the Beverly Hills Municipal Code to read as follows:

“BB. All references to the “director of traffic and parking” shall now mean “director public works **services**”.”

Section 8. The City Council hereby amends and restates paragraph CC of Section 2-3-001 (“DEPARTMENT AND POSITION NAME MODIFICATIONS”) of Article 0 (“NAME MODIFICATIONS”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2 (“ADMINISTRATION, PERSONNEL, AND PROCEDURES”) of the Beverly Hills Municipal Code to read as follows:

“CC. All references to the “director of transportation” shall now mean “director of **community development**”.”

Section 9. The City Council hereby amends and restates paragraph DD of Section 2-3-001 (“DEPARTMENT AND POSITION NAME MODIFICATIONS”) of Article 0 (“NAME MODIFICATIONS”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2 (“ADMINISTRATION, PERSONNEL, AND PROCEDURES”) of the Beverly Hills Municipal Code to read as follows:

“DD. All references to “director of transportation and engineering” shall now mean “director of **community development**”.”

Section 10. The City Council hereby amends and restates paragraph II of Section 2-3-001 (“DEPARTMENT AND POSITION NAME MODIFICATIONS”) of Article 0 (“NAME MODIFICATIONS”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2 (“ADMINISTRATION, PERSONNEL, AND PROCEDURES”) of the Beverly Hills Municipal Code to read as follows:

“II. All references to the “public services department” shall now mean “department of public works **services**”.”

Section 11. The City Council hereby amends and restates paragraph JJ of Section 2-3-001 (“DEPARTMENT AND POSITION NAME MODIFICATIONS”) of Article 0 (“NAME MODIFICATIONS”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2 (“ADMINISTRATION, PERSONNEL, AND PROCEDURES”) of the Beverly Hills Municipal Code to read as follows:

“JJ. All references to the “public works administrator” shall now mean “director of public works **services**”.”

Section 12. The City Council hereby amends and restates paragraph KK of Section 2-3-001 (“DEPARTMENT AND POSITION NAME MODIFICATIONS”) of Article 0 (“NAME MODIFICATIONS”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2 (“ADMINISTRATION, PERSONNEL, AND PROCEDURES”) of the Beverly Hills Municipal Code to read as follows:

“KK. All references to the “public works department” shall now mean “department of public works **services**”.”

Section 13. The City Council hereby amends and restates paragraph OO of Section 2-3-001 (“DEPARTMENT AND POSITION NAME MODIFICATIONS”) of Article 0 (“NAME MODIFICATIONS”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2 (“ADMINISTRATION, PERSONNEL, AND PROCEDURES”) of the Beverly Hills Municipal Code to read as follows:

“OO. All references to the “transportation department” shall now mean “department of **community development**”.”

Section 14. The City Council hereby amends and restates paragraph PP of Section 2-3-001 (“DEPARTMENT AND POSITION NAME MODIFICATIONS”) of Article 0 (“NAME MODIFICATIONS”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2

("ADMINISTRATION, PERSONNEL, AND PROCEDURES") of the Beverly Hills Municipal Code to read as follows:

"PP. All references to the "transportation and engineering department" shall now mean "department of **community development**"."

Section 15. The City Council hereby amends and restates paragraph QQ of Section 2-3-001 ("DEPARTMENT AND POSITION NAME MODIFICATIONS") of Article 0 ("NAME MODIFICATIONS") of Chapter 3 ("DEPARTMENTS AND OFFICES") of Title 2 ("ADMINISTRATION, PERSONNEL, AND PROCEDURES") of the Beverly Hills Municipal Code to read as follows:

"QQ. All references to the "transportation official" shall now mean "director of **community development**"."

Section 16. The City Council hereby amends and restates paragraph RR of Section 2-3-001 ("DEPARTMENT AND POSITION NAME MODIFICATIONS") of Article 0 ("NAME MODIFICATIONS") of Chapter 3 ("DEPARTMENTS AND OFFICES") of Title 2 ("ADMINISTRATION, PERSONNEL, AND PROCEDURES") of the Beverly Hills Municipal Code to read as follows:

"RR. All references to the "transportation/engineering official" shall now mean "director of **community development**"."

Section 17. The City Council hereby amends and restates paragraph SS of Section 2-3-001 ("DEPARTMENT AND POSITION NAME MODIFICATIONS") of Article 0 ("NAME MODIFICATIONS") of Chapter 3 ("DEPARTMENTS AND OFFICES") of Title 2 ("ADMINISTRATION, PERSONNEL, AND PROCEDURES") of the Beverly Hills Municipal Code to read as follows:

"SS. All references to the "water department" shall now mean "department of public works **services**"."

Section 18. The City Council hereby amends and restates paragraph TT of Section 2-3-001 ("DEPARTMENT AND POSITION NAME MODIFICATIONS") of Article 0 ("NAME MODIFICATIONS") of Chapter 3 ("DEPARTMENTS AND OFFICES") of Title 2 ("ADMINISTRATION, PERSONNEL, AND PROCEDURES") of the Beverly Hills Municipal Code to read as follows:

"TT. All references to the "water manager" shall now mean "director of public works **services**"."

Section 19. The City Council hereby amends and restates Paragraph L of Section 2-3-501("CREATION AND FUNCTIONS") of Article 5 ("COMMUNITY DEVELOPMENT

DEPARTMENT”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2 (ADMINISTRATION, PERSONNEL, AND PROCEDURES) of the Beverly Hills Municipal Code to read as follows:

“L. Coordinate with the director of public works **services and the deputy city manager of capital assets** in matters relating to land use, development, construction, transportation, traffic, and parking;”

Section 20. The City Council hereby **adds Paragraph O** to Section 2-3-501 (“CREATION AND FUNCTIONS”) of Article 5 (“COMMUNITY DEVELOPMENT DEPARTMENT”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2 (ADMINISTRATION, PERSONNEL, AND PROCEDURES) of the Beverly Hills Municipal Code to read as follows:

“**O. Provide traffic engineering services, including, but not limited to, planning, scheduling, design, data and statistical compilation, retrieval, use, construction, supervision, operations and surveillance.**”

Section 21. The City Council hereby amends and restates Section 2-3-504 (“TRANSPORTATION/ENGINEERING DIVISION”) of Article 5 (“COMMUNITY DEVELOPMENT DEPARTMENT”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2 (ADMINISTRATION, PERSONNEL, AND PROCEDURES) of the Beverly Hills Municipal Code to read as follows:

“2-3-504: TRANSPORTATION DIVISION:

The transportation division is hereby established and shall be under the direction of the **deputy director of transportation**, who shall be accountable to the director of **community development**. The duties of the **deputy director of transportation** shall be as follows:

- A. Formulate and recommend to the director of **community development** and the city manager, for approval, policies and procedures for the management of the traffic and parking functions;
- B. Provide technical assistance to the traffic and parking commission;
- C. Provide traffic engineering services, including, but not limited to, planning, scheduling, design, data and statistical compilation, retrieval, use, construction, supervision, operations and surveillance;
- D. Provide for the installation and maintenance of traffic control and safety devices;

- E. Provide for the planning and maintenance of on street and off street parking facilities;
- F. Provide public education and information regarding traffic and parking safety;
- G. Provide traffic engineering services, including, but not limited to, planning, scheduling, design, data and statistical compilation, retrieval, use, construction, supervision, operations and surveillance;**
- H. Perform or direct all phases of engineering work required in connection with the functions of the city, not otherwise assigned to another department, and prepare and maintain the engineering records of the city, and is designated city engineer for purposes of state law;
- I. Issue permits and control the use of public rights of way and easements, except as otherwise specifically assigned to another department by the provisions of this code;
- J. To perform such other duties as may be required by the director of community development or the city manager.”**

Section 22. The City Council hereby amends the title of Article 8 (“PUBLIC WORKS AND TRANSPORTATION DEPARTMENT”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2 (“ADMINISTRATION, PERSONNEL, AND PROCEDURES”) of the Beverly Hills Municipal Code to be “PUBLIC WORKS SERVICES DEPARTMENT”.

Section 23. The City Council hereby amends and restates Section 2-3-801 (“CREATION AND FUNCTIONS”) of Article 8 (“PUBLIC WORKS AND TRANSPORTATION DEPARTMENT”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2 (“ADMINISTRATION, PERSONNEL, AND PROCEDURES”) of the Beverly Hills Municipal Code to read as follows:

“The public works **services** department is hereby established and shall be under the direction of the director of public works **services** who shall be accountable to the city manager. The duties of the director of public works **services** shall be as follows:

- A. Formulate and recommend to the city manager policies and procedures for the management of the traffic and parking functions;
- B. Provide technical assistance to the traffic and parking commission;
- C. Provide for the installation and maintenance of traffic control and safety devices;
- D. Provide for the maintenance of on street and off street parking facilities;

- E. Provide public education and information regarding traffic and parking safety;
- F. Inspect, operate, and maintain the city's public works facilities, including storm drains, streets and sewers, and maintain all city installations where maintenance is not assigned to another department;
- G. Maintain all city owned or operated mechanical equipment;
- H. Maintain and have custody of all city owned or operated structures;
- I. Administer the city water operations as provided in this code;
- J. Administer the city refuse collection operations as provided in this code;
- K. Perform such other duties as may be required by the city manager.”

Section 24. The City Council hereby amends and restates **Article 4** (“RESERVED”) of Chapter 3 (“DEPARTMENTS AND OFFICES”) of Title 2 (“ADMINISTRATION, PERSONNEL, AND PROCEDURES”) of the Beverly Hills Municipal Code to read as follows:

“Article 4. Capital Assets Department

The capital assets department is hereby established and shall be under the direction of the deputy city manager of capital assets who shall be accountable to the city manager. The duties of the deputy city manager of capital assets shall be as follows:

- A. Formulate and recommend to the city manager policies and procedures relating to capital asset construction, reconstruction and rehabilitation of City owned buildings and right of way improvements**
- B. Plan, design, and construct the city’s public works facilities including storm drains, streets, alleys and sewers, and other facilities as may be required, and is designated street superintendent for purpose of the state Streets and Highways Code;**
- C. Perform or direct all phases of engineering work required in connection with the functions of the city, not otherwise assigned to another department, and prepare and maintain the engineering records of the city;**
- D. Issue permits and control the use of public rights of way and easements, except as otherwise specifically assigned to another department by the provisions of this code;**

E. Inventory and maintain in current condition mapped and descriptive information on all interests owned or possessed by the city in real property located in the city, including easements in public streets;

F. Issue permits and control the use of public rights of way and easements, except as otherwise specifically assigned to another department by provisions of this code;

G. Coordinate with the director of public works and director of community development in matters relating to land use, development, construction, transportation, traffic and parking;

H. Perform such other duties as may be required by the city manager”

Section 25. The City Council hereby amends and restates Section 6-3-4 (“REPORT OF DIRECTOR OF PUBLIC WORKS”) of Chapter 3 (“UNDERGROUND UTILITY DISTRICTS”) of Title 6 (“UTILITIES AND FRANCHISES”) of the Beverly Hills Municipal Code to read as follows:

"6-3-4: REPORT OF DEPUTY CITY MANAGER OF CAPITAL ASSETS:

The **deputy city manager of capital assets** shall present to council for consideration at the public hearing a report containing information on the proposed undergrounding, including, but not limited to, the extent of such utilities' participation, estimates of the total costs to the city and affected property owners, and an estimate of the time required to complete such underground installation and removal of overhead facilities.”

Section 26. The City Council hereby amends and restates Section 6-3-5 (“DESIGNATION OF UTILITY DISTRICT”) of Chapter 3 (“UNDERGROUND UTILITY DISTRICTS”) of Title 6 (“UTILITIES AND FRANCHISES”) of the Beverly Hills Municipal Code to read as follows:

“During the public hearing, the council shall consider the report of the **deputy city manager of capital assets**, and the testimony and evidence of any interested party. At the conclusion of the hearing, if the council finds that the public necessity, health, safety, or welfare requires such removal and such underground installation within a designated area, the council shall, by resolution, declare such designated area an underground utility district and order such removal and underground installation. Such resolution shall include a description of the area comprising such district and shall fix the time within which such removal and underground installation shall be accomplished and within which affected property owners shall have underground service available. A reasonable time shall be allowed for such removal and underground installation, having due regard for the availability of labor, materials, and equipment necessary for such removal and for the installation of the underground facilities.”

Section 27. The City Council hereby amends and restates Paragraph B of Section 6-3-8 (“RESPONSIBILITY OF PROPERTY OWNERS”) of Chapter 3 (“UNDERGROUND UTILITY DISTRICTS”) of Title 6 (“UTILITIES AND FRANCHISES”) of the Beverly Hills Municipal Code to read as follows:

“ B. In the event that any person owning, operating, leasing, occupying, or renting such property does not comply with the provisions of subsection A of this section within the time provided for in the resolution adopted by the council, the **deputy city manager of capital assets** shall post written notice on the property being served and thirty (30) days thereafter may authorize the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to such property.”

Section 28. The City Council hereby amends and restates paragraph A of Section 7-3-123 (“PARKING OF OVERSIZED VEHICLES PROHIBITED IN RESIDENTIAL ZONES”) 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 stop, park or leave standing upon any street that is designated by the **director community development** within a residential zone a vehicle having any of the following:

1. A manufacturer’s rated load capacity greater than three-fourths (3/4) of a ton;
2. A length in excess of twenty one feet (21’).

Any vehicle stopped, parked or left standing shall be subject to removal.”

Section 29. The City Council hereby amends and restates paragraph C of Section 7-3-123 (“PARKING OF OVERSIZED VEHICLES PROHIBITED IN RESIDENTIAL ZONES”) 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:

“C. The director of **community development** is authorized to designate the streets subject to the restrictions set forth in subsection A of this section. Upon such designation, the **director of community development** shall place or cause to be placed signs on said streets giving notice of the restriction. ”

Section 30. The City Council hereby amends and restates paragraph A of Section 7-3-207 (“MODIFICATION OF AN EXISTING ZONE”) of Article 2 (“PREFERENTIAL PARKING”) 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. The **director of community development**, at the request of the traffic and parking commission or the city council, may initiate a modification to an existing preferential permit zone. If a request is initiated by the city council, the modification shall be heard by the city council and approved by resolution. If the request is initiated by the traffic and parking commission, the traffic and parking commission shall provide a recommendation to the city council and the modification shall be approved by resolution of the city council.”

Section 31. The City Council hereby amends and restates Section 8-7-2 (“DEFINITIONS”) of Chapter 7 (“USE OF PUBLIC RIGHTS OF WAY”) of Title 8 (“PARKS, STREETS, AND OTHER PUBLIC PROPERTY”) of the Beverly Hills Municipal Code to read as follows:

“For purposes of carrying out the intent of this chapter, the following words, phrases, and terms shall have the meanings set forth herein unless a different meaning is clearly intended by the use and context of the word, phrase or term:

ABOVEGROUND: Projecting more than one-half inch ($\frac{1}{2}$ ") above the adjacent finished grade where the facility is to be located.

CITY COUNCIL: The city council of the city of Beverly Hills.

DIRECTOR: The **deputy city manager of capital assets** of the city of Beverly Hills or designee unless otherwise specified.

FACILITY: Any fiber optic, coaxial, or copper cable, telephone, telecommunications, electric or other wire or line, antenna or antenna soil, gas, or other pipeline, duct, conduit, cabinet, tunnel, vault, equipment, drain, manhole, splice box, surface location, marker, pole structure, utility, or other appurtenance, structure, property, or tangible thing owned, leased, operated, or licensed by a person and located or proposed to be located in, upon, above, beneath, or across any public right of way.

PERMITTEE: A person to whom the city has granted a right of way use permit under this chapter or any lawful successor, transferee, or assignee of such person.

PERSON: Any person, business, firm, corporation, or other legal entity who places, constructs, owns, controls, operates, manages, or uses any facility in, upon, above, beneath, or across any public right of way.

PUBLIC RIGHT OF WAY: The area in, upon, above, beneath, or across any public street, road, lane, court, alley, boulevard, sidewalk, pathway, median, parkway, park, open space,

landscape lot, drainage facility, easement or other public place or property within the city, as it now or hereafter exists.

RIGHT OF WAY USE PERMIT: The authorization granted by the city to a person under this chapter giving the person a nonexclusive right to occupy certain space in, upon, above, beneath, or across any public right of way for the purpose of providing a specified service.”

Section 32. The City Council hereby amends and restates paragraph B of Section 4-3-605 (“APPLICATION PROCEDURE; FEE”) of Article 6 (“NEWS RACKS”) of Chapter 3 (“OTHER ACTIVITIES REQUIRING REGULATORY PERMITS”) of Title 4 (“REGULATION OF CERTAIN TYPES OF BUSINESSES AND ACTIVITIES”) of the Beverly Hills Municipal Code to read as follows:

“B. Unless a time extension is granted in writing by the **deputy city manager of capital assets**, within five (5) days of approval of the permit, the permittee must file with the director of public works an insurance certificate establishing that the applicant has in force public liability and property damage insurance from a carrier admitted to do business in the state of California with a Best's insurance rating of A:VII or better in an amount to be determined by resolution of the city council to indemnify the city against any personal injury, death, loss or damage resulting from the permittee's activities. The city and its officers shall be named as additional insureds. The policy must include a statement by the insurance carrier that thirty (30) days' written notice will be given to the city before any cancellation or modification of coverage. The permittee must maintain such insurance for as long as the permittee maintains a news rack in the public right of way. The permittee shall also execute a hold harmless agreement as provided by the city prior to the issuance of any permit.

Section 33. The City Council hereby amends and restates paragraph C of Section 4-3-605 (“APPLICATION PROCEDURE; FEE”) of Article 6 (“NEWS RACKS”) of Chapter 3 (“OTHER ACTIVITIES REQUIRING REGULATORY PERMITS”) of Title 4 (“REGULATION OF CERTAIN TYPES OF BUSINESSES AND ACTIVITIES”) of the Beverly Hills Municipal Code to read as follows:

“C. Upon a showing that the fees and/or insurance requirements are so financially burdensome that they would constitute an unreasonable burden on first amendment rights by virtue of the financial circumstances of the applicant, the **deputy city manager of capital assets** may waive or decrease the fees as necessary.”

Section 34. The City Council hereby amends and restates paragraph A of Section 4-3-610 (“NEWS RACK REQUIREMENTS”) of Article 6 (“NEWS RACKS”) of Chapter 3 (“OTHER ACTIVITIES REQUIRING REGULATORY PERMITS”) of Title 4 (“REGULATION OF CERTAIN TYPES OF BUSINESSES AND ACTIVITIES”) of the Beverly Hills Municipal Code to read as follows:

“A. News rack shall be the standard "K-Jack" model, standard KJ-100 Mini View model or an equivalent model approved by the **deputy city manager of capital assets** which shall be securely bolted to the sidewalk. News racks that are in place as of December 24, 1994, and not in compliance with this subsection shall be replaced with conforming news racks within twelve (12) months of December 24, 1994.”

Section 35. The City Council hereby amends and restates Section 4-3-612 (“ABANDONMENT”) of Article 6 (“NEWS RACKS”) of Chapter 3 (“OTHER ACTIVITIES REQUIRING REGULATORY PERMITS”) of Title 4 (“REGULATION OF CERTAIN TYPES OF BUSINESSES AND ACTIVITIES”) of the Beverly Hills Municipal Code to read as follows:

“In the event any news rack installed pursuant to this article does not contain the newspaper or periodical specified in the application within a period of thirty (30) days after the release of the current issue, or if no newspaper or periodical is in the news rack for a period of more than thirty (30) consecutive days, the **deputy city manager of capital assets** may deem the news rack abandoned and may remove the news rack from the public right of way in accordance with the procedures set out in sections 4-3-613 through 4-3-616 of this article.

In the event a permittee of a news rack, owned by the permittee, desires voluntarily to abandon a news rack location, such permittee shall notify the **deputy city manager of capital assets** in writing of the date of the proposed removal thirty (30) days prior to the news rack's removal and the permittee shall completely remove the news rack and mount on the date set forth in such notice. “

Section 36. The City Council hereby amends and restates paragraph A of Section 4-3-613 (“IMPOUNDMENT OF RACKS”) of Article 6 (“NEWS RACKS”) of Chapter 3 (“OTHER ACTIVITIES REQUIRING REGULATORY PERMITS”) of Title 4 (“REGULATION OF CERTAIN TYPES OF BUSINESSES AND ACTIVITIES”) of the Beverly Hills Municipal Code to read as follows:

“A. The **deputy city manager of capital assets** or his/her designee:

1. May immediately remove and impound any news rack in violation of this article if the violation is creating a dangerous or hazardous condition. Notice of such action and the right to request a hearing in accordance with this article shall be mailed to the permittee, or person, if known, maintaining such news rack within five (5) working days after such action;
2. May notify the permittee, or person, if known, maintaining a news rack found in violation of this article, either in person, or by mail, or if the owner of the news rack is not known, by affixing a notice to the news rack, that unless the violation is corrected or a hearing requested within ten (10) working days after the date of the notice, the news rack will be impounded; and

3. May impound any news rack in accordance with the decision following a hearing requested pursuant to section 4-3-615 of this article.”

Section 37. The City Council hereby amends and restates paragraph B of Section 4-3-613 (“IMPOUNDMENT OF RACKS”) of Article 6 (“NEWS RACKS”) of Chapter 3 (“OTHER ACTIVITIES REQUIRING REGULATORY PERMITS”) of Title 4 (“REGULATION OF CERTAIN TYPES OF BUSINESSES AND ACTIVITIES”) of the Beverly Hills Municipal Code to read as follows:

“B. If a hearing on the impounding of the news rack is not timely requested or if the return of the news rack is not requested by the permittee in accordance with the provisions of this article, the **deputy city manager of capital assets** or the **deputy city manager’s** designee may sell or otherwise dispose of the news rack, its contents and any monies contained in the news rack, and deposit the proceeds, if any, in the city treasury.”

Section 38. The City Council hereby amends and restates paragraph B of Section 4-3-614 (“RETURN OF IMPOUNDED NEWS RACKS”) of Article 6 (“NEWS RACKS”) of Chapter 3 (“OTHER ACTIVITIES REQUIRING REGULATORY PERMITS”) of Title 4 (“REGULATION OF CERTAIN TYPES OF BUSINESSES AND ACTIVITIES”) of the Beverly Hills Municipal Code to read as follows:

“B. The **deputy city manager of capital assets** or **deputy city manager’s** designee may, after a hearing in accordance with this article, order the news rack returned without payment of any impound fee; or, if an impound fee has previously been paid, may order return of any such impound fee if no violation of this article is found.”

Section 39. The City Council hereby amends and restates Section 4-3-615 (“HEARINGS ON VIOLATIONS”) of Article 6 (“NEWS RACKS”) of Chapter 3 (“OTHER ACTIVITIES REQUIRING REGULATORY PERMITS”) of Title 4 (“REGULATION OF CERTAIN TYPES OF BUSINESSES AND ACTIVITIES”) of the Beverly Hills Municipal Code to read as follows:

“A. Request For Hearing: Any permittee or person maintaining a news rack found in violation of this article may request in writing a hearing before the **deputy city manager of capital assets** according to the time limitations contained in subsection 4-3-613A2 of this article.

B. Stay Pending Decision: A timely request for a hearing made prior to any impounding shall operate to stay any impounding until five (5) working days after a final decision is rendered unless the violation is creating a dangerous or hazardous condition.

C. Conduct Of Hearing: A hearing shall be held before the **deputy city manager of capital assets**, unless continued by agreement, within five (5) working days of the request for a hearing. At the hearing, any person may present evidence or argument as to whether the news

rack was in violation of this article or whether the news rack should be returned without payment of an impound fee.

D. Decision: A decision shall be rendered within five (5) working days after the close of the hearing. The **deputy city manager of capital assets** shall take any one of the following actions:

1. Determine there is no violation of this article;
2. Determine there is a violation of this article and order that the violation be corrected within a reasonable period of time and if not, order the removal or impound of the news rack found in violation of this article;
3. Determine there was a violation of this article and order it removed. If the news rack which is found in violation of this article is not removed, it shall be impounded.

E. Notice Of Decision: The **deputy city manager of capital assets** may give oral notice of the decision at the close of the hearing and shall send notice of the decision by mail.”

Section 40. The City Council hereby amends and restates paragraph B of Section 4-3-618 (“URBAN DESIGN PROGRAM AREA”) of Article 6 (“NEWS RACKS”) of Chapter 3 (“OTHER ACTIVITIES REQUIRING REGULATORY PERMITS”) of Title 4 (“REGULATION OF CERTAIN TYPES OF BUSINESSES AND ACTIVITIES”) of the Beverly Hills Municipal Code to read as follows:

“B. The **deputy city manager of capital assets** shall install news rack enclosures within the urban design program area. The design, materials and location of the enclosures shall be determined by the director of public works subject to approval of the city council. A minimum of twenty nine (29) news rack enclosures shall be installed, and each news rack enclosure shall accommodate three (3) news racks. The location of the news rack enclosures shall be fixed prior to the acceptance of news rack permit applications for news rack spaces within the urban design program area. If there is no news rack permit application for space within a particular news rack enclosure, then that enclosure need not be installed until such an application is received.”

Section 41. The City Council hereby amends and restates paragraph C of Section 4-3-618 (“URBAN DESIGN PROGRAM AREA”) of Article 6 (“NEWS RACKS”) of Chapter 3 (“OTHER ACTIVITIES REQUIRING REGULATORY PERMITS”) of Title 4 (“REGULATION OF CERTAIN TYPES OF BUSINESSES AND ACTIVITIES”) of the Beverly Hills Municipal Code to read as follows:

“C. News rack permits for news rack spaces within the urban design program area shall be issued by lottery. For each news rack enclosure location, the **deputy city manager of capital**

assets shall conduct an initial lottery that is limited to preexisting papers and, if necessary, a secondary lottery that is limited to other applicants. A secondary lottery shall be necessary only to fill news racks spaces for which a news rack permit is not awarded to a preexisting paper. No newspaper or periodical shall be eligible for: 1) more than one news rack permit at an intersection where there are two (2) news rack enclosure locations; or 2) more than two (2) news rack permits at an intersection where there are three (3) or four (4) news rack enclosure locations. The **deputy city manager of capital assets** shall conduct the lottery by placing into a container the names of all eligible permit applicants and drawing names from the container until the number of available spaces at a location reaches zero. The **deputy city manager of capital assets** shall give permit applicants advance written notice of the time and place of the lottery, and shall allow members of the public to witness the lottery.”

Section 42. The City Council hereby amends and restates paragraph D of Section 4-3-618 (“URBAN DESIGN PROGRAM AREA”) of Article 6 (“NEWS RACKS”) of Chapter 3 (“OTHER ACTIVITIES REQUIRING REGULATORY PERMITS”) of Title 4 (“REGULATION OF CERTAIN TYPES OF BUSINESSES AND ACTIVITIES”) of the Beverly Hills Municipal Code to read as follows:

“D. News rack permits for news rack spaces within the urban design program area shall have a three (3) year term. At the expiration of each term, the **deputy city manager of capital assets** shall reallocate the permits by conducting an area wide reallocation lottery if a written reallocation request has been submitted in the period between forty five (45) days and thirty five (35) days prior to the term expiration by either an existing permittee or a new permit applicant. If no such request is filed within this period, then the **deputy city manager of capital assets** may renew the permits without conducting an area wide reallocation lottery. In such event, existing permittees may file applications for renewal of their permits, along with a nonrefundable renewal application fee, commencing thirty (30) days prior to the term expiration. The **deputy city manager of capital assets** shall renew the permit, within ten (10) city business days of accepting the application, if the subject news rack remains in compliance with this article.”

Section 43. The City Council hereby amends and restates paragraph H of Section 4-3-618 (“URBAN DESIGN PROGRAM AREA”) of Article 6 (“NEWS RACKS”) of Chapter 3 (“OTHER ACTIVITIES REQUIRING REGULATORY PERMITS”) of Title 4 (“REGULATION OF CERTAIN TYPES OF BUSINESSES AND ACTIVITIES”) of the Beverly Hills Municipal Code to read as follows:

“H. Newsracks within the urban design program area shall be the National Newsvend model M-30 or an equivalent approved by the **deputy city manager of capital assets** and shall be white aluminum RAL #9006 in color.”

Section 44. The City Council hereby amends and restates paragraph I of Section 4-3-618 (“URBAN DESIGN PROGRAM AREA”) of Article 6 (“NEWS RACKS”) of Chapter 3 (“OTHER ACTIVITIES REQUIRING REGULATORY PERMITS”) of Title 4

("REGULATION OF CERTAIN TYPES OF BUSINESSES AND ACTIVITIES") of the Beverly Hills Municipal Code to read as follows:

"I. The **deputy city manager of capital assets** may promulgate policies necessary or convenient for the administration of the lottery."

Section 45. 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 46. 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 47. 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.

Section 48. Use of Bold Font. The use of bold font in this ordinance is for ease of reference only and the bold font shall not be included in the text codified in the Beverly Hills Municipal Code.

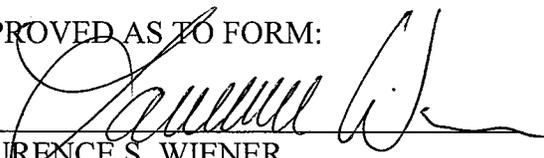
Adopted:
Effective:

JOHN A. MIRISCH
Mayor

ATTEST:

(SEAL)
BYRON POPE
City Clerk

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY KOLIN
City Manager