



## AGENDA REPORT

**Meeting Date:** May 20, 2014

**Item Number:** D-10

**To:** Honorable Mayor & City Council

**From:** Laurence S. Wiener, City Attorney

**Subject:** ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE REGARDING THE REORGANIZATION OF THE PUBLIC WORKS AND TRANSPORTATION DEPARTMENT

**Attachments:** 1. Ordinance

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### **RECOMMENDATION**

Staff recommends that the City Council move to waive the full reading and adopt the ordinance entitled "ORDINANCE OF THE CITY OF BEVERLY HILLS AMENDING THE BEVERLY HILLS MUNICIPAL CODE REGARDING THE REORGANIZATION OF THE PUBLIC WORKS AND TRANSPORTATION DEPARTMENT".

### **INTRODUCTION**

This ordinance further clarifies the roles and responsibilities for the reorganized 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 May 6, 2014, the City Council conducted a first reading and introduced this ordinance.

**FISCAL IMPACT**

These updates to the municipal code will not result in any additional costs to the City.

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Laurence S. Wiener, City Attorney

# **Attachment 1**

**ORDINANCE OF THE CITY OF BEVERLY HILLS  
AMENDING THE BEVERLY HILLS MUNICIPAL CODE  
REGARDING 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 Section 4-3-603 (“PERMIT REQUIRED”) 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:

**4-3-603: PERMIT REQUIRED**

“No person, whether as a principal, agent, or employee, either for itself or any other person, or as an officer of any corporation, or otherwise, shall place, affix, erect, construct, or maintain a news rack upon any public right of way unless and until a news rack permit has been obtained from the department of capital assets.”

Section 2. 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:

**4-3-605: APPLICATION PROCEDURE; FEE**

“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 deputy city manager of capital assets 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 newsrack 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 3. 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::

4-3-618: URBAN DESIGN PROGRAM AREA

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

Section 4. The City Council hereby amends and restates paragraph A of Section 5-9-9 (“ABATEMENT OF GRAFFITI BY CITY WITH CONSENT OF PROPERTY OWNER OR POSSESSOR”) of Chapter 9 (“GRAFFITI PREVENTION, PROHIBITION AND REMOVAL”) of Title 5 (“PUBLIC HEALTH, WELFARE, AND SANITATION”) of the Beverly Hills Municipal Code to read as follows:

5-9-9: ABATEMENT OF GRAFFITI BY CITY WITH CONSENT OF PROPERTY OWNER OR POSSESSOR

“A. Whenever the director of community development, or his or her designee, determines that graffiti is located on publicly or privately owned real or personal property within the city so as to be capable of being visible from any adjacent property (private or public), street, sidewalk, alley, or other public right of way or other area open to the public, the director of public works services is authorized to provide for the use of city funds for the abatement of the graffiti, or if the graffiti cannot be abated cost effectively, the repair or replacement of the portion of the property that was defaced, upon the following conditions:

1. In abating the graffiti, the painting, repair, and/or replacement of an area more extensive than where the graffiti is located shall not be authorized, except where the city owns the structure or property and the director of public services, or his or her designee, determines that a more extensive area must be repainted, repaired, and/or replaced, or where the private property owner agrees to pay for the costs of repainting, repairing, and/or replacing a more extensive area.
2. Where the structure or permanent surface is owned by a public entity other than the city, the removal of graffiti may be performed only after securing the consent of the

public entity having jurisdiction over the structure or permanent surface and only after such entity executes an appropriate release and right of entry form permitting such graffiti removal.

3. Where the structure or permanent surface is privately owned, the removal of graffiti by city employees or by a private contractor under the direction of the city, may be performed only after securing the consent of the owner or possessor and only after the owner or possessor executes an appropriate release and right of entry form permitting such graffiti removal.”

Section 5. The City Council hereby amends and restates paragraph C of Section 5-9-10 (“ABATEMENT OF GRAFFITI BY CITY WITHOUT CONSENT OF PROPERTY OWNER OR POSSESSOR”) of Chapter 9 (“GRAFFITI PREVENTION, PROHIBITION AND REMOVAL”) of Title 5 (“PUBLIC HEALTH, WELFARE, AND SANITATION”) of the Beverly Hills Municipal Code to read as follows:

5-9-10: ABATEMENT OF GRAFFITI BY CITY WITHOUT CONSENT OF PROPERTY OWNER OR POSSESSOR

“C. If no appeal is filed, or if the appeal is denied following a hearing, and if the owner fails to remove or fails to cause the graffiti to be removed by the designated date, or such continued date thereafter as the risk manager approves, then the director of public works services shall cause the graffiti to be abated by city forces or private contract, and the city, or its private contractor, may enter upon the premises for such purposes after obtaining a warrant authorizing the entry upon the property for abatement of the graffiti.”

Section 6. The City Council hereby amends and restates paragraphs B and C of Section 7-3-111 (“CLASS 1 PARKING PERMITS”) 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:

7-3-111: CLASS 1 PARKING PERMITS

“B. A class 1 permit shall be issued by the director of public works services only as follows:

1. One permit for each vehicle legally registered to each current and former member of the city council and each current and former city treasurer.
2. One permit for each vehicle legally registered to each current member of the planning, architectural, design review, traffic and parking, human relations, public works, recreation and parks, fine art, health and safety, charitable solicitations and cultural heritage commissions. When a commissioner ceases to be on a commission, the permit

issued to the holder under this subsection B2 is deemed void and is invalid for the uses set forth in this section. The permit holder shall return the permit(s) to the director.

3. One permit to the current city manager, current city attorney, current city clerk, and each current executive management employee designated in the city's executive compensation plan. When such persons cease to be an employee of the city or are no longer in the position of city manager, city attorney or city clerk, the permit issued to the holder under this subsection B3 is deemed void and is invalid for the uses set forth in this section. The permit holder shall return the permit(s) to the director.

4. Notwithstanding any other provision in this subsection B, no more than two (2) permits shall be issued per household. For the purposes of this section, "household" shall be defined as all persons who dwell within the same dwelling unit.

C. The city treasurer who is in office as of October 18, 2010, may request that the director of public works services issue a single class 1 permit to a deputy city treasurer designated by the city treasurer to receive such permit. Once the city treasurer makes such designation, the city treasurer has no further authority to request the issuance of additional class 1 permits to the same or any other deputy city treasurer(s). When the designated deputy city treasurer ceases to be a deputy city treasurer, the permit issued under this subsection is deemed void and is invalid for the uses set forth in this section. The permit holder shall return the permit to the director."

Section 7. The City Council hereby amends and restates paragraphs A and B of Section 7-3-402 ("PARKING METER ZONE A") of Article 4. ("PARKING METER ZONES AND FEES") of Chapter 3 ("STANDING, STOPPING, PARKING") of Title 7 ("TRAFFIC, PARKING, AND PUBLIC TRANSPORTATION") of the Beverly Hills Municipal Code to read as follows:

7-3-402: PARKING METER ZONE A

"A. The director of public works services or his designee shall set the parking meter rates for each meter located in parking meter zone A in an amount not to exceed two dollars (\$2.00) per hour. If the meter is set for a time that is less than one hour, the meter rate shall not exceed two dollars (\$2.00) for the maximum time on such meter.

B. Except as otherwise set by the director of public works services as provided in this subsection, parking meters shall be in operation, and the deposit of coins shall be required, between the hours of six o'clock (6:00) A.M. and eleven fifty nine o'clock (11:59) P.M. of each day of the week. The director of public works services shall have the authority to set the parking meter hours and days of operation within the time frame set forth herein as well as the maximum legal parking time at each parking meter. The director of public works services shall provide thirty (30) days notice to the city council, at a public meeting, of any proposed change to parking meter hours or days of operation at any meter."

Section 8. The City Council hereby amends and restates paragraphs A and B of Section 7-3-403 (“PARKING METER ZONE B”) of Article 4. (“PARKING METER ZONES AND FEES”) of Chapter 3 (“STANDING, STOPPING, PARKING”) of Title 7 (“TRAFFIC, PARKING, AND PUBLIC TRANSPORTATION”) of the Beverly Hills Municipal Code to read as follows:

7-3-403: PARKING METER ZONE B

“A. The director of public works services or his designee shall set the parking meter rates for each meter located in parking meter zone B in an amount not to exceed two dollars (\$2.00) per hour. If the meter is set for a time that is less than one hour, the meter rate shall not exceed two dollars (\$2.00) for the maximum time on such meter.

B. Except as otherwise set by the director of public works services as provided in this subsection, parking meters shall be in operation, and the deposit of coins shall be required, between the hours of six o’clock (6:00) A.M. and eleven fifty nine o’clock (11:59) P.M. of each day of the week. The director of public works services shall have the authority to set the parking meter hours and days of operation within the time frame set forth herein as well as the maximum legal parking time at each parking meter. The director of public works services shall provide thirty (30) days notice to the city council, at a public meeting, of any proposed change to parking meter hours or days of operation at any meter.”

Section 9. The City Council hereby amends and restates paragraphs A and B of Section 7-3-404 (“PARKING METER ZONE C”) of Article 4. (“PARKING METER ZONES AND FEES”) of Chapter 3 (“STANDING, STOPPING, PARKING”) of Title 7 (“TRAFFIC, PARKING, AND PUBLIC TRANSPORTATION”) of the Beverly Hills Municipal Code to read as follows:

7-3-404: PARKING METER ZONE C

“A. The director of public works services or his designee shall set the parking meter rates for each meter located in parking meter zone C in an amount not to exceed two dollars (\$2.00) per hour. If the meter is set for a time that is less than one hour, the meter rate shall not exceed two dollars (\$2.00) for the maximum time on such meter.

B. Except as otherwise set by the director of public works services as provided in this subsection, parking meters shall be in operation, and the deposit of coins shall be required, between the hours of six o’clock (6:00) A.M. and eleven fifty nine o’clock (11:59) P.M. of each day of the week. The director of public works services shall have the authority to set the parking meter hours and days of operation within the time frame set forth herein as well as the maximum legal parking time at each parking meter. The director of public works services shall provide thirty (30) days notice to the city council, at a public meeting, of any proposed change to parking meter hours or days of operation at any meter.”

Section 10. The City Council hereby amends and restates paragraphs A and B of Section 7-3-406 (“PARKING METER ZONE E/F”) of Article 4. (“PARKING METER ZONES AND FEES”) of Chapter 3 (“STANDING, STOPPING, PARKING”) of Title 7 (“TRAFFIC, PARKING, AND PUBLIC TRANSPORTATION”) of the Beverly Hills Municipal Code to read as follows:

7-3-406: PARKING METER ZONE E/F

“A. The director of public works services or his designee shall set the parking meter rates for each meter located in parking meter zone E/F in an amount not to exceed two dollars (\$2.00) per hour. If the meter is set for a time that is less than one hour, the meter rate shall not exceed two dollars (\$2.00) for the maximum time on such meter.

B. Except as otherwise set by the director of public works services as provided in this subsection, parking meters shall be in operation, and the deposit of coins shall be required, between the hours of six o’clock (6:00) A.M. and eleven fifty nine o’clock (11:59) P.M. of each day of the week. The director of public works services shall have the authority to set the parking meter hours and days of operation within the time frame set forth herein as well as the maximum legal parking time at each parking meter. The director of public works services shall provide thirty (30) days notice to the city council, at a public meeting, of any proposed change to parking meter hours or days of operation at any meter.”

Section 11. The City Council hereby amends and restates paragraphs A and B of Section 7-3-407 (“MUNICIPAL OFF STREET PARKING METER ZONE C”) of Article 4. (“PARKING METER ZONES AND FEES”) of Chapter 3 (“STANDING, STOPPING, PARKING”) of Title 7 (“TRAFFIC, PARKING, AND PUBLIC TRANSPORTATION”) of the Beverly Hills Municipal Code to read as follows:

7-3-407: MUNICIPAL OFF STREET PARKING METER ZONE

“A. The director of public works services or his designee shall set the parking meter rates for each meter located in the municipal off street parking meter zone in an amount not to exceed two dollars (\$2.00) per hour. If the meter is set for a time less than one hour, the meter rate shall not exceed two dollars (\$2.00) for the maximum time on such meter.

B. Except as otherwise set by the director of public works services as provided in this subsection, parking meters shall be in operation, and the deposit of coins shall be required, between the hours of six o’clock (6:00) A.M. and eleven fifty nine o’clock (11:59) P.M. of each day of the week. The director of public works services shall have the authority to set the parking meter hours and days of operation within the time frame set forth herein as well as the maximum legal parking time at each parking meter. The director of public works services shall provide thirty (30) days notice to the city council, at a public meeting, of any proposed change to parking meter hours or days of operation at any meter.”

Section 12. The City Council hereby amends and restates Section 7-3-408 (“EXCEPTION TO DEPOSIT OF COINS”) of Article 4. (“PARKING METER ZONES AND FEES”) of Chapter 3 (“STANDING, STOPPING, PARKING”) of Title 7 (“TRAFFIC, PARKING, AND PUBLIC TRANSPORTATION”) of the Beverly Hills Municipal Code to read as follows:

7-3-408: EXCEPTION TO DEPOSIT OF COINS

“A vehicle may be parked and remain parked in a parking meter space without the deposit of any coin in the parking meter adjacent thereto during the hours other than those designated by the director of public works services as hours during which such deposits are required. Notwithstanding, no vehicle may be parked and remain parked in a parking meter space if parking in the meter space violates section 7-3-212 or 7-3-301 of this chapter. “

Section 13. The City Council hereby amends and restates paragraph B of Section 10-3-1633 (“INTENSIFICATION OF EXISTING NONCONFORMING USES”) of Article 16.3 (“Commercial-Transition Zone (C-3T-2)”) of Chapter 3 (“ZONING”) of Title 10 (“PLANNING AND ZONING”) of the Beverly Hills Municipal Code to read as follows:

10-3-1633: INTENSIFICATION OF EXISTING NONCONFORMING USES

“B. Intensity Of Use: To determine whether a change of use is an intensification of use, uses have been classified into the following three (3) tiers of land use intensity. Tier 1 represents the lowest intensity of use, tier 2 represents a higher intensity of use than tier 1, and tier 3 represents the highest intensity of use.

Tier 1 shall include: warehousing or storage, miniwarehouses, antique stores, furniture stores, car sales or service, surface parking, and other similar uses as determined by the director of community development.

Tier 2 shall include: apparel stores, hardware stores, toy stores, general retail stores, general offices, health/fitness clubs, and other similar uses as determined by the director of community development.

Tier 3 shall include: restaurants, supermarkets, drugstores, convenience markets, video rental stores, educational institutions, religious institutions, medical offices, beauty shops, and other similar uses as determined by the director of community development.

In determining the tier in which a specific use belongs, the director of community development may consider all relevant factors including, without limitation, parking demand and traffic generation as indicated in ITE “Parking Generation”, 3rd edition; ULI “Shared Parking”, 2nd edition; ITE “Trip Generation”, 7th edition, or any combination thereof; vehicle trips generated by the use; the judgment of the deputy city manager of

capital assets; and any data or evidence and supporting analysis provided by a registered engineer.”

Section 14. The City Council hereby amends and restates paragraph K of Section 10-3-3215 (“LANDMARK OR HISTORIC DISTRICT DESIGNATION PROCEDURES:”) of Article 32 (“Historic Preservation”) of Chapter 3 (“ZONING”) of Title 10 (“PLANNING AND ZONING”) of the Beverly Hills Municipal Code to read as follows:

10-3-3215: LANDMARK OR HISTORIC DISTRICT DESIGNATION PROCEDURES

“K. Recordation Of Resolution: A certified copy of such resolution shall be recorded in the office of the county recorder of the county of Los Angeles by the city clerk immediately following its effective date. The city clerk shall also send a copy of said resolution to the director, the director of public works services, the building official, the owner(s), and the occupant(s) of the property or properties. The document to be recorded shall contain:

1. A legal description of the property or properties;
2. The date and substance of the designation;
3. A statement explaining that demolition, alteration, or relocation of the property is restricted; and
4. A reference to this section authorizing the recordation.”

Section 15. The City Council hereby amends and restates paragraph A.15 of Section 10-5-318 (“PERMITS; FURTHER CONDITIONS”) of Article 3 (“OIL WELLS”) of Chapter 5 (“MINING AND EXTRACTION”) of Title 10 (“PLANNING AND ZONING”) of the Beverly Hills Municipal Code to read as follows:

10-5-318: PERMITS; FURTHER CONDITIONS

“15. At all times vehicular access to a controlled drill site shall be provided in accordance with the plans for vehicular access reviewed by the department of community development and approved by the council.”

Section 16. 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 17. 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 18. 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:

\_\_\_\_\_  
LILI BOSSE  
Mayor

ATTEST:

\_\_\_\_\_  
(SEAL)  
BYRON POPE  
City Clerk

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT:  
\_\_\_\_\_  
JEFFREY KOLIN  
City Manager