



## **CITY OF COMMERCE AGENDA REPORT**

**TO:** Honorable Mayor and City Council **Item No.** \_\_\_\_

**FROM:** City Administrator

**SUBJECT:** Ordinance Implementing an Administrative Fines and Citations Program, and Amending General Penalty Provisions

**MEETING DATE:** April 3, 2018

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### **RECOMMENDATION**

1. Introduce for First Reading, Read by Title Only, and Waive Further Reading of Ordinance entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COMMERCE AMENDING CHAPTER 1.12 ("PENALTY AND ARREST PROVISIONS") OF TITLE 1 ("GENERAL PROVISIONS") BY AMENDING SECTIONS 1.12.010 AND 1.12.011 CONCERNING PENALTY FOR VIOLATIONS PROVISIONS, AND ADDING A NEW SECTION 1.12.140 ("ADMINISTRATIVE CITATIONS"); AND ADDING A NEW CHAPTER 1.13 ("ADMINISTRATIVE FINES AND CITATIONS") TO TITLE 1("GENERAL PROVISIONS)."
2. That City Council brings back the Ordinance for Second Reading and Adoption on April 17, 2018.

### **BACKGROUND**

Enacting an administrative citation ordinance allows for an additional enforcement tool available to the City by allowing the issuance of administrative citations, which carry administrative fines, to persons violating the City's Municipal Code. Specifically, section 53069.4 of the Government Code authorizes cities to enact an ordinance making any violation of any ordinance subject to an administrative fine or penalty. The administrative citation remedy is not intended to replace any other remedy allowed by the City's Municipal Code or state law. Instead, it is intended to provide an additional means by which the City's laws may be enforced.

Section 53069.4 of the Government Code was enacted by closely mirroring the administrative parking citation process established in 1992, wherein offenses were "decriminalized" and allowing cities to implement an administrative adjudicative procedure to enforce violations without having to immediately resort to judicial action.

Additionally, the City's penalty provisions, specifically relating to the judicial fine amounts for misdemeanor and infractions offenses as currently found in the Commerce Municipal Code, are not consistent with state law. Accordingly, this ordinance takes the opportunity to amend said penalty provisions, and make further clarifications of what constitutes a violation pursuant to the Commerce Municipal Code.

## **ANALYSIS**

### **Proposed Amendments to Existing Penalty Provisions:**

Pursuant to Commerce Municipal Code Sections 1.12.010, violations of the City's municipal code are misdemeanors. Further, pursuant to Commerce Municipal Code Sections 1.12.011, a city prosecutor may charge a misdemeanor offense as an infraction.

The proposed ordinance makes amendments to Commerce Municipal Code Sections 1.12.010 and 1.12.011 (1) to ensure the maximum fine amounts for misdemeanor and infractions offenses, respectively, are actually consistent with state law, and (2) to add language to clarify the acts or omissions that are deemed to be violations of the City's Municipal Code, including violating a condition of a City permit, license, entitlement or similar City approvals.

### **Offenses Subject to an Administrative Citation and Fine Amounts:**

Pursuant to Government Code Section 53069.4, a local agency may make any violation of any ordinance subject to administrative fines and/or penalties. The enactment of an administrative citation ordinance includes implementing administrative procedures for the issuance of administrative citations; imposing and collecting fines; as well as setting up an administrative hearing procedure that allows persons who have been cited to challenge said citations, including providing the required hearing notices and administering said hearings (i.e., due process rights).

It is necessary to reiterate that said remedy may be utilized in place of, or in addition to, any other remedy allowed. The threat of increased fine amounts if a violation is not corrected or abated - as would be recommended in a fee resolution - help deter individuals from violating the City's laws. Therefore, the deterrence effect in the issuance of an administrative citation, which is real, comes with the threat that should the offense not be abated, follow-up citations may be issued, with an increased amount of fines for subsequent violations.

On the other hand, there may be some violators that deem the payment of an administrative fine as a "cost of doing business" and instead of abating the violation, continue to violate the City's laws. In order for this program to be effective, careful consideration needs to be taken as to the fine amounts depending on the type of violations, such as serious life, safety, and health hazards, or financially motivated offenses. After the passage of the proposed attached ordinance, City Council will have

authority to pass a resolution establishing said fine amounts. The resolution would also specify amounts for late fees when the payment of a fine is made after the due date stated in the administrative citation, as well as the rate of interest charged for late payments. Staff will bring this to the City Council at a future City Council meeting.

*Administrative Procedures and Hearings:*

An impact of the imposition and collection of said administrative fines will be cost-savings to the City because City staff may now handle cases previously referred to the City Prosecutor. Further, said collection of fines may also serve to be a new source of revenue for the City since fines that would have previously been paid to the Los Angeles Superior Court (with a small percentage being paid to the City) will now be paid completely and directly to the City. However, there will also be initial costs and responsibilities of implementing said system since it is necessary to implement administrative procedures that govern the imposition, enforcement, collection, and administrative review of said fines and penalties.

Typically, Public Safety and Code Enforcement personnel are assigned to process said citations; collect said fines, and set up a system to collect delinquent fine amounts; scheduling administrative hearings upon receiving a written request for same; sending the required notices before and after hearings; and refunding fine amounts if a citee is not found to be responsible for the violation after the administrative hearing. Please note that some cities that heavily use their administrative citation program as their primary means of enforcement, and therefore issue many administrative citations, tend to use the same outside processing agency already used by the City that processes the City's parking citations instead of re-inventing and establishing a procedure that already exists. Staff recommends exploring this as a cost-saving and efficient manner to process the administrative citations.

The proposed ordinance grants citees with due process rights to challenge a citation, and sets out the procedure for requesting, scheduling and presiding over an administrative hearing.

**FISCAL IMPACT**

The assessment of civil penalties pursuant to this program would be a new source of revenue for the City. At this time, it is difficult to accurately predict the amount of new revenue, as this will also be determined by the fine amounts established and how much this enforcement remedy is relied upon by City staff. The implementation of the ordinance will have some initial financial impacts. Further, the administration of the citation and penalty process, as well as having administrative hearings, may require additional resources.

Recommended/Prepared by: Norma Copado, Assistant City Attorney

Re: Ordinance Implementing an Administrative Fines and Citations Program  
April 3, 2018 Meeting

Reviewed By and Approved as to Form: Norma Copado, Assistant City Attorney  
Respectfully submitted: Edgar P. Cisneros, City Administrator