

City of Garden Grove

**INTER-DEPARTMENT MEMORANDUM**

To:	Matthew J. Fertal	From:	Thomas F. Nixon
Dept:	City Manager	Dept:	City Attorney
Subject:	ORDINANCE AMENDING ADMINISTRATIVE CITATION PROGRAM	Date:	June 9, 2009

OBJECTIVE

Amendment of the City's Administrative Citation Program to expand its scope.

BACKGROUND

Previously the City Council enacted an administrative citation ordinance addressing the illegal use of fireworks. Subsequently, that ordinance was amended to expand its coverage to include graffiti and vacant property maintenance (foreclosure) violations. During the March 17, 2009 study session, the City Council requested that an ordinance expanding the coverage of the administrative citation program to encompass all Municipal Code violations be brought forward for consideration.

On April 28, 2009, the City Council was presented with a proposed ordinance for consideration. At that time, the matter was continued to allow additional time for review of the proposed ordinance. Thereafter, additional comments have been received regarding different approaches to the ordinance.

DISCUSSION

Attached for City Council consideration are two versions of the proposed ordinance expanding the scope of the City's administrative citation program. Attachment 1 is the ordinance presented to the City Council on April 28, with some minor adjustments. This ordinance authorizes issuance of administrative citations and imposition of administrative fines of \$1,000 per violation for violation of the Municipal Code, including conditions imposed in conjunction with land use entitlements or permits issued by the City. (Section 1.22.010(a).)

The ordinance in Attachment 1 authorizes police officers, code enforcement officers, community service officers, the building official, building inspectors, community development director, City engineer, the fire marshal and persons designated by the City Manager, community development director or Fire Chief to issue administrative citations.

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The ordinance is drafted to include state law requirements. The state legislation which authorizes this program mandates that for matters which would be considered infractions instead of misdemeanors if prosecuted criminally, the fines be limited to \$100 for the first violation, \$200 for the second violation and \$500 for each additional violation within a one year period. (Section 1.22.010(f).) Similarly, unless violations of building, plumbing or electrical regulations create an immediate danger to health and safety, the City is required to allow the responsible person a reasonable time to correct the violation prior to imposition of a fine. (Section 1.22.010(d).)

Previously, the City Council established administrative fines for violation of provisions of the graffiti and vacant property maintenance (foreclosure) ordinances at \$300 for a first violation, \$600 for a second violation and \$1,000 for each additional violation within a one year period. These fines are retained in the amended ordinance. (Section 1.22.010(g).)

The proposed ordinance preserves the process for persons cited to challenge the citation through an administrative appeal process and subsequently through the Superior Court. (Sections 1.22.020-050 and 1.22.070) The ordinance further provides for collection procedures if the person cited fails to pay the administrative fine. (Section 1.22.070; 1.22.120)

Attachment 2 is a modified version of the April 28 ordinance prepared in response to comments received. This version (1) limits authorization for issuance of citations to violations of conditional use permits, in addition to the previously adopted citation authorizations relating to fireworks, graffiti and the property foreclosure regulations (Section 1.22.010(a)); (2) provides that the first citation shall be for \$500 instead of \$1,000 (Section 1.22.010(e); and (3) limits the persons who may issue citations to sworn police officers, the fire marshal and those fire department employees designated by the Fire Chief. (Section 1.22.100(c).) Attachment 2 contains blackline notations identifying the differences from Attachment 1.

### FINANCIAL IMPACT

While there will be certain increases in costs relating to the processing of administrative citations and certain increases in revenue associated with payment of administrative fines, these amounts are currently undetermined. The cost increases will likely be offset by a reduction in costs relating to criminal prosecution of code violations.

### COMMUNITY VISION IMPLEMENTATION

Expansion of the administrative citation program will help to ensure compliance with Municipal Code requirements.

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RECOMMENDATION

It is recommended that (1) the City Council consider which version of the proposed ordinance should be selected, and (2) following the reading of the title of the selected ordinance, the City Council introduce and pass the selected ordinance to the second reading.

*Thomas F. Nixon*  
*DM*

THOMAS F. NIXON

City Attorney

Attachment 1: Initial Version of Proposed Ordinance

Attachment 2: Alternate Version of Proposed Ordinance

**Approved for Agenda Listing**

*Matthew Fertal*

**Matthew Fertal**  
City Manager