

TRANSMITTAL

To: **THE COUNCIL**

Date: **MAY 01 2008**

From: **THE MAYOR**

TRANSMITTED FOR YOUR CONSIDERATION. PLEASE SEE ATTACHED.



ANTONIO R. VILLARAIGOSA
Mayor

MAY 02 2008
PUBLIC WORKS

CITY OF LOS ANGELES

CALIFORNIA



ANTONIO R. VILLARAIGOSA
MAYOR

April 2, 2008

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JAMES A. GIBSON
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#3 ST

Mayor Antonio R. Villaraigosa
Room No. 305
City Hall
Attn: June Lagmay

Subject: PROPOSED ORDINANCE AMENDMENT OF LOS ANGELES MUNICIPAL CODE SECTION 66.25 TO ADD SUBSECTION (B) AND (C) TO AUTHORIZE ADMINISTRATIVE PENALTIES FOR THE ILLEGAL DUMPING OF RUBBISH ON THE PUBLIC RIGHT-OF-WAY AND ESTABLISH A NEW REVENUE SOURCE CODE IN THE GENERAL FUND TO IDENTIFY ALL PENALTIES COLLECTED TO BE USED FOR ILLEGAL DUMPING ENFORCEMENT BY THE BUREAU OF STREET SERVICES, INVESTIGATION AND ENFORCEMENT DIVISION

As recommended in the accompanying report of the Director of the Bureau of Street Services, which this Board has adopted, the Board of Public Works requests approval and forwarding to the City Council for approval and direction to the City Attorney to develop a draft ordinance which would amend the Los Angeles Municipal Code Section 66.25 to add subsections (b) and (c) (described in the report), to authorize administrative penalties for the illegal dumping of rubbish on the public rights-of-way, and to establish a new revenue source code in the general fund to identify all penalties collected.

FISCAL IMPACT

Penalties collected should cover all administrative costs for this program.

Respectfully submitted,

James A. Gibson, Executive Officer
Board of Public Works

JAG:mp



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BUREAU OF STREET SERVICES
REPORT NO. 3**

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April 2, 2008

ADOPTED BY THE BOARD OF
PUBLIC WORKS OF THE CITY
of Los Angeles, California
AND REFERRED TO THE MAYOR
APR - 2 2008


Secretary

CD# ALL

Honorable Board of Public Works
of the City of Los Angeles
Commissioners:

**PROPOSED ORDINANCE AMENDMENT OF LOS ANGELES MUNICIPAL
CODE SECTION 66.25 TO ADD SUBSECTION (B) AND (C) TO AUTHORIZE
ADMINISTRATIVE PENALTIES FOR THE ILLEGAL DUMPING OF RUBBISH
ON THE PUBLIC RIGHT-OF-WAY AND ESTABLISH A NEW REVENUE
SOURCE CODE IN THE GENERAL FUND TO IDENTIFY ALL PENALTIES
COLLECTED TO BE USED FOR ILLEGAL DUMPING ENFORCEMENT BY
THE BUREAU OF STREET SERVICES, INVESTIGATION AND
ENFORCEMENT DIVISION**

RECOMMENDATION:

That your Board adopts the report supporting the proposed amendments to Section 66.25 adding subsections (b) and (c) to the Los Angeles Municipal Code (LAMC); transmit a copy of this report to the City Council with the recommendation that the attached proposed ordinance amendments be forwarded to the Chief Legislative Analyst and the City Attorney for review as to form and legality; and that the City Council instructs the City Attorney to prepare a draft of the ordinance to reflect the amendments for City Council review and approval and final approval by the Mayor.

TRANSMITTALS:

1. Draft of proposed ordinance amending Section 66.25 adding subsections (b) and (c) to the LAMC to authorize monetary penalties for administrative violations of the prohibition against illegally depositing rubbish on the public right-of-way.

RECITAL:

Illegal dumping is the most frequently committed environmental crime in California, and its proliferation continues to increase the City expenditures to mitigate this public safety problem. The Bureau of Street Services (Bureau) has aggressively enforced illegal dumping ordinances and seeks a new tool to improve the efficiency and effectiveness of illegal dumping enforcement. Currently when dumpers are observed in the commission of the violation, they can be cited for a misdemeanor violation of the Los Angeles Municipal Code and applicable State laws.

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In addition to catching violators in the act, Investigators from the Bureau routinely search through illegally dumped piles of trash to find evidence that leads to the person responsible for the debris. The violator is cited to an administrative hearing and attempt is made to recover City cleanup costs and investigative fees. While this has had some impact, an ordinance creating an administrative violation with monetary penalties for occasion where illegal dumping has not been observed as is required for criminal prosecution but there is evidence recovered from the illegal dumping to prove ownership of the trash.

The Bureau proposes amending Los Angeles Municipal Code Section 66.25 to add subsection "b" and "c" that provide that any document found in the trash that clearly shows a name and address is sufficient proof that the person identified by the evidence is responsible for the illegal dumping and subject to a monetary fine in addition to any cleanup and investigative costs

The Bureau recommends amending LAMC Section 66.25 to impose a graduated penalty of \$500, \$750 and \$1000 for each successive violation of the ordinance in a 12 month period. A fourth violation would result in criminal prosecution as misdemeanor violation. The revenue derived from this enforcement would be used to fund illegal dumping surveillance and enforcement by the Bureau of Street Services, Investigation and Enforcement Division.

Pursuant to Los Angeles Municipal Code Section 66.25 it is illegal to dispose of any rubbish on public property without a permit from the Board of Public Works. Investigators perform surveillance and cite or arrest violators caught in the act of dumping. However, the problem is so pervasive that arrests alone cannot stop the occurrence of illegal dumping City wide. In addition to proactive enforcement of criminal laws, there is a need to hold accountable those that are not observed and cannot be prosecuted through conventional methods. The use of an administrative remedy in these situations ensures that the all violators are held accountable.

As City services are utilized to maximum capacity, it is imperative that community stakeholders take responsibility for their part in keeping the right-of-way clean. To deter this prevalent quality of life crime and encourage active community involvement in the process of making our streets safe and clean, an administrative enforcement program is recommended.

The amendments proposed create a graduated administrative system with the first violation resulting in a warning or a \$500 fine. In a calendar year, once a business or individual has received one monetary fine the next violation is punishable by a fine of \$750. A third fine is \$1000 and a fourth violation is treated as a criminal misdemeanor. The violator has the right to appeal all fines through an administrative hearing. The findings of the hearing officer serve as the City's testimony if the matter is appealed to civil court. There is no involvement of the City Attorneys Office unless the hearing is

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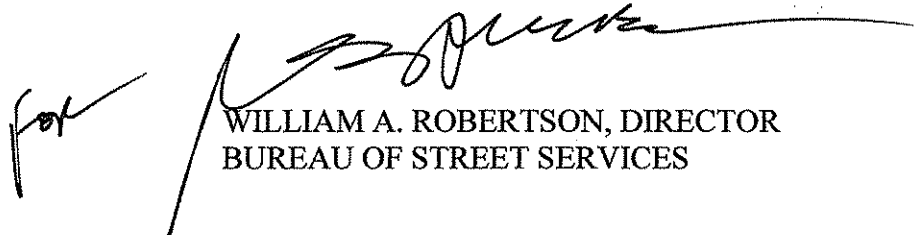
appealed or the violator is flagrant and must be charged for more than three calendar year violations.

The proposed amendment includes authorization for the Board of Public Works to set an additional processing fee to recover the costs of the program. It is recommended that this initial fee is set at \$50 per citation. The Department of Public Works does not currently employ Administrative Hearing Examiners. The City does employ Hearing Officers in the Department of Transportation to adjudicate parking citations. To comply with the administrative hearing process as mandated by California Government Code Section 53069, a hearing system would need to be established within the Department of Public Works or agreement established with the Los Angeles Department of Transportation to hold administrative hearings for the parkway violations. The administrative fee would be used to offset LADOT costs related to these administrative hearings if it is decided this is preferable.

This program will improve the appearance of City streets, reduce blight and enhance the quality of life through effective targeted enforcement that focuses on fixing "broken windows."

(GH----- NS)

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'William A. Robertson', is written over a horizontal line. To the left of the signature, the word 'for' is written vertically.

WILLIAM A. ROBERTSON, DIRECTOR
BUREAU OF STREET SERVICES

PREPARED BY:
Gary Harris, Chief Street Services Investigator II
Investigation and Enforcement Division
(213) 847-6000

SEC. 66.25 DEPOSITING NONCOMBUSTIBLE RUBBISH.

(Amended by Ord. No. 148,466, Eff. 7/29/76.)

(a) No person shall deposit or cause to be deposited any combustible or noncombustible rubbish or any refuse of any kind whatsoever upon or in any street, or upon any private premises in this City, or in the Los Angeles River, or in the bed thereof. Noncombustible rubbish may be deposited upon any low ground after the person proposing so to deposit the same shall have obtained a written permit therefore from the Board and from the owner of the premises upon which it is proposed to deposit such noncombustible rubbish. Any permit granted pursuant to the provisions of this section may be revoked by the Board at any time without notice, and upon such revocation all rights there under shall immediately cease

(b) Any person whose identifying information is found in rubbish or any refuse of any kind whatsoever upon or in any street, shall be responsible for depositing it on the public right-of-way and shall be subject to administrative penalties as defined in Subsection (c).

(c) The first violation of Subsection (b) in a calendar year is subject to warning or an administrative monetary penalty not to exceed \$500.00. Subsequent violations in the same calendar year will result in a second penalty not to exceed \$750.00 for the second violation after receiving the initial \$500.00 penalty. The penalty for the third administrative violation in a calendar year is \$1000.00. More than three administrative fines in one calendar year shall result in the violation being charged as a misdemeanor in Superior Court and subject to all penalties applicable to criminal violations. The Bureau of Street Services is authorized assess a processing fee established by the Board of Public Works for all citations with an administrative monetary penalty. All non-criminal enforcement actions are subject to the administrative hearing process as mandated California Government Code Section 53069.