

# MICHAEL N. FEUER CITY ATTORNEY

REPORT NO. <u>R 1 4 - 0 2 7 7</u>

'JUN 1 8 2014

#### REPORT RE:

# ADMINISTRATIVE CITATION ENFORCEMENT (ACE) PILOT PROGRAM LOS ANGELES POLICE DEPARTMENT AND DEPARTMENT OF ANIMAL SERVICES

The Honorable City Council of the City of Los Angeles Room 395, City Hall 200 North Spring Street Los Angeles, California 90012

Council File No. 10-0085

#### Honorable Members:

The Los Angeles City Council adopted Ordinance No. 182610 on June 21, 2013, to establish an Administrative Citation Enforcement (ACE) Program along with direction that ACE be implemented initially as a pilot program (ACE Pilot Program) involving the Los Angeles Police Department (LAPD) and the Department of Animal Services (DAS).

ACE is an alternative method of enforcement for violations of the Los Angeles Municipal Code. An administrative citation - a ticket - would be issued to a violator in place of a criminal citation or an arrest. The present citation process results in a criminal conviction with penalties that may include probation, fines, and jail. An administrative citation, on the other hand, can be resolved through the payment of a fine and there is no resulting criminal record, probation, or threat of jail.

The Office of the City Attorney was asked to lead a working group of City departments to report back to the City Council on the actions needed to implement the ACE Pilot Program, including identifying and allocating resources, determining technology interface requirements, developing systems to process and track citations, and creating an appeals process for issued citations.

Participants in the working group included representatives of the City Administrative Office (CAO), City Legislative Analyst's Office (CLA), Council District 5, Office of Finance, Controller, Information Technology Agency (ITA), LAPD and DAS. The working group met on multiple occasions, as did special topic sub-committees, to analyze and assess the issues relating to planning and implementing the ACE Pilot Program.

# I. Eligible Offenses (Attachment A-1 and A-2)

Working in concert with LAPD and DAS, the working group developed a list of eligible offenses that could be referred to the ACE program for processing. Attachment A-1 and A-2 provide an initial list of offenses that would be eligible for referral to the ACE Pilot Program. This list may be expanded over the course of the Pilot Program. Officers would be trained to ensure familiarity with offenses that are appropriate for ACE referral.

# II. Implementing the ACE Pilot Program (Attachment B)

The working group explored how best to process the thousands of eligible citations issued annually, from the time they are issued through collection of unpaid fines. While consideration was given to handling the entire process in-house, after extensive research of existing ACE programs in other jurisdictions, the working group determined the program would be best developed in partnership with an outside vendor.

This recommendation is based on the complexity of modifying the City's current information technology systems and departmental procedures to process citations once they are issued. Given this complexity, developing the ACE Pilot Program in partnership with an experienced vendor would be far more cost-effective, efficient and reliable than creating an in-house program from scratch. It will also allow the ACE Pilot Program to start much sooner than if the Program were developed and implemented entirely inhouse.

Under this model, once a citation is issued by LAPD or DAS personnel, the vendor would process and track the citation, send payment notices, collect payment, transfer revenues to the City and provide regular reports of enforcement activities. The vendor would receive a flat fee per citation for the work performed. A limited increase in City staff would be necessary for interfacing with the vendor and participating departments, managing and tracking revenue transferred from the vendor and administering the appeal process. Collection of delinquent citation fees would be handled by an outside vendor, to be negotiated in the first year of the program.

In short, with a modest investment and partnership with an outside vendor, the City-could reasonably expect to implement the ACE Pilot Program by October 2014 and realize net revenue in the first year of operation.

As detailed in Attachments B, annual City costs of \$577,603 would include:

- Office of Finance staff to process vendor payments, track breakdown of receivables and deposit funds
- City Attorney staff to coordinate the overall program, manage the appeal process and ensure delivery of citations to the vendor for timely processing
- Department of Animal Services staff to manage the ACE citation process
- Printing of citation forms
- Supplies/postage

Alternatively, a program developed completely in-house, relying strictly on City personnel and resources, would take 12 -18 months to implement, require an initial investment of nearly \$2 million and would be unlikely to generate net revenue for the City for several years.

As discussed in further detail in the revenue section of this report, projections indicate that a program developed in partnership with a vendor would generate sufficient revenue to cover all program costs and likely generate fines in excess of operational costs beginning in the first year of operation.

# III. Revenue from the ACE Program (Attachment C)

Revenue projections have been developed in consultation with municipalities that have existing ACE programs and with vendors that assist these municipalities. Comparable programs in other municipalities pay vendors a flat fee for each citation that is processed. This fee would cover all costs associated with processing the citation -- sending payment notices, collecting payment, transferring revenue to the City and providing regular reports of enforcement activities.

The remainder of the citation fee represents potential revenue to the City. As detailed in Attachment C, in the first year of implementation, assuming an October start date, the City can expect to net approximately \$468,241 in revenue (after covering vendor and City staff costs). Net revenue is expected to grow substantially in future years.

# IV. Departmental Operational Plans (Attachment D)

Numerous issues were identified and addressed by both LAPD and DAS, including the form of the citation to be used by officers in the field, officer training and the impact the ACE Pilot Program would have on existing operational orders and protocols. Management in both departments have worked through these challenges and continue to develop protocols to successfully implement the program. Due to the volume of their citations, LAPD would implement the ACE Pilot Program in three phases, while DAS would begin city-wide implementation immediately. Details of operational changes for LAPD and DAS are included in Attachment D.

# V. Appeal Process (Attachment E)

The ACE ordinance requires the City Attorney's Office to create a review process to allow a citation to be appealed. As detailed in Attachment E, the appeal process would consist of two steps. If the cited party chooses to contest the citation, the first step would be to request an initial review by the City Attorney's Office at no cost. If not satisfied with the outcome of the initial review, the cited party could request a more comprehensive administrative hearing utilizing experienced hearing officers to review the appeal. If the second level of appeal is unsuccessful, the City may recoup administrative and enforcement costs from the cited party, as detailed in Attachment E.

While hearing officers would largely serve in a volunteer capacity, City Attorney staff would schedule and coordinate the appeal process.

# VI. Recommended Ordinance Changes

# **Summary of Ordinance Provisions**

 Modifying time to pay a fine and revising definition of "Continuing Violation" (Attachment F)

LAMC Section 11.2.07(a) requires a person to pay a fine within 15 days of a citation being issued. The working group recommends a modification to this timeframe given the logistics of gathering citations issued throughout the City and delivering them to the central processing facility, entering the data and allowing a cited party to request an initial review of the citation. Attachment F is a draft ordinance that proposes a 20 day period to pay or request review starting from the time the City mails an ACE notice to the cited party, rather than 15 days from the date the citation was issued. Additionally, this revised ordinance expands the definition of "Continuing Violation" to allow time to correct a violation when appropriate.

• Amending various LAMC 53.00 *et seq.* fee schedules for animal-related violations (Attachment G)

Attachment G is a draft ordinance that modifies the fines for animal-related violations in LAMC Section 53.00 *et seq.*, which are primarily enforced by the Department of Animal Services, to match the fine schedule embodied in the ACE program, as requested last fall by the City Council's Personnel and Animal Welfare Committee.

ACE fines for a violation of LAMC Section 53.00 *et seq.* start at \$100 and increase to \$250 for a second offense, \$500 for a third offense and \$1,000 for a fourth offense. The fines currently in the sections being modified by the draft ordinance contain a confusing array of fines, timelines and community service provisions that are inconsistent with the ACE program.

This ordinance modifies these LAMC sections for consistency with the ACE fine schedule, including changing some current infractions to misdemeanors. These changes will allow the affected sections to be enforced using the full range of fines contemplated by the ACE fine schedule and program.

#### **CEQA Determination**

These ordinances are not projects subject to environmental review under the California Environmental Quality Act (CEQA). Under Subsections (b)(2) and (b)(5) of State CEQA Guidelines Section 15378, continuing administrative activities and organizational activities that will not result in direct or indirect physical changes in the environment are not CEQA projects. The ordinance makes administrative changes to existing portions of LAMC Section 11.2.07 and 53.00 *et seq.*, and the changes will not result in any change to the physical environment.

# Council Rule 38 Referral

The draft ordinances were sent, pursuant to Council Rule 38, to the Los Angeles Police Department and the Department of Animal Services with a request that all comments, if any, be presented directly to the City Council when this matter is considered.

We look forward to implementing the ACE program and appreciate your consideration of this report. If you have any questions regarding this matter, please contact Chief Assistant City Attorney David Michaelson at (213) 978-7178 or Chief Assistant City Attorney Mary Clare Molidor (213) 978-4099.

Very Truly Yours,

MICHAEL N. FEUER, City Attorney

By

Chief of Staff

#### Attachments

cc: Honorable Eric Garcetti, Mayor
Honorable Ron Galperin, City Controller
Charlie Beck, Chief of Police
Miguel Santana, City Administrative Officer
Gerry Miller, Chief Legislative Analyst
Antoinette Christovale, Office of Finance
Steve Reneker, Information Technology Agency
Brenda Barnette, Department of Animal Services

# ACE PILOT PROGRAM – LOS ANGELES POLICE DEPARTMENT SCHEDULE OF VIOLATIONS LOS ANGELES MUNICIPAL CODE

(Law enforcement has discretion to cite as misdemeanor or under ACE)

Code	Description
41.27(c)	Drinking in public
41.27(d)	Possession of open container on posted ABC location
41.40	Construction noise – allowable 7AM to 9PM
41.42	Music reproducing devices –public resort hours of operation
41.46	Failure to keep sidewalks clean
41.47.2	Urinating or defecating in public
41.50	Smoking violation
41.57	Loud & raucous noise
42.00	Illegal vending
42.03	Selling tickets in public places and places open to the public
42.15	Vending and excessive noise on beaches*
43.01	Gambling
46.91	Tobacco retail permit required
47.11	Unlawful display of aerosol paint/markers
47.15	Spectator at speed contest
53.55	Dogs on beach
56.08	Property owner obstructing sidewalk
56.15	Bicycle riding sidewalks
56.15.1	Use of skateboards
57.55.01	Possession/Use of fireworks
63.44	Regulations affecting Park and Recreation areas
66.04	Deposit of garbage on street/LA River
66.28	Tampering with refuse/rubbish/salvage
67.02	Posting or erecting signs on public street, pole sidewalk, alley, public property or private property without permission
85.07	Prohibition against roller skating, skateboarding or bicycling in violation posted signs
103.20(a)	Failure to post City business permit in a fixed location of business
103.20(b)	Failure to carry City business permit when no fixed location of business
103.102(c)	Café entertainment without a permit
103.106(b)	Operating a dance hall without a permit
103.112(b)	Billiard room, pool room or bowling alley without a permit
103.202(b)	Operating a parking lot without a permit
112.02	Amplified sound- refrigeration, air or heating
112.05	Exceeding maximum noise level – 7AM to 10PM-power equipment/tools
112.06	Amplified sound-place public entertainment
113.01	Rubbish and Garbage Collection and Disposal – 9PM to 6AM
114.01	Vehicle repairs in restricted area – 8PM to 8AM
114.02	Vehicles – unreasonable sound
114.03	Loading/unloading vehicles (hours prohibited) 10PM-7AM
114.04	Loud air horns/vehicle loud speakers
114.05	Audible advertising devices – food truck vendors 9PM to 7AM
115.02	Sound amplifying devices or loudspeaker on public property
116.01	Loud & unusual noise

# ACE PILOT PROGRAM - ANIMAL SERVICES SCHEDULE OF VIOLATIONS LOS ANGELES MUNICIPAL CODE

(Law enforcement has discretion to cite as misdemeanor or under ACE)

LAMC	Title
53.06	Animals at large
53.06	Restraint of dogs (leash law)
53.06.3	Trapping – permit required
53.06.5	Feeding Non-domesticated predators
53.07	Animals on unclosed premises
53.08	Animals in LA River
53.09	Stray animals
53.10 (b)	Posting names of responsible persons
53.11 (m)	False statements regarding ownership
53.15	Dog license tax
53.15.1	Equine
53.15.2(b)	Intact dogs and cats
53.15.2(c)(d)	Breeding permit
53.15.2(e)	Sale, adoptions of dogs, cats
53.15.3	Dog licensing
53.19 (f)	Removing cat identification tag
53.21 to 53.24	Dog tags
53.27	Transfer of ownership notice
53.28	Harboring unlicensed dog
53.29	Allowing straying while in heat
53.30	Keeping diseased animal
53.33	Vicious animal-private premises
53.34	Animals at large
53.34.1	Menacing dogs
53.34.2 (a)	Failure to surrender an animal
53.34.3	Restricted dog permit requirements
53.34.4 (d)	Dangerous animal disposition
53.34.4 (f)	Revoked license
53.35	Animals – transportation
53.36	Resisting officers or employees
53.38	Wild animal permit
53.40	Contest or game using bulls
53.41	Animals – food poisoning
53.42	Animal sales – on street
53.43	Feeding pigeons in certain areas
53.44	Veterinarians - notifying owner of death of their animal
53.45	Veterinarians – retention of dead animals
53.46	Impounding wild birds
53.47	Breeding animal - enclosures
53.48	Song birds
53.49	Dogs – removing defecation
53.50	Various permit requirements
53.51	Dogs – rabies vaccination
53.53	Veterinarians – vaccination certificates

53.54	Vaccination certificate – retention by owner
53.55	Dogs on beach
53.56	Imported dogs
53.57	Certificate possession
53.59	Animal distance from dwelling
53.60	Homing pigeons
53.62	Animal burials
53.63	Barking dog
53.64	Sentry dogs
53.65	Performance animals
53.66	Guard dogs
53.70	Care and maintenance of dogs
53.71	Rooster limit
53.72	Declawing cats
53.73	Pet stores – sale of commercially bred dogs, cats or
	rabbits

# Cost of Implementing the ACE Program

Implementing the ACE Pilot Program in partnership with a vendor, would allow the Program to start as early as October 2014. This approach is more cost effective and will take substantially less time to implement than developing a program that exclusively uses City personnel and resources.

Several local municipalities have recently conducted extensive competitive bid processes for the same purpose. The Office of the City Attorney proposes utilizing the results of those processes to select a vendor for an initial three-year contract. During this time, the City would refine the needs of the program and develop a Request for Proposals to serve as the basis for the next vendor selection and contract period.

Once selected, the vendor would be responsible for the entire citation process subsequent to a citation being issued. The vendor would log and track the citations; send notices to cited parties requesting payment within 20 days; accept payment via US Mail, telephone or webbased payment systems; provide scanned images of all citations for departmental reference; send second notices of payment due when necessary; transfer revenue to the City, segregated by department; and report regularly on enforcement activities. ACE vendors are typically paid a flat fee of approximately \$17-25 per processed citation. Collection of delinquent citation fees would be handled by an outside vendor to be negotiated in the first year of the program.

The City would have to implement some modest technology upgrades to ensure the secure transfer and tracking of citation revenue from the vendor to the City and to integrate the City Attorney Office's administrative citation hearing and appeals process. In addition, the City Attorney would coordinate all appeal hearings. Much of this work could be done with existing resources. However, a modest increase in City staff would be necessary to successful implement this program. The annual costs associated with City staff for a program developed in partnership with a vendor is \$577,603 as follows:

	PURPOSE	TOTAL COST* (including related costs)
Office of Finance		
(1) Accountant II	<ul> <li>Receive monthly payments from vendor</li> <li>Track and provide the breakdown of receivables by participating ACE departments</li> <li>Transfer funds to appropriate ACE department revenue sub-account as indicated by the vendor's receivables breakdown</li> <li>Audit monthly payments made by the vendor as well as flat rate fees vendor retains as payment</li> <li>Reconcile revenue disparities with participating departments</li> </ul>	\$86,620

Department of Animal Services		
(1) Clerk Typist	Provide general support to the program including processing, obtaining and sending necessary paperwork to the outside vendor for handling and follow-up	\$77,885
City Attorney		
(1) Administrative Coordinator III	<ul> <li>Work with the vendor to ensure timely processing and collection</li> <li>Work with City Departments to maximize use of the program</li> <li>Analyze programmatic statistics and revenue collection data</li> <li>Develop reports for departmental use</li> <li>Analyze eligibility for fee waiver requests</li> <li>Supervise the initial review and administrative hearing process triggered when a cited party appeals the issuance of an ACE citation</li> </ul>	\$133,711
(1) Paralegal I	<ul> <li>Secure volunteer hearing officers for administrative review process</li> <li>Prepare case materials for hearing officer use</li> <li>Track hearing outcomes and advise appealing party</li> <li>Request refund for parties successful in the appeal process</li> <li>Direct deposit of funds into Code Compliance</li> </ul>	\$93,022
(1) Legal Secretary II	<ul> <li>Fund for unsuccessful appeals</li> <li>Process requests for administrative review</li> <li>Process fee waiver requests</li> <li>Schedule administrative hearings</li> <li>Verify deposit of pre-hearing funds</li> <li>Send notices and handle phone calls as needed</li> </ul>	\$88,774
(1) Legal Clerk I	<ul> <li>Ensure timely collection of citations from various LAPD and DAS locations</li> <li>Ensure delivery of issued citations to the vendor for processing</li> </ul>	\$65,591
Printing costs	<ul> <li>Print new citation forms for LAPD</li> <li>Print new citation forms for DAS</li> </ul>	\$25,000 \$5,000
Postage and Supplies	Priority mail dispatch to vendor	\$2,000
TOTAL ANNUAL COST		\$577,603

The ACE Pilot Program working group also explored implementing the ACE Pilot Program entirely with City personnel and resources. This in-house approach is not being recommended, as implementation would require multiple City department databases be linked to the City's Financial Management System (FMS) and functional changes be made within the Office of Finance and the City Attorney's Office. The cost of implementation would be more than \$2.0 million (detailed below) and is estimated to take 12-18 months. Ongoing annual costs are minimally estimated at \$1.4 million:

# Information Technology Agency (ITA)

\$ 719,000

In order to develop the technological infrastructure to operate the ACE program entirely in-house, ITA would require staff to significantly enhance existing interdepartmental IT systems. Staff would conduct an overall system requirements study to determine the best method to integrate ACE into the City's Financial Management System (FMS). Once completed, staff would design and implement a new system to tie together the disparate data systems of the affected City departments and upgrade the City Attorney's Criminal Branch database, CCMS II.

#### Office of Finance

\$ 481,853

In order to administer the ACE program entirely in-house, the Office of Finance would require staff to receive and process individual payments to invoices generated by the ACE system; transfer funds to the appropriate ACE department revenue sub-account; develop a lockbox system and internet-based payment program; import and process payment files with the in-house ACE billing system; coordinate with banks to optimize data capture; receive and process payments; collect referred delinquencies in concert with outside collection agencies currently under contract.

# **Department of Animal Services**

\$ 155,770

In order to administer the ACE program entirely in-house, the Department of Animal Services would require two clerk typists to input and update licensing records in the Department's central database; create and maintain records of citations issued, in process, and disposition; prepare accounting and daily cash reports; pursue collections; maintain other records, as-needed, to support appeals, hearings, and Officer schedules; and, perform other administrative tasks.

#### City Attorney's Office

\$ 636,744

In order to administer the ACE program entirely in-house, the City Attorney's Office would require staff to process the citations including data entry; send notices to cited offenders; keep records for the affected City departments; manage citations and ultimate disposition; determine appropriate fines; direct the offenders as to how to make payments to the City for the fines; coordinate with other City departments for fine collections and depositing the fines into the Code Compliance Fund; advise persons who contest citations as to the proper procedures for depositing pre-hearing funds; coordinate appeal process for those challenging citations; refer delinquent citation cases for collection through the Office of Finance or alternative collection resources.

#### Postage and Supplies

\$ 115,799

In order to administer the ACE program entirely in-house, funding would be required for mailing initial notices, second notices, and delinquent notices as well as for printing citation forms.

#### PROJECTED REVENUE FOR THE ACE PROGRAM

#### I. CITATION ENFORCEMENT BASE

Based on the list of eligible offenses that could be referred to the ACE program, revenue has been calculated as follows:

# A. Citation Source: Los Angeles Police Department (LAPD)

In 2012, LAPD cited 32,521 persons for LAMC violations initially deemed eligible for referral to the ACE program (source: Council File 13-1092 and City Attorney 2012 statistics). Of that total, roughly 45% of the citations would not be suitable to process in the ACE Program due to informational deficiencies (i.e. no permanent address, no identification). Therefore, revenue projections assume 55% of LAPD's annual citations in pre-designated categories would be eligible for the ACE program. This equates to roughly 17,887 citations annually.

# B. Citation Source: Department of Animal Services (DAS)

Nearly all DAS citations are directly related to a pet owner's home address; therefore, the assumption is made that 100% of the Department's citations would be eligible for ACE processing. The estimated annual volume is 1,200 citations, based on a monthly average of 100 citations.

# II. REVENUE FROM ACE CITATIONS

Based on experience from existing ACE programs in other municipalities, the following represents the expected payment rates once a citation has been issued. Note that fees may vary based on municipal code penalty provisions that pre-date the adoption of ACE:

#### A. LAPD Citations

- 25% of 17,887 citations would be paid timely = 4,472
   4,425 citations x \$250 = \$1,106,250
   47 citations x \$100 = \$4,700
- 25% of 17,887 citations would be paid within 12 months after the citation due date. Late payment would result in a late fee of \$50 per citation.

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4,425 citations x $300 = $1,327,500
47 citations x $150 = $7,050
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50% of citations would be referred to collection.
 Revenue would be realized in subsequent fiscal years.

#### B. DAS Citations

- 40% of 1,200 citations would be paid timely = 480 citations 480 citations x \$100 = \$48,000
- 30% of 1,200 citations would be paid within 12 months after the citation due date.
   Late payment would result in a late fee of \$50 per citation.
   360 citations x \$150 = \$54,000
- 30% of 1,200 citations would be referred to collection.
   Revenue would be realized in subsequent fiscal years

#### C. Total Gross Revenue

#### LAPD

Timely Paid	\$ 1,110,950
12-month Paid	\$ 1,334,550

#### DAS

Timely Paid	\$ 48,000
12-month Paid	\$ 54,000

**Total Gross Revenue** \$ 2,547,500

#### III. VENDOR CITATION PROCESSING FEE

A contract with a selected vendor would provide a flat fee per citation for all processing services except hearings on disputed citations. For purposes of calculation only, a \$20 estimate per citation is utilized. Gross revenue would be reduced by the vendor citation processing fee as follows:

17,887 LAPD citations referred at negotiated rate of \$20 per citation: \$357,740
1,200 DAS citations referred at negotiated rate of \$20 per citation: \$24,000
Annual Estimated Total @ \$20 per citation: \$381,740

#### IV. CITY COSTS

As detailed, in Attachment B, the annual cost of implementing this program is \$577,603 for City staff responsible for critical elements of this program. These costs would be covered by the revenue generated by the program.

# SUMMARY OF COSTS AND REVENUE

ANNUALLY	YEAR 1*
\$2,547,500	\$1,019,000
(\$381,740)	(\$152,696)
(\$577,603)	(\$398,063)
\$1,588,157	\$468,241
	\$2,547,500 (\$381,740) (\$577,603)

<sup>\*</sup> Assumes 40% of projected annual citations will be issued in first year of operation due to start up considerations. This impacts revenue and the vendor processing fee. Also assumes 9 months funding for staff costs.

# **Departmental Operational Plans**

# **LAPD Operational Plan**

The LAPD Planning and Research Division took the lead in fashioning the LAPD's implementation of the ACE Pilot Program. Numerous issues were identified and addressed, including the form of the citation to be used by officers in the field, officer training and the impact the ACE Pilot Program would have on existing LAPD operational orders and protocols.

# Eligible Offenses Identified

**Attachment A-1** details the initial list of LAMC sections that would be eligible for the ACE Pilot Program for LAPD. For those violations included in the ACE Program, officers would have the option to:

- 1. Issue an ACE citation, which would obligate the cited party to pay an administrative fine within a certain number of days or appeal the issuance of the citation; or
- 2. Employ the traditional means of arresting the person and issuing a *Release from Custody* citation (RFC), whereby the person promises to appear in court at a future date.

#### Phased Implementation

LAPD would implement the ACE program in phases, to identify and address any issues or concerns with the Program before expanding it to additional areas of operation.

- Phase One three month duration:
  - Valley Bureau North Hollywood Area
  - o South Bureau Southwest Area
  - o West Bureau Pacific Area
  - o Central Bureau Rampart Area
- Phase Two three month duration:
  - o Add all other areas within the Valley Bureau
- Phase Three ongoing:
  - City-wide implementation

# Issuance of ACE Citations

A stand-alone ACE citation book would be developed as part of this program. On the ACE citation, an officer would capture the person's name, address, contact information, location of violation, violation being enforced and the elements of violation.

All ACE citations would be turned in by officers at the end of each watch along with the officer's daily log. The following day, a shift supervisor would gather all the ACE citations, review them and prepare them for pick-up by the ACE courier and delivery to the ACE processing center.

# Training for LAPD Officers

Training for the ACE Pilot Program would be done by each area's LAPD Command Training Unit at roll call. Training would begin approximately two weeks before each of the three phases.

# Tracking and analyzing trends

The statistical tracking of ACE Pilot Program enforcement activity would become a goal of LAPD and be incorporated into COMSTAT reporting. As ACE enforcement increases, a corresponding reduction in RFC criminal court citations would be expected. Trends would be carefully tracked so LAPD divisions' performance can be compared effectively during the implementation phase and ongoing.

# Department of Animal Services Operational Plan

- Attachment A-2 provides details of the DAS offenses that would be eligible for ACE citation.
- ACE would immediately be implemented City-wide by DAS.
- DAS has prepared a citation form that its officers would use to write ACE citations.
- Officer training would be conducted in-house.
- Trend reports would allow for tracking and analysis.

#### **Administrative Review Process**

#### Initial Review

If the cited party chooses to contest the administrative citation, the person may request an initial review of the citation by the City Attorney's Office. There would be no cost associated with the review. Payment of the ACE citation would be suspended during the time of the initial review.

If the City Attorney's Office determines that the violation did not occur or that extenuating circumstances make dismissal of the citation appropriate in the interest of justice, the citation could be dismissed. If the City Attorney's Office determines the citation is in order, then the citation would be processed. The cited party would be notified by mail of the results of the City Attorney's Office initial review.

The City Attorney may also refer the matter to be addressed through other available remedies including, but not limited to, criminal proceedings, civil action, injunctive relief, specific performance or any other remedies provided by law.

# Administrative Hearings

After the initial review, a person issued an ACE citation could appeal the validity of the citation through the administrative hearing process designed to afford due process and an opportunity to be heard. The hearing officer would consider the appeal and provide a written decision of the ruling. The administrative hearing process would be administered by the City Attorney's Office.

To participate in the administrative hearing process, cited parties would be required to submit a Request for Hearing form and an advance deposit in the full amount of the administrative fine, or written proof of financial hardship. The ACE ordinance provides detailed instructions on how the City Attorney's Office shall communicate with cited parties who request an administrative hearing, including how to determine proof of financial hardship. Advance deposits of administrative fines pending the administrative hearing would be deposited in the Code Compliance Fund, established by the ACE ordinance.

#### **HEARING OFFICERS**

Hearing officers who are independent of the City and would act as neutral decision-makers would conduct hearings. During the initial implementation phase, pro tem judges provided by the Los Angeles County Superior Court would serve as hearing officers. Over time, hearings could also be conducted by: administrative law judges; individuals with a minimum of 25 hours of classroom and practical training and experience performing duties related to mediation and conflict resolution in accordance with the requirements of the California Dispute Resolution Programs Act of 1986 (16 CCR Section 3622); and, individuals who successfully complete the Los Angeles City Attorney dispute resolution program and are not current City employees.

Hearing officers would be assigned by the City Attorney's Office on a rotating basis, however, if a hearing officer's schedule does not permit a hearing within 14-21 calendar days, the City Attorney's Office could assign the hearing to the next panel member on the list.

The City Attorney's Office would consider the complexity and nature of the issues involved and the qualifications of the hearing officer to ensure that hearing officers possess adequate knowledge, ability and skill to effectively and fairly conduct the hearing. If the City Attorney's Office is unable to identify a hearing officer from the panel list with appropriate expertise, the City Attorney's Office could assign the hearing to a hearing officer not on the panel. As the ACE program grows to include City departments that deal with more complicated violations, including property interests, the need for hearing officers with more specific experience may require privately contracted administrative law judges. Additionally, if the volume of cases ultimately exceeds the availability of volunteer hearing officers, it may be necessary to hire or contract for the services of qualified hearing officers.

To ensure the impartiality of the hearing officer, no contact outside of the administrative hearing would be allowed between the hearing officer, City staff involved in the issuance of the citation and the person issued the citation. The City Attorney's Office would be responsible for the coordination, scheduling, location and record keeping of the administrative hearings. The hearing officer would be responsible for conducting the hearing and ensuring due process.

All information to be considered by the hearing officer would be presented and entered into the record at the hearing. The hearing officer would record the hearing by audio tape at the City's expense. The City is not required to prepare a transcript. A person challenging a citation could, at his or her expense, hire a licensed reporter to prepare a transcript from the audio tape recording, or cause additional recordings to be made during the hearing if the recording does not cause a distraction or disrupt the hearing.

#### **HEARING PROCESS**

The City has the burden of proof and must prove its case by a preponderance of the evidence. The person challenging the citation and any representative of the City present at the hearing could present evidence by means of testimony of witnesses and/or the introduction of photos, documents, records or other written material. The person challenging the citation and any representative of the City present at the hearing would have an opportunity to question witnesses. Formal rules of evidence would not apply. Any evidence that the hearing officer determines to be relevant would be allowed and the hearing officer would determine the weight to be given to such evidence. The officer that issued the initial citation may attend the hearing but is not required to do so.

# Order of the hearing would be as follows:

- Hearing officer would read the date and the title of the case and ask people present to identify themselves. This information shall be recorded in the official file of the hearing.
- 2. Hearing officer would inquire if the person contesting the citation understands the hearing process and the nature of the case.
- 3. The hearing officer would note and/or mark for identification only, and not as evidence, all papers in the official file of the hearing, which should include:
  - The ACE citation;
  - The request for the hearing;
  - The hearing notice:
  - All reports and materials relating to the ACE citation; and,
  - All reports and materials upon which the person issued the citation intends to rely on as part of the defense to the citation.
- 4. Hearing officer would swear in all potential witnesses who would testify.
- 5. The person challenging the citation would present evidence and testimony supporting the basis of the challenge. Time would be allowed for any necessary language translation.
- 6. The person challenging the citation and any City representative present at the hearing would be allowed to cross-examine witnesses as determined by the hearing officer.
- 7. Hearing officer could ask questions as necessary to clarify testimony and evidence.
- 8. Hearing officer would close the hearing.

After consideration of all the evidence and testimony, the hearing officer would submit a written decision entitled Administrative Enforcement Order (Order) that would include description of case, date of hearing, findings of fact, and decision/administrative order.

#### **HEARING OUTCOMES**

The hearing officer could issue an Order that:

- Compels the cited party to correct all code violations and/or pay the fine;
- Reduces or waives fines. Any hearing officer who wishes to deviate from the
  established Fine schedule should be required to specify for the record their rationale
  for revising the fine, and any "aggravating or mitigating circumstances" that warrant
  such a deviation (as required by LAMC Section 11.2.09(b)(3));
- Conditionally reduces fines upon the person's compliance by specific deadlines;
- Increases fines by up to \$1,000; and/or
- Refers the citation for misdemeanor filing based on previous offense.

In addition, if the appeal is unsuccessful, the hearing officer will:

- Assess "enforcement costs" against the person who appealed the ACE citation (LAMC Section 11.2.09(b)(5)). Such costs include investigation, inspection and abatement by the department issuing the citation. Costs may be assessed whether or not violations have been corrected prior to the hearing date or are still outstanding at the time of issuing the Order.
- Levy "administrative costs" against the person who appealed the ACE citation (LAMC Section 11.2.09(b)(4)), including costs incurred by the City as a result of the hearing such as initial review, scheduling and processing of the hearing.

Within ten (10) calendar days of the hearing date, the hearing officer would submit the Order to the City Attorney's Office. The City Attorney's Office would provide a copy of the hearing officer's Order, in writing, to the person challenging the citation no later than ten (10) calendar days after receipt from the hearing officer. The decision would be considered final on the date of service.

The City Attorney would include the following as part of the administrative record:

- Motions, pleadings, briefs, petitions, requests and intermediate rulings;
- All evidence received or considered;
- A statement of matters officially noticed;
- Any proposed findings and requested orders;
- Any tape or transcript of the hearing; and,
- Any final Order

Once an Order becomes final, no further administrative appeal could be filed. California Code of Civil Procedure Section 1094.6 would govern the time in which judicial review of the order could be sought.

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An ordinance amending Subsection (a) of Section 11.2.07 and Section 11.2.02 of the Los Angeles Municipal Code extending the time for payment of the fine for an Administrative Citation and expanding the definition of "Continuing Violation" to include other than structural or zoning matters.

# THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:

Section 1. Subsection (a) of Section 11.2.07 of the Los Angeles Municipal Code is amended to read as follows:

- (a) **Pay the Fine**. Pay the Administrative Fine within twenty (20) calendar days after the notice of the Administrative Citation is sent to the Responsible Person.
  - 1. Payment of the Administrative Fine waives the Responsible Person's right to the administrative hearing and appeal process as outlined in Sections 11.2.08 and 11.2.09, below.
  - 2. Payment of an Administrative Fine shall not excuse or discharge a failure to correct an Administrative Violation, as defined in Subsection (b) of Section 11.2.03, nor shall it bar the Enforcement Officer or Issuing Department from taking any other enforcement action in response to an Administrative Violation; or
- Sec. 2. The definition of "Continuing Violation" in Section 11.2.02 of the Los Angeles Municipal Code is amended to read as follows:

"Continuing Violation" means any Administrative Violation pertaining to a condition or matter, including but not limited to building, plumbing, electrical, or other structural or zoning matter that does not create an imminent hazard to health or safety. A Continuing Violation does not include an Administrative Violation that can be corrected by the Responsible Party through the immediate cessation or discontinuation of any prohibited activity or by the immediate implementation of a required activity as determined by the Issuing Department.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Los Angeles, at its meeting of	as passed by the Council of the City of
	HOLLY L. WOLCOTT, Interim City Clerk
	By
	Deputy
Approved	
	Mayor
Approved as to Form and Legality	
MICHAEL N. FEUER, City Attorney	
By	
Date	
File No.	

<b>ORDINANCE</b>	NO.	

An ordinance amending Sections 53.06.2 (b), 53.15 (e), 53.15.2 (b)(7), 53.15.2 (d)(1), 53.15.2 (d)(3), 53.15.2 (e)(7), 53.15.3 (b), 53.42 (i), 53.49, 53.71 (d) and 53.73 of Article 3, Chapter 5 of the Los Angeles Municipal Code (LAMC) for consistency with the administrative fines in the recently adopted Administrative Code Enforcement (ACE) program.

# THE PEOPLE OF THE CITY OF LOS ANGELES DO ORDAIN AS FOLLOWS:

- Section 1. Subsection (b) of Section 53.06.2 of Article 3 of Chapter V of the Los Angeles Municipal Code is deleted in its entirety.
- Sec. 2. Subsection (e) of Section 53.15 of Article 3 of Chapter V of the Los Angeles Municipal Code is amended to read as follows:
- (e) The owner of any dog found without a current active license or without a certificate of rabies vaccination indicating such dog is immune to rabies as required by this section is guilty of a misdemeanor.
- Sec. 3. Subsection (b)(7) of Section 53.15.2 of Article 3 of Chapter V of the Los Angeles Municipal Code is amended to read as follows:
  - (7) No person shall own, possess, harbor or have custody and control of a cat or dog in violation of this subsection.
- Sec. 4. Subsection (d)(1) of Section 53.15.2 of Article 3 of Chapter V of the Los Angeles Municipal Code is amended to read as follows:

#### (d) Penalties:

- (1) A violation of the breeding permit provisions of this section is a misdemeanor.
- Sec. 5. Subsection (d)(3) of Section 53.15.2 of Article 3 of Chapter V of the Los Angeles Municipal Code is deleted in its entirety.
- Sec. 6. Subsection (e)(7) of Section 53.15.2 of Article 3 of Chapter V of the Los Angeles Municipal Code is amended to read as follows:
  - (7) Failure to display the breeding permit number or include it in any advertisement for sale, adoption or other transfer of dogs and cats is a misdemeanor.

- Sec. 7. Subsection (e)(12) of Section 53.15.2 of Article 3 of Chapter V of the Los Angeles Municipal Code is amended to read as follows:
- (12) A violation of the transfer permit provisions of this Section may be prosecuted as a misdemeanor. Failure to comply with the terms and conditions of the transfer permit and applicable law shall also be grounds for the revocation or suspension of the transfer permit.
- Sec. 8. Subsection (b) of Section 53.15.3 of Article 3 of Chapter V of the Los Angeles Municipal Code is amended to read as follows:
- (b) Failure by the owner or custodian of any dog to pay the license tax and fee required by this Article within 45 days from the date of acquisition of a dog four months of age or older, within 45 days of the dog reaching the age of four months, within 45 days of the date of expiration of any previously issued dog license, within 45 days from the date of mailing of notice to secure a license to the owner or custodian of any previously unlicensed dog, or within 45 days of the expiration date of the anti-rabies vaccination, is a misdemeanor.
- Sec. 9. Subsection (i) of Section 53.42 of Article 3 of Chapter V of the Los Angeles Municipal Code is deleted in its entirety.
- Sec. 10. Section 53.49 of Article 3 of Chapter V of the Los Angeles Municipal Code is amended to read as follows:

It shall be unlawful for the owner or person having custody of any dog to fail to immediately remove and dispose of in a sanitary manner, by replacing in a closed or sealed container and depositing in a trash receptacle, any feces deposited by such dog upon public or private property, without the consent of the public or private owner or person in lawful possession of the property, other than property owned or controlled by the owner or person having custody of such dog. The provisions of this subsection shall not apply to a blind person being accompanied by a guide dog.

- Sec. 11. Subsection (c) of Section 53.55 of Article 3 of Chapter V of the Los Angeles Municipal Code is deleted in its entirety.
- Sec.12. Subsection (G) of Section 53.70 of Article 3 of Chapter V of the Los Angeles Municipal Code is deleted in its entirety.
- Sec. 13. Subsection (d) of Section 53.71 of Article 3 of Chapter V of the Los Angeles Municipal Code is amended to read as follows:
  - (d) A violation of the provisions of this section is a misdemeanor.
- Sec. 14. The second paragraph of Section 53.73 of Article 3 of Chapter V of the Los Angeles Municipal Code is deleted in its entirety.

Sec. 15. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was Los Angeles, at its meeting of	
	HOLLY L. WOLCOTT, Interim City Clerk
	By
Approved	
	Mayor
Approved as to Form and Legality	
MICHAEL N. FEUER, City Attorney	
By	
Date 6/18/14	
File No. <u>CF 10-0085</u>	