



City of Woodland

REPORT TO MAYOR AND CITY COUNCIL

AGENDA ITEM

TO: THE HONORABLE MAYOR
AND CITY COUNCIL

DATE: January 20, 2009

SUBJECT: Amend Article 3 of Chapter 1 of the Woodland Municipal Code to establish civil penalties for parking violations and imposing additional penalties for delinquent violation penalties, administrative fees and fees related to debt collection

Report in Brief

The City of Woodland contracts with the City of Inglewood (CA) to process and collect penalties for parking citations. The City is looking to increase collection efforts on delinquent parking accounts through this existing contract. The purpose of this Ordinance is to amend Article 3 of Chapter 1 of the Woodland Municipal Code to specifically authorize the City to recover special costs of collecting delinquent parking violation penalties through the existing contract with the City of Inglewood and its contractor collector. The City of Inglewood has a demonstrated successful collections program, which includes collecting on out-of-state delinquent citations. Currently, Woodland does not collect any long term outstanding delinquent parking violations due to the lack of cost recovery ability. With this amendment, the City will be able to utilize this collection process and recover the associated collection costs.

Staff recommends that the City Council introduce and read by title only Ordinance _____ amending Article 3 of Chapter 1 of the Woodland Municipal Code to specifically authorize the City to recover special costs of collecting delinquent parking violation penalties.

Background

Staff conducted a review of parking violations during the period of 2004-2008 and discovered approximately 5,483 citations with outstanding delinquent penalties. The delinquent penalties associated with these outstanding citations amount to approximately \$536,000 of lost revenue. In reviewing this issue with the City's current parking citation processing vendor, Inglewood Citation Management Services (an enterprise of the City of Inglewood, CA), it was discovered they are able to assist in the collection of these delinquent parking citations. However, the existing Municipal Code does not allow the City of Woodland to recover the costs of collecting these delinquent penalties from the violator.

Discussion

Based on historical collection data from other agencies contracted for delinquent collection, Inglewood has seen an approximately 25% success rate for collection of severely delinquent parking penalty fees. Inglewood has realized a 90% success rate on recent (90-120 days) delinquent fee recovery. The City of Inglewood's subcontracted collection agency; Law Enforcement Systems (LES) has proprietary violation collection software and an established relationship with most of the out-of-state DMVs to collect debt owed by violators. Inglewood, through its collection program will aggressively perform skip tracing techniques using a variety of commercial databases and nationwide DMVs to locate violators who have moved without leaving forwarding addresses. The City of Inglewood-Parking Ticket System ("PTS") currently provides this special cost recovery collection service to the Cities of Berkeley, Oakland, Inglewood, Sacramento, Burbank and other municipalities. Their expertise is solely focused on municipal collections.

Staff reviewed Article 3 of Chapter 1 of the City code and discovered it failed to provide for administrative fees, process service fees, and collection costs related to civil debt collection and related charges. The recommended action will allow the City of Woodland to improve its ability to collect on delinquent accounts where the violators have ignored notification from the City through assignment of seriously delinquent citations to the collection agency, Law Enforcement Systems (LES). However, since the current City municipal code does not allow the recovery of collection fees on these outstanding delinquent citations, collection fees associated with these citations (35%) will be charged against the penalty fees collected, thus lowering the penalty fee received by the City.

Should the Council adopt the recommended ordinance the City will be able to pass on all associated collection costs for past due parking citations. The Ordinance will authorize the City to charge fees and penalties equal to the actual cost of collection of the parking penalty and fees. The collection agency associated with the current parking citation processing company currently charges 35% on delinquent citations more than 90 days past due and 45% for delinquent citations over \$1,000 if the City and its collection agency file action to seek civil judgment in Superior Court. As an example, a violator with \$60 in unpaid parking tickets over 90 days past due would be contacted by the collection agency and, in addition to paying the parking ticket fines to the City, would pay an additional 35% (\$21) in collection fees that would be retained by the agency.

Staff believes the implementation of a process to collect delinquent parking tickets is an appropriate measure in order to facilitate timely and accurate payment of parking citations, compliance with parking regulations and recovery of citations costs and penalties for violators who choose not to pay parking fines. Collection charges of 35% for over 90 days past due and 45% for delinquent citations over \$1,000 and requiring legal action are within the standards charged by collection agencies. The City Attorney was consulted and agreed with the recommended action to amend the City's municipal code.

The proposed collections program is cost neutral and will not require additional City staff or funds to implement. Violators will be assessed an additional collection fee in order to recover the cost to collect delinquent penalties. Collection fees are only paid if the citation is collected and the collection agency will pay or reimburse any costs incurred to file with Franchise Tax Board,

Department of Motor Vehicles and Superior Court. This collection procedure will increase penalty fee collection and provide more uniform enforcement of parking citation penalty collections.

Fiscal Impact

The City of Woodland issued 7,198 parking citations in Fiscal Year 2007-2008, generating \$309,960 in parking citation penalty fees. The unpaid penalties amounted to \$140,625. There is an unpaid backlog of \$526,000 for the last four years. It is anticipated that LES will collect over \$131,000 from the backlog, based on its 25% success rate of collection. In addition, it is anticipated that ongoing penalty fee collection will increase by approximately \$125,000 per year in subsequent fiscal years.

Public Contact

Posting of the City Council agenda.

Alternative Courses of Action

1. Introduce and read by title only Ordinance _____ amending Article 3 of Chapter 1 of the Woodland Municipal Code to specifically authorize the City to recover special costs of collecting delinquent parking violation penalties.
2. Cease further consideration of the proposed Ordinance.

Recommendation for Action

Staff recommends that the City Council approve Alternative No. 1.

Prepared by: Bob Carlson
Police Lieutenant

Reviewed by: Carey F. Sullivan
Chief of Police

Mark G. Deven
City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WOODLAND, CALIFORNIA, TO ESTABLISH CIVIL PENALTIES FOR PARKING VIOLATIONS AND IMPOSING ADDITIONAL PENALTIES FOR DELINQUENT VIOLATIONS PENALTIES, ADMINISTRATIVE FEES, AND FEES RELATED TO DEBT COLLECTION

WHEREAS, the City of Woodland (“City”) issues parking citations, which are an important tool for encouraging compliance with the City’s parking regulations; and

WHEREAS, the rate of delinquency of City-issued parking citations has risen greatly, and enhanced enforcement and collection methods are needed to preserve the deterrent effect of parking citations; and

WHEREAS, Sections 40200.3 and 40200.4(f), of the California Vehicle Code allow the City to charge collection costs for delinquent parking tickets, but the Woodland Municipal Code does not currently contain this authority;

NOW, THEREFORE, the City Council of the City of Woodland does hereby ordain as follows:

Section 1. Findings. The City Council hereby adopts the recitals set forth above as its findings for the adoption of this Ordinance.

Section 2. Purpose. The purpose of this Ordinance is to amend Article 3 of Chapter 1 of the Woodland Municipal Code to specifically authorize the City to impose fees and costs of collection to recipients of delinquent parking citations.

Section 3. Authority. The City Council enacts this Ordinance under the authority granted to cities by Article XI, Section 7 of the California Constitution.

Section 4. CEQA. The adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), which provides that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be determined that the proposed project will not have a significant adverse effect on the environment, the project is not subject to CEQA. This Ordinance does not propose nor authorize any action that would have the potential to cause a significant adverse effect on the environment. Thus, it can be established with certainty that this Ordinance will not have a significant adverse effect on the environment and is therefore not subject to CEQA. Pursuant to the foregoing, a Notice of Exemption has been prepared and completed in accordance with CEQA.

Section 5. Amendments. A new Section 1-3-19 is hereby added to Chapter 1 of the Woodland Municipal Code to read as follows:

“1-3-19

Parking citation penalties.

A. Civil Penalties. Any person violating any of the provisions of this code restricting the parking or standing of vehicles shall be assessed a civil penalty. The amounts of such penalties shall be specified on a schedule of civil penalties adopted by council resolution or any other means approved by law.

B. Delinquent Payment Penalty. If any person fails to make timely payment of a parking violation penalty within the time provided in the notice of citation or notice of parking violation, as provided by the California Vehicle Code, or later as may be provided for in this code or other applicable law for accrual of a late payment penalty, a separate delinquency and late payment penalty shall be assessed against that person for the late payment as specified on a schedule of civil penalties adopted by council resolution or any other means approved by law.

C. Administrative Fees, Process Service Fees, Collection Costs Related to Civil Debt Collection and Related Charges. If any person fails to make timely payment of a parking violation penalty within the time provided in the notice of citation or notice of parking violation, as provided by the California Vehicle Code, or later as may be provided for in this code or other applicable law, and further fails to make payment for the delinquency fee as provided for in subdivision B of this section, that person shall become liable for and be penalized further in the amount of the actual collection costs in conjunction with the assignment of a parking penalty for collection. That cost shall be added to the penalty and the person shall be liable to the city for both civil penalties and the collection costs including out of pocket administrative costs, civil service of process costs and other direct costs.

D. Each Violation Assessed Separate Civil Penalty. Each person who is assessed a civil penalty under the provisions of this section shall be assessed a separate civil penalty for each violation and shall be liable for the cumulative amount of all such penalties and collection costs.

E. This section shall not bar the use of any other procedure or remedy provided by this code or by law for the purpose of processing or collection parking violations.”

Section 6. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. This City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

Section 7. Effective Date and Publication. The City Clerk shall certify to the adoption of this Ordinance, and the City Clerk shall cause this Ordinance to be posted or published as prescribed by law. This Ordinance shall take effect thirty (30) days following its adoption.

PASSED AND ADOPTED this _____ day of _____, 2009 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Marlin H. Davies
Mayor

ATTEST:

Sue Vannucci
City Clerk

APPROVED AS TO FORM:

Andrew J. Morris
City Attorney