



CITY OF LONG BEACH

POLICE DEPARTMENT

C-8

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ANTHONY W. BATTS
Chief of Police

May 11, 2004

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

SUBJECT: Request to Amend Chapter 5.82 of the Long Beach Municipal Code
Relating to Towing Operations (Citywide)

DISCUSSION

In 1977, in response to numerous complaints surrounding vehicles improperly impounded from private property, the City Council enacted an ordinance to locally regulate the business activities of private-sector towing companies operating within the city of Long Beach. Regulation by the Police Department has traditionally included background investigations of towing company owners and their drivers, as well as requirements for insurance, tow truck inspections, proper reporting of impounded vehicles and accurate record-keeping practices.

The Police Department stopped enforcing local towing regulations when, in July 2000, the Ninth Circuit Court of Appeals held that municipalities did not have the authority to regulate towing businesses within their city. The Ninth Circuit opinion identified one exception to the general preemption, the "municipal-proprietor exception", which has allowed the City of Long Beach to continue regulating only those companies that perform services under a contract on behalf of the City.

Other than the few towing companies that have City contracts for overflow towing services, the local towing industry has been unregulated since October 2000. As a result, the Police Department is experiencing an increasing number of complaints regarding unethical and unsafe business practices of tow operators (e.g., vehicles that are being impounded without proper authorization or proper reporting to law enforcement).

The Supreme Court recently decided that federal law does not bar a state from delegating to municipalities the authority to establish and enforce safety regulations governing motor carriers, including tow trucks. Consistent with this opinion, the Police Department wishes to resume safety-oriented regulation of towing operations within the city, as described in paragraph one above.

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Prior to resuming such regulation, Chapter 5.82 LBMC should be reviewed by the City Attorney's Office and amended as necessary to ensure compliance with the safety-oriented guidelines that have been established by the most recent Supreme Court decision.

This letter was reviewed by Deputy City Attorney J. Charles Parkin on April 12, 2004 and by Budget Bureau Manager Michael Killebrew on April 15, 2004.

TIMING CONSIDERATIONS

City Council action on this matter is not time critical.


FISCAL IMPACT

There is no fiscal impact associated with the requested action.

IT IS RECOMMENDED THAT THE CITY COUNCIL:

Request the City Attorney to review and amend Chapter 5.82 of the Long Beach Municipal Code, Towing Operations, so that the Police Department may resume local regulation of towing operations within Long Beach, as allowed by federal law.

Respectfully submitted,


ANTHONY W. BATTS
CHIEF OF POLICE

APPROVED:


GERALD R. MILLER
CITY MANAGER


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Towing Operations Municipal Code Amend