



City of Long Beach
Working Together to Serve

Memorandum

Office of the City Attorney

DATE: April 6, 2021

To: Honorable Members of the Ethics Commission

FROM: Amy R. Webber, Deputy City Attorney *ARW*

SUBJECT: Long Beach Municipal Code Enforcement Alternatives

At your March 30, 2020 meeting, the Commission requested an explanation of enforcement language used in City Ordinances. Set forth below is sample language for your consideration.

Civil Enforcement

Certain ordinances permit enforcement by interested citizens via a lawsuit (Hotel Ordinance, Long Beach Municipal Code (LBMC) Chapter 5.54, Long Beach Campaign Reform Act, LBMC Chapter 2.01). Other civil remedies include enforcement by the City Attorney's Office leading to damages or injunction, and attorney fees. Sample enforcement language covering several options is attached.

Criminal Penalties

LBMC Section 1.32 makes a violation of any of the provisions of the LBMC a misdemeanor, punishable by a fine of not more than \$1,000, or by imprisonment in the City or County jail for a period not exceeding six months, or both. Violations may also be designated as infractions, at the discretion of the City Prosecutor, punishable by a fine of not more than \$1,000.

Administrative Enforcement

For violations by City employees, the City Human Resources Department can impose sanctions up to and including termination following City Civil Service rules.

If the Commission has additional questions regarding this matter, I will be present at the next regular meeting to discuss.

Attachment

cc: Rebecca Guzman Garner, Administrative Deputy City Manager
Julian Cernuda, Special Projects Officer
JT Nagayama, City Clerk Analyst

Sample Enforcement Language

ENFORCEMENT -- Long Beach Campaign Reform Act (LBMC Chapter 2.01, "Prop. M")

2.01.1110 - Criminal actions.

A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Act shall be guilty of a misdemeanor. Any person convicted of such a misdemeanor, unless provision is otherwise made herein, shall be punishable by a fine of not more than five hundred dollars (\$500.00), or by imprisonment in the City or County jail for a period not exceeding six (6) months, or by both such fine and imprisonment.

B. As an alternative to the penalty provided in Subsection 2.01.1110.A, violation of or failure to comply with any provision of or condition lawfully imposed under this Act may be deemed to constitute an infraction as provided in Section 17 of the California Penal Code, and penalties for such infractions shall be as set forth in Subdivision 19e of the Penal Code.

C. Any person who causes any other person to violate any provision of this Act, or who aids and abets any other person in the violation of any provision of this Act, shall be equally subject to the provisions of this Section.

(Ord. C-7283 § 1, 1994; Prop. M, 6-7-94, eff. 6-24-94)

2.01.1120 - Civil action.

A. Any person who violates any provision of this act shall be liable in a civil action brought by the City Attorney or, in the case of a conflict of interest on the part of the City Attorney, an attorney retained by the City on the City Attorney's recommendation, or by or on behalf of a person residing within the jurisdiction, for an amount not more than three (3) times the amount of the unlawful contribution or expenditure.

B. If two (2) or more persons are responsible for any violation, they shall be jointly and severally liable.

C. Any person, before filing a civil action pursuant to this Section, shall first file with the City Attorney a written request for the City Attorney to commence the action. The request shall contain a statement of the grounds for believing the cause of action exists. The City Attorney shall respond within forty (40) days after receipt of the request indicating whether he or she intends to file a civil action. (In the case of a conflict of interest on the part of the City Attorney, independent counsel shall be retained to formulate this response.) If the City Attorney or, when applicable, independent counsel indicates in the affirmative and files a suit within forty (40) days thereafter, no other action may be brought unless the action brought by the City Attorney or independent counsel is dismissed without prejudice.

D. In determining the amount of liability, the court may take into account the seriousness of the violation and the degree of culpability of the defendant. If a judgment is entered against the defendant or defendants in an action, the entire amount shall be paid into the campaign reform account of the general fund of the City.

E. No civil action alleging a violation of any provision of this act shall be filed more than four (4) years after the date the violation occurred.

(Ord. C-7283 § 1, 1994; Prop. M, 6-7-1994, eff. 6-24-1994)

2.01.1130 - Injunctive relief.

Any person residing in the jurisdiction, including the City Attorney, may sue for injunctive relief to enjoin violations or to compel compliance with the provisions of this act.

(Ord. C-7283 § 1, 1994; Prop. M, 6-7-1994, eff. 6-24-1994)

2.01.1140 - Cost of litigation.

The court may award to a plaintiff, or a defendant other than an agency, who prevails in any action authorized by this act, his or her costs of litigation, including reasonable attorney fees.

(Ord. C-7283 § 1, 1994; Prop. M, 6-7-1994, eff. 6-24-1994)

2.01.1150 - Disqualification.

In addition to any other penalties prescribed by law, if an official receives a contribution violative of Sections 2.01.310 or 2.01.320, the official shall not be permitted to make, participate in making or in any way attempt to use his or her official position to influence any governmental decision in which the contributor has a financial interest. The provisions of Government Code Section 87100 et seq., and the regulations of the Fair Political Practices Commission shall apply to interpretations of this Section.

(Ord. C-7283 § 1, 1994; Prop. M, 6-7-1994, eff. 6-24-1994)