

STAFF REPORT
City of Lancaster

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Date: January 27, 2015

To: Mayor Parris and City Council Members

From: Lee D’Errico, Public Safety Director
Jocelyn Corbett, Asst. City Attorney

Subject: **Amendment to Title 9 of the Lancaster Municipal Code relating to the Imposition of Administrative Penalties for Certain California Penal Code Offenses**

Recommendation:

Introduce **Ordinance No. 1001**, amending Title 9 of the Lancaster Municipal Code by adding Chapter 9.48 (Administrative Penalties for State Offenses), relating to the imposition of administrative penalties against persons who commit certain California Penal Code offenses in the City of Lancaster through the issuance of administrative citations.

Fiscal Impact: While it is anticipated that the City will generate some revenue as a result of the issuance of administrative citations, it is not known at this time to what extent that revenue may be offset by the costs associated with the administrative review and appeal process. After some history with the program, staff will amend the Public Safety Department budget accordingly.

Background:

In November 2014, the California electorate approved Proposition 47, which, in part, requires that certain criminal offenses must always be charged as misdemeanors, for which offenders are subject to imprisonment in county jail rather than state prison. These offenses include theft, shoplifting, receipt of stolen property and other crimes when the value of the stolen item(s) does not exceed nine hundred fifty dollars (\$950.00). These changes in state law, as well as the implementation of various state- and county-wide diversion and deferral programs, result in fewer offenders being sentenced to serve time. Coupled with the already overloaded and underfunded court system, it is increasingly unlikely that criminal charges will ever be filed against persons who commit lower-level misdemeanor offenses. The concern is that some persons will be emboldened to repeatedly commit these crimes. Local businesses may be particularly at risk of suffering significant financial losses through repeated, recurring incidents of shoplifting and burglary.

Ordinance No. 1001 establishes an administrative penalty program relating to certain misdemeanor California Penal Code offenses, as authorized by California Government Code section 53069.4, which provides, in pertinent part, as follows:

“The legislative body of a local agency ... may by ordinance make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty. The local agency shall set forth by ordinance the administrative procedures that shall govern the imposition, enforcement, collection, and administrative review by the local agency of those administrative fines or penalties.”

In accordance with this Government Code section, the Ordinance expressly identifies which offenses in the California Penal Code will be subject to the administrative penalties and further sets forth the procedures for the issuance, appeal and administrative review of administrative citations, as well as the methods of collection of the penalties.

The Ordinance provides that a separate citation will be issued for the commission of each separate or subsequent enumerated offense. It sets the administrative penalties at five hundred dollars (\$500.00) for the first citation and one thousand dollars (\$1,000.00) for the second and any subsequent citation.

Staff believes the penalties are high enough to act as a deterrent, such that some number of offenders will be dissuaded from committing these crimes in the City of Lancaster. The administrative penalty program also gives local law enforcement an alternative to pursuing misdemeanor criminal cases which are unlikely to get filed and/or to result in sentencing that would deter repeat offenses.

Attachment:

Ordinance No. 1001