

## REPORT TO THE CITY COUNCIL AND SUCCESSOR AGENCY

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**DATE:** April 18, 2017

**TITLE:** Ordinance of the City Council of the City of Desert Hot Springs, Amending Section 10.16.320 ("Removal of vehicle from City streets") of Chapter 10.16 ("Stopping, Standing and Parking") of Title 10 ("Vehicles and Traffic") of the Desert Hot Springs Municipal Code

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### RECOMMENDATION

**Introduce and read by title only** "An Ordinance of the City Council of the City of Desert Hot Springs, California, Amending Section 10.16.320 ("Removal of vehicle from City streets") of Chapter 10.16 ("Stopping, Standing and Parking") of Title 10 ("Vehicles and Traffic") of the Desert Hot Springs Municipal Code" ("DHSMC") to give express authority to City Police Officers, rather than Riverside County Sheriff's Deputies, to remove vehicles from City streets under specified circumstances.

### BACKGROUND

California Vehicle Code ("CVC") Section 22651 provides as follows:

A peace officer . . . or a regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city . . . in which a vehicle is located, may remove a vehicle located within the territorial limits in which the officer or employee may act, under the following circumstances:

...

(k) When a vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(l) When a vehicle is illegally parked on a highway in violation of a local ordinance forbidding standing or parking and the use of a highway . . . is necessary for the . . . installation of underground utilities, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by a local authority pursuant to the ordinance.

(m) When the use of the highway . . . is authorized by a local authority for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of a vehicle would prohibit or interfere with that use or movement, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by a local authority pursuant to the ordinance.

(n) Whenever a vehicle is parked or left standing where local authorities, by resolution or ordinance, have prohibited parking and have authorized the removal of vehicles . . . .

Desert Hot Springs Municipal Code ("DHSMC") Chapter 10.16 imposes certain restrictions on parking in the City and, among other things, makes it unlawful to:

- Park a vehicle upon any public right-of-way within the City for more than 72 consecutive hours;
- Park a vehicle in any of the following situations, provided that signs giving notice of the no parking restriction are placed at least 24 hours prior to effectiveness of the restriction:
  - on any street or highway where the use thereof is necessary for the cleaning, repair or construction of the street or highway;
  - on any street or highway where the use thereof is necessary for the installation of underground utilities;
  - on any street or highway where the use thereof is authorized for a purpose other than the normal flow of traffic;
  - on any street or highway or where the thereof is necessary for the movement of equipment, articles or structures of unusual size and the parking of such vehicle would prohibit or interfere with such use or movement.
- Park a vehicle in any no parking area where signs giving notice of such no parking restriction are placed at least 24 hours prior to effectiveness of the restriction.

Pursuant to the authority of CVC Section 22651, DHSMC Section 10.16.320 authorizes certain City officials to remove vehicles which are parked illegally under the foregoing circumstances. DHSMC Section 10.16.320 originated as Section 14-35 of the City's prior municipal code, which was enacted pursuant to Ordinance No. 80-18 in 1980. The 1980 ordinance predated the establishment of the City's Police Department, and as a result the section authorized only deputies of the Riverside County Sheriff's Department to remove vehicles. Although the section was amended in 1990 and again in 1992, the amendments did not authorize the City's Police Officers to remove vehicles.

## **DISCUSSION**

The proposed ordinance amend DHSMC Section 10.16.320 to provide that the City's Police Officers, rather than the Riverside County Sheriff's Department, may remove vehicles under the circumstances specified in the section. This change has been necessary and warranted ever since the inception of the City's Police Department, which made the Police Department the primary law enforcement agency in the City.

Additionally, the proposed ordinance would amend DHSMC Section 10.16.320 to provide that, under extenuating circumstances, the following officials may remove vehicles from City streets:

- The City's code compliance officers, acting under the authority of the Community Development Director<sup>1</sup>; and
- The Police Department Community Service Officer, acting under the direction of the shift watch commander.

The foregoing officials qualify as "regularly employed and salaried employee[s] . . . engaged in directing traffic or enforcing parking laws and regulations of a city" who are authorized to remove vehicles under CVC Section 22651.

## **FISCAL IMPACT**

None.

## **EXHIBIT(S)**

1. Ordinance Amending Section 10.16.320 of the Desert Hot Springs Municipal Code

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<sup>1</sup> This category of officials would replace "any employee of the City in the Community Safety Department acting under the direction of the Community Safety Director," because those terms are outdated in that no positions currently exist under those designations.