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Approved as to Form and Legality


Office of the City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 82897 C.M.S.

INTRODUCED BY COUNCILMEMBER DESLEY BROOKS

A Resolution In Support Of Amended Assembly Bill 1532 Authored by Assembly Member Lieu, Which Adds A Separate Section To The Existing California Penal Code's Definition Of A Code Enforcement Officer, By Establishing a Free-Standing Definition For Code Enforcement Officers That Can Be Used By Any Local Jurisdiction In Their Application For Code Enforcement Funding

WHEREAS, Code enforcement is a process whereby local governments use various techniques to gain compliance with duly-adopted regulations such as land-use and zoning ordinances, health and safety codes, sign standards, substandard housing, property maintenance, and uniform building and fire codes; and

WHEREAS, code enforcement involves local enforcement officials in the job of ensuring compliance with policies, codes, rules, regulations, and permits in a proper, timely fashion within the limits of the law; code enforcement officers enforce the regulations and standards of state and local governments and are responsible for investigating violations and requiring compliance with the law; and

WHEREAS, existing law concerning assault and battery defines a "code enforcement officer" as any person who is not a peace officer, and who is employed by any governmental, and who is employed by any governmental subdivision, public or quasi-public corporation, public agency, public service corporation, any town, city, county, or municipal corporation, whether incorporated or chartered, that has enforcement authority for health, safety, and welfare requirements, and whose duties include enforcement of any statute, rules, regulations, or standards, and who is authorized to issue citations, or file formal complaints (Penal Code Sec. 241 and 243); and

WHEREAS, the existing definition of a code enforcement officer also includes any person who is employed by the Department of Housing and Community Development who has enforcement authority for health, safety, and welfare requirements, pursuant to the Employment Housing Act; the State Housing Law, the Mobilehomes-Manufactured Housing Act; the Mobilehome Parks Act; and the Special Occupancy Parks Act. [Penal Code Sections 241 (d) (9) (A) and (B), and 243 (f) (11) (A) and (B).]; and

WHEREAS, Assembly Bill 1532 was introduced by Assembly Member Lieu for the purpose of creating a stand-alone section of the Penal Code defining a code enforcement officer; and

WHEREAS, AB 1532 would define the term "code enforcement officer" in the Penal Code as described above *without* limiting the definition to the context of assault and battery committed against a code enforcement officer; and

WHEREAS, according to Assembly Member Lieu, there are a number of pieces of federal legislation that contemplate giving federal grants for local code enforcement functions, and that virtually every jurisdiction performs code enforcement functions; however, many jurisdictions lack a definition of code enforcement functions; and

WHEREAS, California lacks a free-standing definition for code enforcement officers that a local jurisdiction could reference in applications for code enforcement funding; thus, placing government entities at a disadvantage in seeking federal funding that is available through competitive grant processes; and

WHEREAS, currently, funds for code enforcement can be made available from Byrne JAG Grant funding, Regional Information Sharing Systems (RISS) funding, federal COPS funding, Byrne Discretionary funding, Byrne Competitive Grants, Community Development Block Grants (CDBG) and possibly through legislation introduced by Louisiana Senator Mary Landrieu; and

WHEREAS, the work of a code enforcement officer involves major quality of life issues that have significant public safety dimension. If this bill is enacted, it will help ensure that our code enforcement officers continue their duties in the job of ensuring compliance with policies, codes, rules, regulations, and permits in a proper, timely fashion within the limits of the law; now, therefore, be it

RESOLVED: that AB1532 establishes a free-standing definition and is verbatim from current law (Penal Code Sec. 241 and 243), and that the bill is not intended to expand the powers of code enforcement officers, but merely provide a definition and enable local jurisdiction in California, including the City of Oakland, to compete with other jurisdictions for needed code enforcement grants; and be it

FURTHER RESOLVED: that the City of Oakland supports amended Assembly bill 1532, which adds a separate section to the existing California Penal Code's definition of a code enforcement officer, by establishing a free-standing definition for code enforcement officers that can be used by any local jurisdiction, in their application for code enforcement funding.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 20 2010, 2010

PASSED BY THE FOLLOWING VOTE:

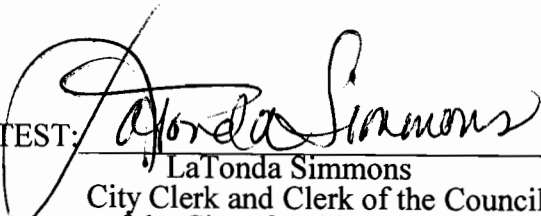
AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and
PRESIDENT BRUNNER - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST:


LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California