



AGENDA
CITY COUNCIL OF THE CITY OF MORENO VALLEY
MORENO VALLEY COMMUNITY SERVICES DISTRICT
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF
MORENO VALLEY

March 15, 2011

STUDY SESSION – 6:00 P.M.

City Council Closed Session

First Tuesday of each month – 6:00 p.m.

City Council Study Sessions

Third Tuesday of each month – 6:00 p.m.

City Council Meetings

Second and Fourth Tuesdays – 6:30 p.m.

City Hall Council Chamber - 14177 Frederick Street

Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities, in compliance with the Americans with Disabilities Act of 1990. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such request to Mel Alonzo, ADA Coordinator at 951.413.3027 at least 48 hours before the meeting. The 48-hour notification will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Jesse L. Molina, Mayor Pro Tem
Robin N. Hastings, Council Member

Richard A. Stewart, Mayor

Marcelo Co, Council Member
William H. Batey II, Council Member

**AGENDA
CITY COUNCIL OF THE CITY OF MORENO VALLEY
MORENO VALLEY COMMUNITY SERVICES DISTRICT
COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF MORENO
VALLEY**

**STUDY SESSION - 6:00 PM
MARCH 15, 2011**

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL

INTRODUCTIONS

PUBLIC COMMENTS ON MATTERS UNDER THE JURISDICTION OF THE CITY COUNCIL

There is a three-minute time limit per person. Please complete and submit a BLUE speaker slip to the City Clerk. All remarks and questions shall be addressed to the presiding officer or to the City Council and not to any individual Council Member, staff member or other person.

SPECIAL ORDER OF BUSINESS

1. DISCUSSION REGARDING NON-PROFIT CAR WASHES (MOLINA/CO/10 MIN.) ❖
2. DISCUSSION TO CONSIDER REFORMATTING THE CHECK REGISTER (MOLINA/CO/10 MIN.) ❖
3. DISCUSSION TO CONSIDER ESTABLISHING A ROAD COMMISSION AND APPOINTING A ROAD COMMISSIONER (MOLINA/CO/10 MIN.) ❖
4. A PROPOSED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING SECTION 1.10.080 AND 11.80.060 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE, RELATING TO CIVIL CITATIONS AND NOISE ENFORCEMENT (CITY ATTORNEY/10 MIN.)

5. PUBLIC ART EXHIBIT POLICY (CITY MANAGER'S OFFICE/10 MIN.)
6. CITY COUNCIL REQUESTS AND COMMUNICATIONS

(Times shown are only estimates for staff presentation. Items may be deferred by Council if time does not permit full review.)

❖ Oral Presentation only – No written material provided

***Materials related to an item on this Agenda submitted to the City Council/Community Services District/Community Redevelopment Agency after distribution of the agenda packet are available for public inspection in the City Clerk's office at 14177 Frederick Street during normal business hours.**

CLOSED SESSION

A Closed Session of the City Council, Community Services District and Community Redevelopment Agency of the City of Moreno Valley will be held in the City Manager's Conference Room, Second Floor, City Hall. The City Council will meet in Closed Session to confer with its legal counsel regarding the following matter(s) and any additional matter(s) publicly and orally announced by the City Attorney in the Council Chamber at the time of convening the Closed Session.

- **PUBLIC COMMENTS ON MATTERS ON THE CLOSED SESSION AGENDA UNDER THE JURISDICTION OF THE CITY COUNCIL**

There is a three-minute time limit per person. Please complete and submit a BLUE speaker slip to the City Clerk. All remarks and questions shall be addressed to the presiding officer or to the City Council and not to any individual Council member, staff member or other person.

The Closed Session will be held pursuant to Government Code:

- 1 SECTION 54956.9(b)(1) - CONFERENCE WITH LEGAL COUNSEL - SIGNIFICANT EXPOSURE TO LITIGATION

Number of Cases: 5

- 2 SECTION 54956.9(c) - CONFERENCE WITH LEGAL COUNSEL - INITIATION OF LITIGATION

Number of Cases: 5

REPORT OF ACTION FROM CLOSED SESSION, IF ANY, BY CITY ATTORNEY

ADJOURNMENT



CITY CLERK'S OFFICE

MEMORANDUM

To: Mayor and City Council
From: Meg Itagaki, ^{mi} Senior Office Assistant
Date: March 15, 2011
Subject: DISCUSSION REGARDING NON-PROFIT CAR WASHES
(MOLINA/CO/10 MIN.) Item 1
cc: Agenda packet distribution list

Attached was not available at the time of printing.

mi

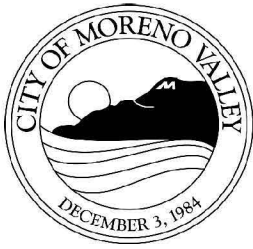
TEMPORARY USE PERMIT GUIDELINES

Any business within the City is eligible to apply for a Temporary Use Permit for up to fourteen (14) days per calendar year. The City charges a fee of \$98 for issuance of a Temporary Use Permit.

In addition to the fee, an applicant for a TUP must comply with the following requirements per the Moreno Valley Municipal Code Section 9.02.150;

- Applications for temporary use permits shall be filed a minimum of thirty (30) days prior to the date of the proposed event.
- Applications must be accompanied by all appropriate fees and deposits, as determined by resolution of the city council.
- A site plan identifying the area to be occupied, all pedestrian areas, parking lot areas and/or drive aisles proposed to be closed, blocked, obstructed and/or barricaded and their proximity to major circulation aisles, public rights-of-way and buildings.
- Written authorization from the property owner or the property owner's duly authorized agent.
- Written operational/environmental statement identifying the proposed dates, defining the nature of the event or use and containing such other information as the community development director or designee shall consider necessary to determine the expected effects and impacts of the event or use.
- Proof of an applicable city business license. Currently, The Business License Division is waiving the Business License fee and the processing fee to all institutions or groups that show proof of non-profit status per Section 5.02.370 of the City's Municipal Code.

COUNCIL AGENDA ITEM NO. 1



APPROVALS	
BUDGET OFFICER	<i>caf</i>
CITY ATTORNEY	<i>RH</i>
CITY MANAGER	

Report to City Council

TO: Mayor and City Council

FROM: Robert Hansen, City Attorney

AGENDA DATE: March 15, 2011

TITLE: A PROPOSED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING SECTION 1.10.080 and 11.80.060 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE, RELATING TO CIVIL CITATIONS AND NOISE ENFORCEMENT.

BACKGROUND

At a prior Study Session, Council members expressed concern over the enforcement policies relating to noise ordinance violations at private parties. Direction was given to the Police Department and City Attorney's Office to provide alternatives which would allow more discretion for an officer to provide a warning to 1st time offenders in lieu of the currently mandated \$100 civil citation.

DISCUSSION

In working with the Police Department, it became evident that two obstacles, one legal and one practical, were preventing officers from issuing warnings to parties that exceeded the parameters for a Noise Disturbance in the Moreno Valley Municipal Code.

The first obstacle was a legal one based on the terms of the police enforcement policy and Section 11.80.060 of the Municipal Code. That section established that a first time offense **shall** be punished by a fine of not less than \$50 if charged as an infraction. The alternative method of issuing a civil citation was frequently used; however, this method resulted in a citation of exactly \$100. In essence, the citing officer had discretion to cite or not to cite but if a citation was issued, the fine was either \$100 as a civil citation or between \$50 and \$100, as imposed by the court, if cited as an infraction.

The second obstacle was more practical in determining how to track the number of warnings that may be given to a particular party when different patrol officers are responding. The police department already has an efficient system for tracking the issuance of civil citations. Accordingly, we thought to develop and propose a system whereby a civil citation could be issued for less than the \$100 fee set by Council. In this manner, a citing officer has the discretion to issue a civil citation with a zero dollar fine amount. Although in the form of a citation, it will have the practical effect of a warning. The police department can track this as a first^t citation so any future responders to the property will know that a first citation has already been issued. They may then proceed to the second citation.

The police department has requested that the fine amounts for second and third offenses remain the same, such that in a case where a first citation was issued with no fine, the second citation would remain at \$200 and the third at \$500 as previously established.

The proposed amendments to the Municipal Code remove these encumbrances and allow for the procedures set forth above to be implemented. The police department would likewise be amending their policy on noise ordinance enforcement on private residential parties in line with the proposed ordinance changes.

ALTERNATIVES

The City Council may consider the following alternatives:

1. Place the proposed ordinance on the Council Agenda as written for Council action.
2. Direct staff to make changes to the ordinance and return to City Council meeting or study session on a later date with a revised Ordinance.
3. Take no action. The existing Ordinances will remain in effect.

FISCAL IMPACT

No significant fiscal impact is anticipated.

ATTACHMENTS/EXHIBITS

1. A PROPOSED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING SECTION 1.10.080 and 11.80.060 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE, RELATING TO CIVIL CITATIONS AND NOISE ENFORCEMENT.

Prepared By:
Paul Early, Deputy City Attorney

Department Head Approval
Robert L. Hansen, City Attorney

Council Action	
Approved as requested:	Referred to:
Approved as amended:	For:
Denied:	Continued until:
Other:	Hearing set for:

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ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING SECTION 1.10.080 and 11.80.060 OF THE CITY OF MORENO VALLEY MUNICIPAL CODE, RELATING TO CIVIL CITATIONS AND NOISE ENFORCEMENT.

The City Council of the City of Moreno Valley does ordain as follows:

SECTION 1. MUNICIPAL CODE ADDED:

1.1 Section 1.10.080 of the Moreno Valley Municipal Code is hereby amended to read as follows:

“Section 1.10.080 Civil fines – Amounts and penalties

A. The maximum amount of ~~the~~ a civil fines for violating particular provisions of this code shall be set forth in a schedule of civil fines adopted by resolution of the city council. The schedule may include escalating civil fine amounts for repeat code violations occurring within specified periods of time. A fine amount, not to exceed those set forth by resolution, may be imposed or reduced at the discretion of the citing officer or the City Attorney.

B. Where no civil fine amount is specified by resolution of the city council, civil fines shall be in accordance with those specified in Section 1.01.230 of this code.

C. A late payment penalty shall be imposed for civil fines not paid within thirty (30) calendar days of their due date. The amount of the late payment penalty shall be one hundred (100) percent of the total amount of the civil fine owed.

D. In addition to any civil fine and/or late payment penalty, a hearing officer shall also assess administrative costs against the responsible person when it finds that a violation has occurred or that compliance has not been achieved within the time specified in the civil citation and any granted extensions thereof. Administrative costs may include any and all costs incurred by the city in connection with the matter including, but not limited to, costs of investigation, staffing costs incurred in preparation for an administrative hearing and for the administrative hearing itself, and costs for all reinspections of the property related to the violation(s).

E. Unless otherwise prohibited by law or regulation, all civil fines and administrative costs imposed pursuant to the provisions of this chapter shall accrue interest at the rate of eight percent until the civil fine or administrative costs, including interest thereon, is paid in full. Interest shall begin to accrue thirty (30) calendar days

Ordinance No.
Date Adopted:

after the due date for the civil fine or administrative costs and continue until the civil fine or administrative costs, including interest thereon, is paid in full.”

1.2 Section 11.80.060 of the Moreno Valley Municipal Code is hereby amended to read as follows:

“Section 11.80.060 Violation

A. Violation of Sound Level Limits. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine not to exceed one thousand dollars (\$1,000.00) and/or six months in the county jail, or both. Notwithstanding the forgoing, any violation of the provisions of this chapter may, in the discretion of the citing officer or the city attorney, be cited and/or prosecuted as an infraction or ~~Any person found guilty of an infraction hereunder shall be punished by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for the first offense; a fine of not less than one hundred dollars (\$100.00), nor more than two hundred dollars (\$200.00) for the second offense. Any third or subsequent offense shall constitute a misdemeanor. Violations of this chapter may also be subject to civil citation pursuant to Chapter 1.10.~~

B. Joint and Several Responsibility. In addition to the person causing the offending sound, the owner, tenant or lessee of property, or a manager, overseer or agent, or any other person lawfully entitled to possess the property from which the offending sound is emitted at the time the offending sound is emitted, shall be responsible for compliance with this chapter if the additionally responsible party knows or should have known of the offending noise disturbance. It shall not be a lawful defense to assert that some other person caused the sound. The lawful possessor or operator of the premises shall be responsible for operating or maintaining the premises in compliance with this chapter and may be cited regardless of whether or not the person actually causing the sound is also cited.

C. Violation May Be Declared a Public Nuisance. The operation or maintenance of any device, equipment, instrument, vehicle or machinery in violation of any provisions of this chapter which endangers the public health, safety and quality of life of residents in the area is declared to be a public nuisance, and may be subject to abatement summarily or by a restraining order or injunction issued by a court of competent jurisdiction.

Ordinance No.
Date Adopted:

SECTION 2. EFFECT OF ENACTMENT:

2.1 Except as specifically provided herein, nothing contained in this ordinance shall be deemed to modify or supersede any prior enactment of the City Council which addresses the same subject addressed herein.

SECTION 3. NOTICE OF ADOPTION:

3.1 Within fifteen days after the date of adoption hereof, the City Clerk shall certify to the adoption of this ordinance and cause it to be publicly posted in three places within the city.

SECTION 4. EFFECTIVE DATE:

4.1 This ordinance shall take effect thirty days after the date of its adoption.

APPROVED AND ADOPTED this ____ day of _____, 20__.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Ordinance No.
Date Adopted:

ORDINANCE JURAT

[Clerk's office will prepare]

[NOTE: Any attachments or exhibits to this ordinance should follow this jurat.]

Ordinance No.
Date Adopted:

Public Art Exhibit Policy

PURPOSE: To establish submittal procedures and selection criteria for the exhibit of community art in limited public forum area of the City Council Chamber Foyer in order to benefit the City and its residents. This policy shall apply to community art that is donated, leased or loaned to the City for display. The artist shall agree to loan the work of art to the City for a period of time, subject to the terms and conditions set forth in this policy.

DEFINITIONS:

For the purposes of this policy, the following items shall have these definitions:

“Artist” is a person who possesses skill, training and/or experience in his or her artistic discipline and is active in and committed to his or her art practice.

“Art” is the use of skill and imagination in the creation of aesthetic objects, environments, or experiences that can be shared with others.

“Commercial entity” is a for profit business/corporation that manufactures, distributes, markets, or sells works of art, whether they are original works of art or reproductions. Individual artist who sell their works or art for personal profit are not considered commercial entities.

“Community art” refers to the pieces of art that have been created by local residents in Moreno Valley.

“Public Art” is an original work of art this is located in a City-owned facility that is publicly accessible and is created with the intention of reflection and/or engaging the community. Public art will be located in a designated limited public forum and can take a variety of forms and medium.

POLICY:

I. Introduction

The City of Moreno Valley, on occasion, may wish to display works of art in the City Council Chamber Foyer to enhance the aesthetics of the facility. As such, this policy shall provide guidelines for the submittal, selection, display, and removal of community art for this area. The City’s Arts Commission is appointed by the City Council and shall be the approving body for all artwork to be displayed in the City Council Chamber Foyer utilizing this policy for proper procedures, and guidance, in selecting appropriate works of art for display.

II. Designation

The City Council Chamber Foyer is hereby designated as a limited public forum for the specific purpose of the display of art as set forth in this policy.

III. Length of Exhibits

The City shall allow up to four exhibits per year in the City Council Chamber Foyer as shown below:

1. January 1-March 31
2. April 1-June 30
3. July 1-September 30
4. October 1-December 31

Approved by: City Council
00/00/00

Public Art Exhibit Policy

Themes may be set by the City’s Arts Commission and will be announced one year in advance of the exhibit date.

IV. Submittal Process

A. Artists must obtain an application from the Parks and Community Services Department and submit no fewer than five and no more than twelve images of their artwork 90 days prior to the exhibit date. Artists must provide one copy of each image, whether it is a photograph or digital file, per work of art submitted for consideration. On the back of each photograph, or with each digital file, the title of the work, dimensions, medium, and the name, address, telephone number of the artist must be included.

B. After an initial review, the Arts Commission may request that the artist submit, or make accessible, the actual work of art at no cost to the City. The Arts Commission will determine the specific pieces of art to be exhibited in accordance with Section V of this policy.

C. The Arts Commission may select individual works of art to show along with the works of several other artists or they may elect to display the artwork of only one artist during an exhibit period.

V. Selection Criteria

A. Only works of art submitted by artists who reside, work, or who were born in Moreno Valley as well as works of art submitted by family members of deceased artists who resided, worked or were born in Moreno Valley will be considered for display. Works of art submitted by a commercial entity will not be considered.

B. The City’s Arts Commission shall review all applications and works of art that comply with the submittal process established by this policy.

C. The City’s Arts Commission shall review all artwork to ensure it meets the criteria listed in this policy. Any work of art not meeting the criteria listed below in Section F will not be considered for exhibition.

D. All works of art on temporary display in the City Council Chamber Foyer shall be original works of art, not a reproduced print or copy of another artist’s work. The work of art must comply with the conditions listed in this policy.

E. All works of art must be either gallery wrapped canvas or suitably framed with hanging apparatus (screw eyes and wire only). All frames and mounting arrangements must be securely constructed. Work that is fragile or whose framing or display arrangement is of questionable durability may be rejected. Any visual or written material that might accompany the display must meet the display criteria listed below.

F. All works of art must meet the following display criteria in order to be considered for exhibit in the City Council Chamber Foyer:

- a. The work of art must depict one of the following items:
 - (1) Landscape in Moreno Valley.
 - (2) Buildings in Moreno Valley.
 - (3) Events of local significance to Moreno Valley.
 - (4) Historical events related to Moreno Valley.
 - (5) Cultural heritage as related to Moreno Valley.

Public Art Exhibit Policy

(6) March Air Reserve Base

b. Works of art will not be exhibited if any of the following conditions are met:

- (1) The work of art is very large and difficult to display due to its size and weight.
- (2) Contains materials which are inherently dangerous or unstable.
- (3) Made out of materials which may decay if not kept and displayed in the optimum environmental conditions as these conditions can not be guaranteed in a City facility.
- (4) Depicts nudity.
- (5) Depicts violence.
- (6) Contains any wording, with the exception of the artist name, date created, and caption.
- (7) Depicts the desecration of any religious symbols.
- (8) Depicts any illegal activities as defined by the California Penal Code or California Health and Safety Code.

G. Once a work of art has met the above display criteria the Arts Commission will evaluate each work of art to determine which works of art will be exhibited. As the City has a limited area available for each exhibition there is a possibility that there will not be enough space to accommodate all artistic submissions, as such, the Arts Commission will carefully assess each work of art for the following items:

- (1) Quality –the inherent quality of the artwork(s) being submitted for the exhibit
- (2) Media –Due to the space restrictions of the exhibit area only media that can be hung on the Council Chamber Foyer walls will be considered. Artwork can not extend excessively out from the wall and intrude into the walkway.
- (3) Style – Artworks of all schools, styles, and tastes will be considered for exhibit should they meet the criteria listed in above Section D.
- (4) Nature – Works of art should be appropriate in scale, material, form, and content for the immediate, general, social, and physical environments in which they will be displayed.
- (5) Diversity – The Public Art Exhibit Policy shall strive for diversity of style, scale, media, and artists, including ethnicity and gender.

H. If there is more artwork submitted than allowed for by the space constraints of the designated area for the exhibit, the Arts Commission will decide which pieces of art will be exhibited based on the criteria listed above. All other works of art will be returned to the artists and may be resubmitted for consideration for future exhibition.

VI. Installation

The City's Facilities and Maintenance Division is generally responsible for the installation of all works of art that will be on loan to the City during an exhibition period at the direction of the Arts Commission. All contractual requirements with the artist will be overseen by the City's Parks and Community Services Department, including any loan agreements. All works of art will be reviewed for their condition upon receipt by the City and any problems found with the artwork will be referred to the artist for resolution.

Within two weeks of being notified that a submission has been accepted for exhibition, the artist must contact the City's Parks and Community Services Department to confirm the exhibition dates as well as any other deadlines. Artists are responsible for delivering their work of art to the City at least five business days before the opening of the exhibition.

Sales information shall not be posted or displayed with a work of art while it is on exhibit in a City facility.

VII. Removal of Artwork

Approved by: City Council
00/00/00

Public Art Exhibit Policy

Artists are required to pick up their works of art from the City within two business days of the conclusion of the exhibit. The City does not accept any responsibility for artwork not picked up within the designated time frame. Any piece of art that is not picked up by the deadline shall be treated as abandoned property subject to disposal without further notice under applicable laws.

VIII. Insurance

- A. The City will not assume responsibility for damage or theft of any work of art that is on display in accordance with this policy except as set forth in Section D below.
- B. The artist will acknowledge that a risk of damage, loss, vandalism, or theft is inherent in a public display.
- C. If the artist has property or casualty insurance that covers the artwork, and if damage, loss, vandalism, or theft occurs to the artwork while it is on loan to the City, then the artist must seek payment from their insurance company, whose insurance coverage is primary to the City's self-insurance.
- D. Regardless of whether the artist has property or casualty insurance, the City's liability to the artists for damage or vandalism to, or loss or theft of, the artist's work of art is limited to the following:

- a. Damage, Loss or Vandalism. Although the City will exercise due care in handling and exhibiting the artist's artwork, the City will be liable to the artist for damage or vandalism to, or loss of, an artwork when the damage or loss is caused only by a negligent act of the City or its officers, agents, or employees. The artist (1) releases and holds harmless, (2) will not make a claim against or sue and (3) waives the right of recovery against the City and its officers, agents, or employees for damage or vandalism to, or loss of, one or more of the artist's artwork, arising out of a person's negligent or intentional act, or other act, however caused.

- b. Theft. The City will be liable for theft of an artwork on loan only when it is stolen by an officer, agent, or employee of the City once convicted by the District Attorney's Office. The maximum liability the City will assume is \$500.00.

- c. Liability Insurance. Before the artist delivers any artwork to the City, the artist must furnish satisfactory evidence of liability insurance by delivering to the City a "certificate of insurance" and "an additional insured endorsement" listing the City of Moreno Valley, the Community Redevelopment Agency of the City of Moreno Valley (RDA), and the Moreno Valley Community Services District (CSD). The artist's insurance company or its agent must sign these documents, which must state that the artist's insurance policy is primary to the City's self insurance and insurance policy, applies separately to each insured, and provides 30 days written notice to the City before the insurance company cancels, non-renews, or reduces the policy's coverage. With approval from the City's Risk Management Division, the Liability Insurance requirement can be waived if the artist signs the City's Public Art Exhibit Release of Liability form.

IX. Terms For Artwork Loans

- A. A time period for the loan must be specified.
- B. The artist must sign a loan agreement with the City.

Public Art Exhibit Policy

- C. All loan agreements and liability insurance requirements must be received 30 days prior to the exhibition date.

X. Administration of the Public Art Policy

The Parks & Community Services Department, along with the City's Arts Commission, will administer the Public Art Exhibit Policy for the City of Moreno Valley.

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