

## ITEM 11.A.

### ORDINANCE NO. 386

AN ORDINANCE OF THE CITY OF MOORPARK, CALIFORNIA, ADDING CHAPTER 3.48, PAYMENT REQUIRED PRIOR TO COMMENCEMENT OF LEGAL ACTION, TO TITLE 3, REVENUE AND FINANCE, OF THE MOORPARK MUNICIPAL CODE

WHEREAS, Article XIII, Section 32, of the California Constitution sets forth what is commonly known as a 'pay first, litigate later' requirement; and

WHEREAS, while such requirement has heretofore been assumed to be applicable to actions against cities, in a recent opinion involving the City of Anaheim the Court of Appeal held that such Constitutional protection does not protect a city which does not have its own 'pay first, litigate later' code provision; and

WHEREAS, Chapter 3.48 is proposed to be added to Title 3 to require persons challenging the payment of taxes, fees, fines, and other payments to the city to make such payments prior to commencing any actions to recover such payments.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MOORPARK DOES ORDAIN AS FOLLOWS:

SECTION 1. The following new Chapter 3.48 is hereby added to Title 3 of the Moorpark Municipal Code:

#### **"Chapter 3.48**

#### **PAYMENT REQUIRED PRIOR TO COMMENCEMENT OF LEGAL ACTION**

##### **Sections:**

##### **3.48.010 Payment required prior to commencement of legal action.**

Except as may otherwise be provided specifically in this code, no person shall commence any action to challenge all or any portion of any tax, fee, fine, or any other type of payment required to be made pursuant to any provision in this code, without first making such full payment to the city."

SECTION 2. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining

portions of this ordinance. The City Council declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases, parts or portions be declared invalid or unconstitutional.

SECTION 3. This ordinance shall become effective thirty (30) days after its passage and adoption.

SECTION 4. The City Clerk shall certify to the passage and adoption of this ordinance; shall enter the same in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the proceedings of the City Council at which the same is passed and adopted; and shall, within fifteen (15) days after the passage and adoption thereof, cause the same to be published once in the Moorpark Star a newspaper of general circulation, as defined in Section 6008 of the Government Code, for the City of Moorpark, and which is hereby designated for that purpose.

PASSED AND ADOPTED this 19th day of May, 2010.

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Janice S. Parvin, Mayor

ATTEST:

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Deborah S. Traffenstedt, City Clerk