



WS 2a

DATE: January 13, 2009
TO: Mayor and City Council
FROM: Director of Library and Neighborhood Services Department
SUBJECT: Enhancement of Code Enforcement Policies and Procedures

RECOMMENDATION:

That Council reviews and comments on this report.

SUMMARY

In Fiscal Year 2008, the Hayward City Council designated as one of its priorities the issue of community cleanliness. This, along with the Council's approval of the Neighborhood Services Initiative, has set in motion staff efforts to improve the effectiveness of City code enforcement activities. This City Council work session will provide an opportunity for staff to summarize recommended changes to the City's Community Preservation and Improvement Ordinance. These changes are designed to address inconsistencies between sections of the Hayward Municipal Code, clarify and streamline administrative procedures, and enhance the efficiencies of City code enforcement activities. The staff recommendations described in this report, if approved, will also require minor adjustments to the City's Master Fee Schedule.

BACKGROUND

The City's Community Preservation and Improvement Ordinance (Article 7, Chapter 5 of the Hayward Municipal Code) currently makes it unlawful for Hayward real estate owners to allow the condition of their property to deteriorate to the point that it becomes detrimental to the public health, safety, or general welfare of the community. This includes both inhabited properties and vacant properties, be they residential or commercial. Specific definitions of what constitutes a "public nuisance" are provided in the Community Preservation and Improvement Ordinance, as are the procedures for enforcing the provisions of this law. Due process procedures are also included which guarantee the Constitutional right of property owners accused of breaking the law to be treated fairly, and to explain and defend their actions before an impartial party that is authorized to decide whether their rights have been breached during the enforcement of the City's municipal code.

Modifications to the Community Preservation and Improvement Ordinance are now needed in order to improve the City's ability to address violations that exist on vacant and foreclosed properties, to streamline and strengthen code enforcement procedures, to clarify legal terms, and to enhance cost

Exhibit A

efficiencies. Changes are also proposed that will more accurately reflect the current organizational structure of the City.

DISCUSSION

To improve the effectiveness of the City's code enforcement activities, several modifications to the Community Preservation and Improvement Ordinance are recommended. This includes language that clarifies the legal definition of what constitutes a *public nuisance*. Changes are also recommended that will enhance the City's ability to address violations on foreclosed properties by broadening the definition of *Owner* to now include "organizations or other legal entities", in addition to "persons" that are legally responsible for maintaining owned property in Hayward.

Staff recommendations also are intended to strengthen the ability of City Code Enforcement Officials to address code violations by including, among other things, violations that are visible from the public right of way. Changes are also recommended that clarify the different types of code enforcement costs for which the City may seek reimbursement. Modifications that clarify intent and which address inconsistencies which currently exist with other sections of the Municipal Code are also presented.

Significant modifications to the Administrative and Lien Hearing processes are also proposed. Currently, City Council conducts its Lien Hearing for both Housing and Community Preservation code enforcement cases once a year. Consequently, if someone wishes to appeal the charges against them, and they just missed the annual Lien Hearing, they may have to wait for as long as a year before their case can be decided. Not only is this cumbersome for the people involved, this significantly delays the City's ability to file a lien against the property of those owners whose appeals are not upheld.

In lieu of the current Annual Lien Hearing before the City Council, staff recommends that Lien Hearings be combined with Administrative Citation Hearings, and that they be conducted before a Hearing Officer as outlined in the new Administrative Citation Ordinance. Staff also recommends that if needed, these hearings be conducted as frequently as two times per month. A Hearing Fee is proposed to partially off-set the increased cost that would be incurred by this change. Presumably, increased revenue would also be realized as a result of staff's enforcement efforts and the associated collection of fees and fines. With Council's approval, minor adjustments would need to be made to the Master Fee Schedule to reflect these changes.

The specific proposed changes to the Community Preservation and Improvement Ordinance are provided as Attachment A to this report. The rationale for each of these is provided below:

Chapter 5, Article 7, Section 5-7.10 – Definitions:

- (b) *Enforcement Officer*: In order to more accurately reflect the current organizational structure of the City, Staff recommends that the language pertaining to the *Director of Community and Economic Development Department or his or her designee* be stricken from this section. This would leave the City Manager with the authority to designate or appoint City employees or officials to serve in this capacity.

Staff also recommends that additional language be deleted from this section which limits the conditions under which a designated Enforcement Officer is allowed to enter a property for the purpose of inspection and enforcement. This change would more readily allow Enforcement Officers to enter vacant properties in order to determine if code violations exist.

- (g) *Nuisance*: Staff recommends that unnecessary language be deleted from this section which could inadvertently limit the purpose of defining the term *nuisance*.
- (h) *Owner*: Added language broadens the definition of the term *owner* to include situations such as foreclosures where banks or other institutions own and therefore are responsible for the maintenance of their property.
- (j) *Property*: The areas of a property that are subject to the provisions of this ordinance are clarified by added language to this section.
- (k) *Costs*: Staff recommends that the definition of the term *costs* be added to this section to clarify the different types of cost that are incurred during the course of conducting code enforcement activities, and for which the City may seek reimbursement. Staff recommends that this language also be inserted as needed in other relative sections of the Hayward Municipal Code.
- (l) *Lien*: This definition has been added to clarify that a special assessment or lien may be levied against a property owner in order to recoup City costs and fines associated with code enforcement activities. Staff recommends that the same language be included in other relevant sections of the municipal code, including those pertaining to the Administrative Citation Ordinance, so that these provisions are consistent with one another.

Chapter 5, Article 7, Section 5-7.20 – Public Nuisance: Language has been inserted to broaden the meaning of those who are responsible for maintaining owned property, as well as to broaden and clarify what is legally considered to be a Public Nuisance, as follows:

- (a) Language is stricken from this section that may inadvertently limit the authority of the City to enforce conditions that constitute a public nuisance, and leaves to the discretion of the authorized Enforcement Officer to determine if the items noted in this section are temporarily present on a property due to the normal course of an authorized business. In addition “used motor oil” has been added.
- (b) Language has been added to include *shopping carts* and *paint cans* to the list of items that must be contained in an enclosed non-habitable structure or appropriate containers for health and safety reasons, as these items have been frequently reported to the City by community residents, and observed by Enforcement Officers in the field. Staff also recommends that language be stricken from this section that inadvertently allows for blighted conditions to exist for up to 30 days.
- (c) Staff recommends that *shopping carts* be removed from this section and instead be included in Section (b) for the sake of clarity.

- (d) The current language in this section may inadvertently be interpreted to limit the City's authority to address blighted conditions that only exist in the front area of a privately owned property that is adjacent to a public roadway or other publicly owned property. Staff recommends that the language be amended so as to be consistent with broader legal authority to address blighted conditions that are visible from the public right-of-way, even if those conditions exist on the side or backyard areas of a privately owned property.
- (e) As in Section (a) above, staff recommends that the language in this section be amended so as to give authorized Enforcement Officers the discretion to determine if the items noted are temporarily present on a property due to the normal course of an authorized business. Staff also recommends that clarifying language be added that does not substantially alter the intent of this section.
- (g) Staff recommends that the timeframe in which discarded construction materials can be stored on a construction site be reduced from 60 to 30 days.
- (h) Staff recommends that language be stricken from this section that could inadvertently limit the authority of Enforcement Officers to address situations where appliances such as washers, dryers, refrigerators, and other similar items are on properties in such a way as to be considered community blight.
- (j) Staff recommends that the standard for what constitutes an acceptable amount of peeling paint on the exterior of a building be reduced from 50% to 25% of the total surface area that is observable from the public right-of-way. This amendment will strengthen the authority of Enforcement Officers to address such conditions.
- (k) In order to address current inconsistencies between different sections of the municipal code that require that *vacant* properties be adequately secured for health and safety reasons, staff recommends that language in this section be amended to prohibit only *occupied* buildings from covering doors and windows with boards, tarps or other similar opaque materials, except as otherwise directed by the City's Building Official or his/her designee. Staff also recommends that additional language be added to this section that prohibits broken or cracked glass windows or doors on occupied buildings.
- (l) For the sake of consistency with other provisions of the municipal code, staff recommends that language be added to this section that would require *unoccupied* buildings to be secured for health and safety reasons.
- (n) Staff recommends that this section pertaining to deteriorated building structures be deleted from this section of the municipal code, for these types of issues more appropriately fall under the jurisdiction of the Building Official and the City's Building Division.
- (o) Language defining weeds that have exceeded four inches in any yard or planter strip as being a public nuisance was deleted from section (r) and added to this section for clarity.

- (s) Changes to this section, pertaining to the requirement that inoperable vehicles be stored in enclosed structures, are recommended for clarification purposes only and do not substantially change the intent of this section.
- (t) This section pertains to the storage of unmounted campers or camper shells, and the changes that are recommended are for clarification purposes.
- (x) Language is deleted from this section that could inadvertently limit the authority of Enforcement Officers from addressing persons illegally sleeping or living in vehicles.

Chapter 5, Article 7, Section 5-7.30 – Abatement Notice: In order to better align this section with the recently adopted Administrative Citation provisions of the Hayward Municipal Code, staff recommends that the title of this section be amended to read: *Administrative Citation/Abatement Notice*. For the sake of clarification, staff further recommends that the term, *Notice to Abate*, be replaced with the more generic term, *notice*, where applicable in this section.

Recommended language is also added to this section in order to recognize that other sections of the municipal code may supersede the provisions outlined in this section pertaining to timeframes and processes for correcting noticed violations. Other minor changes are also recommended in this section in order to be consistent with other provisions of the Hayward Municipal Code.

Chapter 5, Article 7, Section 5-7.35 – Manner of Giving Abatement Notice: Minor language changes to this section are recommended for the sake of clarity and consistency with other provisions of the municipal code.

Chapter 5, Article 7, Section 5-7.40 – Administrative Hearing: Staff proposes that language be added to this section which references Section 1.7.13 of the Administrative Citation Ordinance pertaining to the right to Judicial Review. In summary, this section states that any person aggrieved by an administrative decision of a Hearing Officer may appeal that decision before the Alameda County Superior Court in accordance with timelines and provisions set forth in Section 53069.4 of the California Government Code.

Changes to the Annual City Council Lien Hearing Process:

Chapter 5, Article 7, Section 5-7.70 – Abatement of Nuisances: Staff recommends that the changes in this section include the replacement of the term *expenses* with the term *costs*, in reference to Section 5-7.10(k) above. That section defines those costs that can be recouped by the City by charging a fee, or by imposing a lien or special assessment on a property if necessary.

Chapter 5, Article 7, Section 5-7.80 – Account and Report of Cost: If Council approves recommended changes to the Administrative / Lien Hearing process, staff proposes that it would no longer be necessary to render an annual itemized report to the Council showing the cost of abatement, including any salvage value, and outstanding inspection charges, as is currently submitted in conjunction with the annual City Council Lien Hearing. Therefore, staff recommends that the language referring to the annual *Account and Report of Cost* be deleted.

Chapter 5, Article 7, Section 5-7.90 – Notice of Report: To be consistent with the above recommended changes, staff recommends that this entire section be deleted. This section describes the procedure that the City Clerk would use to post the Report of Cost noted in Section 5-7.80.

Chapter 5, Article 7, Section 5-7.100 - City Council Hearing: In lieu of the current practice of conducting an annual Lien Hearing before the City Council on matters pertaining to Housing and Community Preservation code enforcement, staff recommends that these Lien Hearings be combined with Administrative Citation Hearings, and that they be conducted before a Hearing Officer as outlined in the new Administrative Citation Ordinance, on an as needed and more timely basis. Furthermore, staff recommends that if needed, these hearings be offered as frequently as two times per month in order to strengthen the impact of the City's code enforcement activities, and to expedite the City's cost recovery efforts. If this change in practice is approved by Council, this entire section would be deleted.

To further enhance the City's code enforcement efforts, Staff is currently researching whether it is possible to file a formal notice on the title of a property through the Alameda County Assessor's Office where the owner has been unresponsive to the issuance of notices and the imposition of fines and fees. This will be particularly useful in those instances where a property has been foreclosed upon and is owned by a bank or some other institution. This course of action would be applied only to specific cases where the violations are not abatable and do not pose a health or safety risk (i.e., where an illegal accessory structure does not meet set-back requirements).

FISCAL IMPACT

Currently the City contracts with a retired San Leandro Police Officer to function as the City's impartial Hearing Officer. The Hearing Officer conducts monthly appeal hearings associated with parking citations that are issued by the Hayward Police Department. He serves several jurisdictions in the San Francisco Bay Area in this capacity, and has worked with the City for over 9 years with no increase in his fee. The current cost of this contract is approximately \$200 per month.

If Council approves staff's recommendation to have the Hearing Officer conduct Housing and Community Preservation Administrative Citation Appeal / Lien Hearings in lieu of the annual City Council Lien Hearing, and if this occurs as frequently as two times per month, it stands to reason that the cost of the Hearing Officer's contract will increase. It is anticipated that, in addition to this expansion in work, the Hearing Officer would also conduct hearings pertaining to other citations issued by City officials under the new provisions of the Administrative Citation, Anti-Smoking, Social Host, and Anti-Graffiti Ordinances. Consequently, there will be a significant expansion in the volume of work, and the type of cases heard will increase in complexity.

Negotiations with the Contractor are still underway, so the extent to which the cost of the Hearing Officer's contract will increase is not yet known. It is anticipated that there will also be an increase in City staff time commensurate with the increased volume of hearings that will be conducted. Staff will need to ensure that the logistics associated with the hearings are efficient and effective, and will also be responsible for processing associated billing and other required documentation. To partially offset these anticipated expenses, staff recommends that a nominal fee of \$25 be charged per hearing. Presumably, increased revenue would also be realized as a result of staff's increased

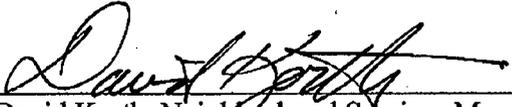
enforcement efforts and the associated collection of fees and fines. If Council approves these procedural changes, minor adjustments will also need to be made to the Master Fee Schedule.

No other specific identifiable fiscal impacts are expected.

PUBLIC CONTACT / NEXT STEPS

The January 13, 2009 City Council Work Session is the first step to introducing the staff's recommendations outlined in this report to the Council, and to the public. Taking into consideration comments offered by the Council members and members of the public, staff will prepare the documentation necessary and properly notice the introduction of the proposed amendments to the Municipal Code at the regular City Council meeting scheduled for Tuesday, February 3, 2009. On Tuesday, February 17, 2009, Council will consider the adoption of the proposed changes to the Hayward Municipal Code.

Prepared by:



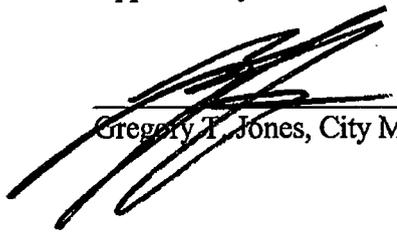
David Korth, Neighborhood Services Manager

Recommended by:



Lisa Rosenblum, Director
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Approved by:



Gregory T. Jones, City Manager

Attachment A – Proposed Revisions to the Community Preservation and Improvement Ordinance - Article 7, Chapter 5, Sections 5-7.00 to 5-7.200 of the Hayward Municipal Code.

ARTICLE 7

COMMUNITY PRESERVATION AND IMPROVEMENT

SEC. 5-7.00 FINDINGS. The City Council finds and declares that the regulations set forth in this article are necessary in order to eliminate conditions on properties in the City which are detrimental or threaten injury or damage to the health, safety, and welfare of residents thereof, to neighboring occupants or properties, and the municipal welfare.

SEC. 5-7.10 DEFINITIONS. For the purposes of this article, certain words and phrases are defined and shall be construed as set out in this section. Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

- ~~a.~~ BUILDING shall mean any structure used or intended for supporting or sheltering any
~~b.a.~~ use or occupancy.
- ~~e.~~ ENFORCEMENT OFFICER shall mean ~~Director of Community and Economic~~
~~d.b.~~ ~~Development or his or her designee or other~~ any employee or official appointed and designated by the City Manager to administer the provisions of this article. For this purpose he/she shall have the authority to issue citations, and he/she may enter upon any portion of the premise ~~open to the public, without prior authorization or without a warrant,~~ for the purpose of inspection and enforcement.
- ~~e.c.~~ GRAFFITI shall mean the unauthorized letters, words, symbols, figures and marks placed on buildings and objects on a private property, public property or the public right-of-way by using paint or marking with ink, chalk, crayon, dye or other similar substances, or by cutting or scraping with any tool or instrument.
- ~~f.d.~~ HEARING OFFICER shall mean the City Manager or his/her designee authorized to conduct hearings pursuant to this Article.
- ~~g.e.~~ INOPERATIVE shall mean any vehicle that: (1) cannot be immediately started and driven under its own power on the streets and highways or (2) is in an unsafe condition or (3) is in any other condition specified in the California Vehicle Code which prohibits its placement and/or movement on the public streets or highways.
- ~~h.f.~~ NUISANCE shall mean any thing or condition which threatens injury or damage to the health, safety, welfare or property of members of the public, which obstructs the free use of property of others or interferes with the comfortable enjoyment of life or property; ~~graffiti; or any violations of the Health and Safety Code.~~

~~f.g.~~ OWNER shall mean any person, persons, organization or legal entity owning property as shown on the last equalized assessment roll for City taxes and also includes the lessee, tenant or other person having control or possession of the property unless otherwise specified.

~~f.h.~~ PLANTER STRIP shall mean the area between the curb and sidewalk on street frontage.

~~k.i.~~ PROPERTY shall mean all real property, improved or unimproved, including but not limited to residential, industrial, commercial, agricultural, open space and other real property. The area of such property includes front yards, front porch, rear yards, side yards, driveways, carports, walkways, alleys and sidewalks, and shall include any building or other structure, whether fixed or moveable, located on such property.

~~f.j.~~ RESPONSIBLE PARTY shall mean the owner, agent, manager, lessee, tenant or any other person having control or possession of the property, whether for residential, industrial, commercial or other purpose.

k. COSTS shall mean and include, but not be limited to, personnel costs, both direct and indirect; cost incurred in documenting the nuisance and/or violation ; fines; fees; penalties; abatement and abatement related costs; the actual expenses and costs of the City in the preparation and dissemination of notices, specifications, and contracts and in inspecting the work; and the costs of printing and mailing the notices required hereunder and the actual expenses and costs of imposing a lien and or special assessment if that become necessary.

l. Lien shall mean lien and or special assessment as determined by the Finance Director or designee.

SEC. 5-7.20 PUBLIC NUISANCE. It shall be unlawful for any ~~person~~ responsible party ~~p~~owning, leasing, renting, occupying, or having charge or possession of any property in the City to maintain or to allow to be maintained such property in a condition detrimental to public health, safety, or general welfare or in a condition which violates any code or ordinance adopted by the City. Every owner of real property within the City shall manage that property in such a manner to avoid violation of this code. The property owner shall be responsible for violations thereof, regardless of any contract or agreement with any third party regarding the property. Where there are multiple property owners, the property owners shall have joint and several liability. The existence of any of the following conditions on the property is hereby declared to be detrimental to public health, safety, or general welfare and thus constitutes a public nuisance, including, but not limited to:

- a. ~~Except for items used in the normal course of an authorized business, the~~ Accumulation of garbage, litter, bins, boxes, construction debris, bags, dirt, used motor oil, or other debris;

- b. Junk, trash, shopping carts, salvage materials, scrap metal, bottles, cans and wire, paint cans, or other debris kept on the property other than recycling materials contained in an enclosed non-habitable structure or appropriate containers ~~for less than 30 days~~;
- c. Broken or discarded furniture, ~~shopping carts, and~~ household furnishings, appliances, ~~or equipment, or other items~~ intended for inside use;
- d. Fences with broken boards, rotted posts, or fences that are leaning, dilapidated, or in disrepair that are ~~contiguous with any publically owned property or~~ visible from the public right-of-way;
- e. ~~Except for items used in the normal course of an authorized business,~~ Fuel tanks, storage cylinders for any type of gas, ~~used motor oil,~~ or other such containers which are not located in an enclosed structure, ~~on~~ connected to a gas barbeque or attached to a recreational vehicle, camper, or camping trailer;
- f. Graffiti on public or private property;
- g. The storage of construction materials on a construction site ~~the property~~ for more than ~~60~~ 30 ~~consecutive~~ days where there is no on-going construction activity;
- ~~g.h.~~ Washers, dryers, refrigerators, freezers or other appliances ~~functioning or abandoned~~ or similar items ~~in front yards, side yards, and rear yards or on unenclosed porches in front yard or side yard~~ on the property that is in view of the public right-of-way;
- ~~h.i.~~ Clotheslines or clothes hanging in front yards, side yards, porches, or balconies; however, clotheslines and clothes hanging in rear yards are permitted;
- ~~i.j.~~ Buildings where ~~50~~ 25% or more of any painted surfaces of the building's exterior observable from public view is peeling; or lacks weather protection due to lack of paint ~~or other approved protective covering; such surfaces must be painted or refinished to complement the adjacent walls of that building.~~
- ~~j.k.~~ Occupied buildings whose doors or windows are boarded up or covered with tarps or similar opaque materials, except as otherwise directed by the City's Building Official or designee;
- l. Occupied buildings with ~~b~~ Broken or cracked glass windows or doors;
- ~~k.m.~~ Unoccupied buildings which are unsecured (unsecured as defined by the dictionary).
- ~~f.n.~~ Materials such as tarps or similar non-permanent articles on roofs for more than 30 days;

- ~~m. Deteriorated, crumbling or loose plaster; deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors; broken, rotted, split or buckled exterior wall, stair or roof coverings;~~
- ~~n.o.~~ n.o. Attractive nuisances or any dangerous machinery or conditions including, but not limited to, abandoned, broken or neglected equipment, tools and vehicle repair equipment;
- ~~o.p.~~ o.p. Overgrown trees or vegetation that obstruct public right-of-way or sidewalk or obscure the necessary view of drivers or pedestrians on public streets or private driveways; or weeds that exceed four inches in any yard or planter strip; overgrown or unsightly vegetation or weeds which may harbor rats, vermin, or other rodents;
- ~~p.q.~~ p.q. Dead trees or dead plant material;
- ~~q.~~ q. ~~Weeds that exceed four inches in any yard or planter strip;~~
- r. Operable boats, trailers, and other vehicles of similar kind and use stored in the front yard on the property which are not entirely located on the designated paved driveway area that provides direct access to the garage from the street, perpendicular to the street or unless the driveway is curved;
- s. Inoperable, wrecked, dismantled, partially repaired or abandoned boats, trailers, cars, motorcycles, and/or other vehicles of similar kind and use on the property that are not stored in an enclosed structure ~~garage or other structure~~;
- t. Unmounted campers or camper shells visible from the public right-of-way which are left ~~in the property rear, side, front yard areas; for more than five calendar days visible from the public right-of-way~~;
- u. Automobile(s), truck(s), boat(s), trailer(s), and other vehicle(s) of similar kind and use which are displayed for sale on any parking lot or unimproved property, except for authorized vehicle dealer sales lots;
- v. Commercial vehicles, as defined by the California Vehicle Code, that are parked or stored in any residential district, except vehicles operating in the normal course of business;
- x. Sleeping or living in any vehicle ~~or portion thereof, except vehicles within an approved mobile home park.~~

SEC. 5-7.30 ADMINISTRATIVE CITATION/ABATEMENT NOTICE. Whenever the Enforcement Officer determines that any property within the City is being maintained in violation of one or more of the provisions of this Article, the Enforcement Officer shall give written notice ("~~Notice to Abate~~") to the owner of said property stating the section(s) being

violated. The ~~Notice to Abate~~notice shall set forth a reasonable time limit for the owner to abate the condition, which shall be no less than three calendar days or not more than 14 calendar days from the date of the notice, and which may also set forth suggested methods of correcting the violation(s), unless otherwise authorized by another section of this ordinance. At the discretion of the Enforcement Officer, an extension(s) not to exceed 14 days at a time may be granted for good cause for correcting the violation(s).

The ~~Notice to Abate~~notice shall direct the property owner either to abate the violation(s) or request an administrative hearing. If the notice period provided for correcting the violation is less than seven days, then the owner may request an administrative hearing any time prior to the end of the time period provided in the ~~Notice to Abate~~notice. If notice is served by mail, the owner may request an administrative hearing ~~within seven calendar days from the date of mailing~~, to show cause why the violation(s) should not be abated by the City at the property owner's expense. The Notice shall also indicate that if the nuisance is abated by the City, the costs thereof will be assessed upon the property, and if not paid, will constitute a lien upon the property until paid. The Notice shall also include a description of any ~~inspection~~ costs the City Council may adopt by resolution from time to time relating to enforcement of this

SEC. 5-7.35 MANNER OF GIVING ABATEMENT NOTICE. A copy of the ~~Notice to Abate~~ notice provided for in this section shall be served on the property owner in accordance with State law. Service will be made to the owner's address as it appears on the last equalized assessment roll or as known to the Enforcement Officer. Service shall be deemed complete at the time notice is personally served, transmitted or deposited in the mail. The failure of any person to receive notice properly given shall not affect the validity of any proceedings hereunder.

SEC. 5-7.40 ADMINISTRATIVE HEARING. Any owner may request an Administrative Hearing. The purpose of an Administrative Hearing is to allow the owner to dispute the factual findings of the violation(s). If a hearing is requested, at the time fixed for the Administrative Hearing, the Hearing Officer shall hear and consider all relevant evidence, objections, or protests offered on behalf of the owner ~~which~~ to show why the condition should not be abated. The Hearing Officer may also consider rebuttal evidence offered by the City. The hearing may be continued from time to time. If, at the conclusion of the hearing, based upon the record, the Hearing Officer is satisfied that the condition exists and concludes that it should be abated, he or she shall issue a written decision setting forth his/her findings and shall cause the same to be served upon the persons attending the hearing. The right to Judicial Review shall be governed pursuant to section 1.7.13 Administrative Citation – Right to Judicial Review.

SEC. 5-7.50 INSPECTION WARRANTS. Whenever there exists cause to suspect a violation of any provision of this ordinance, and the owner refuses to permit entry for investigation, the Enforcement Officer may seek to obtain a warrant issued by the Superior Court of Alameda County for the purposes of inspection.

SEC. 5-7.60 ABATEMENT WARRANTS. Once Notice has been given of a violation of any provision of this ordinance, and the owner does not abate or cause to abate the violation as required, the Enforcement Officer may seek to obtain a warrant issued by the Superior Court of Alameda County for the purposes of abatement.

SEC. 5-7.65 SUMMARY ABATEMENT BY CITY. If the Enforcement Officer finds that a violation constitutes an imminent danger to the public health or safety, he or she shall have the authority to abate the condition or cause the condition to be abated summarily and without notice. The expenses of such abatement shall become a lien on the property and, if unpaid, collected as provided herein.

SEC. 5-7.70 ABATEMENT OF NUISANCES. If the nuisance is not abated as ordered within the abatement period, the Enforcement Officer shall take all steps necessary to cause the same to be abated by such City employees or private contractors the Enforcement Officer may authorize to enter upon the property for such purposes. The expenses of such abatement, including administrative ~~expenses~~ costs, of abating the nuisance shall be billed to the owner and shall become due and payable 30 days thereafter. Failure to pay may result in a lien being placed on the property if requested, after a hearing with the Hearing Officer. ~~after a hearing on the matter by the City Council. The term "administrative expenses~~ costs ~~" shall include, but not be limited to, personnel costs, both direct and indirect; costs incurred in documenting the nuisance; the actual expenses and costs of the City in the preparation and dissemination of notices, specifications, and contracts and in inspecting the work; and the costs of printing and mailing the notices required hereunder and the costs of imposing a lien, if that becomes necessary.~~

SEC. 5-7.80 ACCOUNT AND REPORT OF COST. The Enforcement Officer shall keep an account of the cost of abating the nuisance on each separate lot or parcel of land where the work is done by the City, as well as any inspection charges which remain unpaid, ~~and shall render an annual itemized report in writing to the City Council showing the cost of abatement, including any salvage value, and outstanding inspection charges.~~

SEC. 5-7.90 NOTICE OF REPORT. ~~The City Clerk shall post a copy of the report and assessment list on the bulletin board designated for the posting of agendas for City Council meetings together with a notice of filing thereof and of the time and place when and where it will be submitted to the City Council for hearing and confirmation; notifying property owners that they may appear at such time and place and object to any matter contained therein. A like notice shall also be published once in a newspaper of general circulation that is published and circulated within the City. The posting and first publication of the notice shall be made and completed at least 10 days before the time the report is considered by the City Council.~~

SEC. 5-7.100 CITY COUNCIL HEARING. ~~At the time and place fixed for receiving and considering the annual report, the City Council shall hear the same together with any objections which may be raised by any person liable to be charged for the work of abating the nuisance and related charges, and the Enforcement Officer shall attend the meeting with his or her record thereof, and upon the hearing, the Council may make the modifications in the proposed liens as it may deem necessary, after which the report and lien list shall be confirmed by resolution. The amount of the cost of abating the nuisance, including inspection charges and administrative expenses, shall constitute a lien against the respective lots or parcels of land and, after being confirmed by the City Council, shall constitute a lien on the property for the amount of the charges until paid.~~

SEC. 5-7.14990 COLLECTION ON TAX ROLL. After confirmation of the report, a copy shall be given to the City Director of Finance who may receive the amount due on the abatement cost and issue receipts at any time after the confirmation and until a list of unpaid liens is sent annually to the County Auditor for effecting collection on the tax roll at the time and in the manner of ordinary municipal taxes. The descriptions of the parcels reported shall be those used for the same parcels on the County Assessor's map books for the current year. All laws and ordinances applicable to the levy, collection, and enforcement of City taxes are hereby made applicable to such liens and this lien shall have priority of the taxes with which it is collected.

SEC. 5-7.1200 PROCEDURE NOT EXCLUSIVE; VIOLATION AN INFRACTION. The procedures for abatement set forth herein shall not be exclusive and shall not in any manner limit or restrict the City from enforcing other City ordinances and regulations or abating public nuisances in any other manner provided by law. Nothing in this article shall be deemed to prevent the City Council from ordering the commencement of a civil proceeding to abate a public nuisance pursuant to applicable law or from pursuing any other remedy available under applicable law. Violation of the provisions of this article constitutes an infraction, as set forth in Chapter 1, Article 3 of the Hayward Municipal Code.