



**DATE:** June 18, 2024

**TO:** Mayor and City Council

**FROM:** Director of Development Services

**SUBJECT:** Adopt a Resolution Confirming the Report and Special Assessment List Regarding Overdue Community Preservation and Rental Program Charges for the Period of January 1, 2023, Through May 1, 2024 and Authorizing Transmittal of Assessments to the Alameda County Assessor for Collection.

## **RECOMMENDATION**

That the City Council adopts a Resolution (Attachment II) confirming the report and special Assessment list Regarding Overdue Code Enforcement fees and penalties for the period of January 1, 2023 Through May 1, 2024 (Attachment III) and authorizing transmittal of assessments to the County Assessor for collection.

## **SUMMARY**

The purpose of the Special Assessment confirmation is to consider the proposed report and assessment list of unpaid fees and penalties related to enforcement of codes and regulations on private property under the Community Preservation and Residential Rental Housing Programs, and to determine whether a special assessment should be placed on these properties.

As of the date of this report unpaid charges to the City for the period of January 1, 2023 through May 1, 2023, related to both the Community Preservation Program and the Residential Rental Housing Program total \$602,623.15.

## **BACKGROUND**

### Community Preservation Program

Article 7, Chapter 5 of the Hayward Municipal Code (HMC), otherwise known as the Community Preservation Ordinance, currently makes it unlawful for Hayward property 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. Additionally, regulations adopted under the Community Preservation Ordinance make it unlawful for Hayward property owners to violate all adopted municipal codes, including those specifically

developed to preserve community health and safety. This includes both inhabited properties and vacant properties, whether residential or commercial.

Typical violations include debris, trash, vegetation, graffiti, signs, zoning issues, abandoned and/or inoperable vehicles, in addition to violations of other adopted Code and Standards such as Fireworks, Cannabis, Building, Tobacco sales and Vacant Property conditions.

“Public nuisance” is defined in the Ordinance, as are the procedures for enforcing the Ordinance. The Ordinance provides due process protections that guarantee the property owners who are cited for violations of the Ordinance, notice and the opportunity to be heard.

Once a violation of the Ordinance has been established at a particular property and all appropriate notifications have been made, fines, fees, penalties and/or abatement of the violation can and will be imposed. Consequently, once the property owner has exhausted his or her administrative remedies (which includes the option for an administrative hearing), the property owner must then pay any and all costs related to his/her property violations in the appropriate timeframe set forth in the Ordinance. If those costs are not paid in full prior to the July deadline each year, the unpaid charges are scheduled for special assessment against the property, once confirmed and authorized by Council resolution.

#### Residential Rental Housing Program

The Residential Rental Inspection Ordinance (“Ordinance”), codified in Article 5, Chapter 9 of the Hayward Municipal Code (“HMC”), creates an inspection program for residential rental units in the City. The purpose of the Ordinance is to safeguard the stock of safe and sanitary rental housing by inspecting units for violations of housing and building codes.

The Ordinance provides a process for the inspection of units, notification to property owners, and the imposition of fees/penalties and charges. When a violation has been identified at a property, the City provides a correction notice to the owner identifying the violation(s). If the violation is not corrected by the owner, the Ordinance authorizes fee and penalty charges for any inspection or re-inspection performed. Once the owner has exhausted his or her administrative hearing rights, the owner must pay any fees and penalty charges. If those costs are not paid in full prior to the August deadline each year, the unpaid fees and/or charges are scheduled for special assessment against the property once confirmed and authorized by Council resolution.

## **DISCUSSION**

The costs that make up the special assessment charges were calculated pursuant to the City’s Master Fee Schedule. Fines and fees include: Failed re-inspection(s) fees; abatement related costs; contractor fees; subsequent violation(s) fees; annual fees; annual registration fees; past due fees; and general code violation penalties.

Community Preservation Programs: Community Preservation, Fireworks, Tobacco Retail Inspections, Cannabis, and Vacant Properties are all components of the overall Community Preservation Program. As of the date of this report, there are 203 Properties with overdue

penalties and fees (including contractor costs, past penalties and past due program fees) associated with Community Preservation Programs, amounting to \$383,913.15. The accounts receivable list is attached as Attachment III.

Residential Rental Housing Program: As of the date of this report there are 1,088 Rental Properties with overdue rental inspection fees and penalties that total \$218,710.00 The accounts receivable list is attached as Attachment III

The unpaid charges, totaling \$602,623.15 plus any administrative costs of the City and County, will become a special assessment against the property and will appear on the property owners' November tax bills. Notices sent by first class mail were mailed to each property owner, and tenant if applicable, in accordance with established codes. Property owners were given an opportunity for an Administrative Hearing to dispute the factual findings and/or assessment of fees. As of the writing of this report, no hearing requests have been recently filed. Additionally, after three past-due invoices were mailed to the property owners, a Final Notice was sent by first class mail on May 6, 2024, advising the property owners of the impending assessment against their property pursuant to Government Code Section 38773.5.

## **ECONOMIC IMPACT**

The collection of un-paid fees supports the community preservation program in ensuring well maintained, safe and sanitary neighborhoods and properties.

## **FISCAL IMPACT**

There is no fiscal impact to the City of Hayward associated with processing such overdue bills, as City costs are reimbursed through special assessment or other collection processes. All special assessment costs are collected along with lien amounts on individual tax bills. Collection of these fees also helps minimize the General Fund subsidy to this program and reduces unrecoverable costs of conducting inspections associated with the City's Community Preservation Program because they represent fees assessed for staff time related to enforcement actions. The City of Hayward annually receives two special assessment allocations from the County, one in December and one in April.

## **STRATEGIC ROADMAP**

This is a routine operational item and is not related to any projects identified in the Strategic Roadmap.

## **SUSTAINABILITY FEATURES**

The recommended action for this report will not directly result in physical development; the purchase of a product or service; new policy or legislation related to sustainability. However, enforcement of the City's ordinances related to Community Preservation / Rental Housing programs, supports Hayward's 2040 General Plan in the overall goal for safe and cohesive

neighborhoods through healthy communities. General Plan guidelines related to this report are:

#### COMMUNITY HEALTH AND QUALITY OF LIFE GOALS:

##### GOAL 5: Safe and Cohesive Neighborhoods

HQL – 5.6 Maintenance of Private Property

#### PUBLIC CONTACT

Notice of City Council's confirmation of this report was published in the *Daily Review* on June 7<sup>th</sup>, 2024, and on June 14<sup>th</sup>, 2024. In addition, all first invoices include specific language giving the property owner an opportunity for a Special Assessment Hearing to contest the fees and/or penalties and encouraging them to pay their bills to minimize additional fees and to avoid being placed on the proposed assessment list. Property owners have until August 1, 2024, to pay all outstanding fees.

#### NEXT STEPS

A copy of the Special Assessment Lists will be forwarded by the City of Hayward's Revenue Division to the Alameda County Assessor's Office. Upon receipt, the Assessor's Office will attach the City of Hayward's fees past due as a special assessment against each parcel. That assessment will then appear on the property owners' November 2024 property tax bill for collection. When the County Assessor receives the tax payment, the City of Hayward will be reimbursed by the Assessor's Office typically after payment of the second installment in April of the following year.

*Prepared by:* Phillip Nichols, Code Enforcement Manager

*Recommended by:* Sara Buizer, AICP, Director of Development Services

*Approved by:*



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Dustin Claussen, Interim City Manager