



DATE: June 27, 2023

TO: Mayor & City Council

FROM: Acting Development Services Director

SUBJECT: Adopt a Resolution Confirming the Report of Non-Abatable Code Violations and Penalty Liens List Associated With the Code Enforcement Division and Community Preservation/Rental Housing Programs

RECOMMENDATION

That Council adopts a resolution (Attachment II) confirming the Lien Report (Attachment III) of non-abatable code violations, and penalty liens associated with the Community Preservation and Rental Housing Programs administered by the Code Enforcement Division of the Development Services Department.

SUMMARY

The purpose of this Nuisance Abatement/Municipal Code confirmation is to consider the proposed report and filing of liens with the County Recorder's Office as a third collection tool for the Community Preservation and Rental Housing Programs. The Resolution will officially confirm the properties in violation of City ordinances and will be filed with the County for recordation on property titles.

BACKGROUND

Hayward's Community Preservation and Improvement Ordinance (Chapter 5, Article 7, of the Hayward Municipal Code (HMC)), otherwise known as the Community Preservation and Improvement Ordinance, 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. This includes both inhabited properties and vacant properties, whether residential or commercial. Typical violations include debris, trash, overgrown vegetation, graffiti, signs, zoning issues, abandoned and/or inoperable vehicles, and the like.

Hayward's Residential Rental Inspection Ordinance (Chapter 9, Article 5, of the Hayward Municipal Code (HMC)), otherwise known as the Residential Rental Inspection Ordinance (RRIO), creates an inspection program for residential rental units in the City. The purpose of the RRIO is to safeguard the stock of safe and sanitary rental housing by inspecting units for

violations of housing and building codes. This includes all rental housing units and hotels and motels. Typical violations include inadequate maintenance, and un-permitted building, plumbing, electrical and mechanical work.

Hayward's Public Nuisance Ordinance (Chapter 4, Article 1 of the Hayward Municipal Code (HMC)), otherwise known as the Public Nuisance Ordinance, defines a public nuisance as anything which is injurious to health, or is indecent, offensive to the senses, or an obstruction to the free use of property that interferes with the comfortable or safe enjoyment of life or property in the community.

These ordinances provide staff an alternative method of enforcement and collections for non-abatable violations of the HMC. A condition on a property is considered non-abatable when City staff cannot perform the abatement and the property owner fails to comply with the City's requirement to perform abatement. Examples of non-abatable conditions include fence height(s) and/or structures that do not meet setback requirements, illegal structures, businesses operating without an approved use permit (if applicable) or failing to comply with Conditions of Approval of an approved use permit, parking violations, rental housing violations, and illegal units. Adoption of the Resolution will authorize staff to file a lien against properties in violation with the County Recorder's Office.

This additional enforcement process does not affect or change the Administrative Hearing request process, nor the Special Assessment Process. However, this Nuisance Abatement/Municipal Code Violations lien process is an additional means of enforcement when dealing with non-abatable code violations. Staff utilizes the lien and special assessment processes independently or in conjunction to enhance compliance efforts. The lien process differs from that used for special assessments in that a violation and fee are recorded on a property's title to alert potential buyers or those with a fiduciary interest in the property, such as a lending institution, of the property violation and the need to pay a fee. The primary function of special assessments, related to action taken by Council, is to allow the City to collect past due fees via annual tax bills. Authority for this process is granted under the Community Preservation and Improvement Ordinance, Residential Rental Inspection Ordinance and Government Code Section 38773.1.

DISCUSSION

As of the date of this report, there are fifteen (15) properties being submitted to Council for the filing of a Nuisance Abatement/Municipal Code Violations lien for non-abatable code violations, as listed in Attachment III. The unpaid charges, which total \$106,428.00 plus any administrative costs of the County, will become liens on the property titles. When the properties are sold or refinanced, the liens will be paid.

Staff sends a minimum of three notices to the property owner in question and, if applicable, to the tenants. The first notice informs the recipient of the violation and the right to an Administrative Hearing to dispute the factual findings. The notices are sent by first-class mail with proof of service. The final notice is also delivered by way of Process Server. The final notice details all related costs and/or fees and informs the affected parties of the opportunity

to request an Administrative Hearing. The notice also encourages them to make the needed corrections(s) to bring their properties into compliance. To date, no Administrative Hearings have been requested to be heard by the City's hearing officer. A confirmed copy of the Nuisance Abatement/Municipal Code Violations form will be sent to the owner, tenant, and lender once received from the County Recorder's Office.

ECONOMIC IMPACT

The filing of liens with the County Recorder's Office supports Code Enforcements preservation, nuisance, and rental programs in ensuring well-maintained, safe, and sanitary neighborhoods and properties.

STRATEGIC ROADMAP

This is a routine operational item and not directly tied to a Strategic Roadmap project.

FISCAL IMPACT

There is no negative fiscal impact to the City of Hayward resulting from this action. There will be 100% cost recovery through the lien process. To change ownership of a property, a lien must be satisfied meaning if the property is sold or the owner refinances, the City will receive the payment which is due. All funds received will be allocated to the General Fund and support the Code Enforcement Division's on-going compliance efforts.

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

In addition to three (3) Notices served to the property owner(s), and a formal Notice served by Process Server, a notice of City Council's confirmation of this report was published in *The Daily Review* on June 16th, 2023.

NEXT STEPS

A copy of the lien list will be forwarded to the Alameda County Assessor's Office. Upon receipt, the Assessor's Office will attach the City of Hayward's fees past due and violations as a lien against each parcel. That lien will then appear on the property title until the fees have been paid and violation(s) are abated.

Prepared by: Phillip Nichols, Code Enforcement Manager

Recommended by: Sara Buizer, Acting Development Services Director

Approved by:



Kelly McAdoo, City Manager