

**DATE:** September 1, 2009

**TO:** Mayor and City Council

**FROM:** Director of Maintenance Services

**SUBJECT:** Filing Nuisance Abatement Lien Notices with County Recorder's Office (Nuisance Abatement/Municipal Code Violations) for Non-Abatable Code Violations

**RECOMMENDATION**

That Council adopts the attached resolution confirming the filing of Nuisance Abatement Lien Notices for non-abatable code violations and fees, associated fees, and any penalty charges to become a lien against the below listed properties, to be filed with the County of Alameda, Recorders Office, pursuant to Government Code Section 38773.1.

**BACKGROUND**

The purpose of the Nuisance Abatement Lien report is to consider and confirm the proposed report and filings of liens with the County Recorder's Office as a third collection tool for the Community Preservation Division. The properties in violation will be officially confirmed by resolution, which will be filed with the County.

**DISCUSSION**

As of the date of this report, there are three (3) properties being submitted to Council for the filing of Nuisance Abatement Liens as listed below. The unpaid charges, plus any administrative costs of the County, will become a lien of the property title. When the property is sold or refinanced, the lien will be paid through escrow.

<u>Address</u>	<u>Violation</u>	<u>Lien Amounts</u>
1. 581 Culp Ave.	HMC 10-1.175: Illegal Storage Shed	\$1,651.00
2. 25408 University Ct.	HMC 10-2.245: Illegal Room Addition	\$1,383.00
3. 27530 Mandarin Ave.	HMC 10-1.175: Vehicle Parking, Repair, Display, and Storage	\$2,022.00

Staff has identified a need for an alternative method of enforcement and collections for non-abatable violations of the Municipal Code, including but not limited to, fence height(s) and/or location, required setback(s), illegal structures, businesses operating without an approved Use Permit (if

applicable) or failing to comply with the Conditions of Approval of an approved use permit, parking violations, and illegal units. This process would be one of several available enforcement and collection tools. Others include seeking injunctions against the property/business owner and/or revocations of the approved Use Permits and Site Development Review through the City Attorney's Office and Planning Department. 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 Violation lien process is an additional means of enforcement when dealing with non-abatable code violations. Non-abatable violations consist of those types of violations, which have substantial financial impact to the City. Authority for this new process is granted under Government Code Section 38773.1.

### **FISCAL IMPACT**

The fiscal impact is that (1) costs are advanced and (2) this program provides reimbursement.

### **PUBLIC CONTACT**

Staff sends three letters to each of the current property owner(s) in question and/or tenants if applicable. The first two letters are sent at the same time informing the owner of the right to an Administrative Hearing to dispute factual findings. One letter is sent certified mail and the other letter is sent regular mail. After a minimum of ten (10) days, a third letter is sent by way of a process server. The third letter details all related costs and/or fees and informs the affected parties of the lien hearing request opportunity, and encouraging them to pay their bills to minimize fees. An approved copy of the Nuisance Abatement/Municipal Code Violation form will be sent to the owner, tenant, and lender once received from the County Recorder's Office.

Notice of City Council's confirmation of this report was published in the Daily Review on August 21, 2009.

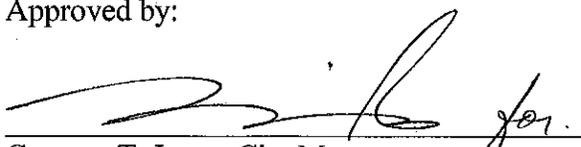
Prepared by:

  
\_\_\_\_\_  
Stacey Sorensen, Neighborhood Partnership Manager

Recommended by:

  
\_\_\_\_\_  
Matt McGrath, Director Maintenance Services

Approved by:

  
\_\_\_\_\_  
Gregory T. Jones, City Manager

**DRAFT**

*msl  
8/18/09*

HAYWARD CITY COUNCIL

RESOLUTION NO. 09-

Introduced by Council Member \_\_\_\_\_

**RESOLUTION CONFIRMING THE REPORT AND LIEN LIST ASSOCIATED WITH OVERDUE COMMUNITY PRESERVATION CHARGES FOR THE 2008 CALENDAR YEAR AND FIRST HALF OF THE 2009 CALENDAR YEAR**

WHEREAS, in connection with the 2008 & 2009 Community Preservation Program, the Neighborhood Partnership Manager has rendered an itemized report in writing to this Council showing the Community Preservation violations and cost of fines, fees, penalties and lien costs for certain properties in the City of Hayward described in the report, all as required by section 5-7.100 of the Municipal Code of the City of Hayward; and

WHEREAS, the hour of 8 p.m. on Tuesday, September 1, 2008, in the Council Chambers, City Hall, 777 B Street, Hayward, California, was fixed as the time and place for this Council to receive and consider the report, and a copy of the report has been posted and published in the manner required by section 5-7.110 of the Municipal Code; and

WHEREAS, the report was presented at the time and place fixed, and the City Council has considered the report and all comments with respect thereto; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that except as may be amended by Council, report of the Neighborhood Partnership Manager of the City of Hayward Community Preservation Program on costs and ordinance violations from the properties therein described, a copy of which is attached hereto, is hereby confirmed.

BE IT FURTHER RESOLVED that payments of all fines, fees, penalties and lien costs confirmed hereby may be received by the City of Hayward Finance Director within 10 days from the date of this resolution and thereafter such official shall transmit the unpaid charges to the County Recorder's Office for a Nuisance Abatement Lien on said property(s) listed in report.

IN COUNCIL, HAYWARD, CALIFORNIA September 1, 2009

ADOPTED BY THE FOLLOWING VOTE:

AYES:           COUNCIL MEMBERS:  
                          MAYOR:

NOES:           COUNCIL MEMBERS:

MAYOR:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward