

**Meeting Date:** 8/16/2016

**Report Type:** Consent

**Report ID:** 2016-00792

**Title:** Ordinance Revisions to City Code Chapters 8.04, 8.96, and 8.100 Relating to the Imposition of Notice and Order Fees (Passed for Publication 08/09/2016; Published 08/12/2016)

**Location:** Citywide

**Recommendation:** Pass an Ordinance amending 8.04, 8.96, and 8.100 relating to the imposition of Notice and Order Fees.

**Contact:** Tina Lee-Vogt, Program Manager, (916) 808-2679, Community Development Department

**Presenter:** None

**Department:** Community Development Dept

**Division:** Neighborhood Code Compliance

**Dept ID:** 21001313

**Attachments:**

1-Description/Analysis

2-N&O Ordinance Revision Clean

3-N&O Ordinance Revision Redline

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**City Attorney Review**

Approved as to Form

Michael Benner

8/3/2016 1:56:16 PM

**Approvals/Acknowledgements**

Department Director or Designee: Ryan Devore - 7/28/2016 2:46:27 PM

## **Description/Analysis**

**Issue:** Chapters 8.04, 8.96, and 8.100 of the Sacramento City Code provide methods to abate nuisance, dangerous building and housing code violations. These sections also establish that a fee shall be imposed on the owner of any property for which a notice and order has been issued.

On May 10, 2016, the Sacramento City Council adopted the FY2016/17 Citywide Fees and Charges Update which included reducing the Notice and Order Fees for Housing and Dangerous Buildings (HDB) and Neighborhood Code Compliance (NCC) to decrease the cost for those who quickly comply and abate violations. Additionally, a Housing and Dangerous Building Monitoring Fee and a Neighborhood Code Compliance Monitoring Fee were added to recover costs for each separate inspection related to the enforcement of the notice and order to more accurately capture costs for cases requiring multiple inspections to gain compliance.

Staff is recommending that the City Council adopt an ordinance revising Chapters 8.04, 8.96, and 8.100 to provide staff with the appropriate authority to assess the new monitoring fees as included in the FY 2016/17 Citywide Fees and Charges Update. Additionally, these revisions include language related to the process to appeal the monitoring fees.

**Policy Considerations:** The proposed ordinance revisions specifically adding the new monitoring fees are consistent with the Council's adopted Fees and Charges Policy and support the City's goals of budget sustainability and fiscal responsibility.

**Economic Impacts:** None.

**Environmental Considerations: California Environmental Quality Act (CEQA):** This report concerns administrative activities and government fiscal activities that do not constitute a "project" as defined by the CEQA Guidelines Sections 15378(b)(2) and 15378(b)(4) and are not subject to the provisions of CEQA (CEQA Guidelines 15060(c)(3)).

**Sustainability:** None.

**Commission/Committee Action:** None.

**Rationale for Recommendation:** To properly implement the fees as adopted by the Sacramento City Council in the FY2016/17 Citywide Fees and Charges Update, Chapters 8.04, 8.96, and 8.100 must be amended.

**Financial Considerations:** The new monitoring fees reflect efforts to maximize cost recovery of staff and administrative costs while encouraging property owners to comply with the code and voluntarily correct violations. Further, these fees offset the operational and administrative costs for the Code Compliance Division.

**Local Business Enterprise:** Not applicable.

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTIONS 8.04.130,  
8.96.130, AND 8.100.720 OF THE SACRAMENTO CITY CODE RELATING TO THE IMPOSITION OF  
NOTICE AND ORDER FEES

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 8.04.130 of the Sacramento City Code is amended to read as follows:

8.04.130 Fees imposed.

A. The following fees are imposed on the owner of any property for which a notice and order is issued pursuant to this chapter:

1. A notice and order to abate a public nuisance fee to recover the cost of enforcement, including all inspections of the property prior to issuance of a notice and order and all administrative costs associated with issuance of a notice and order;
2. A code compliance monitoring fee imposed for each additional inspection of the property after the notice and order issued pursuant to this chapter becomes final.
3. A termination of declaration fee imposed at the conclusion of any matter in which a notice and order has been issued to recover the cost of closing the file, removing or placing liens, and other associated administrative costs.

B. The amounts of the fees described in subsection A shall be set by city council resolution. These fees shall be due and owing regardless of whether the public nuisance is eliminated in response to the notice and order.

C. Fees – imposition and appeal.

1. A code compliance monitoring fee imposed may be appealed and shall be collected in the same manner as is specified in section 1.28.010.D.

2. The notice and order fee and the termination of declaration fee are due and payable within 30 days of the notice of fee imposition. If an appeal is filed, the fees shall be due and payable upon a final decision on the appeal. Any fee not timely paid within that time shall be collected pursuant to the procedure set forth in article IX of chapter 8.96.

## SECTION 2.

Section 8.96.130 of the Sacramento City Code is amended to read as follows:

8.96.130 Generally.

A. Commencement of Proceeding. Whenever the building official has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, he or she shall commence proceedings to repair, vacate, or demolish the building.

B. Notice and Order. The building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located.

2. A statement that the building official has found the building is dangerous with a brief and concise description of the conditions that make the building dangerous under the provisions of section 8.96.110.

3. A statement that the building official has determined that the building must be repaired or demolished at the option of the owner in the manner and within the time limitations specified below.

a. If the owner elects to repair the building, the owner shall obtain all required permits for repair and physically commence work 30 days from the date of the order and completed the work within such time that the building official determines is reasonable under all of the circumstances, or

b. If the owner elects to demolish the building, the owner shall obtain all required demolition permits and commence demolition not later than 30days from the date of the order, and shall complete the demolition within such time as the building official determines is reasonable.

4. Statements advising that the building official:

- a. May order the building vacated and posted to prevent further occupancy if any required repair or demolition work is not commenced within the time specified, until the work is completed;
- b. May order the immediate disconnection of hazardous utility services (electricity, gas, sewer or water); and
- c. May proceed to repair, secure or demolish the building and charge the costs thereof against the property or its owner.

5. Statements advising that:

- a. Any person having any record title or legal interest in the building may appeal the notice and order or any action of the building official to the entity charged with hearing such appeals, provided the appeal is made in writing, as provided in this code, and filed with the building official within 30days from the date of the order; and
- b. Failure to appeal will constitute a waiver of all rights to an administrative hearing and a final determination of the matter. The final order is subject only to judicial review pursuant to California Code of Civil Procedure section 1094.5.

C. Service of Notice and Order. The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner, and posted on the property, and one copy thereof shall be served on each of the following if known to the building official or disclosed from official public records: (i) the holder of any mortgage or deed of trust or other lien or encumbrance of record; and (ii) the owner or holder of any lease of record. The failure of the building official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other persons duly served or relieve any such person from any duty or obligation imposed on him or her by the provisions of this section.

D. Method of Service. Service of the notice and order may be made upon all persons entitled to service in the manner described in section 1.04.100 of this Code. Service by mail may be made upon the record owner at his or her or their address as it appears on the latest equalized assessment roll of Sacramento County, or as known to the building official.

E. Fees Imposed.

1. The following fees are imposed on the owner of any property for which a notice and order is issued pursuant to this chapter:

a. A notice and order to repair, rehabilitate, or demolish fee to recover the cost of enforcement, including all inspections of the property prior to issuance of a notice and order and all administrative costs associated with issuance of a notice and order;

b. A housing and dangerous building monitoring fee imposed for each additional inspection of the property after the notice and order issued pursuant to this chapter becomes final.

c. A termination of declaration fee imposed at the conclusion of any matter in which a notice and order has been issued to recover the cost of closing the file, removing or placing liens, and other associated administrative costs.

2. The amounts of the fees described in subsection E.1 shall be set by city council resolution. These fees shall be due and owing regardless of whether the public nuisance is eliminated in response to the notice and order.

3. Fees – imposition and appeal.

a. A housing and dangerous building monitoring fee imposed may be appealed and shall be collected in the same manner as is specified in section 1.28.010.D.

b. The notice and order fee and the termination of declaration fee are due and payable within 30 days of the notice of fee imposition. If an appeal is filed, the fees shall be due and payable upon a final decision on the appeal. Any fee not timely paid within that time shall be collected pursuant to the procedure set forth in article IX of chapter 8.96.

F. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt returned in acknowledgement of receipt by certified mail shall be affixed to the copy of the notice and order retained by the building official.

### SECTION 3.

Section 8.100.720 of the Sacramento City Code is amended to read as follows:

8.100.720 Notice and order—Issuance—Contents—Fee.

A. Except as otherwise provided in this article, the building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located;
2. A statement that the building official has found the building to be substandard with a brief and concise description of the conditions found to render the building substandard under the provisions of this chapter;
3. A statement of the action required to be taken;
4. A statement advising that any person having any record title or legal interest in the building may appeal from the notice and order provided that the appeal is made in writing as provided in this chapter;
5. A statement that failure to appeal the notice and order will constitute a waiver of all right to an administrative hearing and will be a final determination of the matter subject only to review pursuant to California Code of Civil Procedure section 1094.5; and
6. A statement that the appeal request must be in writing and filed with the building official within 30 days of service of the notice and order.

B. Fee Imposed.

1. The following fees are imposed on the owner of any property for which a notice and order is issued pursuant to this chapter:
  - a. A notice and order to repair, rehabilitate, or demolish fee to recover the cost of enforcement, including all inspections of the property prior to issuance of a notice and order and all administrative costs associated with issuance of a notice and order;
  - b. A housing and dangerous building monitoring fee imposed for each additional inspection of the property after the notice and order issued pursuant to this chapter becomes final.
  - c. A termination of declaration fee imposed at the conclusion of any matter in which a notice and order has been issued to recover the cost of closing the file, removing or placing liens, and other associated administrative costs.
2. The amounts of the fees described in subsection B shall be set by city council resolution. These fees shall be due and owing regardless of whether the public nuisance is eliminated in response to the notice and order.

3. Fees – imposition and appeal.

a. A housing and dangerous building monitoring fee imposed may be appealed and shall be collected in the same manner as is specified in section 1.28.010.D.

b. The notice and order fee and the termination of declaration fee are due and payable within 30 days of the notice of fee imposition. If an appeal is filed, the fees shall be due and payable upon a final decision on the appeal. Any fee not timely paid within that time shall be collected pursuant to the procedure set forth in article IX of chapter 8.96.

Adopted by the City of Sacramento City Council on \_\_\_\_\_ by the following vote:

Ayes:

Noes:

Abstain:

Absent:

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_  
City Clerk

Passed for Publication:

Published:

Effective:

**ORDINANCE NO.**

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE AMENDING SECTIONS 8.04.130,  
8.96.130, AND 8.100.720 OF THE SACRAMENTO CITY CODE RELATING TO THE IMPOSITION OF  
NOTICE AND ORDER FEES**

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

**SECTION 1.**

Section 8.04.130 of the Sacramento City Code is amended to read as follows:

8.04.130 Fees imposed.

~~———— A fee shall be imposed on the owner of any property for which a notice and order is issued pursuant to this section. The fee shall be calculated to recover the total city cost of inspections and enforcement and shall be set by resolution of the city council. An additional fee which shall be set by resolution of the city council shall be imposed on the owner of the property at the conclusion of any matter in which a notice and order has been issued. This termination fee shall be calculated to recover the cost of closing the file, removing or placing liens, and other associated administrative costs. The fees imposed pursuant to this section shall be due and owing regardless of whether the public nuisance is eliminated in response to the notice and order. No fees shall be due and owing if an appeal is filed and the appeal is sustained. All fees shall be a personal obligation of the owner and a lien upon the property and are due and payable within thirty (30) days of issuance of the notice and order or closing of the file respectively; provided that if an appeal is filed, the fees shall be due and payable upon a final decision on the appeal. Any fee not paid within that time shall be collected pursuant to the procedure set forth in Chapter 8.96 of this code.~~

A. The following fees are imposed on the owner of any property for which a notice and order is issued pursuant to this chapter:

1. A notice and order to abate a public nuisance fee to recover the cost of enforcement, including all inspections of the property prior to issuance of a notice and order and all administrative costs associated with issuance of a notice and order;

2. A code compliance monitoring fee imposed for each additional inspection of the property after the notice and order issued pursuant to this chapter becomes final.

3. A termination of declaration fee imposed at the conclusion of any matter in which a notice and order has been issued to recover the cost of closing the file, removing or placing liens, and other associated administrative costs.

B. The amounts of the fees described in subsection A shall be set by city council resolution. These fees shall be due and owing regardless of whether the public nuisance is eliminated in response to the notice and order.

C. Fees – imposition and appeal.

1. A code compliance monitoring fee imposed may be appealed and shall be collected in the same manner as is specified in section 1.28.010.D.

2. The notice and order fee and the termination of declaration fee are due and payable within 30 days of the notice of fee imposition. If an appeal is filed, the fees shall be due and payable upon a final decision on the appeal. Any fee not timely paid within that time shall be collected pursuant to the procedure set forth in article IX of chapter 8.96.

## **SECTION 2.**

Section 8.96.130 of the Sacramento City Code is amended to read as follows:

8.96.130 Generally.

A. Commencement of Proceeding. Whenever the building official has inspected or caused to be inspected any building and has found and determined that such building is a dangerous building, he or she shall commence proceedings to repair, vacate, or demolish the building.

B. Notice and Order. The building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises upon which the building is located.

2. A statement that the building official has found the building to be dangerous with a brief and concise description of the conditions found to render that make the building dangerous under the provisions of sSection 8.96.110 of this chapter.

3. A statement that the building official has determined that the building must be repaired or demolished at the option of the owner in the manner and within the time limitations ~~hereinafter~~ specified below.

a. If the owner elects to repair the building, the owner shall obtain all required permits for repair ~~and shall be secured therefor and the work~~ physically commenced work ~~thirty (30)~~ days from the date of the order and completed the work within such time ~~as that~~ the building official ~~shall~~ determines is reasonable under all of the circumstances, or

b. If the owner elects to demolish the building, the owner shall obtain ~~that~~ all required demolition permits ~~shall be secured therefor and~~ commence demolition ~~commenced~~ not later than ~~thirty (30)~~ days from the date of the order, and shall complete the ~~that~~ demolition ~~be completed~~ within such time as the building official ~~shall~~ determines is reasonable.

4. Statements advising that the building official:

a. ~~If any required repair or demolition work is not commenced within the time specified, m~~ May order the building vacated and posted to prevent further occupancy if any required repair or demolition work is not commenced within the time specified, until the work is completed;

b. May order the immediate disconnection of hazardous utility services (electricity, gas, sewer or water); and

c. May proceed to repair, secure or demolish the building and charge the costs thereof against the property or its owner.

5. Statements advising ~~(i)~~ that:

a. ~~a~~ Any person having any record title or legal interest in the building may appeal, ~~from~~ the notice and order or any action of the building official to the housing board ~~entity charged with hearing such appeals~~, provided the appeal is made in writing, as provided in this code, and filed with the building official within ~~thirty (30)~~ days from the date of the order; and

~~b. (ii) that f~~ Failure to appeal will constitute a waiver of all rights to an administrative hearing and a final determination of the matter. The final order is subject only to judicial review pursuant to California Code of Civil Procedure sSection 1094.5.

C. Service of Notice and Order. The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner, and posted on the property, and one copy thereof shall be served on each of the following if known to the building official or disclosed from official public records: (i) the holder of any mortgage or deed of trust or other lien or encumbrance of record; and (ii) the owner or holder of any lease of record. The failure of the building official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other persons duly served or relieve any such person from any duty or obligation imposed on him or her by the provisions of this section.

D. Method of Service. Service of the notice and order may be made upon all persons entitled ~~thereto to service~~ in the manner described in ~~s~~Section 1.04.100 of this Code. Service by mail may be made upon the record owner at his or her or their address as it appears on the latest equalized assessment roll of Sacramento County, or as known to the building official.

E. Fees Imposed. ~~A fee shall be imposed on the owner of any property for which a notice and order is issued pursuant to this section. The fee shall be calculated to recover the total city cost of inspections and enforcement and shall be set by resolution of the city council. An additional fee which shall be set by resolution of the city council shall be imposed on the owner of the property at the conclusion of the process provided in this chapter. This closing fee shall be calculated to recover the cost of closing the file, removing or placing liens, a title report, and other associated costs. Any fee not paid shall be collected pursuant to the procedure set forth in Article IX of this chapter.~~

1. The following fees are imposed on the owner of any property for which a notice and order is issued pursuant to this chapter:

a. A notice and order to ~~repair, rehabilitate, or demolish~~ fee to recover the cost of enforcement, including all inspections of the property prior to issuance of a notice and order and all administrative costs associated with issuance of a notice and order;

b. A housing and dangerous building monitoring fee imposed for each additional inspection of the property after the notice and order issued pursuant to this chapter becomes final.

c. A termination of declaration fee imposed at the conclusion of any matter in which a notice and order has been issued to recover the cost of closing the file, removing or placing liens, and other associated administrative costs.

2. The amounts of the fees described in subsection E.1 shall be set by city council resolution. These fees shall be due and owing regardless of whether the public nuisance is eliminated in response to the notice and order.

3. Fees – imposition and appeal.

a. A housing and dangerous building monitoring fee imposed may be appealed and shall be collected in the same manner as is specified in section 1.28.010.D.

b. The notice and order fee and the termination of declaration fee are due and payable within 30 days of the notice of fee imposition. If an appeal is filed, the fees shall be due and payable upon a final decision on the appeal. Any fee not timely paid within that time shall be collected pursuant to the procedure set forth in article IX of chapter 8.96.

F. Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt returned in acknowledgement of receipt by certified mail shall be affixed to the copy of the notice and order retained by the building official.

### **SECTION 3.**

Section 8.100.720 of the Sacramento City Code is amended to read as follows:

8.100.720 Notice and order—Issuance—Contents—Fee.

A. Except as otherwise provided in this article, the building official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

A1. The street address and a legal description sufficient for identification of the premises upon which the building is located;

B2. A statement that the building official has found the building to be substandard with a brief and concise description of the conditions found to render the building substandard under the provisions of this chapter;

C3. A statement of the action required to be taken;

D4. A statement advising that any person having any record title or legal interest in the building may appeal from the notice and order provided that the appeal is made in writing as provided in this chapter;

~~£~~5. A statement that failure to appeal the notice and order will constitute a waiver of all right to an administrative hearing and will be a final determination of the matter subject only to review pursuant to California Code of Civil Procedure [section 1094.5](#); ~~and~~

~~F~~6. A statement that the appeal request must be in writing and filed with the building official within ~~thirty (30)~~ days of service of the notice and order.

## B. Fee Imposed.

1. The following fees are imposed on the owner of any property for which a notice and order is issued pursuant to this chapter:

a. A notice and order to ~~repair, rehabilitate, or demolish~~ fee to recover the cost of enforcement, including all inspections of the property prior to issuance of a notice and order and all administrative costs associated with issuance of a notice and order;

b. A housing and dangerous building monitoring fee imposed for each additional inspection of the property after the notice and order issued pursuant to this chapter becomes final.

c. A termination of declaration fee imposed at the conclusion of any matter in which a notice and order has been issued to recover the cost of closing the file, removing or placing liens, and other associated administrative costs.

2. The amounts of the fees described in subsection B shall be set by city council resolution. These fees shall be due and owing regardless of whether the public nuisance is eliminated in response to the notice and order.

3. Fees – imposition and appeal.

a. A housing and dangerous building monitoring fee imposed may be appealed and shall be collected in the same manner as is specified in [section 1.28.010.D](#).

b. The notice and order fee and the termination of declaration fee are due and payable within 30 days of the notice of fee imposition. If an appeal is filed, the fees shall be due and payable upon a final decision on the appeal. Any fee not timely paid within that time shall be collected pursuant to the procedure set forth in [article IX of chapter 8.96](#).

~~A Notice and Order to Abate a Public Nuisance Fee, which shall be calculated to recover the cost of enforcement, including all inspections of the property prior to issuance of a notice and order pursuant to this chapter. "Cost of enforcement" shall include all administrative costs associated with issuance of a notice and order. A Housing and Dangerous Building Monitoring Fee, which shall be imposed for each additional inspection of the property after the notice and order issued pursuant to this chapter has become final. Each Housing and Dangerous Building Monitoring fee imposed may be appealed and shall be collected in the same manner as is specified in section 1.28.010(D). A fee shall be imposed on the owner of any property for which a notice and order is issued pursuant to this section. The fee shall be calculated to recover the total city cost of inspections and enforcement and shall be set by resolution of the city council. An additional fee which shall be set by resolution of the city council shall be imposed on the owner of the property at the conclusion of any matter in which a notice and order has been issued. This closing fee shall be calculated to recover the cost of closing the file, removing or placing liens, a title report, and other associated costs. Any fee not paid shall be collected pursuant to the procedure set forth in Article IX of Chapter 8.96 of this title.~~

Adopted by the City of Sacramento City Council on \_\_\_\_\_ by the following vote:

Ayes:

Noes:

Abstain:

Absent:

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_  
City Clerk

Passed for Publication:

Published:

Effective: