REPORT TO COUNCIL
City of Sacramento

915 I Street, Sacramento, CA 95814-2671
www. CityofSacramento.org

STAFF REPORT
October 3, 2006

Honorable Members of the
Law and Legislation Committee

Subject: Amend Ordinance Relating to Notice and Orders Service

Location/Council District: Citywide

Recommendation:

Staff recommends that the Law and Legislation Committee approve and forward the attached ordinance regarding methods of service of Notice and Orders for enforcement to the City Council for adoption.

Contact: Randy Stratton, Chief of Housing and Dangerous Buildings, 808-6497

Presenters: Max B. Fernandez, Code Enforcement Director
Randy Stratton, Chief of Housing and Dangerous Buildings

Department: Code Enforcement Department

Division: Neighborhood Code Enforcement, Business Compliance and Housing and Dangerous Buildings

Organization No: 4651, 4652 and 4653

Summary:

The proposed amendments will improve the current service methods for Notice and Orders by streamlining and shortening the length of the process while still maintaining the integrity and legality of service. The new section (1.04.100) allows for notice and order service by posting and simultaneous mailing of certified and first-class mail, with service being effective provided that the first-class notification is not returned although the certified may be returned.

Committee/Commission Action: None.

Background Information: The ***current methods of service*** for notice and orders include the following:

- Personal service of the property owner; or
- Service by certified mail; or
- If certified mail is refused or the person entitled to service is not personally served, substitute service may occur. This would be done by leaving a copy with the person in charge followed by a first class mailing to the recipient where the copy was left or by leaving a copy at the recipient's dwelling with a household member present and followed by a first class mailing to the recipient where the copy was left; or
- If the person entitled to service refuses the certified return receipt mail or cannot be personally served and has a property manager/rental agency, substituted service may be accomplished as per above upon the property manager or rental agency; or
- If the person entitled to service lives out of state and will not accept certified return receipt mail, then service may be made by first class mail; or
- If the above attempts are not successful, service may be made by publication in the official newspaper of the City of Sacramento.

The proposed amendment will include the following ***revised methods of service*** as follows:

- Following posting the notice and order conspicuously on or in front of the property and simultaneously mailing the notice and order via both certified mail, return receipt requested, and simultaneously by first class mail, if a notice and order that is sent by certified mail is returned unsigned, *then service shall be deemed* ***effective pursuant to first-class mail, provided the notice and order that was sent by first-class mail is not returned.***
- *Substituted service* ***will no longer be required.***
- *Substituted service* upon a *property manager* or *rental agency* overseeing the premises ***will no longer be required.***

The proposed changes will not affect: (1) personal service, (2) the required posting of the notice and order on or in front of the property, (3) that service by certified or regular mail will be deemed effective on the date of mailing, (4) that when service cannot be effected in all the other methods, service may be made by publication in the official newspaper of the City of Sacramento; and (5) that the failure of any person entitled to receive a notice and order shall not affect the validity of any proceedings taken under this Code.

Implementation of the proposed changes of methods of service for notice and orders will streamline the case management cycle, thus shortening the turn around time for cases and increasing staff efficiency. Also, the proposed ordinance changes consolidate the notice and order provisions into one section rather than having multiple chapters for reference by the officers and inspectors and other staff. This will also facilitate any future changes in service requirements by only requiring a change to one section rather than multiple sections. These ordinance revisions are intended to replicate the service requirements set forth in State law in the Health and Safety Code Section 17980.6. Other cities with similar ordinances include Fresno, Stockton, and San Diego.

Financial Considerations:

Adoption of this ordinance amendment will reduce the length of a case by streamlining the service time for the notice and order process. It will also result in greater efficiency in case management and potential cost savings for staff.

Environmental Considerations:

This report is not considered a project and, therefore, has no potential for an effect on the environment as stated by the provisions of the California Environmental Quality Act (Section 15061 (b) (3)).

Policy Considerations:

Implementation of the proposed changes of methods of service for notice and orders will streamline the case management cycle, thus shortening the turn around time for cases and increasing staff efficiency. Also, the proposed ordinance changes consolidate the notice and order provisions into one section rather than having multiple chapters for reference by the officers and inspectors and other staff. This will also facilitate any future changes in service requirements by only requiring a change to one section rather than multiple sections. These ordinance revisions are intended to replicate the service requirements set forth in State law in the Health and Safety Code Section 17980.6. Other cities with similar ordinances include Fresno, Stockton, and San Diego.

Emerging Small Business Development (ESBD): There are no ESBD considerations as no goods or services are being purchased.

Respectfully Submitted by: for Max Fernandez

Max B. Fernandez
Director, Code Enforcement Department

Recommendation Approved:

Gustavo F. Vina
Assistant City Manager

Table of Contents:

Pgs 1-4 Report
Pgs 5-7 Ordinance (clean)
Pgs 8-12 Ordinance (redline)

ORDINANCE NO.

Adopted by the Sacramento City Council
On _____

AN ORDINANCE ADDING SECTION 1.04.100, AND AMENDING SECTION 8.04.150, SUBSECTION D OF SECTION 8.96.130, AND SECTION 8.100.740 OF THE SACRAMENTO CITY CODE REGARDING METHOD OF SERVICE OF NOTICE AND ORDERS FOR ENFORCEMENT

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

SECTION 1.

Section 1.04.100 of the Sacramento City Code is hereby added to read as follows:

1.04.100. Method of Service of Notice and Orders

A. Whenever a notice and order is required to be given under this Code for enforcement purposes, the notice and order shall be served by any of the following methods unless different provisions are otherwise specifically stated to apply:

1. Personal service; or

2. Posting the notice and order conspicuously on or in front of the property, and simultaneously mailing the notice and order via both certified mail, return receipt requested, and first class mail. If a notice and order that is sent by certified mail is returned unsigned, then service shall be deemed effective pursuant to first-class mail, provided the notice and order was sent by first-class mail is not returned. Service by certified or regular mail in the manner be deemed effective on the date of mailing; or

3. If service cannot be effected as set forth in Subsections (A)(1) and (A)(2), service may be made by publication in the official newspaper of the City of Sacramento. Service shall be deemed sufficient when it is accomplished pursuant to Government Code Section 6063.

B. 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 acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the department in charge of enforcement.

C. The failure of any person entitled to receive a notice and order shall not affect the validity of any proceedings taken under this Code.

SECTION 2

Section 8.04.150 of the Sacramento City Code is hereby amended to read as follows:

8.04.150 Method of service.

Service of the notice and order may be made upon all persons entitled thereto in the manner described in Section 1.04.100 of this Code. Service 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 department head.

SECTION 3

Subsection (D) of Section 8.96.130 of the Sacramento City Code is hereby amended to read as follows:

8.96.130. Generally

D. Method of Service. Service of the notice and order may be made upon all persons entitled thereto in the manner described in Section 1.04.100 of this Code. Service 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.

SECTION 4

Section 8.100.740 of the Sacramento City Code is hereby amended to read as follows:

Service of the notice and order may be made upon all persons entitled thereto in the manner described in Section 1.04.100 of this Code. Service 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 director.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

_____
MAYOR

ATTEST:

_____
CITY CLERK

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DATE ADOPTED:_____

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Adopted by the Sacramento City Council
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AN ORDINANCE ADDING SECTION 1.04.100, AND AMENDING SECTION 8.04.150, SUBSECTION D OF SECTION 8.96.130, AND SECTION 8.100.740 OF THE SACRAMENTO CITY CODE REGARDING METHOD OF SERVICE OF NOTICE AND ORDERS FOR ENFORCEMENT

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

SECTION 1.

Section 1.04.100 of the Sacramento City Code is hereby added to read as follows:

1.04.100. Method of Service of Notice and Orders

A. Whenever a notice and order is required to be given under this Code for enforcement purposes, the notice and order shall be served by any of the following methods unless different provisions are otherwise specifically stated to apply:

1. Personal service; or

2. Posting the notice and order conspicuously on or in front of the property, and simultaneously mailing the notice and order via both certified mail, return receipt requested, and first class mail. If a notice and order that is sent by certified mail is returned unsigned, then service shall be deemed effective pursuant to first-class mail, provided the notice and order was sent by first-class mail is not returned. Service by certified or regular mail in the manner be deemed effective on the date of mailing; or

3. If service cannot be effected as set forth in Subsections (A)(1) and (A)(2), service may be made by publication in the official newspaper of the City of Sacramento. Service shall be deemed sufficient when it is accomplished pursuant to Government Code Section 6063.

B. 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 acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and order retained by the department in charge of enforcement.

C. The failure of any person entitled to receive a notice and order shall not affect the validity of any proceedings taken under this Code.

SECTION 2

Section 8.04.150 of the Sacramento City Code is hereby amended to read as follows:

8.04.150 Method of service.

Service of the notice and order may be made upon all persons entitled thereto in the manner described in Section 1.04.100 of this Code. ~~either by personal delivery or by certified mail, return receipt requested.~~ Service 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 department head. ~~A copy of the notice and order and any amended or supplemental notice and order shall also be posted on the premises.~~

~~A. In lieu of personally serving the owner or service by certified mail, service of the notice and order and any amended or supplemental notice and order may be made as follows:~~

~~1. In the event that the person entitled to service refuses to accept certified return receipt mail or cannot be personally served, service may be made by substituted service. Substituted service may be accomplished as follows: (1) by leaving a copy during usual business hours in the recipient's business with the person who is apparently in charge, and by thereafter mailing by first-class mail a copy to the recipient where the copy was left; (2) by leaving a copy at the recipient's dwelling or usual place of abode, in the presence of a competent member of the household and thereafter mailing by first-class mail a copy to the recipient at the address where the copy was left.~~

~~2. In the event the person entitled to service refuses to accept certified return receipt mail or cannot be personally served and has a property manager or rental agency overseeing the premises, substituted service may be made as set forth in subsection (A)(1) of this section upon the property manager or rental agency.~~

~~3. If the person entitled to service lives out of state and will not accept certified return receipt mail, then service may be made by first-class mail.~~

~~4. If the person entitled to notice cannot be located, or service cannot be~~

~~effected as set forth in this section, service may be made by publication in the official newspaper of the City of Sacramento. Service shall be deemed sufficient when it is accomplished pursuant to Government Code Section 6063.~~

~~The failure of any such person to receive such notice and order shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.~~

SECTION 3

Subsection (D) of Section 8.96.130 of the Sacramento City Code is hereby amended to read as follows:

8.96.130. Generally

D. Method of Service. Service of the notice and order may be made upon all persons entitled thereto in the manner described in Section 1.04.100 of this Code.~~, either by personal delivery or by certified mail, return receipt requested.~~ Service 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.~~ A copy of the notice and order and any amended or supplemental notice and order shall also be posted on the premises.~~

~~In lieu of personally serving the owner or service by certified mail, service of the notice and order and any amended or supplemental notice and order may be made as follows:~~

~~1. In the event that service by certified return receipt mail cannot be effected or the recipient cannot be personally served, service may be made by substituted service. Substituted service may be accomplished as follows: (i) by leaving a copy during usual business hours in the recipient's business with the person who is apparently in charge, and by thereafter mailing by first-class mail a copy to the recipient at the address where the copy was left; (ii) by leaving a copy at the recipient's dwelling or usual place of abode in the presence of a competent member of the household and thereafter mailing by first-class mail a copy to the recipient at the address where the copy was left.~~

~~2. In the event the recipient refuses to accept certified return receipt mail or cannot be personally served and has a property manager or rental agency overseeing the premises, substituted service may be made as set forth in subsection (D)(1) of this section upon the property manager or rental agency.~~

~~3. If the owner lives out of state and will not accept certified return receipt mail, then service may be made by first-class mail.~~

~~4. If the owner of the property or other person entitled to service cannot be located or service cannot be effected as set forth in this section, service may be made~~

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ORDINANCE NO._____

DATE ADOPTED:_____

~~by publication in the official newspaper of the City of Sacramento. Service shall be deemed sufficient when it is accomplished pursuant to Government Code Section 6063. The failure of any such person to receive such notice and order shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.~~

SECTION 4

Section 8.100.740 of the Sacramento City Code is hereby amended to read as follows:

Service of the notice and order may be made upon all persons entitled thereto in the manner described in Section 1.04.100 of this Code. ~~either by personal delivery or by certified mail, return receipt requested.~~ Service 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 director. ~~A copy of the notice and order and any amended or supplemental notice and order shall also be posted on the premises.~~

~~A. In lieu of personally serving the owner or service by certified mail, service of the notice and order and any amended or supplemental notice and order may be made as follows:~~

~~1. In the event that the owner refuses to accept certified return receipt mail or cannot be personally served, service may be made by substituted service. Substituted service may be accomplished as follows: (1) by leaving a copy during usual business hours in the recipient's business with the person who is apparently in charge, and by thereafter mailing by first-class mail a copy to the recipient where the copy was left; (2) by leaving a copy at the recipient's dwelling or usual place of abode, in the presence of a competent member of the household and thereafter mailing by first-class mail a copy to the recipient at the address where the copy was left.~~

~~2. In the event the owner refuses to accept certified return receipt mail or cannot be personally served and has a property manager or rental agency overseeing the premises, substituted service may be made as set forth in subsection (A)(1) of this section upon the property manager or rental agency.~~

~~3. If the owner lives out of state and will not accept certified return receipt mail, then service may be made by first-class mail.~~

~~4. If the owner of the property cannot be located, or service can not be effected as set forth in this section, service may be made by publication in the official newspaper of the City of Sacramento. Service shall be deemed sufficient when it is accomplished pursuant to Government Code Section 6063.~~

~~The failure of any such person to receive such notice and order shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing.~~

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ORDINANCE NO._____

DATE ADOPTED:_____

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

_____
MAYOR

ATTEST:

_____
CITY CLERK

FOR CITY CLERK USE ONLY

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