15

REPORT TO COUNCIL
City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www. CityofSacramento.org

Consent

October 31, 2006

Honorable Mayor and
Members of the City Council

Title: Amend Ordinance Regarding the Service of Notice and Orders

Location/Council District: City-wide

Recommendation: (1) Review 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 the method of service of Notice and Orders for enforcement; and 2) Pass for publication the Ordinance title as required by Sacramento City Charter 32c to be adopted on November 14, 2006.

Contact: Max Fernandez, Director of Code Enforcement, (916) 808-7940; Randy Stratton, Chief of Housing & Dangerous Buildings, (916) 808-6497, and Ron O'Connor, Code Enforcement Manager, (916) 808-8183

Presenters: Not applicable

Department: Code Enforcement

Divisions: Neighborhood Code Enforcement, Housing & Dangerous Buildings and Business Compliance

Organization No: 4651, 4652 & 4653

Description/Analysis

Issue: The current City Code allows for several cumbersome and ineffective methods of service for Notice and Orders. This includes different types of substituted service including first class and certified mail to various parties, substituted service upon the property manager or rental agency, publication in the City's official newspaper, and personal service of the property owner. The proposed ordinance would streamline the methods of service by eliminating inefficient methods such as relying on the certified mail attempts (often unclaimed and returned), substitute service on a property manager or rental agency, etc.

Also, the service methods for Notice and Orders are located in multiple sections of the city code. This amendment will consolidate notice and order provisions

into one section which will facilitate future changes and provide easier code reference for staff and customers regarding this enforcement process.

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 staff and customers. 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.

Environmental Considerations: This recommendation does not constitute a "project" and therefore is exempt from the California Environmental Quality Act (CEQA) according to Section 15061 (b)(1) and 15378(b)(3) of the CEQA guidelines.

Rationale for Recommendation: This ordinance would streamline the notice and order process resulting in more efficient service of notice and orders, improved customer service, and potential cost savings. The amendment also provides easier reference to this code subject and facilitates any future changes to the code by consolidating chapters into a single section.

Financial Considerations: The proposed ordinance will reduce the length of a case by streamlining the methods of service for notice and orders. It will also result in greater efficiency in case management and potential cost savings for staff.

Emerging Small Business Development (ESBD): Not applicable.

Respectfully Submitted by: _____
for Max B. Fernandez
Director, Code Enforcement Department

Recommendation Approved:

_____
for Ray Kerridge
City Manager

Table of Contents:

	Report	pg. 1-2
Attachments		
1	Background	pg. 4-5
2.	Ordinance (final)	pg. 6-7
3.	Ordinance (redline)	pg. 8-11

Background **Attachment 1**

The Sacramento City Code currently sets forth the following methods to satisfy the service requirements for notice and orders:

- Personal service if 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 be 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 includes the following ***revised methods of service***:

- After 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) service by certified or regular mail will continue to be deemed effective on the date of mailing, (4) when service cannot be

effected in all the other methods, then service may be made by publication in the official newspaper of the City of Sacramento; and (5) the failure of any person entitled to receive a notice and order shall not affect the validity of any proceedings taken under this code.

The implementation of these proposed changes in 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 will consolidate the notice and order provisions into one section rather than having multiple chapters for reference use by staff and customers. This will also facilitate any future changes in service requirements by only requiring a change to one section rather than to 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.

ATTACHMENT 2

ORDINANCE NO.

Adopted by the Sacramento City Council
On

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 is added to the Sacramento City Code 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 by 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 sent by first-class mail is not returned. Service by certified or regular mail shall 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 in conformance with 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 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 amended to read as follows:

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 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.

ATTACHMENT 3

ORDINANCE NO.

Adopted by the Sacramento City Council
On

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 is added to the Sacramento City Code 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 by 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 sent by first-class mail is not returned. Service by certified or regular mail shall 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 in conformance with 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 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 amended to read as follows:

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 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 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.~~