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REPORT TO COUNCIL
City of Sacramento

915 I Street, Sacramento, CA 95814-2671
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CONSENT
August 16, 2005

Honorable Mayor and
Members of the City Council

Subject: Ordinance Amending Section 17.232.050 of Title 17 of the Sacramento City Code Related to the Enforcement of Zoning Code Violations

Location/Council District: Citywide

Recommendation: 1) Pass for Publication, as required by Sacramento City Charter 32(c), an Ordinance amending the Comprehensive Zoning Ordinance Title 17 of the Sacramento City Code related to the enforcement of zoning code violations; and 2) continue to August 23, 2005 for adoption.

Contact: Joy Patterson, Senior Planner, 808-5607
Presenter: Joy Patterson, Senior Planner
Department: Development Services Department
Division: Planning
Organization No: 4870

Summary:

The proposed ordinance amends Title 17 of the City Code to add additional penalties for violations of the Zoning code. Currently, in addition to being a public nuisance, a zoning code violation is an infraction. This ordinance would: 1) make a violation a misdemeanor with the option of charging as an infraction; and 2) would subject a violation to administrative penalties under Section 1.28 of the City Code (General Penalty section of the code).

Committee/Commission Action:

On June 23, 2005, by a vote of 8 ayes and 1 absent, the Sacramento City Planning Commission voted to recommend approval of the zoning code amendment and forward the item to City Council.

Subject: Ordinance Amending Section 17.232.050 of Title 17 of the Sacramento City Code Related to the Enforcement of Zoning Code Violations

August 16, 2005

Background Information:

The proposed zoning code amendment amends the wording of Section 17.232.050 to indicate that any person, firm or corporation in violation of the provisions of the zoning code shall be guilty of a misdemeanor rather than an infraction. This change will provide City code enforcement staff with a more significant tool for responding to zoning code violations. As currently written, zoning violations of the Sacramento City Code can be criminally prosecuted only as infractions. Infractions are typically used for minor offenses, punishable only by minimal fines. Zoning violations, however, can frequently be very serious matters that can endanger the health and welfare of citizens. The purpose of the amendment is to have a corresponding offense (misdemeanor) to address serious matters. Misdemeanors carry the possibility of jail times and/or fines of up to $1,000.00 per day. The City cannot charge felonies. The threat of jail time is sometimes needed to get those in violation of zoning regulations to come into compliance with the code. Currently, the majority of other violations of the City Code (excluding Title 17) are prosecuted as misdemeanors.

Financial Considerations:

No additional goods or services are being requested.

Environmental Considerations:

Minor amendments to the zoning code are not considered a project under CEQA Section 15061 (b) (3).

Policy Considerations:

The proposed ordinance is consistent with the City's Strategic Plan in preserving and enhancing the City's neighborhoods and quality of life.

Emerging Small Business Development (ESBD): The actions considered in this report are not subject to the City's ESBD requirements.

Respectfully Submitted by: Carol Shearly

Carol Shearly, Interim Planning Director
Planning Division

Recommendation Approved:

ROBERT P. THOMAS
City Manager

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ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF

AMENDING SECTION 17.232.050 OF TITLE 17 OF THE SACRAMENTO CITY CODE RELATING TO THE ENFORCEMENT OF ZONING CODE VIOLATIONS (M05-037)

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

Section 1

Section 17.232.050 of Title 17 of the Sacramento City Code (the Zoning Code) is amended to read as follows:

17.232.50 Penalty.

A. Any person, firm or corporation violating any provision of this title shall be guilty of a misdemeanor. Such person, firm or corporation shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of this title is committed, continued or permitted by such person, firm or corporation, and shall be punishable as herein provided.

B. Notwithstanding subsection A., above, a violation of this title may be charged as an infraction pursuant to section 1.28.020 B. of this code.

C. In addition to criminal sanctions and other remedies set forth in this title, administrative penalties may be imposed pursuant to Chapter 1.28 of this code against any person, firm or corporation violating any provision of this title. Imposition, enforcement, collection and administrative review of administrative penalties imposed shall be conducted pursuant to Chapter 1.28 of this code.

D. The City Attorney, in the name of and on behalf of the City and the People of the State, may bring a civil action in a court of competent jurisdiction to enforce any provision of this title, or to restrain or abate any violation of the provisions of this title as a public nuisance.

E. Unless otherwise expressly provided, the remedies, procedures and penalties provided in this title are cumulative to each other and to any other remedies, procedures and penalties available under state law or other city ordinances.