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CITY OF OAKLAND FEB 25 AM 10:11

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Margaret O'Brien
Interim Revenue &
Tax Administrator

SUBJECT: Amending Fire Code
Chapter 15.12 – Section 114.3

DATE: February 22, 2016

City Administrator Approval

Date:

2/24/16

RECOMMENDATION

Staff Recommends The City Council Adopt An Ordinance Amending Chapter 15.12, Section 114.3 Of The Oakland Fire Code To Authorize Use Of The Lien Process To Recover Unpaid Administration and Reinspection Fees, Fines, Interest, Penalties, and Collection Fees And Other Costs Associated With Enforcement Of The Fire Code.

EXECUTIVE SUMMARY

Revising the Oakland Municipal Code Chapter 15.12, Fire Code, Section 114.3 "Method of Collection: Additional Amount of Costs to Tax Bill Procedure," will enable the City to recover costs the City incurred while conducting compliance inspections for hazardous vegetation inspections, when real property is found non-compliant after the first inspection. The Amendment will allow the City to use the lien process to recover unpaid administrative and reinspection fees, fines, penalties, interest, and collection fees from non-compliant property owners at the rates established and described in the Master Fee Schedule.

BACKGROUND / LEGISLATIVE HISTORY

On January 7, 2014, the City Council approved Ordinance No. 13208 C.M.S., to formally incorporate Oakland's established local building code standards and practices into the State code for use in all building projects within the jurisdiction.

Effective January 1, 2014, the California Building Standards Commission adopted portions of the 2012 International Fire Code in the 2013 California Fire Code. Health and Safety Code Section 17958.5 permits the City to make changes or modifications to the California Building Standards Code, part 9 (Fire) provided the Council establishes findings that such modifications are reasonably necessary due to local climate, geographical or topographical conditions for the protection of life, health, and property. The Oakland Fire Department reviewed the code documents and recommended the Council adopt the 2013 California Building Standards Code, part 9 (Fire) including City amendments, which added to the Fire Code, Section 114, "Judgment

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and Liens,” and Subsection 114.3, “Method of Collection: Additional Amount of Costs to Tax Bill Procedures”

Section 114.3 authorizes the Fire Code Official (“FCO”) to turn over to the County Assessor for inclusion in the next property assessment the total sum of unpaid nuisance abatement costs arising when the City enters a non-compliant property and abates a hazardous vegetation nuisance that, despite multiple inspections and notices, has not been corrected by the owner. At present, Section 114.3 does not allow the use of the lien process method of collection to recover fees, costs, and penalties imposed on non-compliant property owners who self-correct violations following reinspection and notice of continuing violation.

The proposed amendment would expand Section 114.3 to authorize the FCO to use the lien process to recover costs relating to the enforcement of hazardous vegetation management requirements, including administrative and reinspection fee, fines, penalties, interest, and collection fees owed to the City by the property owner of record.

ANALYSIS AND POLICY ALTERNATIVES

To amend Section 114.3 of the Oakland Fire Code to include the addition of collection fees, penalties, and fines, the City will be able to recapture total costs to conduct and enforce State and City mandated land management of highly flammable hazardous vegetation areas.

For the properties requiring an annual hazardous vegetation management inspection, the City will provide an annual inspection at no cost to property owners. Upon finding a property non-compliant to the City's Fire Code, the FCO cites the owner with a notice of violation. Upon reinspection, staff recommends imposing fines, penalties, and fees for the recovery of costs incurred by the City and as a mechanism to deter property owners from not complying with the Fire Code, as well as provide the FCO with cost recovery to enforce the code.

FISCAL IMPACT

There are no fiscal impacts associated with this report. This is an administrative action, which is to add language to Section 114.3 of the Oakland Fire Code for the propose of authorizing the FCO to impose the addition of penalties, fines, and collection fees, for vegetation management that are payable to the City of Oakland to recover costs. All fees shall be in the rate established and described in the Master Fee Schedule.

PUBLIC OUTREACH / INTEREST

Public outreach was not conducted for this item other than posting on the City's website.

COORDINATION

The Revenue Management Bureau, in coordination with the Oakland Fire Department and the Office of the City Attorney were consulted in the preparation of this report and ordinance amendment.

SUSTAINABLE OPPORTUNITIES

Economic: The amendment to the Oakland Fire Code will improve the overall safety of the community. Inspections of property and enforcement of activities ensure property in the City is maintained in a safe manner, such as those within the high fire severity area. This amendment will improve the overall safety of the City, which has a direct relationship to its ability to attract new residents and businesses.

Environmental: This amendment will provide for the protection of residents, property, and the environment, through the increased recovery of inspection costs, which will lead to additional funds available for inspections.


Social Equity: The ability to recapture enforcement costs will continue to promote socio-economic sustainability by providing fire safe housing and environment for the residents of the City.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends The City Council Adopt An Ordinance Amending Chapter 15.12, Section 114.3, Of The Oakland Fire Code To Authorize Use Of The Lien Process To Recover Unpaid Administration and Reinspection Fees, Fines, Interest, Penalties and Collection Fees and Other Costs Associated With Enforcement Of The Fire Code.

For questions regarding this report, please contact MARGARET O'BRIEN, INTERIM REVENUE & TAX ADMINISTRATOR, at 238-7480.

Respectfully submitted,


MARGARET O'BRIEN
Interim Revenue & Tax Administrator
Revenue Management Bureau

Prepared by:
Andy Best, Principal Analyst - Revenue
Revenue Management Bureau

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OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

AN ORDINANCE AMENDING CHAPTER 15.12, SECTION 114.3 OF THE OAKLAND FIRE CODE TO AUTHORIZE USE OF THE LIEN PROCESS TO RECOVER UNPAID ADMINISTRATION AND REINSPECTION FEES, FINES, INTEREST, PENALTIES, AND COLLECTION FEES AND OTHER COSTS ASSOCIATED WITH ENFORCEMENT OF THE FIRE CODE.

WHEREAS, the City of Oakland Fire Code authorizes Oakland Fire Department to provide annual compliance inspections for hazardous vegetation inspections at no cost to property owners to preserve life, health, safety, and the community; and

WHEREAS, the Oakland Fire Code as set forth in Oakland Municipal Code Chapter 15.12, Section 15.12.020 includes Oakland Amendments to the 2013 California Fire Code, including Section 114.3; and

WHEREAS, Section 15.20.020, including Oakland Amendments to the 2013 California Fire Code, Section 114.3 "Method of Collection: Additional Amount of Costs to Tax Bill: authorizes the Fire Code Official to turn over to the County Assessor for inclusion in the next property assessment the total sum of unpaid costs; and

WHEREAS, expanding Section 114.3 to authorize the Fire Code Official to use the lien process will allow for the recovery all costs relating to the enforcement of the fire code to abate violations, including administrative and reinspection fees, fines, penalties, interest, and collection fees owed to the City by the property owner of record; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines the forgoing recitals to be true and correct and hereby adopts and incorporates them into this Ordinance.

SECTION 2. The Municipal Code is hereby amended to add, delete, or modify sections as set forth below section numbers and titles are indicated in **bold type**; additions are indicated by underscoring and deletions are indicated by ~~strike-through type~~; portions of the regulations not cited or not shown in underscoring or strike-through type are not changed.

SECTION 3. Oakland Municipal Code Chapter 15.12, Section 15.12.020 Oakland Amendments

to the 2013 California Fire Code, Section 114.3 is hereby amended in its entirety to read as follows:

114.3 Method of collection: Additional Amount of Costs to Tax Bill Procedure.

With the confirmation of the report by the City Council, the nuisance abatement charges contained therein that remain unpaid by the owner of the subject property shall constitute a special assessment against said property as it has received the special benefit of City abatement

services. Such charges shall be collected, along with City administrative and a re-inspection fees at such time as is established by the County Assessor for inclusion on the next property tax roll.

The Fire Code Official shall turnover tot the County Assessor for inclusion in the next property tax assessment the total sum of unpaid nuisance abatement charges consisting of the abatement costs, administrative and re-inspection fees, fines, penalties, interest, and collection fees from the date of recordation of the lien, at the rate established and as described in the Master Fee Schedule.

Thereafter, said assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same penalties and the same procedure of sale as provided for ordinary delinquent municipal taxes. The special assessment shall be on parity and the same priority as general property taxes.

SECTION 4. This ordinance shall be effective immediately, if passed by the affirmative vote of at least six City Council members; if this ordinance is passed by the affirmative vote of five City Councilmembers it will be effective seven days after final passage.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2015

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California