CITY OF OAKLAND

AGENDA REPORT

TO: City Council
City Administration and the public

FROM: Councilmember Zac Unger

SUBJECT: Increasing Civil Penalties on Repeat Nuisance Violations

DATE: 9/30/26

RECOMMENDATION

Recommendation That the City Council ADOPT AN ORDINANANCE AMENDING OAKLAND MUNICIPAL CODE 1.08 TO RAISE MAXIMUM CIVIL PENALTIES FOR NUISANCE TO UP TO $2,500 PER DAY FOR REPEATED OR CONTINUING VIOLATIONS, AND UP TO $10,000 PER DAY FOR UNABATED NUISANCES ON REAL PROPERTY AFTER NOTICE AND AN OPPORTUNITY TO ABATE

EXECUTIVE SUMMARY

This report recommends the adoption of an ordinance amending Oakland Municipal Code (OMC) Chapter 1.08 to significantly increase the maximum civil penalties for public nuisance violations. The proposed amendments seek to strengthen the City's code enforcement capabilities by increasing daily penalties for repeat or continuing violations to $2,500, and establishing a maximum daily penalty of $10,000 for unabated nuisances on real property after notice and an opportunity to cure. The maximum civil penalties accrued for a year now would be capped at $3,650,000 for an individual parcel. These changes are intended to provide a more effective deterrent against persistent code violations and preserve the livability and safety of Oakland neighborhoods.

BACKGROUND / LEGISLATIVE HISTORY

Oakland Municipal Code Chapter 1.08 provides the framework for the administrative assessment of civil penalties to affect the abatement of various violations, including building, housing, fire,

and planning code infractions. Currently, the City utilizes these penalties as an alternative method of code enforcement to ensure the protection of public health and safety. However, the current penalty structure has often been seen as insufficient to deter bad actors, particularly in cases of commercial-scale nuisances or persistent 'blight' where the cost of compliance may exceed the current fine amounts. Councilmember Unger has introduced this ordinance to modernize the penalty schedule to reflect the severity of ongoing nuisance conditions.

In 2020, Oakland passed Measure RR which eliminated the $1,000 cap on fines. This was passed to give the City flexibility to provide sufficient sanctions necessary to address code violations in a meaningful way. The $1,000 fine limit had been in place since 1968 and had not been adjusted since. Code Enforcement has seen many instances where the $1,000 fine has proven insufficient when violators simply determine that they benefit financially from the fine compared to what they would lose by coming into compliance with the city. The Director of Planning and Building and Chief Building Official, at the time of its passing, supported the measure as increased fines would give code enforcement a more effective tool for code enforcement for the worst actors in Oakland.

California State Code sets the minimum civil penalty scale at $100/$250/$500 respectively for first, second and third offenses.[1] Under California Government Code 53069.4, local jurisdictions can amend their municipal code to have penalties that are higher than that. Oakland currently has penalties for violations of municipal code Title 15 (Buildings and Construction Code) at up to $1,000/day and $365,000/year.

Other Cities Penalty Structure for similar breaches of code

San Jose: Up to $20,000 (recently changed from $2,500) in certain instances where there are blight and significant health and safety issues. Up to $500,000 a year.[2]

San Francisco: Maximum of $1,000/day and $365,000/year for civil and administrative penalties (Oakland's current scale).[3]

Los Angeles: Maximum penalty for nuisance violations varies based upon the use or the square footage improvement of the improvement in violation from $1,000/day to $16,000/day for the first violation and up to $64,000/day for third and subsequent violations for the largest properties.[4]

San Diego: Maximum of $10,000/day per violation, and $400,000/parcel or structure for any series of violations.[5]

[1] https://codes.findlaw.com/ca/government-code/gov-sect-36900/
[2] San Jose Municipal Code Chapter 1.15
[3] San Francisco Municipal Code Chapter 176 sections 1&2
[4] Los Angeles Municipal Code Section 11.2.04
[5] San Diego Municipal Code 12.0803 section d

ANALYSIS AND POLICY ALTERNATIVES

The proposed ordinance amends Sections 1.08.010, 1.08.020, and 1.08.030 to implement the following penalty structure:

- First Violation: $1,000/day.
- Subsequent Violations: Up to $2,500 per day.
- Unabated Nuisances on Real Property after notice: Up to $10,000 per day.

The scope of these penalties applies to violations of the Building Code (OMC 15.04), Housing Code (OMC 15.08), Fire Code (OMC 15.12), Planning Code (OMC Title 17), and several other regulatory chapters. By increasing the financial burden on non-compliant property owners, the City aims to accelerate the abatement of hazardous conditions. A first violation fine does not change from what our initial maximum fine previously was. This ordinance is adding new tiers of fines for those who accrue multiple violations and do not move to abate their violations in a timely manner. If a penalty exceeds the $1,000 threshold however, the increased fine shall not be assessed without notice and an opportunity to cure the violation. Finally, if a property is declared a public nuisance, then and only then will it face the maximum fine of $10,000/day.

The fines increases we are making are within range for other statutory penalties in other municipalities in California for similar offenses. San Jose uses their recent increase to $20,000/day maximum to go after blighted properties which has been an issue, especially for Council Districts 3, 5 and 7 in San Jose. Blighted properties and other offenses that are public nuisances cause environmental, quality of life, and health concerns for surrounding neighbors, and it is our duty as the city to do our job to abate these nuisances from our city. That means holding property owners accountable for maintaining their parcels and operating commercially in a way that follows our health, safety, and community standards.

The point of this revision is to punish the worst offenders who are not dissuaded by the current penalty structure and make it more appealing to fix nuisances as opposed to accepting the fine they are given. We aim to target those who continue to scoff at the law and make no efforts to abate nuisances and/or offenses against our municipal code. The ordinance states that this chapter should be constituted liberally for the accomplishment of its purposes. Fines can go up to the new amount, and it is not required that fines go above the previous limit. It is also noted in 10.08.060 that fines should be assessed based on 6 factors including equity considerations.

FISCAL IMPACT

The adoption of this ordinance is expected to result in an increase in General Fund revenue through the collection of higher civil penalties. While the primary goal is compliance, the increased fine amounts will better offset the administrative costs of inspection and legal enforcement. Additionally, it is possibly for the city to seek an award of attorney fees if civil action must take place.

SUSTAINABLE OPPORTUNITIES

Economic: By increasing fines on the worst public nuisance offenders, the city should be able to dissuade public nuisances more effectively. This could see areas of Oakland be more palatable for homeowners, businesses, and visitors. All of which could increase economic activity in the city.

Environmental: By reducing the public nuisances in the city, the negative health, quality of life, and environmental issues can be abated from those properties.

Race & Equity: It is important that those who make public nuisance be punished. Many times, major nuisances exist in our more underserved communities. It is important we work to abate these nuisances and make life better for everyone effected by them. It is also important that we do consider what our punishments are. Which is why equity is written as one of the considerations to make when deciding on a level of fine for a property. Additionally, it is also written that this section be construed liberally for the accomplishment of its purpose.

ACTION REQUESTED OF THE CITY COUNCIL

Recommendation That the City Council ADOPT:

> ORDINANANCE AMENDING OAKLAND MUNICIPAL CODE 1.08 TO RAISE MAXIMUM CIVIL PENALTIES FOR NUISANCE TO UP TO $1,000 FOR A FIRST VIOLATION, UP TO $2,500 PER DAY FOR SUBSEQUENT VIOLATIONS, AND UP TO $10,000 PER DAY FOR UNABATED NUISANCES ON REAL PROPERTY

For questions regarding this report, please contact Matthew Malsin, Policy Advisor to Councilmember Zac Unger, at mmalsin@oaklandca.gov

Respectfully submitted,

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