

City of Culver City, California
City Council Agenda Item Report

Meeting Date: 04/6/09		Item Number: A-1	
AGENDA ITEM: Introduction of an Ordinance Amending Chapter 9.04 of Title 9 of the Culver City Municipal Code, Entitled “Nuisances,” to Modify Property Maintenance Standards and to Update the Procedures for Administrative Due Process Abatement of Public Nuisances; and, Amending Chapter 1.01 of Title 1 to Relocate the Definition of the Composition of the Municipal Code Appeals Committee from Chapter 9.04.			
Contact Person/Dept.: Sol Blumenfeld & Sharon Guidry, Community Development		Phone Number: 310-253-5940	
Fiscal Impact: Yes ☐ No ☒		General Fund: Yes ☐ No ☒	
Public Hearing: ☐		Action Item: ☒ Attachments: ☒	
Public Notification: Master E-Mail Notification List (04/01/09), Culver City News February 26, 2009, Homeowner Associations E-Notification List (03/31/09), Chamber of Commerce (03/31/09), Downtown Business Association (03/31/09)			
Department Approval: Sol Blumenfeld: (02/26/09)		City Attorney Approval: Carol Schwab (by H. Baker) (03/02/09)	
Chief Financial Officer Approval: Jeff Muir (by N. Kimball) (03/03/09)		City Manager Approval: Jerry B. Fulwood (03/04/09)	
<u>RECOMMENDATION:</u> Staff recommends the City Council Introduce an Ordinance amending Chapter 9.04 of Title 9 of the Culver City Municipal Code (CCMC), entitled “Nuisances,” to modify property maintenance standards and to update the procedures for administrative due process abatement of Public Nuisances; and, amending Chapter 1.01 of Title 1 to relocate the definition of the composition of the Municipal Code Appeals Committee from Chapter 9.04,. <u>BACKGROUND:</u> <u>[Note: This item originally appeared on the City Council agenda for the March 16, 2009 City Council meeting. This item was continued to this date to allow for additional notification and due to a technical difficulty which impacted the ability of interested parties to view this report and attachments on the City’s website.]</u> In August 2008, staff reported to City Council on the status of the new Enforcement Services Division and discussed enforcement standards and thresholds for property maintenance. At that time Council gave direction to staff as to the thresholds for property maintenance standards enforcement, and staff advised Council that staff would return at a future date with a proposed amendment to the CCMC for review by Council. (Attachment 1)			

City of Culver City, California
City Council Agenda Item Report

The Enforcement Services Division conducts proactive and reactive enforcement activities. Proactive enforcement occurs if a property front or side yard contains chairs, tables, boxes, equipment, tools, lumber, debris and trash cans stored in driveways or yard areas, grass that has overgrown about 6", inoperable vehicles parked in the driveway, vehicles with flat tires and without regular cleaning or when a dwelling has areas where paint is peeling and fading, all visible from the public right-of-way. Enforcement Services staff initiates contact with the resident or property owner regarding such conditions and asks that the condition be corrected. Reactive enforcement occurs when an investigation is initiated by a complaint.

The interim enforcement strategy implemented by the Enforcement Services Division as directed by Council will not be affected by any modifications to the property maintenance ordinance. This strategy involved enforcing all property maintenance complaints ranging from simple deferred maintenance to more extensive derelict property conditions, including documenting violations observed in the field, notifying property owners of violations and providing a date certain to correct the condition(s). Where enforcement includes properties with many deferred maintenance conditions which may have existed for an extended time period, a "work-out program" is established. Staff will continue to assist the owner by scheduling completion of the required corrective measures over a reasonable length of time.

Enforcement on abandoned and neglected properties throughout the City has met with very positive results. Overgrown vegetation, illegal dumping and graffiti have been removed from vacant properties through collaboration with property owners and other City departments.

Complaints such as graffiti, illegal dumping in the public right-of-way and abandoned shopping carts continue to be immediately reported to the responsible department, shopping cart retrieval company or other responsible party. Enforcement Services also monitors the new complaint hotline where the community can leave detailed information on the location of abandoned shopping carts and illegal signs in the public right-of way. The hotline is checked twice daily and a log of all calls to the hotline is maintained in the Division.

DISCUSSION:

Staff reviewed the existing property maintenance standards in the Culver City Municipal Code ("CCMC"), which are contained in Chapter 9.04 "Nuisances," to determine if the standards were sufficient to address the previously voiced concerns and the direction of the Council. (Chapter 9.04 is attached in its entirety as Attachment 2). Staff recognized that existing language in the CCMC could be

City of Culver City, California
City Council Agenda Item Report

modified to enhance the existing standards to ensure a clear understanding of conditions that constitute a violation, better compliance with the standards, and the prevention of blighting conditions.

Over 60 percent of the City's total land use is residential, and over half is comprised of single-family development. This means a great portion of the enforcement activities are concentrated in residentially zoned areas. The issues in these single-family areas are primarily the protection and enhancement of neighborhood character. However, the property maintenance standards are not limited to residential property.

Chapter 9.04 is currently divided into 4 subchapters: General Provisions, Graffiti, Property Maintenance, and Administrative Charges. Property maintenance standards are currently referenced in several of the sections of the General Provisions subchapter, as well as in the Property Maintenance subchapter. The proposed ordinance clarifies and updates the property maintenance standards by moving them all under the heading of General Provisions. The current subchapter on Graffiti remains the same except for renumbering.

Next, the new subchapter on Administrative Procedures for Abatement of Nuisances replaces the abatement procedures contained in both the current General Provisions and the current Property Maintenance subchapters. Another new subchapter has also been added to address the recordation of a notice of substandard property, and for the recovery of code enforcement fees and attorney's fees, as well as other general provisions.

The current subchapters on Property Maintenance and Administrative Charges will be deleted, since the issues contained in these subchapters are addressed in the new ordinance. The provision in Section 9.04.425, pertaining to the composition of the Municipal Code Appeals Committee ("MCAC"), is being moved to the General Provisions in Chapter 1.01. Staff recommends that public nuisance appeal hearings set out in the new ordinance are heard by an impartial hearing officer rather than by the MCAC.

The proposed changes to Chapter 9.04 are as follows:

General Provisions

- A. Section 9.04.005, Purpose, has been amended to reflect the overall intent of the Chapter.
- B. Section 9.04.010, Penalty, has been deleted; the penalty provisions are now included in Section 9.04.040. New Section 9.04.010 sets forth the definitions which apply to the Chapter.

City of Culver City, California
City Council Agenda Item Report

- C. Sections 9.04.015 "Prohibited Public Nuisance Conditions on Real Property" is new, and sets forth a comprehensive list of property maintenance standards, and makes any violation of the standards a public nuisance. (Previously, property maintenance standards were contained in Sections 9.04.400 and 9.04.405. The requirements were general in some cases and may be subject to varying interpretation. Additionally, staff had reviewed property maintenance codes from surrounding cities to determine if the CCMC was comparable to other codes when describing conditions that may constitute a violation and which would clearly apply to conditions that may exist. Sections 9.04.400 and 9.04.405 were adopted in 1965, and no modifications to these sections have been made since their original adoption.)
- D. Three sections detailing various prohibited nuisance conditions remain the same:
 - (1) Section 9.04.020 "Nuisances Declared and Prohibited";
 - (2) Section 9.04.025 "Nuisances Affecting Public Safety, Dangerous Conditions, Fire Hazards and the Like;" and
 - (3) Section 9.04.030 "Nuisances Affecting Health; Contaminated Materials."
- E. Section 9.04.035 "Application for Permit" remains the same;
- F. Section 9.04.040, "Nuisance Prohibited" has been amended to include the penalty provisions.
- G. Section 9.04.045, "Conditions Precedent for Imposition of City Lien" has been deleted. Abatement liens in favor of the City are addressed in new subchapter 9.04.100 et seq. entitled "Administrative Procedures for Abatement of Nuisances." New Section 9.04.045 sets forth the maintenance standards for vacant properties, which are in addition to any other requirement in the chapter.
- H. Sections 9.04.050 through 9.04.075 pertaining to abatement by the City have been repealed and deleted.

Administrative Procedures for Abatement of Nuisances

This new subchapter, numbered 9.04.100 et seq., is added to Chapter 9.04, and sets forth comprehensive and up to date due process procedures for the abatement of nuisances by the City, including notice provisions, requirements for demolition of buildings or structures by City personnel, rights of appeal, review by an impartial hearing officer, abatement of imminent hazards, and recovery by the City of the costs of abatement.

Recordation, Enforcement Fees and Attorney's Fees

City of Culver City, California
City Council Agenda Item Report

A new subchapter 9.04.200 et seq. has been added to set out the procedure by which the City may record a notice of substandard property. The new subchapter also provides for the recovery of code enforcement fees by the City, and for the recovery of attorney's fees by the prevailing party in certain instances.

Graffiti

The subchapter on Graffiti remains the same; it has been moved from 9.04.200 et seq. to 9.04.300 et seq.

FISCAL ANALYSIS:

There may potentially be an incremental increase or decrease in revenue generated by penalties for failure to rectify property maintenance violations, but staff anticipates the potential revenue to be negligible. Though Enforcement Services has authority to issue Orders to Comply and Administrative Citations, staff intends to pursue compliance with property maintenance standards through voluntary cooperation to the greatest extent possible, using fines and penalties only as a last resort.

ATTACHMENTS:

1. Proposed Ordinance
2. Current Chapter 9.04 entitled "Nuisances"
3. Notice published in Culver City News on February 26, 2009.

MOTION:

That the City Council:

Introduce an Ordinance amending Chapter 9.04 of Title 9 of the Culver City Municipal Code, entitled "Nuisances," to modify property maintenance standards and to update the procedures for administrative due process abatement of Public Nuisances; and, amending Chapter 1.01 of Title 1 to relocate the definition of the composition of the Municipal Code Appeals Committee from Chapter 9.04.