Meeting Date: 03/04/08

ACTION	TYPE OF ITEM
☐ Approved Recommendation	■ Info/Consent
☐ Ord. No(s). _____	☐ Report
☐ Res. No(s). _____	☐ Public Hearing (Info/consent)
☐ Other _____	☐ Other _____

Prepared By: Julie Doi, Deputy City Attorney _____ Agenda Item No. I-2

Reviewed By: City Manager _____ City Attorney _____ Finance SW Other *(Specify)* _____

DATE: February 25, 2008

TO: City Council

FROM: Julie Doi, Deputy City Attorney
City Attorney's Office

SUBJECT: **Ordinance Regarding the Recovery of Nuisance Abatement Costs**

RECOMMENDATION

That City Council approve the first reading by title only and subsequent adoption of an ordinance repealing subsection 7-156(C) of the Oxnard City Code ("OCC"), renumbering the remaining subsections of OCC section 7-156 as OCC section 7-159 and amending the title, repealing section 7-157 of the OCC, and adding sections 7-156, 7-157, and 7-158 to the OCC regarding the recovery of nuisance abatement costs incurred by the City.

DISCUSSION

Recently, a review of the nuisance abatement lien procedure by the City Attorney's Office and review by the City Code Compliance Unit staff concluded that the current City Code sections concerning abatement lien procedures require an update and amendment. Currently, the City only imposes a lien upon property for the costs incurred in abating such property.

The proposed ordinance would repeal those sections of the City Code concerning abatement liens which require revision and would add new sections so as to be current with industry standard. The new sections authorize the City Manager to impose a lien upon property for the costs incurred in abating such property and for related administrative costs.

FINANCIAL IMPACT

The amount of restitution to be collected by the City pursuant to the proposed ordinance is difficult to estimate at this time and is contingent on the number of properties abated. The costs of administration of the ordinance will be funded in the Oxnard Police Department budget for Fiscal Year 2007/2008.

Attachment #1 - Ordinance

ORDINANCE OF THE CITY OF OXNARD

ORDINANCE NO. __

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD REPEALING CITY CODE SUBSECTION 7-156(C), RENUMBERING THE REMAINING SUBSECTIONS OF CITY CODE SECTION 7-156 AS CITY CODE SECTION 7-159 AND AMENDING THE TITLE, REPEALING CITY CODE SECTION 7-157, AND ADDING CITY CODE SECTIONS 7-156, 7-157, AND 7-158, CONCERNING THE RECOVERY OF NUISANCE ABATEMENT COSTS

.....

Now, therefore, the City Council of the City of Oxnard does ordain as follows:

Part 1. Oxnard City Code ("OCC") subsection 7-156(C) is hereby repealed, the remaining subsections of OCC Section 7-156 are renumbered as OCC Section 7-159, and the title is amended to read as follows:

"SEC. 7-159. PENALTIES."

Part 2. OCC section 7-157 is hereby repealed.

Part 3. OCC Sections 7-156, 7-157, and 7-158, inclusive, are added to read as follows:

"SEC. 7-156. ABATEMENT BY CITY.

If the nuisance or attractive nuisance is not abated within the time specified in the notice to abate the nuisance or attractive nuisance or within ten days from the date of the denial of any appeal, the city manager shall abate the nuisance."

"SEC. 7-157. ABATEMENT AND RELATED ADMINISTRATIVE COSTS INCURRED BY CITY.

The costs of abatement incurred by the city of a nuisance or attractive nuisance and related administrative costs shall be paid by the property owner and shall be collectible by the city as a civil debt."

"SEC. 7-158. ABATEMENT AND RELATED ADMINISTRATIVE COSTS AS LIEN.

(A) When the city abates a nuisance as defined in Section 7-151 or an attractive nuisance as defined in Section 7-152, the city manager or designee may impose a lien for recovery by the city of the costs for abatement and related administrative costs upon the property on which the nuisance or attractive nuisance was maintained.

(B) Prior to recording a lien, the city manager or designee shall prepare a nuisance abatement cost report containing the following information:

(1) The street address, legal description, and assessor's parcel number of the parcel on which the lien is to be imposed;

(2) The name and address of the owner of the property;

(3) The name of the city as the agency on whose behalf the lien is imposed;

(4) The date of the abatement order; and

(5) The amount of the lien.

(C) The city manager or designee shall notify each property owner of the time, date, and location that the city council shall consider any cost report imposing a lien on the owner's property. The city manager or designee shall serve the notice in the same manner as a summons in a civil action pursuant to Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure.

(D) If the property owner cannot be located after diligent search, the city manager or designee may serve the notice by posting a copy of the notice upon the subject property in a conspicuous place for a period of ten days. The city manager or designee shall also publish the notice pursuant to Code of Civil Procedure section 6062 in a newspaper of general circulation that is published in Ventura County.

(E) At a public hearing, the city council shall consider the cost report with any objections of any property owner liable to be assessed for the costs stated in the report. The city council may modify the cost report as appropriate.

(F) Upon approval by the city council, the city manager or designee shall file a certified copy of the cost report with the county auditor. The city manager or designee shall request that the county auditor process and record the lien."

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Part 4. Within 15 days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation within the city. Ordinance No. ____ was first read on _____, 20__ and finally adopted on _____, 20__ to become effective thirty days thereafter.

AYES:

NOES:

ABSENT:

_____
Dr. Thomas E. Holden, Mayor

ATTEST:

_____
Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Gary Gilliig 02-25-08
Gary Gilliig, City Attorney

ATTACHMENT NO. #1
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