COUNCIL AGENDA: 4/13/10
ITEM: 2.8

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: **SEE BELOW**

DATE: March 22, 2010

Approved Paul Krutko

Date 3/30/10

COUNCIL DISTRICT: Citywide
SNI AREA: All

SUBJECT: ADOPTION OF A RESOLUTION AMENDING RESOLUTION NO. 72737 TO ESTABLISH REINSPECTION FEES FOR CODE ENFORCEMENT SERVICES

RECOMMENDATION

Adopt a resolution amending Resolution No. 72737 to establish a General Code Reinspection Fee of $141.75 for services provided by the City's Code Enforcement Division effective immediately.

OUTCOME

If the amendment to Resolution No. 72737 (hereafter, the City's "Schedule of Fees and Charges") is approved, it would result in the City's ability to recover 100% of the costs for all reinspection services provided by the Code Enforcement Division.

BACKGROUND

The Code Enforcement Division currently assesses reinspection fees to property owners and business owners who fail to comply with administrative orders for various programs including: Multiple Housing, as enumerated in San Jose Municipal Code (Code) Section 17.20.550 D.; Off-Sale of Alcoholic Beverages, as enumerated in Code Section 6.86.310; and Auto Body Repair Shop, as enumerated in Code Section 6.15.210. These various reinspection fees were intended to ensure timely compliance with these Code sections and to ensure that the City recovers the costs for reinspection services after providing property owners a reasonable time period for correcting Code violations. The Code Enforcement Division does not currently assess reinspection fees for

violations of other sections of the Code including, but not limited to the Zoning Ordinance, the Community Preservation Ordinance, and the Housing Code. The expansion of reinspection fees to all sections of the Code would provide cost recovery for these services.

ANALYSIS

The Code Enforcement Division has historically relied on education as a means of ensuring timely compliance with the Code. San Jose's property owners are generally unaware of the rules and regulations provided in the Code. It is not uncommon, after learning that a violation is present on their property, for a property owner to exclaim, "I wasn't aware" or "I had no idea" when attempting to explain the reason that a violation is present on their property.

Recognizing that the vast majority of San Jose residents and businesses are law-abiding and do correct the violation once apprised and afforded a reasonable time period to do so, staff from the Code Enforcement Division routinely allows the property owner to participate in the development of the compliance schedule. Staff appreciates the fact that most property owners do not wish to establish an antagonistic relationship with the City and generally volunteer to correct the violation in a timely manner. If a violation continues to exist after staff has reached a verbal compliance date agreement with the property owner, staff provides a verbal warning and in some cases a written warning. In more severe cases or if the situation involves a reoccurrence of the same violation on the same property, staff then issues an administrative citation or a compliance order. These enforcement tools specifically identify a future date when compliance should be achieved. It should be noted that once a compliance date has been established with the property owner, the property owner may request an extension that may be granted by Code Enforcement, at no cost, if the request for an extension is made prior to the reinspection and "good cause" for the extension has been articulated.

Unfortunately, in some cases the property owner fails to comply by the date set forth in the compliance order, which then requires a reinspection of the property. The reinspections typically involve preparation (e.g., any additional case research), a visit to the property, and the issuance of a new compliance order or other appropriate follow up. In addition, these reinspections delay Code Enforcement staff's ability to respond to other resident complaints in a timely manner.

Amending the Schedule of Fees and Charges would result in the property owner being sent an invoice for the cost of City staff's time in performing this last inspection. The Code Enforcement Division has conducted a time task analysis and has determined that the time involved with case research, travel and conducting a reinspection of a property takes an average of 1.5 hours per reinspection, at a cost of $105.00 per reinspection. In addition, staff has included administrative and accounting costs to prepare and mail correspondence and billing documents to the property owner for these services, at a cost of $36.75 per reinspection, for a total cost of $141.75 per reinspection.

Based on the above analysis of the time and cost to the City for conducting a reinspection, staff recommends a resinspection fee for violations not currently enumerated in the Schedule of Fees

and Charges be established and set at $141.75 per reinspection. The reinspection fees would be 100% cost recoverable.

As the General Fund deficit continues to grow and the need to reduce or eliminate City services are considered, we must seek opportunities to recover all costs incurred by the City in its efforts to enforce the Code. As such, staff is recommending the establishment of the following fees for reinspection to ensure compliance with all other Code sections not already enumerated within the Schedule of Fees and Charges.

PUBLIC OUTREACH/INTEREST

- ☐ **Criterion 1**: Requires Council action on the use of public funds equal to $1 million or greater. **(Required: Website Posting)**
- ☐ **Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This memorandum will be posted on the City's website, including on the front page of the Code Enforcement Division webpage, to provide Code Enforcement customers an opportunity to send comments to staff and participate in the Council meeting.

COORDINATION

This memorandum was coordinated with the Office of the City Attorney and the Budget Office.

CEQA

Not a project.

for Laurel Prevetti
JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Michael Hannon, Code Enforcement Official, at (408) 277-4703.