

AGENDA ITEM: #7

MEETING DATE: March 4, 2021

DEPARTMENT: Administration

## **REPORT TO THE CITY COUNCIL**

### **SUBJECT:**

Authorization to City Manager to Solicit Proposals from and Retain Attorney to Act as Hearing Officer to Conduct Hearings on Appeals from Administrative Citations and/or Notice to Abate a Nuisance.

### **RECOMMENDATION:**

Authorize City Manager to solicit proposals for and to retain an attorney to conduct administrative appeal hearings pursuant to City Code.

### **DISCUSSION:**

The City Council previously adopted an Administrative Citation Ordinance (at Chapter 1.17) and amended its nuisance ordinance so that persons can be cited and fined for Code violations and notified of the existence of any nuisance and required to abate the nuisance by a citation or notice which gives them notice of their right to appeal either the citation or the notice to abate a nuisance. A form provided for the City Clerk's use to allow for those appeals and a template for notices to be issued by your Code Enforcement Officer with respect to the abatement of nuisances are both attached.

This abbreviated administrative procedure allows the City to immediately cite and ultimately collect any fine for any Code violation and/or to give notice of any nuisance and the need to abate it without Council intervention or without the intervention of any court. That can only occur, however, if we provide a person cited or given notice to abate a nuisance the right to appeal to a disinterested neutral Hearing Officer. In the case of a citation, the Hearing Officer determines whether the fine is warranted and either affirms the fine or vacates it. In the case of a Notice to Abate a Nuisance, the Hearing Officer determines whether or not a nuisance in fact exists, whether the Notice to Abate is warranted and whether the person given notice of the nuisance has or has not abated it and either allow that person additional time to do so, or allow the City to abate the nuisance through its own forces and to make the cost of doing so a lien against the property which ultimately finds its way onto the tax rolls and is collected and paid to the City with the property tax distribution it receives from the County.

It is customary to retain an attorney to conduct these appeals who is not affiliated with the City and can be viewed as neutral and disinterested and impartial. There are numerous attorneys that provide that service, and the Council is being requested to allow the City Manager to independently obtain proposals from and/or retain an attorney to act as a Hearing Officer. The terms of the contract would vary with the attorney, but would almost certainly provide for an hourly rate for services actually rendered in connection with hearing an appeal. Staff would ensure that the agreement can be terminated at will and without notice.

**RECOMMENDATION:**

Authorize City Manager to solicit proposals for and to retain an attorney to conduct administrative appeal hearings pursuant to City Code.

Prepared by:

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Neal E. Costanzo, City Attorney

## NOTICE TO ABATE PROPERTY NUISANCE

Site Address:

Assessor Parcel Number:

Date:

Notice is hereby given that the above-described property is a public nuisance in violation of the following codes: \_\_\_\_\_. A nuisance exists because:  
[set forth applicable code(s)]

[describe the nuisance]

You must abate the nuisance within \_\_\_\_\_.  
[set forth applicable days]

There will be no further notice.

If the nuisance is not removed within the required time, the nuisance may be abated by the City of Parlier or a contractor hired by the City to remove the nuisance. The property owner will be billed for the cost of such abatement plus administrative fees. In addition, the property owner or other Responsible Party may be issued a citation and/or billed for the City's enforcement costs.

If you receive an invoice from the City for abatement, you will have fifteen (15) days from the issuance to pay the invoice. If you do not pay the invoice within 15 days, the unpaid amount will be added to your property taxes as a special assessment against your property.

All persons having any objections to the proposed abatement may file an appeal in accordance with Section 6.12.104. The appeal must be in writing, filed with the City Clerk at 128 South Fifth Street, Parlier, California, and received within [specify number of days] from the date of this Notice. The appeal must state the basis for the appeal with sufficient specificity so that the hearing officer or Board of Appeals can understand the basis for the appeal and must include the name, address, and telephone number of the person filing the appeal. Failure to file a timely appeal will result in the City proceeding with the work required at your expense in a timely fashion without further notice or hearing.

If the nuisance condition(s) create an imminent danger to the public, the appeal may be considered after abatement of the nuisance.

DATED: this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[ENFORCEMENT OFFICIAL NAME AND TITLE]  
CITY OF PARLIER, CALIFORNIA

**NOTICE OF APPEAL**  
**(Administrative Citation)**

\_\_\_\_\_  
First and Last Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Email Address

I hereby appeal from \_\_\_\_\_.

Administrative Citation No. and Date

The basis or reason for my appeal is as follows:

Date: \_\_\_\_\_

By \_\_\_\_\_

Signature

**NOTICE OF APPEAL**  
**(Notice to Abate Nuisance)**

\_\_\_\_\_  
First and Last Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Email Address

I hereby appeal from \_\_\_\_\_.

Notice to Abate Nuisance and Date

The basis or reason for my appeal is as follows:

Date: \_\_\_\_\_

By \_\_\_\_\_

Signature