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Staff Report for a City of San Leandro Ordinance Amending Certain Sections of the San Leandro Municipal Code and Resolution Amending Certain Sections of the Administrative Code Related to Penalties for Code Violations.

SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council approve and adopt an ordinance that updates the penalty amounts for violations of the San Leandro Municipal Code to comport with state law penalty thresholds and adopt a resolution that updates the San Leandro Administrative Code to reflect the updated penalty amounts in the current Master Fee Schedule.

BACKGROUND AND ANALYSIS

The City of San Leandro (“City”) is authorized pursuant to Government Code sections 53069.4 and 36900 to regulate and impose penalties on violations of local ordinances. San Leandro Municipal Code (“SLMC”) Chapter 1-12 lays out the authority and procedure for the City to impose penalties for code violations, and SLMC Chapter 7-5 lays out the authority and procedure for the City to impose penalties for violations of the building code.

The California Government Code stipulates the maximum fine amounts that cities may impose for violations of local ordinances and for violations of the building code. From time to time, the California Legislature updates these maximum fine amounts to reflect inflation. In 2019, the Government Code was amended to reflect increased penalty amounts for building and safety code violations.

Per Government Code sections 53069.4, 25132, and 36900(b), where a code violation would otherwise be an infraction, each violation is punishable by (1) a fine not exceeding \$100 for a first violation, (2) a fine not exceeding \$200 for a second violation of the same ordinance within one year,

and (3) a fine not exceeding \$500 for each violation of the same ordinance within one year. SLMC 1-12-415 currently includes penalties of \$150, \$300, and \$600 for code violations, which exceed the maximum amounts pursuant to State law.

Per Government Code section 36900(c), violations of local building and safety codes are punishable by (1) a fine not exceeding \$130 for a first violation, (2) a fine not exceeding \$700 for a second violation of the same ordinance within one year, (3) a fine not exceeding \$1,300 for each additional violation of the same ordinance within one year of the first violation, and (4) a fine not exceeding \$2,500 for each additional violation of the same ordinance within two years of the first violation in certain circumstances. SLMC section 7-5-105, subsection 114.4 currently includes penalties of up to \$1,000 for building and safety violations, which do not align with State Law.

The City's ability to impose penalties for code violations helps promote a healthy and safe community for all its members. Imposing penalties for continued code violations is one of the City's tools to enforce the SLMC. Code violations often result in blight, or dangerous conditions on private property, such as garbage accumulation, broken fences, and conditions attractive to harmful vectors. Such violations expend City resources to clean up, may cause physical or economic damage to persons and property, and may present attractive nuisances and public health dangers to the community.

The Government Code does not set forth a maximum penalty amount for violations. Currently, the SLMC contains a \$5,000 maximum penalty amount that may be accrued for a single code violation during a calendar year. The proposed amendments maintain a penalty cap for violations accruing on single-family residential parcels, but eliminates the cap for other types of properties. The financial burden on single-family home-owners to pay penalties for code violations is much higher than on other types of properties. Additionally, since the financial burden on single-family home-owners is higher, they remain motivated to correct and/or pay penalties, as compared to other types of properties where the financial burden to pay penalties is lower, and thus motivation for correction is lower.

Currently, the penalty amounts imposed for code violations by the SLMC are out of alignment with the state maximums. Staff recommends amending the SLMC and the Fee Schedule in the San Leandro Administrative Code to update the penalty amounts for consistency with state law.

Fiscal Impact

It is anticipated that higher building and safety code penalties and elimination of the \$5,000 annual cap for non-single-family properties would offset any decrease in revenues resulting from lower administrative penalties.

Conclusions

Staff recommends that the City Council 1) adopt the attached ordinance amending the San Leandro Municipal Code regarding monetary penalties for code violations in order to bring penalty amounts in alignment with state law; and 2) adopt the attached resolution amending the San Leandro Administrative Code to reflect the updated penalty amounts in the City's Fee Schedule.

ATTACHMENT(S)

Attachments to Staff Report

- Ordinance Amending the Municipal Code
- Resolution Amending the Administrative Code with Fee Schedule Exhibit

PREPARED BY:

Avalon Schultz, Principal Planner, Community Development Department