

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda Date:
Reviewed by: JRL

SUBJECT: Designation of the Planning and Zoning Commission as a Hearing Board pursuant to Chapter 18 “Nuisances” of the Albany Municipal Code.

REPORT BY: Jeff Bond, Planning and Building Manager
Ann Chaney, Community Development Director

STAFF RECOMMENDATION

Staff recommends that the City Council designate the Planning and Zoning Commission as the Hearing Board pursuant to Chapter 18 “Nuisances” of the Albany Municipal Code.

BACKGROUND

In 2003, the City adopted Chapter 18 “Nuisances” of the Albany Municipal Code. The purpose of this section is to address serious and/or persistent health and safety hazards resulting from the neglect, misuse or deterioration of property. As noted in the preamble of Chapter 18, this section is not intended for any or all complaints and the City should emphasize cooperative compliance and the prioritization of the use of City resources.

DISCUSSION

To date, the City has not utilized the Nuisances Code to deal with problem properties. It is apparent, however, that there are a number of properties in the City in which a cooperative compliance approach with property owners has not been successful, and the health, safety, and quality of life for the neighborhood has been impacted. In particular, staff is evaluating properties at 1075 Talbot, 947 Jackson, and 1498 Posen for initial action. These properties are characterized by their obvious physical deterioration over a long period of time.

The nuisance abatement process involves a series of steps. Initially, staff would seek legal authority to inspect the property. Based on the inspection, a Compliance Order would be issued by staff requiring that health and safety violations be corrected. The Compliance Order would be focused securing the property and structures from unauthorized entry, removal of dead or overgrown landscaping, removal of trash and debris, and other basic safety requirements. Unfortunately, nuisance abatement procedures cannot mandate strictly aesthetic repairs such as painting.

If the property owner fails to respond fully to the Compliance Order, a hearing would be scheduled before the Council-designated Hearing Board. The Hearing Board can issue an administrative order that includes authorizing the city to abate the nuisance and authorizing administrative penalties of up to \$1,000 per day until the nuisance is abated. In addition, administrative costs may be recovered.

Staff recommends that the Planning and Zoning Commission serve as the Hearing Board. The Commission is familiar with quasi-judicial actions. Furthermore, the Commission has experience in dealing with land use and construction issues, and thus can evaluate nuisance situations in the context of the wide range of City land use policy goals and objectives.

Ultimately, if administrative penalties and costs have not been paid within the time period designated by the Hearing Board, the City may impose a lien on the property. The property owner has 15 days to protest the lien. A protest must be heard by the City Council. The City also can ask the County Tax Collector to impose a special assessment on the property for the amount of the lien, and if not paid, the property may be sold after three years.

FINANCIAL IMPACT

Implementation of the nuisance abatement provisions will require the services of the City Attorney as well as outside legal counsel.

Attachments:

1. Chapter 18 “Nuisances” of the Albany Municipal Code