

ORDINANCE NUMBER O- 17407 (NEW SERIES)

ADOPTED ON JAN 8 1990

AN ORDINANCE AMENDING CHAPTER I, ARTICLE 3, DIVISION 3 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTIONS 13.0340, 13.0341, 13.0342, 13.0343, 13.0344, 13.0345, 13.0346, 13.0347 AND 13.0348 RELATING TO THE ISSUANCE OF ADMINISTRATIVE CITATIONS FOR MINOR VIOLATIONS OF THE CODE.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter I, Article 3, Division 3 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 13.0340, 13.0341, 13.0342, 13.0343, 13.0344, 13.0345, 13.0346, 13.0347 and 13.0348, to read as follows:

SEC. 13.0340 ADMINISTRATIVE CITATIONS - PROCEDURES

The following sections, 13.0340 through 13.0348, govern the procedures relating to administrative citations.

SEC. 13.0341 DECLARATION AND PURPOSE

The Council finds and determines that there is a need for an alternative method of enforcement for minor violations of the Municipal Code. The Council further finds and declares that an appropriate method of enforcement for these types of violations is an administrative citation program.

MS

RECEIVED
CITY CLERK'S OFFICE

90 FEB 14 PM 2:33

SAN DIEGO, CALIF.

[Faint, mostly illegible text, likely a letter or official document]

7116
13910

The procedures established in this section shall be in addition to criminal, civil or any other legal remedy established by law which may be pursued to address violations of this Municipal Code.

SEC. 13.0342 DEFINITIONS

For purposes of sections 13.0340 through 13.0348, the following definitions shall apply:

(a) The term "Director" shall include the Directors of the following Departments: Planning, Building Inspection, Engineering and Development, General Services, Animal Control, Health, and the Fire and Police Chiefs and any of their designated agents or representatives.

(b) The term "Person" means any natural person, firm, association, business, trust, organization, corporation, partnership, business, trust, company or any other entity which is recognized by law as the subject of rights or duties.

(c) The term "Enforcement Officer" means any person authorized to enforce violations of the Municipal Code.

(d) The term "Hearing Officer" means any person appointed by the City Manager or Director to preside over the administrative hearings provided for by sections 13.0340 through 13.0348.

SEC. 13.0343 PROCEDURES - GENERALLY

(a) Any person violating any provision of the Municipal Code may be issued an administrative citation by an Enforcement Officer as provided in this section.

(b) Each and every day a violation of any provision of this Municipal Code exists constitutes a separate and distinct offense.

(c) A fine shall be assessed by means of an administrative citation issued by the Enforcement Officer and shall be payable directly to the City Treasurer's Office.

(d) Administrative fines assessed by means of an administrative citation shall be collected in accordance with the administrative procedures specified in this section.

SEC. 13.0344 PROCEDURES - ISSUANCE OF ADMINISTRATIVE CITATION

(a) Upon discovering or observing any violation of the Municipal Code, the Enforcement Officer may issue an administrative citation to the violator or property owner in the manner prescribed in sections 13.0340 through 13.0348. The administrative citation shall be issued on a form approved by the City Manager.

(b) The Enforcement Officer shall locate who is the responsible party for the violation. If a business, the Enforcement Officer shall attempt to locate the business owner and issue that person an administrative

citation. If the Enforcement Officer is only able to locate the manager of the business, then the administrative citation may be given to the manager of the business. A copy of the administrative citation then shall also be mailed to the business owner or property owner as prescribed in this section.

(c) Once the person responsible for the violation is located, the Enforcement Officer shall obtain the signature of that person on the administrative citation. If that person refuses or fails to sign the administrative citation, the failure or refusal to sign shall in no way affect the validity of the citation and subsequent proceedings.

(d) If the Enforcement Officer is unable to locate the responsible party for the violation, then the administrative citation shall be mailed to the responsible party or property owner in the manner prescribed in subsection 13.0344(g).

(e) If no one can be located at the property, then the administrative citation shall be posted in a conspicuous place and a copy subsequently mailed to the property owner or person determined to be the party responsible for the violation.

(f) The administrative citation shall also contain the signature of the Enforcement Officer.

(g) The administrative citation shall be mailed to the violator(s) or property owner(s) or their agent(s) by certified mail, postage paid, return receipt requested. The failure of any person with an interest in the property to receive such notice shall not affect the validity of any proceedings taken under this section. Notice by certified mail in the manner described above shall become effective on the date of mailing.

SEC. 13.0345 CONTENTS OF NOTICE

(a) The administrative citation shall refer to the date and location of the violation(s) and the approximate time the violation(s) were observed.

(b) The administrative citation shall refer to the section(s) of the Municipal Code violated and describe how the section(s) are violated.

(c) The administrative citation shall describe the action required to correct the violation(s).

(d) The administrative citation shall require the violator(s) or property owner(s) to immediately correct the violation(s) and shall explain the consequences of failure to correct the violation(s).

(e) The administrative citation shall state the amount of fine imposed for the violation(s).

(f) The administrative citation shall explain how the fine shall be paid and the time period by which it shall be paid, and the consequences of failure to pay the fine.

(g) The administrative citation shall identify all rights of appeal.

(h) The citation shall contain the signature of the Enforcement Officer and the signature of the violator or responsible party if they can be located, as outlined in subsection 13.0344(c).

SEC. 13.0346 APPEAL OF ADMINISTRATIVE CITATION

(a) Any person receiving an administrative citation may appeal it within ten (10) business days from the date the citation was issued. When an administrative citation is issued by mail, the appeal must be made within ten (10) business days from the date the citation was mailed. The notice to appeal must be made in writing and filed with the Director.

(b) As soon as practicable after receiving the written notice of appeal, the Director or the City Manager shall appoint a Hearing Officer and fix a date, time and place of the hearing. Written notice of the time and place of the hearing shall be served at least ten (10) business days prior to the date of the hearing to the party responsible for the violation and anyone

else who received notice of the citation by any one of the following means:

(1) Personal service;

(2) Certified mail, postage prepaid, return receipt requested; or

(3) Posting the Notice of Hearing conspicuously on or in front of the property on which the violation is located.

The failure of any person with an interest in the property to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner described above shall become effective on the date of mailing.

(c) Failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of his or her right to an administrative hearing and adjudication of the administrative citation or any portion thereof and the total amount of the fine.

(d) The Hearing Officer shall consider any written or oral evidence consistent with its rules and procedures for public hearings regarding the following issues:

(1) The Director shall present information or testimony relating to the violation and the appropriate means of correcting the violation.

(2) The owner or agent or person responsible for the violation or any other interested person may present testimony or evidence concerning the violation and the means and time frame for correction.

(e) The City Manager and Director shall establish and promulgate all appropriate rules and procedures for conducting hearings and rendering decisions pursuant to this section.

(f) The decision of the Hearing Officer regarding any appeal is the final administrative order and decision.

(g) The Hearing Officer may reduce, waive or conditionally reduce the fines stated in the citations or any late fees assessed. The Hearing Officer may also impose conditions and deadlines by which to correct the violation or pay any outstanding fine.

SEC. 13.0347 FINES ASSESSED

(a) The Director and City Manager shall establish policies for determining the amount of the fine to be assessed for administrative citations issued by Enforcement Officers.

(b) If the violator or property owner fails to correct the violation, subsequent administrative citations may be issued for the same violations(s). The amount of fine shall increase at a rate specified in this ordinance.

(c) The amount of fine assessed for each administrative citation issued for the same violation(s) shall not exceed the following amounts:

- | | | |
|----|---|-------|
| 1. | 1st Administrative Citation | \$100 |
| 2. | 2nd Administrative Citation | \$250 |
| 3. | 3rd or Subsequent Administrative Citation | \$500 |

(d) Payment of the fine shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the City.

(e) All fines assessed shall be payable to the City Treasurer.

(f) The failure of any person to pay a fine assessed by administrative citation within the time specified on the citation shall result in the assessment of an additional late fee to be charged. The amount of the late fee shall be ten percent (10%) of the total amount of administrative fine owed.

(g) The failure of any person to pay a fine assessed by administrative citation within the time specified on the citation, shall result in the Director working with the City Treasurer in filing a claim with the Small Claims Court or pursuing any other legal remedy to collect such money.

(h) If the failure by any person to pay a fine assessed by administrative citation results in the filing of an action with the Small Claims Court or any

other court to collect the fine, the Director shall be entitled to collect all costs associated with the filing of such action.

SEC. 13.0348 ALLOCATION OF ADMINISTRATIVE FINES

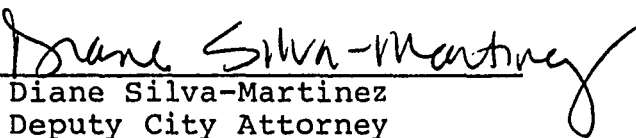
Administrative fines collected in the manner described in this section shall be deposited in the Civil Penalties Fund established pursuant to San Diego Municipal Code section 13.0338.

SECS. 13.0348 through 13.0350 RESERVED FOR FUTURE USE

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

Section 3. Approval of this action is made contingent upon a determination of exemption from SB-255 by the Airport Land Use Commission.

APPROVED: John W. Witt, City Attorney

By 
Diane Silva-Martinez
Deputy City Attorney

DSM:lfs
11/04/89
02/02/90 REV. 1
Or.Dept:T&LU
O-90-102
Form=o.none

JAN 8 1990

Passed and adopted by the Council of The City of San Diego on....., by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Linda Bernhardt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

By *June G. Blackwell*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

DEC 11 1989, and on JAN 8 1990

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(Seal)

By *June G. Blackwell*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-17407 Adopted JAN 8 1990

MS

RECEIVED
U. S. FEDERAL BUREAU OF INVESTIGATION
93 FEB 14 PM 2:33
SAN DIEGO, CALIF.

CERTIFICATE OF PUBLICATION

OFFICE OF THE CITY CLERK
CITY ADM. BLDG. 2ND FLOOR
SAN DIEGO, CA. 92101
ATTN: JUNE A. BLACKNELL

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER 1, ARTICLE 3 OF THE
SAN DIEGO MUNICIPAL CODE BY ADDING SECTIONS... et al

ORDINANCE NUMBER O-17407 (NEW SERIES)

AN ORDINANCE AMENDING CHAPTER 1, ARTICLE 3 OF THE
SAN DIEGO MUNICIPAL CODE BY ADDING SECTIONS
13.0340, 13.0341, 13.0342, 13.0343, 13.0344, 13.0345, 13.0346,
13.0347 AND 13.0348 RELATING TO THE ISSUANCE OF AD-
MINISTRATIVE CITATIONS FOR MINOR VIOLATIONS OF
THE CODE.

San Diego Municipal Code sections 13.0343 through 13.0346 set forth procedures for the issuance of administrative citations and fines by the various City Departments as an alternative remedy for minor violations of the Municipal Code. The procedures established by this ordinance shall be in addition to criminal, civil or any other legal remedy established by law which may be pursued to address violations of the Municipal Code.

San Diego Municipal Code section 13.0344 sets forth the procedures to be followed by the various City Departments when issuing administrative citations. This ordinance enumerates the proper procedures to follow when the signature of the violator cannot be obtained on the citation and when the mailing of a citation is proper. San Diego Municipal Code section 13.0345 outlines what information shall be contained in the administrative citation.

San Diego Municipal Code section 13.0346 enumerates the appeal process available to anyone wishing to appeal an administrative citation and outlines what evidence may be presented. All administrative citation hearings will be heard by a Hearing Officer appointed by the City Manager or Department Director.

San Diego Municipal Code section 13.0347 provides for the assessment of fines for each citation issued and allows for an increase in fines for each subsequent citation issued. This ordinance contains a schedule of maximum fines to be assessed for each citation issued. All fines will be paid to the City Treasurer. This ordinance also establishes a late fee for failure to timely pay the administrative fine. Failure to pay an administrative fine shall result in a small claims action by the City to recover the fine. This ordinance also specifies that all fines collected shall be deposited in the Civil Penalties Fund.

A complete copy of the ordinance is available for inspection in the Office of the City of San Diego, 2nd floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.

Introduced on DEC 11 1989 Passed and adopted by the Council of The City of San Diego on JAN 8 1990

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California
CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California
By JUNE A. BLACKNELL, Deputy

Pub. Jan. 29

167883

THOMAS D. KELLEHER

I, _____, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NUMBER O-17407 (NEW SERIES)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

JAN. 29

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 29 day of JAN, 19 90

(Signature)

43/8 x 2 = 103.60

RECEIVED
CITY CLERK'S OFFICE

90 FEB -1 PM 12 02

SAN DIEGO, CALIF *we*

San Diego, California
February 1, 1990

San Diego, California
February 1, 1990