

(O-92-36)

ORDINANCE NUMBER O- 17694 (NEW SERIES)

ADOPTED ON OCT 07 1991

AN ORDINANCE AMENDING CHAPTER I ARTICLE 3 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 4 ENTITLED COST RECOVERY; AND ADDING SECTIONS 13.0401, 13.0402, 13.0403, 13.0404, 13.0405 AND 13.0406 RELATING TO THE ESTABLISHMENT OF REINSPECTION FEES BY CITY DEPARTMENTS.

WHEREAS, it is the policy of the City of San Diego to recover costs whenever possible for services rendered by City personnel; and

WHEREAS, a significant amount of effort is spent by City personnel to ensure compliance with the Municipal Code and state regulations; and

WHEREAS, additional inspections and services by City personnel are necessary in those cases where a property owner or responsible person has not complied with the City's initial notification and request for voluntary compliance, and

WHEREAS, the imposition of fees will assist in recovering the extra costs incurred in reinspecting properties to ensure compliance with the Municipal Code and state regulations, and

WHEREAS, the Director of the Building Inspection Department is presently only authorized to charge reinspection fees for violations of the Housing Code, and this ordinance will authorize the City Manager and Planning Director to charge reinspection fees as well; NOW, THEREFORE,

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

Section 1. That Chapter I, Article 3 of the San Diego Municipal Code be and the same is hereby amended by adding Division 4 of the San Diego Municipal Code entitled "Cost Recovery"; and adding Sections 13.0401, 13.0402, 13.0403, 13.0404, 13.0405 and 13.0406, to read as follows:

DIVISION 4
COST RECOVERY

SEC. 13.0401 REINSPECTION FEES

Sections 13.0401 through 13.0406 govern the procedures for recovering reinspection fees imposed by City Departments.

SEC. 13.0402 DECLARATION AND PURPOSE

The Council finds and determines that there is a need to recover reinspection costs incurred by City personnel who spend considerable time inspecting and reinspecting properties throughout San Diego in an effort to ensure compliance with the Municipal Code or any state statute or regulation that the City is authorized to enforce.

The Council further finds and declares that an appropriate method to recover costs incurred for additional inspections made by City personnel to determine if violations have been corrected is the imposition of a reinspection fee. The collection of reinspection fees shall not preclude the imposition of any administrative or judicial civil penalties or fines for violations of the Municipal Code or state statutes. Reinspection fees collected pursuant to Sections 13.0401 through 13.0406 shall

not be duplicated in any other action to recover these identical costs.

SEC. 13.0403 DEFINITIONS

For purposes of sections 13.0401 through 13.0406, the following definitions apply:

(a) The term "Director" includes the Directors of the following City Departments: Planning, Building Inspection, Engineering and Development, General Services, Waste Management, Water Utilities and the Fire and Police Chiefs and any of their designated agents, representatives. It also includes Directors and designated agents or representatives of successor Departments, if any.

(b) The term "Enforcement Officer" means any person authorized by the Director to enforce violations of the Municipal Code or other state statute or regulation that the City is authorized to enforce.

(c) The term "Property Owner" has the same meaning as that set forth in San Diego Municipal Code section 13.0422(c).

SEC. 13.0404 AUTHORIZATION AND PROCEDURES - GENERAL

(a) Any person violating any provision of the Municipal Code may be notified by an Enforcement Officer of the existence of any violation(s) and shall be given a deadline by which to correct the violation(s).

(b) Reinspections may be made by Enforcement Officers to determine whether the violation has been corrected.

(c) Reinspection fees to recover costs of reinspection services are hereby authorized to be charged to the Property

Owner or the person identified as having caused the violation(s) where such violation(s) of the Municipal Code or state statutes have been brought to the attention of the Property Owner or violator and corrective actions have not been undertaken as determined by at least one follow-up inspection. A fee is hereby authorized for reinspection services to recover costs related to additional visits to the property. The reinspection fee does not apply to the first scheduled inspection after notification of a violation, whether or not the violation is corrected.

SEC. 13.0405 NOTIFICATION OF VIOLATION

(a) The Enforcement Officer may notify any person of the existence of a violation by any of the following forms of notification, including but not limited to: Notice of Violation as defined in San Diego Municipal Code section 13.0363(c), Notice of Civil Penalties as described in San Diego Municipal Code section 13.0334, Administrative Citation as described in San Diego Municipal Code section 13.0345, or any other written notice issued by a City Department.

(b) Any written notification referred to in Section 13.0405 shall include the following information:

- (1) the sections of the Municipal Code or state statute in violation;
- (2) a description of what action is required to correct the violation;
- (3) a deadline by which the violations must be corrected;

(4) an explanation of the consequences for failure to correct the violation.

(c) The Enforcement Officer shall provide any person in violation of the Municipal Code or state statute with any of the written notices described in Section 13.0405(a) by any of the following means:

- (1) Personal Service; or
- (2) Regular mail; or
- (3) Certified mail, postage prepaid, return receipt requested; or
- (4) Posting the notice conspicuously on or in front of the property on which the violation is located.

(5) The failure of any person with an interest in the property or any person identified as causing the violation to receive notice shall not affect the validity of any fees imposed under this section.

(6) Notification by regular or certified mail in the manner described above shall become effective on the date of mailing. Notification by personal service or posting shall become effective on the date of personal service or posting.

SEC. 13.0406 REINSPECTION FEES ASSESSED

The reinspection fee schedule shall be established and revised as necessary by the City Manager or Planning Director in accordance with Council Policy to reflect current costs. The reinspection fee schedule shall be filed

in the Ratebook of City Fees and charges in the City Clerk's office.

SEC. 13.0407 NOTIFICATION OF REINSPECTION FEE

(a) The appropriate City Departments shall provide the Property Owner or person identified as causing the violation with written notice that reinspection fees are owed. The written notification shall contain the following information:

- (1) the amount of fee(s) charged;
- (2) the corresponding dates when reinspections took place;
- (3) a deadline by which the reinspection fee must be paid; and
- (4) an explanation that additional late fees may be charged for late payment of the reinspection fee.

(b) Notification that a reinspection fee has been charged and its amount shall be provided to the Property Owner or person identified as causing the violation by any of the means outlined in Section 13.0405(c).

SEC. 13.0408 FAILURE TO PAY REINSPECTION FEE

The failure of any person charged with a reinspection fee to pay the fee by the deadline specified in the written notice described in Section 13.0407 shall result in the assessment of an additional late fee to be charged. The amount of the late fee shall be established by the City Manager or Planning Director and may be revised as appropriate from time to time by these same parties.

SEC. 13.0409 RECOVERY OF REINSPECTION FEE

The Director shall collect the assessed reinspection and late fees by the use of all appropriate legal means, including but not limited to referral to the City Treasurer or recordation of a Code Enforcement Lien pursuant to San Diego Municipal Code sections 13.0420 through 13.0425. If unable to collect the obligation, the Director or City Treasurer may refer the obligation to the City Attorney to file a court action to recover these costs.

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

APPROVED: JOHN W. WITT, City Attorney

By D Silva-Martinez
Diane Silva-Martinez
Deputy City Attorney

DSM:mar
08/27/91
Or.Dept:Atty
O-92-36
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(O-92-36)

ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON _____

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SEC. 13.0402 DECLARATION AND PURPOSE

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The Council further finds and declares that an appropriate method to recover costs incurred for additional inspections made by City personnel to determine if violations have been corrected is the imposition of a reinspection fee. The collection of reinspection fees shall not preclude the imposition of any administrative or judicial civil penalties or fines for violations of the Municipal Code or state statutes. Reinspection fees collected pursuant to Sections 13.0401 through 13.0406 shall

not be duplicated in any other action to recover these identical costs.

SEC. 13.0403 DEFINITIONS

For purposes of sections 13.0401 through 13.0406, the following definitions apply:

(a) The term "Director" includes the Directors of the following City Departments: Planning, Building Inspection, Engineering and Development, General Services, Waste Management, Water Utilities and the Fire and Police Chiefs and any of their designated agents, representatives. It also includes Directors and designated agents or representatives of successor Departments, if any.

(b) The term "Enforcement Officer" means any person authorized by the Director to enforce violations of the Municipal Code or other state statute or regulation that the City is authorized to enforce.

(c) The term "Property Owner" has the same meaning as that set forth in San Diego Municipal Code section 13.0422(c).

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(b) Any written notification referred to in Section 13.0405 shall include the following information:

- (1) the sections of the Municipal Code or state statute in violation;
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- (3) a deadline by which the violations must be corrected;

(4) an explanation of the consequences for failure to correct the violation.

(c) The Enforcement Officer shall provide any person in violation of the Municipal Code or state statute with any of the written notices described in Section 13.0405(a) by any of the following means:

(1) Personal Service; or

(2) Regular mail; or

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

(4) Posting the notice conspicuously on or in front of the property on which the violation is located.

(5) The failure of any person with an interest in the property or any person identified as causing the violation to receive notice shall not affect the validity of any fees imposed under this section.

(6) Notification by regular or certified mail in the manner described above shall become effective on the date of mailing. Notification by personal service or posting shall become effective on the date of personal service or posting.

SEC. 13.0406 REINSPECTION FEES ASSESSED

The reinspection fee schedule shall be established and revised as necessary by the City Manager or Planning Director in accordance with Council Policy to reflect current costs. The reinspection fee schedule shall be filed

in the Ratebook of City Fees and charges in the City Clerk's office.

SEC. 13.0407 NOTIFICATION OF REINSPECTION FEE

(a) The appropriate City Departments shall provide the Property Owner or person identified as causing the violation with written notice that reinspection fees are owed. The written notification shall contain the following information:

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(4) an explanation that additional late fees may be charged for late payment of the reinspection fee.

(b) Notification that a reinspection fee has been charged and its amount shall be provided to the Property Owner or person identified as causing the violation by any of the means outlined in Section 13.0405(c).

SEC. 13.0408 FAILURE TO PAY REINSPECTION FEE

The failure of any person charged with a reinspection fee to pay the fee by the deadline specified in the written notice described in Section 13.0407 shall result in the assessment of an additional late fee to be charged. The amount of the late fee shall be established by the City Manager or Planning Director and may be revised as appropriate from time to time by these same parties.

SEC. 13.0409 RECOVERY OF REINSPECTION FEE

The Director shall collect the assessed reinspection and late fees by the use of all appropriate legal means, including but not limited to referral to the City Treasurer or recordation of a Code Enforcement Lien pursuant to San Diego Municipal Code sections 13.0420 through 13.0425. If unable to collect the obligation, the Director or City Treasurer may refer the obligation to the City Attorney to file a court action to recover these costs.

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

DSM:mar
08/27/91
Or.Dept:Atty
0-92-36
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Passed and adopted by the Council of The City of San Diego on OCT 07 1991,
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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Tom Behr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input checked="" type="checkbox"/>	<input 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 *Charles G. Abdelnour*, 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

SEP 16 1991

OCT 07 1991

~~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 *Charles G. Abdelnour*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-17694

OCT 07 1991

Adopted.....

CERTIFICATE OF PUBLICATION

RECEIVED
CITY CLERK'S OFFICE
\$1 OCT 23 AM 10:22
SAN DIEGO, CALIF.

P

CITY CLERK'S OFFICE
CITY ADMIN. BLDG.
202 C ST.
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER I ARTICLE 3
OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION
4 ENTITLED COST RECOVERY; AND ADDING SECTION...

ORDINANCE NUMBER O-17694 (NEW SERIES)

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SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 4 EN-
TITLED COST RECOVERY; AND ADDING SECTIONS 13.0401,
13.0402, 13.0403, 13.0404, 13.0405 AND 13.0406 RELATING TO
THE ESTABLISHMENT OF REINSPECTION FEES BY CITY
DEPARTMENTS.**

San Diego Municipal Code sections 13.0401 through 13.0406 set forth procedures for recovering reinspection fees charged by various City departments for reinspection services. These reinspections are made by City Department personnel to determine if violations of the Municipal Code or certain state regulations have been corrected. The procedures established by this ordinance shall not preclude the imposition of any administrative or judicial penalties or fines nor shall reinspection fees be duplicated in any other action to recover identical costs.

San Diego Municipal Code section 13.0404 sets forth the procedures to be followed by City Departments when recovering reinspection fees. The reinspection fee does not apply to the first scheduled inspection after notification of a violation, but does apply to all subsequent inspections.

San Diego Municipal Code section 13.0405 outlines what information shall be contained in a Notification of Violation and how notification should be provided.

San Diego Municipal Code section 13.0406 provides that the reinspection fee schedule shall be established and revised as necessary by the City Manager or Planning Director and shall be filed with the City Clerk.

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

INTRODUCED ON SEPTEMBER 18, 1991
Passed and Adopted by the Council of The City of San Diego on OCTOBER 7, 1991

AUTHENTICATED BY:
MAUREEN O'CONNOR
Mayor of The City of San Diego, CA
CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, CA
By MAYDELL L. PONTECORVO, Deputy.

Pub. Oct. 21 234070

I, Thomas D. Kelleher, 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

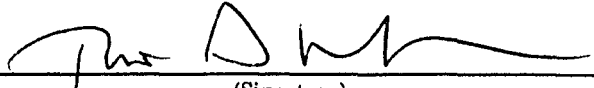
ORDINANCE NUMBER O-17694 (NEW SERIES)

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:

OCTOBER 21

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

Dated at San Diego, California this 21ST day of OCT., 19 91.


(Signature)

3 9/16" x 2 = 96.80