

(0-92-37)

ORDINANCE NUMBER O- 17695 (NEW SERIES)

ADOPTED ON OCT 07 1991

AN ORDINANCE AMENDING CHAPTER I, ARTICLE 3, DIVISION 4 BY ADDING SECTIONS 13.0420, 13.0421, 13.0422, 13.0423, 13.0424 AND 13.0425 RELATING TO THE RECORDATION OF CODE ENFORCEMENT LIENS; AND AMENDING CHAPTER I, ARTICLE 3, DIVISION 3 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 13.0335, 13.0336, 13.0337 AND 13.0347.

WHEREAS, the City Manager and City Attorney made a report to the Committee on Transportation and Land Use on April 8, 1991 regarding the feasibility of creating a code enforcement lien (see City Manager's Report No. 91-170 of April 2, 1991); and

WHEREAS, the City Attorney concluded that legal authority does exist for a charter city to enact its own ordinance establishing a lien to collect outstanding civil penalties imposed for violations of its municipal code; and

WHEREAS, the City Manager recommended adoption of an ordinance authorizing code enforcement liens to enhance the City's ability to collect outstanding civil penalties and administrative costs and complement the City Treasurer's collection system; and

WHEREAS, the Committee on Transportation and Land Use approved this proposal on April 8, 1991 and referred it to the City Council for adoption; NOW THEREFORE,

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

Section 1. That Chapter 1, Article 3, Division 4, of the San Diego Municipal Code be and the same is hereby amended by adding sections 13.0420, 13.0421, 13.0422, 13.0423, 13.0424 and 13.0425, to read as follows:

**SEC. 13.0420 CODE ENFORCEMENT LIENS-PROCEDURES**

Sections 13.0420 through 13.0425 govern the procedures relating to the recordation of Code Enforcement Liens.

**SEC. 13.0421 DECLARATION AND PURPOSE**

The Council finds and declares that recordation of Code Enforcement Liens will assist in the collection of civil penalties and administrative costs assessed by administrative citations, administrative hearings, judicial orders and other appropriate code enforcement remedies and cost recovery actions. The Council further finds and declares that actual collection of civil penalties and costs assessed for code enforcement violations is important in deterring future violations and maintaining the integrity of the City's code enforcement system. The procedures established in sections 13.0420 through 13.0425 shall be used to complement existing administrative or judicial remedies which may be pursued to address violations of the Municipal Code.

**SEC. 13.0422 DEFINITIONS**

For purposes of section 13.0420 through 13.0425 the following terms are defined:

(a) "Director" has the same meaning as that set forth in the Civil Penalties Ordinance, San Diego Municipal Code section 13.0332.

(b) "Code Enforcement Lien" means a lien recorded to collect outstanding civil penalties and administrative costs imposed as part of a cost recovery, administrative or judicial code enforcement action.

(c) "Property Owner" means the record owner of the real property based on the County Assessor's records or any person with a financial interest in the property or any person in possession of the property, e.g. leaseholders, when applicable.

(d) "Violator" means any person or property owner who violates any provision of the Municipal Code or applicable state statutes as determined by either a judicial or administrative decision.

(e) "Notice of Satisfaction" means a document or form, approved by the City Manager, which indicates that all outstanding civil penalties and costs have either been paid in full, or that the City has negotiated an agreed amount, or that a subsequent administrative or judicial decision has resolved the outstanding debt.

**SEC. 13.0423 PROCEDURES-GENERALLY**

(a) Once a final administrative decision or judicial order establishes the amount of civil penalties and administrative costs assessed against a person for maintaining violations of this Code, the Director may record a Code Enforcement Lien against any real property owned by the Violator.

(b) Before recordation, the Director shall provide to the Violator, Property Owner, and any applicable

financial institution, a written notice informing these persons that a Code Enforcement Lien will be recorded unless the City receives immediate payment for the outstanding amount of civil penalties and costs within the time period prescribed in the notice. Such payment shall be due a minimum of fifteen (15) days from the date of the mailing.

(c) The Director shall serve this notice by any one of the means provided for in San Diego Municipal Code section 13.0334(h).

Service by certified mail in the manner referred to above shall become effective on the date of mailing. Service by personal service or posting shall become effective on the date of the personal service or posting.

(d) If the Director does not receive payment of the outstanding civil penalties and costs within the prescribed time period, the Director may record the Code Enforcement Lien.

(e) The Code Enforcement Lien shall include the name of the Property Owner and any affected financial institution, accessor's parcel number, the parcel's legal description, the total amount of civil penalties due, including a breakdown of penalty assessments and reimbursement for the City's administrative costs, and a copy of the administrative or judicial order which awarded the civil penalties and costs.

(f) A copy of the recorded Code Enforcement Lien shall be served upon the Violator, Property Owner and

applicable financial institutions pursuant to the procedures outlined in San Diego Municipal Code section 13.0334(h).(g)

(g) The failure of any person with a financial, ownership or equitable interest in the property to actually receive the notice of the lien shall not affect the validity of the lien or any proceedings taken to collect the outstanding civil penalties.

**SEC. 13.0424 CONSTRUCTIVE NOTICE**

Recordation of the Code Enforcement Lien shall provide the property owner and successors in interest with constructive notice of the amount of civil penalties and costs owed to the City.

**SEC. 13.0425 CANCELLATION OF CODE ENFORCEMENT LIEN**

Once payment in full is received for the outstanding civil penalties and costs or the amount is deemed satisfied pursuant to a subsequent administrative or judicial order, the Director shall either record a Notice of Satisfaction or provide the property owner or financial institution with the Notice of Satisfaction so they can record this notice with the County Recorder's office. The Notice of Satisfaction shall include the same information as provided for in the original Code Enforcement Lien as described in section 13.0423(e). Such Notice of Satisfaction shall cancel the Code Enforcement Lien.

Section 2. That Chapter I, Article 3, Division 3 of the San Diego Municipal Code be and the same is hereby amended by amending sections 13.0335, 13.0336, 13.0337 and 13.0347.

**SEC. 13.0335 HEARING**

- (a) No Change
- (b) Scope of Hearing

- (1) No Change
- (2) No Change

(3) Administrative Costs: The hearing officer may, where appropriate, assess administrative costs against the violator to reimburse the City for all costs associated with the administration of the hearing process, including scheduling and the processing of the hearing itself and all subsequent actions necessary to enforce the order and collect the civil penalties.

- (c) No Change
- (d) No Change

**SEC. 13.0336 FAILURE TO COMPLY WITH ADMINISTRATIVE ORDER**

(a) Failure to Pay Civil Penalties and Administrative Costs: Upon the failure of the violator(s) or property owner(s) or their agent(s) to pay the assessed civil penalties and administrative costs by the date specified in the Hearing Officer's decision, the unpaid amounts shall constitute either or both:

(1) a personal obligation of the violator(s) or the property owner(s); or

(2) a lien upon the real property upon which the violation is located. The lien shall continue until the civil penalties and assessed administrative costs are fully paid.

- (b) No Change.

**SEC. 13.0337 RECOVERY OF CIVIL PENALTIES**

(a) The Director shall collect the assessed civil penalties and administrative costs by the use of all appropriate legal means, including referral to the City Treasurer and the 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 shall refer the obligation to the City Attorney to file a court action to recover these costs.

(b) Continuing Non-compliance: When a violation continues after the Hearing Officer renders a decision, the Director shall recover the civil penalties in the following manner:

(1) Review Schedule: The Director shall set up a schedule to monitor the violation and determine if the violation has been corrected.

(2) Accounting Report: The Director shall keep an itemized account of the daily rate and amount of civil penalties accruing.

(3) Subsequent Compliance: If the violation is subsequently corrected, the Director shall establish a hearing in the same manner as provided for in section 13.0335 and provide a notice to the violator(s) and/or property owner(s). This notice shall identify the responsible parties and state the outstanding amount of civil penalties which have accrued.

(4) Recovery of Civil Penalties: The subsequent civil penalties accrued shall be collected in the

same manner provided in this section. If unable to collect any obligation, the Director shall refer the obligation to the City Attorney to recover these costs.

**SEC. 13.0347 FINES ASSESSED**

(a)-(h) No change

(i) In addition to any other legal remedy, the Director may record a Code Enforcement Lien pursuant to San Diego Municipal Code sections 13.0420 through 13.0425 to recover any outstanding civil penalties.

Section 3. 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

  
Joseph M. Schilling  
Deputy City Attorney

JMS:lmk  
08/27/91  
Or.Dept:CEU  
0-92-37  
Form=o.code



#51

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**, and on **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	<b>0- 17695</b>
Adopted	<b>OCT 07 1991</b>

(O-92-37)

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

ADOPTED ON \_\_\_\_\_

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WHEREAS, the City Manager and City Attorney made a report to the Committee on Transportation and Land Use on April 8, 1991 regarding the feasibility of creating a code enforcement lien (see City Manager's Report No. 91-170 of April 2, 1991); and

WHEREAS, the City Attorney concluded that legal authority does exist for a charter city to enact its own ordinance establishing a lien to collect outstanding civil penalties imposed for violations of its municipal code; and

WHEREAS, the City Manager recommended adoption of an ordinance authorizing code enforcement liens to enhance the City's ability to collect outstanding civil penalties and administrative costs and complement the City Treasurer's collection system; and

WHEREAS, the Committee on Transportation and Land Use approved this proposal on April 8, 1991 and referred it to the City Council for adoption; NOW THEREFORE,

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**SEC. 13.0420 CODE ENFORCEMENT LIENS-PROCEDURES**

Sections 13.0420 through 13.0425, govern the procedures relating to the recordation of Code Enforcement Liens.

**SEC. 13.0421 DECLARATION AND PURPOSE**

The Council finds and declares that recordation of Code Enforcement Liens will assist in the collection of civil penalties and administrative costs assessed by administrative citations, administrative hearings, judicial orders and other appropriate code enforcement remedies and cost recovery actions. The Council further finds and declares that actual collection of civil penalties and costs assessed for code enforcement violations is important in deterring future violations and maintaining the integrity of the City's code enforcement system. The procedures established in sections 13.0420 through 13.0425 shall be used to complement existing administrative or judicial remedies which may be pursued to address violations of the Municipal Code.

**SEC. 13.0422 DEFINITIONS**

For purposes of section 13.0420 through 13.0425, the following terms are defined:

(a) "Director" has the same meaning as that set forth in the Civil Penalties Ordinance, San Diego Municipal Code section 13.0332.

(b) "Code Enforcement Lien" means a lien recorded to collect outstanding civil penalties and administrative costs imposed as part of a cost recovery, administrative or judicial code enforcement action.

(c) "Property Owner" means the record owner of the real property based on the County Assessor's records or any person with a financial interest in the property or any person in possession of the property, e.g. leaseholders, when applicable.

(d) "Violator" means any person or property owner who violates any provision of the Municipal Code or applicable state statutes as determined by either a judicial or administrative decision.

(e) "Notice of Satisfaction" means a document or form, approved by the City Manager, which indicates that all outstanding civil penalties and costs have either been paid in full, or that the City has negotiated an agreed amount, or that a subsequent administrative or judicial decision has resolved the outstanding debt.

**SEC. 13.0423 PROCEDURES-GENERALLY**

(a) Once a final administrative decision or judicial order establishes the amount of civil penalties and administrative costs assessed against a person for maintaining violations of this Code, the Director may record a Code Enforcement Lien against any real property owned by the Violator.

(b) Before recordation, the Director shall provide to the Violator, Property Owner, and any applicable

financial institution, a written notice informing these persons that a Code Enforcement Lien will be recorded unless the City receives immediate payment for the outstanding amount of civil penalties and costs within the time period prescribed in the notice. Such payment shall be due a minimum of fifteen (15) days from the date of the mailing.

(c) The Director shall serve this notice by any one of the means provided for in San Diego Municipal Code section 13.0334(h).

Service by certified mail in the manner referred to above shall become effective on the date of mailing. Service by personal service or posting shall become effective on the date of the personal service or posting.

(d) If the Director does not receive payment of the outstanding civil penalties and costs within the prescribed time period, the Director may record the Code Enforcement Lien.

(e) The Code Enforcement Lien shall include the name of the Property Owner and any affected financial institution, accessor's parcel number, the parcel's legal description, the total amount of civil penalties due, including a breakdown of penalty assessments and reimbursement for the City's administrative costs, and a copy of the administrative or judicial order which awarded the civil penalties and costs.

(f) A copy of the recorded Code Enforcement Lien shall be served upon the Violator, Property Owner and

applicable financial institutions pursuant to the procedures outlined in San Diego Municipal Code section 13.0334(h).

(g) The failure of any person with a financial, ownership or equitable interest in the property to actually receive the notice of the lien shall not affect the validity of the lien or any proceedings taken to collect the outstanding civil penalties.

**SEC. 13.0424 CONSTRUCTIVE NOTICE**

Recordation of the Code Enforcement Lien shall provide the property owner and successors in interest with constructive notice of the amount of civil penalties and costs owed to the City.

**SEC. 13.0425 CANCELLATION OF CODE ENFORCEMENT LIEN**

Once payment in full is received for the outstanding civil penalties and costs or the amount is deemed satisfied pursuant to a subsequent administrative or judicial order, the Director shall either record a Notice of Satisfaction or provide the property owner or financial institution with the Notice of Satisfaction so they can record this notice with the County Recorder's office. The Notice of Satisfaction shall include the same information as provided for in the original Code Enforcement Lien as described in section 13.0423(e). Such Notice of Satisfaction shall cancel the Code Enforcement Lien.

Section 2. That Chapter I, Article 3, Division 3 of the San Diego Municipal Code be and the same is hereby amended by amending sections 13.0335, 13.0336, 13.0337 and 13.0347.

**SEC. 13.0335 HEARING**

- (a) No Change
- (b) Scope of Hearing
  - (1) No Change
  - (2) No Change

(3) Administrative Costs: The hearing officer may, where appropriate, assess administrative costs against the violator to reimburse the City for all costs associated with the administration of the hearing process, including scheduling and the processing of the hearing itself and all subsequent actions necessary to enforce the order and collect the civil penalties.

- (c) No Change
- (d) No Change

**SEC. 13.0336 FAILURE TO COMPLY WITH ADMINISTRATIVE ORDER**

(a) Failure to Pay Civil Penalties and Administrative Costs: Upon the failure of the violator(s) or property owner(s) or their agent(s) to pay the assessed civil penalties and administrative costs by the date specified in the Hearing Officer's decision, the unpaid amounts shall constitute either or both:

(1) a personal obligation of the violator(s) or the property owner(s); or

(2) a lien upon the real property upon which the violation is located. ~~if the civil penalties have been assessed as to the property owner(s).~~ The lien shall continue until the civil penalties and assessed

administrative costs are fully paid, ~~or the property is sold or transferred.~~

(b) No Change

**SEC. 13.0337 RECOVERY OF CIVIL PENALTIES**

(a) ~~Personal Obligation: If collected as a personal obligation,~~ The Director shall collect this the assessed civil penalties and administrative costs obligation by the use of all appropriate legal means, including referral to the City Treasurer and the 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 shall refer the obligation to the City Attorney to file a court action to recover these costs.

~~(b) Lien: If collected as a lien, the Director shall refer the lien to the County Auditor for collection in the same manner that ordinary municipal taxes are collected. The Director shall also cause a notice to be recorded with the County Recorder. The Director shall inform the County Auditor and County Recorder of the amount of the obligation, a description of the real property upon which the lien is to be recovered and the name of the agency to which the obligation is to be paid. The Director shall file a withdrawal of the notice with the County Recorder once the property owner or person responsible pays the civil penalties in full.~~

~~(e)~~(b) Continuing Non-compliance: When a violation continues after the Hearing Officer renders a



decision, the Director shall recover the civil penalties in the following manner:

(1) Review Schedule: The Director shall set up a schedule to monitor the violation and determine if the violation has been corrected.

(2) Accounting Report: The Director shall keep an itemized account of the daily rate and amount of civil penalties accruing.

(3) Subsequent Compliance: If the violation is subsequently corrected, the Director shall establish a hearing in the same manner as provided for in section 13.0335 and provide a notice to the violator(s) and/or property owner(s). This notice shall identify the responsible parties and state the outstanding amount of civil penalties which have accrued.

(4) Recovery of Civil Penalties: The subsequent civil penalties accrued shall be collected in the same manner provided in this section. If unable to collect any obligation, the Director shall refer the obligation to the City Attorney to recover these costs.

**SEC. 13.0347 FINES ASSESSED**

(a)-(h) No change.

(i) In addition to any other legal remedy, the Director may record a Code Enforcement Lien pursuant to San Diego Municipal Code sections 13.0420 through 13.0425 to recover any outstanding civil penalties.

Section 3. 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

  
\_\_\_\_\_  
Joseph M. Schilling  
Deputy City Attorney

JMS:lmk  
08/27/91  
Or.Dept:CEU  
O-92-37  
Form=o.code

CERTIFICATE OF PUBLICATION

RECEIVED  
CITY CLERK'S OFFICE  
91 OCT 23 AM 10:30  
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,  
DIVISION 3, BY ADDING SECTIONS 13.0420, 13.0421,  
13.0422, 13.0423, 13.0424 AND 13.0425 RELATING TO...

**ORDINANCE NUMBER 0-17695 (NEW SERIES)**

AN ORDINANCE AMENDING CHAPTER I, ARTICLE 3, DIVISION 4 BY ADDING SECTIONS 13.0420, 13.0421, 13.0422, 13.0423, 13.0424 AND 13.0425 RELATING TO THE RECORDATION OF CODE ENFORCEMENT LIENS; AND AMENDING CHAPTER I, ARTICLE 3, DIVISION 3 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 13.0335, 13.0336, 13.0337 and 13.0347.

San Diego Municipal Code sections 13.0420 through 13.0425 set forth procedures for the recordation of code enforcement liens as a means to collect civil penalties and associated administrative costs that have been assessed via a cost recovery, administrative or judicial code enforcement action. These procedures established by this ordinance are intended to complement existing collection procedures and remedies used by the City.

San Diego Municipal Code section 13.0423 authorizes the Director of the specified City Department to record a code enforcement lien against any real property owned by a code enforcement violator once a final administrative decision or judicial order establishes the amount of outstanding civil penalties and administrative costs. This section also enumerates the procedures to be followed by the Departmental Director to record a code enforcement lien:

- (1) Issuance of a written notice to the violator, property owner and applicable financial institutions informing them that a lien will be recorded unless the City receives immediate payment;
- (2) Authorization to record the lien if the Director does not receive the payment within the time specified in the written notice;
- (3) Description of the information which must be specified upon the actual code enforcement lien recorded with the County Recorder;
- (4) Service of the recorded code enforcement lien upon the violator, property owner, and applicable financial institutions.

San Diego Municipal Code section 13.0424 establishes that recordation of the code enforcement lien shall provide the property owner and successors in interest with constructive notice.

San Diego Municipal Code section 13.0425 provides for procedures to cancel the code enforcement lien when payment in full is received by the city or the amount is deemed paid by a later judicial or administrative order. The Director can either record this Notice of Satisfaction or provide the property owner with the Notice so they can record this document.

The amendments to San Diego Municipal Code sections 13.0335 through 13.0337 merely clarify and streamline the administrative civil penalties process used by City Departments (San Diego Municipal Code section 13.0330 through 13.0338) in code enforcement administrative hearings.

These amendments also make reference to the new code enforcement lien procedures as a means to collect outstanding civil penalties and costs that may be assessed via the administrative civil penalties process and the administrative citations process (San Diego Municipal Code section 13.0340 through 13.0348).

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 Administrative Building, 202 C Street, San Diego, CA 92101.

INTRODUCED ON SEPTEMBER 16, 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.

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 0-17695 (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 21<sup>ST</sup> day of OCT., 1991.

  
(Signature)

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