

ORDINANCE NUMBER O-17956 (NEW SERIES)

ADOPTED ON AUGUST 10, 1993

AN ORDINANCE AMENDING CHAPTER I, ARTICLE 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING THE TITLE OF ARTICLE 1; AND RETITLING DIVISION 2; AND AMENDING SECTION 11.0205; AMENDING SECTION 11.0206; ADDING SECTION 11.0208; ADDING SECTION 11.0209; AMENDING AND RENUMBERING SECTION 11.0301 TO SECTION 11.0210; AND RETITLING DIVISION 3; AND ADDING SECTION 11.0301; RETITLING, AMENDING AND RENUMBERING SECTION 12.0102 TO SECTION 11.0302; AMENDING AND RENUMBERING SECTION 12.0103 TO SECTION 11.0303; AND ADDING DIVISION 4; AND RENUMBERING SECTION 13.0101 TO SECTION 11.0401; RENUMBERING SECTION 11.0102 TO SECTION 11.0402; AND RETITLING ARTICLE 2 AND DIVISION 1; AND REPEALING SECTION 12.0101; ADDING SECTIONS 12.0101, 12.0102, 12.0103, 12.0104 AND 12.0105; AND ADDING DIVISION 2; RETITLING AND RENUMBERING SECTION 13.0201 TO SECTION 12.0201; RETITLING AND RENUMBERING SECTION 13.0202 TO SECTION 12.0202; ADDING SECTIONS 12.0203, 12.0204 AND 12.0205; AND ADDING DIVISION 3; AND ADDING SECTIONS 12.0301, 12.0302, 12.0303 AND 12.0304; AND ADDING DIVISION 4; AND ADDING SECTIONS 12.0401 THROUGH 12.0413; AND ADDING DIVISION 5; AND ADDING SECTIONS 12.0501, 12.0502 AND 12.0503; AND ADDING DIVISION 6; AND RETITLING, AMENDING AND RENUMBERING SECTION 13.0302 TO SECTION 12.0601; RETITLING, AMENDING AND RENUMBERING SECTION 13.0304 TO SECTION 12.0602; ADDING SECTIONS 12.0603, 12.0604, 12.0605 AND 12.0606; AND ADDING DIVISION 7; AND ADDING SECTION 12.0701; RETITLING, AMENDING AND RENUMBERING SECTION 13.0306 TO SECTION 12.0702; ADDING SECTION 12.0703; AND ADDING DIVISION 8; AND AMENDING AND RENUMBERING SECTION 13.0330 TO SECTION 12.0801; AMENDING AND RENUMBERING SECTION 13.0331 TO SECTION 12.0802; AMENDING AND RENUMBERING SECTION 13.0333 TO SECTION 12.0803; AMENDING AND RENUMBERING SECTION 13.0334 TO SECTION 12.0804; ADDING SECTIONS

12.0805, 12.0806, 12.0807, 12.0808 AND
12.0809; RETITLING, AMENDING AND RENUMBERING
SECTION 13.0336 TO SECTION 12.0810; AND
ADDING DIVISION 9; AND AMENDING AND
RENUMBERING SECTION 13.0340 TO SECTION
12.0901; AMENDING AND RENUMBERING SECTION
13.0341 TO SECTION 12.0902; RETITLING,
AMENDING AND RENUMBERING SECTION 13.0343 TO
SECTION 12.0903; RETITLING, AMENDING AND
RENUMBERING SECTION 13.0344 TO SECTION
12.0904; AMENDING AND RENUMBERING SECTION
13.0345 TO SECTION 12.0905; AMENDING AND
RENUMBERING SECTION 13.0346 TO SECTION
12.0906; ADDING SECTION 12.0907; RETITLING,
AMENDING AND RENUMBERING SECTION 13.0347 TO
SECTION 12.0908; ADDING SECTION 12.0909;
RETITLING, AMENDING AND RENUMBERING SECTION
13.0348 TO SECTION 12.0910; AND ADDING
DIVISION 10; AND RETITLING, AMENDING AND
RENUMBERING SECTION 13.0361 TO SECTION
12.1001; RETITLING, AMENDING AND RENUMBERING
SECTION 13.0362 TO SECTION 12.1002;
RETITLING, AMENDING AND RENUMBERING SECTION
13.0364 TO SECTION 12.1003; RETITLING,
AMENDING AND RENUMBERING SECTION 13.0365 TO
SECTION 12.1004; RETITLING, AMENDING AND
RENUMBERING SECTION 13.0366 TO SECTION
12.1005; AMENDING AND RENUMBERING SECTION
13.0367 TO SECTION 12.1006; AMENDING AND
RENUMBERING SECTION 13.0370 TO SECTION
12.1007; AMENDING AND RENUMBERING SECTION
13.0369 TO SECTION 12.1008; AMENDING AND
RENUMBERING SECTION 13.0371 TO 12.1009; AND
ADDING DIVISION 11; AND ADDING SECTIONS
12.1101 THROUGH 12.1105; AND RETITLING
ARTICLE 3 AND DIVISION 1; AND AMENDING AND
RENUMBERING SECTION 13.0401 TO SECTION
13.0101; RETITLING, AMENDING AND RENUMBERING
SECTION 13.0402 TO SECTION 13.0102;
RETITLING, AMENDING AND RENUMBERING SECTION
13.0404 TO SECTION 13.0103; RETITLING,
AMENDING AND RENUMBERING SECTION 13.0406 TO
SECTION 13.0104; RETITLING, AMENDING AND
RENUMBERING SECTION 13.0407 TO SECTION
13.0105; AMENDING AND RENUMBERING SECTION
13.0408 TO SECTION 13.0106; RETITLING,
AMENDING AND RENUMBERING SECTION 13.0409 TO
SECTION 13.0107; AND RETITLING DIVISION 2;
AND AMENDING AND RENUMBERING SECTION 13.0420
TO SECTION 13.0201; RETITLING, AMENDING AND
RENUMBERING SECTION 13.0421 TO SECTION

13.0202; AMENDING AND RENUMBERING SECTION 13.0423 TO SECTION 13.0203; ADDING SECTION 13.0204; AND RETITLING DIVISION 3; AND REPEALING SECTION 13.0301; ADDING SECTIONS 13.0301 AND 13.0302; REPEALING SECTION 13.0303; ADDING SECTIONS 13.0303 AND 13.0304; REPEALING SECTION 13.0305; ADDING SECTIONS 13.0305, 13.0306 AND 13.0307; RENUMBERING SECTION 13.0320 TO SECTION 13.0308; REPEALING SECTIONS 13.0330, 13.0332, 13.0335, 13.0342, 13.0363, 13.0368 AND 13.0372; AND RETITLING DIVISION 4; AND AMENDING AND RENUMBERING SECTION 13.0337 TO SECTION 13.0401; AMENDING, RETITLING AND RENUMBERING SECTION 13.0338 TO SECTION 13.0402; REPEALING SECTIONS 13.0403, 13.0405, 13.0422 AND 13.0424; AMENDING CHAPTER II, ARTICLE 2, DIVISION 1, SECTION 29.0115 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0201; AMENDING CHAPTER III, ARTICLE 3, DIVISION 1, SECTION 33.0105 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0201; AMENDING CHAPTER IV, ARTICLE 4, DIVISION 3, SECTION 44.0300 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0201; AMENDING CHAPTER V, ARTICLE 5, DIVISION 8, SECTION 55.0889.0201 BY RENUMBERING SECTIONS 13.0301 THROUGH 13.0306 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTIONS 12.0601 THROUGH 12.0606; AMENDING CHAPTER VI, ARTICLES 3 AND 7, DIVISIONS 8, 17 AND 38, SECTIONS 63.08, 63.17.15, 63.17.16 AND 67.38.7 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THOSE SECTIONS TO READ SECTION 12.0201; AMENDING CHAPTER VI, ARTICLE 4, DIVISION 3, SECTION 64.0301 BY RENUMBERING SECTION 13.0301 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTIONS 12.0801 THROUGH 12.0810; AMENDING CHAPTER VI, ARTICLE 7, DIVISION 38, SECTION 67.38.7 BY RENUMBERING SECTION 13.0202 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0202; AMENDING CHAPTER VI, ARTICLE 7, DIVISION 38, SECTION 67.38.7 BY DELETING REFERENCE TO CHAPTER I, DIVISION 3 APPEARING WITHIN THE TEXT TO READ CHAPTER I; AMENDING CHAPTER VI, ARTICLE 9, DIVISION 2, SECTION 69.0218 BY DELETING REFERENCE TO CHAPTER I, ARTICLE 3 WITHIN THE TEXT TO READ CHAPTER I;

AMENDING CHAPTER VIII, ARTICLES 4 AND 6, DIVISIONS 16, 17 AND 20, SECTIONS 84.1609, 84.1709 AND 86.2014 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THOSE SECTIONS TO READ SECTION 12.0201; AMENDING CHAPTER IX, ARTICLES 3 AND 5, DIVISIONS 2 AND 1, SECTIONS 93.0208 AND 95.0110 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THOSE SECTIONS TO READ SECTION 12.0201; AMENDING CHAPTER IX, ARTICLE 3, DIVISION 2, SECTION 93.0208 BY AMENDING REFERENCE TO CHAPTER I, ARTICLE 3 APPEARING WITHIN THE TEXT TO READ CHAPTER I, ARTICLE 2; AMENDING CHAPTER X, ARTICLES 1 AND 2, DIVISIONS 3, 4, 13 AND 7, SECTIONS 101.0304, 101.0406, 101.0462, 101.1309 AND 102.0700 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THOSE SECTIONS TO READ SECTION 12.0201; AMENDING CHAPTER X, ARTICLE 1, DIVISION 4, SECTION 101.0463 BY RENUMBERING SECTIONS 13.0201 AND 13.0202 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTIONS 12.0201 THROUGH 12.0202; AMENDING CHAPTER X, ARTICLE 1, DIVISION 4, SECTION 101.0463 BY RENUMBERING REFERENCES TO ARTICLE 3 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ ARTICLE 2; AMENDING CHAPTER X, ARTICLE 1, DIVISION 4, SECTION 101.0463 BY RENUMBERING SECTION 101.0212F APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 101.0212; AMENDING CHAPTER X, ARTICLE 1, DIVISION 5, SECTION 101.0518 BY RENUMBERING SECTION 11.12 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0201; AMENDING CHAPTER X, ARTICLE 1, DIVISION 5, SECTION 101.0518 BY RENUMBERING SECTION 11.19 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTIONS 12.0801 THROUGH 12.0810; ALL RELATING TO ENFORCEMENT AUTHORITY, PROCEDURES AND REMEDIES TO ENFORCE THE SAN DIEGO MUNICIPAL CODE.

WHEREAS, the City Council adopted Council Policy No. 900-10, A Comprehensive Code Enforcement Program and Policy which recommended the consolidation of enforcement authority, remedies and procedures in Chapter I of the Municipal Code (City Manager's Report No. 91-387); and

WHEREAS, the City Manager and City Attorney presented a preliminary consolidation plan to the Committee on Transportation and Land Use on February 26, 1992 (City Manager's Report Nos. 92-74 and 92-66 of February 20, 1992 and City Attorney Report dated February 21, 1992); and

WHEREAS, the Committee on Transportation and Land Use on November 23, 1992 approved the City Attorney's plan to streamline and unify code enforcement authority, remedies and procedures in Chapters I, IV, V, VI, IX and X of the Municipal Code and also approved the City Manager's draft Administrative Regulations for administrative hearings; and

WHEREAS, the Committee on Transportation and Land Use approved the City Attorney's draft ordinances on April 21, 1993 and unanimously referred these amendments 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 I, Article 1 of the San Diego Municipal Code be and the same is hereby amended by amending the title of Article 1 to read as follows:

ARTICLE 1

Definitions and General Provisions

Section 2. That Chapter I, Article 1 of the San Diego Municipal Code be and the same is hereby amended by retitling Division 2 to read as follows:

DIVISION 2

Construction, Interpretation and Definitions

Section 3. That Chapter I, Article 1, Division 2 of the San Diego Municipal Code be and the same is hereby amended by amending Section 11.0205 to read as follows:

SEC. 11.0205 Validity of Code--Severability

If any section, subsection, sentence, clause, phrase, portion or provision of this Code is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Code. The Council of this City hereby declares that it would have adopted this Code and each section, subsection, sentence, clause, phrase, portion or provision thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, portions or provisions be declared invalid or unconstitutional. This section shall apply to all amendments heretofore or hereafter made to this Code.

Section 4. That Chapter I, Article 1, Division 2 of the San Diego Municipal Code be and the same is hereby amended by amending Section 11.0206 to read as follows:

SEC. 11.0206 Conflicting Ordinances

If provisions of the Municipal Code are in conflict with each other, the more restrictive provisions shall apply.

Section 5. That Chapter I, Article 1, Division 2 of the San Diego Municipal Code be and the same is hereby amended by adding Section 11.0208 to read as follows:

SEC. 11.0208 No Mandatory Duty--Civil Liability

It is the intent of the City Council of the City of San Diego that any Municipal Code provision establishing performance standards or establishing an obligation to act by a City officer or employee, shall not be construed as creating a mandatory duty for purposes of tort liability, if the officers or employees fail to perform their directed duty or duties.

Section 6. That Chapter I, Article 1, Division 2 of the San Diego Municipal Code be and the same is hereby amended by adding Section 11.0209 to read as follows:

SEC. 11.0209 General Rules of Interpretation of Ordinances

For purposes of this Municipal Code:

- (a) Any gender includes the other gender.
- (b) "Shall" is mandatory; "may" is permissive.
- (c) The singular number includes the plural and the plural the singular.
- (d) Words used in the present tense include the past and future tense and vice versa.
- (e) Words and phrases used in this Code and not specifically defined shall be construed according to the context and approved usage of the language.

Section 7. That Chapter I, Article 1, Division 2 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 11.0301 to Section 11.0210 to read as follows:

SEC. 11.0210 Definitions Applicable To Code Generally

The following words and phrases whenever used in this Code shall be construed as defined in this section unless a different meaning is specifically defined elsewhere in this Code and specifically stated to apply:

"Abatement" means any action the City may take on public or private property and any adjacent property as may be necessary to remove or alleviate a nuisance, including but not limited to demolition, removal, repair, boarding and securing or replacement of property.

"Administrative Enforcement Order" means an order issued by an Enforcement Hearing Officer after a hearing requiring a Responsible Person to correct violations, abate a public nuisance, pay civil penalties and administrative costs or take any other action as authorized or required by this Code and applicable state codes. The Enforcement Order may also include an order authorizing the City to abate a public nuisance or assess a Code Enforcement Lien.

"Abatement Notice" means a notice issued by a Director which requires a Responsible Person to abate a public nuisance.

"Cash Deposit" means that whenever a cash deposit is required as a condition of an application for activity related to a construction project under this Code, the term "cash" also includes certificates of deposit and assigned securities in the form of savings accounts.

"City" means the area within the territorial city limits of The City of San Diego and such territory outside of this City over which the City has jurisdiction or control by virtue of any Constitutional or Charter provisions, or any law.

"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.

"Code Enforcement Performance Bond" means a bond posted by a Responsible Person to ensure compliance with the Municipal Code, applicable state codes, a judicial action or Administrative Enforcement Order.

"Council" means the City Council of this City.

"Director" means the City Manager or any Department Directors including the following Departments: Planning, Building Inspection, Engineering & Development, General Services, Animal Control, Health, Water Utilities, Park and Recreation, Neighborhood Code Compliance, Waste Management and the Fire and Police Chiefs, and any of their designated agents or representatives.

"Enforcement Hearing Officer" means any person appointed by the City Manager to preside over administrative enforcement hearings.

"Enforcement Official" means any person authorized to enforce violations of the Municipal Code or applicable state codes.

"Financial Institution" means any person that holds a recorded mortgage or deed of trust on a property.

"Imminent Life Safety Hazard" means any condition which creates a present, extreme and immediate danger to life, property, health or public safety.

"Legal Interest" means any interest that is represented by a document such as a deed of trust, quitclaim deed, mortgage, judgment lien, tax or assessment lien, mechanic's lien or other similar instrument which is recorded with the County Recorder.

"Notice and Order" means a document used in abatement and civil penalties actions which provides notice of Municipal Code or applicable state code violations and orders a Responsible Person to take certain steps to correct the violations.

"Notice of Compliance" means a document issued by a Director representing that a property complies with the criteria set forth in Section 12.1007 of this Code.

"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.

"Notice Of Violation" means a written notice prepared by an Enforcement Official which informs a Responsible Person of code violations, requires compliance and contains specific information as required by the Municipal Code.

"Oath" includes affirmations and oaths.

"Person" means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them or any other entity which is recognized by law as the subject of rights or duties.

"Property Owner" means the record owner of real property based on the County Assessor's records.

"Public Nuisance" means any condition caused, maintained or permitted to exist which constitutes a threat to the public's health, safety and welfare or which significantly obstructs, injures or interferes with the reasonable or free use of property in a neighborhood, community or to any considerable number of persons. A public nuisance also has the same meaning as set forth in California Civil Code Section 3479.

"Responsible Person" means a person who a Director determines is responsible for causing or maintaining a public nuisance or a violation of the Municipal Code or applicable state codes. The term "Responsible Person" includes but is not limited to a property owner, tenant, person with a Legal Interest in lead property or person in possession of real property.

"Written" includes printed, typewritten, mimeographed, multigraphed, printout by computer, facsimile and those items listed in California Evidence Code Section 250.

Section 8. That Chapter I, Article 1 of the San Diego Municipal Code be and the same is hereby amended by retitling Division 3 to read as follows:

DIVISION 3

Notice

Section 9. That Chapter I, Article 1, Division 3 of the San Diego Municipal Code be and the same is hereby amended by adding Section 11.0301 to read as follows:

SEC. 11.0301 Service of Notices

(a) Whenever a notice is required to be given under the Municipal Code for enforcement purposes, the notice shall be served by any of the following methods unless different provisions are otherwise specifically stated to apply:

- (1) Personal service; or

(2) Certified mail, postage prepaid, return receipt requested. Simultaneously, the same notice may be sent by regular mail. If a notice that is sent by certified mail is returned unsigned, then service shall be deemed effective pursuant to regular mail, provided the notice that was sent by regular mail is not returned.

(3) Posting the notice conspicuously on or in front of the property. The form of the posted notice shall be approved by the City Manager.

(b) Service by certified or regular mail in the manner described above shall be effective on the date of mailing.

(c) The failure of any person with an interest in the property to receive any notice served in accordance with this section shall not affect the validity of any proceedings taken under this Code.

(d) The notice requirements in this section do not apply to initial Notices of Violation which may be sent by regular mail. Service of a Notice of Violation by regular mail is effective on the date of mailing.

Section 10. That Chapter I, Article 1, Division 3 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 12.0102 to Section 11.0302 to read as follows:

SEC. 11.0302 Proof of Service of Notices

Proof of service of notice may be made by the certificate of any officer or employee of this City or by

affidavit of any person over the age of eighteen years. The proof of service shall show that service was done in conformity with this Code or other provisions of law applicable to the subject matter concerned.

Section 11. That Chapter I, Article 1, Division 3 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 12.0103 to Section 11.0303 to read as follows:

SEC. 11.0303 Constructive Notice of Recorded Documents

Whenever a document is recorded with the County Recorder as authorized or required by the Municipal Code or applicable state codes, recordation shall provide constructive notice of the information contained in the recorded documents.

Section 12. That Chapter I, Article 1 of the San Diego Municipal Code be and the same is hereby amended by adding Division 4 to read as follows:

DIVISION 4

General Offenses

Section 13. That Chapter I, Article 1, Division 4 of the San Diego Municipal Code be and the same is hereby amended by renumbering Section 13.0101 to Section 11.0401 to read as follows:

SEC. 11.0401 Furnishing False or Incomplete Information Prohibited

[No change in text.]

Section 14. That Chapter I, Article 1, Division 4 of the San Diego Municipal Code be and the same is hereby amended by renumbering Section 11.0102 to Section 11.0402 to read as follows:

SEC. 11.0402 Acts Include Causing, Aiding and Abetting
[No change in text.]

Section 15. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by retitling Article 2 and Division 1 to read as follows:

ARTICLE 2

Code Enforcement

Judicial and Administrative Remedies

DIVISION 1

Enforcement Authority and Powers

Section 16. That Chapter I, Article 2, Division 1 of the San Diego Municipal Code be and the same is hereby amended by repealing Section 12.0101.

Section 17. That Chapter I, Article 2, Division 1 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 12.0101, 12.0102, 12.0103, 12.0104 and 12.0105 to read as follows:

SEC. 12.0101 Declaration of Purpose

The Council finds that the enforcement of the Municipal Code and applicable state codes throughout the City is an important public service. Code Enforcement is vital to protection of the public's health, safety and quality of

life. The Council recognizes that enforcement starts with the drafting of precise regulations that can be effectively applied in administrative enforcement hearings and judicial proceedings. The Council further finds that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gain compliance with code regulations. Failure to comply with an administrative code enforcement action may require the City Attorney to file a judicial action to gain compliance.

SEC. 12.0102 General Enforcement Authority

The City Manager, City Clerk or any of their designated Enforcement Officials have the authority and powers necessary to gain compliance with the provisions of the Municipal Code and applicable state codes. These powers include the power to issue Notices of Violation and field citations, inspect public and private property and use whatever judicial and administrative remedies are available under the Municipal Code or applicable state codes.

SEC. 12.0103 Notice of Violation

Whenever a Director determines that a violation of the Municipal Code or applicable state codes exists, the Director or Enforcement Official may issue a Notice of Violation to a Responsible Person. The Notice of Violation shall include the following information:

1. The name of the property's record owner;
2. Street address;

3. The code sections in violation;
4. A description of the property's condition which violates the applicable codes;
5. A list of necessary corrections to bring the property into compliance;
6. A deadline or specific date to correct the violations listed in the Notice of Violation;
7. Reference to the potential consequences should the property remain in violation after the expiration of the compliance deadline including, but not limited to: criminal prosecution, civil injunction, administrative abatement, civil penalties, revocation of permits, recordation of the Notice of Violation and withholding of future municipal permits.

SEC. 12.0104 Authority to Inspect

A Director and any designated Enforcement Official are authorized to enter upon any property or premises to ascertain whether the provisions of the Municipal Code or applicable state codes are being obeyed, and to make any examinations and surveys as may be necessary in the performance of their enforcement duties. These may include the taking of photographs, samples or other physical evidence. All inspections, entries, examinations and surveys shall be done in a reasonable manner. If an owner, occupant or agent refuses permission to enter or inspect, the Enforcement Official may seek an administrative

inspection warrant pursuant to the procedures provided for in California Code of Civil Procedure Section 1822.50 through 1822.59.

SEC. 12.0105 Power to Arrest

A Director or any designated Enforcement Official is authorized to arrest without a warrant any person whenever the Enforcement Official has reasonable cause to believe that the person has committed a violation of the Municipal Code or applicable state codes in his or her presence. Pursuant to Penal Code Section 836.5 the Enforcement Official can only arrest a person by issuing a misdemeanor field citation.

Section 18. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 2 to read as follows:

DIVISION 2

Judicial Remedies

Section 19. That Chapter I, Article 2, Division 2 of the San Diego Municipal Code be and the same is hereby amended by retitling and renumbering Section 13.0201 to Section 12.0201 to read as follows:

SEC. 12.0201 Criminal Violations--Misdemeanors and Infractions

[No change in text.]

Section 20. That Chapter I, Article 2, Division 2 of the San Diego Municipal Code be and the same is hereby amended by

retitling and renumbering Section 13.0202 to Section 12.0202 to read as follows:

SEC. 12.0202 Civil Violations--Injunctions and Civil Penalties

[No change in text.]

Section 21. That Chapter I, Article 2, Division 2 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 12.0203, 12.0204 and 12.0205 to read as follows:

SEC. 12.0203 Code Enforcement Performance Bond

As part of any court action, the City has the authority to require a Responsible Person to post a performance bond to ensure compliance with the Municipal Code, applicable state codes or any judicial action.

SEC. 12.0204 Judicial Abatement

Pursuant to California Government Code Section 38773, the City has the authority to judicially abate public nuisances by filing criminal or civil actions. The City also has the authority to make the expense of abatement of the nuisance a special assessment, or a lien against the property on which it is maintained and a personal obligation against the property owner, in accordance with California Government Code Section 38773.1 or 38773.5.

SEC. 12.0205 Treble Damages For Subsequent Abatement Judgments

Pursuant to California Government Code Section 38773.7, upon the entry of a second or subsequent civil or criminal

judgment within a two-year period that finds an owner of property responsible for a condition that may be abated in accordance with California Government Code Section 38773.5, a court may order the owner to pay treble the costs of the abatement. These costs shall not include conditions abated pursuant to Section 17980 of the California Health and Safety Code.

Section 22. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 3 to read as follows:

DIVISION 3

Administrative Remedies

Section 23. That Chapter I, Article 2, Division 3 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 12.0301, 12.0302, 12.0303 and 12.0304 to read as follows:

SEC. 12.0301 Administrative Remedies

Divisions 3 through 10 of Article 2 of Chapter I establish the administrative enforcement remedies for violations of the Municipal Code and applicable state codes. The general remedies include Administrative Abatement, Summary Abatement, Civil Penalties, Administrative Citations, Recordation of Notices of Violation and Mediation. Divisions 4 and 5 of Article 2, Chapter I govern the procedures for appeals and hearings relating to these administrative remedies.

SEC. 12.0302 Declaration of Purpose

The Council finds that there is a need for a variety of administrative remedies to enforce violations of the Municipal Code and applicable state codes. The procedures established by these administrative remedies are in addition to any other legal remedy established by law which may be pursued to address Municipal Code and applicable state code violations.

SEC. 12.0303 Authority

Whenever a Director determines that a violation of the Municipal Code or applicable state code exists, a Director may pursue any of the administrative remedies outlined in Divisions 3 through 10 of Article 2, Chapter I of this Code.

SEC. 12.0304 Notice of Pending Administrative Enforcement Action

(a) A Director may record with the County Recorder's Office a notice against a property which is the subject of an administrative enforcement action pending with the City of San Diego.

(b) A notice of pending administrative action shall be on a form approved by the City Manager and shall describe the nature of the administrative action and refer to the Municipal Code governing the pending administrative action.

Section 24. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 4 to read as follows:

DIVISION 4

Administrative Enforcement Hearing Procedures

Section 25. That Chapter I, Article 2, Division 4 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 12.0401 through 12.0413 to read as follows:

SEC. 12.0401 Administrative Enforcement Hearing Procedures

Division 4 of Article 2 of Chapter I establishes the procedures for conducting administrative enforcement hearings.

SEC. 12.0402 Declaration of Purpose

(a) The Council finds that there is a need to establish uniform procedures for administrative enforcement hearings conducted pursuant to the Municipal Code. It is the purpose and intent of the City Council to afford due process of law to any person who is directly affected by an administrative action. Due process of law includes: adequate notice, an opportunity to participate in the administrative hearing and an adequate explanation of the reasons justifying the administrative action. These procedures are also intended to establish a forum to efficiently, expeditiously and fairly resolve issues raised in any administrative enforcement action.

(b) The City Manager is authorized to develop policies and procedures relating to the qualifications, appointment and compensation of hearing officers, hearing officer powers, hearing procedures, scope of the hearing, subpoena

powers and other matters relating to administrative enforcement hearings.

SEC. 12.0403 Procedures for Notification of Enforcement Hearing

(a) Where an administrative enforcement remedy or proceeding authorized by Chapter I provides for an enforcement hearing, the Director may request the City Manager to appoint an Enforcement Hearing Officer and to schedule a day, time and place for the hearing.

(b) Written notice of the time and place of the hearing shall be served at least ten (10) calendar days prior to the date of the hearing to the Responsible Person.

(c) The format and contents of the hearing notice shall be in accordance with rules and policies promulgated by the City Manager.

(d) The notice of hearing shall be served by any of the methods of service listed in Section 11.0301 of this Code.

SEC. 12.0404 Qualifications of Enforcement Hearing Officer

The City Manager shall promulgate rules and procedures as are necessary to establish a pool of qualified persons who are capable of acting on behalf of the City as Enforcement Hearing Officers.

SEC. 12.0405 Appointment of Enforcement Hearing Officer

Enforcement Hearing Officers presiding at administrative enforcement hearings shall be appointed and

compensated by the City Manager. The City Manager shall develop policies and procedures relating to the employment and compensation of Enforcement Hearing Officers.

SEC. 12.0406 Disqualification of Enforcement Hearing Officer

Any person designated to serve as an Enforcement Hearing Officer is subject to disqualification for bias, prejudice, interest, or for any other reason for which a judge may be disqualified in a court of law. Rules and procedures for the disqualification of an Enforcement Hearing Officer shall be promulgated by the City Manager.

SEC. 12.0407 Powers of Enforcement Hearing Officer

(a) The Enforcement Hearing Officer may continue a hearing based on good cause shown by one of the parties to the hearing or if the Hearing Officer independently determines that due process has not been adequately afforded.

(b) The Enforcement Hearing Officer, at the request of any party to the hearing, may subpoena witnesses, documents and other evidence where the attendance of the witness or the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees shall be borne by the party requesting the subpoena. The City Manager shall develop policies and procedures relating to the issuance of

subpenas in administrative enforcement hearings, including the form of the subpoena and related costs.

(c) The Enforcement Hearing Officer has continuing jurisdiction over the subject matter of an administrative enforcement hearing for the purposes of granting a continuance, ensuring compliance with an Administrative Enforcement Order, modifying an Administrative Enforcement Order, or where extraordinary circumstances exist, granting a new hearing.

(d) The Enforcement Hearing Officer has the authority to require a Responsible Person to post a Code Enforcement Performance Bond to ensure compliance with an Administrative Enforcement Order.

SEC. 12.0408 Procedures at Administrative Enforcement Hearing

(a) Administrative enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply. The procedure and format of the administrative hearing shall follow the procedures promulgated by the City Manager.

(b) The City bears the burden of proof at an administrative enforcement hearing to establish the existence of a violation of the Municipal Code or applicable state code. In the case of an abatement hearing the City bears the burden of proof to establish the existence of a public nuisance.

(c) The standard of proof to be used by the Enforcement Hearing Officer in deciding the issues at an administrative hearing is by a preponderance of the evidence.

(d) Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his or her case.

SEC. 12.0409 Failure to Obey Subpena

It is unlawful for any person to refuse to obey a subpoena issued by an Enforcement Hearing Officer. Failure to obey a subpoena constitutes contempt and may be prosecuted as a misdemeanor.

SEC. 12.0410 Failure to Attend Administrative Enforcement Hearing

Any party whose property or actions are the subject of an administrative enforcement hearing and who fails to appear at the hearing is deemed to waive the right to a hearing and the adjudication of the issues related to the hearing, provided that proper notice of the hearing has been provided.

SEC. 12.0411 Administrative Enforcement Order

(a) The decision of the Enforcement Hearing Officer shall be entitled "Administrative Enforcement Order" and shall be issued in accordance with the rules and procedures promulgated by the City Manager.

(b) The Administrative Enforcement Order shall become final on the date of service of the order.

(c) The Administrative Enforcement Order shall be served on all parties by any one of the methods listed in Section 11.0301 of the Municipal Code.

SEC. 12.0412 Judicial Review

Once an Administrative Enforcement Order becomes final as provided in this Division, the time in which judicial review of the order must be sought shall be governed by California Code of Civil Procedure Section 1094.6.

SEC. 12.0413 Failure to Comply with Administrative Enforcement Order

It is unlawful for a party to an administrative enforcement hearing who has been served with a copy of the final Administrative Enforcement Order pursuant to Section 11.0301 of the Municipal Code to fail to comply with the order. Failure to comply with a final Administrative Enforcement Order may be prosecuted as a misdemeanor.

Section 26. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 5 to read as follows:

DIVISION 5

Administrative Enforcement Appeals

Section 27. That Chapter I, Article 2, Division 5 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 12.0501, 12.0502 and 12.0503 to read as follows:

SEC. 12.0501 Appeal Procedures

(a) A person served with one of the following documents, orders or notices may file an appeal within ten (10) calendar days from the service of the notice:

(1) Any Administrative Abatement Notice and Order issued for those public nuisances listed under Time Frame One of Section 12.0603(c) of the Municipal Code.

(2) An Administrative Citation issued pursuant to Section 12.0903 of the Municipal Code.

(3) A letter from a Director indicating an intent to record a Notice of Violation pursuant to Section 12.1003 of the Municipal Code.

(b) The appeal shall be made in writing and filed with the Director.

(c) As soon as practicable after receiving the written notice of appeal, a Director shall request the City Manager to appoint an Administrative Enforcement Hearing Officer and to schedule a date, time and place for the hearing.

(d) Written notice of the date, time and place of the hearing shall be served at least ten (10) calendar days prior to the date of the hearing on the person appealing the notice by any one of the methods listed in Section 11.0301 of the Municipal Code.

SEC. 12.0502 Appeal Hearing

The appeal hearing shall be conducted pursuant to the administrative enforcement hearing procedures set forth in Division 4, Article 2 of Chapter I.

SEC. 12.0503 Failure to Attend an Administrative Enforcement Hearing

Failure to attend the administrative enforcement hearing by the person appealing a notice shall constitute a waiver of his or her rights to an administrative enforcement hearing and adjudication of the notice or any portion of the notice.

Section 28. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 6 to read as follows:

DIVISION 6

Administrative Abatement

Section 29. That Chapter I, Article 2, Division 6 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0302 to Section 12.0601 to read as follows:

SEC. 12.0601 Declaration of Purpose

The Council finds that its purpose in adopting Divisions 6 and 7 of Article 2 of Chapter I is to establish a procedure for the administrative and summary abatement of public nuisances and code violations. The procedures established in these sections are in addition to any other

legal remedy, criminal or civil, established by law which may be pursued to address Municipal Code or applicable state code violations. These sections govern all other nuisance abatement procedures established in other chapters of the Municipal Code unless other procedures are specifically stated to apply.

Section 30. That Chapter I, Article 2, Division 6 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0304 to Section 12.0602 to read as follows:

SEC. 12.0602 Authority

Any condition caused, maintained or permitted to exist in violation of any provisions of the Municipal Code or applicable state codes which constitutes a public nuisance may be abated by the City pursuant to the procedures set forth in Divisions 6 and 7, Article 2 of Chapter I.

Section 31. That Chapter I, Article 2, Division 6 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 12.0603, 12.0604, 12.0605 and 12.0606 to read as follows:

SEC. 12.0603 General Procedures

(a) Abatement Notice

(1) Whenever a Director determines that public or private property or any portion of public or private property is a public nuisance as generally defined in Section 11.0210 or as declared in a specific section of the

Municipal Code or applicable state codes, an Abatement Notice may be issued to the Responsible Person to abate the public nuisance.

(2) The Abatement Notice shall contain a description of the property in general terms reasonably sufficient to identify the location of the property. It shall refer to Divisions 6 and 7 of Article 2, Chapter I of the Municipal Code or applicable state code violations which render the property a public nuisance.

(3) The Abatement Notice shall describe the action required to abate the public nuisance which may include corrections, repairs, demolition, removal, obtaining the necessary permits, vacation of tenants or other appropriate action and shall establish time frames by which each action must occur.

(4) The Abatement Notice shall explain the consequences should the Responsible Person fail to comply with the terms of the notice.

(5) The Abatement Notice shall identify all applicable hearing and appeal rights.

(b) Service of Abatement Notice

The Abatement Notice shall be served by any one of the methods of service listed in Section 11.0301 of this Code.

(c) Compliance Time Frames

The Director shall follow the compliance time frames and specified procedures for either Time Frame One or Time Frame Two depending upon whether the criteria as provided in Section 12.0604 or 12.0605 of this Division applies.

SEC. 12.0604 Time Frame for Compliance: Time Frame One

(a) Time Frame One shall require the Responsible Person to abate the public nuisance within ten (10) calendar days from the date of service of the Abatement Notice.

(b) A Director may require the Responsible Person to abate the public nuisance within Time Frame One in any one of the following instances:

(1) the condition causing the public nuisance is rubbish, weeds, waste or other obstructions as described in Division 2, Article 4 of Chapter V of this Code; or

(2) the condition causing the public nuisance is a vacant structure as described in Division 3, Article 4 of Chapter V of this Code; or

(3) the condition causing the public nuisance is graffiti as described in Division 4, Article 4 of Chapter V of this Code; or

(4) the condition causing the public nuisance is a dangerous sign as described in Section 95.0133 of this Code; or

(5) the condition causing the public nuisance has been determined by a Director to be so serious or harmful that immediate abatement is required.

(c) Right to Appeal Under Time Frame One

(1) The Responsible Person may appeal the Abatement Notice within ten (10) calendar days from the date of service of the Abatement Notice by filing a written request to appeal to a Director.

(2) Upon receiving a written request to appeal an Abatement Notice, a Director shall follow the procedures set forth in Division 5, Article 2 of Chapter I and request the City Manager to schedule a hearing to hear any objections why abatement should not be ordered and effected.

(3) Abatement shall not proceed until the Enforcement Hearing Officer issues an order, unless the Director concludes that an imminent threat to the public's health and safety exists.

(4) If the Enforcement Hearing Officer issues an order confirming the existence of a public nuisance, the City may immediately abate the public nuisance pursuant to the procedures set forth in Section 12.0606 of this Division. The Hearing Officer's decision is the final administrative decision and shall become effective upon the date of the order.

(d) Abatement Under Time Frame One

The City may abate the condition causing the public nuisance in the following circumstances:

(1) the Responsible Person fails to abate the public nuisance as required by the Abatement Notice and an appeal has not been timely filed; or

(2) an Administrative Enforcement Order has been issued confirming the existence of a public nuisance after an appeal by the Responsible Person.

SEC. 12.0605 Time Frame for Compliance: Time Frame Two

(a) Time Frame Two shall apply to all other public nuisances not listed under Time Frame One. Time Frame Two shall require the Responsible Person to abate the public nuisance within a minimum of fourteen (14) calendar days from the date of service of the Abatement Notice. The Director may establish a longer time frame as is reasonable or necessary to complete the abatement.

(b) Abatement Under Time Frame Two

(1) In the event the Responsible Person does not abate the public nuisance as required by the Abatement Notice, a Director may request the City Manager to schedule an administrative hearing pursuant to the procedures set forth in Division 4, Article 2 of Chapter I to determine the existence of a public nuisance.

(2) If the Enforcement Hearing Officer issues an order confirming the existence of a public nuisance, the City may immediately abate the conditions causing the public

nuisance pursuant to the procedures set forth in Section 12.0606 of this Division.

SEC. 12.0606 Abatement of a Public Nuisance by the City

(a) Once a Director follows the procedures set forth in Sections 12.0604 or 12.0605 of this Division and obtains authorization to abate a public nuisance, the public nuisance may be abated by City personnel or by a private contractor.

(b) City personnel or a private contractor can enter upon private property in a reasonable manner to abate the public nuisance as specified in the Abatement Notice or Abatement Order.

(c) If the Responsible Person abates the public nuisance before the City performs the actual abatement pursuant to an Abatement Notice or Abatement Order, the Director may still assess all costs incurred by the City at that point against the Responsible Person pursuant to the provisions set forth in Division 3, Article 3 of Chapter I of this Code.

(d) When abatement is completed, a report describing the work performed and an itemized account of the total abatement costs shall be prepared by the Director. The report shall contain the names and addresses of the Responsible Persons of each parcel, the tax assessor's parcel number and a legal description of the property.

(e) The Director shall request the City Manager to schedule a confirmation of costs hearing pursuant to Section 13.0302 of this Chapter, unless waived in writing by all Responsible Persons.

(f) All administrative and actual costs incurred by the City in abating the public nuisance may be assessed and recovered against the Responsible Person pursuant to the provisions set forth in Division 3, Article 3 of Chapter I. Section 32. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 7 to read as follows:

DIVISION 7

Summary Abatement

Section 33. That Chapter I, Article 2, Division 7 of the San Diego Municipal Code be and the same is hereby amended by adding Section 12.0701 to read as follows:

SEC. 12.0701 Summary Abatement

Division 7 of Article 2 of Chapter I of this Code governs the procedures relating to summary abatement of public nuisances.

Section 34. That Chapter I, Article 2, Division 7 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0306 to Section 12.0702 to read as follows:

SEC. 12.0702 Authority

Whenever a Director determines that an imminent life safety hazard exists that requires immediate correction or elimination, the Director may exercise the following powers without prior notice to the Responsible Person:

- (a) Order the immediate vacation of any tenants and prohibit occupancy until all repairs are completed; or
- (b) Post the premises as unsafe, substandard or dangerous; or
- (c) Board, fence or secure the building or site; or
- (d) Raze and grade that portion of the building or site to prevent further collapse and remove any hazard to the general public; or
- (e) Make any minimal emergency repairs as necessary to eliminate any imminent life safety hazard; or
- (f) Take any other action as appropriate under the circumstances.

Section 35. That Chapter I, Article 2, Division 7 of the San Diego Municipal Code be and the same is hereby amended by adding Section 12.0703, to read as follows:

SEC. 12.0703 Procedures

(a) A Director shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of the hazard. Costs incurred by the City during the summary abatement process shall be assessed and recovered against the Responsible Person through the

procedures outlined in Section 12.0606 of Division 6 of this Chapter.

(b) The Director may also pursue any administrative or judicial remedy to abate any remaining public nuisance.

Section 36. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 8 to read as follows:

DIVISION 8

Administrative Civil Penalties

Section 37. That Chapter I, Article 2, Division 8 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0330 to Section 12.0801 to read as follows:

SEC. 12.0801 Administrative Civil Penalties

Division 8 of Article 2 of Chapter I governs the administrative assessment of civil penalties for violations of the Municipal Code and applicable state codes.

Section 38. That Chapter I, Article 2, Division 8 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0331 to Section 12.0802 to read as follows:

SEC. 12.0802 Declaration of Purpose

The Council finds that there is a need for alternative methods of enforcement of the San Diego Municipal Code and applicable state codes. The Council further finds that the assessment of civil penalties through an administrative

hearing procedure for code violations is a necessary alternative method of code enforcement.

The administrative assessment of civil penalties established in Division 8 of this Article is in addition to any other administrative or judicial remedy established by law which may be pursued to address violations of the Municipal Code or applicable state codes.

Section 39. That Chapter I, Article 2, Division 8 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0333 to Section 12.0803 to read as follows:

SEC. 12.0803 Authority

(a) Any person violating any provision of the Municipal Code or applicable state code may be subject to the assessment of civil penalties pursuant to the administrative procedures provided in Sections 12.0804 through 12.0811 of this Division.

(b) Each and every day a violation of any provision of the Municipal Code or applicable state code exists constitutes a separate and distinct violation.

(c) Civil penalties may be directly assessed by means of a Notice and Order issued by the Director or affirmed by a City Manager's Enforcement Hearing Officer. Civil penalties may be recovered by assessment of a Code Enforcement Lien pursuant to Division 2 of Article 3 of

Chapter I or subsequent legal action brought by the City Attorney.

(d) Civil penalties for violations of any provision of the Municipal Code or applicable state codes shall be assessed at a daily rate determined by the Director or Enforcement Hearing Officer pursuant to the criteria listed in Section 12.0805 of this Division. The maximum rate shall be \$2,500 per violation. The maximum amount of civil penalties shall not exceed \$100,000 per parcel or structure for any related series of violations.

Section 40. That Chapter I, Article 2, Division 4 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0334 to Section 12.0804 to read as follows:

SEC. 12.0804 Procedures--Notice and Order

(a) Whenever a Director determines that a violation of one or more provisions of the Municipal Code or applicable state code has occurred or continues to exist, a written civil penalties Notice and Order may be issued to the Responsible Person.

(b) The Notice and Order shall refer to all code sections violated and describe how each section is or has been violated.

(c) The Notice and Order shall refer to the dates and locations of the violations.

(d) The Notice and Order shall describe all remedial action required to permanently correct outstanding violations and establish time frames for completion.

(e) The Notice and Order shall establish a daily amount of civil penalties. The Director shall determine the daily amount of civil penalties pursuant to the criteria in Section 12.0805 of this Division.

(f) The Notice and Order shall identify a date when the civil penalties began to accrue and a date when the assessment of civil penalties ended, unless the violation is continuous. In the case of a continuous violation, there shall be an ongoing assessment of penalties at the daily rate established in the Notice and Order until the violations are corrected.

(g) If a Director determines that the violations are continuing, the Notice and Order shall demand that the Responsible Person cease and desist from further action causing the violations and commence and complete all action to correct the outstanding violations under the guidance of the appropriate City Departments.

(h) The Notice and Order shall enumerate any other consequences should the Responsible Person fail to comply with the terms and deadlines as prescribed in the Notice and Order.

(i) The Notice and Order shall identify appropriate hearing procedures as required by Sections 12.0401 through 12.0413 of this Chapter.

(j) The Notice and Order shall be served upon the Responsible Person by any one of the methods of service listed in Section 11.0301 of this Chapter.

(k) The Notice and Order shall identify the factors used by a Director in determining the duration and the daily amount of civil penalties.

(l) More than one Notice and Order may be issued against the same Responsible Person if it encompasses either different dates or different violations.

Section 41. That Chapter I, Article 2, Division 8 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 12.0805, 12.0806, 12.0807, 12.0808 and 12.0809 to read as follows:

SEC. 12.0805 Determination of Civil Penalties

(a) In determining the date when civil penalties started to accrue, a Director may consider the date when the Department first discovered the violations as evidenced by the issuance of a Notice of Violation or any other written correspondence.

(b) The assessment of civil penalties shall end when all action required by the Notice and Order has been completed.

(c) In determining the amount of the civil penalty to be assessed on a daily rate, a Director may consider some or all of the following factors:

- (1) The duration of the violation.
- (2) The frequency or recurrence of the violation.
- (3) The seriousness of the violation.
- (4) The history of the violation.
- (5) The Responsible Person's conduct after issuance of the Notice and Order.
- (6) The good faith effort by the Responsible Person to comply.
- (7) The economic impact of the penalty on the Responsible Person.
- (8) The impact of the violation upon the community.
- (9) Any other factors that justice may require.

(d) The City Manager has the authority to establish a penalty schedule for a Director to use as a guideline in determining the amount of civil penalties in appropriate cases. The Manager shall also establish procedures for the use of this penalty schedule.

SEC. 12.0806 Administrative Costs

A Director or Enforcement Hearing Officer is authorized to assess any reasonable administrative costs. Administrative costs may include scheduling and processing of the hearing and all subsequent actions.

SEC. 12.0807 Failure to Comply with Director's Notice and Order

A Director shall request the City Manager to appoint an Enforcement Hearing Officer and to establish a date, time and place for the civil penalties hearing in accordance with Division 4 of Article 2 of Chapter I when the Responsible Person fails to comply with the terms of the Notice and Order. Failure to comply includes failure to pay the assessed civil penalties, failure to commence and complete corrections by the established deadlines or failure to refrain from continuing violations of the Municipal Code or applicable state codes.

SEC. 12.0808 Civil Penalties Hearing

(a) The procedures for the civil penalties hearing are the same as the hearing procedures set forth in Division 4 of Article 2 of Chapter I.

(b) The Enforcement Hearing Officer shall only consider evidence that is relevant to the following issues:
(1) whether the Responsible Person has caused or maintained a violation of the Municipal Code or applicable state code that existed on the dates specified in the Notice and Order;
and (2) whether the amount of civil penalties assessed by the Director pursuant to the procedures and criteria outlined in Section 12.0805 was reasonable.

SEC. 12.0809 Administrative Enforcement Order

(a) Once all evidence and testimony are completed, the Enforcement Hearing Officer shall issue an Administrative Enforcement Order which affirms or rejects the Director's Notice and Order or which modifies the daily rate or duration of the civil penalties depending upon the review of the evidence. The Enforcement Hearing Officer may increase or decrease the total amount of civil penalties and costs that are assessed by the Director's Notice and Order.

(b) The Enforcement Hearing Officer may issue an Administrative Enforcement Order that requires the Responsible Person to cease from violating the Municipal Code or applicable state codes and to make necessary corrections.

(c) As part of the Administrative Enforcement Order, the Enforcement Hearing Officer may establish specific deadlines for the payment of penalties and costs and condition the total or partial assessment of civil penalties on the Responsible Person's ability to complete compliance by specified deadlines.

(d) The Enforcement Hearing Officer may issue an Administrative Enforcement Order which imposes additional civil penalties that will continue to be assessed until the Responsible Person complies with the Hearing Officer's decision and corrects the violation.

(e) The Enforcement Hearing Officer may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the Administrative Enforcement Order.

Section 42. That Chapter I, Article 2, Division 8 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0336 to Section 12.0810 to read as follows:

SEC. 12.0810 Failure To Comply With The Administrative Enforcement Order

(a) Upon the failure of the Responsible Person to comply with the terms and deadlines set forth in the Administrative Enforcement Order, the Director may use all appropriate legal means to recover the civil penalties, administrative costs and obtain compliance with the Administrative Enforcement Order.

(b) After the Enforcement Hearing Officer issues an Administrative Enforcement Order, the Director shall monitor the violations and determine compliance.

Section 43. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 9 to read as follows:

DIVISION 9

Administrative Citations

Section 44. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by

amending and renumbering Section 13.0340 to Section 12.0901 to read as follows:

SEC. 12.0901 Administrative Citations

Division 4 of Article 3 of Chapter I governs the procedures relating to administrative citations.

Section 45. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0341 to Section 12.0902 to read as follows:

SEC. 12.0902 Declaration of Purpose

The Council finds that there is a need for an alternative method of enforcement for minor violations of the Municipal Code and applicable state codes. The Council further finds that an appropriate method of enforcement for minor violations is an administrative citation program.

The procedures established in this Division 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 or applicable state codes.

Section 46. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0343 to Section 12.0903 to read as follows:

SEC. 12.0903 Authority

(a) Any person violating any minor provisions of the Municipal Code or applicable state code may be issued an

administrative citation by an Enforcement Official as provided in this Division.

(b) Each and every day a minor violation of the Municipal Code or applicable state code exists constitutes a separate and distinct offense.

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

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

Section 47. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0344 to Section 12.0904 to read as follows:

SEC. 12.0904 Procedures

(a) Upon discovering any minor violation of the Municipal Code or applicable state codes, an Enforcement Official may issue an administrative citation to a Responsible Person in the manner prescribed in this Division. The administrative citation shall be issued on a form approved by the City Manager.

(b) If the Responsible Person is a business, the Enforcement Official shall attempt to locate the business owner and issue the business owner an administrative

citation. If the Enforcement Official can only locate the manager of the business, the administrative citation may be given to the manager of the business. A copy of the administrative citation shall also be mailed to the business owner or Responsible Person in the manner prescribed by Section 11.0301(a)(2) of this Chapter.

(c) Once the Responsible Person is located, the Enforcement Official shall attempt to obtain the signature of that person on the administrative citation. If the Responsible Person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation and subsequent proceedings.

(d) If the Enforcement Official is unable to locate the Responsible Person for the violation, then the administrative citation shall be mailed to the Responsible Person in the manner prescribed in Section 11.0301(a)(2) of this Chapter.

(e) If no one can be located at the property, then the administrative citation shall be posted in a conspicuous place on or near the property and a copy subsequently mailed to the Responsible Person in the manner prescribed by Section 11.0301(a)(2) of this Chapter.

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

(g) The administrative citation shall be mailed to the Responsible Person in the manner prescribed by Section 11.0301(a)(2) of this Chapter. The failure of any person with an interest in the property to receive notice shall not affect the validity of any proceedings taken under this Division.

Section 48. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0345 to Section 12.0905 to read as follows:

SEC. 12.0905 Contents of Notice

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

(b) The administrative citation shall refer to the code sections violated and describe how the sections are violated.

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

(d) The administrative citation shall require the Responsible Person to immediately correct the violations and shall explain the consequences of failure to correct the violations.

(e) The administrative citation shall state the amount of penalty imposed for the violations.

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

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

(h) The citation shall contain the signature of the Enforcement Official and the signature of the Responsible Person if they can be located, as outlined in subsection 12.0904(c).

Section 49. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0346 to Section 12.0906 to read as follows:

SEC. 12.0906 Appeal of Administrative Citation

An appeal of an administrative citation shall follow the procedures set forth in Division 5, Article 2 of Chapter I.

Section 59. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by adding Section 12.0907 to read as follows:

SEC. 12.0907 Administrative Enforcement Order

(a) The appeal hearing shall follow the enforcement hearing procedures set forth in Division 4, Article 2 of Chapter I.

(b) As part of the Administrative Enforcement Order, the Enforcement Hearing Officer may reduce, waive or conditionally reduce the penalties or late fees assessed by the citation.

(c) The Enforcement Hearing Officer may also impose conditions and deadlines to correct the violations or require payment of any outstanding penalties.

(d) The Enforcement Hearing Officer may assess reasonable administrative costs.

Section 51. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0347 to Section 12.0908 to read as follows:

SEC. 12.0908 Penalties Assessed

(a) The Director shall establish policies to assist in the assessment of civil penalties for administrative citations.

(b) If the Responsible Person fails to correct the violation, subsequent administrative citations may be issued for the same violations. The amount of the penalty shall increase at a rate specified in this Division.

(c) The penalties assessed for each administrative citation issued for the same violations shall not exceed the following amounts regardless of the number of minor violations per citation:

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

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

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

Section 52. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by adding Section 12.0909 to read as follows:

SEC. 12.0909 Failure To Pay Penalties

The failure of any person to pay the civil penalties assessed by an administrative citation within the time specified on the citation may result in the Director referring the matter to the City Treasurer to file a claim with the Small Claims Court. Alternatively, the Director may pursue any other legal remedy to collect the civil penalties as provided in Section 13.0401 of this Chapter.

Section 53. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0348 to Section 12.0910 to read as follows:

SEC. 12.0910 Allocation of Administrative Penalties

Administrative civil penalties collected pursuant to this Division shall be deposited in the civil penalties fund established pursuant to Section 13.0402 of this Chapter.

Section 54. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 10 to read as follows:

DIVISION 10

Recordation of Notices of Violation

Section 55. That Chapter I, Article 2, Division 10 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0361 to Section 12.1001 to read as follows:

SEC. 12.1001 Recordation of Notices of Violation

Division 10 of Article 2 of Chapter I governs the procedures relating to the issuance and recordation of administrative Notices of Violation.

Section 56. That Chapter I, Article 2, Division 10 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0362 to Section 12.1002 to read as follows:

SEC. 12.1002 Declaration of Purpose

The Council finds that there is a need for alternative methods of enforcement for violations of the Municipal Code and applicable state codes which are found to exist on real property. The Council further finds that an appropriate

method of enforcement for these types of violations is the issuance and recordation of Notices of Violation.

The procedures established in this Division shall be in addition to criminal, civil, or any other remedy established by law which may be pursued to address violations of the Municipal Code or applicable state codes.

Section 57. That Chapter I, Article 2, Division 10 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0364 to Section 12.1003 to read as follows:

SEC. 12.1003 Procedures for Recordation

(a) Once a Director has issued a Notice of Violation to a Responsible Person and the property remains in violation after the deadline established in the Notice of Violation, the Director may record a Notice of Violation with the Recorder's Office of San Diego County.

(b) Before recordation, the Director shall provide to the Responsible Person a letter stating that a Notice of Violation will be recorded unless a written request to appeal pursuant to the procedures outlined in this Division is filed. The letter shall be served pursuant to any of the methods of service set forth in Section 11.0301 of this Code. The Director may also send a courtesy copy of the letter to any applicable financial institution.

(c) If the Director does not receive the written request to appeal pursuant to the procedures set forth in

this Division, the Director may record the Notice of Violation if the violations remain.

(d) The recorded Notice of Violation shall include the name of the property owner's assessor's parcel number, the parcel's legal description, and a copy of the latest Notice of Violation.

Section 58. That Chapter I, Article 2, Division 10 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0365 to Section 12.1004 to read as follows:

SEC. 12.1004 Service of Notice of Violation

A copy of the recorded Notice of Violation shall be served on the Responsible Person and property owner pursuant to any of the methods of service set forth in Section 11.0301 of this Code.

Section 59. That Chapter I, Article 2, Division 10 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0366 to Section 12.1005 to read as follows:

SEC. 12.1005 Procedures to Appeal Recordation

(a) An appeal of the Director's letter to record the Notice of Violation shall follow the procedures set forth in Division 5, Article 2 of Chapter I.

(b) Upon receiving a written appeal, the Director shall request the City Manager to schedule a hearing pursuant to the procedures set forth in Division 5, Article

2 of Chapter I. The purpose of the hearing is for the Responsible Person or property owner to state any reasons why a Notice of Violation should not be recorded.

(c) The failure of any person to file an appeal in accordance with these provisions shall constitute a waiver of the right to an administrative hearing and shall not affect the validity of the recorded Notice of Violation.

Section 60. That Chapter I, Article 2, Division 10 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0367 to Section 12.1006 to read as follows:

SEC. 12.1006 Appeal Hearing

(a) The appeal hearing shall follow the hearing procedures as set forth in Division 4 of Article 2 of Chapter I.

(b) At the appeal hearing, the Enforcement Hearing Officer shall only consider evidence that is consistent with the City Manager's rules and procedures for administrative enforcement hearings and that is relevant to the following issues:

(1) Whether the conditions listed in the Notice of Violation violate the Municipal Code or applicable state codes; and

(2) Whether the Director afforded the Responsible Person with due process by adhering to the notification procedures specified in this Division.

(c) If the Enforcement Hearing Officer affirms the Director's decision, the Director may proceed to record the Notice of Violation.

(d) If the Enforcement Hearing Officer determines that recordation is improper, the Enforcement Hearing Officer shall invalidate the Director's decision to record the Notice of Violation.

Section 61. That Chapter I, Article 2, Division 10 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0370 to Section 12.1007 to read as follows:

SEC. 12.1007 Notice of Compliance--Procedures

(a) When the violations listed on the Notice of Violation have been corrected, the Responsible Person or property owner may file with the Director a written request for a Notice of Compliance on a form provided by the City.

(b) Once the Director receives this request, the Director shall reinspect the property within thirty (30) calendar days to determine whether the violations listed in the Notice of Violation have been corrected and whether all necessary permits have been issued and final inspections have been performed.

(c) The Director shall serve a Notice of Compliance to the Responsible Person or property owner in the manner provided in Section 11.0301 of this Code if the Director determines that: (1) all violations listed in the recorded

Notice of Violation have been corrected; and (2) all necessary permits have been issued and finalized; and (3) all civil penalties assessed against the property have been paid; and (4) the party requesting the Notice of Compliance has paid an administrative fee to reimburse the City for all administrative costs.

(d) Administrative costs may include costs incurred in the investigation, inspection, reinspection, title search, appeal hearing, and any other processing costs associated with the violations specified on the Notice of Violation.

(e) If the Director denies a request to issue a Notice of Compliance, the Director shall serve the Responsible Person or property owner with a written explanation setting forth the reasons for the denial. The written explanation shall be served by any of the methods of service listed in Section 11.0301 of this Code.

(f) The Director's decision denying a request to issue a Notice of Compliance constitutes the final decision in the matter and is not appealable.

Section 62. That Chapter I, Article 2, Division 10 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0369 to Section 12.1008 to read as follows:

SEC. 12.1008 Prohibition Against Issuance of Municipal Permits

The City of San Diego may withhold permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property, or any permits pertaining to the use and development of the real property or the structure: 1) if a request to appeal has not been timely filed; or 2) after an Enforcement Hearing Officer affirms the Director's decision to record a Notice of Violation. The City may withhold permits until a Notice of Compliance has been issued by the Director. The City may not withhold permits which are necessary to obtain a Notice of Compliance or which are necessary to correct serious health and safety violations.

Section 63. That Chapter I, Article 2, Division 10 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0371 to Section 12.1009 to read as follows:

SEC. 12.1009 Cancellation of Recorded Notice of Violation

The Director, property owner or Responsible Person shall record the Notice of Compliance with the County Recorder's Office. The recordation of the Notice of Compliance shall have the effect of canceling the recorded Notice of Violation.

Section 64. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 11 to read as follows:

DIVISION 11

Mediation

Section 65. That Chapter I, Article 2, Division 11 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 12.1101 through 12.1105 to read as follows:

SEC. 12.1101 Declaration of Purpose

The Council finds there is a need for mediation and other forms of dispute resolution as a means to gain compliance with provisions of the San Diego Municipal Code and applicable federal and state codes. The Council further declares that public policy facilitation can be an effective technique to avoid disputes by developing consensus amongst stakeholders on controversial issues. Both mediation and facilitation can often resolve disputes in a more efficient and effective manner without the necessity of more formal administrative action or litigation. The Council further finds that mediation and facilitation can foster better relations among and with the citizenry of San Diego and enhance the reputation of the City.

SEC. 12.1102 Definitions

For purposes of Division 11, the following definitions shall apply:

"Enforcement Case" means any complaint or case on file with a City Department that involves alleged violations of the Municipal Code or applicable provisions of state or federal law.

"Disputing Party" means any person responsible for alleged violations, interested or involved citizens who may have complained to the City about the alleged violations, crime victims and appropriate representatives from the City Department.

"Facilitation" means a process whereby a neutral third party conducts one or a series of meetings or sessions between and amongst relevant Stakeholders to a particular dispute or controversial issue or policy with the purpose of improving communication and developing consensus about possible solutions.

"Mediation" means a meeting between or among disputing parties to clarify their differences and design their own mutually acceptable agreement, with the assistance of a Mediator.

"Mediator" means a neutral third party who has received at least 25 hours of mediation training from a reputable mediation program recognized by the City of San Diego.

"Referring Agency" means a Director of a City Department, the City Manager, the City Attorney or one of their designees.

"Stakeholder" means any person or organization or association that is directly affected by a particular issue or policy.

SEC. 12.1103 Procedures

The Referring Agency may refer Enforcement Cases and other types of disputes and controversies to a neutral third party to schedule and coordinate a Mediation or Facilitation as may be appropriate.

SEC. 12.1104 Confidentiality

All documents and results related to Mediations and Facilitations held pursuant to this Division shall be kept confidential in any subsequent administrative or judicial proceeding. The provisions of California Evidence Code Sections 1152 and 1152.5 and other laws pertaining to confidentiality and disclosure shall apply to Mediations and Facilitations held pursuant to this Division.

SEC. 12.1105 Enforcement

Failure by any of the Disputing Parties to participate in a Mediation or to comply with the terms of the Mediation agreement does not preclude any of the parties from pursuing further administrative or legal action as provided by law.

Section 66. That Chapter I, Article 3, Division 1 of the San Diego Municipal Code be and the same is hereby amended by retitling Article 3 and Division 1 to read as follows:

ARTICLE 3

Recovery of Code Enforcement Penalties and Costs

DIVISION 1

Reinspection Fees

Section 67. That Chapter I, Article 3, Division 1 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0401 to Section 13.0101 to read as follows:

SEC. 13.0101 Reinspection Fees

Division 1 of Article 3 of Chapter I governs the general procedures for recovering reinspection fees assessed by City Departments unless provisions of this Code establish a specific reinspection fee procedure.

Section 68. That Chapter I, Article 3, Division 1 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0402 to Section 13.0102 to read as follows:

SEC. 13.0102 Declaration of Purpose

(a) The Council finds there is a need to recover costs incurred by Enforcement Officials and other City personnel who spend considerable time inspecting and reinspecting properties throughout San Diego in an effort to ensure compliance with the Municipal Code or applicable state codes.

(b) The Council further finds the assessment of a reinspection fee is an appropriate method to recover costs

incurred for additional inspections made by City personnel. The assessment and 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 applicable state codes.

Section 69. That Chapter I, Article 3, Division 1 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0404 to Section 13.0103 to read as follows:

SEC. 13.0103 Authorization

(a) Whenever an Enforcement Official reinspects a property to determine compliance with provisions of the Municipal Code and applicable state codes which have been listed in a Notice of Violation, the Director may assess a reinspection fee against the Responsible Person.

(b) Reinspection fees may be assessed for each inspection of the property after the issuance of a Notice of Violation.

Section 70. That Chapter I, Article 3, Division 1 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0406 to Section 13.0104 to read as follows:

SEC. 13.0104 Assessment of Reinspection Fees

A reinspection fee schedule shall be established and revised as necessary by the City Manager 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.

Section 71. That Chapter I, Article 3, Division 1 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0407 to Section 13.0105 to read as follows:

SEC. 13.0105 Notification of Assessment of Reinspection Fees

(a) Where the assessment of reinspection fees is authorized under this Division, the Director of the appropriate Department shall provide the Responsible Person with a written notice assessing reinspection fees. The written assessment shall contain the following information:

- (1) the amount of fees charged; and
- (2) the corresponding dates when reinspection took place; and
- (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 of the reinspection fee assessment shall be provided to the Responsible Person by any of the means outlined in Section 11.0301 of this Code.

(c) Reinspection fees may be assessed as part of any judicial or administrative enforcement action as provided for in this Chapter.

(d) Reinspection fees assessed or collected pursuant to this Division shall not be duplicated in any other action to recover these identical costs.

(e) The failure of any Responsible Person to receive notice of the reinspection fees shall not affect the validity of any fees imposed under this Division.

Section 72. That Chapter I, Article 3, Division 1 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0408 to Section 13.0106 to read as follows:

SEC. 13.0106 Failure to Pay Reinspection Fee

The failure of any person to pay an assessed reinspection fee by the deadline specified in the written notice described in Section 13.0105 shall result in the assessment of an additional late fee. The amount of the late fee shall be established by the City Manager and may be revised as appropriate from time to time.

Section 73. That Chapter I, Article 3, Division 1 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0409 to Section 13.0107 to read as follows:

SEC. 13.0107 Collection 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

Division 2 of Article 3 of Chapter I. 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 fees and associated collection costs.

Section 74. That Chapter I, Article 3 of the San Diego Municipal Code be and the same is hereby amended by retitling Division 2 to read as follows:

DIVISION 2

Code Enforcement Liens

Section 75. That Chapter I, Article 3, Division 2 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0420 to Section 13.0201 to read as follows:

SEC. 13.0201 Code Enforcement Liens--Procedures

Division 2 of Article 3 of Chapter I governs the procedures relating to the recordation of Code Enforcement Liens.

Section 76. That Chapter I, Article 3, Division 2 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0421 to Section 13.0202 to read as follows:

SEC. 13.0202 Declaration of Purpose

The Council finds that recordation of Code Enforcement Liens will assist in the collection of civil penalties, abatement costs, administrative costs and reinspection fees assessed by administrative citations, administrative

hearings, judicial orders and other appropriate code enforcement actions. The Council further finds that collection of civil penalties, costs and fees 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 this Division shall be used to complement existing administrative or judicial remedies which may be pursued to address violations of the Municipal Code or applicable state codes.

Section 77. That Chapter I, Article 3, Division 2 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0423 to Section 13.0203 to read as follows:

SEC. 13.0203 Procedures--Generally

(a) Once a final administrative decision or judicial order establishes the amount of civil penalties, abatement costs, administrative fees and costs assessed against a Responsible Person for code violations, the Director may record a Code Enforcement Lien against any real property owned by the Responsible Person.

(b) Before recordation, the Director shall provide to the Responsible Person a written notice informing him or her that a Code Enforcement Lien will be recorded unless the City receives full payment for the outstanding amount of civil penalties, costs and fees within the time period

prescribed in the notice. Payment shall be due a minimum of ten (10) calendar days from the date of the mailing.

(c) The Director shall serve this notice by any one of the methods of service set forth in Section 11.0301 of this Code.

(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, assessor's parcel number, the parcel's legal description, the total amount of civil penalties, costs and fees 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, costs and fees.

(f) A copy of the recorded Code Enforcement Lien shall be served upon the Responsible Person by one of the methods of service set forth in Section 11.0301 of this Code.

(g) The failure of any person with a financial 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.

Section 78. That Chapter I, Article 3, Division 2 of the San Diego Municipal Code be and the same is hereby amended by adding Section 13.0204 to read as follows:

SEC. 13.0204 Nuisance Abatement Lien

The Director may assess a nuisance abatement lien pursuant to Government Code Section 38773.1 by following the procedures set forth in this Division for Code Enforcement Liens and the requirements set forth below:

(a) Prior notice shall be served upon the owner of the parcel abated by the City before recordation of lien.

(b) Prior notice shall be served in the same manner as a summons in a civil action.

(c) If the owner cannot be found after a diligent search, the notice can be posted on the property for a period of ten (10) calendar days and the notice must be published in a general circulation newspaper.

(d) A nuisance abatement lien shall be recorded in the County Recorder's Office in the county in which the parcel of land is located and from the date of recording shall have the force, effect, and priority of a judgment lien.

(1) A nuisance abatement lien shall specify the amount of the lien, the name and address of the responsible City Department, the date of the abatement order, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed,

and the name and address of the recorded owner of the parcel.

(2) In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in Section 13.0204(d)(1) shall be recorded by the Director.

(e) A nuisance abatement lien may be foreclosed by an action brought by the City for a money judgment.

(f) The City may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.

Section 79. That Chapter I, Article 3 of the San Diego Municipal Code be and the same is hereby amended by retitling Division 3 to read as follows:

DIVISION 3

Recovery of Abatement Costs

Section 80. That Chapter I, Article 3, Division 3 of the San Diego Municipal Code be and the same is hereby amended by repealing Section 13.0301.

Section 81. That Chapter I, Article 3, Division 3 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 13.0301 and 13.0302 to read as follows:

SEC. 13.0301 Procedures for Recovering Costs of Abatement

Division 3, Article 3 of Chapter I governs the procedures for the recovery of all administrative and actual costs incurred by the City in the administrative or summary abatement of a public nuisance pursuant to the procedures and authority found in Divisions 5 and 6, Article 2 of Chapter I.

SEC. 13.0302 Confirmation of Costs Hearing

(a) After the City has abated a public nuisance, the Director shall request the City Manager to schedule a confirmation of costs hearing in accordance with the administrative enforcement hearing procedures set forth in Division 4, Article 2 of Chapter I. A confirmation of cost hearing is also appropriate if the City incurred abatement preparation costs before a Responsible Person voluntarily abated the public nuisance.

(b) A notice of the date, time and place of the confirmation of costs hearing shall be served on the Responsible Person at least ten (10) calendar days prior to the scheduled hearing by any one of the methods set forth in Section 11.0301.

(c) A copy of the report describing the work performed and an itemized account of the total abatement costs prepared pursuant to Section 12.0606 of this Chapter shall also be served on the Responsible Person at least ten (10)

calendar days prior to the scheduled hearing by any one of the methods set forth in Section 11.0301.

(d) The Enforcement Hearing Officer at the confirmation of costs hearing shall limit the scope of review to the Director's report describing the work performed and the itemized account of costs together with any objections to its accuracy. The Enforcement Hearing Officer may make such revisions, corrections or modifications in the report or the account as may be just and reasonable.

(e) The Enforcement Hearing Officer may issue an order which assesses the costs as either a personal obligation against the Responsible Person or a special assessment against the real property abated by the City.

(f) At the confirmation of costs hearing, the Enforcement Hearing Officer shall not consider evidence regarding the merits of the previous abatement hearing or review the decision ordering the administrative or summary abatement.

(g) The Enforcement Hearing Officer's order confirming or modifying the amount of costs incurred by the City in performing the abatement shall be final.

Section 82. That Chapter I, Article 3, Division 3 of the San Diego Municipal Code be and the same is hereby amended by repealing Section 13.0303.

Section 83. That Chapter I, Article 3, Division 3 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 13.0303 and 13.0304 to read as follows:

SEC. 13.0303 Recovery of Abatement Costs as a Personal Obligation

If the Enforcement Hearing Officer orders that abatement costs be charged as a personal obligation of the Responsible Person, the Director shall collect the obligation by use of all appropriate legal means. This may include the recordation of a Code Enforcement Lien against any real property owned by the Responsible Person pursuant to the provisions set forth in Division 2, Article 3 of Chapter I. If unable to collect this obligation, the Director may refer the case to the City Treasurer or refer it to the City Attorney to file a court action to recover the costs.

SEC. 13.0304 Recovery of Abatement Costs by Special Assessment

(a) If the Enforcement Hearing Officer orders that abatement costs shall be charged against the property, the Director shall prepare a notice of special assessment.

(b) The Director shall deliver the notice of special assessment to the County Auditor who shall place it on the County Assessment Roll pursuant to Government Code Section 38773.5.

(c) The notice of special assessment shall include a copy of the Enforcement Hearing Officer's confirmation of costs order and shall summarize the abatement action. The Director may record a copy of this special assessment notice to inform any subsequent purchasers or owners about this abatement action and costs.

(d) The Director shall file a withdrawal of this notice with the County Recorder when either: (1) the Responsible Person pays in full the abatement costs; or (2) the County Auditor or Tax Collector posts a lien on the property pursuant to Government Code Section 38773.5.

Section 84. That Chapter I, Article 3, Division 3 of the San Diego Municipal Code be and the same is hereby amended by repealing Section 13.0305.

Section 85. That Chapter I, Article 3, Division 3 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 13.0305, 13.0306 and 13.0307 to read as follows:

SEC. 13.0305 Collection of Assessment--Penalties and Foreclosure

Pursuant to the provisions of Government Code Section 38773.5 the County Tax Collector may collect the amount of the assessment at the same time and in the same manner as ordinary municipal taxes, and impose the same penalties and procedures, including the sale of the property, in case of delinquency, as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of

property taxes shall be applicable to the special assessment. The provisions of Government Code Sections 38772 through 38773.5, and any amendments to those sections, are hereby incorporated by reference and made a part of this Division.

SEC. 13.0306 Nuisance Abatement Lien

As an alternative to the recovery of abatement costs by special assessment as set forth in Sections 13.0304 and 13.0305 of this Division, the Director can record a nuisance abatement lien pursuant to the provisions set forth in Division 2 of Article 3 of Chapter I.

SEC. 13.0307 Repayment to Nuisance Abatement Superfund

All monies recovered by payment of the charge or assessment or from the sale or transfer of the property shall be paid to the City Treasurer who shall credit the appropriate amount to the Nuisance Abatement Superfund and reimburse the Department where appropriate.

Section 86. That Chapter I, Article 3, Division 3 of the San Diego Municipal Code be and the same is hereby amended by renumbering Section 13.0320 to Section 13.0308 to read as follows:

SEC. 13.0308 Nuisance Abatement Superfund

[No change in text.]

Section 87. That Chapter I, Article 3, Division 3 of the San Diego Municipal Code be and the same is hereby amended by

repealing Sections 13.0330, 13.0332, 13.0335, 13.0342, 13.0363, 13.0368 and 13.0372.

Section 88. That Chapter I, Article 3 of the San Diego Municipal Code be and the same is hereby amended by retitling Division 4 to read as follows:

DIVISION 4

Recovery of Civil Penalties

Section 89. That Chapter I, Article 3, Division 4 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0337 to Section 13.0401 to read as follows:

SEC. 13.0401 Recovery of Civil Penalties

(a) The Director may collect all civil penalties and related 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 the procedures set forth in Division 2, Article 3 of Chapter I. 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 penalties and costs.

Section 90. That Chapter I, Article 3, Division 4 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0338 to Section 13.0402 to read as follows:

SEC. 13.0402 Code Enforcement Civil Penalties Fund

Civil penalties collected pursuant to this Division shall be deposited in the Code Enforcement Civil Penalties Fund as established by the City Manager for the enhancement of the City's code enforcement efforts and to reimburse City Departments for investigative costs and costs associated with the hearing process that are not paid by the Responsible Person. Civil penalties deposited in this fund shall be appropriated and allocated in a manner determined by the City Manager. The City Auditor shall establish accounting procedures to ensure proper account identification, credit and collection.

Section 91. That Chapter I, Article 3, Division 4 of the San Diego Municipal Code be and the same is hereby amended by repealing Sections 13.0403, 13.0405, 13.0422 and 13.0424.

Section 92. That Chapter II, Article 2, Division 1, Section 29.0115 of the San Diego Municipal Code is hereby amended by renumbering Section 13.0201 appearing within the text of that section to read Section 12.0201.

Section 93. That Chapter III, Article 3, Division 1, Section 33.0105 of the San Diego Municipal Code is hereby amended by renumbering Section 13.0201 appearing within the text of that section to read Section 12.0201.

Section 94. That Chapter IV, Article 4, Division 3, Section 44.0300 of the San Diego Municipal Code is hereby amended by

renumbering Section 13.0201 appearing within the text of that section to read Section 12.0201.

Section 95. That Chapter V, Article 5, Division 8, Section 55.0889.0201 of the San Diego Municipal Code is hereby amended by renumbering Sections 13.0301 through 13.0306 appearing within the text of that section to read Sections 12.0601 through 12.0606.

Section 96. That the various sections listed below in Chapter VI, Articles 3 and 7 of the San Diego Municipal Code are hereby amended by renumbering Section 13.0201 appearing within the text of those sections to read Section 12.0201:

<u>Article</u>	<u>Division</u>	<u>Section(s)</u>
3	8	63.08
3	17	63.17.15, 63.17.16
7	38	67.38.7

Section 97. That Chapter VI, Article 4, Division 3, Section 64.0301 of the San Diego Municipal Code is hereby amended by renumbering Section 13.0301 appearing within the text of that section to read Sections 12.0801 through 12.0810.

Section 98. That Chapter VI, Article 7, Division 38, Section 67.38.7 of the San Diego Municipal Code is hereby amended by renumbering Section 13.0202 appearing within the text of that section to read Section 12.0202.

Section 99. That Chapter VI, Article 7, Division 38, Section 67.38.7 of the San Diego Municipal Code is hereby amended by deleting reference to Chapter I, Division 3 appearing within the text to read Chapter I.

Section 100. That Chapter VI, Article 9, Division 2, Section 69.0218 of the San Diego Municipal Code is hereby amended by deleting reference to Chapter I, Article 3 appearing within the text to read Chapter I.

Section 101. That the various sections listed below in Chapter VIII, Articles 4 and 6 of the San Diego Municipal Code are hereby amended by renumbering Section 13.0201 appearing within the text of those sections to read Section 12.0201:

<u>Article</u>	<u>Division</u>	<u>Section(s)</u>
4	16	84.1609
4	17	84.1709
6	20	86.2014

Section 102. That the various sections listed below in Chapter IX, Articles 3 and 5 of the San Diego Municipal Code are hereby amended by renumbering Section 13.0201 appearing within the text of those sections to read Section 12.0201:

<u>Article</u>	<u>Division</u>	<u>Section(s)</u>
3	2	93.0208
5	1	95.0110

Section 103. That Chapter IX, Article 3, Division 2, Section 93.0208 of the San Diego Municipal Code is hereby amended by amending reference to Chapter I, Article 3 appearing within the text to read Chapter I, Article 2.

Section 104. That the various sections listed below in Chapter X, Articles 1 and 2 of the San Diego Municipal Code are hereby amended by renumbering Section 13.0201 appearing within the text of those sections to read Section 12.0201:

<u>Article</u>	<u>Division</u>	<u>Section(s)</u>
1	3	101.0304
1	4	101.0406, 101.0462
1	13	101.1309
2	7	102.0700

Section 105. That Chapter X, Article 1, Division 4, Section 101.0463 of the San Diego Municipal Code is hereby amended by renumbering Sections 13.0201 and 13.0202 appearing within the text of that section to read Sections 12.0201 through 12.0202.

Section 106. That Chapter X, Article 1, Division 4, Section 101.0463 of the San Diego Municipal Code is hereby amended by renumbering references to Article 3 appearing within the text of that section to read Article 2.

Section 107. That Chapter X, Article 1, Division 4, Section 101.0463 of the San Diego Municipal Code is hereby amended by renumbering Section 11.0301 appearing within the text of that section to read Section 11.0210.

Section 108. That Chapter X, Article 1, Division 4, Section 101.0463 of the San Diego Municipal Code is hereby amended by renumbering Section 101.0212F appearing within the text of that section to read Section 101.0212.

Section 109. That Chapter X, Article 1, Division 5, Section 101.0518 of the San Diego Municipal Code is hereby amended by renumbering Section 11.12 appearing within the text of that section to read Section 12.0201.

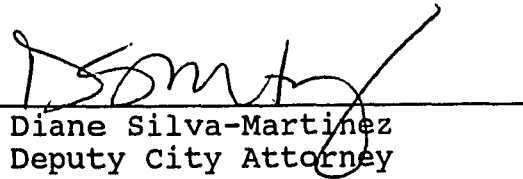
Section 110. That Chapter X, Article 1, Division 5, Section 101.0518 of the San Diego Municipal Code is hereby amended by renumbering Section 11.19 appearing within the text of that section to read Sections 12.0801 through 12.0810.

Section 111. The enforcement powers, procedures and remedies enacted in this ordinance shall apply to violations that existed before the effective date of this ordinance. The new administrative hearing and notice procedures enacted in this ordinance shall apply to pending administrative enforcement actions and hearings and shall supersede prior enforcement procedures. This ordinance shall have retroactive effect since it provides the participants with greater due process protection than existing enforcement hearing and notice procedures.

Section 112. 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


Diane Silva-Martinez
Deputy City Attorney

JMS:DSM:MJL:lmk:mac
06/08/93
02/27/96 corrected copy
Or.Dept:Atty
O-93-179
Form=o+t

RECEIVED
DISTRICT CLERK'S OFFICE
96 HNR-1 RM 10:42
SAN DIEGO, CALIF.



Passed and adopted by the Council of The City of San Diego on AUG 10 1993
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Behr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<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"/>
Juan Vargas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

(Seal)

SUSAN GOLDING
Mayor of The City of San Diego, California.

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

By Mary Cepeda, 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

JUL 13 1993

AUG 10 1993

....., and on

~~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.

By Mary Cepeda, Deputy.

(Seal)

Office of the City Clerk, San Diego, California

Ordinance Number 0-17956 Adopted AUG 10 1993

CERTIFICATE OF PUBLICATION

RECEIVED
CITY CLERK
93 AUG 24 AM 9:59
SAN DIEGO, CALIF. P

OFFICE OF THE CITY CLERK
202 C STREET, 2ND FLOOR
CITY ADM. BLDG.
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

AN ORDINANCE FIXING THE TAX RATES AND...

ORDINANCE NUMBER O-17955

AN ORDINANCE FIXING THE TAX RATES AND LEVYING TAXES FOR THE FISCAL YEAR 1993-94

This ordinance fixes and establishes tax rates and levies taxes for the City of San Diego for fiscal year 1993-94, pursuant to the requirements of section 75 of the Charter of The City of San Diego.

A complete copy of the ordinance is available for inspection in the office of the City Clerk of the City of San Diego, Second floor, City Administration Building, 202 "C" Street, San Diego, Ca 92101

Passed and adopted by the Council of The City of San Diego on AUG 10 1993, by the following vote:

YEAS: HARTLEY, STEVENS, BEHR, STALLINGS, MCCARTY, VARGAS, MAYOR GOLDING.

NAYS: NONE

NOT PRESENT: WOLFSHEIMER, ROBERTS

AUTHENTICATED BY:

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

(Seal)

By MARY CEPEDA, Deputy

I HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of ORDINANCE NO. O-17955 (NEW SERIES) of The City of San Diego, California.

I FURTHER CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on AUG 10 1993, said ordinance being of the kind and character authorized for passage on its introduction by Section 18 of the Charter.

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
By MARY CEPEDA, Deputy

Pub. Aug. 23

277510

I, Corey Donahue, 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-17955

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:

AUG. 23

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

Dated at San Diego, California this 23rd day of AUG., 19 93.

Corey Donahue
(Signature)

3 3/4" x 2 = \$ 99.84

A

(O-93-179)

ORDINANCE NUMBER O- 17956 (NEW SERIES)

ADOPTED ON AUG 10 1993

AN ORDINANCE AMENDING CHAPTER I, ARTICLE 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING THE TITLE OF ARTICLE 1; AND RETITLING DIVISION 2; AND AMENDING SECTION 11.0205; AMENDING SECTION 11.0206; ADDING SECTION 11.0208; ADDING SECTION 11.0209; AMENDING AND RENUMBERING SECTION 11.0301 TO SECTION 11.0210; AND RETITLING DIVISION 3; AND ADDING SECTION 11.0301; RETITLING, AMENDING AND RENUMBERING SECTION 12.0102 TO SECTION 11.0302; AMENDING AND RENUMBERING SECTION 12.0103 TO SECTION 11.0303; AND ADDING DIVISION 4; AND RENUMBERING SECTION 13.0101 TO SECTION 11.0401; RENUMBERING SECTION 11.0102 TO SECTION 11.0402; AND RETITLING ARTICLE 2 AND DIVISION 1; AND REPEALING SECTION 12.0101; ADDING SECTIONS 12.0101, 12.0102, 12.0103, 12.0104 AND 12.0105; AND ADDING DIVISION 2; RETITLING AND RENUMBERING SECTION 13.0201 TO SECTION 12.0201; RETITLING AND RENUMBERING SECTION 13.0202 TO SECTION 12.0202; ADDING SECTIONS 12.0203, 12.0204 AND 12.0205; AND ADDING DIVISION 3; AND ADDING SECTIONS 12.0301, 12.0302, 12.0303 AND 12.0304; AND ADDING DIVISION 4; AND ADDING SECTIONS 12.0401 THROUGH 12.0413; AND ADDING DIVISION 5; AND ADDING SECTIONS 12.0501, 12.0502 AND 12.0503; AND ADDING DIVISION 6; AND RETITLING, AMENDING AND RENUMBERING SECTION 13.0302 TO SECTION 12.0601; RETITLING, AMENDING AND RENUMBERING SECTION 13.0304 TO SECTION 12.0602; ADDING SECTIONS 12.0603, 12.0604, 12.0605 AND 12.0606; AND ADDING DIVISION 7; AND ADDING SECTION 12.0701; RETITLING, AMENDING AND RENUMBERING SECTION 13.0306 TO SECTION 12.0702; ADDING SECTION 12.0703; AND ADDING DIVISION 8; AND AMENDING AND RENUMBERING SECTION 13.0330 TO SECTION 12.0801; AMENDING AND RENUMBERING SECTION 13.0331 TO SECTION 12.0802; AMENDING AND RENUMBERING SECTION 13.0333 TO SECTION 12.0803; AMENDING AND RENUMBERING SECTION 13.0334 TO SECTION 12.0804; ADDING SECTIONS 12.0805, 12.0806, 12.0807, 12.0808 AND

A

(0-93-179)

ORDINANCE NUMBER O- 17956 (NEW SERIES)

ADOPTED ON AUG 10 1993

AN ORDINANCE AMENDING CHAPTER I, ARTICLE 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING THE TITLE OF ARTICLE 1; AND RETITLING DIVISION 2; AND AMENDING SECTION 11.0205; AMENDING SECTION 11.0206; ADDING SECTION 11.0208; ADDING SECTION 11.0209; AMENDING AND RENUMBERING SECTION 11.0301 TO SECTION 11.0210; AND RETITLING DIVISION 3; AND ADDING SECTION 11.0301; RETITLING, AMENDING AND RENUMBERING SECTION 12.0102 TO SECTION 11.0302; AMENDING AND RENUMBERING SECTION 12.0103 TO SECTION 11.0303; AND ADDING DIVISION 4; AND RENUMBERING SECTION 13.0101 TO SECTION 11.0401; RENUMBERING SECTION 11.0102 TO SECTION 11.0402; AND RETITLING ARTICLE 2 AND DIVISION 1; AND REPEALING SECTION 12.0101; ADDING SECTIONS 12.0101, 12.0102, 12.0103, 12.0104 AND 12.0105; AND ADDING DIVISION 2; RETITLING AND RENUMBERING SECTION 13.0201 TO SECTION 12.0201; RETITLING AND RENUMBERING SECTION 13.0202 TO SECTION 12.0202; ADDING SECTIONS 12.0203, 12.0204 AND 12.0205; AND ADDING DIVISION 3; AND ADDING SECTIONS 12.0301, 12.0302, 12.0303 AND 12.0304; AND ADDING DIVISION 4; AND ADDING SECTIONS 12.0401 THROUGH 12.0413; AND ADDING DIVISION 5; AND ADDING SECTIONS 12.0501, 12.0502 AND 12.0503; AND ADDING DIVISION 6; AND RETITLING, AMENDING AND RENUMBERING SECTION 13.0302 TO SECTION 12.0601; RETITLING, AMENDING AND RENUMBERING SECTION 13.0304 TO SECTION 12.0602; ADDING SECTIONS 12.0603, 12.0604, 12.0605 AND 12.0606; AND ADDING DIVISION 7; AND ADDING SECTION 12.0701; RETITLING, AMENDING AND RENUMBERING SECTION 13.0306 TO SECTION 12.0702; ADDING SECTION 12.0703; AND ADDING DIVISION 8; AND AMENDING AND RENUMBERING SECTION 13.0330 TO SECTION 12.0801; AMENDING AND RENUMBERING SECTION 13.0331 TO SECTION 12.0802; AMENDING AND RENUMBERING SECTION 13.0333 TO SECTION 12.0803; AMENDING AND RENUMBERING SECTION 13.0334 TO SECTION 12.0804; ADDING SECTIONS 12.0805, 12.0806, 12.0807, 12.0808 AND

12.0809; RETITLING, AMENDING AND RENUMBERING SECTION 13.0336 TO SECTION 12.0810; AND ADDING DIVISION 9; AND AMENDING AND RENUMBERING SECTION 13.0340 TO SECTION 12.0901; AMENDING AND RENUMBERING SECTION 13.0341 TO SECTION 12.0902; RETITLING, AMENDING AND RENUMBERING SECTION 13.0343 TO SECTION 12.0903; RETITLING, AMENDING AND RENUMBERING SECTION 13.0344 TO SECTION 12.0904; AMENDING AND RENUMBERING SECTION 13.0345 TO SECTION 12.0905; AMENDING AND RENUMBERING SECTION 13.0346 TO SECTION 12.0906; ADDING SECTION 12.0907; RETITLING, AMENDING AND RENUMBERING SECTION 13.0347 TO SECTION 12.0908; ADDING SECTION 12.0909; RETITLING, AMENDING AND RENUMBERING SECTION 13.0348 TO SECTION 12.0910; AND ADDING DIVISION 10; AND RETITLING, AMENDING AND RENUMBERING SECTION 13.0361 TO SECTION 12.1001; RETITLING, AMENDING AND RENUMBERING SECTION 13.0362 TO SECTION 12.1002; RETITLING, AMENDING AND RENUMBERING SECTION 13.0364 TO SECTION 12.1003; RETITLING, AMENDING AND RENUMBERING SECTION 13.0365 TO SECTION 12.1004; RETITLING, AMENDING AND RENUMBERING SECTION 13.0366 TO SECTION 12.1005; AMENDING AND RENUMBERING SECTION 13.0367 TO SECTION 12.1006; AMENDING AND RENUMBERING SECTION 13.0370 TO SECTION 12.1007; AMENDING AND RENUMBERING SECTION 13.0369 TO SECTION 12.1008; AMENDING AND RENUMBERING SECTION 13.0371 TO 12.1009; AND ADDING DIVISION 11; AND ADDING SECTIONS 12.1101 THROUGH 12.1105; AND RETITLING ARTICLE 3 AND DIVISION 1; AND AMENDING AND RENUMBERING SECTION 13.0401 TO SECTION 13.0101; RETITLING, AMENDING AND RENUMBERING SECTION 13.0402 TO SECTION 13.0102; RETITLING, AMENDING AND RENUMBERING SECTION 13.0404 TO SECTION 13.0103; RETITLING, AMENDING AND RENUMBERING SECTION 13.0406 TO SECTION 13.0104; RETITLING, AMENDING AND RENUMBERING SECTION 13.0407 TO SECTION 13.0105; AMENDING AND RENUMBERING SECTION 13.0408 TO SECTION 13.0106; RETITLING, AMENDING AND RENUMBERING SECTION 13.0409 TO SECTION 13.0107; AND RETITLING DIVISION 2; AND AMENDING AND RENUMBERING SECTION 13.0420 TO SECTION 13.0201; RETITLING, AMENDING AND RENUMBERING SECTION 13.0421 TO SECTION 13.0202; AMENDING AND RENUMBERING SECTION

13.0423 TO SECTION 13.0203; ADDING SECTION 13.0204; AND RETITLING DIVISION 3; AND REPEALING SECTION 13.0301; ADDING SECTIONS 13.0301 AND 13.0302; REPEALING SECTION 13.0303; ADDING SECTIONS 13.0303 AND 13.0304; REPEALING SECTION 13.0305; ADDING SECTIONS 13.0305, 13.0306 AND 13.0307; RENUMBERING SECTION 13.0320 TO SECTION 13.0308; REPEALING SECTIONS 13.0330, 13.0332, 13.0335, 13.0342, 13.0363, 13.0368 AND 13.0372; AND RETITLING DIVISION 4; AND AMENDING AND RENUMBERING SECTION 13.0337 TO SECTION 13.0401; AMENDING, RETITLING AND RENUMBERING SECTION 13.0338 TO SECTION 13.0402; REPEALING SECTIONS 13.0403, 13.0405, 13.0422 AND 13.0424; AMENDING CHAPTER II, ARTICLE 2, DIVISION 1, SECTION 29.0115 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0201; AMENDING CHAPTER III, ARTICLE 3, DIVISION 1, SECTION 33.0105 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0201; AMENDING CHAPTER IV, ARTICLE 4, DIVISION 3, SECTION 44.0300 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0201; AMENDING CHAPTER V, ARTICLE 5, DIVISION 8, SECTION 55.0889.0201 BY RENUMBERING SECTIONS 13.0301 THROUGH 13.0306 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTIONS 12.0601 THROUGH 12.0606; AMENDING CHAPTER VI, ARTICLES 3 AND 7, DIVISIONS 8, 17 AND 38, SECTIONS 63.08, 63.17.15, 63.17.16 AND 67.38.7 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THOSE SECTIONS TO READ SECTION 12.0201; AMENDING CHAPTER VI, ARTICLE 4, DIVISION 3, SECTION 64.0301 BY RENUMBERING SECTION 13.0301 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTIONS 12.0801 THROUGH 12.0810; AMENDING CHAPTER VI, ARTICLE 7, DIVISION 38, SECTION 67.38.7 BY RENUMBERING SECTION 13.0202 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0202; AMENDING CHAPTER VI, ARTICLE 7, DIVISION 38, SECTION 67.38.7 BY DELETING REFERENCE TO CHAPTER I, DIVISION 3 APPEARING WITHIN THE TEXT TO READ CHAPTER I; AMENDING CHAPTER VI, ARTICLE 9, DIVISION 2, SECTION 69.0218 BY DELETING REFERENCE TO CHAPTER I, ARTICLE 3 WITHIN THE TEXT TO READ CHAPTER I; AMENDING CHAPTER VIII, ARTICLES 4 AND 6,

DIVISIONS 16, 17 AND 20, SECTIONS 84.1609, 84.1709 AND 86.2014 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THOSE SECTIONS TO READ SECTION 12.0201; AMENDING CHAPTER IX, ARTICLES 3 AND 5, DIVISIONS 2 AND 1, SECTIONS 93.0208 AND 95.0110 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THOSE SECTIONS TO READ SECTION 12.0201; AMENDING CHAPTER IX, ARTICLE 3, DIVISION 2, SECTION 93.0208 BY AMENDING REFERENCE TO CHAPTER I, ARTICLE 3 APPEARING WITHIN THE TEXT TO READ CHAPTER I, ARTICLE 2; AMENDING CHAPTER X, ARTICLES 1 AND 2, DIVISIONS 3, 4, 13 AND 7, SECTIONS 101.0304, 101.0406, 101.0462, 101.1309 AND 102.0700 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THOSE SECTIONS TO READ SECTION 12.0201; AMENDING CHAPTER X, ARTICLE 1, DIVISION 4, SECTION 101.0463 BY RENUMBERING SECTIONS 13.0201 AND 13.0202 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTIONS 12.0201 THROUGH 12.0202; AMENDING CHAPTER X, ARTICLE 1, DIVISION 4, SECTION 101.0463 BY RENUMBERING REFERENCES TO ARTICLE 3 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ ARTICLE 2; AMENDING CHAPTER X, ARTICLE 1, DIVISION 4, SECTION 101.0463 BY RENUMBERING SECTION 101.0212F APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 101.0212; AMENDING CHAPTER X, ARTICLE 1, DIVISION 5, SECTION 101.0518 BY RENUMBERING SECTION 11.12 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0201; AMENDING CHAPTER X, ARTICLE 1, DIVISION 5, SECTION 101.0518 BY RENUMBERING SECTION 11.19 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTIONS 12.0801 THROUGH 12.0810; ALL RELATING TO ENFORCEMENT AUTHORITY, PROCEDURES AND REMEDIES TO ENFORCE THE SAN DIEGO MUNICIPAL CODE.

WHEREAS, the City Council adopted Council Policy No. 900-10, A Comprehensive Code Enforcement Program and Policy which recommended the consolidation of enforcement authority, remedies and procedures in Chapter I of the Municipal Code (City Manager's Report No. 91-387); and

WHEREAS, the City Manager and City Attorney presented a preliminary consolidation plan to the Committee on Transportation and Land Use on February 26, 1992 (City Manager's Report Nos. 92-74 and 92-66 of February 20, 1992 and City Attorney Report dated February 21, 1992); and

WHEREAS, the Committee on Transportation and Land Use on November 23, 1992 approved the City Attorney's plan to streamline and unify code enforcement authority, remedies and procedures in Chapters I, IV, V, VI, IX and X of the Municipal Code and also approved the City Manager's draft Administrative Regulations for administrative hearings; and

WHEREAS, the Committee on Transportation and Land Use approved the City Attorney's draft ordinances on April 21, 1993 and unanimously referred these amendments 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 I, Article 1 of the San Diego Municipal Code be and the same is hereby amended by amending the title of Article 1 to read as follows:

ARTICLE 1

Definitions and General Provisions

Section 2. That Chapter I, Article 1 of the San Diego Municipal Code be and the same is hereby amended by retitling Division 2 to read as follows:

DIVISION 2

Construction, Interpretation and Definitions

Section 3. That Chapter I, Article 1, Division 2 of the San Diego Municipal Code be and the same is hereby amended by amending Section 11.0205 to read as follows:

SEC. 11.0205 Validity of Code--Severability

If any section, subsection, sentence, clause, phrase, portion or provision of this Code is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Code. The Council of this City hereby declares that it would have adopted this Code and each section, subsection, sentence, clause, phrase, portion or provision thereof, irrespective of the fact that any one or more sections, subsections, clauses, phrases, portions or provisions be declared invalid or unconstitutional. This section shall apply to all amendments heretofore or hereafter made to this Code.

Section 4. That Chapter I, Article 1, Division 2 of the San Diego Municipal Code be and the same is hereby amended by amending Section 11.0206 to read as follows:

SEC. 11.0206 Conflicting Ordinances

If provisions of the Municipal Code are in conflict with each other, the more restrictive provisions shall apply.

Section 5. That Chapter I, Article 1, Division 2 of the San Diego Municipal Code be and the same is hereby amended by adding Section 11.0208 to read as follows:

SEC. 11.0208 No Mandatory Duty--Civil Liability

It is the intent of the City Council of the City of San Diego that any Municipal Code provision establishing performance standards or establishing an obligation to act by a City officer or employee, shall not be construed as creating a mandatory duty for purposes of tort liability, if the officers or employees fail to perform their directed duty or duties.

Section 6. That Chapter I, Article 1, Division 2 of the San Diego Municipal Code be and the same is hereby amended by adding Section 11.0209 to read as follows:

SEC. 11.0209 General Rules of Interpretation of Ordinances

For purposes of this Municipal Code:

- (a) Any gender includes the other gender.
- (b) "Shall" is mandatory; "may" is permissive.
- (c) The singular number includes the plural and the plural the singular.
- (d) Words used in the present tense include the past and future tense and vice versa.
- (e) Words and phrases used in this Code and not specifically defined shall be construed according to the context and approved usage of the language.

Section 7. That Chapter I, Article 1, Division 2 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 11.0301 to Section 11.0210 to read as follows:

SEC. 11.0210 Definitions Applicable To Code Generally

The following words and phrases whenever used in this Code shall be construed as defined in this section unless a different meaning is specifically defined elsewhere in this Code and specifically stated to apply:

"Abatement" means any action the City may take on public or private property and any adjacent property as may be necessary to remove or alleviate a nuisance, including but not limited to demolition, removal, repair, boarding and securing or replacement of property.

"Administrative Enforcement Order" means an order issued by an Enforcement Hearing Officer after a hearing requiring a Responsible Person to correct violations, abate a public nuisance, pay civil penalties and administrative costs or take any other action as authorized or required by this Code and applicable state codes. The Enforcement Order may also include an order authorizing the City to abate a public nuisance or assess a Code Enforcement Lien.

"Abatement Notice" means a notice issued by a Director which requires a Responsible Person to abate a public nuisance.

"Cash Deposit" means that whenever a cash deposit is required as a condition of an application for activity related to a construction project under this Code, the term "cash" also includes certificates of deposit and assigned securities in the form of savings accounts.

"City" means the area within the territorial city limits of The City of San Diego and such territory outside of this City over which the City has jurisdiction or control by virtue of any Constitutional or Charter provisions, or any law.

"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.

"Code Enforcement Performance Bond" means a bond posted by a Responsible Person to ensure compliance with the Municipal Code, applicable state codes, a judicial action or Administrative Enforcement Order.

"Council" means the City Council of this City.

"Director" means the City Manager or any Department Directors including the following Departments: Planning, Building Inspection, Engineering & Development, General Services, Animal Control, Health, Water Utilities, Park and Recreation, Neighborhood Code Compliance, Waste Management and the Fire and Police Chiefs, and any of their designated agents or representatives.

"Enforcement Hearing Officer" means any person appointed by the City Manager to preside over administrative enforcement hearings.

"Enforcement Official" means any person authorized to enforce violations of the Municipal Code or applicable state codes.

"Financial Institution" means any person that holds a recorded mortgage or deed of trust on a property.

"Imminent Life Safety Hazard" means any condition which creates a present, extreme and immediate danger to life, property, health or public safety.

"Legal Interest" means any interest that is represented by a document such as a deed of trust, quitclaim deed, mortgage, judgment lien, tax or assessment lien, mechanic's lien or other similar instrument which is recorded with the County Recorder.

"Notice and Order" means a document used in abatement and civil penalties actions which provides notice of Municipal Code or applicable state code violations and orders a Responsible Person to take certain steps to correct the violations.

"Notice of Compliance" means a document issued by a Director representing that a property complies with the criteria set forth in Section 12.1007 of this Code.

"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.

"Notice Of Violation" means a written notice prepared by an Enforcement Official which informs a Responsible Person of code violations, requires compliance and contains specific information as required by the Municipal Code.

"Oath" includes affirmations and oaths.

"Person" means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them or any other entity which is recognized by law as the subject of rights or duties.

"Property Owner" means the record owner of real property based on the County Assessor's records.

"Public Nuisance" means any condition caused, maintained or permitted to exist which constitutes a threat to the public's health, safety and welfare or which significantly obstructs, injures or interferes with the reasonable or free use of property in a neighborhood, community or to any considerable number of persons. A public nuisance also has the same meaning as set forth in California Civil Code Section 3479.

"Responsible Person" means a person who a Director determines is responsible for causing or maintaining a public nuisance or a violation of the Municipal Code or applicable state codes. The term "Responsible Person" includes but is not limited to a property owner, tenant, person with a Legal Interest in lead property or person in possession of real property.

"Written" includes printed, typewritten, mimeographed, multigraphed, printout by computer, facsimile and those items listed in California Evidence Code Section 250.

Section 8. That Chapter I, Article 1 of the San Diego Municipal Code be and the same is hereby amended by retitling Division 3 to read as follows:

DIVISION 3

Notice

Section 9. That Chapter I, Article 1, Division 3 of the San Diego Municipal Code be and the same is hereby amended by adding Section 11.0301 to read as follows:

SEC. 11.0301 Service of Notices

(a) Whenever a notice is required to be given under the Municipal Code for enforcement purposes, the notice shall be served by any of the following methods unless different provisions are otherwise specifically stated to apply:

- (1) Personal service; or

(2) Certified mail, postage prepaid, return receipt requested. Simultaneously, the same notice may be sent by regular mail. If a notice that is sent by certified mail is returned unsigned, then service shall be deemed effective pursuant to regular mail, provided the notice that was sent by regular mail is not returned.

(3) Posting the notice conspicuously on or in front of the property. The form of the posted notice shall be approved by the City Manager.

(b) Service by certified or regular mail in the manner described above shall be effective on the date of mailing.

(c) The failure of any person with an interest in the property to receive any notice served in accordance with this section shall not affect the validity of any proceedings taken under this Code.

(d) The notice requirements in this section do not apply to initial Notices of Violation which may be sent by regular mail. Service of a Notice of Violation by regular mail is effective on the date of mailing.

Section 10. That Chapter I, Article 1, Division 3 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 12.0102 to Section 11.0302 to read as follows:

SEC. 11.0302 Proof of Service of Notices

Proof of service of notice may be made by the certificate of any officer or employee of this City or by

affidavit of any person over the age of eighteen years. The proof of service shall show that service was done in conformity with this Code or other provisions of law applicable to the subject matter concerned.

Section 11. That Chapter I, Article 1, Division 3 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 12.0103 to Section 11.0303 to read as follows:

SEC. 11.0303 Constructive Notice of Recorded Documents

Whenever a document is recorded with the County Recorder as authorized or required by the Municipal Code or applicable state codes, recordation shall provide constructive notice of the information contained in the recorded documents.

Section 12. That Chapter I, Article 1 of the San Diego Municipal Code be and the same is hereby amended by adding Division 4 to read as follows:

DIVISION 4

General Offenses

Section 13. That Chapter I, Article 1, Division 4 of the San Diego Municipal Code be and the same is hereby amended by renumbering Section 13.0101 to Section 11.0401 to read as follows:

SEC. 11.0401 Furnishing False or Incomplete Information Prohibited

[No change in text.]

Section 14. That Chapter I, Article 1, Division 4 of the San Diego Municipal Code be and the same is hereby amended by renumbering Section 11.0102 to Section 11.0402 to read as follows:

SEC. 11.0402 Acts Include Causing, Aiding and Abetting
[No change in text.]

Section 15. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by retitling Article 2 and Division 1 to read as follows:

ARTICLE 2

Code Enforcement

Judicial and Administrative Remedies

DIVISION 1

Enforcement Authority and Powers

Section 16. That Chapter I, Article 2, Division 1 of the San Diego Municipal Code be and the same is hereby amended by repealing Section 12.0101.

Section 17. That Chapter I, Article 2, Division 1 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 12.0101, 12.0102, 12.0103, 12.0104 and 12.0105 to read as follows:

SEC. 12.0101 Declaration of Purpose

The Council finds that the enforcement of the Municipal Code and applicable state codes throughout the City is an important public service. Code Enforcement is vital to protection of the public's health, safety and quality of

life. The Council recognizes that enforcement starts with the drafting of precise regulations that can be effectively applied in administrative enforcement hearings and judicial proceedings. The Council further finds that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gain compliance with code regulations. Failure to comply with an administrative code enforcement action may require the City Attorney to file a judicial action to gain compliance.

SEC. 12.0102 General Enforcement Authority

The City Manager, City Clerk or any of their designated Enforcement Officials have the authority and powers necessary to gain compliance with the provisions of the Municipal Code and applicable state codes. These powers include the power to issue Notices of Violation and field citations, inspect public and private property and use whatever judicial and administrative remedies are available under the Municipal Code or applicable state codes.

SEC. 12.0103 Notice of Violation

Whenever a Director determines that a violation of the Municipal Code or applicable state codes exists, the Director or Enforcement Official may issue a Notice of Violation to a Responsible Person. The Notice of Violation shall include the following information:

1. The name of the property's record owner;
2. Street address;

life. The Council recognizes that enforcement starts with the drafting of precise regulations that can be effectively applied in administrative enforcement hearings and judicial proceedings. The Council further finds that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gain compliance with code regulations. Failure to comply with an administrative code enforcement action may require the City Attorney to file a judicial action to gain compliance.

SEC. 12.0102 General Enforcement Authority

The City Manager or any designee of the City Manager has the authority and powers necessary to gain compliance with the provisions of the Municipal Code and applicable state codes. These powers include the power to issue Notices of Violation and field citations, inspect public and private property and use whatever judicial and administrative remedies are available under the Municipal Code or applicable state codes.

SEC. 12.0103 Notice of Violation

Whenever a Director determines that a violation of the Municipal Code or applicable state codes exists, the Director or Enforcement Official may issue a Notice of Violation to a Responsible Person. The Notice of Violation shall include the following information:

1. The name of the property's record owner;
2. Street address;

3. The code sections in violation;
4. A description of the property's condition which violates the applicable codes;
5. A list of necessary corrections to bring the property into compliance;
6. A deadline or specific date to correct the violations listed in the Notice of Violation;
7. Reference to the potential consequences should the property remain in violation after the expiration of the compliance deadline including, but not limited to: criminal prosecution, civil injunction, administrative abatement, civil penalties, revocation of permits, recordation of the Notice of Violation and withholding of future municipal permits.

SEC. 12.0104 Authority to Inspect

A Director and any designated Enforcement Official are authorized to enter upon any property or premises to ascertain whether the provisions of the Municipal Code or applicable state codes are being obeyed, and to make any examinations and surveys as may be necessary in the performance of their enforcement duties. These may include the taking of photographs, samples or other physical evidence. All inspections, entries, examinations and surveys shall be done in a reasonable manner. If an owner, occupant or agent refuses permission to enter or inspect, the Enforcement Official may seek an administrative

inspection warrant pursuant to the procedures provided for in California Code of Civil Procedure Section 1822.50 through 1822.59.

SEC. 12.0105 Power to Arrest

A Director or any designated Enforcement Official is authorized to arrest without a warrant any person whenever the Enforcement Official has reasonable cause to believe that the person has committed a violation of the Municipal Code or applicable state codes in his or her presence. Pursuant to Penal Code Section 836.5 the Enforcement Official can only arrest a person by issuing a misdemeanor field citation.

Section 18. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 2 to read as follows:

DIVISION 2

Judicial Remedies

Section 19. That Chapter I, Article 2, Division 2 of the San Diego Municipal Code be and the same is hereby amended by retitling and renumbering Section 13.0201 to Section 12.0201 to read as follows:

SEC. 12.0201 Criminal Violations--Misdemeanors and Infractions

[No change in text.]

Section 20. That Chapter I, Article 2, Division 2 of the San Diego Municipal Code be and the same is hereby amended by

retitling and renumbering Section 13.0202 to Section 12.0202 to read as follows:

SEC. 12.0202 Civil Violations--Injunctions and Civil Penalties

[No change in text.]

Section 21. That Chapter I, Article 2, Division 2 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 12.0203, 12.0204 and 12.0205 to read as follows:

SEC. 12.0203 Code Enforcement Performance Bond

As part of any court action, the City has the authority to require a Responsible Person to post a performance bond to ensure compliance with the Municipal Code, applicable state codes or any judicial action.

SEC. 12.0204 Judicial Abatement

Pursuant to California Government Code Section 38773, the City has the authority to judicially abate public nuisances by filing criminal or civil actions. The City also has the authority to make the expense of abatement of the nuisance a special assessment, or a lien against the property on which it is maintained and a personal obligation against the property owner, in accordance with California Government Code Section 38773.1 or 38773.5.

SEC. 12.0205 Treble Damages For Subsequent Abatement Judgments

Pursuant to California Government Code Section 38773.7, upon the entry of a second or subsequent civil or criminal

judgment within a two-year period that finds an owner of property responsible for a condition that may be abated in accordance with California Government Code Section 38773.5, a court may order the owner to pay treble the costs of the abatement. These costs shall not include conditions abated pursuant to Section 17980 of the California Health and Safety Code.

Section 22. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 3 to read as follows:

DIVISION 3

Administrative Remedies

Section 23. That Chapter I, Article 2, Division 3 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 12.0301, 12.0302, 12.0303 and 12.0304 to read as follows:

SEC. 12.0301 Administrative Remedies

Divisions 3 through 10 of Article 2 of Chapter I establish the administrative enforcement remedies for violations of the Municipal Code and applicable state codes. The general remedies include Administrative Abatement, Summary Abatement, Civil Penalties, Administrative Citations, Recordation of Notices of Violation and Mediation. Divisions 4 and 5 of Article 2, Chapter I govern the procedures for appeals and hearings relating to these administrative remedies.

SEC. 12.0302 Declaration of Purpose

The Council finds that there is a need for a variety of administrative remedies to enforce violations of the Municipal Code and applicable state codes. The procedures established by these administrative remedies are in addition to any other legal remedy established by law which may be pursued to address Municipal Code and applicable state code violations.

SEC. 12.0303 Authority

Whenever a Director determines that a violation of the Municipal Code or applicable state code exists, a Director may pursue any of the administrative remedies outlined in Divisions 3 through 10 of Article 2, Chapter I of this Code.

SEC. 12.0304 Notice of Pending Administrative Enforcement Action

(a) A Director may record with the County Recorder's Office a notice against a property which is the subject of an administrative enforcement action pending with the City of San Diego.

(b) A notice of pending administrative action shall be on a form approved by the City Manager and shall describe the nature of the administrative action and refer to the Municipal Code governing the pending administrative action.

Section 24. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 4 to read as follows:

DIVISION 4

Administrative Enforcement Hearing Procedures

Section 25. That Chapter I, Article 2, Division 4 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 12.0401 through 12.0413 to read as follows:

SEC. 12.0401 Administrative Enforcement Hearing Procedures

Division 4 of Article 2 of Chapter I establishes the procedures for conducting administrative enforcement hearings.

SEC. 12.0402 Declaration of Purpose

(a) The Council finds that there is a need to establish uniform procedures for administrative enforcement hearings conducted pursuant to the Municipal Code. It is the purpose and intent of the City Council to afford due process of law to any person who is directly affected by an administrative action. Due process of law includes: adequate notice, an opportunity to participate in the administrative hearing and an adequate explanation of the reasons justifying the administrative action. These procedures are also intended to establish a forum to efficiently, expeditiously and fairly resolve issues raised in any administrative enforcement action.

(b) The City Manager is authorized to develop policies and procedures relating to the qualifications, appointment and compensation of hearing officers, hearing officer powers, hearing procedures, scope of the hearing, subpena

powers and other matters relating to administrative enforcement hearings.

SEC. 12.0403 Procedures for Notification of Enforcement Hearing

(a) Where an administrative enforcement remedy or proceeding authorized by Chapter I provides for an enforcement hearing, the Director may request the City Manager to appoint an Enforcement Hearing Officer and to schedule a day, time and place for the hearing.

(b) Written notice of the time and place of the hearing shall be served at least ten (10) calendar days prior to the date of the hearing to the Responsible Person.

(c) The format and contents of the hearing notice shall be in accordance with rules and policies promulgated by the City Manager.

(d) The notice of hearing shall be served by any of the methods of service listed in Section 11.0301 of this Code.

SEC. 12.0404 Qualifications of Enforcement Hearing Officer

The City Manager shall promulgate rules and procedures as are necessary to establish a pool of qualified persons who are capable of acting on behalf of the City as Enforcement Hearing Officers.

SEC. 12.0405 Appointment of Enforcement Hearing Officer

Enforcement Hearing Officers presiding at administrative enforcement hearings shall be appointed and

compensated by the City Manager. The City Manager shall develop policies and procedures relating to the employment and compensation of Enforcement Hearing Officers.

SEC. 12.0406 Disqualification of Enforcement Hearing Officer

Any person designated to serve as an Enforcement Hearing Officer is subject to disqualification for bias, prejudice, interest, or for any other reason for which a judge may be disqualified in a court of law. Rules and procedures for the disqualification of an Enforcement Hearing Officer shall be promulgated by the City Manager.

SEC. 12.0407 Powers of Enforcement Hearing Officer

(a) The Enforcement Hearing Officer may continue a hearing based on good cause shown by one of the parties to the hearing or if the Hearing Officer independently determines that due process has not been adequately afforded.

(b) The Enforcement Hearing Officer, at the request of any party to the hearing, may subpoena witnesses, documents and other evidence where the attendance of the witness or the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees shall be borne by the party requesting the subpoena. The City Manager shall develop policies and procedures relating to the issuance of

subpenas in administrative enforcement hearings, including the form of the subpoena and related costs.

(c) The Enforcement Hearing Officer has continuing jurisdiction over the subject matter of an administrative enforcement hearing for the purposes of granting a continuance, ensuring compliance with an Administrative Enforcement Order, modifying an Administrative Enforcement Order, or where extraordinary circumstances exist, granting a new hearing.

(d) The Enforcement Hearing Officer has the authority to require a Responsible Person to post a Code Enforcement Performance Bond to ensure compliance with an Administrative Enforcement Order.

SEC. 12.0408 Procedures at Administrative Enforcement Hearing

(a) Administrative enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply. The procedure and format of the administrative hearing shall follow the procedures promulgated by the City Manager.

(b) The City bears the burden of proof at an administrative enforcement hearing to establish the existence of a violation of the Municipal Code or applicable state code. In the case of an abatement hearing the City bears the burden of proof to establish the existence of a public nuisance.

(c) The standard of proof to be used by the Enforcement Hearing Officer in deciding the issues at an administrative hearing is by a preponderance of the evidence.

(d) Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his or her case.

SEC. 12.0409 Failure to Obey Subpena

It is unlawful for any person to refuse to obey a subpena issued by an Enforcement Hearing Officer. Failure to obey a subpena constitutes contempt and may be prosecuted as a misdemeanor.

SEC. 12.0410 Failure to Attend Administrative Enforcement Hearing

Any party whose property or actions are the subject of an administrative enforcement hearing and who fails to appear at the hearing is deemed to waive the right to a hearing and the adjudication of the issues related to the hearing, provided that proper notice of the hearing has been provided.

SEC. 12.0411 Administrative Enforcement Order

(a) The decision of the Enforcement Hearing Officer shall be entitled "Administrative Enforcement Order" and shall be issued in accordance with the rules and procedures promulgated by the City Manager.

(b) The Administrative Enforcement Order shall become final on the date of service of the order.

(c) The Administrative Enforcement Order shall be served on all parties by any one of the methods listed in Section 11.0301 of the Municipal Code.

SEC. 12.0412 Judicial Review

Once an Administrative Enforcement Order becomes final as provided in this Division, the time in which judicial review of the order must be sought shall be governed by California Code of Civil Procedure Section 1094.6.

SEC. 12.0413 Failure to Comply with Administrative Enforcement Order

It is unlawful for a party to an administrative enforcement hearing who has been served with a copy of the final Administrative Enforcement Order pursuant to Section 11.0301 of the Municipal Code to fail to comply with the order. Failure to comply with a final Administrative Enforcement Order may be prosecuted as a misdemeanor.

Section 26. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 5 to read as follows:

DIVISION 5

Administrative Enforcement Appeals

Section 27. That Chapter I, Article 2, Division 5 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 12.0501, 12.0502 and 12.0503 to read as follows:

0-17956

SEC. 12.0501 Appeal Procedures

(a) A person served with one of the following documents, orders or notices may file an appeal within ten (10) calendar days from the service of the notice:

(1) Any Administrative Abatement Notice and Order issued for those public nuisances listed under Time Frame One of Section 12.0603(c) of the Municipal Code.

(2) An Administrative Citation issued pursuant to Section 12.0903 of the Municipal Code.

(3) A letter from a Director indicating an intent to record a Notice of Violation pursuant to Section 12.1003 of the Municipal Code.

(b) The appeal shall be made in writing and filed with the Director.

(c) As soon as practicable after receiving the written notice of appeal, a Director shall request the City Manager to appoint an Administrative Enforcement Hearing Officer and to schedule a date, time and place for the hearing.

(d) Written notice of the date, time and place of the hearing shall be served at least ten (10) calendar days prior to the date of the hearing on the person appealing the notice by any one of the methods listed in Section 11.0301 of the Municipal Code.

SEC. 12.0502 Appeal Hearing

The appeal hearing shall be conducted pursuant to the administrative enforcement hearing procedures set forth in Division 4, Article 2 of Chapter I.

SEC. 12.0503 Failure to Attend an Administrative Enforcement Hearing

Failure to attend the administrative enforcement hearing by the person appealing a notice shall constitute a waiver of his or her rights to an administrative enforcement hearing and adjudication of the notice or any portion of the notice.

Section 28. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 6 to read as follows:

DIVISION 6

Administrative Abatement

Section 29. That Chapter I, Article 2, Division 6 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0302 to Section 12.0601 to read as follows:

SEC. 12.0601 Declaration of Purpose

The Council finds that its purpose in adopting Divisions 6 and 7 of Article 2 of Chapter I is to establish a procedure for the administrative and summary abatement of public nuisances and code violations. The procedures established in these sections are in addition to any other

legal remedy, criminal or civil, established by law which may be pursued to address Municipal Code or applicable state code violations. These sections govern all other nuisance abatement procedures established in other chapters of the Municipal Code unless other procedures are specifically stated to apply.

Section 30. That Chapter I, Article 2, Division 6 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0304 to Section 12.0602 to read as follows:

SEC. 12.0602 Authority

Any condition caused, maintained or permitted to exist in violation of any provisions of the Municipal Code or applicable state codes which constitutes a public nuisance may be abated by the City pursuant to the procedures set forth in Divisions 6 and 7, Article 2 of Chapter I.

Section 31. That Chapter I, Article 2, Division 6 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 12.0603, 12.0604, 12.0605 and 12.0606 to read as follows:

SEC. 12.0603 General Procedures

(a) Abatement Notice

(1) Whenever a Director determines that public or private property or any portion of public or private property is a public nuisance as generally defined in Section 11.0221 or as declared in a specific section of the

Municipal Code or applicable state codes, an Abatement Notice may be issued to the Responsible Person to abate the public nuisance.

(2) The Abatement Notice shall contain a description of the property in general terms reasonably sufficient to identify the location of the property. It shall refer to Divisions 6 and 7 of Article 2, Chapter I of the Municipal Code or applicable state code violations which render the property a public nuisance.

(3) The Abatement Notice shall describe the action required to abate the public nuisance which may include corrections, repairs, demolition, removal, obtaining the necessary permits, vacation of tenants or other appropriate action and shall establish time frames by which each action must occur.

(4) The Abatement Notice shall explain the consequences should the Responsible Person fail to comply with the terms of the notice.

(5) The Abatement Notice shall identify all applicable hearing and appeal rights.

(b) Service of Abatement Notice

The Abatement Notice shall be served by any one of the methods of service listed in Section 11.0301 of this Code.

(c) Compliance Time Frames

The Director shall follow the compliance time frames and specified procedures for either Time Frame One or Time Frame Two depending upon whether the criteria as provided in Section 12.0604 or 12.0605 of this Division applies.

SEC. 12.0604 Time Frame for Compliance: Time Frame One

(a) Time Frame One shall require the Responsible Person to abate the public nuisance within ten (10) calendar days from the date of service of the Abatement Notice.

(b) A Director may require the Responsible Person to abate the public nuisance within Time Frame One in any one of the following instances:

(1) the condition causing the public nuisance is rubbish, weeds, waste or other obstructions as described in Division 2, Article 4 of Chapter V of this Code; or

(2) the condition causing the public nuisance is a vacant structure as described in Division 3, Article 4 of Chapter V of this Code; or

(3) the condition causing the public nuisance is graffiti as described in Division 4, Article 4 of Chapter V of this Code; or

(4) the condition causing the public nuisance is a dangerous sign as described in Section 95.0133 of this Code; or

(5) the condition causing the public nuisance has been determined by a Director to be so serious or harmful that immediate abatement is required.

(c) Right to Appeal Under Time Frame One

(1) The Responsible Person may appeal the Abatement Notice within ten (10) calendar days from the date of service of the Abatement Notice by filing a written request to appeal to a Director.

(2) Upon receiving a written request to appeal an Abatement Notice, a Director shall follow the procedures set forth in Division 5, Article 2 of Chapter I and request the City Manager to schedule a hearing to hear any objections why abatement should not be ordered and effected.

(3) Abatement shall not proceed until the Enforcement Hearing Officer issues an order, unless the Director concludes that an imminent threat to the public's health and safety exists.

(4) If the Enforcement Hearing Officer issues an order confirming the existence of a public nuisance, the City may immediately abate the public nuisance pursuant to the procedures set forth in Section 12.0606 of this Division. The Hearing Officer's decision is the final administrative decision and shall become effective upon the date of the order.

(d) Abatement Under Time Frame One

The City may abate the condition causing the public nuisance in the following circumstances:

(1) the Responsible Person fails to abate the public nuisance as required by the Abatement Notice and an appeal has not been timely filed; or

(2) an Administrative Enforcement Order has been issued confirming the existence of a public nuisance after an appeal by the Responsible Person.

SEC. 12.0605 Time Frame for Compliance: Time Frame Two

(a) Time Frame Two shall apply to all other public nuisances not listed under Time Frame One. Time Frame Two shall require the Responsible Person to abate the public nuisance within a minimum of fourteen (14) calendar days from the date of service of the Abatement Notice. The Director may establish a longer time frame as is reasonable or necessary to complete the abatement.

(b) Abatement Under Time Frame Two

(1) In the event the Responsible Person does not abate the public nuisance as required by the Abatement Notice, a Director may request the City Manager to schedule an administrative hearing pursuant to the procedures set forth in Division 4, Article 2 of Chapter I to determine the existence of a public nuisance.

(2) If the Enforcement Hearing Officer issues an order confirming the existence of a public nuisance, the City may immediately abate the conditions causing the public

nuisance pursuant to the procedures set forth in Section 12.0606 of this Division.

SEC. 12.0606 Abatement of a Public Nuisance by the City

(a) Once a Director follows the procedures set forth in Sections 12.0604 or 12.0605 of this Division and obtains authorization to abate a public nuisance, the public nuisance may be abated by City personnel or by a private contractor.

(b) City personnel or a private contractor can enter upon private property in a reasonable manner to abate the public nuisance as specified in the Abatement Notice or Abatement Order.

(c) If the Responsible Person abates the public nuisance before the City performs the actual abatement pursuant to an Abatement Notice or Abatement Order, the Director may still assess all costs incurred by the City at that point against the Responsible Person pursuant to the provisions set forth in Division 3, Article 3 of Chapter I of this Code.

(d) When abatement is completed, a report describing the work performed and an itemized account of the total abatement costs shall be prepared by the Director. The report shall contain the names and addresses of the Responsible Persons of each parcel, the tax assessor's parcel number and a legal description of the property.

(e) The Director shall request the City Manager to schedule a confirmation of costs hearing pursuant to Section 13.0302 of this Chapter, unless waived in writing by all Responsible Persons.

(f) All administrative and actual costs incurred by the City in abating the public nuisance may be assessed and recovered against the Responsible Person pursuant to the provisions set forth in Division 3, Article 3 of Chapter I. Section 32. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 7 to read as follows:

DIVISION 7

Summary Abatement

Section 33. That Chapter I, Article 2, Division 7 of the San Diego Municipal Code be and the same is hereby amended by adding Section 12.0701 to read as follows:

SEC. 12.0701 Summary Abatement

Division 7 of Article 2 of Chapter I of this Code governs the procedures relating to summary abatement of public nuisances.

Section 34. That Chapter I, Article 2, Division 7 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0306 to Section 12.0702 to read as follows:

SEC. 12.0702 Authority

Whenever a Director determines that an imminent life safety hazard exists that requires immediate correction or elimination, the Director may exercise the following powers without prior notice to the Responsible Person:

- (a) Order the immediate vacation of any tenants and prohibit occupancy until all repairs are completed; or
- (b) Post the premises as unsafe, substandard or dangerous; or
- (c) Board, fence or secure the building or site; or
- (d) Raze and grade that portion of the building or site to prevent further collapse and remove any hazard to the general public; or
- (e) Make any minimal emergency repairs as necessary to eliminate any imminent life safety hazard; or
- (f) Take any other action as appropriate under the circumstances.

Section 35. That Chapter I, Article 2, Division 7 of the San Diego Municipal Code be and the same is hereby amended by adding Section 12.0703, to read as follows:

SEC. 12.0703 Procedures

- (a) A Director shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of the hazard. Costs incurred by the City during the summary abatement process shall be assessed and recovered against the Responsible Person through the

procedures outlined in Section 12.0606 of Division 6 of this Chapter.

(b) The Director may also pursue any administrative or judicial remedy to abate any remaining public nuisance.

Section 36. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 8 to read as follows:

DIVISION 8

Administrative Civil Penalties

Section 37. That Chapter I, Article 2, Division 8 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0330 to Section 12.0801 to read as follows:

SEC. 12.0801 Administrative Civil Penalties

Division 8 of Article 2 of Chapter I governs the administrative assessment of civil penalties for violations of the Municipal Code and applicable state codes.

Section 38. That Chapter I, Article 2, Division 8 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0331 to Section 12.0802 to read as follows:

SEC. 12.0802 Declaration of Purpose

The Council finds that there is a need for alternative methods of enforcement of the San Diego Municipal Code and applicable state codes. The Council further finds that the assessment of civil penalties through an administrative

hearing procedure for code violations is a necessary alternative method of code enforcement.

The administrative assessment of civil penalties established in Division 8 of this Article is in addition to any other administrative or judicial remedy established by law which may be pursued to address violations of the Municipal Code or applicable state codes.

Section 39. That Chapter I, Article 2, Division 8 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0333 to Section 12.0803 to read as follows:

SEC. 12.0803 Authority

(a) Any person violating any provision of the Municipal Code or applicable state code may be subject to the assessment of civil penalties pursuant to the administrative procedures provided in Sections 12.0804 through 12.0811 of this Division.

(b) Each and every day a violation of any provision of the Municipal Code or applicable state code exists constitutes a separate and distinct violation.

(c) Civil penalties may be directly assessed by means of a Notice and Order issued by the Director or affirmed by a City Manager's Enforcement Hearing Officer. Civil penalties may be recovered by assessment of a Code Enforcement Lien pursuant to Division 2 of Article 3 of

Chapter I or subsequent legal action brought by the City Attorney.

(d) Civil penalties for violations of any provision of the Municipal Code or applicable state codes shall be assessed at a daily rate determined by the Director or Enforcement Hearing Officer pursuant to the criteria listed in Section 12.0805 of this Division. The maximum rate shall be \$2,500 per violation. The maximum amount of civil penalties shall not exceed \$100,000 per parcel or structure for any related series of violations.

Section 40. That Chapter I, Article 2, Division 4 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0334 to Section 12.0804 to read as follows:

SEC. 12.0804 Procedures--Notice and Order

(a) Whenever a Director determines that a violation of one or more provisions of the Municipal Code or applicable state code has occurred or continues to exist, a written civil penalties Notice and Order may be issued to the Responsible Person.

(b) The Notice and Order shall refer to all code sections violated and describe how each section is or has been violated.

(c) The Notice and Order shall refer to the dates and locations of the violations.

(d) The Notice and Order shall describe all remedial action required to permanently correct outstanding violations and establish time frames for completion.

(e) The Notice and Order shall establish a daily amount of civil penalties. The Director shall determine the daily amount of civil penalties pursuant to the criteria in Section 12.0805 of this Division.

(f) The Notice and Order shall identify a date when the civil penalties began to accrue and a date when the assessment of civil penalties ended, unless the violation is continuous. In the case of a continuous violation, there shall be an ongoing assessment of penalties at the daily rate established in the Notice and Order until the violations are corrected.

(g) If a Director determines that the violations are continuing, the Notice and Order shall demand that the Responsible Person cease and desist from further action causing the violations and commence and complete all action to correct the outstanding violations under the guidance of the appropriate City Departments.

(h) The Notice and Order shall enumerate any other consequences should the Responsible Person fail to comply with the terms and deadlines as prescribed in the Notice and Order.

(i) The Notice and Order shall identify appropriate hearing procedures as required by Sections 12.0401 through 12.0413 of this Chapter.

(j) The Notice and Order shall be served upon the Responsible Person by any one of the methods of service listed in Section 11.0301 of this Chapter.

(k) The Notice and Order shall identify the factors used by a Director in determining the duration and the daily amount of civil penalties.

(l) More than one Notice and Order may be issued against the same Responsible Person if it encompasses either different dates or different violations.

Section 41. That Chapter I, Article 2, Division 8 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 12.0805, 12.0806, 12.0807, 12.0808 and 12.0809 to read as follows:

SEC. 12.0805 Determination of Civil Penalties

(a) In determining the date when civil penalties started to accrue, a Director may consider the date when the Department first discovered the violations as evidenced by the issuance of a Notice of Violation or any other written correspondence.

(b) The assessment of civil penalties shall end when all action required by the Notice and Order has been completed.

(c) In determining the amount of the civil penalty to be assessed on a daily rate, a Director may consider some or all of the following factors:

- (1) The duration of the violation.
- (2) The frequency or recurrence of the violation.
- (3) The seriousness of the violation.
- (4) The history of the violation.
- (5) The Responsible Person's conduct after issuance of the Notice and Order.
- (6) The good faith effort by the Responsible Person to comply.
- (7) The economic impact of the penalty on the Responsible Person.
- (8) The impact of the violation upon the community.
- (9) Any other factors that justice may require.

(d) The City Manager has the authority to establish a penalty schedule for a Director to use as a guideline in determining the amount of civil penalties in appropriate cases. The Manager shall also establish procedures for the use of this penalty schedule.

SEC. 12.0806 Administrative Costs

A Director or Enforcement Hearing Officer is authorized to assess any reasonable administrative costs. Administrative costs may include scheduling and processing of the hearing and all subsequent actions.

SEC. 12.0807 Failure to Comply with Director's Notice and Order

A Director shall request the City Manager to appoint an Enforcement Hearing Officer and to establish a date, time and place for the civil penalties hearing in accordance with Division 4 of Article 2 of Chapter I when the Responsible Person fails to comply with the terms of the Notice and Order. Failure to comply includes failure to pay the assessed civil penalties, failure to commence and complete corrections by the established deadlines or failure to refrain from continuing violations of the Municipal Code or applicable state codes.

SEC. 12.0808 Civil Penalties Hearing

(a) The procedures for the civil penalties hearing are the same as the hearing procedures set forth in Division 4 of Article 2 of Chapter I.

(b) The Enforcement Hearing Officer shall only consider evidence that is relevant to the following issues:
(1) whether the Responsible Person has caused or maintained a violation of the Municipal Code or applicable state code that existed on the dates specified in the Notice and Order;
and (2) whether the amount of civil penalties assessed by the Director pursuant to the procedures and criteria outlined in Section 12.0805 was reasonable.

SEC. 12.0809 Administrative Enforcement Order

(a) Once all evidence and testimony are completed, the Enforcement Hearing Officer shall issue an Administrative Enforcement Order which affirms or rejects the Director's Notice and Order or which modifies the daily rate or duration of the civil penalties depending upon the review of the evidence. The Enforcement Hearing Officer may increase or decrease the total amount of civil penalties and costs that are assessed by the Director's Notice and Order.

(b) The Enforcement Hearing Officer may issue an Administrative Enforcement Order that requires the Responsible Person to cease from violating the Municipal Code or applicable state codes and to make necessary corrections.

(c) As part of the Administrative Enforcement Order, the Enforcement Hearing Officer may establish specific deadlines for the payment of penalties and costs and condition the total or partial assessment of civil penalties on the Responsible Person's ability to complete compliance by specified deadlines.

(d) The Enforcement Hearing Officer may issue an Administrative Enforcement Order which imposes additional civil penalties that will continue to be assessed until the Responsible Person complies with the Hearing Officer's decision and corrects the violation.

(e) The Enforcement Hearing Officer may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the Administrative Enforcement Order.

Section 42. That Chapter I, Article 2, Division 8 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0336 to Section 12.0810 to read as follows:

SEC. 12.0810 Failure To Comply With The Administrative Enforcement Order

(a) Upon the failure of the Responsible Person to comply with the terms and deadlines set forth in the Administrative Enforcement Order, the Director may use all appropriate legal means to recover the civil penalties, administrative costs and obtain compliance with the Administrative Enforcement Order.

(b) After the Enforcement Hearing Officer issues an Administrative Enforcement Order, the Director shall monitor the violations and determine compliance.

Section 43. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 9 to read as follows:

DIVISION 9

Administrative Citations

Section 44. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by

amending and renumbering Section 13.0340 to Section 12.0901 to read as follows:

SEC. 12.0901 Administrative Citations

Division 4 of Article 3 of Chapter I governs the procedures relating to administrative citations.

Section 45. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0341 to Section 12.0902 to read as follows:

SEC. 12.0902 Declaration of Purpose

The Council finds that there is a need for an alternative method of enforcement for minor violations of the Municipal Code and applicable state codes. The Council further finds that an appropriate method of enforcement for minor violations is an administrative citation program.

The procedures established in this Division 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 or applicable state codes.

Section 46. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0343 to Section 12.0903 to read as follows:

SEC. 12.0903 Authority

(a) Any person violating any minor provisions of the Municipal Code or applicable state code may be issued an

administrative citation by an Enforcement Official as provided in this Division.

(b) Each and every day a minor violation of the Municipal Code or applicable state code exists constitutes a separate and distinct offense.

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

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

Section 47. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0344 to Section 12.0904 to read as follows:

SEC. 12.0904 Procedures

(a) Upon discovering any minor violation of the Municipal Code or applicable state codes, an Enforcement Official may issue an administrative citation to a Responsible Person in the manner prescribed in this Division. The administrative citation shall be issued on a form approved by the City Manager.

(b) If the Responsible Person is a business, the Enforcement Official shall attempt to locate the business owner and issue the business owner an administrative

citation. If the Enforcement Official can only locate the manager of the business, the administrative citation may be given to the manager of the business. A copy of the administrative citation shall also be mailed to the business owner or Responsible Person in the manner prescribed by Section 11.0301(a)(2) of this Chapter.

(c) Once the Responsible Person is located, the Enforcement Official shall attempt to obtain the signature of that person on the administrative citation. If the Responsible Person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation and subsequent proceedings.

(d) If the Enforcement Official is unable to locate the Responsible Person for the violation, then the administrative citation shall be mailed to the Responsible Person in the manner prescribed in Section 11.0301(a)(2) of this Chapter.

(e) If no one can be located at the property, then the administrative citation shall be posted in a conspicuous place on or near the property and a copy subsequently mailed to the Responsible Person in the manner prescribed by Section 11.0301(a)(2) of this Chapter.

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

(g) The administrative citation shall be mailed to the Responsible Person in the manner prescribed by Section 11.0301(a)(2) of this Chapter. The failure of any person with an interest in the property to receive notice shall not affect the validity of any proceedings taken under this Division.

Section 48. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0345 to Section 12.0905 to read as follows:

SEC. 12.0905 Contents of Notice

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

(b) The administrative citation shall refer to the code sections violated and describe how the sections are violated.

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

(d) The administrative citation shall require the Responsible Person to immediately correct the violations and shall explain the consequences of failure to correct the violations.

(e) The administrative citation shall state the amount of penalty imposed for the violations.

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

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

(h) The citation shall contain the signature of the Enforcement Official and the signature of the Responsible Person if they can be located, as outlined in subsection 12.0904(c).

Section 49. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0346 to Section 12.0906 to read as follows:

SEC. 12.0906 Appeal of Administrative Citation

An appeal of an administrative citation shall follow the procedures set forth in Division 5, Article 2 of Chapter I.

Section 59. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by adding Section 12.0907 to read as follows:

SEC. 12.0907 Administrative Enforcement Order

(a) The appeal hearing shall follow the enforcement hearing procedures set forth in Division 4, Article 2 of Chapter I.

(b) As part of the Administrative Enforcement Order, the Enforcement Hearing Officer may reduce, waive or conditionally reduce the penalties or late fees assessed by the citation.

(c) The Enforcement Hearing Officer may also impose conditions and deadlines to correct the violations or require payment of any outstanding penalties.

(d) The Enforcement Hearing Officer may assess reasonable administrative costs.

Section 51. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0347 to Section 12.0908 to read as follows:

SEC. 12.0908 Penalties Assessed

(a) The Director shall establish policies to assist in the assessment of civil penalties for administrative citations.

(b) If the Responsible Person fails to correct the violation, subsequent administrative citations may be issued for the same violations. The amount of the penalty shall increase at a rate specified in this Division.

(c) The penalties assessed for each administrative citation issued for the same violations shall not exceed the following amounts regardless of the number of minor violations per citation:

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

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

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

Section 52. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by adding Section 12.0909 to read as follows:

SEC. 12.0909 Failure To Pay Penalties

The failure of any person to pay the civil penalties assessed by an administrative citation within the time specified on the citation may result in the Director referring the matter to the City Treasurer to file a claim with the Small Claims Court. Alternatively, the Director may pursue any other legal remedy to collect the civil penalties as provided in Section 13.0401 of this Chapter.

Section 53. That Chapter I, Article 2, Division 9 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0348 to Section 12.0910 to read as follows:

SEC. 12.0910 Allocation of Administrative Penalties

Administrative civil penalties collected pursuant to this Division shall be deposited in the civil penalties fund established pursuant to Section 13.0402 of this Chapter.

Section 54. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 10 to read as follows:

DIVISION 10

Recordation of Notices of Violation

Section 55. That Chapter I, Article 2, Division 10 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0361 to Section 12.1001 to read as follows:

SEC. 12.1001 Recordation of Notices of Violation

Division 10 of Article 2 of Chapter I governs the procedures relating to the issuance and recordation of administrative Notices of Violation.

Section 56. That Chapter I, Article 2, Division 10 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0362 to Section 12.1002 to read as follows:

SEC. 12.1002 Declaration of Purpose

The Council finds that there is a need for alternative methods of enforcement for violations of the Municipal Code and applicable state codes which are found to exist on real property. The Council further finds that an appropriate

method of enforcement for these types of violations is the issuance and recordation of Notices of Violation.

The procedures established in this Division shall be in addition to criminal, civil, or any other remedy established by law which may be pursued to address violations of the Municipal Code or applicable state codes.

Section 57. That Chapter I, Article 2, Division 10 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0364 to Section 12.1003 to read as follows:

SEC. 12.1003 Procedures for Recordation

(a) Once a Director has issued a Notice of Violation to a Responsible Person and the property remains in violation after the deadline established in the Notice of Violation, the Director may record a Notice of Violation with the Recorder's Office of San Diego County.

(b) Before recordation, the Director shall provide to the Responsible Person a letter stating that a Notice of Violation will be recorded unless a written request to appeal pursuant to the procedures outlined in this Division is filed. The letter shall be served pursuant to any of the methods of service set forth in Section 11.0301 of this Code. The Director may also send a courtesy copy of the letter to any applicable financial institution.

(c) If the Director does not receive the written request to appeal pursuant to the procedures set forth in

this Division, the Director may record the Notice of Violation if the violations remain.

(d) The recorded Notice of Violation shall include the name of the property owner's assessor's parcel number, the parcel's legal description, and a copy of the latest Notice of Violation.

Section 58. That Chapter I, Article 2, Division 10 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0365 to Section 12.1004 to read as follows:

SEC. 12.1004 Service of Notice of Violation

A copy of the recorded Notice of Violation shall be served on the Responsible Person and property owner pursuant to any of the methods of service set forth in Section 11.0301 of this Code.

Section 59. That Chapter I, Article 2, Division 10 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0366 to Section 12.1005 to read as follows:

SEC. 12.1005 Procedures to Appeal Recordation

(a) An appeal of the Director's letter to record the Notice of Violation shall follow the procedures set forth in Division 5, Article 2 of Chapter I.

(b) Upon receiving a written appeal, the Director shall request the City Manager to schedule a hearing pursuant to the procedures set forth in Division 5, Article

2 of Chapter I. The purpose of the hearing is for the Responsible Person or property owner to state any reasons why a Notice of Violation should not be recorded.

(c) The failure of any person to file an appeal in accordance with these provisions shall constitute a waiver of the right to an administrative hearing and shall not affect the validity of the recorded Notice of Violation.

Section 60. That Chapter I, Article 2, Division 10 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0367 to Section 12.1006 to read as follows:

SEC. 12.1006 Appeal Hearing

(a) The appeal hearing shall follow the hearing procedures as set forth in Division 4 of Article 2 of Chapter I.

(b) At the appeal hearing, the Enforcement Hearing Officer shall only consider evidence that is consistent with the City Manager's rules and procedures for administrative enforcement hearings and that is relevant to the following issues:

(1) Whether the conditions listed in the Notice of Violation violate the Municipal Code or applicable state codes; and

(2) Whether the Director afforded the Responsible Person with due process by adhering to the notification procedures specified in this Division.

(c) If the Enforcement Hearing Officer affirms the Director's decision, the Director may proceed to record the Notice of Violation.

(d) If the Enforcement Hearing Officer determines that recordation is improper, the Enforcement Hearing Officer shall invalidate the Director's decision to record the Notice of Violation.

Section 61. That Chapter I, Article 2, Division 10 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0370 to Section 12.1007 to read as follows:

SEC. 12.1007 Notice of Compliance--Procedures

(a) When the violations listed on the Notice of Violation have been corrected, the Responsible Person or property owner may file with the Director a written request for a Notice of Compliance on a form provided by the City.

(b) Once the Director receives this request, the Director shall reinspect the property within thirty (30) calendar days to determine whether the violations listed in the Notice of Violation have been corrected and whether all necessary permits have been issued and final inspections have been performed.

(c) The Director shall serve a Notice of Compliance to the Responsible Person or property owner in the manner provided in Section 11.0301 of this Code if the Director determines that: (1) all violations listed in the recorded

Notice of Violation have been corrected; and (2) all necessary permits have been issued and finalized; and (3) all civil penalties assessed against the property have been paid; and (4) the party requesting the Notice of Compliance has paid an administrative fee to reimburse the City for all administrative costs.

(d) Administrative costs may include costs incurred in the investigation, inspection, reinspection, title search, appeal hearing, and any other processing costs associated with the violations specified on the Notice of Violation.

(e) If the Director denies a request to issue a Notice of Compliance, the Director shall serve the Responsible Person or property owner with a written explanation setting forth the reasons for the denial. The written explanation shall be served by any of the methods of service listed in Section 11.0301 of this Code.

(f) The Director's decision denying a request to issue a Notice of Compliance constitutes the final decision in the matter and is not appealable.

Section 62. That Chapter I, Article 2, Division 10 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0369 to Section 12.1008 to read as follows:

SEC. 12.1008 Prohibition Against Issuance of Municipal Permits

The City of San Diego may withhold permits for any alteration, repair, or construction pertaining to any existing or new structures or signs on the property, or any permits pertaining to the use and development of the real property or the structure: 1) if a request to appeal has not been timely filed; or 2) after an Enforcement Hearing Officer affirms the Director's decision to record a Notice of Violation. The City may withhold permits until a Notice of Compliance has been issued by the Director. The City may not withhold permits which are necessary to obtain a Notice of Compliance or which are necessary to correct serious health and safety violations.

Section 63. That Chapter I, Article 2, Division 10 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0371 to Section 12.1009 to read as follows:

SEC. 12.1009 Cancellation of Recorded Notice of Violation

The Director, property owner or Responsible Person shall record the Notice of Compliance with the County Recorder's Office. The recordation of the Notice of Compliance shall have the effect of canceling the recorded Notice of Violation.

Section 64. That Chapter I, Article 2 of the San Diego Municipal Code be and the same is hereby amended by adding Division 11 to read as follows:

DIVISION 11

Mediation

Section 65. That Chapter I, Article 2, Division 11 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 12.1101 through 12.1105 to read as follows:

SEC. 12.1101 Declaration of Purpose

The Council finds there is a need for mediation and other forms of dispute resolution as a means to gain compliance with provisions of the San Diego Municipal Code and applicable federal and state codes. The Council further declares that public policy facilitation can be an effective technique to avoid disputes by developing consensus amongst stakeholders on controversial issues. Both mediation and facilitation can often resolve disputes in a more efficient and effective manner without the necessity of more formal administrative action or litigation. The Council further finds that mediation and facilitation can foster better relations among and with the citizenry of San Diego and enhance the reputation of the City.

SEC. 12.1102 Definitions

For purposes of Division 11, the following definitions shall apply:

"Enforcement Case" means any complaint or case on file with a City Department that involves alleged violations of the Municipal Code or applicable provisions of state or federal law.

"Disputing Party" means any person responsible for alleged violations, interested or involved citizens who may have complained to the City about the alleged violations, crime victims and appropriate representatives from the City Department.

"Facilitation" means a process whereby a neutral third party conducts one or a series of meetings or sessions between and amongst relevant Stakeholders to a particular dispute or controversial issue or policy with the purpose of improving communication and developing consensus about possible solutions.

"Mediation" means a meeting between or among disputing parties to clarify their differences and design their own mutually acceptable agreement, with the assistance of a Mediator.

"Mediator" means a neutral third party who has received at least 25 hours of mediation training from a reputable mediation program recognized by the City of San Diego.

"Referring Agency" means a Director of a City Department, the City Manager, the City Attorney or one of their designees.

"Stakeholder" means any person or organization or association that is directly affected by a particular issue or policy.

SEC. 12.1103 Procedures

The Referring Agency may refer Enforcement Cases and other types of disputes and controversies to a neutral third party to schedule and coordinate a Mediation or Facilitation as may be appropriate.

SEC. 12.1104 Confidentiality

All documents and results related to Mediations and Facilitations held pursuant to this Division shall be kept confidential in any subsequent administrative or judicial proceeding. The provisions of California Evidence Code Sections 1152 and 1152.5 and other laws pertaining to confidentiality and disclosure shall apply to Mediations and Facilitations held pursuant to this Division.

SEC. 12.1105 Enforcement

Failure by any of the Disputing Parties to participate in a Mediation or to comply with the terms of the Mediation agreement does not preclude any of the parties from pursuing further administrative or legal action as provided by law.

Section 66. That Chapter I, Article 3, Division 1 of the San Diego Municipal Code be and the same is hereby amended by retitling Article 3 and Division 1 to read as follows:

ARTICLE 3

Recovery of Code Enforcement Penalties and Costs

DIVISION 1

Reinspection Fees

Section 67. That Chapter I, Article 3, Division 1 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0401 to Section 13.0101 to read as follows:

SEC. 13.0101 Reinspection Fees

Division 1 of Article 3 of Chapter I governs the general procedures for recovering reinspection fees assessed by City Departments unless provisions of this Code establish a specific reinspection fee procedure.

Section 68. That Chapter I, Article 3, Division 1 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0402 to Section 13.0102 to read as follows:

SEC. 13.0102 Declaration of Purpose

(a) The Council finds there is a need to recover costs incurred by Enforcement Officials and other City personnel who spend considerable time inspecting and reinspecting properties throughout San Diego in an effort to ensure compliance with the Municipal Code or applicable state codes.

(b) The Council further finds the assessment of a reinspection fee is an appropriate method to recover costs

incurred for additional inspections made by City personnel. The assessment and 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 applicable state codes.

Section 69. That Chapter I, Article 3, Division 1 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0404 to Section 13.0103 to read as follows:

SEC. 13.0103 Authorization

(a) Whenever an Enforcement Official reinspects a property to determine compliance with provisions of the Municipal Code and applicable state codes which have been listed in a Notice of Violation, the Director may assess a reinspection fee against the Responsible Person.

(b) Reinspection fees may be assessed for each inspection of the property after the issuance of a Notice of Violation.

Section 70. That Chapter I, Article 3, Division 1 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0406 to Section 13.0104 to read as follows:

SEC. 13.0104 Assessment of Reinspection Fees

A reinspection fee schedule shall be established and revised as necessary by the City Manager 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.

Section 71. That Chapter I, Article 3, Division 1 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0407 to Section 13.0105 to read as follows:

SEC. 13.0105 Notification of Assessment of Reinspection Fees

(a) Where the assessment of reinspection fees is authorized under this Division, the Director of the appropriate Department shall provide the Responsible Person with a written notice assessing reinspection fees. The written assessment shall contain the following information:

- (1) the amount of fees charged; and
- (2) the corresponding dates when reinspection took place; and
- (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 of the reinspection fee assessment shall be provided to the Responsible Person by any of the means outlined in Section 11.0301 of this Code.

(c) Reinspection fees may be assessed as part of any judicial or administrative enforcement action as provided for in this Chapter.

(d) Reinspection fees assessed or collected pursuant to this Division shall not be duplicated in any other action to recover these identical costs.

(e) The failure of any Responsible Person to receive notice of the reinspection fees shall not affect the validity of any fees imposed under this Division.

Section 72. That Chapter I, Article 3, Division 1 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0408 to Section 13.0106 to read as follows:

SEC. 13.0106 Failure to Pay Reinspection Fee

The failure of any person to pay an assessed reinspection fee by the deadline specified in the written notice described in Section 13.0105 shall result in the assessment of an additional late fee. The amount of the late fee shall be established by the City Manager and may be revised as appropriate from time to time.

Section 73. That Chapter I, Article 3, Division 1 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0409 to Section 13.0107 to read as follows:

SEC. 13.0107 Collection 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

Division 2 of Article 3 of Chapter I. 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 fees and associated collection costs.

Section 74. That Chapter I, Article 3 of the San Diego Municipal Code be and the same is hereby amended by retitling Division 2 to read as follows:

DIVISION 2

Code Enforcement Liens

Section 75. That Chapter I, Article 3, Division 2 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0420 to Section 13.0201 to read as follows:

SEC. 13.0201 Code Enforcement Liens--Procedures

Division 2 of Article 3 of Chapter I governs the procedures relating to the recordation of Code Enforcement Liens.

Section 76. That Chapter I, Article 3, Division 2 of the San Diego Municipal Code be and the same is hereby amended by retitling, amending and renumbering Section 13.0421 to Section 13.0202 to read as follows:

SEC. 13.0202 Declaration of Purpose

The Council finds that recordation of Code Enforcement Liens will assist in the collection of civil penalties, abatement costs, administrative costs and reinspection fees assessed by administrative citations, administrative

hearings, judicial orders and other appropriate code enforcement actions. The Council further finds that collection of civil penalties, costs and fees 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 this Division shall be used to complement existing administrative or judicial remedies which may be pursued to address violations of the Municipal Code or applicable state codes. Section 77. That Chapter I, Article 3, Division 2 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0423 to Section 13.0203 to read as follows:

SEC. 13.0203 Procedures--Generally

(a) Once a final administrative decision or judicial order establishes the amount of civil penalties, abatement costs, administrative fees and costs assessed against a Responsible Person for code violations, the Director may record a Code Enforcement Lien against any real property owned by the Responsible Person.

(b) Before recordation, the Director shall provide to the Responsible Person a written notice informing him or her that a Code Enforcement Lien will be recorded unless the City receives full payment for the outstanding amount of civil penalties, costs and fees within the time period

prescribed in the notice. Payment shall be due a minimum of ten (10) calendar days from the date of the mailing.

(c) The Director shall serve this notice by any one of the methods of service set forth in Section 11.0301 of this Code.

(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, assessor's parcel number, the parcel's legal description, the total amount of civil penalties, costs and fees 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, costs and fees.

(f) A copy of the recorded Code Enforcement Lien shall be served upon the Responsible Person by one of the methods of service set forth in Section 11.0301 of this Code.

(g) The failure of any person with a financial 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.

Section 78. That Chapter I, Article 3, Division 2 of the San Diego Municipal Code be and the same is hereby amended by adding Section 13.0204 to read as follows:

SEC. 13.0204 Nuisance Abatement Lien

The Director may assess a nuisance abatement lien pursuant to Government Code Section 38773.1 by following the procedures set forth in this Division for Code Enforcement Liens and the requirements set forth below:

(a) Prior notice shall be served upon the owner of the parcel abated by the City before recordation of lien.

(b) Prior notice shall be served in the same manner as a summons in a civil action.

(c) If the owner cannot be found after a diligent search, the notice can be posted on the property for a period of ten (10) calendar days and the notice must be published in a general circulation newspaper.

(d) A nuisance abatement lien shall be recorded in the County Recorder's Office in the county in which the parcel of land is located and from the date of recording shall have the force, effect, and priority of a judgment lien.

(1) A nuisance abatement lien shall specify the amount of the lien, the name and address of the responsible City Department, the date of the abatement order, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed,

and the name and address of the recorded owner of the parcel.

(2) In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in Section 13.0204(d)(1) shall be recorded by the Director.

(e) A nuisance abatement lien may be foreclosed by an action brought by the City for a money judgment.

(f) The City may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.

Section 79. That Chapter I, Article 3 of the San Diego Municipal Code be and the same is hereby amended by retitling Division 3 to read as follows:

DIVISION 3

Recovery of Abatement Costs

Section 80. That Chapter I, Article 3, Division 3 of the San Diego Municipal Code be and the same is hereby amended by repealing Section 13.0301.

Section 81. That Chapter I, Article 3, Division 3 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 13.0301 and 13.0302 to read as follows:

SEC. 13.0301 Procedures for Recovering Costs of Abatement

Division 3, Article 3 of Chapter I governs the procedures for the recovery of all administrative and actual costs incurred by the City in the administrative or summary abatement of a public nuisance pursuant to the procedures and authority found in Divisions 5 and 6, Article 2 of Chapter I.

SEC. 13.0302 Confirmation of Costs Hearing

(a) After the City has abated a public nuisance, the Director shall request the City Manager to schedule a confirmation of costs hearing in accordance with the administrative enforcement hearing procedures set forth in Division 4, Article 2 of Chapter I. A confirmation of cost hearing is also appropriate if the City incurred abatement preparation costs before a Responsible Person voluntarily abated the public nuisance.

(b) A notice of the date, time and place of the confirmation of costs hearing shall be served on the Responsible Person at least ten (10) calendar days prior to the scheduled hearing by any one of the methods set forth in Section 11.0301.

(c) A copy of the report describing the work performed and an itemized account of the total abatement costs prepared pursuant to Section 12.0606 of this Chapter shall also be served on the Responsible Person at least ten (10)

calendar days prior to the scheduled hearing by any one of the methods set forth in Section 11.0301.

(d) The Enforcement Hearing Officer at the confirmation of costs hearing shall limit the scope of review to the Director's report describing the work performed and the itemized account of costs together with any objections to its accuracy. The Enforcement Hearing Officer may make such revisions, corrections or modifications in the report or the account as may be just and reasonable.

(e) The Enforcement Hearing Officer may issue an order which assesses the costs as either a personal obligation against the Responsible Person or a special assessment against the real property abated by the City.

(f) At the confirmation of costs hearing, the Enforcement Hearing Officer shall not consider evidence regarding the merits of the previous abatement hearing or review the decision ordering the administrative or summary abatement.

(g) The Enforcement Hearing Officer's order confirming or modifying the amount of costs incurred by the City in performing the abatement shall be final.

Section 82. That Chapter I, Article 3, Division 3 of the San Diego Municipal Code be and the same is hereby amended by repealing Section 13.0303.

Section 83. That Chapter I, Article 3, Division 3 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 13.0303 and 13.0304 to read as follows:

SEC. 13.0303 Recovery of Abatement Costs as a Personal Obligation

If the Enforcement Hearing Officer orders that abatement costs be charged as a personal obligation of the Responsible Person, the Director shall collect the obligation by use of all appropriate legal means. This may include the recordation of a Code Enforcement Lien against any real property owned by the Responsible Person pursuant to the provisions set forth in Division 2, Article 3 of Chapter I. If unable to collect this obligation, the Director may refer the case to the City Treasurer or refer it to the City Attorney to file a court action to recover the costs.

SEC. 13.0304 Recovery of Abatement Costs by Special Assessment

(a) If the Enforcement Hearing Officer orders that abatement costs shall be charged against the property, the Director shall prepare a notice of special assessment.

(b) The Director shall deliver the notice of special assessment to the County Auditor who shall place it on the County Assessment Roll pursuant to Government Code Section 38773.5.

(c) The notice of special assessment shall include a copy of the Enforcement Hearing Officer's confirmation of costs order and shall summarize the abatement action. The Director may record a copy of this special assessment notice to inform any subsequent purchasers or owners about this abatement action and costs.

(d) The Director shall file a withdrawal of this notice with the County Recorder when either: (1) the Responsible Person pays in full the abatement costs; or (2) the County Auditor or Tax Collector posts a lien on the property pursuant to Government Code Section 38773.5.

Section 84. That Chapter I, Article 3, Division 3 of the San Diego Municipal Code be and the same is hereby amended by repealing Section 13.0305.

Section 85. That Chapter I, Article 3, Division 3 of the San Diego Municipal Code be and the same is hereby amended by adding Sections 13.0305, 13.0306 and 13.0307 to read as follows:

SEC. 13.0305 Collection of Assessment--Penalties and Foreclosure

Pursuant to the provisions of Government Code Section 38773.5 the County Tax Collector may collect the amount of the assessment at the same time and in the same manner as ordinary municipal taxes, and impose the same penalties and procedures, including the sale of the property, in case of delinquency, as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of

property taxes shall be applicable to the special assessment. The provisions of Government Code Sections 38772 through 38773.5, and any amendments to those sections, are hereby incorporated by reference and made a part of this Division.

SEC. 13.0306 Nuisance Abatement Lien

As an alternative to the recovery of abatement costs by special assessment as set forth in Sections 13.0304 and 13.0305 of this Division, the Director can record a nuisance abatement lien pursuant to the provisions set forth in Division 2 of Article 3 of Chapter I.

SEC. 13.0307 Repayment to Nuisance Abatement Superfund

All monies recovered by payment of the charge or assessment or from the sale or transfer of the property shall be paid to the City Treasurer who shall credit the appropriate amount to the Nuisance Abatement Superfund and reimburse the Department where appropriate.

Section 86. That Chapter I, Article 3, Division 3 of the San Diego Municipal Code be and the same is hereby amended by renumbering Section 13.0320 to Section 13.0308 to read as follows:

SEC. 13.0308 Nuisance Abatement Superfund

[No change in text.]

Section 87. That Chapter I, Article 3, Division 3 of the San Diego Municipal Code be and the same is hereby amended by

repealing Sections 13.0330, 13.0332, 13.0335, 13.0342, 13.0363, 13.0368 and 13.0372.

Section 88. That Chapter I, Article 3 of the San Diego Municipal Code be and the same is hereby amended by retitling Division 4 to read as follows:

DIVISION 4

Recovery of Civil Penalties

Section 89. That Chapter I, Article 3, Division 4 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0337 to Section 13.0401 to read as follows:

SEC. 13.0401 Recovery of Civil Penalties

(a) The Director may collect all civil penalties and related 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 the procedures set forth in Division 2, Article 3 of Chapter I. 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 penalties and costs.

Section 90. That Chapter I, Article 3, Division 4 of the San Diego Municipal Code be and the same is hereby amended by amending and renumbering Section 13.0338 to Section 13.0402 to read as follows:

SEC. 13.0402 Code Enforcement Civil Penalties Fund

Civil penalties collected pursuant to this Division shall be deposited in the Code Enforcement Civil Penalties Fund as established by the City Manager for the enhancement of the City's code enforcement efforts and to reimburse City Departments for investigative costs and costs associated with the hearing process that are not paid by the Responsible Person. Civil penalties deposited in this fund shall be appropriated and allocated in a manner determined by the City Manager. The City Auditor shall establish accounting procedures to ensure proper account identification, credit and collection.

Section 91. That Chapter I, Article 3, Division 4 of the San Diego Municipal Code be and the same is hereby amended by repealing Sections 13.0403, 13.0405, 13.0422 and 13.0424.

Section 92. That Chapter II, Article 2, Division 1, Section 29.0115 of the San Diego Municipal Code is hereby amended by renumbering Section 13.0201 appearing within the text of that section to read Section 12.0201.

Section 93. That Chapter III, Article 3, Division 1, Section 33.0105 of the San Diego Municipal Code is hereby amended by renumbering Section 13.0201 appearing within the text of that section to read Section 12.0201.

Section 94. That Chapter IV, Article 4, Division 3, Section 44.0300 of the San Diego Municipal Code is hereby amended by

renumbering Section 13.0201 appearing within the text of that section to read Section 12.0201.

Section 95. That Chapter V, Article 5, Division 8, Section 55.0889.0201 of the San Diego Municipal Code is hereby amended by renumbering Sections 13.0301 through 13.0306 appearing within the text of that section to read Sections 12.0601 through 12.0606.

Section 96. That the various sections listed below in Chapter VI, Articles 3 and 7 of the San Diego Municipal Code are hereby amended by renumbering Section 13.0201 appearing within the text of those sections to read Section 12.0201:

<u>Article</u>	<u>Division</u>	<u>Section(s)</u>
3	8	63.08
3	17	63.17.15, 63.17.16
7	38	67.38.7

Section 97. That Chapter VI, Article 4, Division 3, Section 64.0301 of the San Diego Municipal Code is hereby amended by renumbering Section 13.0301 appearing within the text of that section to read Sections 12.0801 through 12.0810.

Section 98. That Chapter VI, Article 7, Division 38, Section 67.38.7 of the San Diego Municipal Code is hereby amended by renumbering Section 13.0202 appearing within the text of that section to read Section 12.0202.

Section 99. That Chapter VI, Article 7, Division 38, Section 67.38.7 of the San Diego Municipal Code is hereby amended by deleting reference to Chapter I, Division 3 appearing within the text to read Chapter I.

Section 100. That Chapter VI, Article 9, Division 2, Section 69.0218 of the San Diego Municipal Code is hereby amended by deleting reference to Chapter I, Article 3 appearing within the text to read Chapter I.

Section 101. That the various sections listed below in Chapter VIII, Articles 4 and 6 of the San Diego Municipal Code are hereby amended by renumbering Section 13.0201 appearing within the text of those sections to read Section 12.0201:

<u>Article</u>	<u>Division</u>	<u>Section(s)</u>
4	16	84.1609
4	17	84.1709
6	20	86.2014

Section 102. That the various sections listed below in Chapter IX, Articles 3 and 5 of the San Diego Municipal Code are hereby amended by renumbering Section 13.0201 appearing within the text of those sections to read Section 12.0201:

<u>Article</u>	<u>Division</u>	<u>Section(s)</u>
3	2	93.0208
5	1	95.0110

Section 103. That Chapter IX, Article 3, Division 2, Section 93.0208 of the San Diego Municipal Code is hereby amended by amending reference to Chapter I, Article 3 appearing within the text to read Chapter I, Article 2.

Section 104. That the various sections listed below in Chapter X, Articles 1 and 2 of the San Diego Municipal Code are hereby amended by renumbering Section 13.0201 appearing within the text of those sections to read Section 12.0201:

<u>Article</u>	<u>Division</u>	<u>Section(s)</u>
1	3	101.0304
1	4	101.0406, 101.0462
1	13	101.1309
2	7	102.0700

Section 105. That Chapter X, Article 1, Division 4, Section 101.0463 of the San Diego Municipal Code is hereby amended by renumbering Sections 13.0201 and 13.0202 appearing within the text of that section to read Sections 12.0201 through 12.0202.

Section 106. That Chapter X, Article 1, Division 4, Section 101.0463 of the San Diego Municipal Code is hereby amended by renumbering references to Article 3 appearing within the text of that section to read Article 2.

Section 107. That Chapter X, Article 1, Division 4, Section 101.0463 of the San Diego Municipal Code is hereby amended by renumbering Section 11.0301 appearing within the text of that section to read Section 11.0210.

Section 108. That Chapter X, Article 1, Division 4, Section 101.0463 of the San Diego Municipal Code is hereby amended by renumbering Section 101.0212F appearing within the text of that section to read Section 101.0212.

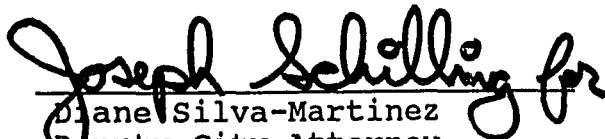
Section 109. That Chapter X, Article 1, Division 5, Section 101.0518 of the San Diego Municipal Code is hereby amended by renumbering Section 11.12 appearing within the text of that section to read Section 12.0201.

Section 110. That Chapter X, Article 1, Division 5, Section 101.0518 of the San Diego Municipal Code is hereby amended by renumbering Section 11.19 appearing within the text of that section to read Sections 12.0801 through 12.0810.

Section 111. The enforcement powers, procedures and remedies enacted in this ordinance shall apply to violations that existed before the effective date of this ordinance. The new administrative hearing and notice procedures enacted in this ordinance shall apply to pending administrative enforcement actions and hearings and shall supersede prior enforcement procedures. This ordinance shall have retroactive effect since it provides the participants with greater due process protection than existing enforcement hearing and notice procedures.

Section 112. 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 
Diane Silva-Martinez
Deputy City Attorney

JMS:DSM:MJL:lmk:mac
06/08/93
Or.Dept:Atty
0-93-179
Form=o+t

0-17956

15820

RECEIVED
93 JUN 17 AM 11:33
CITY CLERKS OFFICE
SAN DIEGO, CA

[Faint, illegible text, likely bleed-through from the reverse side of the page]

STRIKEOUT ORDINANCE

Old Language: ~~Struckout~~
New Language: ~~Shaded~~

AN ORDINANCE AMENDING CHAPTER I, ARTICLE 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING THE TITLE OF ARTICLE 1; AND RETITLING DIVISION 2; AND AMENDING SECTION 11.0205; AMENDING SECTION 11.0206; ADDING SECTION 11.0208; ADDING SECTION 11.0209; AMENDING AND RENUMBERING SECTION 11.0301 TO SECTION 11.0210; AND RETITLING DIVISION 3; AND ADDING SECTION 11.0301; RETITLING, AMENDING AND RENUMBERING SECTION 12.0102 TO SECTION 11.0302; AMENDING AND RENUMBERING SECTION 12.0103 TO SECTION 11.0303; AND ADDING DIVISION 4; AND RENUMBERING SECTION 13.0101 TO SECTION 11.0401; RENUMBERING SECTION 11.0102 TO SECTION 11.0402; AND RETITLING ARTICLE 2 AND DIVISION 1; AND REPEALING SECTION 12.0101; ADDING SECTIONS 12.0101, 12.0102, 12.0103, 12.0104 AND 12.0105; AND ADDING DIVISION 2; RETITLING AND RENUMBERING SECTION 13.0201 TO SECTION 12.0201; RETITLING AND RENUMBERING SECTION 13.0202 TO SECTION 12.0202; ADDING SECTIONS 12.0203, 12.0204 AND 12.0205; AND ADDING DIVISION 3; AND ADDING SECTIONS 12.0301, 12.0302, 12.0303 AND 12.0304; AND ADDING DIVISION 4; AND ADDING SECTIONS 12.0401 THROUGH 12.0413; AND ADDING DIVISION 5; AND ADDING SECTIONS 12.0501, 12.0502 AND 12.0503; AND ADDING DIVISION 6; AND RETITLING, AMENDING AND RENUMBERING SECTION 13.0302 TO SECTION 12.0601; RETITLING, AMENDING AND RENUMBERING SECTION 13.0304 TO SECTION 12.0602; ADDING SECTIONS 12.0603, 12.0604, 12.0605 AND 12.0606; AND ADDING DIVISION 7; AND ADDING SECTION 12.0701; RETITLING, AMENDING AND RENUMBERING SECTION 13.0306 TO SECTION 12.0702; ADDING SECTION 12.0703; AND ADDING DIVISION 8; AND AMENDING AND RENUMBERING SECTION 13.0330 TO SECTION 12.0801; AMENDING AND RENUMBERING SECTION 13.0331 TO SECTION 12.0802; AMENDING AND RENUMBERING SECTION 13.0333 TO SECTION 12.0803; AMENDING AND RENUMBERING SECTION

13.0334 TO SECTION 12.0804; ADDING SECTIONS 12.0805, 12.0806, 12.0807, 12.0808 AND 12.0809; RETITLING, AMENDING AND RENUMBERING SECTION 13.0336 TO SECTION 12.0810; AND ADDING DIVISION 9; AND AMENDING AND RENUMBERING SECTION 13.0340 TO SECTION 12.0901; AMENDING AND RENUMBERING SECTION 13.0341 TO SECTION 12.0902; RETITLING, AMENDING AND RENUMBERING SECTION 13.0343 TO SECTION 12.0903; RETITLING, AMENDING AND RENUMBERING SECTION 13.0344 TO SECTION 12.0904; AMENDING AND RENUMBERING SECTION 13.0345 TO SECTION 12.0905; AMENDING AND RENUMBERING SECTION 13.0346 TO SECTION 12.0906; ADDING SECTION 12.0907; RETITLING, AMENDING AND RENUMBERING SECTION 13.0347 TO SECTION 12.0908; ADDING SECTION 12.0909; RETITLING, AMENDING AND RENUMBERING SECTION 13.0348 TO SECTION 12.0910; AND ADDING DIVISION 10; AND RETITLING, AMENDING AND RENUMBERING SECTION 13.0361 TO SECTION 12.1001; RETITLING, AMENDING AND RENUMBERING SECTION 13.0362 TO SECTION 12.1002; RETITLING, AMENDING AND RENUMBERING SECTION 13.0364 TO SECTION 12.1003; RETITLING, AMENDING AND RENUMBERING SECTION 13.0365 TO SECTION 12.1004; RETITLING, AMENDING AND RENUMBERING SECTION 13.0366 TO SECTION 12.1005; AMENDING AND RENUMBERING SECTION 13.0367 TO SECTION 12.1006; AMENDING AND RENUMBERING SECTION 13.0370 TO SECTION 12.1007; AMENDING AND RENUMBERING SECTION 13.0369 TO SECTION 12.1008; AMENDING AND RENUMBERING SECTION 13.0371 TO 12.1009; AND ADDING DIVISION 11; AND ADDING SECTIONS 12.1101 THROUGH 12.1105; AND RETITLING ARTICLE 3 AND DIVISION 1; AND AMENDING AND RENUMBERING SECTION 13.0401 TO SECTION 13.0101; RETITLING, AMENDING AND RENUMBERING SECTION 13.0402 TO SECTION 13.0102; RETITLING, AMENDING AND RENUMBERING SECTION 13.0404 TO SECTION 13.0103; RETITLING, AMENDING AND RENUMBERING SECTION 13.0406 TO SECTION 13.0104; RETITLING, AMENDING AND RENUMBERING SECTION 13.0407 TO SECTION 13.0105; AMENDING AND RENUMBERING SECTION 13.0408 TO SECTION 13.0106; RETITLING, AMENDING AND RENUMBERING SECTION 13.0409 TO SECTION 13.0107; AND RETITLING DIVISION 2; AND AMENDING AND RENUMBERING SECTION 13.0420 TO SECTION 13.0201; RETITLING, AMENDING AND RENUMBERING SECTION 13.0421 TO SECTION

13.0202; AMENDING AND RENUMBERING SECTION 13.0423 TO SECTION 13.0203; ADDING SECTION 13.0204; AND RETITLING DIVISION 3; AND REPEALING SECTION 13.0301; ADDING SECTIONS 13.0301 AND 13.0302; REPEALING SECTION 13.0303; ADDING SECTIONS 13.0303 AND 13.0304; REPEALING SECTION 13.0305; ADDING SECTIONS 13.0305, 13.0306 AND 13.0307; RENUMBERING SECTION 13.0320 TO SECTION 13.0308; REPEALING SECTIONS 13.0330, 13.0332, 13.0335, 13.0342, 13.0363, 13.0368 AND 13.0372; AND RETITLING DIVISION 4; AND AMENDING AND RENUMBERING SECTION 13.0337 TO SECTION 13.0401; AMENDING, RETITLING AND RENUMBERING SECTION 13.0338 TO SECTION 13.0402; REPEALING SECTIONS 13.0403, 13.0405, 13.0422 AND 13.0424; AMENDING CHAPTER II, ARTICLE 2, DIVISION 1, SECTION 29.0115 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0201; AMENDING CHAPTER III, ARTICLE 3, DIVISION 1, SECTION 33.0105 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0201; AMENDING CHAPTER IV, ARTICLE 4, DIVISION 3, SECTION 44.0300 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0201; AMENDING CHAPTER V, ARTICLE 5, DIVISION 8, SECTION 55.0889.0201 BY RENUMBERING SECTIONS 13.0301 THROUGH 13.0306 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTIONS 12.0601 THROUGH 12.0606; AMENDING CHAPTER VI, ARTICLES 3 AND 7, DIVISIONS 8, 17 AND 38, SECTIONS 63.08, 63.17.15, 63.17.16 AND 67.38.7 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THOSE SECTIONS TO READ SECTION 12.0201; AMENDING CHAPTER VI, ARTICLE 4, DIVISION 3, SECTION 64.0301 BY RENUMBERING SECTION 13.0301 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTIONS 12.0801 THROUGH 12.0810; AMENDING CHAPTER VI, ARTICLE 7, DIVISION 38, SECTION 67.38.7 BY RENUMBERING SECTION 13.0202 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0202; AMENDING CHAPTER VI, ARTICLE 7, DIVISION 38, SECTION 67.38.7 BY DELETING REFERENCE TO CHAPTER I, DIVISION 3 APPEARING WITHIN THE TEXT TO READ CHAPTER I; AMENDING CHAPTER VI, ARTICLE 9, DIVISION 2, SECTION 69.0218 BY DELETING REFERENCE TO CHAPTER I, ARTICLE 3 WITHIN THE TEXT TO READ CHAPTER I; AMENDING CHAPTER VIII, ARTICLES 4 AND 6,

DIVISIONS 16, 17 AND 20, SECTIONS 84.1609, 84.1709 AND 86.2014 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THOSE SECTIONS TO READ SECTION 12.0201; AMENDING CHAPTER IX, ARTICLES 3 AND 5, DIVISIONS 2 AND 1, SECTIONS 93.0208 AND 95.0110 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THOSE SECTIONS TO READ SECTION 12.0201; AMENDING CHAPTER IX, ARTICLE 3, DIVISION 2, SECTION 93.0208 BY AMENDING REFERENCE TO CHAPTER I, ARTICLE 3 APPEARING WITHIN THE TEXT TO READ CHAPTER I, ARTICLE 2; AMENDING CHAPTER X, ARTICLES 1 AND 2, DIVISIONS 3, 4, 13 AND 7, SECTIONS 101.0304, 101.0406, 101.0462, 101.1309 AND 102.0700 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THOSE SECTIONS TO READ SECTION 12.0201; AMENDING CHAPTER X, ARTICLE 1, DIVISION 4, SECTION 101.0463 BY RENUMBERING SECTIONS 13.0201 AND 13.0202 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTIONS 12.0201 THROUGH 12.0202; AMENDING CHAPTER X, ARTICLE 1, DIVISION 4, SECTION 101.0463 BY RENUMBERING REFERENCES TO ARTICLE 3 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ ARTICLE 2; AMENDING CHAPTER X, ARTICLE 1, DIVISION 4, SECTION 101.0463 BY RENUMBERING SECTION 101.0212F APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 101.0212; AMENDING CHAPTER X, ARTICLE 1, DIVISION 5, SECTION 101.0518 BY RENUMBERING SECTION 11.12 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0201; AMENDING CHAPTER X, ARTICLE 1, DIVISION 5, SECTION 101.0518 BY RENUMBERING SECTION 11.19 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTIONS 12.0801 THROUGH 12.0810; ALL RELATING TO ENFORCEMENT AUTHORITY, PROCEDURES AND REMEDIES TO ENFORCE THE SAN DIEGO MUNICIPAL CODE.

**CHAPTER I
General Provisions**

**ARTICLE 1
Definitions and General Provisions**

**DIVISION 2
Construction and Interpretation and Definitions**

SEC. 11.0201 Construction

[No change in text.]

SEC. 11.0202 Effect of Code on Past Actions and Obligations Previously Accrued

[No change in text.]

SEC. 11.0203 References to Specific Ordinances

[No change in text.]

SEC. 11.0204 Effect of Heading

[No change in text.]

SEC. 11.0205 Validity of Code--Severability

If any §section, §subsection, sentence, clause, phrase, or portion or provision of this Code is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Code. The Council of this City hereby declares that it would have adopted this Code and each §section, §subsection, sentence, clause, phrase, or portion or provision thereof, irrespective of the fact that any one or more §sections, §subsections, clauses, phrases, or portions or provisions be declared invalid or unconstitutional. This §section shall apply to all amendments heretofore or hereafter made to this Code.

SEC. 11.0206 Conflicting Ordinances

~~All Ordinances or portions of Ordinances in conflict with the provisions of this Code are hereby repealed.~~

~~If provisions of the Municipal Code are in conflict with each other, the more restrictive provisions shall apply.~~

SEC. 11.0207 Numbering of Municipal Code Chapters, Articles, Divisions and Sections

[No change in text.]

SEC. 11.0208 No Mandatory Duty--Civil Liability

~~It is the intent of the City Council of the City of San Diego that any Municipal Code provision establishing performance standards or establishing an obligation to act by a City officer or employee, shall not be construed as creating a mandatory duty for purposes of tort liability, if the officers or employees fail to perform their directed duty or duties.~~

SEC. 11.0209 General Rules of Interpretation of Ordinances

For purposes of this Municipal Code:

(a) Any gender includes the other genders.

(b) "Shall" is mandatory; "may" is permissive.

(c) The singular number includes the plural and the plural the singular.

(d) Words used in the present tense include the past and future tense and vice versa.

(e) Words and phrases used in this Code and not specifically defined shall be construed according to the context and approved usage of the language.

~~§ 11.0301~~ **SEC. 11.0210 Definitions Applicable To Code Generally**

The following words and phrases whenever used in this Code shall be construed as defined in this section unless a different meaning is specifically defined elsewhere in this Code and specifically stated to apply and more particularly directed to the use of such words or phrases:

"Abatement" means any action the City may take on public or private property and any adjacent property as may be necessary to remove or alleviate a nuisance, including but not limited to demolition, removal, repair, boarding and securing or replacement of property.

"Administrative Enforcement Order" means an order issued by an Enforcement Hearing Officer after a hearing requiring a Responsible Person to correct violations, abate a public nuisance, pay civil penalties and administrative costs or take any other action as authorized or required by this Code and applicable state codes. The Enforcement Order may also include an order authorizing the City to abate a public nuisance or assess a Code Enforcement Lien.

"Abatement Notice" means a notice issued by a Director which requires a Responsible Person to abate a public nuisance.

~~(a)~~ "Cash Deposit" shall mean that whenever a cash deposit is required as a condition of an application for activity related to a construction project under this Code, the term "cash" also includes certificates of deposit and assigned securities in the form of savings accounts.

~~(b)~~ "City" shall mean the area within the territorial city limits of the City of San Diego and such territory outside

of this City over which the City has jurisdiction or control by virtue of any Constitutional or Charter provisions, or any law.

"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.

"Code Enforcement Performance Bond" means a bond posted by a Responsible Person to ensure compliance with the Municipal Code, applicable state codes, a judicial action or Administrative Enforcement Order.

(e) "COUNCIL" shall mean the City Council of this City.

"Director" means the City Manager or any Department Directors including the following Departments: Planning, Building Inspection, Engineering & Development, General Services, Animal Control, Health, Water Utilities, Park and Recreation, Neighborhood Code Compliance, Waste Management and the Fire and Police Chiefs, and any of their designated agents or representatives.

"Enforcement Hearing Officer" means any person appointed by the City Manager to preside over administrative enforcement hearings.

"Enforcement Official" means any person authorized to enforce violations of the Municipal Code or applicable state codes.

"Financial Institution" means any person that holds a recorded mortgage or deed of trust on a property.

"Imminent Life Safety Hazard" means any condition which creates a present, extreme and immediate danger to life, property, health or public safety.

"Legal Interest" means any interest that is represented by a document such as a deed of trust, quitclaim deed, mortgage, judgment lien, tax or assessment lien, mechanic's lien or other similar instrument which is recorded with the County Recorder.

"Notice and Order" means a document used in abatement and civil penalties actions which provides notice of Municipal Code or applicable state code violations and orders a Responsible Person to take certain steps to correct the violations.

"Notice of Compliance" means a document issued by a Director representing that a property complies with the criteria set forth in Section 12.1007 of this Code.

"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.

"Notice of Violation" means a written notice prepared by an Enforcement Official which informs a Responsible Person of code violations, requires compliance and contains specific information as required by the Municipal Code.

~~(d) "OATHath" includes affirmations and oaths.~~

~~(e) Office shall mean the use of the title of any officer, employee, or any office, or Ordinance or Charter shall mean such officer, employee, office, Ordinance or Charter of The City of San Diego, unless otherwise specifically designated.~~

~~(1) "PERSONerson" shall means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them or any other entity which is recognized by law as the subject of rights or duties.~~

"Property Owner" means the record owner of real property based on the County Assessor's records.

"Public Nuisance" means any condition caused, maintained or permitted to exist which constitutes a threat to the public's health, safety and welfare or which significantly obstructs, injures or interferes with the reasonable or free use of property in a neighborhood, community or to any considerable number of persons. A public nuisance also has the same meaning as set forth in California Civil Code Section 3479.

"Responsible Person" means a person who a Director determines is responsible for causing or maintaining a public nuisance or a violation of the Municipal Code or applicable state codes. The term "Responsible Person" includes but is not limited to a property owner, tenant, person with a Legal Interest in lead property or person in possession of real property.

"Written" includes printed, typewritten, mimeographed, multigraphed, printout by computer, facsimile and those items listed in California Evidence Code Section 250.

~~(f) SHALL AND MAY "Shall" is mandatory; "May" is permissive.~~

~~1. It is the intent of the City Council of the City of San Diego that any ordinance establishing performance~~

~~standards or establishing an obligation to act upon a City officer or employee, shall not be construed as creating a mandatory duty for purposes of tort liability, if the officer or employee fails to perform his directed duty or duties.~~

~~(g) WRITTEN shall include printed, typewritten, mimeographed or multigraphed.~~

~~(h) GENDERS Any gender includes the other genders.~~

~~(i) SINGULAR and PLURAL the singular number includes the plural and the plural the singular.~~

~~(j) TENSES words used in the present tense include the past and future tense and vice versa.~~

~~(k) USE OF WORDS AND PHRASES words and phrases used in this Ordinance and not specifically defined shall be construed according to the context and approved usage of the language.~~

DIVISION 3

~~Definitions Applicable to Code Generally~~ ~~Notice~~

~~SEC. 11.0301 Service of Notices~~

~~(a) Whenever a notice is required to be given under the Municipal Code for enforcement purposes, the notice shall be served by any of the following methods unless different provisions are otherwise specifically stated to apply:~~

~~(1) Personal service; or~~

~~(2) Certified mail, postage prepaid, return receipt requested. Simultaneously, the same notice may be sent by regular mail. If a notice that is sent by certified mail is returned unsigned, then service shall be deemed effective pursuant to regular mail, provided the notice that was sent by regular mail is not returned.~~

~~(3) Posting the notice conspicuously on or in front of the property. The form of the posted notice shall be approved by the City Manager.~~

~~(b) Service by certified or regular mail in the manner described above shall be effective on the date of mailing.~~

~~(c) The failure of any person with an interest in the property to receive any notice served in accordance with this section shall not affect the validity of any proceedings taken under this Code.~~

(d) The notice requirements in this section do not apply to initial Notices of Violation which may be sent by regular mail. Service of a Notice of Violation by regular mail is effective on the date of mailing.

~~§-12.0102~~ SEC. 11.0302 Proof of Service of Notices

Proof of giving any service of notice may be made by the certificate of any officer or employee of this City or by affidavit of any person over the age of eighteen years, which shows. The proof of service shall show that service was done in conformity with this Code or other provisions of law applicable to the subject matter concerned.

~~§-12.0103~~ SEC. 11.0303 Constructive Notice of Recorded Documents

Whenever a document is recorded with the County Recorder as authorized or required by this by the Municipal Code or applicable state codes, such recordation shall provide constructive notice of the information contained in the recorded documents.

DIVISION 4
General Offenses

~~§-13.0101~~ SEC. 11.0401 Furnishing False or Incomplete Information Prohibited

[No change in text.]

~~§-13.0102~~ SEC. 11.0402 Acts Include Causing, Aiding and Abetting

[No change in text.]

ARTICLE 2
General Procedures
Code Enforcement
Judicial and Administrative Remedies

DIVISION 1
Notices
Enforcement Authority and Powers

~~§-12.0101~~ —Service of Notices

~~Whenever a notice is required to be given under this Code, unless different provisions herein are otherwise specifically made, such notice may be given either by personal delivery thereof to the person to be notified or by deposit in the United States Mail in a sealed envelope, postage prepaid, addressed to such person to be notified at his last known business or residence address as the name appears in the public records or~~

(d) The notice requirements in this section do not apply to initial Notices of Violation which may be sent by regular mail. Service of a Notice of Violation by regular mail is effective on the date of mailing.

~~§ 12.0102~~ SEC. 11.0302 Proof of Service of Notices

Proof of ~~giving any~~ service of notice may be made by the certificate of any officer or employee of this City or by affidavit of any person over the age of eighteen years, ~~which shows.~~ The proof of service shall show that service was done in conformity with this Code or other provisions of law applicable to the subject matter concerned.

~~§ 12.0103~~ SEC. 11.0303 Constructive Notice of Recorded Documents

Whenever a document is recorded with the County Recorder as authorized or required by ~~this~~ by the Municipal Code or applicable state codes, such recordation shall provide constructive notice of the information contained in the recorded documents.

DIVISION 4
General Offenses

~~§ 13.0101~~ SEC. 11.0401 Furnishing False or Incomplete Information Prohibited

[No change in text.]

~~§ 13.0102~~ SEC. 11.0402 Acts Include Causing, Aiding and Abetting

[No change in text.]

ARTICLE 2
General Procedures
Code Enforcement
Judicial and Administrative Remedies

DIVISION 1
Notice
Enforcement Authority and Powers

~~§ 12.0101~~ ~~Service of Notices~~

~~Whenever a notice is required to be given under this Code, unless different provisions herein are otherwise specifically made, such notice may be given either by personal delivery thereof to the person to be notified or by deposit in the United States Mail in a sealed envelope, postage prepaid, addressed to such person to be notified at his last known business or residence address as the name appears in the public records or~~

~~other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the post office.~~

SEC. 12.0101 Declaration of Purpose

The Council finds that the enforcement of the Municipal Code and applicable state codes throughout the City is an important public service. Code Enforcement is vital to protection of the public's health, safety and quality of life. The Council recognizes that enforcement starts with the drafting of precise regulations that can be effectively applied in administrative enforcement hearings and judicial proceedings. The Council further finds that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gain compliance with code regulations. Failure to comply with an administrative code enforcement action may require the City Attorney to file a judicial action to gain compliance.

SEC. 12.0102 General Enforcement Authority

The City Manager or any designee of the City Manager has the authority and powers necessary to gain compliance with the provisions of the Municipal Code and applicable state codes. These powers include the power to issue Notices of Violation and field citations, inspect public and private property and use whatever judicial and administrative remedies are available under the Municipal Code or applicable state codes.

SEC. 12.0103 Notice of Violation

Whenever a Director determines that a violation of the Municipal Code or applicable state codes exists, the Director or Enforcement Official may issue a Notice of Violation to a Responsible Person. The Notice of Violation shall include the following information:

1. The name of the property's record owner;
2. Street address;
3. The code sections in violation;
4. A description of the property's condition which violates the applicable codes;
5. A list of necessary corrections to bring the property into compliance;
6. A deadline or specific date to correct the violations listed in the Notice of Violation;

7. Reference to the potential consequences should the property remain in violation after the expiration of the compliance deadline including, but not limited to: criminal prosecution, civil injunction, administrative abatement, civil penalties, revocation of permits, recordation of the Notice of Violation and withholding of future municipal permits.

SEC. 12.0104 Authority to Inspect

A Director and any designated Enforcement Official are authorized to enter upon any property or premises to ascertain whether the provisions of the Municipal Code or applicable state codes are being obeyed, and to make any examinations and surveys as may be necessary in the performance of their enforcement duties. These may include the taking of photographs, samples or other physical evidence. All inspections, entries, examinations and surveys shall be done in a reasonable manner. If an owner, occupant or agent refuses permission to enter or inspect, the Enforcement Official may seek an administrative inspection warrant pursuant to the procedures provided for in California Code of Civil Procedure Section 1822.50 through 1822.59.

SEC. 12.0105 Power to Arrest

A Director or any designated Enforcement Official is authorized to arrest without a warrant any person whenever the Enforcement Official has reasonable cause to believe that the person has committed a violation of the Municipal Code or applicable state codes in his or her presence. Pursuant to Penal Code Section 836.5 the Enforcement Official can only arrest a person by issuing a misdemeanor field citation.

**DIVISION 2
Judicial Remedies**

~~§ 13.0201~~ **SEC. 12.0201 Criminal Violations--Misdemeanors and Infractions**

[No change in text.]

~~§ 13.0202~~ **SEC. 12.0202 Civil Violations--Injunctions and Civil Penalties**

[No change in text.]

SEC. 12.0203 Code Enforcement Performance Bond

As part of any court action, the City has the authority to require a Responsible Person to post a performance bond to ensure compliance with the Municipal Code, applicable state codes or any judicial action.

SEC. 12.0204 Judicial Abatement

Pursuant to California Government Code Section 38773, the City has the authority to judicially abate public nuisances by filing criminal or civil actions. The City also has the authority to make the expense of abatement of the nuisance a special assessment, or a lien against the property on which it is maintained and a personal obligation against the property owner, in accordance with California Government Code Section 38773.1 or 38773.5.

SEC. 12.0205 Treble Damages For Subsequent Abatement Judgments

Pursuant to California Government Code Section 38773.7, upon the entry of a second or subsequent civil or criminal judgment within a two-year period that finds an owner of property responsible for a condition that may be abated in accordance with California Government Code Section 38773.5, a court may order the owner to pay treble the costs of the abatement. These costs shall not include conditions abated pursuant to Section 17980 of the California Health and Safety Code.

**DIVISION 3
Administrative Remedies**

SEC. 12.0301 Administrative Remedies

Divisions 3 through 10 of Article 2 of Chapter I establish the administrative enforcement remedies for violations of the Municipal Code and applicable state codes. The general remedies include Administrative Abatement, Summary Abatement, Civil Penalties, Administrative Citations, Recordation of Notices of Violation and Mediation. Divisions 4 and 5 of Article 2, Chapter I govern the procedures for appeals and hearings relating to these administrative remedies.

SEC. 12.0302 Declaration of Purpose

The Council finds that there is a need for a variety of administrative remedies to enforce violations of the Municipal Code and applicable state codes. The procedures established by these administrative remedies are in addition to any other legal remedy established by law which may be pursued to address Municipal Code and applicable state code violations.

SEC. 12.0303 Authority

Whenever a Director determines that a violation of the Municipal Code or applicable state code exists, a Director may pursue any of the administrative remedies outlined in Divisions 3 through 10 of Article 2, Chapter I of this Code.

SEC. 12.0304 Notice of Pending Administrative Enforcement Action

(a) A Director may record with the County Recorder's Office a notice against a property which is the subject of an administrative enforcement action pending with the City of San Diego.

(b) A notice of pending administrative action shall be on a form approved by the City Manager and shall describe the nature of the administrative action and refer to the Municipal Code governing the pending administrative action.

DIVISION 4

Administrative Enforcement Hearing Procedures

SEC. 12.0401 Administrative Enforcement Hearing Procedures

Division 4 of Article 2 of Chapter I establishes the procedures for conducting administrative enforcement hearings.

SEC. 12.0402 Declaration of Purpose

(a) The Council finds that there is a need to establish uniform procedures for administrative enforcement hearings conducted pursuant to the Municipal Code. It is the purpose and intent of the City Council to afford due process of law to any person who is directly affected by an administrative action. Due process of law includes: adequate notice, an opportunity to participate in the administrative hearing and an adequate explanation of the reasons justifying the administrative action. These procedures are also intended to establish a forum to efficiently, expeditiously and fairly resolve issues raised in any administrative enforcement action.

(b) The City Manager is authorized to develop policies and procedures relating to the qualifications, appointment and compensation of hearing officers, hearing officer powers, hearing procedures, scope of the hearing, subpoena powers and other matters relating to administrative enforcement hearings.

SEC. 12.0403 Procedures for Notification of Enforcement Hearing

(a) Where an administrative enforcement remedy or proceeding authorized by Chapter I provides for an enforcement hearing, the Director may request the City Manager to appoint an Enforcement Hearing Officer and to schedule a day, time and place for the hearing.

(b) Written notice of the time and place of the hearing shall be served at least ten (10) calendar days prior to the date of the hearing to the Responsible Person.

(c) The format and contents of the hearing notice shall be in accordance with rules and policies promulgated by the City Manager.

(d) The notice of hearing shall be served by any of the methods of service listed in Section 11.0301 of this Code.

SEC. 12.0404 Qualifications of Enforcement Hearing Officer

The City Manager shall promulgate rules and procedures as are necessary to establish a pool of qualified persons who are capable of acting on behalf of the City as Enforcement Hearing Officers.

SEC. 12.0405 Appointment of Enforcement Hearing Officer

Enforcement Hearing Officers presiding at administrative enforcement hearings shall be appointed and compensated by the City Manager. The City Manager shall develop policies and procedures relating to the employment and compensation of Enforcement Hearing Officers.

SEC. 12.0406 Disqualification of Enforcement Hearing Officer

Any person designated to serve as an Enforcement Hearing Officer is subject to disqualification for bias, prejudice, interest, or for any other reason for which a judge may be disqualified in a court of law. Rules and procedures for the disqualification of an Enforcement Hearing Officer shall be promulgated by the City Manager.

SEC. 12.0407 Powers of Enforcement Hearing Officer

(a) The Enforcement Hearing Officer may continue a hearing based on good cause shown by one of the parties to the hearing or if the Hearing Officer independently determines that due process has not been adequately afforded.

(b) The Enforcement Hearing Officer, at the request of any party to the hearing, may subpoena witnesses, documents and other evidence where the attendance of the witness or the admission of evidence is deemed necessary to decide the issues at the hearing. All costs related to the subpoena, including witness and mileage fees shall be borne by the party requesting the subpoena. The City Manager shall develop policies and procedures relating to the issuance of subpoenas in administrative enforcement hearings, including the form of the subpoena and related costs.

(c) The Enforcement Hearing Officer has continuing jurisdiction over the subject matter of an administrative enforcement hearing for the purposes of granting a continuance, ensuring compliance with an Administrative Enforcement Order,

modifying an Administrative Enforcement Order, or where extraordinary circumstances exist, granting a new hearing.

(d) The Enforcement Hearing Officer has the authority to require a Responsible Person to post a Code Enforcement Performance Bond to ensure compliance with an Administrative Enforcement Order.

SEC. 12.0408 Procedures at Administrative Enforcement Hearing

(a) Administrative enforcement hearings are intended to be informal in nature. Formal rules of evidence and discovery do not apply. The procedure and format of the administrative hearing shall follow the procedures promulgated by the City Manager.

(b) The City bears the burden of proof at an administrative enforcement hearing to establish the existence of a violation of the Municipal Code or applicable state code. In the case of an abatement hearing the City bears the burden of proof to establish the existence of a public nuisance.

(c) The standard of proof to be used by the Enforcement Hearing Officer in deciding the issues at an administrative hearing is by a preponderance of the evidence.

(d) Each party shall have the opportunity to cross-examine witnesses and present evidence in support of his or her case.

SEC. 12.0409 Failure to Obey Subpena

It is unlawful for any person to refuse to obey a subpoena issued by an Enforcement Hearing Officer. Failure to obey a subpoena constitutes contempt and may be prosecuted as a misdemeanor.

SEC. 12.0410 Failure to Attend Administrative Enforcement Hearing

Any party whose property or actions are the subject of an administrative enforcement hearing and who fails to appear at the hearing is deemed to waive the right to a hearing and the adjudication of the issues related to the hearing, provided that proper notice of the hearing has been provided.

SEC. 12.0411 Administrative Enforcement Order

(a) The decision of the Enforcement Hearing Officer shall be entitled "Administrative Enforcement Order" and shall be issued in accordance with the rules and procedures promulgated by the City Manager.

(b) The Administrative Enforcement Order shall become final on the date of service of the order.

(c) The Administrative Enforcement Order shall be served on all parties by any one of the methods listed in Section 11.0301 of the Municipal Code.

SEC. 12.0412 Judicial Review

Once an Administrative Enforcement Order becomes final as provided in this Division, the time in which judicial review of the order must be sought shall be governed by California Code of Civil Procedure Section 1094.6.

SEC. 12.0413 Failure to Comply with Administrative Enforcement Order

It is unlawful for a party to an administrative enforcement hearing who has been served with a copy of the final Administrative Enforcement Order pursuant to Section 11.0301 of the Municipal Code to fail to comply with the order. Failure to comply with a final Administrative Enforcement Order may be prosecuted as a misdemeanor.

DIVISION 5

Administrative Enforcement Appeals

SEC. 12.0501 Appeal Procedures

(a) A person served with one of the following documents, orders or notices may file an appeal within ten (10) calendar days from the service of the notice:

(1) Any Administrative Abatement Notice and Order issued for those public nuisances listed under Time Frame One of Section 12.0603(c) of the Municipal Code.

(2) An Administrative Citation issued pursuant to Section 12.0903 of the Municipal Code.

(3) A letter from a Director indicating an intent to record a Notice of Violation pursuant to Section 12.1003 of the Municipal Code.

(b) The appeal shall be made in writing and filed with the Director.

(c) As soon as practicable after receiving the written notice of appeal, a Director shall request the City Manager to appoint an Administrative Enforcement Hearing Officer and to schedule a date, time and place for the hearing.

(d) Written notice of the date, time and place of the hearing shall be served at least ten (10) calendar days prior to the date of the hearing on the person appealing the notice by any one of the methods listed in Section 11.0301 of the Municipal Code.

SEC. 12.0502 Appeal Hearing

The appeal hearing shall be conducted pursuant to the administrative enforcement hearing procedures set forth in Division 4, Article 2 of Chapter I.

SEC. 12.0503 Failure to Attend an Administrative Enforcement Hearing

Failure to attend the administrative enforcement hearing by the person appealing a notice shall constitute a waiver of his or her rights to an administrative enforcement hearing and adjudication of the notice or any portion of the notice.

**DIVISION 6
Administrative Abatement**

~~§ 13.0302~~ **SEC. 12.0601 Declaration and of Purpose**

The Council declares finds that its purpose in adopting sections ~~13.0301 through 13.0320~~ Divisions 6 and 7 of Article 2 of Chapter I is to establish a procedure to cause for the summary and administrative abatement of Municipal Code violations of public nuisances and code violations. The procedures established in these sections shall be are in addition to any other legal remedy, criminal or civil, established by law which may be pursued to address violations of this Municipal Code or applicable state code violations. These sections do not affect or alter govern all other nuisance abatement procedures established in other chapters of this the Municipal Code unless other procedures are specifically stated to apply.

~~§ 13.0304~~ ~~Abatement of Public Nuisances~~ **SEC. 12.0602**
Authority

~~The City Council declares that a~~Any condition caused, maintained or permitted to exist in violation of any provisions of this the Municipal Code or applicable state codes which constitutes a threat to the public's health, safety and welfare or which significantly obstructs, injures, or interferes with the reasonable or free use of property in a neighborhood, community or to any considerable number of persons, shall be deemed a public nuisance and may be abated consistent with the procedures provided for in sections ~~13.0301 through 13.0320~~ by the City pursuant to the procedures set forth in Divisions 6 and 7, Article 2 of Chapter I.

SEC. 12.0603 General Procedures

(a) Abatement Notice

(1) Whenever a Director determines that public or private property or any portion of public or private property is a public nuisance as generally defined in Section 11.0221 or as declared in a specific section of the Municipal Code or applicable state codes, an Abatement Notice may be issued to the Responsible Person to abate the public nuisance.

(2) The Abatement Notice shall contain a description of the property in general terms reasonably sufficient to identify the location of the property. It shall refer to Divisions 6 and 7 of Article 2, Chapter I of the Municipal Code or applicable state code violations which render the property a public nuisance.

(3) The Abatement Notice shall describe the action required to abate the public nuisance which may include corrections, repairs, demolition, removal, obtaining the necessary permits, vacation of tenants or other appropriate action and shall establish time frames by which each action must occur.

(4) The Abatement Notice shall explain the consequences should the Responsible Person fail to comply with the terms of the notice.

(5) The Abatement Notice shall identify all applicable hearing and appeal rights.

(b) Service of Abatement Notice

The Abatement Notice shall be served by any one of the methods of service listed in Section 11.0301 of this Code.

(c) Compliance Time Frames

The Director shall follow the compliance time frames and specified procedures for either Time Frame One or Time Frame Two depending upon whether the criteria as provided in Section 12.0604 or 12.0605 of this Division applies.

SEC. 12.0604 Time Frame for Compliance: Time Frame One

(a) Time Frame One shall require the Responsible Person to abate the public nuisance within ten (10) calendar days from the date of service of the Abatement Notice.

(b) A Director may require the Responsible Person to abate the public nuisance within Time Frame One in any one of the following instances:

(1) the condition causing the public nuisance is rubbish, weeds, waste or other obstructions as described in Division 2, Article 4 of Chapter V of this Code; or

(2) the condition causing the public nuisance is a vacant structure as described in Division 3, Article 4 of Chapter V of this Code; or

(3) the condition causing the public nuisance is graffiti as described in Division 4, Article 4 of Chapter V of this Code; or

(4) the condition causing the public nuisance is a dangerous sign as described in Section 95.0133 of this Code; or

(5) the condition causing the public nuisance has been determined by a Director to be so serious or harmful that immediate abatement is required.

(c) Right to Appeal Under Time Frame One

(1) The Responsible Person may appeal the Abatement Notice within ten (10) calendar days from the date of service of the Abatement Notice by filing a written request to appeal to a Director.

(2) Upon receiving a written request to appeal an Abatement Notice, a Director shall follow the procedures set forth in Division 5, Article 2 of Chapter I and request the City Manager to schedule a hearing to hear any objections why abatement should not be ordered and effected.

(3) Abatement shall not proceed until the Enforcement Hearing Officer issues an order, unless the Director concludes that an imminent threat to the public's health and safety exists.

(4) If the Enforcement Hearing Officer issues an order confirming the existence of a public nuisance, the City may immediately abate the public nuisance pursuant to the procedures set forth in Section 12.0606 of this Division. The Hearing Officer's decision is the final administrative decision and shall become effective upon the date of the order.

(d) Abatement Under Time Frame One

The City may abate the condition causing the public nuisance in the following circumstances:

(1) the Responsible Person fails to abate the public nuisance as required by the Abatement Notice and an appeal has not been timely filed; or

(2) an Administrative Enforcement Order has been issued confirming the existence of a public nuisance after an appeal by the Responsible Person.

SEC. 12.0605 Time Frame for Compliance: Time Frame Two

(a) Time Frame Two shall apply to all other public nuisances not listed under Time Frame One. Time Frame Two shall require the Responsible Person to abate the public nuisance within a minimum of fourteen (14) calendar days from the date of service of the Abatement Notice. The Director may establish a longer time frame as is reasonable or necessary to complete the abatement.

(b) Abatement Under Time Frame Two

(1) In the event the Responsible Person does not abate the public nuisance as required by the Abatement Notice, a Director may request the City Manager to schedule an administrative hearing pursuant to the procedures set forth in Division 4, Article 2 of Chapter I to determine the existence of a public nuisance.

(2) If the Enforcement Hearing Officer issues an order confirming the existence of a public nuisance, the City may immediately abate the conditions causing the public nuisance pursuant to the procedures set forth in Section 12.0606 of this Division.

SEC. 12.0606 Abatement of a Public Nuisance by the City

(a) Once a Director follows the procedures set forth in Sections 12.0604 or 12.0605 of this Division and obtains authorization to abate a public nuisance, the public nuisance may be abated by City personnel or by a private contractor.

(b) City personnel or a private contractor can enter upon private property in a reasonable manner to abate the public nuisance as specified in the Abatement Notice or Abatement Order.

(c) If the Responsible Person abates the public nuisance before the City performs the actual abatement pursuant to an Abatement Notice or Abatement Order, the Director may still assess all costs incurred by the City at that point against the Responsible Person pursuant to the provisions set forth in Division 3, Article 3 of Chapter I of this Code.

(d) When abatement is completed, a report describing the work performed and an itemized account of the total abatement costs shall be prepared by the Director. The report shall contain the names and addresses of the Responsible Persons of each parcel, the tax assessor's parcel number and a legal description of the property.

(e) The Director shall request the City Manager to schedule a confirmation of costs hearing pursuant to Section 13.0302 of this Chapter, unless waived in writing by all Responsible Persons.

(f) All administrative and actual costs incurred by the City in abating the public nuisance may be assessed and recovered against the Responsible Person pursuant to the provisions set forth in Division 3, Article 3 of Chapter I.

DIVISION 7 Summary Abatement

SEC. 12.0701 Summary Abatement

Division 7 of Article 2 of Chapter I of this Code governs the procedures relating to summary abatement of public nuisances.

~~§ 13.0306 Summary Abatement~~ SEC. 12.0702 Authority

~~(a) Whenever the a Director determines that an imminent life safety hazard exists that requires immediate correction or elimination, without prior notice to the owner, agent or persons in possession, the Director shall cause the premises, or portion thereof to be secured, demolished or removed, as appropriate under the circumstances, may exercise the following powers without prior notice to the Responsible Person:~~

(a) Order the immediate vacation of any tenants and prohibit occupancy until all repairs are completed; or

(b) Post the premises as unsafe, substandard or dangerous;

or

(c) Board, fence or secure the building or site; or

(d) Raze and grade that portion of the building or site to prevent further collapse and remove any hazard to the general public; or

(e) Make any minimal emergency repairs as necessary to eliminate any imminent life safety hazard; or

~~(f) Take any other action as appropriate under the circumstances.~~

~~The Director shall pursue only the minimum level of correction or abatement as shall be necessary to eliminate the immediacy of the hazard. The costs of such abatement, to the extent that they are not part of any regularly provided City service, shall be recoverable against the property owner through the steps outlined in section 13.0305 above. The abatement of any remaining public nuisance can proceed in accordance with the administrative procedures outlined in section 13.0305.~~

~~(b) The City Manager may, by Administrative Regulation provide for the use of City equipment or forces to mitigate such imminent public nuisance pending complete abatement pursuant to section 13.0305.~~

~~SEC. 12.0703 Procedures~~

~~(a) A Director shall pursue only the minimum level of correction or abatement as necessary to eliminate the immediacy of the hazard. Costs incurred by the City during the summary abatement process shall be assessed and recovered against the Responsible Person through the procedures outlined in Section 12.0606 of Division 6 of this Chapter.~~

~~(b) The Director may also pursue any administrative or judicial remedy to abate any remaining public nuisance.~~

~~DIVISION 8 Administrative Civil Penalties~~

~~§ 13.0330 SEC. 12.0801 Administrative Civil Penalties- Procedures~~

~~Sections 13.0330 through 13.0338 shall govern civil penalties for violations of the Municipal Code.~~

~~Division 8 of Article 2 of Chapter I governs the administrative assessment of civil penalties for violations of the Municipal Code and applicable state codes.~~

~~§ 13.0331 SEC. 12.0802 Declaration and of Purpose~~

~~The Council finds and determines that there is a need for alternative methods of enforcement of the San Diego Municipal Code and applicable state codes. The Council further finds and declares that the imposition that the assessment of civil penalties upon violators of provisions of this Code through an administrative hearing procedure for code violations is a necessary alternative method of code enforcement.~~

~~The procedures established in sections 13.0330 through 13.0338 shall be~~ The administrative assessment of civil penalties established in Division 8 of this Article is in addition to any ~~other legal~~ other administrative or judicial remedy established by law which may be pursued to address violations of ~~this the~~ Municipal Code or applicable state codes.

~~§ 13.0333 Procedures Generally~~ SEC. 12.0803 Authority

(a) Any person violating any provision of the Municipal Code or applicable state code may be subject to the assessment of civil penalties as ~~provided in sections 13.0330 through 13.0338,~~ pursuant to the administrative procedures provided in Sections 12.0804 through 12.0811 of this Division.

(b) Each and every day a violation of any provision of the Municipal Code or applicable state code exists constitutes a separate and distinct offense violation.

(c) Civil penalties may be directly assessed by means of a Notice and Order issued by the Director or affirmed by a City Manager's Enforcement Hearing Officer, and Civil penalties may be recovered by assessment of a Code Enforcement ~~Lien or legal~~ action pursuant to Division 2 of Article 3 of Chapter I or subsequent legal action brought by the City Attorney.

(d) Civil penalties for violations of any provision of the Municipal Code or applicable state codes shall be assessed by ~~means of a Notice and Order shall be collected in accordance with the administrative procedures specified in this section or shall be collected in the same manner as judgments in civil actions,~~ at a daily rate determined by the Director or Enforcement Hearing Officer pursuant to the criteria listed in Section 12.0805 of this Division. The maximum rate shall be \$2,500 per violation. The maximum amount of civil penalties shall not exceed \$100,000 per parcel or structure for any related series of violations.

~~(e) A civil penalty for a violation of any provision of the Municipal Code shall be assessed at a daily rate determined by the Hearing Officer up to a maximum of \$2,500 per day per violation, except that the maximum civil penalty shall not exceed \$100,000 for any related series of violations.~~

~~(f) In determining the amount of the civil penalty to be imposed, the Hearing Officer may consider some or all of the following factors:~~

- ~~(1) The duration of the violation.~~
- ~~(2) The frequency or reoccurrence of the violation.~~
- ~~(3) The seriousness of the violation.~~

- ~~(4) The history of such violation.~~
- ~~(5) The violator's conduct after issuance of the Notice and Order.~~
- ~~(6) The good faith effort by the violator to comply.~~
- ~~(7) The economic impact of the penalty on the violator.~~
- ~~(8) The impact of the violation upon the community.~~
- ~~(9) Any other factors which justice may require.~~

~~(g) Civil penalties shall begin to accrue ten (10) days from the date the Notice and Order is issued and shall cease to accrue on the date the violation is deemed corrected by the Director.~~

~~(h) If compliance is not achieved within ten (10) days from the date the Notice and Order is issued, the Director shall automatically set an administrative hearing.~~

~~§ 13.0334~~ SEC. 12.0804 Procedures--Notice and Order

(a) Whenever the a Director determines that a violation of one or more provisions of the Municipal Code or applicable state code has occurred or continues to exist, a written civil penalties Notice and Order may be issued to the violator(s) or any property owner(s) of record Responsible Person.

(b) The Notice and Order shall refer to the Municipal Code section all code sections violated and describe how the each section is or has been violated.

(c) The Notice and Order shall refer to the date(s) and location(s) of the violation(s).

(d) The Notice and Order shall describe the all remedial action required to permanently correct the outstanding violation(s) and establish time frames for completion.

(e) The Notice and Order shall establish a daily amount of civil penalties. The Director shall determine the daily amount of civil penalties pursuant to the criteria in Section 12.0805 of this Division.

(f) The Notice and Order shall identify a date when the civil penalties began to accrue and a date when the assessment of civil penalties ended, unless the violation is continuous. In the case of a continuous violation, there shall be an ongoing

assessment of penalties at the daily rate established in the Notice and Order until the violations are corrected.

(g) If a Director determines that the violations are continuing, the Notice and Order shall demand that the Responsible Person cease and desist from further action causing the violations and commence and complete all action to correct the outstanding violations under the guidance of the appropriate City Departments.

(h) The Notice and Order shall enumerate any other consequences should the Responsible Person fail to comply with the terms and deadlines as prescribed in the Notice and Order.

(i) The Notice and Order shall identify appropriate hearing procedures as required by Sections 12.0401 through 12.0413 of this Chapter.

(j) The Notice and Order shall be served upon the Responsible Person by any one of the methods of service listed in Section 11.0301 of this Chapter.

(k) The Notice and Order shall identify the factors used by a Director in determining the duration and the daily amount of civil penalties.

(l) More than one Notice and Order may be issued against the same Responsible Person if it encompasses either different dates or different violations.

~~(e) The Notice and Order shall require the violator(s) or property owner(s) to immediately correct the violations. The Notice and Order shall explain that civil penalties shall begin to immediately accrue if compliance is not achieved within ten (10) days from the date the Notice and Order is issued.~~

~~(f) The Notice and Order shall also explain the consequences should the violator(s) and/or property owner(s) fail to comply with the terms of the Notice and Order prescribed in this section.~~

~~(g) The Notice and Order shall identify all hearing rights.~~

~~(h) The Notice and Order shall be served upon the violator(s) or the property owner(s) or their agent(s) by any one of the following means:~~

~~(1) Personal service;~~

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

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

~~(i) 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.~~

SEC. 12.0805 Determination of Civil Penalties

(a) In determining the date when civil penalties started to accrue, a Director may consider the date when the Department first discovered the violations as evidenced by the issuance of a Notice of Violation or any other written correspondence.

(b) The assessment of civil penalties shall end when all action required by the Notice and Order has been completed.

(c) In determining the amount of the civil penalty to be assessed on a daily rate, a Director may consider some or all of the following factors:

(1) The duration of the violation.

(2) The frequency or recurrence of the violation.

(3) The seriousness of the violation.

(4) The history of the violation.

(5) The Responsible Person's conduct after issuance of the Notice and Order.

(6) The good faith effort by the Responsible Person to comply.

(7) The economic impact of the penalty on the Responsible Person.

(8) The impact of the violation upon the community.

(9) Any other factors that justice may require.

(d) The City Manager has the authority to establish a penalty schedule for a Director to use as a guideline in determining the amount of civil penalties in appropriate cases. The Manager shall also establish procedures for the use of this penalty schedule.

SEC. 12.0806 Administrative Costs

A Director or Enforcement Hearing Officer is authorized to assess any reasonable administrative costs. Administrative costs may include scheduling and processing of the hearing and all subsequent actions.

SEC. 12.0807 Failure to Comply with Director's Notice and Order

A Director shall request the City Manager to appoint an Enforcement Hearing Officer and to establish a date, time and place for the civil penalties hearing in accordance with Division 4 of Article 2 of Chapter I when the Responsible Person fails to comply with the terms of the Notice and Order. Failure to comply includes failure to pay the assessed civil penalties, failure to commence and complete corrections by the established deadlines or failure to refrain from continuing violations of the Municipal Code or applicable state codes.

SEC. 12.0808 Civil Penalties Hearing

(a) The procedures for the civil penalties hearing are the same as the hearing procedures set forth in Division 4 of Article 2 of Chapter I.

(b) The Enforcement Hearing Officer shall only consider evidence that is relevant to the following issues: (1) whether the Responsible Person has caused or maintained a violation of the Municipal Code or applicable state code that existed on the dates specified in the Notice and Order; and (2) whether the amount of civil penalties assessed by the Director pursuant to the procedures and criteria outlined in Section 12.0805 was reasonable.

SEC. 12.0809 Administrative Enforcement Order

(a) Once all evidence and testimony are completed, the Enforcement Hearing Officer shall issue an Administrative Enforcement Order which affirms or rejects the Director's Notice and Order or which modifies the daily rate or duration of the civil penalties depending upon the review of the evidence. The Enforcement Hearing Officer may increase or decrease the total amount of civil penalties and costs that are assessed by the Director's Notice and Order.

(b) The Enforcement Hearing Officer may issue an Administrative Enforcement Order that requires the Responsible Person to cease from violating the Municipal Code or applicable state codes and to make necessary corrections.

(c) As part of the Administrative Enforcement Order, the Enforcement Hearing Officer may establish specific deadlines for

the payment of penalties and costs and condition the total or partial assessment of civil penalties on the Responsible Person's ability to complete compliance by specified deadlines.

(d) The Enforcement Hearing Officer may issue an Administrative Enforcement Order which imposes additional civil penalties that will continue to be assessed until the Responsible Person complies with the Hearing Officer's decision and corrects the violation.

(e) The Enforcement Hearing Officer may schedule subsequent review hearings as may be necessary or as requested by a party to the hearing to ensure compliance with the Administrative Enforcement Order.

~~§ 13.0336~~ SEC. 12.0810 Failure To Comply With The Administrative Enforcement Order

~~(a) Failure to Pay Civil Penalties and Administrative Costs: Upon the failure of the Responsible Person 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 comply with the terms and deadlines set forth in the Administrative Enforcement Order, Hearing Officer's decision, the unpaid amount shall constitute either or both: the Director may use all appropriate legal means to recover the civil penalties, administrative costs and obtain compliance with the Administrative Enforcement Order.~~

~~(1) a personal obligation of the violator(s) or 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) After the Enforcement Hearing Officer issues an Administrative Enforcement Order, the Director shall monitor the violations and determine compliance.

~~(b) Failure to Correct Violation: Upon the failure of the violator(s) or property owner(s) or their agents to correct the violations as specified in the Hearing Officer's decision, civil penalties may continue to accrue on a daily basis until the violation is corrected except that such amount shall not exceed \$100,000.~~

DIVISION 9
Administrative Citations

~~§ 13.0340~~ **SEC. 12.0901** **Administrative Citations-Procedure**

~~The following sections 13.0340 through 13.0348~~ **Division 4 of Article 3 of Chapter I** governs the procedures relating to administrative citations.

~~§ 13.0341~~ **SEC. 12.0902** **Declaration and of Purpose**

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

The procedures established in this section **Division** 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 or applicable state codes. ~~violations of this Municipal Code.~~

~~§ 13.0343~~ **SEC. 12.0903** **Authority Procedures-Generally**

(a) Any person violating any minor provisions of the Municipal Code or applicable state code may be issued an administrative citation by an Enforcement Officer as provided in this section **Division**.

(b) Each and every day a minor violation of any provision of the Municipal Code or applicable state code exists constitutes a separate and distinct offense.

(c) A fine civil penalty 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~~ Penalties assessed by means of an administrative citation shall be collected in accordance with the ~~administrative procedures~~ specified in this **Division** section.

~~§ 13.0344~~ **SEC. 12.0904** **Procedures -Issuance of Administrative Citation**

(a) Upon discovering or observing any minor violation of the Municipal Code or applicable state codes, the an Enforcement Officer may issue an administrative citation to a the violator or property owner **Responsible Person** in the manner prescribed in this **Division** 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 ~~the Responsible Person~~ is a business, the Enforcement Officer shall attempt to locate the business owner and issue ~~the that person business owner~~ an administrative citation. If the Enforcement Officer ~~is can~~ 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~~ Responsible Person in the manner as prescribed by Section 11.0301(a)(2) of this Chapter. ~~in this section.~~

(c) Once the ~~person responsible for the violation~~ Responsible Person is located, the Enforcement Officers shall attempt to obtain the signature of that person on the administrative citation. If ~~that p~~ the Responsible Person refuses or fails to sign the administrative citation, the failure or refusal to sign shall ~~in no way not~~ affect the validity of the citation and subsequent proceedings.

(d) If the Enforcement Officer is unable to locate the ~~Responsible party~~ Person for the violation, then the administrative citation shall be mailed to the ~~Responsible party~~ Person or ~~property owner~~ in the manner prescribed in Section 11.0301(a)(2) of this Chapter ~~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 ~~on or near the property~~ and a copy subsequently mailed to the Responsible Person ~~property owner or person determined to be the party responsible for the violation~~ in the manner prescribed by Section 11.0301(a)(2) of this Chapter.

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

(g) The administrative citation shall be mailed to the Responsible Person ~~violate(s) or property owner(s) or their agent(s)~~ in the manner prescribed by Section 11.0301(a)(2) of this Chapter ~~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 ~~Division~~ section. ~~Notice by certified mail in the manner described above shall become effective on the date of mailing.~~

~~§ 13.0345~~ SEC. 12.0905 Contents of Notice

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

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

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

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

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

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

(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 Person~~ if they can be located, as outlined in subsection ~~12.0904(c) 13.0344(e)~~.

~~§ 13.0346~~ SEC. 12.0906 Appeal of Administrative Citation

~~An appeal of an administrative citation shall follow the procedures set forth in Division 5, Article 2 of Chapter I.~~

~~(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. 12.0907 Administrative Enforcement Order

(a) The appeal hearing shall follow the enforcement hearing procedures set forth in Division 4, Article 2 of Chapter I.

(b) As part of the Administrative Enforcement Order, the Enforcement Hearing Officer may reduce, waive or conditionally reduce the penalties or late fees assessed by the citation.

(c) The Enforcement Hearing Officer may also impose conditions and deadlines to correct the violations or require payment of any outstanding penalties.

(d) The Enforcement Hearing Officer may assess reasonable administrative costs.

~~§ 13.0347~~ SEC. 12.0908 Fines Penalties Assessed

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

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

(c) ~~The amount of the fine penalties assessed for each administrative citation issued for the same violation(s) shall not exceed the following amounts regardless of the number of minor violations per citation:~~

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

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

(e) All fines penalties 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 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.~~

~~(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.~~

SEC. 12.0909 Failure To Pay Penalties

The failure of any person to pay the civil penalties assessed by an administrative citation within the time specified on the citation may result in the Director referring the matter to the City Treasurer to file a claim with the Small Claims Court. Alternatively, the Director may pursue any other legal remedy to collect the civil penalties as provided in Section 13.0401 of this Chapter.

~~§ 13.0348~~ **SEC. 12.0910 Allocation of Administrative Fines Penalties**

~~Administrative fines civil penalties collected in the manner described pursuant to in this section Division shall be deposited in the Civil Penalties Fund established pursuant to San Diego Municipal Code §Section 13.0338 13.0402 of this Chapter.~~

~~§ 13.0349 Reserved for future use~~

~~§ 13.0350 Reserved for future use~~

DIVISION 10 Recordation of Notices of Violation

~~§ 13.0361~~ **SEC. 12.1001 Recordation of Notices of Violation-- Procedures**

~~The following Sections 13.0362 through 13.0372, Division 10 of Article 2 of Chapter I, governs the procedures relating to the issuance and recordation of administrative Notices of Violation.~~

~~§ 13.0362~~ **SEC. 12.1002 Declaration and of Purpose**

The Council finds and determines that there is a need for alternative methods of enforcement for violations of the Municipal Code and applicable state codes which are found to exist on real property. The Council further finds and declares that an appropriate method of enforcement for these types of

violations is the issuance and recordation of Notices of Violation.

The procedures established in this ~~section~~ **Division** shall be in addition to criminal, civil, or any other remedy established by law which may be pursued to address violations of the Municipal Code or applicable state codes.

~~§ 13.0364~~ **SEC. 12.1003 Procedures--Generally for Recordation**

(a) Once ~~the a~~ Director has issued ~~one or more a~~ Notice(s) of Violation to a Responsible Person and the property remains in violation after the deadline established in the latest Notice of Violation, the Director may record a Notice of Violation with the Recorder's Office of San Diego County.

(b) Before recordation, the Director shall provide to the ~~property owner(s), Responsible Person and any applicable financial institution,~~ a letter stating ~~informing these parties~~ that a Notice of Violation will be recorded unless ~~one of the parties~~ files a written request to appeal pursuant to the procedures outlined in ~~Section 13.0366~~ **this Division is filed.** The letter shall be served pursuant to any of the methods of service set forth in Section 11.0301 of this Code. The Director may also send a courtesy copy of the letter to any applicable financial institution.

~~(c) The Director shall serve this letter by any one of the following means:~~

- ~~1. Personal service;~~
- ~~2. Certified mail, postage prepaid, return receipt requested; or~~
- ~~3. Posting the letter conspicuously on or in front of the property on which the violation is located.~~

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

~~(d)(c)~~ If the Director does not receive the written request to appeal ~~within the prescribed time period pursuant to the procedures set forth in this Division,~~ the Director ~~shall~~ may record the Notice of Violation if the violations ~~still~~ remain.

~~(e)(d)~~ The recorded Notice of Violation shall include the name of the property owner's or owners ~~and any affected financial institution,~~ assessor's parcel number, the parcel's legal description, and a copy of the latest Notice of Violation.

~~§ 13.0365~~ SEC. 12.1004 Service on Property Owner of Notice of Violation

A copy of the recorded Notice of Violation shall be served upon the ~~property owner(s)~~ Responsible Person and property owner and applicable financial institutions pursuant to any of the methods of service set forth in Section 11.0301 of this Code ~~procedures in Section 13.0364(e).~~

~~§ 13.0366~~ SEC. 12.1005 Procedures to Appeal Rights Recordation

(a) ~~The property owner(s) or financial institution may challenge the recording of~~ An appeal of the Director's letter to record the Notice of Violation shall follow the procedures set forth in Division 5, Article 2 of Chapter I within ~~ten (10)~~ calendar days of the effective date of service of the letter required in Section 13.0364(e) by filing a written appeal with the Director.

(b) Upon receiving a written appeal, the Director shall request the City Manager to schedule a hearing pursuant to the procedures set forth in Division 5, Article 2 of Chapter I. The purpose of the hearing is for the Responsible Person or property owner to state any reasons why a Notice of Violation should not be recorded.

~~(b) The Director shall either request the City Manager to appoint a hearing officer or schedule this appeal before an appropriate departmental hearing or appeals board. Written notice of the date, time and place of the hearing shall be served upon the appellant at least ten (10) calendar days prior to the date of the hearing by any one of the methods listed in Section 13.0364(e).~~

(c) The failure of any person to file an appeal in accordance with these provisions shall constitute a waiver of the right to an administrative hearing and shall not affect the validity of the recorded Notice of Violation.

~~§ 13.0367~~ SEC. 12.1006 Appeal Hearings

~~(a) The hearing officer or board shall consider any written or oral evidence regarding the existence of the violations, any notices issued, the recordation procedures and other relevant testimony.~~

(a) The appeal hearing shall follow the hearing procedures as set forth in Division 4 of Article 2 of Chapter I.

~~(b) These hearings shall be conducted consistent with regulations as issued by the City Manager or set forth by the appropriate board.~~

(b) At the appeal hearing, the Enforcement Hearing Officer shall only consider evidence that is consistent with the City Manager's rules and procedures for administrative enforcement hearings and that is relevant to the following issues:

(1) Whether the conditions listed in the Notice of Violation violate the Municipal Code or applicable state codes; and

(2) Whether the Director afforded the Responsible Person with due process by adhering to the notification procedures specified in this Division.

(c) If the Enforcement Hearing Officer affirms the Director's decision, the Director may proceed to record the Notice of Violation.

~~(ed) The Hearing Officer shall review all evidence and testimony presented to determine whether or not recordation of the Notice of Violation is proper pursuant to these sections. If the Enforcement Hearing Officer or board determines that recordation is improper, the Enforcement Hearing Officer or board shall order invalidate the Director's decision not to record the Notice of Violation.~~

~~(d) The decision of the hearing officer or board shall be the final administrative order and becomes effective immediately. A copy of the hearing officer or board's decision shall be served on the property owner(s) or financial institution in the manner provided in Section 13.0364(e).~~

~~§ 13.0370~~ SEC. 12.1007 Notice of Compliance--Procedures

(a) When the violations listed on the Notice of Violation and any other existing violations have been corrected, the Responsible Person or property owner(s) or financial institution may file with the Director a written request for a Notice of eCompliance on a form provided by the City.

(b) Once the Director receives this request, a the Director shall reinspection shall be performed the property within ten ~~(10)~~ thirty (30) working calendar days to determine whether the property complies with all applicable provisions of the Municipal Code whether the violations listed in the Notice of Violation have been corrected and whether all necessary permits have been issued and final inspections have been performed.

(c) The Director shall issue and serve a Notice of eCompliance to the property owner(s) Responsible Person or property owner or financial institution in the manner provided in Section ~~13.0364(e)~~ 11.0301 of this Code if the Director determines that: (1) all violations listed in the recorded

Notice of Violation have been corrected; and (2) ~~the property complies with the applicable Municipal Code provisions;~~ (3) all necessary permits have been issued and finalized; and (3) all civil penalties assessed against the property have been paid; and (4) the party requesting the Notice of Compliance has paid an administrative fee to reimburse the City for all administrative costs and expenses.

(d) Administrative costs may include costs incurred in the investigation, inspection, reinspection, title searches, appeal hearings, and any other processing costs associated with the violations specified on the Notice of Violation and simple interest thereon at the legal rate applicable to judgments at the time of recordation of the Notice of Violation. Such interest shall accrue from the time of recordation of the Notice of Violation until the issuance of the notice of compliance. The Director shall establish this fee based on salaries, costs and overhead as developed in the applicable department's annual budget applicable at the time the costs and expenses are incurred by the City.

~~The Director is authorized to impose reasonable conditions upon the issuance of the notice of compliance in order to ensure compliance with the Municipal Code.~~

~~(d) If the Director denies the request for a notice of compliance, a written denial, containing the reasons for the denial, shall be served upon the property owner(s) or financial institution in the same manner as outlined in Section 13.0364(e).~~

(e) If the Director denies a request to issue a Notice of Compliance, the Director shall serve the Responsible Person or property owner with a written explanation setting forth the reasons for the denial. The written explanation shall be served by any of the methods of service listed in Section 11.0301 of this Code.

(f) The Director's decision denying a request to issue a Notice of Compliance constitutes the final decision in the matter and is not appealable.

~~§ 13.0369~~ SEC. 12.1008 Prohibition Against Issuance of Municipal Permits

~~If not written request to appeal has been timely filed or after an appeal hearing which confirms the Director's decision to record,~~ The City of San Diego may withhold permits for any alteration, repair, or construction pertaining to any existing or new structure(s) or sign(s) on the property, or any permits pertaining to the use and development of the real property or the structure(s). : 1) if a request to appeal has not been timely filed; or 2) after an Enforcement Hearing Officer affirms the

Director's decision to record a Notice of Violation. The City may withhold such permits until a Notice of Compliance has been issued by the Director, except The City may not withhold permits which are necessary to obtain the a Notice of Compliance or which are necessary to correct serious health and safety violations.

~~§ 13.0371~~ SEC. 12.1009 Cancellation of Recorded Notice of Violation

The Director, property owner(s) or Responsible Person or financial institution shall record the Notice of Compliance with the County Recorder's Office. This shall The recordation of the Notice of Compliance shall have the effect of canceling the recorded Notice of Violation.

DIVISION 11
Mediation

SEC. 12.1101 Declaration of Purpose

The Council finds there is a need for mediation and other forms of dispute resolution as a means to gain compliance with provisions of the San Diego Municipal Code and applicable federal and state codes. The Council further declares that public policy facilitation can be an effective technique to avoid disputes by developing consensus amongst stakeholders on controversial issues. Both mediation and facilitation can often resolve disputes in a more efficient and effective manner without the necessity of more formal administrative action or litigation. The Council further finds that mediation and facilitation can foster better relations among and with the citizenry of San Diego and enhance the reputation of the City.

SEC. 12.1102 Definitions

For purposes of Division 11, the following definitions shall apply:

"Enforcement Case" means any complaint or case on file with a City Department that involves alleged violations of the Municipal Code or applicable provisions of state or federal law.

"Disputing Party" means any person responsible for alleged violations, interested or involved citizens who may have complained to the City about the alleged violations, crime victims and appropriate representatives from the City Department.

"Facilitation" means a process whereby a neutral third party conducts one or a series of meetings or sessions between and amongst relevant Stakeholders to a particular dispute or

controversial issue or policy with the purpose of improving communication and developing consensus about possible solutions.

"Mediation" means a meeting between or among disputing parties to clarify their differences and design their own mutually acceptable agreement, with the assistance of a Mediator.

"Mediator" means a neutral third party who has received at least 25 hours of mediation training from a reputable mediation program recognized by the City of San Diego.

"Referring Agency" means a Director of a City Department, the City Manager, the City Attorney or one of their designees.

"Stakeholder" means any person or organization or association that is directly affected by a particular issue or policy.

SEC. 12.1103 Procedures

The Referring Agency may refer Enforcement Cases and other types of disputes and controversies to a neutral third party to schedule and coordinate a Mediation or Facilitation as may be appropriate.

SEC. 12.1104 Confidentiality

All documents and results related to Mediations and Facilitations held pursuant to this Division shall be kept confidential in any subsequent administrative or judicial proceeding. The provisions of California Evidence Code Sections 1152 and 1152.5 and other laws pertaining to confidentiality and disclosure shall apply to Mediations and Facilitations held pursuant to this Division.

SEC. 12.1105 Enforcement

Failure by any of the Disputing Parties to participate in a Mediation or to comply with the terms of the Mediation agreement does not preclude any of the parties from pursuing further administrative or legal action as provided by law.

ARTICLE 3

~~Enforcement Recovery of Code Enforcement Penalties and Costs~~

DIVISION 1

~~General Offenses
Reinspection Fees~~

~~§ 13.0401 SEC. 13.0101 Reinspection Fees~~

~~Division 1 of Article 3 of Chapter I Sections 13.0401 through 13.0406 governs the general procedures for recovering reinspection fees imposed assessed by City Departments unless provisions of this Code establish a specific reinspection fee procedure.~~

~~§ 13.0402 SEC. 13.0102 Declaration and of Purpose~~

~~(a) The Council finds and determines that there is a need to recover reinspection costs incurred by Enforcement Officials and other 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 applicable state codes. statute or regulation that the City is authorized to enforce.~~

~~(b) The Council further finds and declares that the assessment of a reinspection fee is 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 assessment and 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 applicable state statutes codes. Reinspection fees collected pursuant to Sections 13.0401 through 13.0406 shall not be duplicated in any other action to recover these identical costs.~~

~~§ 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(e).~~

~~§ 13.0404~~ SEC. 13.0103 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).~~

(a) Whenever an Enforcement Official reinspects a property to determine compliance with provisions of the Municipal Code and applicable state codes which have been listed in a Notice of Violation, the Director may assess a reinspection fee against the Responsible Person.

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

(b) Reinspection fees may be assessed for each inspection of the property after the issuance of a Notice of Violation.

~~(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.~~

~~§ 13.0406~~ SEC. 13.0104 Assessment of Reinspection Fees Assessed

The A 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 eCharges in the City Clerk's office.

~~§ 13.0407~~ SEC. 13.0105 Notification of Assessment of Reinspection Fees Assessment

(a) Where the assessment of reinspection fees is authorized under this Division, the Director of the appropriate City Departments shall provide the Property Owner or person identified as causing the violation Responsible Person with a written notice

~~assessing reinspection fees that reinspection fees are owed.~~ The written assessment notification shall contain the following information:

- (1) the amount of fee(s) charged; and
- (2) the corresponding dates when reinspections took place; and
- (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~~ of the reinspection fee assessment has been charged and its amount shall be provided to the Property Owner or person Responsible Person identified as causing the violation by any of the means outlined in Section ~~13.0405(e)~~ 11.0301 of this Code.

(c) Reinspection fees may be assessed as part of any judicial or administrative enforcement action as provided for in this Chapter.

(d) Reinspection fees assessed or collected pursuant to this Division shall not be duplicated in any other action to recover these identical costs.

(e) The failure of any Responsible Person to receive notice of the reinspection fees shall not affect the validity of any fees imposed under this Division.

~~§ 13.0408~~ SEC. 13.0106 Failure to Pay Reinspection Fee

The failure of any person charged with a to pay an assessed reinspection fee ~~to pay the fee~~ by the deadline specified in the written notice described in Section ~~13.0407~~ 13.0105 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.~~

~~§ 13.0409~~ SEC. 13.0107 Recovery Collection 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~~ Division 2 of Article 3 of Chapter I. 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 fees and associated collection costs.

DIVISION 2
Judicial Remedies
Code Enforcement Liens

§ 13.0420 SEC. 13.0201 Code Enforcement Liens--Procedures

Division 2 of Article 3 of Chapter I Sections 13.0420 through 13.0425, governs the procedures relating to the recordation of Code Enforcement Liens.

§ 13.0421 SEC. 13.0202 Declaration of and Purpose

The Council finds and declares that recordation of Code Enforcement Liens will assist in the collection of civil penalties, abatement costs, and administrative costs and reinspection fees 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 and fees 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 this Division shall be used to complement existing administrative or judicial remedies which may be pursued to address violations of the Municipal Code or applicable state codes.

§ 13.0423 SEC. 13.0203 Procedures--Generally

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

(b) Before recordation, the Director shall provide to the Responsible Person Violator, Property Owner, and any applicable financial institution, a written notice informing these persons him or her that a Code Enforcement Lien will be recorded unless the City receives immediate full payment for the outstanding amount of civil penalties, and costs and fees within the time period prescribed in the notice. Such payment shall be due a minimum of fifteen (15) ten (10) calendar days from the date of the mailing.

(c) The Director shall serve this notice by any one of the methods of service set forth means provided for in San Diego Municipal Code Section 11.0301 of this Code 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, assessor's parcel number, the parcel's legal description, the total amount of civil penalties, costs and fees 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 and fees.

(f) A copy of the recorded Code Enforcement Lien shall be served upon the Responsible Person Violator, Property Owner and applicable financial institutions by one of the methods of service set forth in pursuant to the procedures outlined in San Diego Municipal Code sSection 11.0301 of this Code 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. 13.0204 Nuisance Abatement Lien

The Director may assess a nuisance abatement lien pursuant to Government Code Section 38773.1 by following the procedures set forth in this Division for Code Enforcement Liens and the requirements set forth below:

(a) Prior notice shall be served upon the owner of the parcel abated by the City before recordation of lien.

(b) Prior notice shall be served in the same manner as a summons in a civil action.

(c) If the owner cannot be found after a diligent search, the notice can be posted on the property for a period of ten (10) calendar days and the notice must be published in a general circulation newspaper.

(d) A nuisance abatement lien shall be recorded in the County Recorder's Office in the county in which the parcel of land is located and from the date of recording shall have the force, effect, and priority of a judgment lien.

(1) A nuisance abatement lien shall specify the amount of the lien, the name and address of the responsible City Department, the date of the abatement order, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the parcel.

(2) In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in Section 13.0204(d)(1) shall be recorded by the Director.

(e) A nuisance abatement lien may be foreclosed by an action brought by the City for a money judgment.

(f) The City may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.

DIVISION 3

~~Administrative Remedies~~ Recovery of Abatement Costs

~~§ 13.0301 Nuisance Violations Summary and Administrative Abatement~~

~~Sections 13.0301 through 13.0320 shall govern procedures relating to summary and administrative abatement of public nuisances.~~

SEC. 13.0301 Procedures for Recovering Costs of Abatement

Division 3, Article 3 of Chapter I governs the procedures for the recovery of all administrative and actual costs incurred by the City in the administrative or summary abatement of a public nuisance pursuant to the procedures and authority found in Divisions 5 and 6, Article 2 of Chapter I.

SEC. 13.0302 Confirmation of Costs Hearing

(a) After the City has abated a public nuisance, the Director shall request the City Manager to schedule a confirmation of costs hearing in accordance with the administrative enforcement hearing procedures set forth in Division 4, Article 2 of Chapter I. A confirmation of cost hearing is also appropriate if the City incurred abatement preparation costs before a Responsible Person voluntarily abated the public nuisance.

(b) A notice of the date, time and place of the confirmation of costs hearing shall be served on the Responsible Person at least ten (10) calendar days prior to the scheduled hearing by any one of the methods set forth in Section 11.0301.

(c) A copy of the report describing the work performed and an itemized account of the total abatement costs prepared pursuant to Section 12.0606 of this Chapter shall also be served on the Responsible Person at least ten (10) calendar days prior to the scheduled hearing by any one of the methods set forth in Section 11.0301.

(d) The Enforcement Hearing Officer at the confirmation of costs hearing shall limit the scope of review to the Director's report describing the work performed and the itemized account of costs together with any objections to its accuracy. The Enforcement Hearing Officer may make such revisions, corrections or modifications in the report or the account as may be just and reasonable.

(e) The Enforcement Hearing Officer may issue an order which assesses the costs as either a personal obligation against the Responsible Person or a special assessment against the real property abated by the City.

(f) At the confirmation of costs hearing, the Enforcement Hearing Officer shall not consider evidence regarding the merits of the previous abatement hearing or review the decision ordering the administrative or summary abatement.

(g) The Enforcement Hearing Officer's order confirming or modifying the amount of costs incurred by the City in performing the abatement shall be final.

~~§ 13.0303 — Definitions~~

~~For purposes of Sections 13.0301 through 13.0320, the following definitions shall apply:~~

~~(a) The term "imminent life safety hazard" shall mean any condition which creates a present, extreme and immediate danger to life, property, health or public safety.~~

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

SEC. 13.0303 Recovery of Abatement Costs as a Personal Obligation

If the Enforcement Hearing Officer orders that abatement costs be charged as a personal obligation of the Responsible Person, the Director shall collect the obligation by use of all appropriate legal means. This may include the recordation of a Code Enforcement Lien against any real property owned by the Responsible Person pursuant to the provisions set forth in Division 2, Article 3 of Chapter I. If unable to collect this obligation, the Director may refer the case to the City Treasurer or refer it to the City Attorney to file a court action to recover the costs.

SEC. 13.0304 Recovery of Abatement Costs by Special Assessment

(a) If the Enforcement Hearing Officer orders that abatement costs shall be charged against the property, the Director shall prepare a notice of special assessment.

(b) The Director shall deliver the notice of special assessment to the County Auditor who shall place it on the County Assessment Roll pursuant to Government Code Section 38773.5.

(c) The notice of special assessment shall include a copy of the Enforcement Hearing Officer's confirmation of costs order and shall summarize the abatement action. The Director may record a copy of this special assessment notice to inform any subsequent purchasers or owners about this abatement action and costs.

(d) The Director shall file a withdrawal of this notice with the County Recorder when either: (1) the Responsible Person pays in full the abatement costs; or (2) the County Auditor or Tax Collector posts a lien on the property pursuant to Government Code Section 38773.5.

~~**§ 13.0305 Procedure For Administrative Abatement**~~

~~(a) Whenever the Director determines that public or private property or any portion thereof is a public nuisance, as defined in sections 13.0301 through 13.0320, a written notice may be issued to the record owner or the person in possession of the property to abate this public nuisance.~~

~~(b) The notice shall contain a description of the property in general terms reasonably sufficient to identify the location of the property. It shall refer to sections 13.0301 through 13.0320 and the violation(s) of the Municipal Code which render(s) the property a public nuisance. It shall direct compliance by removal or correction of the conditions in violation of this Code within a minimum of seven (7) calendar~~

~~days and a maximum of thirty (30) calendar days from the date of the notice. The notice shall further describe the consequences of failure to comply as prescribed in this section.~~

~~(c) The notice required by the preceding paragraph shall be served by any of the following methods on the owner or his agent and/or the person in possession of the property:~~

~~(1) Personal service; or~~

~~(2) Certified mail, postage prepaid, return receipt requested (service by certified mail in the manner described above shall be effective on the date of mailing); or~~

~~(3) Posting the notices conspicuously on or in front of the property, with at least one notice per each parcel of fifty feet of frontage. The notice when posted shall be headed in bold faced type, not less than one inch in height, "NOTICE TO CORRECT PUBLIC NUISANCE MUNICIPAL CODE VIOLATION."~~

~~(d) The failure to receive the notice shall not impair the validity of any proceedings taken under this section.~~

~~(e) Failure to Comply: Upon failure of the owner or his agent or the person in possession of the property to remove or correct the conditions described in the notice by the date specified, the Director shall refer the matter to the City Council for a noticed public hearing. Notice of the hearing shall be given to the owner or his agent or the person in possession of the property and to all property owners whose property lies within 300 feet of the property in question. The notice shall be titled "Notice of Public Hearing: Administrative Abatement of Public Nuisance Municipal Code Violation." Such notice shall be given at least ten (10) calendar days before the date of the hearing before the City Council. The notice shall be given in any of the manners provided in paragraph 13.0305(e).~~

~~(f) Abatement Hearing: At the noticed public hearing, the Director shall present evidence of the Municipal Code violations, the conditions which constitute a public nuisance, and the necessary means of abatement. The owner or his agent or person in possession of the property or any interested person may present testimony concerning the existence of a public nuisance on the property and proposed methods of abatement. At the conclusion of the public hearing, the City Council may confirm, by resolution, the determination of the Director that a public nuisance Municipal Code violation exists on the property. If the City Council confirms the determination of the Director, the City Council may order the abatement of those conditions which constitute a public nuisance by City personnel or by its private contractor. The owner or agent or person in possession of the property, however, may correct the conditions within seven (7)~~

~~days of the date on which the City Council orders the abatement and confirms the determination of the public nuisance.~~

~~(g) In the event the owner or his agent or person in possession of the property does not abate the conditions determined to be a public nuisance, the conditions shall be abated by personnel designated by the City Manager or by contract.~~

~~(h) Costs: All administrative and actual costs incurred by the Director in the implementation of the notice and abatement can be assessed against the owner of the property as a personal obligation or against the property pursuant to Government Code section 38773.5.~~

~~(i) Accounting Report: When abatement is completed, a report describing the work performed and an itemized account of the total abatement cost shall be filed with the City Clerk. The report shall contain the names and addresses of all owners of each parcel, the tax assessors parcel number and a legal description of the property.~~

~~(j) Confirmation of Costs Hearing: The Director shall request the City Clerk to set a public hearing before the City Council within a reasonable time to consider the report and post a notice of the date, time and place of the hearing in a conspicuous place at or near the entrance to the Council Chambers. A copy of the report and itemized account and notice of the date, time and place of the hearing shall be provided to the owner of the property, his agent or the person in possession of the property at least ten (10) calendar days prior to the scheduled hearing. Such notice shall be served in the same manner as provided by paragraph 13.0305(e).~~

~~The City Council shall consider the report and itemized account at the hearing, together with any objections to its accuracy by any interested persons. The City Council may make such revisions, corrections or modifications in the report or the account as it may deem just. At the conclusion of the hearing, the report (as submitted, revised, corrected or as modified), together with the charge shall be confirmed or rejected by resolution. This decision of the City Council on the reports, itemized account and all protests or objections shall be final.~~

~~(k) Personal Obligation or Special Assessment: The City Council may order that this charge shall be made a personal obligation of the property owner or assess it against the property involved pursuant to Government Code section 38773.5.~~

~~(1) Personal Obligation:~~

~~If the City Council orders that the charge shall be a personal obligation of the property owner, the Council shall direct the Director to collect this obligation by use of all appropriate legal means. If unable to collect this obligation, the Director shall refer the case to the City Attorney to file a court action to recover the costs.~~

~~(2) Special Assessment:~~

~~If the City Council orders that the charge shall be assessed against the property it shall confirm the assessment, record a notice of assessment and cause the same to be placed on the County Assessment Roll pursuant to Government Code section 38773.5.~~

~~(1) Recordation of Notice: After the City Council determines that the charge will be assessed against the property, the Director shall record a notice describing the abatement action and the total costs with the County Recorder to place any subsequent purchasers or owners on notice about this abatement action.~~

~~The Director shall file a withdrawal of this notice with the County Recorder when: (1) the owner or person responsible pays in full the abatement cost; or (2) the County Auditor or Tax Collector posts the lien on the property pursuant to Government Code section 38773.5.~~

~~(m) Report to Assessor and Tax Collector: After confirmation of the report and recordation of the notice, certified copies of the report, itemized account and resolution shall be given to the County Auditor or Assessor who shall add the amount of the assessment to the next regular tax bill levied against the parcel in the same manner as ordinary municipal taxes.~~

~~(n) Collection of Assessment Penalties for Foreclosure: The amount of the assessment shall be collected at the same time and in the same manner as ordinary municipal taxes, and shall be subject to the same penalties and procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such assessment. The provisions of Government Code sections 38772 through 38773.5 are hereby incorporated by reference and made a part of this section.~~

~~(o) Repayment to Nuisance Abatement Superfund: All monies recovered by payment of the charge or assessment or from the sale or transfer of the property shall be paid to the City Treasurer who shall credit the same to the Nuisance Abatement Superfund.~~

SEC. 13.0305 Collection of Assessment--Penalties and Foreclosure

Pursuant to the provisions of Government Code Section 38773.5 the County Tax Collector may collect the amount of the assessment at the same time and in the same manner as ordinary municipal taxes, and impose the same penalties and procedures, including the sale of the property, in case of delinquency, as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to the special assessment. The provisions of Government Code Sections 38772 through 38773.5, and any amendments to those sections, are hereby incorporated by reference and made a part of this Division.

SEC. 13.0306 Nuisance Abatement Lien

As an alternative to the recovery of abatement costs by special assessment as set forth in Sections 13.0304 and 13.0305 of this Division, the Director can record a nuisance abatement lien pursuant to the provisions set forth in Division 2 of Article 3 of Chapter I.

SEC. 13.0307 Repayment to Nuisance Abatement Superfund

All monies recovered by payment of the charge or assessment or from the sale or transfer of the property shall be paid to the City Treasurer who shall credit the appropriate amount to the Nuisance Abatement Superfund and reimburse the Department where appropriate.

~~§ 13.0320~~ **SEC. 13.0308 Nuisance Abatement Superfund**

[No change in text.]

~~§ 13.0330 Civil Penalties-Procedures~~

~~Sections 13.0330 through 13.0338 shall govern civil penalties for violations of the Municipal Code.~~

~~§ 13.0332 Definitions~~

~~For purposes of Sections 13.0330 through 13.0338, 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, Water Utilities, Waste Management, the Fire and Police Chiefs, and any of their designated agents or representatives.~~

~~(b) The term "person" means any natural person, firm, association, club, 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 "Hearing Officer" means any person appointed by the City Manager to preside over the administrative hearings provided for by this section.~~

~~§-13.0335 Hearing~~

~~(a) If the violation is not corrected within ten (10) days from the date the Notice and Order is issued, the Director shall request the City Manager to appoint a Hearing Officer and to fix a date, time and place for the hearing. Written notice of the time and place of the hearing shall be served at least ten (10) days prior to the date of the hearing to the violator(s) or each party having a legal interest in the property by any of the methods listed in subsection 13.0334(h).~~

~~(b) Scope of Hearing~~

~~(1) Existence of Violation: The Hearing Officer shall consider any written or oral evidence consistent with its rules and procedures for public hearings regarding the existence of the violation. The violator(s) or record owner(s) or agent(s) or person(s) in possession of the property on which the violation is located or any other interested persons may present testimony or evidence concerning the existence of the violation, and the means and time frame for correcting the violation.~~

~~(2) Civil Penalties: The Hearing Officer shall identify the time frame involved in assessing the civil penalty and shall explain all factors considered in determining the amount of the civil penalty to be imposed. In determining the amount of the civil penalty to be imposed, the Hearing Officer shall consider those factors outlined in subsection 13.0333(f). The violator(s) or record owner(s) or agent(s) or person(s) in possession of the property on which the violation is located or any other interested person may present testimony or evidence relating to civil penalties and those factors outlined in Subsection 13.0333(f).~~

~~(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) Procedures for Conducting Hearings: The City Manager shall establish and promulgate all appropriate rules and~~

~~procedures for conducting hearings and rendering decisions pursuant to sections 13.0330 through 13.0338.~~

~~(d) Failure to Attend Hearing: Failure of the violator(s) or any party having a legal interest in the property shall constitute a waiver of his or her rights to an administrative hearing and adjudication of the Notice and Order or any portion thereof.~~

~~§ 13.0339 Reserved for future use~~

~~§ 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, Water Utilities, Waste Management, 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.~~

~~§ 13.0363 Definitions~~

~~For purposes of Sections 13.0361 through 13.0380, the following definitions shall apply:~~

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

~~(b) The term "property owner" shall mean the record owner of the real property based on the County Assessor's records and persons in possession of the property, i.e., leaseholders, when applicable.~~

~~(c) The term "Notice of Violation" shall mean a written notice prepared by the Director's enforcement staff containing the following information:~~

- ~~1. The name of the property's record owner;~~
- ~~2. Street address;~~
- ~~3. Code sections in violation;~~
- ~~4. General description of the property's condition which violates the applicable codes;~~
- ~~5. General list of necessary corrections to bring the property into compliance with the Municipal Code;~~
- ~~6. Deadline or specific date to correct the violations listed in the Notice of Violation;~~
- ~~7. Reference to the potential consequences should the property remain in violation after the expiration of the compliance deadline including, but not limited to, criminal prosecution, civil injunction, administrative abatement, civil penalties, revocation of permits, recordation of the Notice of Violation and withholding of future municipal permits.~~

~~(d) The term "financial institution" shall mean any entity or person that holds a recorded mortgage or deed of trust on the property in violation.~~

~~§ 13.0368 Constructive Notice~~

~~Recordation of the Notice of Violation shall provide the property owner and successors in interest with constructive notice of the Municipal Code violations specified therein.~~

~~The failure of any person with a financial, ownership or equitable interest in the property to receive such notice shall not affect the validity of the recorded notice or any proceedings taken under this section.~~

~~§ 13.0372 Appeal of Denial of Notice of Compliance~~

~~(a) If the Director denies the request for a notice of compliance, the property owner(s) or financial institution may appeal such denial by filing a written request to appeal with the Director within ten (10) calendar days from the date of the service of the Director's written denial. The Director shall request the City Manager to appoint a hearing officer or may utilize an appropriate departmental hearing or appeals board to fix the date, time and place of the hearing. Written notice of the date, time and place of the hearing shall be served upon the property owner or responsible party at least ten (10) calendar days prior to the date of the hearing by any of the methods listed in Section 13.0364(c).~~

~~(b) The hearing officer or board shall consider any written or oral evidence regarding the denial of the notice of compliance~~

~~including the appropriate code sections, the violations, the efforts to bring the property into compliance and all of the relevant evidence. The property owner(s) or financial institution may present testimony or evidence concerning the violations and the means and time frame used to correct the violations.~~

~~(c) These hearings shall be conducted consistent with regulations as issued by the City Manager or as set forth by the appropriate hearing board.~~

~~(d) The hearing officer or board shall review all of the evidence and testimony presented to determine whether or not the Director's denial was reasonable and supported by sufficient evidence. If the hearing officer or board overrules the Director's denial, the hearing officer or board shall direct the issuance of the notice of compliance by the Director. The hearing officer or appropriate board has the authority to impose reasonable conditions upon the issuance of the notice of compliance in order to ensure compliance with the Municipal Code.~~

~~(e) This appeal is the final administrative remedy and becomes effective immediately.~~

~~§ 13.0373 Reserved for future use~~

~~§ 13.0374 Reserved for future use~~

~~§ 13.0375 Reserved for future use~~

~~§ 13.0376 Reserved for future use~~

~~§ 13.0377 Reserved for future use~~

~~§ 13.0378 Reserved for future use~~

~~§ 13.0379 Reserved for future use~~

~~§ 13.0380 Reserved for future use~~

DIVISION 4
Recovery of Civil Penalties

~~§ 13.0337~~ **SEC. 13.0401** Recovery of Civil Penalties

~~(a) The Director shall may collect the assessed all civil penalties and related 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 the procedures set forth in Division 2, Article 3 of Chapter 1. If~~

unable to collect the obligation, the Director or City Treasurer shall may refer the obligation to the City Attorney to file a court action to recover these penalties and 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). The 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.~~

~~§ 13.0338 SEC. 13.0402 Allocation of Civil Penalties Collected Code Enforcement Civil Penalties Fund~~

~~Civil penalties collected in the manner described by pursuant to this section Division shall be deposited in a the Code Enforcement Civil Penalties Fund as established by the City Manager Auditor for the enhancement of the City's code enforcement efforts and to reimburse City Departments for investigative costs and costs associated with the hearing process that are not paid by the Responsible Person. Civil penalties deposited in this fund shall be appropriated and allocated in a manner determined by the City Manager. The City Auditor shall establish accounting procedures to ensure proper account identification, credit and collection.~~

DSM:JMS:MJL:lmk:mac
06/08/93
Or.Dept:Atty
0-93-179
Form=o+t

13020

RECEIVED
93 JUN 17 AM 11:33
CITY CLERKS OFFICE
SAN DIEGO, CA

Passed and adopted by the Council of The City of San Diego on **AUG 10 1993**
 by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom Behr	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<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"/>
Juan Vargas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

(Seal)

SUSAN GOLDING
 Mayor of The City of San Diego, California.

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

By *Mary Cepeda* 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

JUL 13 1993

AUG 10 1993

, and on

~~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.

(Seal)

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

By *Mary Cepeda* Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number **0-17956** Adopted **AUG 10 1993**

Office of
The City Attorney
City of San Diego

MEMORANDUM

236-6220

98 JAN 28 PM 2:38
SAN DIEGO, CALIF.

cb

DATE: January 27, 1994
TO: Jan Johnson, City Clerk's Office
FROM: City Attorney
SUBJECT: Corrections to the San Diego Municipal Code

Several small errors in the San Diego Municipal Code (noted below) have been brought to my attention. Please correct the database and hard copy:

14956

should be 11.0210 per ATty 2/14/94
Section 11.0201 - In the definition of "Responsible Person," "lead property" should read "real property."

14956

- Section 12.0102 - add "The" in front of City Manager and "the" in front of City Clerk.

14956

- Section 12.0201, paragraph 2, "punishable" should read "punished."

- Section 12.0803(a) - Reference to Section 12.0811 should be reference to Section 12.0810.

FM 1/27

Section 22.0514(a)(8) - "actin" should read "action."

Thanks. Call me if you have any questions.

JOHN W. WITT, City Attorney

By

Cristie C. McGuire
Cristie C. McGuire
Deputy City Attorney

CCM:jrl:014

cc Kelly J. Salt, Deputy City Attorney
Joe Schilling, Deputy City Attorney
Mary Jo Lanzafame, Deputy City Attorney

3376

meat # 537

Office of
The City Attorney
City of San Diego

RECEIVED
CITY CLERK'S OFFICE

94 JUN -9 AM 11:21
SAN DIEGO, CALIF.

MEMORANDUM

236-6220

OK'd 17957
17957
17959
6/10/93
✓
✓

DATE: June 8, 1994
TO: Jan Johnson, Land Use Hearings Supervisor, City Clerk's Office
FROM: City Attorney
SUBJECT: Several Small Clerical and Printing Errors in the San Diego Municipal Code

Section 12.0203:

Delete paragraph 2 of this section. It repeats verbatim Section 12.0204.

Section 12.0304:

a Director may record with the

We believe some language ^{PRIOR TO} between words "Recorder's Office" and "a notice against" that appeared in the original ordinance (O-17956 N.S.) has been inadvertently deleted from the printed San Diego Municipal Code ("SDMC"). Please check and correct.

Section 12.0803(a):

Reference to Section 12.0810 should read 12.0811. Please change.

Section 13.0425: *Per Christie this will be corrected better*

This SDMC section should be renumbered to read Section 13.0205. Also we think this section was amended by Ordinance No. O-17956 N.S, on August 10, 1993. Please check and correct.

Section 55.0311.0601:

Paragraph 2. Reference to Article 5 should read Article 4.

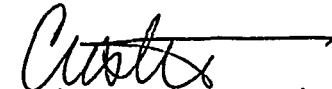
Section 91.0205(a):

Line 6, "this Article," not "tis Article."

Please call me if you have questions. Thanks for your help.

JOHN W. WITT, City Attorney

BY



Cristie C. McGuire
Deputy City Attorney

CCM:jrl:014

cc Joe Schilling
Diane Silva-Martinez

CERTIFICATE OF PUBLICATION

FILED IN
CITY

93 AUG 26 AM 11:03

SAN DIEGO, CALIF.

P.

OFFICE OF THE CITY CLERK
CITY ADMIN. BLDG.
202 C STREET, 2ND FLOOR
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER I, ARTICLE 1 OF THE...

ORDINANCE NUMBER C-17956 (NEW SERIES)

AN ORDINANCE AMENDING CHAPTER I, ARTICLE 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING THE TITLE OF ARTICLE 1; AND RETITLING DIVISION 2; AND AMENDING SECTION 11.0208; AMENDING SECTION 11.0209; ADDING SECTION 11.0208; ADDING SECTION 11.0209; AMENDING AND RENUMBERING SECTION 11.0301 TO SECTION 11.0210; AND RETITLING DIVISION 3; AND ADDING SECTION 11.0301; RETITLING, AMENDING AND RENUMBERING SECTION 12.0102 TO SECTION 11.0302; AMENDING AND RENUMBERING SECTION 12.0103 TO SECTION 11.0303 AND ADDING DIVISION 4; AND RENUMBERING SECTION 13.0101 TO SECTION 11.0401; RENUMBERING SECTION 11.0102 TO SECTION 11.0402; AND RETITLING ARTICLE 2 AND DIVISION 1; AND REPEALING SECTION 12.0101; ADDING SECTIONS 12.0101, 12.0102, 12.0103, 12.0104 AND 12.0105; AND ADDING DIVISION 2; RETITLING AND RENUMBERING SECTION 13.0201 TO SECTION 12.0201; RETITLING AND RENUMBERING SECTION 13.0202 TO SECTION 12.0202; ADDING SECTIONS 12.0203, 12.0204 AND 12.0205; AND ADDING DIVISION 3; AND ADDING SECTIONS 12.0301, 12.0302, 12.0303 AND 12.0304; AND ADDING DIVISION 4; AND ADDING SECTIONS 12.0401 THROUGH 12.0413; AND ADDING DIVISION 5; AND ADDING SECTIONS 12.0501, 12.0502 AND 12.0503; AND ADDING DIVISION 6; AND RETITLING, AMENDING AND RENUMBERING SECTION 13.0302 TO SECTION 12.0601; RETITLING, AMENDING AND

RENUMBERING SECTION 13.0304 TO SECTION 12.0602; ADDING SECTIONS 12.0603, 12.0604, 12.0605 AND 12.0606; AND ADDING DIVISION 7; AND ADDING SECTION 12.0701; RETITLING, AMENDING AND RENUMBERING SECTION 13.0306 TO SECTION 12.0702; ADDING SECTION 12.0703; AND ADDING DIVISION 8; AND AMENDING AND RENUMBERING SECTION 13.0330 TO SECTION 12.0801; AMENDING AND RENUMBERING SECTION 13.0331 TO SECTION 12.0802; AMENDING AND RENUMBERING SECTION 13.0333 TO SECTION 12.0803; AMENDING AND RENUMBERING SECTION 13.0334 TO SECTION 12.0804; ADDING SECTIONS 12.0805, 12.0806, 12.0807, 12.0808 AND 12.0809; RETITLING, AMENDING AND RENUMBERING SECTION 13.0338 TO SECTION 12.0810; AND ADDING DIVISION 9; AND AMENDING AND RENUMBERING SECTION 13.0340 TO SECTION 12.0901; AMENDING AND RENUMBERING SECTION 13.0341 TO SECTION 12.0902; RETITLING, AMENDING AND RENUMBERING SECTION 13.0343 TO SECTION 12.0903; RETITLING, AMENDING AND RENUMBERING SECTION 13.0344 TO SECTION 12.0904; AMENDING AND RENUMBERING SECTION 13.0345 TO SECTION 12.0905; AMENDING AND RENUMBERING SECTION 13.0346 TO SECTION 12.0906; ADDING SECTION 12.0907; RETITLING, AMENDING AND RENUMBERING SECTION 13.0347 TO SECTION 12.0908; ADDING SECTION 12.0909; RETITLING, AMENDING AND RENUMBERING SECTION 13.0348 TO SECTION 12.0910; AND ADDING DIVISION 10; AND RETITLING, AMENDING AND RENUMBERING SECTION 13.0361 TO SECTION 12.1001; RETITLING, AMENDING AND RENUMBERING SECTION 13.0362 TO SECTION 12.1002; RETITLING, AMENDING AND RENUMBERING SECTION 13.0364 TO SECTION 12.1003; RETITLING, AMENDING AND RENUMBERING SECTION 13.0365 TO SECTION 12.1004; RETITLING, AMENDING AND RENUMBERING SECTION 13.0366 TO SECTION 12.1005; AMENDING AND RENUMBERING SECTION 13.0367 TO SECTION 12.1006; AMENDING AND RENUMBERING SECTION 13.0370 TO SECTION 12.1007; AMENDING AND RENUMBERING SECTION 13.0369 TO SECTION 12.1008; AMENDING AND RENUMBERING SECTION 13.0371 TO 12.1009; AND ADDING DIVISION 11; AND ADDING SECTIONS 12.1101 THROUGH 12.1105; AND RETITLING ARTICLE 3 AND DIVISION 1; AND AMENDING AND RENUMBERING SECTION 13.0401 TO SECTION 13.0101; RETITLING, AMENDING AND RENUMBERING SECTION 13.0402 TO SECTION 13.0102; RETITLING, AMENDING AND RENUMBERING SECTION 13.0404 TO SECTION 13.0103; RETITLING, AMEN-

I, Corey Donahue, 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-17956 (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:

AUG. 24

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

Dated at San Diego, California this 24th day of AUG., 19 93.

Corey Donahue

(Signature)

Pg. 1 of 4

30" X 2 = \$ 880.64

DING AND RENUMBERING SECTION 13.0406 TO SECTION 13.0104; RETITLING, AMENDING AND RENUMBERING SECTION 13.0407 TO SECTION 13.0105; AMENDING AND RENUMBERING SECTION 13.0408 TO SECTION 13.0106; RETITLING, AMENDING AND RENUMBERING SECTION 13.0409 TO SECTION 13.0107; AND RETITLING DIVISION 2; AND AMENDING AND RENUMBERING SECTION 13.0420 TO SECTION 13.0201; RETITLING, AMENDING AND RENUMBERING SECTION 13.0421 TO SECTION 13.0202; AMENDING AND RENUMBERING SECTION 13.0423 TO SECTION 13.0203; ADDING SECTION 13.0204; AND RETITLING DIVISION 3; AND REPEALING SECTION 13.0301; ADDING SECTIONS 13.0301 AND 13.0302; REPEALING SECTION 13.0303; ADDING SECTIONS 13.0303 AND 13.0304; REPEALING SECTION 13.0305; ADDING SECTIONS 13.0305, 13.0306 AND 13.0307; RENUMBERING SECTION 13.0320 TO SECTION 13.0308; REPEALING SECTIONS 13.0330, 13.0332, 13.0335, 13.0342, 13.0363, 13.0368 AND 13.0372; AND RETITLING DIVISION 4; AND AMENDING AND RENUMBERING SECTION 13.0337 TO SECTION 13.0401; AMENDING, RETITLING AND RENUMBERING SECTION 12.0338 TO SECTION 13.0402; REPEALING SECTIONS 13.0403, 13.0405, 13.0422 AND 13.0424; AMENDING CHAPTER II, ARTICLE 2, DIVISION 1, SECTION 29.0115 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0201; AMENDING CHAPTER III, ARTICLE 3, DIVISION 1, SECTION 33.0105 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0201; AMENDING CHAPTER IV, ARTICLE 4, DIVISION 3, SECTION 44.0300 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0201; AMENDING CHAPTER V, ARTICLE 5, DIVISION 8, SECTION 55.0889.0201 BY RENUMBERING SECTIONS 13.0301 THROUGH 13.0306 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTIONS 12.0601 THROUGH 12.0606; AMENDING CHAPTER VI, ARTICLES 3 AND 7, DIVISIONS 8, 17 AND 38, SECTIONS 63.08, 63.17.15, 63.17.16 AND 67.38.7 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THOSE SECTIONS TO READ SECTION 12.0201; AMENDING CHAPTER VI, ARTICLE 4, DIVISION 3, SECTION 64.0301 BY RENUMBERING SECTION 13.0301 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTIONS 12.0801 THROUGH 12.0810; AMENDING CHAPTER VI, ARTICLE 7, DIVISION 38, SECTION 67.38.7 BY RENUMBERING SECTION 13.0202 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0202; AMENDING CHAPTER VI, ARTICLE 7, DIVISION 38, SECTION 67.38.7 BY DELETING REFERENCE TO CHAPTER I, DIVISION 3 APPEARING WITHIN THE TEXT TO READ CHAPTER I; AMENDING CHAPTER VI, ARTICLE 9, DIVISION 2, SECTION 69.0218 BY DELETING REFERENCE TO CHAPTER I, ARTICLE 3 WITHIN THE TEXT TO READ CHAPTER I; AMENDING CHAPTER VIII, ARTICLES 4 AND 6, DIVISIONS 16, 17 AND 20, SECTIONS 84.1609, 84.1709 AND 86.2014 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THOSE SECTIONS TO READ SECTION 12.0201; AMENDING CHAPTER IX, ARTICLES 3 AND 5, DIVISIONS 2 AND 1, SECTIONS 93.0208 AND 95.0110 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THOSE SECTIONS TO READ SECTION 12.0201; AMENDING CHAPTER IX, ARTICLE 3, DIVISION 2, SECTION 93.0208 BY AMENDING REFERENCE TO CHAPTER I, ARTICLE 3 APPEARING WITHIN THE TEXT TO READ CHAPTER I, ARTICLE 2; AMENDING CHAPTER X, ARTICLES 1 AND 2, DIVISIONS 3, 4, 13, AND 7, SECTIONS 101.0304, RENUMBERING SECTION 13.0201; AMENDING CHAPTER X, ARTICLES 1 AND 2, DIVISIONS 3, 4, 13 AND 7, SECTIONS 101.0304, 101.0406, 101.0462, 101.1309, AND 102.0700 BY RENUMBERING SECTION 13.0201 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTIONS 12.0201 THROUGH 12.0202; AMENDING CHAPTER X, ARTICLE 1, DIVISION 4, SECTION 101.0463 BY RENUMBERING SECTIONS 13.0201 AND 13.0202 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTIONS 12.0201 THROUGH 12.0202; AMENDING CHAPTER X, ARTICLE 1, DIVISION 4, SECTION 101.0463 BY RENUMBERING REFERENCES TO ARTICLE 3 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ ARTICLE 2; AMENDING CHAPTER X, ARTICLE 1, DIVISION 4, SECTION 101.0463 BY RENUMBERING SECTION 101.0212F; APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 101.0212; AMENDING CHAPTER X, ARTICLE 1, DIVISION 5, SECTION 101.0518 BY RENUMBERING SECTION 11.19 APPEARING WITHIN THE TEXT OF THAT SECTION TO READ SECTION 12.0801 THROUGH 12.0810; ALL RELATING TO ENFORCEMENT AUTHORITY, PROCEDURES AND REMEDIES TO ENFORCE THE SAN DIEGO MUNICIPAL CODE.

30" X 2 = \$ 880.64

Pg. 2 of 4

San Diego Municipal Code Sections 11.0205 through 11.0210 establish the general rules of construction and interpretation for the Municipal Code. These amendments clarify existing provisions. The definitions in former Section 11.0301 are incorporated with new code enforcement definitions found in Section 11.0210.

Division 3, Article 1 of Chapter I establishes the general procedures for the service and filing of enforcement notices. San Diego Municipal Code Sections 11.0301 through 11.0303 incorporate parts of the notice requirements set forth in former Sections 12.0101 through 12.0103.

Division 4, Article 1 of Chapter I establishes the general offenses for the Municipal Code. Former San Diego Municipal Code Sections 13.0101 and 13.0102 are renumbered to Section 11.0401 and 11.0402 without changes in the text.

Article 2 of Chapter I now governs code enforcement judicial and administrative remedies. San Diego Municipal Code Sections 12.0101 and 12.0102 establish the enforcement authority and powers to gain compliance with violations of the Municipal Code and applicable state codes. Section 12.0103 authorizes a Director or Enforcement Officer to issue Notices of Violations. Section 12.0104 authorizes inspections of private and public property to determine if code violations exist. Section 12.0103 authorizes inspections of private and public property to determine if code violations exist. Section 12.0105 authorizes a Director or designated Enforcement Official to issue misdemeanor field citations to persons responsible for code violations.

Division 2, Article 2 of Chapter I now governs code enforcement judicial remedies. Former San Diego Municipal Code Sections 13.0201 (criminal violations) and 13.0202 (civil injunction and penalties) are renumbered to Sections 12.0201 and 12.0202 without changes to the text. Section 12.0203 provides a new enforcement option that requires the Responsible Person to post a performance bond to ensure correction of outstanding code violations. Sections 12.0204 and 12.0205 codify existing statutory authority to conduct judicial abatement and assess treble damages for repeat abatement.

Division 3, Article 2 of Chapter I now governs code enforcement administrative remedies. San Diego Municipal Code Sections 12.0301 through 12.0303 establish the authority and general purpose for administrative remedies. Section 12.0304 authorizes a Director or designated Enforcement Officer to record a notice with the County Recorder whenever the City commences any type of administrative enforcement action.

Division 4, Article 2 of Chapter I now governs the procedures for administrative enforcement hearings. San Diego Municipal Code Sections 12.0401 through 12.0403 declare the purpose and establish the enforcement hearing notification procedures. Sections 12.0404 through 12.0407 establish the qualifications, appointment process, disqualification and powers for Enforcement Hearing Officers. Section 12.0408 provides the general procedures (i.e. burden of proof, rules of evidence, etc.) for enforcement hearings. Section 12.0409 makes it a crime to disobey a subpoena issued by an Enforcement Hearing Officer. Failure to appear at the enforcement hearing is deemed a waiver pursuant to Section 12.0410. Sections 12.0411 through 12.0413 establish the parameters of the Administrative Enforcement Order, the consequences for failure to obey, and rules that affect judicial review of the enforcement order.

Division 5, Article 2 of Chapter I now governs administrative enforcement appeals for timeframe one abatement notices, administrative citations, and recordation of notices. San Diego Municipal Code Sections 12.0501 through 12.0503 establish the appeal procedures. Appeal hearings shall be conducted pursuant to the procedures for administrative enforcement hearings set forth in Division 4, Article 2 of Chapter I.

Division 6, Article 2 of Chapter I now establishes the procedures for administrative abatement actions. San Diego Municipal Code Sections 12.0601 through 12.0606 incorporate some of the procedures found in former Sections 13.0302 and 13.0304. Section 12.0603 establishes the general procedures for administrative abatement actions. Section 12.0604 creates a 10 day time frame to abate public nuisances caused by rubbish, weeds and waste; vacant structures; graffiti; and dangerous signs. Section 12.0605 creates a minimum 14 day time frame to abate less serious public nuisances. Section 12.0606 establishes the regulations and procedures that apply when the City performs the abatement.

Division 7, Article 2 of Chapter I now establishes the procedures for summary abatement of imminent health and safety hazards. San Diego Municipal Code Sections 12.0701 through 12.0703 incorporate part of the procedures found in former Sections 13.0306, 91.0203(n) and 98.0150.

Division 8, Article 2 of Chapter I now establishes the procedures for assessment of administrative civil penalties. San Diego Municipal Code Sections 12.0801 through 12.0810 incorporate provisions found in former Sections 13.0330 through 13.0336. These amendments expand the authority to bring a civil penalty action for appropriate violations of state codes. A Director now has authority to issue a preliminary Notice and Order that can assess civil penalties. The Notice and order can apply to continuous violations and violations that may have been previously corrected. Section 12.0805 establishes the criteria that must be applied to determine the total amount of civil penalties. Section 12.0806 permits the assessment of reasonable administrative costs in addition to the civil penalties. Before civil penalties and costs can be collected, a civil penalties hearing must be conducted pursuant to procedures set forth in Sections 12.0807 through 12.0809. Section 12.0810 authorizes a Director to collect the outstanding civil penalties and costs by any legal means.

Division 9, Article 2 of Chapter I now establishes the procedures for administrative citations. San Diego Municipal Code Sections 12.0901 through 12.0910 incorporate part of the procedures found in former Sections 13.0340 through 13.0346. Administrative citations can now be assessed against violations of applicable state codes minor nature. These amend-

30" X 2 = \$ 880.64

Pg. 3 of 4

ments primarily clarify former administrative citation procedures. Administrative citation appeals shall follow the procedures set forth for administrative enforcement appeals found in Division 5, Article 2 of Chapter 1. The Enforcement Hearing Officer now has the discretion to assess reasonable administrative costs where appropriate.

Division 10, Article 2 of Chapter 1 now establishes the procedures for recordation of Notices of Violation. San Diego Municipal Code Sections 12.1001 through 12.1009 amends the provisions found in former Sections 13.0361 through 13.0371. Violation notices can now be recorded against properties in violation of applicable state codes. Appeal of a Director's notice to record shall follow the procedures set forth in new Division 5, Article 2 of Chapter 1.

Division 11, Article 2 of Chapter 1 establishes the basic procedures for the use of mediation and public facilitation to resolve code violations and other municipal disputes. San Diego Municipal Code Sections 12.1101 through 12.1103 create relevant definitions, procedures and authority to mediate municipal disputes. Section 12.1104 protects the confidentiality of the mediation session and subsequent documents. Section 12.1105 authorizes appropriate enforcement measures should a party fail to adhere to the terms of the mediation agreement.

Article 3 of Chapter 1 governs the recovery of code enforcement penalties and costs. San Diego Municipal Code Sections 13.0101 through 13.0107 establish the procedures for the recovery of reinspection fees and incorporate provisions from former Sections 13.0401 through 13.0409. Reinspection fees can now be assessed for violations of applicable state codes. These amendments clarify former reinspection fee provisions.

Division 2, Article 3 of Chapter 1 now governs the recordation of code enforcement liens. San Diego Municipal Code Sections 13.0201 through 13.0204 establish the procedures for code enforcement liens and incorporate the provisions found in former Sections 13.0420 through 14.0423. Section 13.0204 authorizes the recordation of a nuisance abatement lien pursuant to California Government Code Section 38773.1. Nuisance abatement liens will provide another means to recover costs incurred by the City to abate public nuisances.

Division 3, Article 3 of Chapter 1 now governs the recovery of abatement costs. San Diego Municipal Code Sections 13.0301 through 13.0308 incorporate part of the procedures found in former Section 13.0305(h)-(o). Confirmation of cost hearings shall be conducted pursuant to the procedures set forth in Section 13.0302. The Enforcement Hearing Officer can assess abatement costs as either a personal obligation (Section 13.0303) or special tax assessment (Section 13.0304). Section 13.0305 authorizes foreclosure if the special tax assessment is not paid pursuant to California Government Code Section 38773.5. The nuisance abatement superfund is renumbered from Section 13.0320 to 13.0308 without changes to the text.

Division 4, Article 3 of Chapter 1 now governs the recovery of civil penalties. San Diego Municipal Code Sections 13.0401 and 13.0402 incorporate the provisions found in former Sections 13.0337 and 13.0338. Section 13.0401 authorizes a Director to collect outstanding assessments of civil penalties by all appropriate legal methods. Section 13.0402 authorizes the City Manager to create a Civil Penalties Fund to enhance the City's code enforcement efforts and reimburse the departments for unpaid investigative costs.

This ordinance renumbers certain sections within Chapter 1 of the San Diego Municipal Code that are referenced in other parts of the Municipal Code. This ordinance amends the references in the following code sections to reflect the new section numbers found in Chapter 1:

SDMC Sections	SDMC Sections
29.0115	33.0105
44.0300	55.0889.0201
63.08	63.17.15 & 63.17.16
67.38.7	64.0301
69.0218	84.1609
84.1709	86.2014
93.0208	95.0110
101.0304	101.0408
101.0462	101.0463
101.0518	101.1309
102.0700	

A copy of the full text of the ordinance is on file in the office of the City Clerk and available for public inspection.

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 JUL 13 1993

Passed and adopted by the Council of the City of San Diego on AUG 10 1993.

AUTHENTICATED BY:

SUSAN GOLDING
Mayor of The City of San Diego, CA
CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, CA

(SEAL)

By MARY CEPEDA, Deputy

Pub. Aug. 24

277784

30" X 2 = 880.64

Pg. 4 OF 4