

ORDINANCE NO. 95-069

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF DEC 12 1995

AN ORDINANCE AMENDING SECTIONS 61.04.401(m), 61.09.901, 61.09.903, 61.09.1006, 61.09.1007, 61.13.1300, 61.13.1301, and 61.13.1302 AND ADDING SECTIONS 61.13.1303, 61.13.1304, 61.13.1305, 61.13.1306, 61.13.1307, and 61.13.1308 OF THE SACRAMENTO CITY CODE, RELATING TO DANGEROUS BUILDINGS

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 61.04.401(m) of the Sacramento City Code is hereby amended to read as follows:

61.04.401 Generally.

- (m) Any unimproved real property or improved, but unoccupied real property which has become a dumping ground for litter, garbage, junk, debris, discarded vehicles, vehicle parts and/or vehicle hulks, and which real property has been subject of two or more written requests by the city to remove litter, garbage, junk, debris, discarded vehicles, vehicle parts and/or vehicle hulks from the property within any 12 month time period.

SECTION 2.

Section 61.09.901 of the Sacramento City Code is hereby amended to read as follows:

61.09.901 Dangerous condition.

If, in the opinion of the department head, there exists a condition on any premises which is of such a nature as to be imminently dangerous to the public health, safety or welfare, which, if not abated according to the procedures of this code, would, during the pendency of the proceedings,

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subject the public to potential harm of a serious nature, the same may be abated forthwith without compliance with the provisions of this code. Abatement may include, but is not limited to boarding of windows, doors and other openings to city specifications, removal of junk and debris, and securing the perimeter of the property with fencing, gates or barricades (to prevent further occurrences of the nuisance activity).

SECTION 3.

Section 61.09.903 of the Sacramento City Code is hereby amended to read as follow:

61.09.903 Lien or personal obligation.

The cost of abatement including all administrative costs of any action taken hereunder shall be assessed against the subject premises as a lien or made a personal obligation to the owner or both a personal obligation and a lien as provided in Chapter 61.10 of this title.

SECTION 4.

Section 61.10.1006 of the Sacramento City Code is hereby amended to read as follows:

61.10.1006 Personal obligation or special assessment.

- (a) The city council may order that the charge be made a personal obligation of the property owner or assess the charge against the property involved as a lien or both a personal obligation and a lien.
- (b) If the council orders that a charge shall be a personal obligation of the property owner it shall direct the city attorney and the finance department to collect the charge.
- (c) If the council orders that the charge be assessed against the property, it shall confirm the assessment and thereafter said assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes.
- (d) The assessments shall be subordinate to all existing special assessment liens previously imposed upon the same property and paramount to all other liens except state, county, and municipal taxes with which it shall be upon parity. The lien shall continue until the assessment and all interest due and payable thereon will be paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be

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applicable to such assessment.

SECTION 5.

Section 61.10.1007 of the Sacramento City Code is hereby amended to read as follows:

61.10.1007 Time for contest of assessment.

The validity of any assessment made under the provisions of this title shall not be contested in any action or proceeding unless the same is commenced within thirty (30) days after the City Council orders that the charge be assessed against the property.

SECTION 6.

Section 61.13.1300 of the Sacramento City Code is hereby amended to read as follows:

61.13.1300 Securing of unimproved or unoccupied real property.

Whenever the department head or his/her authorized representative has found that any unimproved real property or improved, but unoccupied real property within the city has reoccurring dumping problems as defined in Section 61.04.401(m), the department head or designee may issue a notice and order requiring the property owner(s) to secure the property to prevent further dumping on the property and requiring the owner to:

- (a) Erect a fence with gate(s) to city specifications;
- (b) Erect a lockable gate at specified access points; or
- (c) Install barricading to city specifications to reduce or eliminate accessibility to the property.
- (d) Remove all litter, garbage, junk, debris, discarded vehicles, vehicle parts and/or vehicle hulks from the property.

SECTION 7.

Section 61.13. 1301 of the Sacramento City Code is hereby amended to read as follows:

61.13.1301 Notice to owner.

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- (a) The owner(s) of any unimproved property which has been found by the department head or designee to require securing and removal of junk and debris shall be notified in writing by either certified mail, postage prepaid, return receipt, or personal service. If the owner, cannot be served by certified mail after two attempts, or one attempt at personal service, then the department head may make service by publication in a Sacramento newspaper of general circulation. Notice shall be deemed provided when it is published pursuant to Government Code Section 6063.
- (b) Upon receipt of the notice to secure, or upon the last date the notice is published, the owner(s) shall have thirty (30) days in which to secure the property.
- (c) The notice and order issued pursuant to this Chapter shall provide that if the owner(s) fails to secure the property and remove the junk and debris within 30 days of the notice and order that the City shall secure it and remove the offending junk and debris and that the costs of securement and removal shall be a personal obligation of the property owner and a lien against the property.
- (d) A fee shall be imposed on the owner of any property for which a notice and order pursuant to this Chapter is issued. The fee shall be calculated to recover the total City cost of inspections and enforcement and shall be set by resolution of the City Council. Any fee not paid shall be collected pursuant to the procedure set forth in Chapter 61.10.

SECTION 8.

Section 61.13.1302 of the Sacramento City Code is hereby amended to read as follows:

61.13.1302

Appeal of an order to secure.

- (a) The property owner(s) may appeal from any notice and order issued by the department head or designee under this Chapter by filing at the office of the department head within thirty days from the date of service such order, a written appeal containing:
 - 1. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
 - 2. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the

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appellant.

3. A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside.
4. The signatures of all parties named as appellants, and their official mailing addresses.
5. The verification, by declaration under penalty of perjury, of at least one appellant as to the truth of the matters stated in the appeal.

(b) Failure of any person to file an appeal in accordance with the provisions this section shall constitute an irrevocable waiver of such person's right to an administrative hearing and a final adjudication of the notice and order, or any portion thereof.

(c) When the property owner fails to appeal the notice and order in a timely manner and the order is deemed final, the department head may cause the property to be secured and the junk and debris to be removed.

SECTION 9.

Section 61.13.1303 of the Sacramento City Code is hereby added to read as follows:

61.13.1303 Scope of hearing on appeal.

Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

SECTION 10.

Section 61.13.1304 of the Sacramento City Code is hereby added to read as follows:

61.13.304 Staying of order under appeal.

Enforcement of any notice and order of the department head issued pursuant to this Chapter shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

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SECTION 11.

Section 61.13.1305 of the Sacramento City Code is hereby added to read as follows:

61.13.305 Appeal to a hearing examiner.

Appeals of a notice and order issued pursuant to this Chapter shall be heard by a hearing examiner appointed by the City Council to hear cases pursuant to Title 61. All appeals shall be conducted in the manner set forth in Sections 61.05.503 - 61.05.510.

SECTION 12.

Section 61.13.1306 of the Sacramento City Code is hereby added to read as follows:

61.13.1306 Form and contents of decision; finality of decision.

(a) If it is shown by a preponderance of the evidence that the property has become a dumping ground for litter, garbage, junk, debris, discarded vehicles, vehicle parts, and/or vehicle hulks and that the property owner has received two or more written requests to remove litter, garbage, junk, debris, discarded vehicles, vehicle parts and/or vehicle hulks within any previous 12 month period, then the hearing examiner shall:

1. Order the property owner to secure the property and remove the offending junk and debris as provided in the notice and order; or
2. Modify the scope of the notice and order to provide for the securement of areas specified by the hearing examiner and/or removal of the junk and debris.

(b) In reaching the decision to affirm the appealed order or for modification of the order, the hearing examiner shall consider the extent to which the offending junk and debris is a blight to the neighborhood, the efforts of the owner has made to prevent dumping on the property, the efforts the owner has made to remove junk and debris dumped on his/her property and the effect on the neighborhood if the property is not secured.

SECTION 13.

Section 61.13.1307 of the Sacramento City Code is hereby added to read as follows:

61.13.1307 Decision of the hearing examiner.

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- (a) The decision of the hearing examiner shall be in writing and shall contain findings of fact and a determination of the issues presented. The decision shall also require the owner to secure the property and remove the offending junk and debris fifteen (15) days after service of the decision. The decision shall inform the owner that if the property is not secured within the time specified and the offending junk and debris is not removed as ordered that the department head may cause the property to be secured and cause of removal the offending junk and debris. The owner shall be advised that the expense incurred in securement and/or removal of the junk and debris shall be made a personal obligation of the owner and a lien will be placed on the property involved, which may be collected as a special assessment.
- (b) The decision shall also inform the appellant that the hearing examiner's decision is final and that the time for judicial review is governed by California Code of Civil Procedure Section 1094.6. Copies of the decision shall be forthwith delivered to the parties personally or sent to them by certified mail. The decision shall be final when signed by the hearing examiner and served as herein provided.

SECTION 14.

Section 61.13.1308 of the Sacramento City Code is hereby added to read as follows:

61.13.1308 Lien and personal obligation.

The costs of securement and/or removal of junk and debris incurred pursuant to this Chapter, including all administrative costs shall be assessed as a lien against the property and made a personal obligation of the owner. The costs of securement and removal and other administrative costs shall be collected pursuant to the procedures established in Sections 61.10.1000 through 61.10.1008 as written or hereafter amended.

SECTION 15.

Section 61.13.1309 of the Sacramento City Code is hereby added to read as follow:

61.13.1309 Appeal fee.

The department head or authorized representative may collect and require an appeal fee to be paid at the time the written appeal notice is filed pursuant to Section 61.13.1302. The appeal fee shall be set by resolution of the city council. The fee shall be calculated to recover the total city costs incurred in the appeal including, but not limited to, staff time to process and handle the appeal, hearing examiner compensation, preparation and service of notices and staff appearance at the appeal

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hearing. No appeal shall proceed without payment of the fee at the time the appeal is filed. The department head may waive the appeal fee upon written request for good cause shown. Good cause may include severe economic hardship, significant attempts to comply with the notice and order, and other factors indicating good faith attempts to comply with the order(s).

DATE PASSED FOR PUBLICATION: December 5, 1995
DATE ENACTED: December 12, 1995
DATE EFFECTIVE: January 11, 1996


MAYOR

ATTEST:


CITY CLERK

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