



City of San Leandro

Meeting Date: November 2, 2020

Ordinance

File Number: 20-447

Agenda Section: CONSENT CALENDAR

Agenda Number: 8.J.

TO: City Council

FROM: Jeff Kay
City Manager

BY: Tom Liao
Community Development Director

FINANCE REVIEW: Not Applicable

TITLE: ORDINANCE of the City of San Leandro City Council Amending Certain Sections of the San Leandro Municipal Code Related to Penalties for Code Violations.

WHEREAS, California Government Code section 53069.4 permits cities to regulate and impose penalties on violations of local ordinances; and

WHEREAS, California Government Code section 36900 provides the penalty amounts cities may impose for violations of local ordinances; and

WHEREAS, the City of San Leandro regulates by ordinance the violation of local ordinance and imposition of penalties for violation of local ordinances; and

WHEREAS, from time to time the state of California updates the maximum fines allowed for cities to impose for violations of local ordinances; and

WHEREAS, California Government Code section 36900 was amended in 2019 to increase the maximum fines cities may impose for violations of local ordinances with respect to violations of a local building and safety code;

WHEREAS, the City has determined that portions of the San Leandro Municipal Code ("Code"), as currently drafted, require updating to remain consistent with state law; and

WHEREAS, the City's ability to impose penalties for violation of its Code is necessary to maintain order and compliance with the Code, for the safety and enjoyment of all members of the community; and

WHEREAS, City staff performed a comprehensive review of the Code to assist the City Council in identifying and remediating the aforementioned issue related to updating penalty amounts for Code violations; and

WHEREAS, the City desires to adopt an ordinance to update the penalty amounts imposed for Code violations to comport with state statutory requirements in order to consistently and effectively

encourage compliance with City Codes designed to protect the health, safety, and welfare of City residents, businesses, and visitors.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN LEANDRO DOES ORDAIN as follows:

SECTION 1. RECITALS. The above recitals are true and correct and made a part of this ordinance.

SECTION 2. AMENDMENT TO THE SAN LEANDRO MUNICIPAL CODE. San Leandro Municipal Code Section 1-12-415 of Article 4 of Chapter 1-12 of Title 1 is hereby amended as follows (with additions in *italics* and deletions in ~~strike through~~):

“CHAPTER 1-12 CITATION - VIOLATIONS

ARTICLE 4. ADMINISTRATIVE ENFORCEMENT.

1-12-415 ISSUANCE OF ADMINISTRATIVE PENALTIES.

(a) Whenever an Enforcement Officer finds that a provision of this Code has been violated, including but not limited to a failure to comply with a condition imposed by any agreement, entitlement, permit, license or environmental document issued or approved by or on behalf of the City or failure to comply with any County, State or Federal laws the violation of which constitutes a public nuisance, such Enforcement Officer is authorized to issue administrative penalties. Administrative penalties may be issued for the enforcement of any section or provision of this Code. Such penalties may be issued to the responsible party.

(b) Administrative penalties shall be issued on forms approved by the City Attorney. Each penalty shall indicate, at a minimum, the following information:

(1) The name of the person or entity to whom the penalty is issued.

(2) The address or location where the violation is observed.

(3) The section of this Code that is being violated.

(4) The date by which an appeal of the penalty must be sought before the penalty becomes final.

(5) The procedure for seeking an appeal of the penalty.

(6) The amount of the administrative penalty to be imposed for each violation *in accordance with California Government Code section 36900. One Hundred Fifty Dollars (\$150.00) for a first violation, Three Hundred Dollars (\$300.00) for a second violation of the same ordinance within one year, and Six Hundred Dollars (\$600.00) for each additional violation within one year, and the first day that any such penalty will be imposed.*

(7) The manner of payment of the administrative penalty.

(8) If the violation pertains to building, electrical, or other similar structural or zoning issues where the violation does not create an immediate threat to health or safety, the responsible party shall be provided not less than ten (10) calendar days in which to correct, abate, or otherwise remedy the violation before a penalty is imposed.

(c) Service of the penalty shall be made upon the responsible party or the owner, personally or by First Class U.S. mail, with certificate of mailing, and if by such mail to the owner it shall be sent to the last known address listed on the most recent tax assessor's records. In the case of personal service, service shall be deemed complete at the time of such delivery. In the case of service by First Class U.S. mail, service shall be deemed complete at the time of deposit into the United States mail. Where service is by First Class U.S. mail upon the owner, a copy of the penalty shall be conspicuously posted at the affected property. The failure of any person to receive a copy of the penalty that was sent via First Class U.S. mail shall not affect the validity of any enforcement proceedings under this Chapter.

(d) The payment of a penalty by or on behalf of any responsible party shall not relieve such party from the responsibility of correcting, removing or abating the violation, nor prevent further proceedings under this Chapter or any other lawful authority to achieve the enforced correction, removal or abatement of the violation.

(e) A responsible party may appeal the imposition of any penalty or the amount of such penalty by filing a request for hearing form in accordance with the provisions of Section 1-12-425 of this Chapter.

(f) Each and every day during any portion of which any violation is committed, continued, or permitted shall be deemed a separate and distinct violation. A penalty may continue to accrue on a daily basis until the violation is corrected, ~~up to a maximum amount of Five Thousand Dollars (\$5,000.00).~~

(g) *Administrative penalties shall not be assessed at more than five thousand dollars (\$5,000.00) cumulatively per calendar year for a single-family home for any single violation which is accruing due to failure to correct.*

~~(g)~~ (h) Any penalty is a debt owed to the City. In addition to all other means of enforcement, any penalty may be enforced as a personal obligation of the responsible party. If the violation is in connection with real property, any penalty may be enforced by imposition of a lien or special assessment upon the real property. Any lien or special assessment imposed upon the real property shall remain in effect until the penalty is paid in full.

SECTION 3. AMENDMENT TO THE SAN LEANDRO MUNICIPAL CODE

1. San Leandro Municipal Code Chapter 7-5-105 Chapter 1 Section 114.4 is hereby amended as follows (with additions in *italics* and deletions in ~~strikethrough~~):

“CHAPTER 7-5-105 ENFORCEMENT AND ABATEMENT PROCEDURES

CHAPTER 1. ADMINISTRATION.

SECTION 114. VIOLATIONS AND PENALTIES.

114.4 PENALTY.

Any person, firm or corporation violating any of the provisions of this Code shall be guilty of a misdemeanor, and each such person shall be guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed, continued or permitted, and upon conviction of any such violation such person shall be punishable by ~~a fine of not more than \$1,000 (one thousand dollars) or by imprisonment for not more than six months, or by both such fine and imprisonment~~ *a fine in accordance with California Government Code section 36900.* The provisions of this Section are in addition to and independent of any other sanctions, penalties or costs which are or may be imposed for a violation of any of the provisions of this Code.

SECTION 4. CEQA. Approval of the ordinance is exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As a series of text amendments and additions, it can be seen with certainty that there is no possibility that this ordinance will have a significant effect on the environment.

SECTION 5. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or

phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

SECTION 6. EFFECTIVE DATE AND PUBLICATION. This ordinance shall take effect thirty (30) days after adoption. The City Clerk is directed to publish the title once and post a complete copy thereof on the City Council Chamber bulletin board for five (5) days prior to adoption.