

## ORDINANCE NO. 2006-047

Adopted by the Sacramento City Council

August 29, 2006

**AN ORDINANCE AMENDING SECTION 8.04.430 OF CHAPTER 8.04, AND AMENDING SECTION 8.96.360 OF CHAPTER 8.96 OF THE SACRAMENTO CITY CODE RELATING TO RECOVERY OF COSTS INCURRED IN THE ENFORCEMENT OF THE NUISANCE CODE, HOUSING CODE, AND DANGEROUS BUILDINGS CODE**

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

**SECTION 1.** Section 8.04.430 of Chapter 8.04 of the Sacramento City Code is amended to read as follows:

**8.04.430 Personal obligation, lien, or special assessment.**

A. Upon receipt of the delinquency lien hearing officer's report, the city council shall schedule a public hearing at which it shall confirm, reject or modify the report and determine the costs of abatement. The public hearing shall be limited to the issue of whether the hearing before the delinquency lien hearing officer was conducted in accordance with applicable city ordinances. Only those owners who file an objection or protest and appear before the delinquency lien hearing officer shall be permitted to protest at the city council hearing.

B. Upon taking action under subsection A, the city council may order that the costs of abatement be made a personal obligation of the property owner and either a nuisance abatement lien or a special assessment against the property.

C. If an action or proceeding is commenced to recover the costs, the prevailing party shall be entitled to recover reasonable attorneys' fees, provided that, pursuant to California Government Code section 38773.5, attorneys' fees shall only be available where the city has elected, at the commencement of such action or proceeding, to seek recovery of its own attorneys' fees. In no action or proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the city in the action or proceeding.

D. A nuisance abatement lien may be recorded and enforced against the property pursuant to the provisions of California Government Code section 38773.1. A nuisance abatement lien may be foreclosed by an action brought by the city for a money judgment. As part of the foreclosure action, the city may recover reasonable attorneys' fees and costs including, but not limited to, costs incurred for processing and recording the lien and providing notice to the property owner.

E. As an alternative to a nuisance abatement lien, the costs of abatement may be made a special assessment against the property. The special assessment may be collected at the same time and in the same manner as ordinary municipal taxes and shall be subject to the same penalties and procedures, including the sale of the property in case of delinquency, as provided for ordinary municipal taxes. The special assessment shall continue until the assessment and all interest and penalties due and payable thereon have been paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment.

**SECTION 2.** Section 8.96.360 of Chapter 8.96 of the Sacramento City Code is amended as follows;

**8.96.360 Personal obligation, lien, or special assessment.**

A. After the housing board's hearing provided in this article, the city clerk shall transmit the report to the city council. The city clerk shall also send the results of the hearing by first class mail to the objecting owners who appeared before the housing board, and shall include the date and time of the public hearing to be held by the city council no less than ten (10) days after the mailing in accordance with this section. Upon receipt of the housing board's report, the city clerk shall schedule a public hearing at which the city council shall confirm, reject or modify the report and determine the costs of abatement. The public hearing shall be limited to the issue of whether the housing board hearing provided in this chapter was conducted in accordance with applicable city ordinances. Only those owners who both file an objection or protest and appear before the housing board shall be permitted to protest at the city council hearing.

B. Upon taking action under subsection A, the city council may order that the costs of abatement be made a personal obligation of the property owner and either a nuisance abatement lien or a special assessment against the property.

C. If an action or proceeding is commenced to recover the costs, the prevailing party shall be entitled to recover reasonable attorneys' fees, provided that, pursuant to California Government Code section 38773.5, attorneys' fees shall only be available where the city has elected, at the commencement of such action or proceeding, to seek recovery of its own attorneys' fees. In no action or proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the city in the action or proceeding.

D. A nuisance abatement lien may be recorded and enforced against the property pursuant to the provisions of California Government Code section 38773.1. A nuisance abatement lien may be foreclosed by an action brought by the city for a money judgment. As part of the foreclosure action, the city may recover reasonable attorneys' fees and costs including, but not limited to, costs incurred for processing and recording the lien and providing notice to the property owner.

E. As an alternative to a nuisance abatement lien, the costs of abatement may be made a special assessment against the property. The special assessment may be collected at the same time and in the same manner as ordinary municipal taxes and shall be subject to the same penalties and procedures, including the sale of the property in case of delinquency, as provided for ordinary municipal taxes. The special assessment shall continue until the assessment and all interest and penalties due and payable thereon have been paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment.

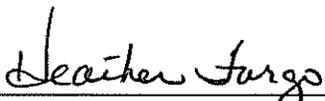
Adopted by the City of Sacramento City Council on August 29, 2006 by the following vote:

Ayes: Councilmembers, Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters, and Mayor Fargo.

Noes: None.

Abstain: None.

Absent: None.

  
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Mayor, Heather Fargo

Attest:   
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Shirley Concolino, City Clerk

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