

ORDINANCE NO. 2736

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AMENDING SECTION 13.14.150 OF THE CHULA VISTA MUNICIPAL CODE TO ALLOW DELINQUENT SEWER SERVICE CHARGES TO BE PLACED ON THE PROPERTY TAX BILL FOR COLLECTION

The City Council of the City of Chula Vista does hereby ordain as follows:

SECTION I: That Section 13.14.150 of the Chula Vista Municipal Code is hereby amended to read as follows:

13.14.150 Payment of Sewer Service and Pump Station Charges-Penalty for Delinquency-Discontinuance of Service-When-Unlawful Connection-Backbilling and Penalty.

- A. Billing and Payment. All sewer service charges shall be billed upon a monthly or bi-monthly basis, or on the Tax Bill, as determined by the City Council, and shall be payable upon the billing of such charges to the owner of the occupant.
- B.
 - 1. Director's Report. Annually, not later than August 10, the City Clerk shall set the Report of the Director of Public Works filed pursuant to Section 13.14.110 for public hearing before the City Council and duly cause Notice thereof and of the filing of said report to be published once at least ten days in advance thereof in a newspaper of general circulation published in the City of Chula Vista.
 - 2. Notice of Property Owner. When the Director of Public Works requests that such charges be collected on the Tax Bill for the first time, the City Clerk shall, in addition to the notice required by subsection B.1., cause to be mailed to each person assessed for each property described in the report, at the address shown on the last available assessment roll, Notice of the filing of the report and of the date, time, and place of the public hearing thereon. If such charges are collected on the Tax Bill pursuant to such Notice, annually thereafter such notice need not be given but only the notice by publication required by subsection B.1.
- C. Council Action. The City Council shall conduct a public hearing to consider the amount of such charges, and whether they shall be collected on the Tax Bill. The first year said charges are proposed to be placed on the Tax Bill such action is subject to a majority protest.
 - 1. If a majority of the owners of affected properties protest placement on the Tax Bill, the charges shall not be so collected, but shall be established by City Council Resolution and collected pursuant to subsection D hereof.
 - 2. If there is no majority protest and the City Council determines to place the charges, or some of them, on the Tax Bill, for those to be collected on the Tax Bill the City Council shall by ordinance approve the report of the Director of Public Works, along with any corrections thereto and establish the amounts of such sewer service charges to be placed on the Tax Bill. The City Clerk shall endorse thereon that it is the report finally approved by the City Council, and

forward the appropriate date forthwith to the County Auditor for enrollment on the Assessment Roll, and ultimate collection by the Tax Collector on the Tax Roll in accordance with Health and Safety Code Section 5473 et seq.. Pursuant to Health and Safety Code Section 5473.8, all laws applicable to the levy, collection and enforcement of real property taxes including, but not limited to, delinquency, correction, cancellation, refund and redemption, are applicable to such charges.

- a. Pursuant to Health and Safety Code Section 5471 and 5473.10, the City Council shall establish by ordinance the charges as those set forth in said report (along with any corrections) and hereby establishes the basic penalty for delinquency in the amount to 10% of the delinquent amount, plus one and one half (1-1/2) percent per month for nonpayment of the charge and basic penalty (designated for administrative convenience only in the Master Fee Schedule), which shall also be collected by the Tax Collector on behalf of City.
- b. The Director of Finance shall give Notice to the owner of any parcel when any such charges become delinquent for 60 days, and of any penalties and interest thereon as provided herein, and that they shall constitute a lien with the force, effect and priority of a judgment lien against the lot or parcel against which it was imposed, good for three years from recordation, if recorded. The Director of Finance shall record with the County Recorder, pursuant to Health and Safety Code Section 5473.11, a certificate specifying the amount of the unpaid charges and penalties and interest thereon, when any such charges become delinquent for 60 days.

- D. **Non-Tax Bill.** Alternatively, the charge and the billing therefor may be combined with other utility bills and separately designated, or otherwise billed and collected, as determined by the City Council. Said charge together with penalties and interest, and reasonable attorneys' fees (hereafter collectively referred to as Charge), shall be a charge on the property served and shall be a continuing lien upon the property served, the lien to become effective upon recordation of a Notice of Delinquent Sewer Service Charge. Each such Charge also shall be the personal obligation of the person who was the owner of such property served at the time when the Charge was levied. The personal obligation for Delinquent Sewer Service Charges shall not pass to an owner's successors in title as their personal obligation unless expressly assumed by them.

Any Charge imposed in accordance with this ordinance shall be a debt of the owner of property served from the time the Charge is levied. At any time after any charges have become delinquent, the City engineer may file for record in the office of the San Diego County Recorder, a Notice of Delinquent Sewer Service Charge as to such property served, which notice shall state all amounts which have become delinquent with respect to such property served and the costs (including attorneys fees), late penalties and interest which have accrued thereon, and the amount of any charges relating to such property served which is due and payable although not delinquent. The notice also shall contain a description of the property served with the name of the record or reputed record owner of such property, and the name and address of the trustee authorized by the City to enforce the lien, if by nonjudicial foreclosure as provided below. Immediately upon recording of any Notice of Delinquency pursuant

to the foregoing provisions of this Section, the amounts delinquent, as set forth in such notice, together with the costs (including attorneys' fees), late penalties and interest accruing thereon, shall be and become a lien upon the property served described therein, which lien also shall secure delinquent charge and all other charges which have become due and payable with respect to the same property, together with all costs (including attorneys' fees), late charges and interest which have accrued on such amounts, are paid fully or otherwise satisfied prior to the completion of any sale held to foreclose the lien provided for in this ordinance, the City Engineer shall record a further notice, similarly signed, stating the satisfaction and release of such lien.

Each lien may be foreclosed and in the same manner as the foreclosure of a mortgage upon real property under the laws of the State of California, or may be enforced by sale pursuant to Sections 2924, 2924(b), 2924(c) and 1367 of the California Civil Code, or any successor statute or law, and to that end, the right to enforce the lien by sale is hereby conferred upon the City and its trustee designated in the Notice of Delinquent Charge, or a trustee substituted pursuant to California Civil Code Section 2934a. The City shall have the power to bid for the property served at a foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid charges, costs, late penalties and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same. In any action by the City to collect delinquent charges, accompanying late charges or interest, the prevailing party shall be entitled to recovery of its costs and reasonable attorneys' fees.

- E. Penalty for Delinquency. If the sewer service charge is not paid before the close of business or postmarked before midnight of the final date for payment as shown on the billing, a basic penalty of ten (10) percent of the charge(s) shall be added thereto, plus one and one half (1-1/2) percent per month for nonpayment of the charge and basic penalty (designated for administrative convenience only in the Master Fee Schedule); provided, however, that when the final day for payment falls on Saturday, Sunday or a legal holiday, payment may be made without penalty on the next regular business day.
- F. Notice of delinquency - Hearing and lien. When the full amount for said sewer service charge is not paid within sixty days after the final date of payment, the City clerk shall set said delinquent account for hearing by the City Council at a regular or adjourned regular meeting which will be held at least seven calendar days after such sixty-day period has expired. The owner of the property shall be mailed notice of the time and place of the hearing. The notice shall also inform the property owner that failure to pay said delinquent account will result in a lien upon the property, and the amount owed will be charged to the property owner on the net regular tax bill. Notice of the public hearing shall also be published once at least ten days in advance thereof in a newspaper of general circulation published in the City of Chula Vista. The City Clerk shall post a copy of such notice of the time and place of hearing, in a conspicuous place at or near the entrance of the Council Chambers in the City Hall.
- G. Delinquent Accounts - Hearing and Assessment. The City Council shall consider said delinquent accounts at the time set for hearing together with any objections or protests by interested parties. Any owner of land or person affected by the charges may present a written or oral protest or objection to the delinquency of said account or the amount owed thereon. At the conclusion of the hearing, the City Council shall either approve the delinquency and amount owed on the account as submitted or as modified or corrected by the City Council. The decision of the City Council on the


charges and on all protests or objections shall be final and conclusive. The amounts so approved shall reflect the entire amount due, including all penalties, interest and administrative fees that have accrued against the account as of the date of the hearing. The amount shall be charged to the property owner on the next regular tax bill and shall be a lien upon the property involved. The City Council shall confirm such assessment and cause the same to be recorded on the assessment roll and, thereafter, such assessment shall constitute a special assessment and lien upon the property. The City Council shall adopt a resolution assessing such amounts as liens upon the respective parcels of land as they are shown upon the last available assessment roll.

- H. Delinquent Accounts - Administrative Fee. All delinquent accounts approved by the City Council pursuant to section G shall be charged an administrative processing fee to offset the costs incurred by the City in administering the provisions of this chapter. The administrative processing fee (designated for administrative convenience only in the Master Fee Schedule) shall be added to the amount assessed against the property.
- I. Service Discontinuance. In the event the owner or occupant of any premises shall be delinquent in payment of the sewer service charge and such delinquency continues for a period of five days after the final date for payment of such charge, the City shall also have the right, forthwith and without notice, to discontinue sewer service to such delinquent owner or occupant, and sewer service shall not again be supplied to such person until all delinquent sewer service charges plus the penalties thereon as herein provided have been paid. The sewer service charges may be collected by suit in any court of competent jurisdiction or any other manner.
- J. Unlawful Connection. In the event that any parcel or building is determined by the director to have been unlawfully connected to the public wastewater system, the City shall have the right to terminate sewer service to such parcel or building as provided in section 13.06.110. Sewer service shall not again be supplied to such parcel or building until all delinquent sewer service charges which have been accumulated during the current ownership of the parcel or building, plus a basic penalty of 10% of the delinquent sewer service charge plus one and one half (1-1/2) percent per month for non-payment of the charge and the basic penalty (designated for administrative convenience only in the Master Fee Schedule), has been paid.


Section II. This Ordinance shall take effect and be in full force on the thirtieth day after its adoption.

Presented by

Approved as to form by



Robert W. Powell
Finance Director



John M. Kaheny
City Attorney


PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 23rd day of June, 1998, by the following vote:

AYES:	Councilmembers:	Moot, Padilla, Rindone, Salas, and Horton
NAYS:	Councilmembers:	None
ABSENT:	Councilmembers:	None
ABSTAIN:	Councilmembers:	None



Shirley Horton, Mayor

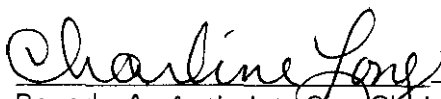
ATTEST:


for Beverly A. Authelet, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.
CITY OF CHULA VISTA)

I, Beverly A. Authelet, City Clerk of the City of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 2736 had its first reading at a regular meeting held on the 16th day of June, 1998 and its second reading and adoption at a regular meeting of said City Council held on the 23rd day of June, 1998.

Executed this 23rd day of June, 1998.


for Beverly A. Authelet, City Clerk