

1 [Water and Sewer Lien Ordinance]
2 AMENDING PART II, CHAPTER X, OF THE PUBLIC WORKS CODE CONCERNING THE
3 IMPOSITION OF LIENS TO RECOVER REVENUES FROM DELINQUENT WATER AND
4 SEWER SERVICE ACCOUNTS, BY AMENDING SECTION 150.1 TO COMPORT WITH
5 ORGANIZATIONAL CHANGES IN THE 1996 CHARTER; AMENDING SECTION 150.2 TO
6 EXEMPT THE OWNERS OF TENANT OCCUPIED SINGLE FAMILY DWELLINGS FROM
7 THE IMPOSITION OF WATER AND SEWER SERVICE LIENS; AMENDING SECTION 150.3
8 FOR GRAMMATICAL CONSISTENCY; AMENDING SECTION 150.4 TO EXEMPT THE
9 OWNERS OF TENANT OCCUPIED SINGLE FAMILY DWELLINGS FROM THE
10 IMPOSITION OF WATER AND SEWER SERVICE LIENS, AND DELETING THE PHRASE
11 "SPECIAL ASSESSMENT"; AMENDING SECTION 150.5 TO EXEMPT THE OWNERS OF
12 TENANT OCCUPIED SINGLE FAMILY DWELLINGS FROM THE IMPOSITION OF WATER
13 AND SEWER SERVICE LIENS, FOR PROVISION OF WRITTEN NOTICE TO OTHER
14 CUSTOMERS, AND TO PERMIT THE COLLECTION OF ADMINISTRATIVE FEES FOR
15 OVERDUE WATER AND SEWER SERVICE ACCOUNTS; AMENDING SECTION 150.6 TO
16 COMPORT WITH ORGANIZATIONAL CHANGES IN THE 1996 CHARTER; AMENDING
17 SECTION 150.7 REGARDING NOTICED HEARINGS; AMENDING SECTION 150.8 TO
18 ELIMINATE THE TAX PRIORITY OF LIENS FILED UNDER THE EXISTING ORDINANCE;
19 AMENDING SECTION 150.9 TO ESTABLISH A LATE PAYMENT PENALTY FEE FOR
20 UNPAID CLOSED ACCOUNTS; AMENDING SECTION 150.10 TO CREATE A PROCESS
21 FOR TRANSFER OF LIENS AND OTHER OVERDUE ACCOUNTS TO THE TAX
22 COLLECTOR AND BUREAU OF DELINQUENT REVENUE COLLECTION AND
23 AUTHORIZING THE RECOVERY OF ATTORNEYS' FEES AND COSTS BY THE BUREAU;
24 AMENDING SECTION 150.11 REGARDING RELEASE OF LIENS UPON PAYMENT AND
25 DISPOSITION OF FUNDS COLLECTED; AND AMENDING SECTION 150.12 INCREASING

PUBLIC UTILITIES DEPARTMENT
BOARD OF SUPERVISORS

1 DEBT WRITEOFF AUTHORITY FROM \$50 TO \$200 AND AUTHORIZING THE BUREAU OF
2 DELINQUENT REVENUE TO COMPROMISE OR ABANDON CLAIMS SUBMITTED TO IT
3 BY THE PUBLIC UTILITIES DEPARTMENT.

4 Note: Additions are underlined; deletions are in ((double parentheses)).

5 Be it ordained by the People of the City and County of San Francisco:

6 Section 1. Part II, Chapter X of the San Francisco Municipal Code is hereby amended
7 by amending Sections 150.1 through 150.12 to read as follows:

8 Section 150.1. DEFINITIONS. Unless the context otherwise specifies or requires, the
9 terms defined in this Section shall, for all purposes of this article, have the meanings herein
10 specified, the following definitions to be equally applicable to both the singular and plural
11 forms of any of the terms herein defined:

12 (a) The term "City" means the City and County of San Francisco;

13 (b) The term "Department" means the ((San Francisco Water)) Public Utilities
14 Department of the City and County of San Francisco;

15 (c) The term "Manager" means the ((General)) Manager ((and Chief Engineer)) of
16 the Customer Service Bureau of the ((San Francisco Water))Public Utilities Department, or his
17 authorized agents;

18 (d) The term "real property" means a lot or building thereon or other facility whether
19 private, governmental or otherwise in the City and County of San Francisco;

20 (e) The term "Commission" means the Public Utilities Commission of the City and
21 County of San Francisco, or its designated agent;

22 (f) The term "owner" when used with reference to real property shall mean, and
23 shall conclusively be deemed to be, the legal owner of the real property, except, when the
24 legal owner of said real property is such due to the holding of a mortgage, note or other such
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1 security, in which case the "owner" shall be deemed to be the beneficial owner of said real
2 property.

3 (g) The term "Committee" means the Lien Hearing Committee comprised of three
4 members as designated by the General Manager of Utilities or his designee.

5 (h) The term "customer" means the person subscribing for water and sewer service
6 from the Public Utilities Department, whether or not such person is the owner of the property
7 to which such service is rendered.

8 (i) The phrase "Bureau of Delinquent Revenue" means the Bureau of Delinquent
9 Revenue Collection within the Tax Collector's Office, as set forth in San Francisco
10 Administrative Code Section 10.37.

11 **SEC. 150.2. OWNER RESPONSIBILITY FOR WATER SERVICE CHARGES AND**
12 **INDUSTRIAL COST RECOVERY SURCHARGES.** Except for tenant occupied individually
13 metered residential dwellings, ((T))the owner of any real property shall be responsible for
14 subscribing to and paying for water service to such real property by ((d))Department in
15 accordance with rate schedules, ((and)) rules and regulations established from time to time by
16 Commission. Except for tenant occupied individually metered residential dwellings, ((T))the
17 owner of any real property shall be responsible for paying the Sewer Service Charges and
18 Industrial Waste Recovery Charges resulting from the use of occupancy of said property, in
19 accordance with the rate schedules, rules and regulations established from time to time by
20 Commission.

21 For tenant occupied individually metered residential dwellings, unless the owner agrees
22 to become responsible, the tenant shall be responsible for subscribing to and paying for water
23 service to such real property by Department in accordance with rate schedules and rules and
24 regulations established from time to time by Commission. Said tenants further shall be
25 responsible for paying the Sewer Service Charges and Industrial Waste Recovery Charges

1 resulting from the use of occupancy of said property, in accordance with rate schedules, rules
2 and regulations established from time to time by Commission. Said tenants shall be required
3 to post a security deposit prior to establishing an account for water and sewer service in
4 accordance with the rate schedules, rules and regulations established from time to time by
5 Commission.

6 Nothing in this Section is intended to or shall prevent an arrangement, pursuant to rules
7 and regulations established by Commission under which the subscription and/or payment for
8 water service or Sewer Service Charge, or Industrial Cost Recovery Charges are made by
9 customer, a tenant or tenants, or any owner, or agent((,)) on behalf of the owner; provided
10 however, that any such arrangement shall not relieve owner of the obligation to
11 ((d))Department, where water or Sewer Service Charges or Industrial Cost Recovery Charges
12 are unpaid. Nothing in this Article is intended to impair the validity of any liens for delinquent
13 water charges, Sewer Service Charges and Industrial Waste Recovery Charges which were
14 recorded against tenant occupied individually metered residential dwellings prior to April 8,
15 1996.

16 **SEC. 150.3. DEPARTMENT ENTITLED TO PAYMENT.** The ((d))Department shall be
17 entitled to payment for water service and sewer service within 15 days after the bill is mailed.
18 Partial payments are to be deposited in each fund in proportion to the dollar amount of billing
19 attributable to each fund. Should there be failure to make payment for water or sewer service
20 rendered to any real property, water service to any such real property may be terminated in
21 accordance with rules and regulations established from time to time by Commission until such
22 service charges are paid.

23 **SEC. 150.4. COLLECTION OF DELINQUENT SERVICE CHARGES ((AS)**
24 **THROUGH RECORDATION OF A ((SPECIAL ASSESSMENT)) LIEN.** Whether or not water
25 service is shut off for nonpayment of service charges, ((m))Manager shall initiate proceedings

1 to make delinquent water and Sewer Service Charges and Industrial Cost Recovery Charges
2 a ((special assessment)) lien against parcels of property to which said service was rendered
3 pursuant to Sections 150.5 to 150.11 inclusive, of this Article. This section shall not apply to
4 tenant occupied individually metered residential dwellings unless the owner of the property is
5 the customer of record or consents to the imposition of a lien by the Department.

6 **SEC. 150.5. LIEN PROCEEDINGS; ADDITIONAL REQUEST FOR PAYMENT;**
7 **WARNING NOTICE.** When water and sewer service has been rendered on a continuing
8 account, and a bill has been presented to the ((owner or the)) customer ((when the latter is
9 not the owner, with a bill for such service on a continuing account,)) and such bill remains
10 unpaid until the succeeding billing cycle, ((d))Department shall mail a written request for
11 payment to the ((owner))customer, and to the owner when the customer is not the owner. ((a
12 written request for payment.)) In the case of accounts that have been closed without payment
13 in full, the department shall mail to the ((owner)) customer, and to the owner when the
14 customer is not the owner, a written request for payment. The notice provisions of this section
15 do not apply to the owners of tenant occupied individually metered residential properties
16 unless the property owner is the customer of record.

17 The written request for payment shall include information as to the amount due and a
18 warning notice that if the amount due is not paid with 15 days, water service on an open
19 account may be terminated and proceedings to establish a ((special assessment)) lien against
20 the real property to which the service was furnished will be instituted. The notice will further
21 provide that((, and)) if ((the lien is established and recorded))the account remains
22 unpaid,(penalties))administrative fees and interest, pursuant to this Article, will accrue. The
23 form and content of said notice shall be approved by the Committee.

24 **SEC. 150.6. LIEN PROCEEDINGS; ((DELINQUENT ACCOUNTS IN EXCESS OF**
25 **\$50:))REPORT AND NOTICE.** If payment is not received within 15 days following mailing of

1 the request, the account shall be deemed to be delinquent. Delinquent accounts which are to
2 be subjected to the lien procedure shall be reported to ((c))Committee by ((m))Manager at
3 least once each month. The Committee shall conduct a hearing pursuant to rules and
4 regulations consistent with this Article and approved by the Commission.((and the Chief
5 Administrative Officer)) The report for each such delinquent account shall contain the owner's
6 name, the amount due, and a description of each parcel to be subjected to the lien procedure.
7 The descriptions of the parcels shall be those used for the same parcels on the assessor's
8 map books for the current year. Upon receipt of such report, Committee shall fix a time, date
9 and place for hearing the report and any protests or objections thereto, and shall cause notice
10 of the hearing to be mailed to each owner of the parcels of real property described in the
11 report not less than 10 days prior to the date of hearing.

12 **SEC. 150.7. HEARING.** At the time fixed for consideration of the report,
13 ((Commission))the Committee shall hear it, along with any objections or evidence offered on
14 behalf of the owners or their legal counsel ((of the parcels))regarding the real property liable to
15 be assessed for delinquent accounts. The ((Commission))Committee may make such
16 revisions, corrections or modifications ((of))to the report as it may deem necessary ((just;)).
17 ((and i))In the event that the ((Commission)) Committee is satisfied with the correctness of the
18 report (as submitted or as revised, corrected or modified), it shall be confirmed. The decision
19 of ((Commission))Committee on the report and on all protests or objections thereto shall be
20 final and conclusive; provided, however, any delinquent account may be removed from the
21 report by payment in full at any time prior to confirmation of the report. ((Commission))The
22 Committee shall cause the confirmed report to be verified in a form sufficient to meet
23 recording requirements.

24 **SEC. 150.8. CREATION OF LIEN((PROCEEDINGS; SPECIAL ASSESSMENT**
25 **PRIORITY)).** Upon confirmation of the report by the Committee((Commission)), the delinquent

1 charges contained therein shall constitute a ((special assessment)) lien against the property to
2 which services were rendered.

3 ((The assessment shall be subordinate to all existing special assessment liens
4 previously imposed upon the property and paramount to all other liens except those for state,
5 county and municipal taxes with which it shall be upon parity.)) The lien shall continue until the
6 ((assessment))lien value and all interest, fees and ((penalties)) administrative costs due and
7 payable thereon are paid. ((All laws applicable to the levy, collection and enforcement of
8 municipal taxes shall be applicable to said special assessments.))

9 **SEC. 150.9. RECORDATION; ((CHARGES))ADMINISTRATIVE FEES AND**
10 **INTEREST.** The Committee shall cause the confirmed and verified report to be recorded in
11 the County Recorder's office as soon as practicable. The ((special assessment)) lien on each
12 parcel of property described in said report shall carry additional charges for administrative
13 expenses of \$50 or 10 percent of the amount owed, whichever is higher, together with interest
14 at a rate of one percent per full month compounded monthly from the date of recordation of
15 the lien on all charges due. Closed accounts for water and sewer service which are left
16 unpaid shall be charged a late payment penalty fee in accordance with rate schedules, rules
17 and regulations established from time to time by Commission.

18 **SEC. 150.10. FILING OF LIEN WITH CONTROLLER AND TAX COLLECTOR;**
19 **((RELEASE OF LIEN;)) COLLECTION OF DELINQUENT ACCOUNTS BY THE BUREAU**
20 **OF DELINQUENT REVENUE((DISTRIBUTION OF PROCEEDS)).** ((Committee shall cause a
21 certified copy of each confirmed report to be filed with the Controller and Tax Collector within
22 10 days after confirmation of the report, whereupon it shall be the duty of said officers to add
23 the amount of said assessment to the current tax roll, thereafter said amount shall be
24 collected at the same time and in the same manner as ordinary City and county taxes are
25 collected, and shall be subject to the same procedure under foreclosure and sale in case of

1 delinquency as provided for ordinary taxes of the City and County of San Francisco.)) If liens
2 filed by Department are not paid during the fiscal year in which they were recorded, the
3 Department shall annually transfer such liens to the Tax Collector, who shall add the amount
4 of said liens to the current property tax bill for collection in the same manner as ordinary taxes
5 of the City and County of San Francisco. Delinquent utility service liens recorded pursuant to
6 this chapter shall have the force, effect and priority of a judgment lien. Nothing in this section
7 shall be construed to affect the priority status of water and sewer service liens recorded on
8 properties prior to January 1, 1996.

9 If the Tax Collector so agrees, Manager may also file any other claims for overdue
10 water and sewer service charges with the Tax Collector, regardless of whether such accounts
11 have resulted in the imposition of a lien. The Bureau of Delinquent Revenue may take action
12 as necessary under Administrative Code Section 10.39 to collect all delinquent accounts
13 owed to Department that are filed with the Tax Collector. The Bureau of Delinquent Revenue
14 may recover reasonable attorney's fees, collection fees, and other costs from debtors in
15 prosecuting claims for money owed to Department.

16 ((At such time after the Tax Collector has transmitted to the Water Department a
17 confirmation of the secured tax rolls, the Water Department, in recognition of the transference
18 to the tax rolls of the indebtedness due on said lien, shall file a release of lien with the County
19 Recorder.))

20 ((Except for the release of lien recording fee authorized in Section 150.11, all sums
21 collected by the Tax Collector, pursuant to this Article, shall be deposited to the credit of the
22 Water Department Operating Account, Sewer Service Operating Account, Sewer Service
23 Revenue Fund, the Industrial Cost Recovery Revenue Fund, Utility Tax Fund in proportion to
24 the cost of services rendered attributable to each fund.))

1 **SEC. 150.11. PAYMENT OF AMOUNT OWED; RELEASE OF LIEN; ((RECORDING**
2 **FEE)) DISTRIBUTION OF PROCEEDS.** Upon payment to Department of the lien amount,
3 plus applicable administrative fees and interest charges, Department shall cause to be
4 recorded a release of lien with the County Recorder and shall pay to the County Recorder the
5 applicable recording fee. Upon payment to the Tax Collector of the lien amount, plus
6 applicable administrative fees and interest charges, ((On payment to the Tax Collector of the
7 special assessment,)) the ((Tax Collector)) Department shall cause to be recorded a release
8 of lien with the County Recorder, and ((from the sum collected pursuant to Section 150.9,))
9 Department shall pay to the County Recorder the recording fee.

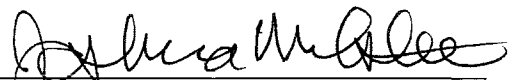
10 Except for the release of lien recording fee authorized in this section and the fees and
11 costs authorized by section 150.10, all sums collected on behalf of Department by the Tax
12 Collector or Bureau of Delinquent Revenue shall be deposited to the credit of the Water
13 Department Operating Account, Sewer Service Revenue Fund, the Industrial Cost Recovery
14 Revenue Fund, and Utility Tax Fund in proportion to the cost of services rendered attributable
15 to each fund.

16 **SEC. 150.12. WRITE-OFF OF UNCOLLECTIBLE ACCOUNTS; COMPROMISE OR**
17 **ABANDONMENT OF CLAIMS.** The Committee shall have the authority to write off those
18 delinquent accounts worth less than \$200((50)) and shall from time to time notify the Public
19 Utilities Commission ((and Chief Administrative Officer)) of any such action. The Bureau of
20 Delinquent Revenue Collection may compromise or abandon claims reported to it by
21 Department in accordance with Administrative Code section 10.40.

22 **SEC. 150.13. SEVERABILITY.** If any part or provision of this Article, or application
23 thereof, to any person or circumstance is held invalid, the remainder of this Article, including
24 the application of such part or provision to other persons or circumstances shall not be
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1 affected thereby and shall continue in full force and effect. To this end the provisions of this
2 Article are severable.

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4 APPROVED AS TO FORM:
5 LOUISE H. RENNE, City Attorney

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8 By: 
9 JOSHUA D. MILSTEIN
Deputy City Attorney

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City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails

Ordinance

File Number: 991266

Date Passed:

Ordinance amending Public Works Code Chapter X concerning the imposition of liens to recover revenues from delinquent water and sewer service accounts, by amending Section 150.1 to comport with organizational changes in the 1996 Charter, amending Section 150.2 to exempt the owners of tenant occupied single family dwellings from the imposition of water and sewer service liens; amending Section 150.3 for grammatical consistency; amending Section 150.4 to exempt the owners of tenant occupied single family dwellings from the imposition of water and sewer service liens, and deleting the phrase "special assessment"; amending Section 150.5 to exempt the owners of tenant occupied single family dwellings from the imposition of water and sewer service liens, for provision of written notice to other customers, and to permit the collection of administrative fees for overdue water and sewer service accounts; amending Section 150.6 to comport with organizational changes in the 1996 Charter; amending Section 150.7 regarding noticed hearings; amending Section 150.8 to eliminate the tax priority of liens filed under the existing ordinance; amending Section 150.9 to establish a late payment penalty fee for unpaid closed accounts; amending Section 150.10 to create a process for transfer of liens and other overdue accounts to the Tax Collector and Bureau of Delinquent Revenue Collection and authorizing the recovery of attorney's fees and costs by the Bureau; amending Section 150.11 regarding release of liens upon payment and disposition of funds collected; and amending Section 150.12 increasing debt writeoff authority from \$50 to \$200 and authorizing the Bureau of Delinquent Revenue to compromise or abandon claims submitted to it by the Public Utilities Department.

August 23, 1999 Board of Supervisors — PASSED, ON FIRST READING

Ayes: 11 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng, Yaki, Yee

September 13, 1999 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Ammiano, Becerril, Bierman, Brown, Katz, Kaufman, Leno, Newsom, Teng
Absent: 2 - Yaki, Yee

File No. 991266

I hereby certify that the foregoing Ordinance was FINALLY PASSED on September 13, 1999 by the Board of Supervisors of the City and County of San Francisco.



Jean Lum
Acting Clerk of the Board

SEP 22 1999

Date Approved



Mayor Willie L. Brown Jr.