



THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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Item Number: 203

Comparative Information on Maximum Penalties in Other Cities

OVERVIEW

On September 28, 2016, staff from Councilmember Emerald's Office presented the Rules Committee with two proposed ordinances to amend the San Diego Municipal Code: the High Occupancy Single Family Dwelling Unit Ordinance (also known as the College Area Community Character Preservation Ordinance) and the Increased Code Enforcement Administrative Civil Penalties Ordinance. The proposed ordinances are to assist the City in addressing issues related to high occupancy single family dwelling units within the College Area Community Plan Area, commonly referred to as "mini-dorms", and increase maximum civil penalties for municipal code violations citywide.

After discussion of the proposed ordinances, the Rules Committee voted to forward both ordinances to the full City Council with a recommendation for approval. Councilmember Lightner requested that the Office of the Independent Budget Analyst review the maximum penalties of comparable jurisdictions and present this information to the City.

This report responds to Councilmember's Lightner's request and provides information from other jurisdictions on maximum penalties for municipal code violations. In developing this comparative information, our Office reviewed the four largest cities in California excluding the City of San Diego. The reviewed jurisdictions include: Los Angeles, San Jose, Fresno, and the City/County of San Francisco.

FISCAL/POLICY DISCUSSION

The proposed ordinance to increase administrative penalties in the City's Municipal Code would increase the maximum rate per violation from \$2,500 per day to \$10,000 per day; and increase the total amount of civil penalties from \$250,000 per parcel or structure to \$400,000 per parcel or structure for any series of violations. The proposed ordinance would require amendments to Section §12.083(d) of the Municipal Code. The proposal is not intended to adjust the current process set in the Municipal Code for the administration, enforcement, collection, or investigation of violations.

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The proposal is only intended to raise the ceiling for penalties to further encourage compliance with citations and Notice and Order issuances.

The Development Services Department was tasked with proposing a maximum penalty rate that would support deterring egregious municipal code violations such as demolishing a historical resource. After reviewing several other jurisdictions, the Department recommended the maximum rates proposed in this ordinance. The Department has indicated that its proposed rate was selected to be similar to rates of other jurisdiction without being excessive.

Our Office reviewed information previously provided by the Development Services Department, and reviewed civil penalties in other jurisdictions. In conducting our review, we considered the maximum penalty amount per day per violation to include the highest tier, or level of escalated rates, for multiple violations. We found that maximum daily penalty rates ranged from \$2,500 to \$256,000 per violation (for third offenses). While we identified the single highest daily penalty rate, we were not able to locate a total maximum penalty amount per parcel or structure. In reviewing these jurisdictions, we found that violations could escalate up to a certain penalty level (usually a third violation). Any violation beyond a third violation would be charged at the highest rate in the tier schedule, not limited to a cap or maximum amount.

The following is a summary of our research.

City of Los Angeles

Maximum Penalty Amount per day per violation: \$256,000

Maximum Total Penalty Amount: No limit

The maximum penalty amount per day was determined as the highest penalty (\$64,000) for multiple violations (3rd violation or more), based upon a certain improvement square footage (25,000 sq. ft. or more). However, should the violation involve improvements to, or the use of, buildings, structures, or land for which no permit could have been obtained, and no variance sought, the fine would be four times the highest penalty amount. This would result in the maximum penalty amount of \$64,000 x 4 = \$256,000.

City of Fresno

Maximum Penalty Amount per day per violation: \$50,000

Maximum Total Penalty Amount: No limit

The maximum penalty amount per day was identified as the highest tier for multiple violations (3rd violation or more) related to the registration of vacant foreclosed properties.

City of San Jose

Maximum Penalty Amount per day per violation: \$50,000

Maximum Total Penalty Amount: No limit

The maximum penalty amount per day was identified as the highest tier for multiple violations (3rd violation or more) related to seven medical marijuana violations in municipal code.

City/County of San Francisco

Maximum Penalty Amount per day per violation: \$2,500

Maximum Total Penalty Amount: No limit

The maximum penalty amount per day was identified for violation related to sign ordinance (sign over 500 sf).

CONCLUSION

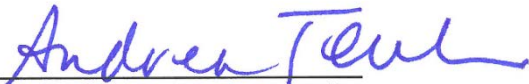
In our comparative review of four large California cities, daily maximum penalty amounts per violation ranged from \$2,500 to \$256,000. These rates represent the highest daily penalties for civil violations within their respective rate schedules. Unlike San Diego, these jurisdictions do not have an aggregate cap on the amount of civil penalties a parcel or structure could incur. Instead, these jurisdictions allow a parcel or structure to be cited for multiple violations and charged at the highest daily penalty rate per violation without limitation.



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