

## Proposed Ordinance

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, AMENDING SUBSECTION 51.12(C) OF CITY CODE, RATES AND CHARGES FOR SEWAGE COLLECTION AND DISPOSAL RATES AND CHARGES BY AMENDING PROVISIONS REGARDING LIENS AND PROVISIONS FOR ENFORCEMENT OF LIENS; REPEALING ANY CONFLICTING PROVISIONS; AND PROVIDING FOR SEVERABILITY**

**BE IT ORDAINED** by the Mayor and City Council of the City of San Luis, Arizona, as follows:

**Section 1.** Subsection 51.12(C) of the Code of Ordinances of the City of San Luis, Arizona, is hereby amended to read as follows:

(C) (1) Each charge or fee levied by or pursuant to this chapter is a lien upon the real property of the user to whom service is supplied, or who is required to connect to the sewer system. The lien shall attach immediately upon the provision of service, or 60 days subsequent to the availability of the service to the user who is required to connect to the system and who fails to do so pursuant to the provisions of this chapter. If a charge or fee is not paid within 90 days after it becomes due and payable, the city may issue a notice and claim a lien setting forth:

- (a) The name of the user owing the charge or fee;
  - (b) The amount owed;
  - (c) The penalty accrued, if any;
  - (d) The period for which it is due; and
  - (e) A statement that the city claims a lien therefore and a description of the property subject to the lien.
- (2) When the lien is filed, the cost of preparing, processing and releasing the lien shall be added to the charges then due.

(3) Unpaid charges or fees shall bear interest at the rate prescribed by A.R.S. §44-1201.

(4) Prior to the filing of a lien for any fee or connection charge levied pursuant to this chapter, a copy of a statement of the delinquency shall be delivered by return mail to the person or persons last known to be the owner of the property, demanding payment of the amount due, informing the owner of the proposed filing of a lien, and informing the owner of an opportunity for a hearing before a designated city official. If the amount declared due is not paid within 20 days after demand, a notice and claim of lien may be filed by the city. The lien shall be recorded in the office of the County Recorder, and from the date of the recording shall be a lien against the lot or tract of land upon which service was rendered until it is paid.

(5) If requested in writing by an owner of the property subject to the statement of delinquency as provided by subsection 51.C.3 above, a hearing shall be held before a hearing officer designated by the City Manager to adjudicate any contested fees or charges or to determine whether good cause exists why a lien against the property should not be filed. Said request for hearing must be filed with the City Clerk within twenty (20) days of the date of the statement of delinquency, and must provide an address and phone number where notice of the time and date of hearing can be given.

(6) The liens shall be subject to and inferior to all prior recorded mortgages and encumbrances of record. A sale of the property to satisfy a lien obtained under provisions of this section shall be made upon judgement of foreclosure and order of sale. The City Attorney may institute any action to enforce the lien in any court of appropriate jurisdiction in the county at any time after recording of the lien. The City shall be entitled to recover its costs, including costs for any record search, and reasonable attorney fees involved in any collection, enforcement action, or foreclosure involving fees or charges that may be due. Said costs and fees shall be additionally secured by any lien that has been filed. A prior lien for the purpose provided in this section shall not be a bar to a subsequent lien or liens for the purposes, and any number of liens on the same lot or tract of land may be enforced in the same action. The amount owing may also be collected by a civil suit instituted in the name of the city by the City Attorney at any time after the amount becomes delinquent.

(7) Notwithstanding any other provisions to the contrary, the remedies provided by this section shall be cumulative and supplemental to other remedies provided under this chapter.

**Section 2.** In the event of a conflict between the provisions of this Ordinance and any other ordinance, resolution, regulation, or policy of the City of San Luis, the conflicting provisions are hereby repealed, superseded, and replaced, and the provisions of this ordinance shall govern.

**Section 3.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

**PASSED, ADOPTED and APPROVED** by the Mayor and City Council of the City of San Luis, Yuma County, Arizona this \_\_\_\_day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Gerardo Sanchez, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

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Sonia Cornelio, City Clerk

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Kay Marion Macuil, City Attorney