

ORDINANCE NO. 0-15573 (New Series)

(0-81-206)

Adopted on AUG 17 1981

An Ordinance Amending Chapter V, Article 4, of The San Diego Municipal Code By Adding A New Division 3 Containing Sections 54.0301 through 54.0307, Relating to Public Property Nuisance Abatement.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter V, Article 4, of the San Diego Municipal Code be, and the same is hereby amended by adding a new Division 3 containing Sections 54.0301 through 54.0307 to read as follows:

SEC. 54.0301 City Property Nuisance Abatement

This ordinance is adopted for the purpose of establishing uniform and expeditious procedures for the abatement and correction of conditions upon property or facilities of the City of San Diego that pose health or safety hazards to the person who might utilize the City property or facilities.

SEC. 54.0302 Definitions

The following are definitions for purposes of this Division:

(a) Abatement means the demolition, removal, repair or replacement of City property and such adjacent other property as may be necessary to remove or alleviate an actual nuisance.

(b) City property means all real property interests of the City of San Diego whether held in fee, lease or easement including the structures located thereon and any personal property necessary to carry out the public purposes of the facility.

(c) Urgency matter means a condition of City property requiring immediate action to correct a problem which poses a serious, immediate threat to the safety of persons using the facility or where there would be an immediate risk to the health or safety of any person by the failure or inoperative status of the facility.

(d) Necessary public facilities means those public facilities whose uninterrupted service is required for health or public safety reasons or whose abandonment or closure is prohibited or restricted by state or federal law.

(e) For purposes of this Division, restricted by State law includes any requirement that the Council make a finding that the public facility is no longer needed for its dedicated purpose when such a finding cannot be made.

(f) Nuisance means:

(1) Any condition on or adjacent to City property which, if not corrected, could result in a hazard to the life, safety, health or welfare of any persons whether or not they are utilizing the affected City property, or

(2) Any condition which impedes the utilization or operation of City public safety or health protection facilities, or

(3) Any condition on City property that is not necessary or inherent to the operation thereof and which is offensive to the olfactory or auditory senses of persons of normal sensitivity.

SEC. 54.0303 Investigation

0- 15573

Upon receipt of a report from a City employee or any interested or affected citizen that a condition which may be a nuisance exists on or adjacent to City property the City Manager shall promptly cause an investigation to be initiated. This investigation shall include a written evaluation of the following:

(a) Whether a nuisance as defined in Section 54.0302, subsection (f), exists.

(b) Whether an urgency matter as defined in Section 54.0302, subsection (c), exists.

(c) The availability measures that may successfully abate the nuisance.

(d) Whether the condition and/or any proposed abatement actions would potentially affect any persons or any property not owned by the City.

(e) Whether the facility is a necessary public facility as defined in Section 54.0302, subsection (d).

#### SEC. 54.0304 Declaration of Nuisance

The City Manager shall promulgate procedures for the review of investigative reports and consultation among the various departments regarding the nature of the nuisance and the appropriate procedures to abate it. The City Manager shall conduct a hearing on the determination of nuisance. If the City Manager, based upon the reports prepared and evidence before him, finds that the conditions on City property are within the enumerated nuisances in Section 54.0302(f), he shall declare the condition to be a nuisance.

#### SEC. 54.0305 Continued Use of Necessary City Facilities

Abatement actions for nuisances related to necessary City facilities

shall include all the necessary or appropriate actions to assure the continuation of uninterrupted service. In the event that replacement of necessary City facilities is required to abate a nuisance such replacement may be provided pursuant to this section. The design capacity of the replacement facility shall be no greater than the size deemed adequate in accordance with adopted City standards for the rate of utilization of the facility prior to the declaration of nuisance.

SEC. 54.0306 City Council Declaration of Nuisance

In the event that the recommended abatement requires: (1) the execution of a contract or the use of City forces in excess of the City Manager's delegated authority pursuant to Section 22.0210 or Section 22.0210.1 of this Code, (2) the acquisition of or transfer of any interest in real property, the City Manager shall request action by the City Council and shall provide notice to all affected or interested persons. The City Council shall review the City Manager's declaration of nuisance and may modify or approve in whole or in part his declaration and the appropriate abatement procedures recommended.

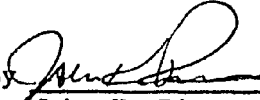
SEC. 54.0307 Urgency Matters

In the event that an urgency matter exists and the recommended abatement requires action by the City Council, the City Manager shall forthwith place the matter before City Council. The City Manager shall attempt to provide actual notice to all affected persons, but if the Council finds that the nuisance abatement requires urgent action the Council may act without notice to protect the safety of persons and property. If the urgency matter arises during, or is itself, an emergency as defined in Charter Sections 28 or 94, the Charter criteria and procedures shall supersede all provisions of this ordinance that are

not consistent therewith.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: John W. Witt, City Attorney

By   
\_\_\_\_\_  
John K. Riess  
Deputy City Attorney

JKR:lco:531  
5/18/81  
Or. Dept.: Mgr  
FORM=o.amc

Passed and adopted by the Council of The City of San Diego on **AUG 17 1981**,  
 by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Fred Schnaubelt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lucy Killea	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

**PETE WILSON**  
 Mayor of The City of San Diego, California.

**CHARLES G. ABDELNOUR**  
 City Clerk of The City of San Diego, California.

(Seal)

By *Wayne J. Portecow*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

**AUG 3 1981**

**AUG 17 1981**

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

**CHARLES G. ABDELNOUR**  
 City Clerk of The City of San Diego, California.

(Seal)

By *Wayne J. Portecow*, Deputy.

Office of the City Clerk, San Diego, California	
Ordinance Number <b>0-15573</b>	Adopted <b>AUG 17 1981</b>

CERTIFICATE OF PUBLICATION

RECEIVED  
CITY CLERK'S OFFICE  
1981 SEP -3 PM 2:04  
SAN DIEGO, CALIF. *ES*

San Diego, City of  
12th floor, 202 C St.  
San Diego, CA 92101  
PONTECORVO

IN THE MATTER OF

NO.

ORDINANCE NO. 0-15573

**ORDINANCE NO. 0-15573**  
**(New Series)**  
This ordinance establishes procedures which allow the manager to determine when a nuisance, as defined, exists on City property and authorizes the conduct of a hearing to allow abatement of the nuisance without action by the City Council.  
The ordinance also defines urgency matters and allows the manager to replace certain necessary public facilities under his nuisance abatement authority as urgency matters.  
A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 12th Floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.  
Introduced on August 3, 1981.  
Passed and adopted by the Council of The City of San Diego on August 17, 1981.  
**AUTHENTICATED BY:**  
**PETE WILSON,**  
Mayor of The City of San Diego, California.  
**CHARLES G. ABDELNOUR,**  
City Clerk of The City of San Diego, California.  
**(SEAL)**  
By **MAYDELL L. PONTECORVO,** Deputy  
Published August 31, 1981 **80-9529**

I, Charlene Lance, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NO. 0-15573  
(New Series)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

August 31, 1981

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 31 day of Aug., 1981.

Charlene Lance

(Signature)

2 1/8 x 2 x 8.06 = 34.26