

(0-85-163)

ORDINANCE NUMBER O- 16403 (NEW SERIES)

ADOPTED ON APR 22 1985

AN ORDINANCE AMENDING CHAPTER I OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 11.12 TO INCREASE THE AMOUNT OF A MISDEMEANOR FINE TO \$1000 AND BY ADDING SECTIONS 11.16, 11.17 AND 11.18, TO ESTABLISH PROCEDURES FOR SUMMARY ABATEMENT OF ALL MUNICIPAL CODE VIOLATIONS; TO AUTHORIZE INJUNCTIVE RELIEF FOR ALL MUNICIPAL CODE VIOLATIONS; AND TO ESTABLISH A CONSTRUCTIVE NOTICE PROVISION FOR ALL RECORDED DOCUMENTS.

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

Section 1. That Chapter I of the San Diego Municipal Code be and the same is hereby amended by amending Section 11.12 to read as follows:

SEC. 11.12 VIOLATIONS - MISDEMEANORS AND INFRACTIONS

It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this Code. A violation of any of the provisions or failing to comply with any of the mandatory requirements of this Code shall constitute a misdemeanor; except that notwithstanding any other provision of this Code, any such violation constituting a misdemeanor under this Code may, in the discretion of the City Attorney, be charged and prosecuted as an infraction; and, with the further exception that any violation of the provisions relating to parking, operation of bicycles, operation of motor vehicles, and use

of freeways, highways and streets by animals, bicycles, motor vehicles or pedestrians shall constitute an infraction. Any person convicted of a misdemeanor under the provisions of this Code, unless provision is otherwise herein made, shall be punishable by a fine of not more than one thousand dollars (\$1000) or by imprisonment in the County Jail for a period of not more than six months or by both fine and imprisonment. Any person convicted of an infraction under the provisions of this Code, unless provision is otherwise herein made, shall be punishable by fine only as follows: Upon a first conviction, by a fine of not exceeding two hundred fifty dollars (\$250) and for a second conviction or any subsequent conviction within a period of one year, by a fine of not exceeding five hundred dollars (\$500).

Each such person shall be charged with a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued or permitted by such person and shall, upon conviction be punishable accordingly.

Section 2. That Chapter I of the San Diego Municipal Code be, and the same is hereby amended by adding Sections 11.16, 11.17 and 11.18 to read as follows:

SEC. 11.16 NUISANCE VIOLATIONS - SUMMARY ABATEMENT

(a) The Council declares that its purpose in adopting this section is to establish a procedure to cause the summary abatement of municipal code violations. The procedures

established in this section shall be in addition to any other legal remedy, criminal or civil, established by law which may be pursued to address violations of this Municipal Code. This section does not affect or alter nuisance abatement procedures established in other chapters of this Code.

(b) The City Council declares that any condition caused, maintained or permitted to exist in violation of any provisions of this Code which significantly obstructs, injures, or interferes with the reasonable or free use of property belonging to a neighborhood, community or any considerable number of persons, shall be deemed a public nuisance and may be summarily abated consistent with the procedures provided for in this section.

(c) Procedure for Abatement.

(1) The Director of the Planning Department, Building Inspection Department, Engineering & Development Department, General Services Department and the Fire Chief or any of their designated agents or representatives, shall be vested with the authority to determine whether a public nuisance, as defined herein, may exist on any private property and cause a written notice to be issued to abate such nuisance.

(2) The notice shall contain a description of the property in general terms reasonably sufficient to identify the location of the property. It shall refer to this section and the violation(s) of the Municipal Code at issue, and shall direct compliance by removal or

correction of the condition which is in violation of the provisions of this Code within a minimum of seven (7) calendar days and a maximum of thirty (30) calendar days from the date of the notice. The notice shall further describe the consequences of failure to comply as prescribed in this section.

(3) The notice required by the preceding paragraph shall be served by any of the following methods on the owner or his agent and the person in possession of the property:

A. By personal service; or

B. By regular mail addressed to the owner or his agent at the address shown on the last available assessment roll, or as otherwise known and to the person in possession of the property; or

C. By posting the notices conspicuously on or in front of the property, with at least one notice per each parcel of fifty feet of frontage. The notice when posted shall be headed in bold-faced type, not less than one inch in height, "NOTICE TO CORRECT PUBLIC NUISANCE MUNICIPAL CODE VIOLATION."

(4) Upon failure of the owner or his agent or the person in possession of the property to remove or correct the conditions described in the notice by the date specified, the Director of the Planning Department, or Building Inspection Department, or Engineering and

Development Department, or General Services Department or the Fire Chief or their designated agents or representatives shall refer the matter to the City Council for a noticed public hearing. Notice of the hearing shall be given to the owner or his agent and the person in possession of the property and to all property owners whose property lies within 300 feet of the property in question. The notice shall be titled "Notice of Public Hearing Concerning Summary Abatement of Public Nuisance Municipal Code Violation." Such notice shall be given at least ten (10) days before the date of the hearing before the City Council. The notice shall be given in any of the manners provided in paragraph (3).

(5) At the noticed public hearing, the Director of the Planning Department, or Building Inspection Department, or Engineering and Development Department, or General Services Department or the Fire Chief or their designated agents or representatives shall present information relating to the Municipal Code violation and the conditions which constitute a public nuisance. The owner or his agent or person in possession of the property or any interested person may present testimony concerning the existence of a public nuisance on the property in question. At the conclusion of the public hearing, the City Council may confirm, by resolution, the determination of the specified departmental director

or their designated agents or representatives that a public nuisance Municipal Code violation exists on the property. If the City Council confirms the determination of the specified departmental director, or their designated agents or representatives, the City Council may order the abatement of those conditions which it finds constitute a public nuisance in violation of the Municipal Code by City personnel or by its private contractor. The owner or agent or person in possession of the property, however, may correct the conditions within seven (7) days of the date on which the City Council orders the abatement and confirms the determination of the public nuisance.

(6) In the event the owner or his agent or person in possession of the property does not abate the conditions determined to be a public nuisance, the conditions shall be abated by personnel designated by the City Manager or by its private contractor.

(7) When abatement is completed, a report of proceedings and an accurate account of the cost of the abatement action shall be filed with the City Clerk.

(8) The City Clerk shall set the report and account for a City Council hearing within twenty-one (21) days after its receipt of the report and shall post a copy of the department's report and account and notice of the time and place of the hearing in a conspicuous place at or near the entrance to the Council

Chambers. A copy of the report and account and notice of the time and place of the hearing shall be provided to the owner of the property in question, his agent and the person in possession of the property. Such notice shall be given in the manner provided by paragraph (3) (A) or (B).

The City Council shall consider the report and account at the time set for hearing, together with any objections to its accuracy. At the conclusion of the hearing, the Council shall either approve the report and account as submitted, or as modified and corrected by the Council. The amounts so approved shall be charged to the property owner on the next regular tax bill and shall be a lien upon the property involved. The Council shall confirm the assessment and record it on the assessment roll. The Council shall adopt a resolution assessing such amounts, and the City Clerk shall file a certified copy of this resolution with the County Auditor of the County of San Diego.

(9) The provisions of Sections 38772 and 38773.5 of the California Government Code are hereby incorporated by reference and made a part of this section. The County Auditor shall enter each assessment in the County Tax Roll opposite the parcel of land. The amount of the assessment shall be collected at the time and in the manner of ordinary municipal taxes; and if delinquent, the amount is subject to the same penalties

and procedure of foreclosure and sale as is provided for ordinary municipal taxes.

SEC. 11.17 VIOLATIONS - INJUNCTIONS

In addition to any other remedy provided by this Code any provision of this Code may be enforced by injunction issued by the Superior Court upon a suit brought by The City of San Diego.

SEC. 11.18 CONSTRUCTIVE NOTICE OF RECORDED DOCUMENTS

Whenever a document is recorded with the County Recorder as authorized or required by this Code, such recordation shall provide constructive notice of the information contained in the recorded documents.

Section 3. 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 Stuart H. Swett  
Stuart H. Swett  
Chief Deputy City Attorney

SHS:js:531  
3/25/85  
Or.Dept:Council-McColl  
O-85-163  
Form=o.code



APR 22 1985

Passed and adopted by the Council of The City of San Diego on .....  
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"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William Jones	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<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"/>
Uvaldo Martinez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Roger Hedgecock	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

ROGER HEDGECOCK  
Mayor of The City of San Diego, California.

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

(Seal)

By June A. Blackwell, 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

APR 8 1985

APR 22 1985

....., and on .....

~~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 June A. Blackwell, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-16403 Adopted APR 22 1985

APR 2 1985

APR 2 1985

RECEIVED  
CITY CLERK'S OFFICE  
1985 APR 23 PM 12:03  
SAN DIEGO, CALIF.

APR 8 1985

APR 8 1985

00503 APR 8 1985

CERTIFICATE OF PUBLICATION

RECEIVED  
CITY CLERK'S OFFICE

1985 MAY -0 AM 9:28

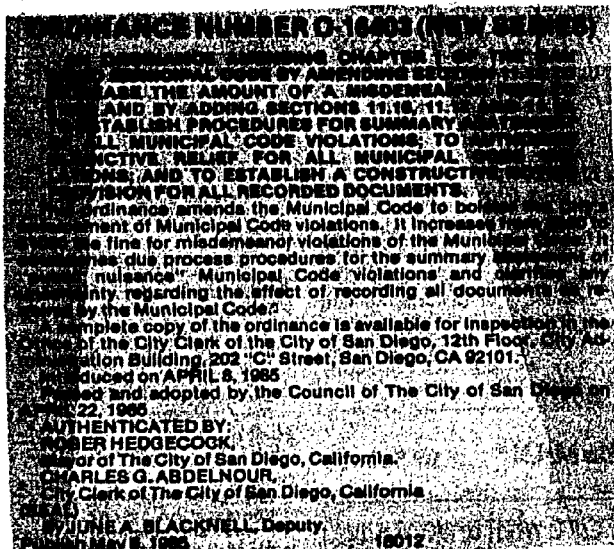
SAN DIEGO, CALIF.

THE CITY OF SAN DIEGO  
202 C Street, 12th Fl.  
San Diego, CA 92101

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 11.12 TO INCREASE THE AMOUNT OF A MISDEMEANOR FINE TO \$1000 AND BY ADDING SECTIONS 11.16, 11.17 AND 11.18. TO ESTABLISH PROCEDURES FOR SUMMARY ABATEMENT OF ALL MUNICIPAL CODE VIOLATIONS;



I, Michael L. Ungashick, 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 NUMBER 0-16403 (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:

May 6, 1985

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

Dated at San Diego, California this 6th day of May, 1985.

Michael L. Ungashick  
(Signature)

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