

(O-88-142)

ORDINANCE NUMBER O- 17042 (NEW SERIES)

ADOPTED ON MAR 21 1988

AN ORDINANCE AMENDING CHAPTER V, ARTICLE 5, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 55.11.412 RELATING TO CREATING AN ADMINISTRATIVE ABATEMENT PROCEDURE FOR VACANT AND UNSECURED STRUCTURES.

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

Section 1. That Chapter V, Article 5, of the San Diego Municipal Code be and the same is hereby amended by amending Section 55.11.412 to read as follows:

**SEC. 55.11.412 SEC. 11.412 OF THE UNIFORM FIRE CODE
AMENDED SEC. 11.412 VACANT AND
UNSECURED STRUCTURES**

a. Duty to Clean and Secure.

Every person owning or in charge or control of any vacant building shall remove all accumulations of flammable or combustible waste or rubbish from the interior of the premises and surrounding yards and shall securely lock, barricade or otherwise secure all doors, windows and other openings in accord with specifications promulgated by the Fire Chief.

b. Failure to Clean and Secure.

In the event the owner shall fail, neglect, or refuse to remedy any condition which renders a structure unsecured, the Fire Chief may order the owner of such structure prosecuted as a violator of the provisions of these sections and/or may proceed to cause the accomplishment of the necessary remedial work through the administrative abatement procedures specified in this section.

c. Definition.

The term "vacant-unsecured structure" means any vacant or abandoned building or similar structure which in the opinion of the Fire Chief becomes vulnerable to the insertion of ignition or incendiary devices or entry by unauthorized persons because of unsecured doorways or window openings or holes in the exterior of the structure.

d. Abatement Procedures for Vacant-Unsecured Structures.

(1) The Council specifically finds and declares that vacant-unsecured buildings or structures are public nuisances by virtue of their vulnerability to the insertion of ignition devices or to entry by unauthorized persons and are thereby a threat to public safety; the Council further finds and declares that immediate abatement is necessary and authorizes the

following procedures in lieu of the administrative procedure set forth in section 11.16 of the Municipal Code.

(2) Abatement Notice: Whenever the Fire Chief determines that a vacant-unsecured structure exists within the jurisdiction of the City of San Diego, an order may be sent to the owner of record directing abatement within ten (10) calendar days from the date of mailing of the order by cleaning and barricading pursuant to the criteria established in this section. A copy of the order shall be posted on or in front of the property. All notices shall be sent in the manner prescribed in Municipal Code section 11.16.d(3). If the owner does not comply with the order, the Fire Chief shall proceed to abate the vacant-unsecured structure.

(3) Appeal and Hearing: The property owner or any other party with an ownership interest in the property may appeal within this ten (10) day period by writing to the Fire Chief who shall then request the City Manager to appoint a Hearing Officer to immediately hear any objections why abatement shall not be ordered or effected. The Hearing Officer's decision shall be final and conclusive, subject only to later confirmation of costs by the City Manager. Abatement shall not proceed until the Hearing Officer's decision

is rendered unless an imminent fire hazard is present as determined by the Fire Chief.

(4) Waiver: The failure to request a hearing shall constitute a waiver and the Fire Chief shall proceed to abate the condition at the time stated in the notice or as soon thereafter as practicable.

(5) Cancellation Costs: If the owner or any other person with an ownership interest in the property abates the nuisance as ordered prior to the actual commencement of work by City forces or City contractor, the Fire Chief shall assess a reasonable charge for the actual administrative costs incurred.

(6) Standards For Abatement: A vacant-unsecured structure, when ordered abated, shall be corrected or abated by either the owner, agent, person in possession or the Fire Chief, as appropriate, according to the following specifications and requirements:

(a) All accumulated debris that poses a fire or health hazard within or upon the property or premises shall be removed;

(b) All unsecured door ways, windows or exterior openings shall be barricaded with 1/2 inch minimum thickness exterior grade plywood which shall extend to the molding stops or studs. At least two wood stocks of minimum 2x4 inch thickness shall be mounted to the reverse face of the plywood

with 3/8 inch minimum carriage bolts mated with nuts and two flat washers; the stock shall extend a minimum of 8 inches on each side of the interior wall. All hardware shall be galvanized or cadmium plated.

(c) All exterior barricade material shall be painted the predominant color of the structure.

(7) Barricade materials supplied by the City shall become the property of the property owner upon satisfaction of abatement costs.

(8) Notice: Once the building or structure is secured, the Fire Chief shall post a notice at or near each entrance to the building and on fences or walls as appropriate. These signs shall remain posted until the structure is again lawfully occupied. It shall be in substantially the following form:

DO NOT ENTER

UNSAFE TO OCCUPY

**It is a misdemeanor to occupy this building, or to
remove or deface this notice**

(San Diego Municipal Code § 55.11.412)

Fire Chief

City of San Diego

(9) Violations:

(a) Trespass: No person shall remain in or enter any building which has been posted pursuant

to this section, except to repair or demolish such building under proper permit.

(b) Defacement: No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and/or a Certificate of Occupancy issued in accord with appropriate provisions of the Building Code.

(10) Continuous Abatement Order: If a vacant-unsecured structure previously abated pursuant to this section again becomes unsecured and open to unauthorized entry or again contains debris, rubbish, excessive vegetative or similar fire hazards, the Fire Chief may, without further notice to the owner, proceed to again abate the nuisance and proceed to recover costs as provided for in this section.

(11) Abatement Costs: Total abatement costs shall include the cost to perform the actual work and the costs of the City's contract administration and supervision.

(12) Confirmation Hearing: Once abatement is completed, the Fire Chief shall request the City Manager to set a confirmation of costs hearing within thirty (30) days and appoint a Hearing Officer. A copy of the Fire Department's report and final accounting and a notice of the hearing shall be sent to the owner

and all other parties with an ownership interest in the property as provided for in Municipal Code section 11.16.d(3).

The Hearing Officer shall consider the report and final accounting, together with any testimony or objections to its accuracy. The Hearing Officer shall either approve the report and accounting as submitted or as he or she may modify and correct the report. The Hearing Officer shall prepare a final report regarding the abatement and confirmation of costs.

(13) Personal Obligation or Special Assessment:
The Hearing Officer may order that these costs shall be made a personal obligation of the property owner or assess it against the real property.

If the Hearing Officer orders the costs as a personal obligation of the property owner, the Fire Chief shall send a bill to the property owner and attempt to voluntarily collect the costs using all appropriate and legal means. Should the owner refuse to pay, the Fire Chief shall refer this case to the City Attorney to collect this obligation by use of all appropriate legal remedies.

If the Hearing Officer orders the costs be assessed against the real property, the Fire Chief shall record a Notice of Special Assessment and request the County

Auditor to levy a special assessment pursuant to Government Code section 38773.5.

(14) Notice of Special Assessment: The Fire Chief shall cause a copy of the Hearing Officer's final report and a Notice of Special Assessment to be recorded with the County Recorder. A copy of this report and notice shall also be transmitted to the County Auditor requesting a special assessment pursuant to Government Code section 38773.5. The provisions of Government Code sections 38772 through 38773.5 are hereby incorporated by reference and made part of this section.

The Fire Chief shall file a withdrawal of this notice with the County Recorder once: (1) the owner or person responsible pays in full the abatement costs; or (2) the County Auditor posts a lien on the property pursuant to Government Code section 38773.5.

e. Repayment to Nuisance Abatement Superfund.

All monies recovered by payment of the charge or assessment or from the sale or transfer of the property to cover the abatement costs shall be paid to the City Treasurer who shall credit the same to the Nuisance Abatement Superfund.

f. Reinspection Fee.

The Fire Department shall periodically reinspect the structure to ensure compliance with the Uniform Fire Code, all applicable court orders and/or the provisions specified in this section. The Fire Chief shall assess a reasonable reinspection fee for actual costs of each reinspection and such continuous monitoring of the structure and premises as is reasonably necessary in those instances where the building is found vacant and unsecured. If the owner refuses to pay the fee, the Fire Chief may proceed to recover these costs as provided for in this section.

g. Statement of Intent.

After a building or structure is initially cleaned and secured by either the property owner, responsible party or the City pursuant to judicial or administrative order, the owner or responsible party has thirty (30) days to file a written statement with the Fire Chief explaining his or her intent to rehabilitate or raze the vacant-unsecured structure and a timetable for completion.

h. Continuing Nuisances.

Any vacant building or structure that was originally secured by the owner's voluntary actions or pursuant to judicial or administrative order may be

declared a public nuisance by the Fire Chief who may commence further abatement proceedings seeking possible demolition of the structure pursuant to Municipal Code sections 11.16, 91.02.0203, 98.0118 or any other appropriate abatement procedure if the vacant building or structure has remained open and unsecured on a continuous basis, thereby requiring periodic inspections by the Fire Department and resecuring of the building or structure.

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


Joseph M. Schilling
Deputy City Attorney

JMS:la
02/17/88
Or.Dept:Police
O-88-142
Form=o.none

A
(A-c)

MAR 21 1988

Passed and adopted by the Council of The City of San Diego on
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

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

(Seal)

By *Ellen Board*, 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

MAR 7 1988, and on MAR 21 1988

~~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.

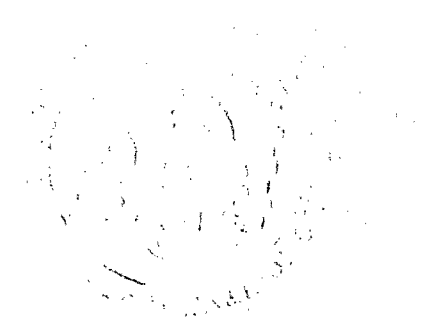
(Seal)

By *Ellen Board*, Deputy.

Office of the City Clerk, San Diego, California	
Ordinance Number <u>0-17042</u>	Adopted <u>MAR 21 1988</u>

00117

FEB 25 AM 11:47



00117

CERTIFICATE OF PUBLICATION

APR 2 1988
S. D. Daily Transcript
d.

CITY OF SAN DIEGO
202 C STREET, 2ND FLOOR
SAN DIEGO, CA 92101
ATTN: ELLEN BOVARD

IN THE MATTER OF
AN ORDINANCE AMENDING CHAPTER V, ARTICLE 5, OF THE SAN
DIEGO MUNICIPAL CODE BY AMENDING SECTION 55.11.412 CREATING
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NO.

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The San Diego Municipal Code is amended relating to vacant and unsecured structures. Under existing law the property owner must remove combustible materials and secure all openings for abandoned and vacant buildings. If the owner refuses, the Fire Chief's only recourse is referral to the City Attorney for civil or criminal prosecution. This amendment provides the Fire Chief with another enforcement tool by establishing a set of administrative abatement procedures for cleaning and securing vacant and abandoned structures.

- The administrative abatement procedure can be outlined as follows:
- (1) Fire Chief serves the owner of the property a notice to clean and secure within ten (10) days;
 - (2) The owner has a right to appeal this notice during this ten day period;
 - (3) If an appeal is filed, the City Manager appoints a Hearing Officer to review the abatement decision. The Hearing Officer's decision is the final administrative determination;
 - (4) Failure to request a hearing constitutes a waiver by the property owner. The Fire Chief can still proceed with abatement;
 - (5) Recovery of reasonable administrative costs is permitted should the owner clean and secure the structure before the actual abatement;
 - (6) Promulgates the specifications for the cleaning and securing of the vacant-unsecured structures;
 - (7) Declares that all materials supplied by the City or its contractor become the owner's property once the owner pays the abatement costs;
 - (8) Authorizes the posting of signs until the buildings are rehabilitated and lawfully occupied;
 - (9) Prohibits entry into the buildings while vacant and secured, except to repair or demolish;
 - (10) Permits the Fire Chief to resecure any structure which becomes open without further notice to the owner;
 - (11) Requires the City Manager to appoint a Hearing Officer to confirm the final costs of the abatement. Defines abatement costs to include all actual and administrative work. The Hearing Officer has discretion to assess the costs as a personal obligation against the owner or a special assessment against the property depending upon the circumstances;
 - (12) Authorizes the Fire Chief and the City Attorney to collect the costs assessed as a personal obligation by all appropriate legal means;
 - (13) Requires the Fire Chief to file a Notice of Special Assessment with the County Recorder when the obligation is assessed against the property and submit a copy of the report and confirmation of costs to the County Auditor for processing as a special assessment on the next tax roll. If the owner fails to pay the County Auditor's special assessment, it becomes a municipal tax lien pursuant to Government Code section 38773.5;
 - (14) All funds recovered for each abatement action shall be deposited in the Nuisance Abatement Superfund;
 - (15) Should the building once again become open and unsecured, the Fire Chief can assess a reasonable reinspection fee to pay for new inspection;

I, THOMAS D. KELLEHER, 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

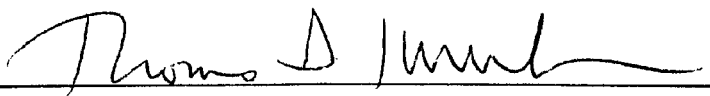
ORDINANCE NUMBER O-17042 (NEW SERIES)

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:

APRIL 4

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

Dated at San Diego, California this 4 day of APRIL, 19 88


(Signature)

75 lines x .98 = 8147.00
6 7/8 x 2 x 10.78 = 8148.22

Page 1 of 2

...the public, who are...
...structures...
...plans for eventual repair or demolition of the buildings;
(7) Declares that buildings which periodically become unsecured and open are public nuisances. The Fire Chief may, if the circumstances are appropriate, institute appropriate abatement procedures which might lead to the eventual demolition of those structures which are continuous nuisances.
A complete copy of the ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd floor, City Administration Building, 302 "C" Street, San Diego, CA 92101.
CH. 107.4 107.4

Page 2 of 2