

ORDINANCE NUMBER 0-17381 (NEW SERIES)

ADOPTED ON OCT 30 1989

AN ORDINANCE AMENDING CHAPTER IX, ARTICLE 8, DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING SECTIONS 98.0115 THROUGH 98.0121; AND ADDING NEW SECTIONS 98.0120 THROUGH 98.0126 - RELATING TO ABATEMENT OF SUBSTANDARD RESIDENTIAL STRUCTURES, 98.0130 THROUGH 98.0143 - RELATING TO ADMINISTRATIVE ABATEMENT PROCEDURES, AND 98.0150 - RELATING TO IMMINENT HAZARD - SUMMARY ABATEMENT.

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

Section 1. That Chapter IX, Article 8, Division 1, of the San Diego Municipal Code be and the same is hereby amended by repealing Sections 98.0115 through 98.0121 and adding new Sections 98.0120 through 98.0126; 98.0130 through 98.0143 and 98.0150 to read as follows:

SEC. 98.0120 ABATEMENT OF SUBSTANDARD RESIDENTIAL STRUCTURES

The following sections, 98.0121 through 98.0126, govern the abatement of substandard structures.

SEC. 98.0121 DECLARATION AND PURPOSE

The Council finds and declares that substandard structures are public nuisances by virtue of their conditions and defects to the extent that the life, safety and health of the

occupants, community and general public are affected adversely. The Council further finds and declares that the abatement of substandard conditions by repair, demolition or removal is necessary to protect and preserve the health and safety of the public and hereby establishes procedures for abatement by the City.

The abatement procedures established herein are designed to be used to correct only those conditions and defects which endanger the life, safety and health of the occupants, community and general public. They are not intended for minor or technical code violations.

The procedures established herein shall be in addition to any other legal or administrative remedy established by law which may be pursued to address violations of the Municipal Code. This section does not affect or alter other nuisance abatement procedures established elsewhere in this Municipal Code.

SEC. 98.0122 DEFINITIONS

a. "Abatement" shall mean the act or process of reducing or alleviating conditions which make the structure a public nuisance.

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b. "Administrative Abatement" shall mean a system of administrative procedures whereby the City uses its employees or contractual work forces to abate public nuisances.

c. "Demolition" shall mean the act of tearing down a structure or the remains of a structure and removing all debris from the site.

d. "Record Owner" shall mean the owner of property as listed on the latest recorded grant deed.

e. "Removal" shall mean the physical removal of a structure to another location.

f. "Repair" shall mean the correction of those conditions or defects which cause a structure to be an imminent threat to the life, health or safety of its occupants or the public.

g. "Substandard Structure" shall mean a substandard building as defined in Section 17920.3 of the California Health and Safety Code and any accessory structures which endanger the life, limb, health, property, safety or welfare of the public or occupants.

SEC. 98.0123 CITY AUTHORITY

When the Housing Director determines that any existing structure, or portion thereof, is substandard, he or she shall initiate action to

cause the repair, rehabilitation, demolition or removal of the structure. The Housing Director or designated subordinates shall be authorized to enter on the property and cause the necessary actions to be taken if the owner or responsible party does not comply with the Notice of Substandard Structure and procedures contained herein.

SEC. 98.0124 NOTICE OF SUBSTANDARD STRUCTURE

a. Whenever the Housing Director determines that a structure is substandard and therefore a public nuisance, a written notice shall be issued to abate those conditions which make the structure substandard.

b. This notice shall be clearly designated as a "Notice of Substandard Structure" and shall refer to Sections 98.0120 through 98.0126 of the San Diego Municipal Code.

c. The notice shall contain a description of the property in general terms reasonably sufficient to identify the location of the property.

d. The notice shall list the conditions of the property which render it substandard.

e. The notice shall describe the action(s) required to abate the public nuisance which may include corrections and repairs, demolition or removal and shall set forth reasonable time frames within which each action must occur.

f. The notice shall also require that the owner of record or other appropriate party, within ten (10) business days from the effective date of the notice, file with the Housing Director a reasonable plan and commitment to abate the substandard conditions by repair, demolition or removal. This plan must describe each proposed action, including permit application, permit issuance, commencement of work and completion of work, and shall contain time frames which are within those established by the Housing Director in the "Notice of Substandard Structure."

The Housing Director shall review the proposed plan and accept or reject it based on its completeness, reasonableness and extent to which the owner commits to abating the substandard conditions. The Housing Director may also request modifications to the plan before final acceptance.

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g. The notice shall also explain the consequences should the owner fail to comply with any of the terms of the notice, including the failure to file an appropriate work plan.

h. The notice and any subsequent amended or supplemental notices shall be served upon the record owner or designated agent and upon any mortgage holder or beneficiary under any deed of trust, and may be served upon the person in possession of the property by any one of the following means:

1. Personal service;
2. Certified mail, postage prepaid, return receipt requested (service in this manner shall be effective on the date of mailing);

or

3. Posting the notice conspicuously on or in front of the property.

The failure of any person with an interest in the property to receive such notice shall not affect the validity of any proceedings undertaken pursuant to this section.

i. The notice shall clearly inform the owner, agent, or mortgagee of the right to appeal this notice and set forth the time frame within which appeal can be made.

j. If no appeal is filed within the established time frame, or if an appeal hearing is held and Housing Director's finding of a substandard structure is upheld, the "Notice of Substandard Structure" shall be recorded in the Office of the County Recorder along with a certificate describing the property. Whenever the actions ordered in the notice are completed so that the substandard conditions no longer exist, the Housing Director shall file a notice with the County Recorder which declares that the structure is no longer substandard.

SEC. 98.0125 FAILURE TO COMPLY WITH NOTICE OF SUBSTANDARD STRUCTURE

If the property owner or other responsible party does not comply with the requirements of the "Notice of Substandard Structure" due to failure to submit a plan, submission of an unacceptable plan or failure to meet deadlines or otherwise make satisfactory progress in relation to an approved plan, the Housing Director may proceed with administrative abatement procedures, or pursue other administrative or legal remedies to ensure that substandard conditions are abated.

SEC 98.0126 RIGHT TO APPEAL

Any person having record title or legal interest in the structure may file an appeal of the "Notice of Substandard Structure" and related findings within ten (10) business days of the effective date of the notice. Notification of the right to appeal shall be included in the "Notice of Substandard Structure." The appeal hearing shall be conducted in the same manner as abatement hearings provided for in San Diego Municipal Code Section 98.0137.

The failure of any person to file an appeal in accordance with the provisions of this section shall constitute a waiver of the right to an administrative appeal hearing related to the "Notice of Substandard Structure" or any portion thereof.

SEC. 98.0127 - 98.0129 RESERVED FOR FUTURE USE

SEC. 98.0130 ADMINISTRATIVE ABATEMENT PROCEDURES

The following sections, 98.0131 through 98.0143, govern the administrative abatement procedure.

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SEC. 98.0131 HOUSING DIRECTOR'S AUTHORITY

If the Housing Director determines that administrative abatement is the appropriate remedy, he or she shall determine whether to proceed with repair, demolition or removal, using guidelines based on state law related to the reasonableness of repair and limitations on demolitions. The Housing Director shall schedule an abatement hearing before the hearing board to obtain authorization to administratively abate the nuisance as provided for in San Diego Municipal Code Sections 98.0131 through 98.0143.

SEC. 98.0132 NOTICE AND ORDER

The Housing Director shall then issue an "Abatement Notice and Order - Repair," or "Abatement Notice and Order - Demolition," or "Abatement Notice and Order - Removal," depending on which action is appropriate. This notice shall inform the owner of record and other appropriate parties of the date, time, and place for the abatement hearing. The notice shall specify what actions the City intends to take to abate the substandard conditions. This hearing shall be scheduled and held pursuant to the requirements of San Diego Municipal Code Section 98.0137.

SEC. 98.0133 AUTHORIZATION TO ABATE

If the Housing Director's findings and recommendations are upheld by the authorized hearing board, the Housing Advisory and Appeals Board (HAAB), the City may proceed forthwith to enter upon the property and use City work crews or contracted services to complete the abatement actions.

SEC. 98.0134 HISTORICAL STRUCTURES

Any structure designated as historical may not be demolished pursuant to San Diego Municipal Code Sections 98.0120 through 98.0125 and Sections 98.0130 through 98.0143, unless a grave and imminent emergency exists.

SEC. 98.0135 NOTICE TO TENANTS, VACATION OF PROPERTY AND RELOCATION

a. If the Housing Director determines that vacation of the building is necessary due to the substandard conditions and the need to repair or demolish or remove, the Notice of Substandard Structure shall require the vacation of the structure within a reasonable period of time not to exceed sixty calendar (60) days from the date of the notice, and shall establish related deadlines for: (1) obtaining permits; and (2) commencing and completing all required work.

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b. In the event that the owner does not comply with the "Notice of Substandard Structure" and the City obtains authorization to abate and vacate the building, the City may cause the vacation by giving the tenants reasonable notice, as provided by California law, and shall ensure that vacation is completed. If relocation is deemed necessary, it shall be the property owner's or other responsible parties' obligation to provide such assistance. If relocation becomes a City cost, it shall be chargeable to these parties as part of the abatement cost.

SEC. 98.0136 POSTING OF SIGNS

a. Once a substandard property is vacated either by the owner or the City, signs shall be posted at or near each entrance to the building in substantially the following form:

DO NOT ENTER

SUBSTANDARD STRUCTURE

It is a misdemeanor to occupy this structure
or to remove or deface this notice.

(SDMC §§ 98.0130 - 98.0143)

HOUSING DIRECTOR

CITY OF SAN DIEGO

b. The Notice of Substandard Structure, including the order to vacate, shall also be posted.

SEC. 98.0137 HEARINGS

a. All hearings related to abatement proceedings and confirmation of costs required by this section shall be conducted by the Housing Advisory and Appeals Board (HAAB). Hearings may also be initiated by appeal of the "Notice of Substandard Structure," per San Diego Municipal Code Section 98.0126.

b. Written notice of the date, time and place of each hearing shall be provided to the record owner and others with a legal interest in the property, at least ten (10) business days prior to the hearing. The notice of any hearing shall be served in the same manner as described in San Diego Municipal Code Section 98.0124, subsection h.

c. HAAB shall consider written, oral and graphic evidence regarding the following as they are applicable:

1. Whether the conditions of the property are substandard, thereby creating a public nuisance;

2. Whether the recommended actions (repairs, demolition, removal) are appropriate;

3. Whether vacation of the structure is required;

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4. Whether rejection of the repair plan is justified;

5. Whether time frames are reasonable;

6. Whether the City should be authorized to proceed with abatement;

7. Whether due process has been provided per the requirement of this section;

8. Other relevant issues.

d. Procedures for these administrative hearings shall be as set forth in regulations issued by the City Manager.

e. HAAB shall have the authority to conduct the hearings, make findings, and issue decisions and orders per the City Manager's hearing procedures. The decision of HAAB is the final administrative order.

SEC. 98.0138 EXTENSIONS

At any time in the process, the Housing Director has the discretion to grant extensions of deadlines if the owner, agent or other appropriate party petitions the Housing Director with good cause; provided however, that deadlines established by the HAAB may not be changed by the Housing Director. Requests for extensions and approvals or disapprovals must be in writing.

SEC. 98.0139 FINAL NOTICE AND ORDER

Once an abatement order has become final pursuant to a decision by the HAAB, the City may institute all appropriate actions to abate the substandard structure, using City forces or contracted forces.

SEC. 98.0140 RECOVERY OF ADMINISTRATIVE COSTS

a. All costs related to the administrative abatement of the property, including but not limited to City administrative, contractual, relocation, and hearing costs, shall be assessed against the property owner or other responsible parties, either as a personal obligation or as a special assessment placed against the property pursuant to Government Code section 38773.5.

b. Once action by the City is initiated per the Abatement Notice, all costs starting from the date of the Notice of Substandard Structure are chargeable to the property owner or other responsible parties, even if subsequent action is taken to correct the situation and the actual abatement by the City is thus cancelled. The Housing Director shall exercise discretion in deciding when to charge for costs related to a cancelled abatement and such costs shall be subject to the Confirmation of Costs Hearing, as described in the San Diego Municipal Code Section 98.0141.

c. The Housing Director shall keep an itemized account of all expenses incurred from the initiation of abatement until completion or cancellation. Costs may include staff time, including that of all departments which were involved, special equipment and supplies, the fees paid to obtain grant deeds, litigation guarantees and other necessary legal documents, the costs of all hearings, contractual expenses, relocation costs, and other related costs. Upon cancellation or completion of the abatement, the Housing Director shall prepare a report detailing all costs and stating a total charge for which the owner or other responsible parties are obligated to pay. This report must be confirmed at a Confirmation of Costs Hearing pursuant to San Diego Municipal Code Section 98.0141.

d. All eligible abatement costs may be recovered as a personal obligation of the property owner or other responsible parties or as a special assessment against the property pursuant to Government Code section 38773.5. The Housing Director shall recommend the method of collection to HAAB.

1. If ordered to be recovered as a personal obligation, the Housing Director shall be authorized to collect the obligation by

using all appropriate legal means. If unable to collect by usual means, the Housing Director shall refer this obligation to the City Attorney for the filing of court action to recover these costs.

2. If charged as a special assessment against the property, the Housing Director shall attempt to collect the recoverable costs and, if uncollectable, shall then transmit appropriate information to the County Auditor's office for placement of the special assessment on the tax rolls pursuant to provisions of sections 38772 through 38773.5 of the Government Code, which are hereby incorporated by reference and made part of this section.

A. Upon confirmation of costs by HAAB, the Housing Director shall record a Notice of Special Assessment with the County Recorder describing the abatement action taken by the City and the total costs, so that potential purchasers or owners are placed on notice about the abatement action and the special assessment charged to the property.

B. Upon payment of the assessed charges, including any accrued penalties and interest by the owner or other responsible party or upon the placement of a tax lien on the property by

the County Auditor pursuant to section 38773.5 of the Government Code, the Notice of Special Assessment shall be withdrawn by the City.

SEC. 98.0141 CONFIRMATION OF COSTS HEARING

a. Upon completion of the report of costs, the Housing Director shall cause a hearing regarding confirmation of costs to be scheduled before HAAB and shall give written notice to the owner and other parties with an interest in the property at least ten (10) business days prior to the date established for the hearing. This notice shall include date, time and place of the hearing and shall be served in the manner described in San Diego Municipal Code Section 98.0124, subsection h.

b. Any person affected by the proposed charges may protest and object in writing or in person at the Confirmation of Costs Hearing.

c. The purpose of the Confirmation of Cost Hearing is to ascertain the exact amount of the City's costs to abate the substandard conditions and to determine the reasonableness and accuracy of the proposed charges. The need for abatement, the extent or existence of violations, or the City's authority to abate are not valid considerations or objections at this hearing.

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d. Hearings will be conducted by HAAB pursuant to procedures issued by the City Manager. The decision of the board on the report and charges to be assessed and on all protests or objections shall be the final administrative order.

SEC. 98.0142 USE OF THE NUISANCE ABATEMENT SUPERFUND

The City's Nuisance Abatement Superfund may be used to pay for contractual services and other special costs, including relocation costs, as deemed eligible by the City Manager. Any subsequent reimbursement to the City for those costs, including accrued penalties and interest, shall be deposited in the Superfund.

SEC. 98.0143 PENALTIES

a. It shall be unlawful for any person to remain in or enter any building posted as substandard as described in San Diego Municipal Code Section 98.0136, except that entry may be made to repair or demolish or remove such building under proper permit.

b. It shall be unlawful for any person to remove or deface any signs or notices, as described in San Diego Municipal Code Section 98.0136 until repair, demolition or removal is complete or approval to do so is specifically granted by the Housing Director.

c. It shall be unlawful for any person to obstruct, impede or interfere with any officer, employee, contractor, or other authorized representative of the City while taking actions authorized under San Diego Municipal Code Section 98.0139 to abate the substandard conditions.

SEC. 98.0144 - 98.0149 RESERVED FOR FUTURE USE
SEC. 98.0150 IMMINENT HAZARD - SUMMARY ABATEMENT

Whenever the Housing Director determines that a structure creates an imminent hazard to the life and safety of its occupants or the general public, he or she may order the immediate vacation and posting of the structure as unsafe and may cause such vacation and posting without prior notice to the owner, agent, or other appropriate parties. The Director may order that the structure not be reoccupied until the necessary corrections or repairs are completed and may further order that it be fenced, boarded or secured if the situation requires such action. All city costs related to such actions are chargeable to the property owner and may be recovered pursuant to procedures described in San Diego Municipal Code Section 98.0140.

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:BC:lcw
07/26/89
Or.Dept:City Manager
O-89-243
Form=o.none
10/04/89 REV. 1

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OCTOBER 4, 1989

Passed and adopted by the Council of The City of San Diego on OCT 30 1989,
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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 June G. Blackwell, Deputy.

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

OCT 10 1989, and on OCT 30 1989.

~~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 G. Blackwell, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-17381 Adopted OCT 30 1989

CERTIFICATE OF PUBLICATION

OFFICE OF THE CITY CLERK
CITY ADM. BLDG.
202 C STREET, SECOND FLOOR
SAN DIEGO, CA 92101
ATTN: C. ABDELNOUR

IN THE MATTER OF
AN ORDINANCE AMENDING CHAPTER IX, ARTICLE 8, DIVISION
1, OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING SECTIONS
98.0015 ET AL . .

NO.

ORDINANCE NUMBER 0-17381 (NEW SERIES)

AN ORDINANCE AMENDING CHAPTER IX, ARTICLE 8, DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING SECTIONS 98.0015 THROUGH 98.0121; AND ADDING NEW SECTIONS 98.0120 THROUGH 98.0126 RELATING TO ABATEMENT OF SUBSTANDARD RESIDENTIAL STRUCTURES, 98.0130 THROUGH 98.0143 RELATING TO ADMINISTRATIVE ABATEMENT PROCEDURES, AND 98.0150 RELATING TO IMMINENT HAZARD - SUMMARY ABATEMENT

This ordinance amends the San Diego Municipal Code by repealing Sections 98.0115 through 98.0121 relating to the Housing Director's authority to abate substandard residential structures.

San Diego Municipal Code Sections 98.0120 through 98.0126 will clarify the Housing Director's authority to abate substandard conditions in residential properties by the issuance of a "Notice of Substandard Structure." This ordinance will also enumerate appropriate legal and administrative remedies and their procedures for the Housing Director to use when property owners refuse to comply with the notice.

San Diego Municipal Code Sections 98.0130 through 98.0143 will streamline existing procedures for the administrative abatement of substandard residential structures. This ordinance will also include the authority for City crews or a private contractor to administratively repair only those conditions which create imminent hazards to the occupants and general public. If necessary, the Housing Director will now have authority to vacate the tenants and make the property owner responsible for any relocation costs. All appeals, abatement hearings and confirmation of cost hearings will now be heard before the Housing Advisory and Appeals Board (HAAB), instead of the City Council. Eligible abatement costs have been expanded to include any and all administrative time, hearing costs and cancellation costs, if appropriate. These costs can either be assessed as a personal obligation or against the property. The Housing Director can use funds from the Nuisance Abatement Superfund (San Diego Municipal Code section 11.16.1) to pay for the initial abatement. Any costs collected from the property owner or other responsible party will be returned to the Nuisance Abatement Superfund.

San Diego Municipal Code Section 98.0150 will authorize the Housing Director to "summarily" abate imminent hazards which pose a serious threat to public safety without prior notices or administrative hearings. This ordinance will also allow for the City to recover these costs in the same manner as outlined above for administrative abatement.

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, 202 "C" Street, San Diego, CA 92101.

Introduced on OCT 10 1989 Passed and adopted by the Council of the City of San Diego on OCT 30 1989

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

By JUNE A. BLACKNELL, Deputy
Pub. Nov. 13

159223

THOMAS D. KELLEHER

I, _____, 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

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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:

NOV. 13

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

Dated at San Diego, California this 13 day of NOV., 19 89.



(Signature)

5" x 2 = 120-96

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