

(O-91-90)

ORDINANCE NUMBER O- 17564 (NEW SERIES)

ADOPTED ON JAN 22 1991

AN ORDINANCE AMENDING CHAPTER I, ARTICLE 3, DIVISION 3, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTIONS 13.0361, 13.0362, 13.0363, 13.0364, 13.0365, 13.0366, 13.0367, 13.0368, 13.0369, 13.0370, 13.0371 AND 13.0372 RELATING TO RECORDATION OF MUNICIPAL CODE VIOLATIONS; AND RESERVE FOR FUTURE USE SECTIONS 13.0373, 13.0374, 13.0375, 13.0376, 13.0377, 13.0378, 13.0379 AND 13.0380.

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

Section 1. That Chapter I, Article 3, Division 3, of the San Diego Municipal Code be and the same is hereby amended by adding Sections 13.0361, 13.0362, 13.0363, 13.0364, 13.0365, 13.0366, 13.0367, 13.0368, 13.0369, 13.0370, 13.0371 and 13.0372, to read as follows:

SEC. 13.0361 RECORDATION OF NOTICES OF VIOLATION - PROCEDURES

The following Sections, 13.0362 through 13.0372, govern the procedures relating to the issuance and recordation of administrative Notices of Violation.

SEC. 13.0362 DECLARATION AND PURPOSE

The Council finds and determines that there is a need for alternative methods of enforcement for violations of the Municipal Code which are found to exist on real property. The Council further finds and declares that an appropriate method of enforcement for

these types of violations is the issuance and recordation of Notices of Violation.

The procedures established in this section shall be in addition to criminal, civil, or any other remedy established by law which may be pursued to address violations of the Municipal Code.

SEC. 13.0363 DEFINITIONS

For purposes of Sections 13.0361 through 13.0380, the following definitions shall apply:

(a) The term "Director" shall include the Executive Director of the Housing Commission and the Directors of the following Departments: Planning, Building Inspection, Engineering and Development, General Services, Waste Management, Animal Control, Health, Water Utilities; and the Fire and Police Chiefs, and any of their designated agents or representatives.

(b) The term "property owner" shall mean the record owner of the real property based on the County Assessor's records and persons in possession of the property, i.e., leaseholders, when applicable.

(c) The term "Notice of Violation" shall mean a written notice prepared by the Director's enforcement staff containing the following information:

1. The name of the property's record owner;
2. Street address;
3. Code sections in violation;

4. General description of the property's condition which violates the applicable codes;

5. General list of necessary corrections to bring the property into compliance with the Municipal Code;

6. Deadline or specific date to correct the violations listed in the Notice of Violation;

7. Reference to the potential consequences should the property remain in violation after the expiration of the compliance deadline including, but not limited to, criminal prosecution, civil injunction, administrative abatement, civil penalties, revocation of permits, recordation of the Notice of Violation and withholding of future municipal permits.

(d) The term "financial institution" shall mean any entity or person that holds a recorded mortgage or deed of trust on the property in violation.

SEC. 13.0364 PROCEDURES - GENERALLY

(a) Once the Director has issued one or more Notice(s) of Violation and the property remains in violation after the deadline established in the latest Notice of Violation, the Director may record a Notice of Violation with the Recorder's Office of San Diego County.

(b) Before recordation, the Director shall provide to the property owner(s), and any applicable

financial institution, a letter informing these parties that a Notice of Violation will be recorded unless one of the parties files a written request to appeal pursuant to the procedures outlined in Section 13.0366.

(c) The Director shall serve this letter by any one of the following means:

1. Personal service;
2. Certified mail, postage prepaid, return receipt requested; or
3. Posting the letter conspicuously on or in front of the property on which the violation is located.

Service by certified mail in the manner described above shall become effective on the date of mailing. Service by personal service or posting shall become effective on the date of personal service or posting.

(d) If the Director does not receive the written request to appeal within the proscribed time period, the Director shall record the Notice of Violation if the violations still remain.

(e) The recorded Notice of Violation shall include the name of the property owner or owners and any affected financial institution, accessors parcel number, the parcel's legal description, and a copy of the latest Notice of Violation.

SEC. 13.0365 SERVICE ON PROPERTY OWNER

A copy of the recorded Notice of Violation shall be served upon the property owner(s) and applicable financial institutions pursuant to the procedures in Section 13.0364(c).

SEC. 13.0366 APPEAL RIGHTS

(a) The property owner(s) or financial institution may challenge the recording of the Notice of Violation within ten (10) calendar days of the effective date of service of the letter required in Section 13.0364(c) by filing a written appeal with the Director.

(b) The Director shall either request the City Manager to appoint a hearing officer or schedule this appeal before an appropriate departmental hearing or appeals board. Written notice of the date, time and place of the hearing shall be served upon the appellant at least ten (10) calendar days prior to the date of the hearing by any one of the methods listed in Section 13.0364(c).

(c) The failure of any person to file an appeal in accordance with these provisions shall constitute a waiver of the right to an administrative hearing and shall not affect the validity of the recorded Notice of Violation.

SEC. 13.0367 APPEAL HEARINGS

(a) The hearing officer or board shall consider

any written or oral evidence regarding the existence of the violations, any notices issued, the recordation procedures, and other relevant testimony.

(b) These hearings shall be conducted consistent with regulations as issued by the City Manager or set forth by the appropriate board.

(c) The hearing officer or board shall review all evidence and testimony presented to determine whether or not recordation of the Notice of Violation is proper pursuant to these sections. If the hearing officer or board determines that recordation is improper, the hearing officer or board shall order the Director not to record the Notice of Violation.

(d) The decision of the hearing officer or board shall be the final administrative order and becomes effective immediately. A copy of the hearing officer or board's decision shall be served on the property owner(s) or financial institution in the manner provided in Section 13.0364(c).

SEC. 13.0368 CONSTRUCTIVE NOTICE

Recordation of the Notice of Violation shall provide the property owner and successors in interest with constructive notice of the Municipal Code violations specified therein.

The failure of any person with a financial, ownership or equitable interest in the property to receive such notice shall not affect the validity of

the recorded notice or any proceedings taken under this section.

**SEC. 13.0369 PROHIBITION AGAINST ISSUANCE
OF MUNICIPAL PERMITS**

If no written request to appeal has been timely filed or after an appeal hearing which confirms the Director's decision to record, The City of San Diego may withhold permits for any alteration, repair, or construction pertaining to any existing or new structure(s) or sign(s) on the property, or any permits pertaining to the use and development of the real property or the structure(s). The City may withhold such permits until a notice of compliance has been issued by the Director, except permits which are necessary to obtain the notice of compliance or which are necessary to correct serious health and safety violations.

SEC. 13.0370 NOTICE OF COMPLIANCE - PROCEDURES

(a) When the violations listed on the Notice of Violation and any other existing violations have been corrected, the property owner(s) or financial institution may file with the Director a written request for a notice of compliance on a form provided by the City.

(b) Once the Director receives this request, a reinspection shall be performed within ten (10) working days to determine whether the property complies with all applicable provisions of the Municipal Code and

whether all necessary permits have been issued and final inspections have been performed.

(c) The Director shall issue and serve a notice of compliance to the property owner(s) or financial institution in the manner provided in Section 13.0364(c) if the Director determines that: (1) all violations listed in the recorded Notice of Violation have been corrected; (2) the property complies with the applicable Municipal Code provisions; (3) all necessary permits have been issued and finalized; and (4) the party requesting the notice of compliance has paid an administrative fee to reimburse the City for all administrative costs and expenses incurred in the investigation, inspection, reinspection, title searches, appeal hearings, and any other processing costs associated with the violations specified on the Notice of Violation and simple interest thereon at the legal rate applicable to judgments at the time of recordation of the Notice of Violation. Such interest shall accrue from the time of recordation of the Notice of Violation until the issuance of the notice of compliance. The Director shall establish this fee based on salaries, costs and overhead as developed in the applicable department's annual budget applicable at the time the costs and expenses are incurred by the City.

The Director is authorized to impose reasonable

conditions upon the issuance of the notice of compliance in order to ensure compliance with the Municipal Code.

(d) If the Director denies the request for a notice of compliance, a written denial, containing the reasons for the denial, shall be served upon the property owner(s) or financial institution in the same manner as outlined in Section 13.0364(c).

SEC. 13.0371 CANCELLATION OF RECORDED NOTICE OF VIOLATION

The Director, property owner(s) or financial institution shall record the notice of compliance with the County Recorder's office. This shall have the affect of cancelling the recorded Notice of Violation.

SEC. 13.0372 APPEAL OF DENIAL OF NOTICE OF COMPLIANCE

(a) If the Director denies the request for a notice of compliance, the property owner(s) or financial institution may appeal such denial by filing a written request to appeal with the Director within ten (10) calendar days from the date of the service of the Director's written denial. The Director shall request the City Manager to appoint a hearing officer or may utilize an appropriate departmental hearing or appeals board to fix the date, time and place of the hearing. Written notice of the date, time and place of the hearing shall be served upon the property owner or responsible party at least ten (10) calendar days prior to the date of the hearing by any of the methods listed in Section 13.0364(c).

(b) The hearing officer or board shall consider any written or oral evidence regarding the denial of the notice of compliance including the appropriate code sections, the violations, the efforts to bring the property into compliance and all other relevant evidence. The property owner(s) or financial institution may present testimony or evidence concerning the violations and the means and time frame used to correct the violations.

(c) These hearings shall be conducted consistent with regulations as issued by the City Manager or as set forth by the appropriate hearing board.

(d) The hearing officer or board shall review all of the evidence and testimony presented to determine whether or not the Director's denial was reasonable and supported by sufficient evidence. If the hearing officer or board overrules the Director's denial, the hearing officer or board shall direct the issuance of the notice of compliance by the Director. The hearing officer or appropriate board has the authority to impose reasonable conditions upon the issuance of the notice of compliance in order to ensure compliance with the Municipal Code.

(e) This appeal is the final administrative remedy and becomes effective immediately.

Section 2. That Chapter 1, Article 3, Division 3, of the San Diego Municipal Code be and the same is hereby amended by reserving for future use Sections 13.0373, 13.0374, 13.0375, 13.0376, 13.0377, 13.0378, 13.0379 and 13.0380.

SEC. 13.0373 RESERVED FOR FUTURE USE

SEC. 13.0374 RESERVED FOR FUTURE USE

SEC. 13.0375 RESERVED FOR FUTURE USE

SEC. 13.0376 RESERVED FOR FUTURE USE

SEC. 13.0377 RESERVED FOR FUTURE USE

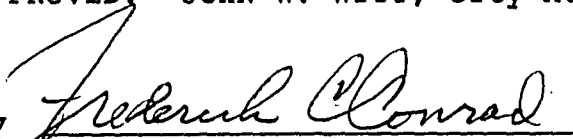
SEC. 13.0378 RESERVED FOR FUTURE USE

SEC. 13.0379 RESERVED FOR FUTURE USE

SEC. 13.0380 RESERVED FOR FUTURE USE

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 
Frederick C. Conrad
Chief Deputy City Attorney

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Or.Dept:T&LU
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(2-10)

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"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Linda Bernhardt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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.

(Seal)

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

By *Blonda R. Barner*, 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

JAN 9 1991

JAN 22 1991

....., 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 *Blonda R. Barner*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-17584 Adopted JAN 22 1991

TE
(a-b)

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"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Linda Bernhardt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 *Blonda R. Barnes*, Deputy.

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JAN 9 1991

JAN 22 1991

~~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 *Blonda R. Barnes*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-17584 Adopted JAN 22 1991

T.V. (a-b)

JAN 22 1991

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"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Linda Bernhardt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 *Blonda R. Barnes*, Deputy.

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JAN 9 1991

JAN 22 1991

~~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 *Blonda R. Barnes*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-17534 Adopted JAN 22 1991

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UNITED STATES
DEPARTMENT OF JUSTICE