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(O-2006-61)
(COR.COPY)

ORDINANCE NUMBER O- 19460 (NEW SERIES)

DATE OF FINAL PASSAGE FEB 07 2006

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE 4, DIVISION 3 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 54.0302, 54.0306, 54.0307, 54.0313, 54.0315, RETITLING SECTION 54.0320 AND ADDING SECTION 54.0321, ALL RELATING TO THE ABATEMENT OF VACANT STRUCTURES

WHEREAS, in 1996, the City Council passed Ordinance Number 18301 which added Sections 54.0313 through 54.0320 to Chapter 5, Article 4, Division 3 of the San Diego Municipal Code to address the growing problem of vacant structures in San Diego; and

WHEREAS, Ordinance Number 18301 declared vacant and unsecured or boarded structures to be public nuisances due to the fire and safety hazards, blight, crime, and neighborhood instability caused by vacant structures; and

WHEREAS, the 1996 amendments were adopted based on recommendations by: a City-wide Vacant Properties Task Force, a report by a consultant, and approval by the Public Services and Safety Committee; and

WHEREAS, pursuant to Chapter 5, Article 4, Division 3 of the Municipal Code owners of vacant and unsecured or boarded structures are required to file a "Statement of Intent" and quarterly penalties may be imposed on owners of vacant structures who are not diligently rehabilitating their vacant structures or actively offering them for sale, lease or rent; and

WHEREAS, the City Attorney's Office and City Departments responsible for abating vacant structures have determined with community input that Sections 54.0313 through 54.0320 (also known as the Vacant Properties Ordinance) need to be strengthened to require that

Statements of Intent be filed annually and to increase the amount of administrative penalties which may be imposed on non-compliant owners of vacant properties; and

WHEREAS, these amendments were discussed and reviewed by the Rules Committee on November 2, 2005 and the Committee approved the amendments; NOW, THEREFORE,

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

Section 1. That Chapter 5, Article 4, Division 3 of the San Diego Municipal Code is hereby amended by amending sections 54.0302, 54.0306, 54.0307, 54.0313 and 54.0315, to read as follows:

§54.0302 Definitions

The words and phrases used in this Division have the meanings set forth in this section:

"*Director*" means the Director of the Neighborhood Code Compliance Department or any other Director authorized by the City Manager and any of their designated agents or representatives.

"*Litter*" has the same meaning as provided in Division 2, Article 4, Chapter 5 of this Code.

"*Rubbish*" has the same meaning as provided in Division 2, Article 4, Chapter 5 of this Code.

"*Solid Waste*" has the same meaning as provided in Division 2, Article 4, Chapter 5 of this Code.

"*Liquid Waste*" has the same meaning as provided in Division 2, Article 4, Chapter 5 of this Code.

"*Statement of Intent*" means a form filled out by the owner of a boarded structure which contains specific information regarding the structure and the owner's plan for its rehabilitation and maintenance.

"*Vacant Structure*" means any structure or building that: 1) is unoccupied or occupied by unauthorized persons; and 2) is unsecured or boarded.

§54.0306 Duty to Clean and Secure or Board

- (a) It is unlawful for any Responsible Person in charge or control of any Vacant Structure to fail to remove any waste, rubbish or debris from the interior of the structure.
- (b) It is unlawful for any Responsible Person in charge or control of any Vacant Structure to fail to remove any litter, waste, rubbish, solid waste, liquid waste, debris or excessive vegetation from the yards surrounding the Vacant Structures.
- (c) It is unlawful for any Responsible Person in charge or control of any Vacant Structure to fail to lock, barricade or secure all doors, windows and other openings.

§54.0307 Administrative Abatement Procedures for Vacant and Unsecured Structures

- (a) Whenever the Director determines that a vacant and unsecured structure exists within the City of San Diego, an Abatement Notice and Order may be sent to the Responsible Person directing abatement by cleaning and securing or boarding. Boarding shall be done pursuant to the standards established in Section 54.0308 of this Division.
- (b) The Director may also require as part of the Abatement Notice and Order, that the Responsible Person erect fences, barriers, berms or other suitable means to discourage access to the Vacant Structure and to discourage illegal dumping or littering on the yards surrounding the Vacant Structure. The Director may also require the Responsible Person to post signs that prohibit trespassing, littering or illegal dumping.
- (c) The Director may also require as part of the Abatement Notice and Order, that the Responsible Person remove any litter, waste, rubbish, solid waste, liquid waste, debris or excessive vegetation from the yards surrounding the Vacant Structures.

- (d) The Director may also require as part of the Abatement Notice and Order, that the Responsible Person remove any vehicles or items stored in the yards surrounding the Vacant Structure in violation of the Land Development Code.
- (e) The Director shall follow the Administrative Abatement procedures for Time Frame One as provided in Division 6 of Article 2 of Chapter 1 of this Code.
- (f) If the Responsible Person does not comply with the Abatement Notice and Order, and no appeal is filed, the Director may: 1) clean and board the unsecured Vacant Structure; 2) remove all litter, waste, rubbish, solid waste, liquid waste, debris or excessive vegetation from the yards surrounding the Vacant Structures; 3) remove all vehicles and items stored in violation of the Land Development Code; and 4) recover all costs pursuant to the procedures found in Division 6, Article 2 of Chapter 1 of this Code.
- (g) If the Director boards the structure, all barricade materials supplied by the City shall become the property of the Responsible Person upon payment of all costs to the City.

§54.0313 Duty to File a Statement of Intent

- (a) The Director shall create and make available a form entitled "Statement of Intent" to be completed by the owner of a Vacant Structure.
- (b) The owner of a Vacant Structure shall complete the information required on the standard Statement of Intent and submit the statement to the City within thirty (30) calendar days of the date the Director determines the structure became boarded. If a Vacant Structure remains in a vacant state for more than three hundred sixty-five (365) calendar days from the date the first Statement of Intent was submitted, then a new Statement of Intent must be submitted, and annually thereafter until the structure is no longer a Vacant Structure.
- (c) The Director shall determine whether a submitted Statement of Intent is complete and may require an owner to provide more complete information.

(d) When a submitted Statement of Intent does not meet with the Director's approval, the owner shall immediately correct and resubmit the Statement of Intent.

(e) The Statement of Intent shall include information as to:

- (1) expected period of vacancy;
- (2) a plan for regular maintenance during the period of vacancy; and
- (3) a plan and time line for the lawful occupancy, rehabilitation or demolition of the boarded structure; and
- (4) any additional information required by the Director.

(f) It is unlawful to:

- (1) fail to submit a Statement of Intent within the time period specified by Section 54.0313(b); or
- (2) fail to submit a Statement of Intent annually as required by Section 54.0313(b); or
- (3) fail to submit a Statement of Intent which does not meet with the approval of the Director or otherwise comply with the requirements of this Section.

§54.0315 Boarded and Vacant Structure Penalty

(a) Any owner of a structure which meets the definition of Vacant Structure as provided in this Division for ninety (90) consecutive calendar days may be liable for a civil penalty in the amount of five hundred dollars (\$500) per structure, not to exceed five thousand dollars (\$5,000) per structure in a calendar year unless:

- (1) a Statement of Intent has been filed and approved by the Director; and
- (2) one of the following applies:
 - (A) the structure is the subject of an active building permit for repair or rehabilitation and the owner is proceeding diligently in good faith to complete the repair or rehabilitation; or,

(B) the structure is maintained in compliance with this Division and is actively being offered for sale, lease or rent; or,

(C) the property owner can demonstrate that he or she made a diligent and good faith effort to implement the actions set forth in the approved Statement of Intent within the time line contained within the Statement of Intent.

(b) If the structure continues to meet the definition of Vacant Structure as provided in this Division beyond the initial ninety (90) calendar days, and if the owner does not meet any of the exceptions set forth in this Section, the Director may continue to assess penalties in the following amounts: one thousand dollars (\$1,000) for the next ninety (90) calendar day period each structure continues to constitute a Vacant Structure; one thousand five hundred dollars (\$1,500) for the next ninety (90) calendar day period; and two thousand dollars (\$2,000) for the next ninety (90) calendar day period that each structure continues to meet the definition of a Vacant Structure. At no time may the amount of the civil penalty exceed five thousand dollars (\$5000) per structure in a calendar year.

(c) All penalties assessed shall be payable directly to the City Treasurer.

(d) The City Manager shall develop policies and procedures for the implementation of this penalty.

Section 2. That Chapter 5, Article 4, Division 3 of the San Diego Municipal Code is hereby amended by retitling section 54.0320 to read as follows:

§54.0320 Allocation of Vacant Structure Penalty

[No change in text.]

Section 3. That Chapter 5, Article 4, Division 3 of the San Diego Municipal Code is hereby amended by adding section 54.0321 to read as follows:

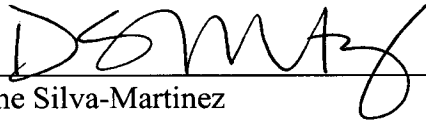
§54.0321 Timely Rehabilitation of Vacant Structures

(a) As authorized by California Health and Safety Code section 17980.9 (b)(1), the Director may require the demolition or expeditious rehabilitation of Vacant Structures which are single-family dwellings and deemed to be substandard as determined by an inspection by the Director.

Section 4. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 5. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Diane Silva-Martinez
Head Deputy City Attorney

DSM:mac
11/07/2005
01/24/2006 COR. COPY
Or.Dept:CA
O-2006-61

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at its meeting of FEB 06 2006.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: Feb 07, 06
(date)

X 
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor