

Article 1: General Information on Required Reviews and Enforcement

**Division 4: Procedures For Abatement of Unsafe, Dangerous,
or Substandard Structures**

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§121.0401 Purpose of Procedures for Abatement of Unsafe, Dangerous, or Substandard Structures

- (a) The purpose of these procedures is to provide for the immediate abatement of unsafe, dangerous, or substandard *structures* by repair, rehabilitation, demolition, or removal to protect and preserve the safety of the citizens and communities where these *structures* are located.
- (b) The procedures established in this division are in addition to any other administrative, criminal, or civil remedy established by law that may be pursued to address violations of the Municipal Code. This division does not affect or alter other *public nuisance* abatement procedures established in the Municipal Code.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§121.0402 When the Procedures for Abatement of Unsafe, Dangerous, or Substandard Structures Apply

Any *structure* that is determined by the City Manager or designated Code Enforcement Official to be an unsafe, dangerous, or substandard *structure* in accordance with Sections 121.0403, 121.0404, or 121.0405, is declared to be a *public nuisance* and is subject to all the enforcement procedures of the Municipal Code for *public nuisances* as well as the specific abatement procedures of this division.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§121.0403 Criteria for Determining That a Structure Is Dangerous

The City Manager or designated official may determine that a *structure* is dangerous if either of the following conditions exists and threatens life, health, safety, or property of its occupants or the public:

- (a) The *structure* has collapsed, has partially collapsed, has moved off its foundation, or lacks the necessary support of the ground; or

- (b) There is a significant risk of collapse, detachment, or dislodgement of any portion, member, appurtenance, or ornamentation of the *structure* under service loads.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 7-31-2012 by O-20187 N.S.; effective 8-30-2012.)

(Retitled from “Criteria for Determining That a Structure Is Unsafe” to “Criteria for Determining That a Structure Is Dangerous” and amended 1-18-2018 by O-20897 N.S.; effective 2-17-2018.)

§121.0404 Criteria for Determining That a Structure Is Unsafe

The City Manager or designated official may determine that a *structure* is unsafe if any of the following conditions exists and threatens life, health, safety, or property of its occupants or the public:

- (a) The walking surface of any aisle, passageway, stairway, or other means of exit is so warped, worn, loose, torn, or otherwise unsafe that it does not provide a safe and adequate means of exit in case of fire or panic;
- (b) Any portion, member, or appurtenance of the *structure* has been damaged by fire, earthquake, wind, *flood*, or by any other cause to such an extent that it is likely to partially or completely collapse, fail, detach, or dislodge;
- (c) Any portion of the *structure* is likely to partially or completely collapse because of dilapidation, deterioration, or decay; faulty construction; the removal, movement, or instability of any portion of the ground necessary to support the building; the deterioration, decay, or inadequacy of its foundation; or any other cause;
- (d) The *structure* has been so damaged by fire, wind, earthquake, or *flood* or has become so dilapidated or deteriorated as to become an attractive nuisance; a harbor for transients, vagrants, or criminals; or would enable persons to commit unlawful acts;
- (e) The *structure* is used or is intended to be used for dwelling purposes but is unsanitary, unfit for human habitation, or in a condition likely to cause sickness or disease because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, or because of inadequate light, air, or sanitation facilities;

- (f) The *structure* creates a fire hazard by virtue of its obsolescence; dilapidated condition; deterioration; damage; inadequate exits; lack of sufficient fire-resistive construction; faulty electrical wiring, gas connections, heating apparatus; or by another cause;
- (g) The *structure* constitutes a *public nuisance* as defined by law;
- (h) A portion of the *structure* (including the foundation or slab on *grade*) remains on the site after the demolition or destruction of the *structure* or the *structure* has been abandoned for a period of more than 6 months so it constitutes an attractive nuisance or hazard to the public;
- (i) The exits of the *structure* or the means to exit do not conform to the applicable provisions of the Building Regulations or Residential Building Regulations of the Municipal Code regarding the number of exits, their width, or any other features that may cause a hazard to the life or safety of the occupants or the general public;
- (j) Defective or overloaded electrical systems, faulty or leaking fuel piping systems, deteriorated fuel combustion equipment, or combustion product vents are present; or
- (k) The existing use or occupancy violates the California Health and Safety Code or Building, Electrical, Plumbing, Mechanical or Residential Building Regulations of the Municipal Code.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 7-31-2012 by O-20187 N.S.; effective 8-30-2012.)

(Retitled from “Criteria for Determining That a Structure Is Dangerous” to “Criteria for Determining That a Structure Is Unsafe” and amended 1-18-2018 by O-20897 N.S.; effective 2-17-2018.)

§121.0405 Criteria for Determining That a Structure Is Substandard

The City Manager or designated Code Enforcement Official shall determine that a *structure* is substandard if it meets the definition of “Substandard Building” or “Substandard Structure” in accordance with California Health and Safety Code Section 17920.3.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§121.0406 Issuance of Abatement Notice for Unsafe, Dangerous, or Substandard Structures

- (a) Whenever the City Manager or designated Code Enforcement Official determines that a *structure*, or any portion thereof, is an unsafe *structure*, a dangerous *structure*, or a substandard *structure* in accordance with this division, the City Manager or designated Code Enforcement Official shall issue an Abatement Notice and Order in accordance with Municipal Code Section 12.0603 and this division.
- (b) Content of Abatement Notice and Order for Unsafe, Dangerous, or Substandard *Structures*
 - (1) The Abatement Notice and Order shall contain a description of the property in general terms reasonably sufficient to identify the location of the property.
 - (2) The Abatement Notice and Order shall refer to the criteria in Sections 121.0403, 121.0404, and 121.0405 that make the property or *structure* unsafe, dangerous, or substandard.
 - (3) The Abatement Notice and Order shall describe the action required to abate the *public nuisance*, which may include any or all of the following measures:
 - (A) Repair and Rehabilitation. If the City Manager determines that the *structure* can be reasonably repaired, the Abatement Notice and Order shall require that the responsible person obtain all necessary permits immediately and begin the repair work within a specified time. The City Manager shall establish reasonable time frames to obtain permits and complete all repairs.
 - (B) Demolition. If the City Manager determines that the *structure* cannot be reasonably repaired within the guidelines established in California Health and Safety Code Section 17980, the Abatement Notice and Order shall require that the responsible person obtain all necessary permits immediately and complete demolition within the period of time established by the City Manager.

- (C) Vacation and Notice to Tenants. If the City Manager determines that vacation of the *structure* is necessary for demolition or repairs, the Abatement Notice and Order shall require the responsible person to expeditiously vacate the *structure* in accordance with applicable laws and within the period of time established by the City Manager.
 - (D) Clean and Secure. If the *structure* is vacant or abandoned before or during repairs, rehabilitation, or demolition, or after the tenants have vacated, the Abatement Notice and Order may require the responsible person to immediately clean and secure the property according to the procedures and standards in Municipal Code Chapter 5, Article 4, Division 3 (Abatement of Vacant Structures).
- (4) The Abatement Notice and Order shall explain the consequences should the responsible person fail to comply with the terms of the Abatement Notice and Order.
 - (5) The Abatement Notice and Order shall identify all hearing rights.
 - (6) If the *structure* is rented or leased for residential occupancy, the Abatement Notice and Order shall notify the responsible person about the possible denial of state income tax benefits, pursuant to definitions and procedures in California Health and Safety Code Section 17980(d).
 - (7) The Abatement Notice and Order shall require the responsible person to provide the City Manager with a written statement of his or her intent to abate the *public nuisance* within 10 calendar days from the date on which the notice is served.
- (c) The Abatement Notice and Order, and any supplemental Abatement Notice and Order, shall be served by one of the methods of service set forth in Municipal Code Section 11.0301.
 - (d) A copy of the Abatement Notice and Order shall be provided to all tenants of a residential building pursuant to California Health and Safety Code Section 17980(c).

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§121.0407 Request for Extension of Time to Comply with Abatement Notice and Order

The responsible person may submit a written request for an extension of time to comply with the Abatement Notice and Order. The City Manager may grant an extension of time if all of the following circumstances exist:

- (a) The responsible person enters into an agreement to comply with the Abatement Notice and Order if allowed a specified additional amount of time;
- (b) The extension of time will not create or perpetuate a situation that is dangerous to life or property;
- (c) Circumstances that justify the delay are beyond the direct control of the responsible person; and
- (d) The extension of time shall not exceed an additional 120 calendar days to complete the repairs, rehabilitation, or demolition.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§121.0408 Recordation of Abatement Notice and Order

- (a) At any time after the Abatement Notice and Order is served upon the responsible person, the City Manager may record the Abatement Notice and Order with the County Recorder's Office in accordance with Municipal Code Section 12.0304.
- (b) Whenever the responsible person or the City completes the repairs or demolition as required by the Abatement Notice and Order, the City Manager shall file a notice with the County Recorder that certifies that the *structure* is no longer unsafe, substandard, or dangerous. This shall have the effect of canceling the recorded Abatement Notice and Order.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§121.0409 Administrative Enforcement Hearing on Unsafe, Dangerous, or Substandard Structures

- (a) The City Manager shall schedule an administrative enforcement hearing in accordance with Municipal Code Chapter 1, Article 2, Division 4, when any of the following circumstances exists:

- (1) The responsible person served with the Abatement Notice and Order submits a written request for a hearing within 10 calendar days of the service of the Abatement Notice and Order;
 - (2) The responsible person served with the Abatement Notice and Order fails to comply with any of its terms; or
 - (3) The required work or demolition is not started or finished within the time specified in the Abatement Notice and Order or is not performed in compliance with all applicable regulations.
- (b) The hearing shall be conducted according to the administrative enforcement hearing procedures set forth in Municipal Code Chapter 1, Article 2, Division 4 (Administrative Enforcement Hearing Procedures) .
- (c) The Enforcement Hearing Officer shall consider evidence that is relevant to the following issues only:
- (1) Whether the conditions of the *structure* listed in the Abatement Notice constitute a *public nuisance*;
 - (2) Whether the time frame and method of abatement by repair, rehabilitation, vacation, or demolition as listed in the Abatement Notice are reasonable under the circumstances; and
 - (3) Whether the City may abate the conditions causing the *public nuisance* if the responsible person fails to do so.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§121.0410 Enforcement Hearing Officer Decision on Abatement of a Public Nuisance

After all evidence and testimony have been completed, the Enforcement Hearing Officer shall either affirm, reject, or modify the City Manager’s decision. If the Enforcement Hearing Officer confirms the existence of a *public nuisance*, the Enforcement Hearing Officer shall issue an order that compels the responsible person to abate, and permits the City to abate, the conditions causing the *public nuisance* pursuant to the procedures in Municipal Code Chapter 1, Article 2, Division 6 (Administrative Abatement).

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§121.0411 Failure to Comply with Administrative Enforcement Order

If the responsible person served with an Administrative Enforcement Order fails to comply with the terms of the order, the responsible person may be prosecuted under Municipal Code Section 12.0413 and the City Manager may begin appropriate abatement action as authorized in the order.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§121.0412 Who May Perform Work

Any repair, demolition, work, or vacation of tenants that is undertaken by the City following service of the Administrative Enforcement Order may be accomplished by City personnel or by a private contractor as provided in Municipal Code Section 12.0606.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§121.0413 Interference with Repair or Demolition Work Prohibited

It is unlawful for any person to obstruct, impede, or interfere with any officer, employee, contractor, or authorized representative of the City of San Diego or any person who owns or holds any estate or interest in a *structure* while he or she conducts repairs, vacates tenants, or demolishes in accordance with the provisions of this division.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§121.0414 Vacant and Unsecured or Boarded Structures

Any owner of an unsafe, substandard, or dangerous *structure* that meets the definition of a vacant *structure* in Municipal Code Section 54.0302 may be subject to the provisions of Chapter 5, Article 4, Division 3 (Abatement of Vacant Structures).

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§121.0415 Recovery of Repair, Demolition, or Vacation Costs

All costs incurred by the City to implement the Administrative Enforcement Order, including the costs for all administrative processing, physical work, and abatement hearings, shall be assessed and collected in accordance with Municipal Code Chapter 1, Article 3, Division 3 (Recovery of Abatement Costs).

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§121.0416 Summary Abatement of an Imminent Hazard

- (a) Notwithstanding the administrative procedures in this division for the abatement of a *public nuisance*, whenever the City Manager determines that a *structure* is unsafe, substandard, or dangerous and that it creates an imminent hazard to the life, health, and safety of its occupants or the general public, the City Manager may exercise any of the summary abatement powers and follow the procedures provided in Municipal Code Chapter 1, Article 2, Division 7 (Summary Abatement).
- (b) After the City Manager has taken the appropriate summary abatement action, the City Manager may follow the administrative procedures as specified in this division or pursue any other judicial or administrative remedy available under the law.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§121.0417 Use of Nuisance Abatement Superfund to Pay Costs

The City’s Nuisance Abatement Superfund, as established by Municipal Code Section 13.0308, may be used to pay for all costs incurred during the course of the administrative and summary abatement, including relocation costs and other special costs as determined by the City Manager.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§121.0418 Standards for Repair of Unsafe, Dangerous, or Substandard Structures

When the City Manager orders the repair, vacation, or demolition of any unsafe, substandard, or dangerous *structure*, the *structure* shall be repaired in accordance with the most recent Building, Electrical, Plumbing, Mechanical and Residential Building Regulations of the San Diego Municipal Code.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

(Amended 7-31-2012 by O-20187 N.S.; effective 8-30-2012.)

§121.0419 Special Procedures for Abatement Actions Involving Designated Historical Resources

Except as provided in Section 121.0416, *designated historical resources* shall not be substantially altered, demolished, or relocated as part of an abatement action without first obtaining a Neighborhood Development Permit or Site Development Permit in accordance with Chapter 14, Article 3, Division 2. The responsible person shall ensure that any and all corrective actions to a *designated historical resource* will comply with all applicable federal, state, and local regulations and ordinances.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§121.0420 Procedures for Tenant Relocation

- (a) The responsible person is responsible for the relocation and associated costs of any tenants displaced as a result of an abatement action pursuant to this division and must follow applicable requirements of state law.
- (b) If relocation costs are paid by the City, the costs shall be assessed against the responsible person as an abatement cost and may be recovered pursuant to procedures in Municipal Code Chapter 1, Article 3, Division 3 (Recovery of Abatement Costs). The City Manager will coordinate available public assistance to help in the relocation of any tenants.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§121.0421 Posting of Signs Declaring Structure Is Unsafe to Occupy

- (a) After the City Manager orders the vacation of tenants, the City Manager shall post *signs* in substantially the following form at or near each entrance of the *structure*:

<p>DO NOT ENTER UNSAFE TO OCCUPY</p> <p>It is a misdemeanor to enter or remain in this building or premises or to remove or deface this notice</p> <p>San Diego Municipal Code City of San Diego Trespassers will be prosecuted</p>

- (b) Trespass. Once a *structure* has been posted in accordance with this section, it is unlawful for any person to enter or remain in that *structure* or *premises*, except that entry may be made to repair or demolish the *structure* with the proper permits.
- (c) Defacement. It is unlawful for any person to remove or deface any *sign* or notice posted in accordance with this section until the required repairs have been completed or until demolition is finished and all debris have been removed in accordance with the proper permits.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)