

<b>Topic:</b>	Vacant & Distressed Properties
<b>Resource Type:</b>	Regulations
<b>State:</b>	California
<b>Jurisdiction Type:</b>	Municipal
<b>Municipality:</b>	City of San Diego
<b>Year (adopted, written, etc.):</b>	Unknown
<b>Community Type - applicable to:</b>	Urban; Suburban
<b>Title:</b>	City of San Diego Abatement of Vacant Structures Ordinance
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### ***Abstract***

The City of San Diego, California, enacted an ordinance requiring that vacant and boarded buildings immediately be rehabilitated because they pose several risks to the community including: facilitating illegal activity, creation of fire hazards, and threatening general public health and safety.

The Director of the Neighborhood Code Compliance Department or any other Director authorized by the City Manager may enforce the ordinance. Violations of the ordinance result in misdemeanors, injunctive relief, or civil damages. Upon the Director's finding that a structure is vacant or unsecured, he must provide notice to the person responsible for the building. The notice shall require abatement of the condition by cleaning, boarding, or other means. If the person responsible does not comply with the notice, the Director has several options to alleviate the conditions himself, which must be paid for by the responsible party. In addition, the Director shall create and make available a form entitled "Statement of Intent" to be completed by the owner of the structure. The owner of a structure shall complete and submit the statement to the City within thirty days of the Director's determination that the structure be boarded. Failure to comply by the owner is unlawful.

### ***Resource***

#### **Article 4: Public Hazards and Public Nuisances Division 3: Abatement of Vacant Structures**

#### **§54.0301 Declaration of Purpose**

The Council of the City of San Diego finds and declares that:

- (a) Structures that are vacant and unsecured or boarded attract vagrants, gang members and other criminals as prime locations to conduct illegal criminal activities.

(b) Structures that are vacant and not properly secured are extremely vulnerable to being set on fire by unauthorized persons.

(c) Structures that are vacant and unsecured or boarded are a blight and cause deterioration and instability in neighborhoods.

(d) Structures that are vacant and unsecured or boarded pose serious threats to the public's health and safety and therefore are declared to be public nuisances.

(e) Immediate abatement and rehabilitation of these structures is necessary and can be accomplished by using the judicial or administrative procedures found in this Code.

### **§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.

### **§54.0303 Enforcement Authority**

The Director of the Neighborhood Code Compliance Department, or any other Director authorized by the City Manager, is authorized to administer and enforce the provisions of this Division. The Director or anyone designated by the Director to be an Enforcement Official may exercise any enforcement powers as provided in Division 1, Article 2 of Chapter 1 of this Code.

### **§54.0304 Enforcement Remedies**

Violations of this Division may be prosecuted as misdemeanors subject to the fines and custody provided in Municipal Code Section 12.0201. The Director may also seek injunctive relief and civil penalties in the Superior Court pursuant to Municipal Code Section 12.0202 or pursue any administrative remedy provided in Chapter 1 of this Code.

#### **§54.0305 Strict Liability Offenses**

Violations of this Division shall be treated strict liability offenses regardless of intent.

#### **§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.

### **§54.0308 Standards for Boarding a Vacant Structure**

(a) Except as provided in Section 54.0308(a)(9), the Responsible Person or Director shall board a Vacant Structure according to the following specifications and requirements:

(1) remove all waste, rubbish or debris from the interior of the structure; and

(2) remove all waste, rubbish, debris or excessive vegetation from the yards surrounding the Vacant Structure; and

(3) barricade all unsecured doorways, windows or exterior openings with minimum 1/2 inch thickness exterior grade plywood which shall extend to the molding stops or studs; and

(4) mount at least two wood stocks of minimum 2 x 4 inch thickness to the reverse face of the plywood with minimum 3/ 8 inch carriage bolts mated with nuts and two flat washers; and

(5) extend the stock a minimum of eight (8) inches on each side of the interior wall; and

(6) cause all hardware to be galvanized or cadmium plated; and

(7) paint all exterior barricade material the predominant color of the structure; and

(8) post the premises. One or more signs shall be posted at or near each entrance to the structure and on fences or walls as appropriate. The signs shall remain posted until the structure is either lawfully occupied or demolished. Signs shall contain the following information: DO NOT ENTER It is a misdemeanor to enter or occupy this building or

premises or to remove or deface this notice. (San Diego Municipal Code) City of San

Diego Trespassers will be prosecuted.

(9) In lieu of requiring the Responsible Person to board a structure as set forth in Sections 54.0308(a)(1) through (7), the Director may allow the Responsible Person to board the Vacant Structure in a manner in which the Director determines adequately prevents unauthorized entry or vandalism. In any event, a Responsible Person shall post the premises as set forth in Section 54.0308(a)(8).

#### **§54.0309 Entry or Interference with Notice Prohibited**

(a) It is unlawful for any person to enter or occupy any structure or premises which has been posted pursuant to Section 54.0308(a)(8) of this Division, except to repair or demolish the structure under proper permit or for a purpose authorized by the owner.

(b) It is unlawful for any person to remove or deface any notice posted pursuant to Section 54.0308(a)(8) of this Code until the required repairs or demolition have been completed or a Certificate of Occupancy has been issued in accordance with appropriate provisions of the California Building Code as in Chapter IX of the Municipal Code.

#### **§54.0310 Continuous Abatement Authority**

(a) If a Vacant Structure previously abated by the Responsible Person or the Director pursuant to a Notice and Order again becomes unsecured and open to unauthorized entry, the Director may, without further notice to the Responsible Person, proceed to abate the nuisance and recover costs as provided for in this Division.

(b) If the yards surrounding a Vacant Structure again contain debris, rubbish, waste or excessive vegetation, the Director may, without further notice to the Responsible Person, proceed to abate the nuisance and recover costs as provided for in this Division.

(c) An Enforcement Hearing Officer may issue an Administrative Enforcement Order that would give the Director continuous abatement authority to: 1) abate a Vacant Structure which again becomes unsecured and open to unauthorized entry; or 2) abate the yards surrounding a Vacant Structure if the yards again contain debris, rubbish, waste or excessive vegetation. The Hearing Officer may establish notice requirements as may be reasonable.

#### **§54.0311 Abatement Cost**

(a) Abatement costs shall include the cost to perform the actual work and the City's cost to administer any abatement.

(b) Once the abatement is complete, the Director shall recover all abatement costs pursuant to the procedures found in Division 3, Article 3 of Chapter 1 of this Code.

#### **§54.0312 Continuous Public Nuisances**

Any Vacant Structure that was originally secured by the Responsible Person's voluntary actions or pursuant to judicial or administrative order may be declared a permanent public nuisance by the Director if the structure continues to remain open and unsecured on a periodic basis, thereby requiring additional reinspections and resecuring of the structure. The Director may seek demolition of this continuous public nuisance by seeking a court order or follow any of the administrative abatement procedures found in this Code.

#### **§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.

#### **§54.0314 Reinspection Fee**

The Director may periodically reinspect Vacant Structures to ensure compliance with the provisions of this Division and all applicable court and administrative orders. The Director may assess a reinspection fee against the Responsible Person for actual costs of each reinspection and continuous monitoring of the structure and premises as is reasonably necessary to determine compliance with the standards and procedures in this Division. The Director shall follow the reinspection procedures found in Division 1, Article 3 of Chapter 1 of this Code.

#### **§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.

#### **§54.0316 Procedures for Boarded and Vacant Structure Penalty**

(a) Whenever a Director determines that a structure meets the definition of a Vacant Structure as provided in this Division for more than ninety (90) consecutive calendar days, and the owner does not meet any of the exceptions set forth in Section 54.0515, a Notice of Boarded and Vacant Structure Penalty may be issued to the owner of the structure.

(b) A separate Notice of Boarded and Vacant Structure Penalty shall be issued for each subsequent penalty that may be assessed pursuant to Section 54.0315.

(c) The Notice of Boarded and Vacant Structure Penalty shall be served upon the owner by any one of the methods of service listed in Section 11.0301 of Chapter 1 of this Code.

#### **§54.0317 Appeal of Boarded and Vacant Structure Penalty**

An appeal of a vacant boarded structure penalty shall follow the procedures set forth in Division 5 of Article 2 of Chapter 1 of this Code.

#### **§54.0318 Administrative Enforcement Hearing**

(a) The appeal hearing shall follow the enforcement hearing procedures set forth in Division 4, Article 2 of Chapter 1.

(b) The Enforcement Hearing Officer shall only consider evidence that is relevant to the following issues:

(1) whether the structure meets the definition of Vacant Structure as provided in this Division for ninety (90) consecutive calendar days;

(2) whether an approved Statement of Intent has been filed and approved by the Director; and

(3) whether any of the exceptions set forth in section 54.0315(a)(2)(A) through (C) have been met.

(c) The Enforcement Hearing Officer may assess administrative costs.

#### **§54.0319 Failure to Pay Penalties**



The failure of any person to pay the penalty within the time specified in the “Notice of Boarded and Vacant Structure Penalty” may result in the Director using any legal means to recover the civil penalties, including referring the matter to the City Treasurer to file a claim with the Small Claims Court.

#### **§54.0320 Allocation of Vacant Structure Penalty**

Administrative civil penalties collected pursuant to this Division shall be deposited in the civil penalties fund established pursuant to Section 13.0402 of this Code.

#### **§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.