

Article 4: Public Hazards and Public Nuisances

Division 12: Summary Abatement of Unsecured Structure

*(“Summary Abatement of Unsecured Structure” added by
O-21545 N.S.; effective 11-11-2022.)*

§54.1201 Declaration of Purpose

- (a) It is the purpose and intent of this Division to provide a procedure for *abatement of unsecured structures* on public or private property in order to reduce blight and deterioration within the City, to prevent crime, and to protect the public health and safety.
- (b) The City finds and determines that *unsecured structures* constitute a *public nuisance* and must be abated to avoid potential detrimental effects on the City and its residents.

(“Declaration of Purpose” added 10-12-2022 by O-21545 N.S.; effective 11-11-2022.)

§54.1202 Definitions

Defined words appear in italics. The words and phrases used in this Division have the meanings set forth in this section:

Abandoned property has the same meaning as in San Diego Municipal Code section 54.0302.

Abatement has the same meaning as in San Diego Municipal Code section 11.0210.

Authorized private contractor means a contractor awarded a contract with the City to perform services.

Authorized responder has the same meaning as in San Diego Municipal Code section 33.3702.

Chief of Police and *Police Officer* have the same meaning as in San Diego Municipal Code section 33.0201.

Fire-Rescue Chief means the Chief of the Fire-Rescue Department of the City of San Diego.

Person has the same meaning as in San Diego Municipal Code section 11.0210.

Property Owner has the same meaning as in San Diego Municipal Code section 11.0210.

Public nuisance has the same meaning as in San Diego Municipal Code section 11.0210.

Responsible Person has the same meaning as in San Diego Municipal Code section 11.0210.

Unsecured structure means any building of any kind with a window, wall, roof, or door that is broken or damaged, and invites intrusion, vandalism, trespass, theft, malicious mischief, or other criminal activity. This definition also includes windows, walls, roofs, or doors whose state constitutes a hazard to public health or safety, and any damage that may result from the lawful actions of a public officer in the performance of official duties.

Written has the same meaning as in San Diego Municipal Code section 11.0210.

(“*Definitions*” added 10-12-2022 by O-21545 N.S.; effective 11-11-2022.)

§54.1203

Abatement Authority

The *Chief of Police* and all *police officers* are authorized to abate any *unsecured structure* located on publicly or privately owned property in the City of San Diego without notice or hearing when:

- (a) immediate action is necessary to preserve or protect the public health or safety, and
- (b) a *responsible person* is unavailable, unable, or unwilling to take responsibility for the *unsecured structure* within thirty minutes after City personnel or designee attempts to make contact, and
- (c) the *abatement* action does not involve an *abandoned property* as authorized by Chapter 5, Article 4, Division 3, or require summary *abatement* of a *public nuisance* as authorized by Chapter 1, Article 2, Division 7 of this Code.

(“*Abatement Authority*” added 10-12-2022 by O-21545 N.S.; effective 11-11-2022.)

§54.1204 Fire-Rescue Department Abatement Authority

The *Fire-Rescue Chief* shall have all the powers under this Division granted to the *Chief of Police*. The *Fire-Rescue Chief*, and all firefighters designated by the *Fire-Rescue Chief*, are authorized to abate any *unsecured structure* according to this Division in the same manner as *police officers*.

(“*Fire-Rescue Department Abatement Authority*” added 10-12-2022 by O-21545 N.S.; effective 11-11-2022.)

§54.1205 Abatement of Unsecured Structures on Private Property

- (a) Any *police officer* may summarily abate the *public nuisance* created by an *unsecured structure*. Only the minimum level of correction or *abatement* as necessary to eliminate the immediacy of the hazard may be used.
- (b) The *responsible person* shall be notified within ten calendar days of the actions taken at the property and the right to appeal the *abatement* action in accordance with sections 54.1209 and 54.1210.
- (c) The *responsible person* may be billed for any costs incurred by the City or an *authorized private contractor* in abating the nuisance.
- (d) In order to recover costs pursuant to section 54.1205(c), an itemized account of the total *abatement* costs shall be served on the *responsible person* within thirty calendar days from the date the *abatement* action occurred at the property.

(“*Abatement of Unsecured Structures on Private Property* added 10-12-2022 by O-21545 N.S.; effective 11-11-2022.)

§54.1206 Abatement of Unsecured Structures by City on Public Property

Where an *unsecured structure* is located on property owned by a public entity other than the City, *abatement* may be authorized after securing the consent of an authorized representative of the public entity having jurisdiction over the property.

(“*Abatement of Unsecured Structures by City on Public Property*” added 10-12-2022 by O-21545 N.S.; effective 11-11-2022.)

§54.1207 Cost Recovery by the City

- (a) The *Chief of Police* may recover the City's costs of *abatement* from the *responsible person* and any such costs shall become the indebtedness of the *responsible person*.
- (b) *Abatement* costs shall include the City's cost to administer the *abatement*, any actual work performed by the City, and any other costs incurred by the City related to the *abatement*.
- (c) The City shall follow the cost recovery procedures found in Chapter 1, Article 3, Division 3 of this Code.
- (d) If the bill is not paid within thirty days from the date of mailing, the City will exercise available collection options, which may include obtaining a special assessment and/or lien against the property in accordance with the procedures set forth in Chapter 1, Article 3, Division 2 of this Code.

(“*Cost Recovery by the City*” added 10-12-2022 by O-21545 N.S.; effective 11-11-2022.)

§54.1208 Cost Recovery by Private Contractors

- (a) An *authorized private contractor* may recover any *abatement* costs it incurred directly from the *responsible person* and any such costs shall become the indebtedness of the *responsible person*.
- (b) The *authorized private contractor* may use any means authorized in the contract with the City to collect costs it incurred from the *responsible person*.

(“*Cost Recovery by Private Contractors*” added 10-12-2022 by O-21545 N.S.; effective 11-11-2022.)

§54.1209 Notice of Abatement

- (a) *Written* notice of *abatement* actions conducted under this Division shall be provided to the *responsible person* in a form approved by the *Chief of Police*.
- (b) The notice of *abatement* action shall be served upon the *responsible person* by any one of the methods of service listed in section 11.0301 of this Code.

(“*Notice of Abatement*” added 10-12-2022 by O-21545 N.S.; effective 11-11-2022.)

§54.1210 Request for Appeal Hearing

- (a) Any *responsible person* served with a notice of summary *abatement* of *unsecured structure* may file an appeal in accordance with Chapter 1, Article 2, Division 5 of this Code.
- (b) Failure to submit a timely and complete request for an appeal hearing shall terminate a *person's* right to contest the notice and the *abatement* actions and shall constitute a failure to exhaust administrative remedies.
- (c) The Enforcement Hearing Officer shall only consider evidence that is relevant to the issue of whether the structure, at the time of *abatement*, met the definition of *unsecured structure* as provided in this Division.
- (d) The Enforcement Hearing Officer may assess administrative costs.

(“*Request for Appeal Hearing*” added 10-12-2022 by O-21545 N.S.; effective 11-11-2022.)