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DEPARTMENT OF  
PLANNING AND DEVELOPMENT

CITY OF SACRAMENTO  
CALIFORNIA

1231 I STREET  
ROOM 200  
SACRAMENTO, CA  
95814-2908

April 14, 1992

BUILDING INSPECTIONS  
916-449-5716

PLANNING  
916-449-5604

Law and Legislation Committee  
Sacramento, California

Honorable Members in Session:

**SUBJECT: AN ORDINANCE AMENDING ARTICLES XI AND XII (SECTIONS 49.1101 THROUGH 49.1208) OF CHAPTER 49 AND SECTION 50.401 OF THE SACRAMENTO CITY CODE RELATING TO PROCEDURES AND FEES FOR ABATING SUBSTANDARD AND DANGEROUS BUILDINGS**

**LOCATION AND COUNCIL DISTRICT: CITY WIDE**

**SUMMARY:**

The report recommends that the Law and Legislation Committee recommend the City Council approve the attached ordinance creating the means by which the Housing and Dangerous Buildings Section of the Building Inspections Division of the Planning and Development Department can collect fees to recover costs for enforcement of substandard and dangerous buildings.

**STAFF RECOMMENDATIONS:**

It is recommended that the Law and Legislation Committee recommend approval of the attached ordinance amending Chapters 49 and 50 of the Sacramento City Code.

**BACKGROUND:**

The Housing Program Committee's report was submitted to the Budget and Finance/Transportation and Community Development Committees in November 1989. The report recommended creation of fiscal disincentives to owners of substandard properties. The City Council by this ordinance provides that violation of this section(s) of the City Code, which causes a Notice and Order to be directed to the recorded owner of the building shall cause fees to be charged against said owner. These fees shall be calculated to recover the total city cost of inspections and enforcement. Fees shown on Exhibit A are on page 15 of the Planning and Development Fee Proposal.

**FINANCIAL CONSIDERATIONS:**

The fees have already been established in the Planning and Development fee proposal approved by City Council on March 24, 1992. The fee projection estimate is \$48,000 in revenues for FY 1992-93. Adoption of this ordinance will have no impact on the City budget.

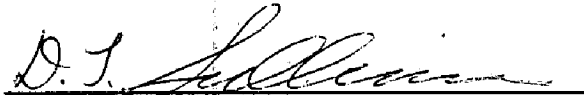
**POLICY CONSIDERATIONS:**

The ordinance is consistent with the City's approach for owner's of substandard properties. This will cause the owners of substandard properties, who refuse after proper notice is given, to pay for the costs of enforcement of the City's Housing Ordinance.

**MBE/WBE EFFORT:**

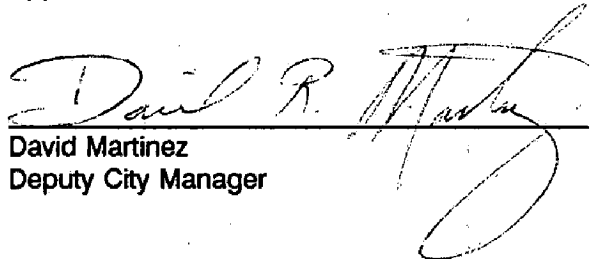
Not applicable.

Respectfully submitted,



D. T. Sullivan, Manager  
Building Inspections Division

Approved:



David Martinez  
Deputy City Manager

Approved:



Dianne Guzman, AICP  
Director, Planning and Development

Contact Person to Answer Questions: Max B. Fernandez, 264-5404

For Law and Legislation Meeting of:  
April 28, 1992

◆ EXHIBIT A ◆

**Complaint Surcharge** - A \$75 investigative fee will be included in any permit that is taken out in response to a housing or other type of complaint. This fee is needed to offset the cost to investigate and resolve the complaint.

▶ **Notice and Order Charge** - A charge of \$300 will be billed against the property owner for any Housing case that requires the issuance of a Notice and Order to Repair a Substandard Building. This charge will offset the cost to the City to prepare and serve the notice. This charge will not be applied to those owners that are voluntarily complying with requests to improve their property.

▶ **Direct Charges on Housing Cases** - It is proposed that the City achieve full cost recovery for all costs incurred on a Housing case after the Notice and Order is issued. Staff time and other costs will be billed for all oversight, repair, and demolition activities.

**REVENUE PROJECTIONS**

Existing fee levels have a construction valuation level of \$395 million. The recommended fee column includes the fee increases and is based on the more recessionary valuation of \$339 million.

<u>Type of Fee</u>	<u>FY 1992-93 with existing fees</u>	<u>FY 1992-93 with recommended fees</u>
Permit Research	\$17,680	\$18,700
Commercial Plan Check	1,750,812	1,756,186
Building Permits	3,247,099	3,161,446
Wrecking Permits	8,674	9,174
Building Trade Certificates	5,000	5,000
Residential Plan Check	332,925	295,360
Permit Processing	124,800	137,500
Mitigation Monitoring	0	50,000
Housing Permits	100,880	132,000
Demolition	89,440	110,000
SHRA Support	80,000	80,000
Notice and Order Charge	0	18,000
Complaint Surcharge	0	13,000
Housing Direct Charges	0	30,000
Franchise Tax Payments	0	4,000
Civil Penalties	0	3,000
REAP Administrative Charges	0	2,000
Sign Plan Check	83,200	85,000

# ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

**AN ORDINANCE AMENDING ARTICLES XI AND XII  
(SECTIONS 49.1101 THROUGH 49.1208) OF  
CHAPTER 49 AND SECTION 50.401 OF THE  
SACRAMENTO CITY CODE RELATING TO  
PROCEDURES AND FEES FOR ABATING  
SUBSTANDARD AND DANGEROUS BUILDINGS**

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

## **SECTION 1**

Articles XI and XII (Sections 49.1101 through 49.1208) of Chapter 49 of the Sacramento City Code are hereby amended to read as follows:

### **Article XI. Abatement Proceedings**

#### **Sec. 49.1101 Commencement of Proceedings.**

Whenever the director has inspected or caused to be inspected any building and has found and determined that such building is a substandard building, the director shall commence proceedings to cause the repair, rehabilitation, vacation, or demolition of the building in the manner specified by this article.

(Ord. No. 3113, §1)

#### **Sec. 49.1102 Immediately Dangerous Buildings.**

- (1) If the director determines, in connection with the inspection of any building, that the same is unoccupied, and concludes that the occupation of the building by any person would be immediately dangerous to the life, limb, safety or health of such person, he may cause the building to be posted as provided in section 49.1203, and may cause such utilities to be disconnected as may be necessary to eliminate the hazards from fire and explosion or to prevent occupancy.
- (2) After taking action to post the building as provided in this section, the director shall immediately commence proceedings regarding the building as provided in this code.

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ORDINANCE NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

- (3) The notice on any building posted pursuant to this section may be removed by action of the director, by order of the board, or pursuant to section 49.1203. (Ord. No. 3238, §1)

**Sec. 49.1103 Notice and Order - Issuance; Contents, Fee.**

Except as otherwise provided in this article, the director shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

- (1) The street address and a legal description sufficient for identification of the premises upon which the building is located.
- (2) A statement that the director has found the building to be substandard with a brief and concise description of the conditions found to render the building substandard under the provisions of section 49.205 of this code.
- (3) A statement of the action required to be taken as determined by the director.
- (4) A statement that the order shall become final unless an appeal to the Housing Code Advisory and Appeals Board is filed within thirty days from the date.

A fee shall be imposed on the owner of any property for which a notice and order re substandard building is issued pursuant to this section. The fee shall be calculated to recover the total City cost of inspections and enforcement and shall be set by resolution of the City Council. Any fee not paid shall be collected pursuant to the procedure set forth in Article IX of Chapter 50.

**Sec. 49.1104 Notice and Order - Service Generally.**

The notice and order and any amended or supplemental notice and order, shall be served upon the record owner and posted on the property; and one copy thereof shall be served on each of the following if known to the director or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. The failure of the director to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this chapter. (Ord. No. 3113, §1)

**Sec. 49.1105 Same - Method of Service.**

Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at his address as it appears on the latest equalized assessment roll of Sacramento County or as known to the director. If no address of any such person so appears or is known to the director, then a copy of the notice and order shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified mail in the manner herein provided shall be effective on the date of mailing. (Ord. No. 3113, §1)

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**Sec. 49.1106 Same - Proof of Service.**

Proof of service of the notice and order shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt returned in acknowledgement of receipt by certified mail shall be affixed to the copy of the notice and order retained by the director.

**Sec. 49.1107 Appeal.**

- (a) **Form of appeal:** Any person entitled to service under Section 49.1104, and any person who is a tenant or lessee of any person entitled to such service, may appeal from any notice and order or any action of the director under this code by filing at the office of the director within thirty days from the date of such order, a written appeal containing:
1. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order.
  2. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant.
  3. A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside.
  4. The signatures of all parties named as appellants and their official mailing addresses.
  5. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.
- (b) **Processing of appeal:** Upon receipt of any appeal filed pursuant to this section, the director shall transmit said appeal to the secretary of the housing code advisory and appeals board who shall calendar it for hearing as follows:
- (i) If the appeal is received by the director not later than fifteen days prior to the next regular meeting of the board, it shall be calendared for hearing at said meeting.
  - (ii) If the appeal is received by the director on a date less than fifteen days prior to the next regular meeting of the board, it shall be calendared for hearing at the next subsequent meeting of the board.
- (c) **Noticing appeal for hearing:** Written notice of the time and place of the hearing shall be given at least ten days prior to the date of the hearing to each appellant by the secretary of the board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal. (Ord. No. 2808, §1, Ord. No. 81024, §1)

**Sec. 49.1108 Effect of Failure to Appeal.**

Failure of any person to file an appeal in accordance with the provisions of section 49.1107 shall constitute an irrevocable waiver of the right to an administrative hearing and a final adjudication of the notice and order, or any portion thereof. (Ord. No. 2808, §1)

**Sec. 49.1109 Scope of Hearing on Appeal.**

Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal. (Ord. No. 2808, §1)

**Sec. 49.1110 Staying of Order Under Appeal.**

Except for vacation orders and utility disconnection orders made pursuant to Section 49.1102, enforcement of any notice and order of the director issued under this code shall be stayed during the pendency of an appeal therefrom which is properly and timely filed. (Ord. No. 2808, §1)

**Sec. 49.111 Generally.**

- (a) **Hearing by housing code advisory and appeals board:** At the time fixed in the notice required by Section 49.1107(c), the board shall proceed to hear the testimony of the director or the director's authorized representatives and the testimony of the appellant and other competent persons respecting those matters or issues specifically listed by the appellant in the notice of appeal.
- (b) **Record:** A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the board.
- (c) **Reporting:** The proceedings at the hearing may also be reported by a stenographic reporter if such reporter is provided by the appellant at appellant's own expense.
- (d) **Continuances:** The board may grant continuances for good cause shown.
- (e) **Oaths; certification:** In any proceedings under this chapter, the board, has the power to administer oaths and affirmations and to certify to official acts.
- (f) **Reasonable dispatch:** The board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives. (Ord. No. 2808, §1)

**Sec. 49.1112 Conduct of Hearing.**

- (a) **Rules:** Hearings need not be conducted according to the technical rules relating to evidence and witnesses.
- (b) **Oral evidence:** Oral evidence may be taken without oath or affirmation.

- (c) **Hearsay evidence:** Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.
- (d) **Admissibility of evidence:** Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.
- (e) **Exclusion of evidence:** Each party shall have these rights, among others:
  1. To call and examine witnesses on any matter relevant to the issues of the hearing;
  2. To introduce documentary and physical evidence;
  3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
  4. To impeach any witness regardless of which party first called the witness to testify;
  5. To rebut the evidence presented against the party;
  6. To represent himself or herself or to be represented by anyone of his or her choice who is lawfully permitted to do so.
- (g) **Official notice:** In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the board or departments and ordinances of the city or rules and regulations of the board. (Ord. No. 2808, §1)

**Sec. 49.1113 Inspection of the Premises.**

The board may inspect any building or premises involved in the appeal during the course of the hearing, provided that (i) notice of such inspection shall be given to the parties before the inspection is made, (ii) the parties are given an opportunity to be present during the inspection, and (iii) the board shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the board. (Ord. No. 2808, §1)

**Sec. 49.1114 Form of Decision.**

The decision shall be in the form of a resolution and shall contain findings of fact, a determination of the issues presented and the requirements to be complied with. A copy of the decision shall be delivered to the appellant personally or sent by certified mail, postage prepaid, return receipt requested. (Ord. No. 2808, §1)



**Sec. 49.1115 Appeal From Order of Housing Code Advisory and Appeals Board.**

Any person entitled to service under section 49.1104 and any person who is a tenant or lessee of any person entitled to such service, may appeal the decision of the board by filing with the city clerk within fifteen days after the effective date of decision a written request that the decision be set for an appeal hearing by the city council. The request shall be in the same form as that prescribed by section 49.1107. The appeal may be referred to a hearing examiner pursuant to Chapter 2, Article V, of the City Code. The decision of the board shall be presumed to be correct and the appellant shall have the burden of proof on appeal. Otherwise, said hearing shall be conducted in substantially the same manner as is the hearing before the board. (Ord. No. 81-024, §2)

**Sec. 49.1116 Stay of Decision and Orders.**

The filing of such an appeal shall defer the effective date of the board decision and any orders of the director relating to such matter except an order to vacate or a utility disconnection order made pursuant to section 49.1102.

**Sec. 49.1117 Appeal from Decision of City Council.**

Any appellant having objection or feeling aggrieved at any proceedings taken by the City Council in sustaining or modifying the orders of the director or the board must bring an action in a court of competent jurisdiction within thirty days after the action by the council in such matter, otherwise all objections will be deemed waived. (Ord. No. 3113, §1)

**Sec. 49.1118 Finality of Orders or Decisions.**

The orders of the director and the decisions of the board or City Council shall become final if no appeal is taken from such orders or decisions within the time limits prescribed by this Chapter and other applicable law. (Ord. No. 2808, §1)

**Article XII. Enforcement of Notice and Order**

**Sec. 49.1201 Generally.**

After any notice and order issued pursuant to this code shall have become final by failure to file a timely appeal or after decision on appeal is rendered, no person to whom any such order is directed shall fail, neglect, or refuse to obey any such order. (Ord. No. 3113, §1)

**Sec. 49.1202 Failure to Obey Order.**

If, after any notice and order issued pursuant to this code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the director may institute any appropriate action to abate such building as a public nuisance. The director shall also assess a fee against the owner for any costs of enforcement incurred by City, as set by resolution of the City Council, which were not included in the fee imposed upon issuance of the notice and order. (Ord. No. 3113, §1)

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**FOR CITY CLERK USE ONLY**

ORDINANCE NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

**Sec. 49.1203 Failure to Commence Work.**

Whenever the required repair or demolition is not commenced, or whenever the required securing is not completed within the time specified in a final order:

- (1) The director may cause the building prescribed in such notice and order to be vacated by posting at each entrance thereto a notice reading:

**SUBSTANDARD BUILDING  
DO NOT OCCUPY**

It is a misdemeanor to occupy this building  
or to remove or deface this notice.

Director of Building Inspections Division  
City of Sacramento

By \_\_\_\_\_

- (2) No person shall occupy any building which has been posted as specified in this subsection. No person shall remove or deface any such notice so posted until the work ordered by the director or by the board has been completed and a certificate of occupancy issued pursuant to the provisions of the Uniform Building Code.
- (3) The director may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building substandard as set forth in the notice and order; or may cause the building to be secured as set forth in the order; or may cause the building to be sold and demolished; or, to be demolished, and the materials, rubble and debris therefrom removed and the lot cleaned and leveled. Any such work shall be accomplished and the cost thereof paid and recovered in the manner provided in Articles VIII and IX of Chapter 50 of the Sacramento City Code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot shall be paid over to the person or persons lawfully entitled thereto. (Ord. No. 3113, §1; Ord. No. 81-108, §2)

**Sec. 49.1204 Extension of Date for Completion of Work.**

Upon receipt of an application from the person required to conform to an order by a fixed date and an agreement by such person that he or she will comply with the order if allowed additional time, the director may, in the director's discretion, grant an extension of time, not to exceed an additional one hundred twenty days, within which to complete such repair, rehabilitation, or demolition, if the director determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The director's authority to extend time is limited to the physical repair, rehabilitation, or demolition of the premises or for such other purpose as may be reasonably required by the circumstances of the case, but such extension will not in any way affect or extend the time to appeal the order. (Ord. No. 3113, §1)

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**FOR CITY CLERK USE ONLY**

ORDINANCE NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

**Sec. 49.1205 Interference With Work Prohibited.**

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city, or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this code, or with any person to whom such building has been lawfully sold pursuant to the provisions of this code, whenever such officer, employee, contractor or authorized representative of the city, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building pursuant to the provisions of this code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code.  
(Ord. No. 3113, §1)

**Sec. 49.1206 Partial Completion of Work; Unsatisfactory Progress of Work—Case Referred to Board**

If an owner has commenced the repair work required by an order or resolution or has commenced demolition of the building, and such owner fails to complete any portion of such work within the time period specified in the order or resolution, or if no time period for completion is specified and the owner has failed, in the opinion of the director, to make a reasonable progress on such work or demolition, the director may refer the case to the board for hearing. If the director refers a case to the board for hearing, the director shall give written notice to all persons who are entitled to notice under the provisions of section 49.1104, by mail sent not later than ten days prior to the board hearing. (Ord. No. 3113, §1)

**Sec. 49.1207 Same—Referral Hearing.**

If the board determines that the owner has failed to complete any portion of the work required by the order within the time period specified by such order or has failed to make reasonable satisfactory progress on such work if no time period is specified in the resolution, it may:

- (a) Grant further extensions of time to the owner to complete such work or demolition, or
- (b) Order the director to complete the repair work forthwith, or
- (c) Order the director to demolish or complete demolition of such building forthwith, or
- (d) Take such other action as it deems appropriate in the case.

Any order of the board in a referral hearing shall be in the form of a resolution. The resolution need not be served on the persons entitled to the notice of the referral hearing, and it shall become effective fifteen days after the date of its passage unless appeal from such order is filed in accordance with section 49.1115 of this code. (Ord. No. 3113, §1)

**Sec. 49.1208 Demolition of Accessory Buildings.**

An accessory building is a building or portion thereof the use of which is appropriate, subordinate, and customarily incidental to that of the main building, or to the main use of the land. If a main building is demolished by the owner or director pursuant to a board order, the accessory building shall likewise be demolished at the same time unless the order shall otherwise direct.

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DATE ADOPTED: \_\_\_\_\_

**SECTION 2**

Subsection (e) is hereby added to Section 50.401 of the Sacramento City Code to read as follows:

- (e) A fee shall be imposed on the owner of any property for which a notice and order is issued pursuant to this section. The fee shall be calculated to recover the total City cost of inspections and enforcement and shall be set by resolution of the City Council. Any fee not paid shall be collected pursuant to the procedure set forth in Article IX of this chapter.

**SECTION 3**

Subsection (b) of Section 50.501 of the Sacramento City Code is hereby amended to read as follows:

- (b) **Failure to obey order:** If, after any order or decision made pursuant to this code has become final, the person(s) to whom such order is directed shall fail, neglect or refuse to obey such order, the director may (i) cause such person to be prosecuted under subsection (a) of this section or (ii) institute any appropriate action to abate such building as a public nuisance.

The director shall also assess a fee against the owner for any costs of enforcement incurred by City which were not included in the fee imposed upon issuance of the notice and order.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

**FOR CITY CLERK USE ONLY**

ORDINANCE NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_