

**ORDINANCE NO. 10100 (N.S.)
12/08/2010 (23)**

AN ORDINANCE AMENDING CHAPTER 1 OF DIVISION 9 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATING TO UNSANITARY AND UNSAFE PREMISES

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. Chapter 1 of Division 9 of Title 6 of the County Code is amended to read as follows:

DIVISION 9. UNSANITARY AND UNSAFE PREMISES

CHAPTER 1. ORDERS TO VACATE OR TO REQUIRE VACATION OF BUILDINGS USED FOR HUMAN HABITATION.

SEC. 69.101. PURPOSE.

This chapter provides expedited administrative procedures to address conditions in rented residences and other premises that constitute an immediate threat to the health and safety of tenants or the public. The expedited procedure for rental units is based on the tenants relocation benefit provisions of the State Housing Law (Health & Safety Code §§ 17910 to 17998.3). The expedited procedure for other premises is based on the County Health Officer's obligation and authority to protect public health (see, e.g., Health and Safety Code sections 101000 and 101030 and Government Code sec. 23003).

SEC. 69.102. APPLICABILITY.

(a) The expedited procedure provided in Section 69.105 of this chapter is available when the Director finds that unsanitary conditions or the substandard conditions listed in Section 69.104(a) of this Code in a rented residence or its lot are so extensive and of such a nature that the immediate health and safety of the tenants is endangered.

(b) The expedited procedure provided in Section 69.106 of this Code is available when the Director finds that unsanitary conditions described in Section 69.104(b) of this Code in any building or its lot constitute an immediate threat to the health and safety of the public.

SEC. 69.102.1. OTHER AUTHORITY.

(a) Substandard, illegal or unpermitted conditions, and related threats to the health or safety of children or adults, may also be addressed as otherwise authorized by

law. The expedited administrative procedures established by this chapter are in addition to other remedies and penalties provided by law.

(b) When the expedited procedures provided in this chapter are available to address one or more substandard conditions at a rental residence or its lot, other substandard conditions at that residence may also be addressed in notices and orders issued pursuant to this procedure, but with appropriately modified time frames for corrective active.

SEC. 69.103. DEFINITIONS.

The following definition shall apply to this chapter:

(a) “Residence” means any dwelling unit, guest room or suite of rooms that is subject to the State Housing Law.

(b) “Local appeals board” means the appellate hearing officer designated to hear an appeal pursuant to this Chapter and Chapter 1 of Division 5 of Title 1 of this code. The “local appeals board” is also the “housing appeals board” for purposes of section 17920.6 of the California Health and Safety Code.

(c) “Substandard condition” means a condition described in Section 17920.3 of the Health and Safety Code (i.e., the State Housing Law).

(d) “Unsanitary condition” means a condition inside a building that exposes occupants to unconfined sewage, or the presence of sewage or graywater at the soil surface outdoors.

(e) “Wiring” means all parts and components of the electrical system in a residence.

SEC. 69.104. IMMEDIATE THREAT TO HEALTH AND SAFETY.

(a) The Director may find that that any of the following substandard conditions or a combination thereof is so extensive and of such a nature that the immediate health and safety of the tenants in the rental residence is endangered:

- (1) Inadequate sanitation or an unsanitary condition.
- (2) Continued reliance on a defective or failed sewage system that has caused an unsanitary condition within the prior 30 days.
- (3) A lack of potable piped water, unless the water supply to the residence has been shut off due to nonpayment by a tenant obligated

under a written lease to pay for water. “Potable piped water” does not include water hauled to the site.

- (4) Hazardous wiring, including any wiring that poses an increased risk of fire or of electrical shock because it is substandard.
- (5) Structural hazards that pose a risk of collapse.
- (6) Leaking gas plumbing.

(b) The Director may find that any unsanitary condition that is a public nuisance constitutes an immediate threat to the health and safety of the public.

SEC. 69.105. ORDERS TO IMMEDIATELY VACATE RENTED PREMISES.

(a) Where the Director finds pursuant to Section 69.104(a) that the immediate health and safety of the tenants in a rental residence is endangered, the Director may condemn the premises, order that the premises be immediately vacated, and order the owner to arrange for the immediate vacation of the premises. The Director shall also provide notice of required repairs as set out in Section 69.107, to address any endangerment to the tenants and any threat to public health and safety.

(b) In lieu of requiring immediate vacation, the Director may proceed as described in Section 69.106 of this code.

SEC. 69.106. ORDERS TO MAKE REPAIRS; FAILURE TO COMPLY; ORDERS TO VACATE PREMISES.

(a) Where the Director finds pursuant to Section 69.104(b) that there is an immediate threat to the health and safety of the public due to unsanitary conditions, and determines that those conditions must be corrected within 30 days to protect public health and safety, or where the director elects to do so pursuant to Section 69.105(b), the Director may issue a Notice and Order to the property owner requiring prompt correction or abatement of the substandard condition or conditions that create a threat to health and safety.

(b) Any such order shall require the owner to make an election, pursuant to section 17980 of the Health and Safety Code, to repair or demolish the residence. For repairs needed to abate the immediate threat to public health and safety, a deadline for making that election, not more than five days after notice of the order, shall be specified in the order. Any such order shall also require the owner to initiate corrective action by applying for any required County permits by a specified date not more than five days

after notice of the order. The Director shall also provide notice of required repairs and a schedule for repairs as set out in Section 69.107.

(c) If an owner fails to comply with an order issued pursuant to subsection (a) of this section, and if the endangerment to the tenants or the immediate threat to public health and safety addressed by that order would be abated or reduced if the residence or commercial building were vacated, the Director may at any time condemn the premises, order the occupants of the residence or other building to immediately vacate the premises, and order the owner to arrange for the immediate vacation of the premises. For purposes of this subsection, failure to comply with an order includes failure to elect to repair or demolish within five days or as specified in the order, failure to initiate corrective action as specified in the order, or failure to make progress on repairs or to complete repairs according to a reasonable and feasible schedule specified by the Director as set out in Section 69.107.

SEC. 69.107. NOTICE OF REQUIRED REPAIRS; SCHEDULE FOR REPAIRS.

(a) When the Director issues an order pursuant to Section 69.105 or 69.106, the Directors shall at the same time or as soon thereafter as is feasible provide reasonable notice to the owner of the repairs and alterations required to correct the conditions addressed in the order. If the order requires the correction of any code violations that did not endanger occupants or pose a threat to public health, safety or welfare, the notice of required repair shall separately identify those lower priority repairs and alterations.

(b) When the Director provides a notice of required repairs, the Director shall at the same time or as soon thereafter as is feasible set out a reasonable and feasible schedule for expeditious repair, which shall become a part of the previously issued order.

SEC. 69.108. DETERMINATIONS REGARDING TENANT RELOCATION ASSISTANCE.

(a) If the Director orders vacation of a tenant-occupied residence after finding that the substandard conditions at the residence are so extensive and of such a nature that the immediate health and safety of the residents is endangered, the Director shall determine the eligibility of the tenants for relocation benefits pursuant to sections 17975 to 17975.10 of the Health and Safety Code.

(b) If the Director determines that the tenants are eligible for relocation benefits, the Director shall calculate the benefit amount at issue and shall provide notice to the owner and tenants as specified in section 17975.1 of the Health and Safety Code. If the Director determines that the tenants are not eligible for relocation benefits, the

Director shall provide notice of that determination to the owner and tenants, including a brief statement of the reasons for that determination.

(c) For purposes of Section 17975.1 of the Health and Safety Code, any bedroom included in permits or plans for the residence submitted to the County at any time shall be counted as a bedroom regardless of the current use of that space. In addition, any space added to a residence by the current owner or a prior owner without permits that is in actual use as a bedroom, and any space converted for use as a bedroom by the owner or a prior owner, with or without permits, shall be counted as a bedroom.

(d) The Director shall not advance relocation payments to tenants.

SEC. 69.109. NOTICE THAT BUILDING HAS BEEN CONDEMNED.

(a) When rented premises have been condemned and the Director has determined that the immediate health and safety of the residents is endangered, or where any other premises are condemned and the Director has determined that there is an immediate threat to public health or safety, the Director shall place or cause to be placed thereon a placard reading as set out below.

WARNING

THESE PREMISES HAVE BEEN CONDEMNED AS BEING AN IMMEDIATE THREAT TO THE HEALTH AND SAFETY OF RESIDENTS OR THE PUBLIC. IT IS UNLAWFUL FOR ANY PERSON TO RESIDE IN OR OCCUPY THIS BUILDING. THIS NOTICE IS EFFECTIVE IMMEDIATELY.

[signature]

Director of the Department of Environmental Health

(a) The Director shall provide separate written notice to the tenant occupying the premises if there is a tenant, and to the owner or his agent, that the property is ordered condemned and that the order to vacate and (where applicable) the determination of the Director concerning tenant relocation benefits may be appealed within five days as set out in Section 69.112. The notice shall state that an appeal will not stay the order or the determination of the Director. Notice to an owner who is not the occupant of the premises may be provided by mail to the owner's address as listed in County records for the parcel.

SEC. 69.110. REMOVAL OF PLACARDS PROHIBITED.

It is a violation of this chapter to remove a placard posted by the Director.

SEC. 69.111. OCCUPYING POSTED PREMISES PROHIBITED.

Any person who resides in or occupies premises that have been condemned by the Director pursuant to this Chapter is guilty of a misdemeanor. Occupants shall immediately vacate such premises until all repairs and alterations required by the Director shall have been made.

SEC. 69.112. APPEAL.

(a) The owner or tenant of any premises condemned and ordered to be vacated by the Director may file an appeal as specified in Chapter 1 of Division 5 of Title 1 of this code (sections 16.101 and following) within five days of the date of the order. The Director's determination concerning tenant relocation benefits may be appealed in the same manner. An appeal shall not stay the Director's order or determination.

(b) Where an owner or tenant appeals, notice of the hearing shall be provided to the owner by the Clerk of the Board, and shall be provided by the Director to all persons known to the Director to claim to be tenants. Regardless of who appeals, both the owner and the tenant(s) may participate in the proceeding.

(c) Where a condemnation and order to vacate is appealed, the hearing officer may determine whether the Director's determination that there was an immediate threat to health and safety was unreasonable when made, whether an immediate threat to health and safety exist as of the date of the hearing, and whether the condemnation shall be lifted.

(d) Where a determination concerning tenant relocation benefits is appealed, the hearing officer may determine whether the persons identified by the Director as tenants were tenants, whether each tenant was displaced by the Director's order, whether the Director's determinations concerning tenant eligibility and owner liability were consistent with the State Housing Law and whether the Director's determination concerning the number of bedrooms in the residence was consistent with Section 69.108(c). In making these determinations the hearing officer may consider all relevant evidence, whether or not that evidence was available to or considered by the Director at the time the Director's determinations were made.

(e) An owner appealing the Director's determination that tenant relocation benefits should be paid may waive the timelines for scheduling hearings specified in section 16.103 of the County Code, and may request that a hearing be held and a decision rendered within 10 days after the date the order to vacate was first mailed and posted. However, the timing of the appeal hearing and decision shall not affect the owner's liability for failure to make timely payment of benefits pursuant to section 17957.3 of the Health and Safety Code.

SEC. 69.113. COMPLIANCE TIMELINE.

(a) Conditions which the Director identifies as an immediate threat to the health and safety of tenants or the public must be corrected on the reasonable and feasible timeline specified by the Director pursuant to section 69.107(b).

(b) For any other conditions called out in the Order issued by the Director for which the Director has not specified a timeline for repairs, the property owner shall have 60 days to obtain permits to commence with repair, rehabilitation, demolition, or removal.

(c) If the building or portion thereof is not repaired, rehabilitated, demolished, or removed within the time specified by the Director or by subsection (b) above, the Director or another County official may take any further action authorized by the State Housing Law or by this Code.

Section 2: This ordinance shall take effect and be in force thirty days after its passage and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in the San Diego Commerce a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 8th day of December, 2010.