SR
Item No. 22
09/29/11

AN ORDINANCE 2011-09-29-0788

AMENDING CHAPTER 6, ARTICLE VIII, AND CHAPTER 14, ARTICLE V, OF THE CITY CODE TO REFLECT CHANGES TO THE COMPOSITION OF THE DANGEROUS STRUCTURE DETERMINATION BOARD, AND TO THE RESPONSIBLE DEPARTMENT; AND PROVIDING FOR PUBLICATION.

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WHEREAS, Chapter 6 Article VIII of the City Code entitled "Dangerous Buildings and Distressed Properties" needs to be amended to reflect changes to the composition of the Dangerous Structure Determination Board; and

WHEREAS, the Department of Code Compliance has been merged with the Development Services Department and it is necessary to amend the code to reflect these changes; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Sec. 6-158(a), Sec. 6-172(c) - (f),(l)(1) and (l)(3), Sec. 6-175, Chapter 6, Article VIII of the City Code of the City of San Antonio are amended by adding the underscored words and deleting those struck through and bracketed to read as follows:

"Sec. 6-158. Dangerous Structure Determination Board established; composition; public hearing authority; duties; quorum.

(a) The Dangerous Structure Determination Board (DSDB) is hereby established, and shall consist of the directors or their designees from the departments of Fire, Department of Human Services, [~~Planning and Development Services~~, ~~Community Initiatives~~,] Grants Monitoring and Administration, Office of Historic Preservation, and Public Works."

"Sec. 6-172. State authority for summarily securing unoccupied buildings.

(c) *Notice.* Whenever it is found that an unoccupied building is in such condition that an unauthorized person or child could enter it through missing or unlocked doors or windows or other openings, the [~~code compliance~~]director of development services or the fire marshal shall cause a written "Notice To Secure" to be given to the owner of the property or to any person having control over the property. Such notice shall inform the addressee that the building is a public nuisance, and must be secured in compliance with this section within ten [~~(10)~~] days of the receipt of the notice, or that the city has already secured the structure. The notice shall be served by certified mail, return receipt requested, or by personal delivery of the notice to the addressee by a code compliance

investigator, fireman, peace officer, or other persons authorized by the [~~code compliance~~] director of development services. When the city has already secured the structure, notice shall be given no later than the eleventh [~~(11th)~~] day after the date the structure is secured. If the personal or certified mail notice attempt is not successful, notice may be accomplished by publishing in a newspaper of general circulation, on two [~~(2)~~] occasions approximately one [~~(1)~~] week apart, or by posting notice on or near the front door of the building.

(d) *Appeal.*

Any property owner who believes that the development services department [~~code compliance department,~~] or the fire marshal has erroneously identified his or her structure as an unsecured, unoccupied structure, shall have the opportunity to appear before a hearing of the board charged with declaring public nuisances, [~~DSDB~~] in person or by attorney, to present any relevant facts as to the condition of the premises upon submitting a written request for such hearing within thirty [~~(30)~~] days after the structure is secured. A hearing shall be held within twenty(20) days after the date a request is filed. Details concerning the right to appeal shall appear on the notice to secure or notice of accomplished securing [~~securement~~]. The board [~~DSDB~~] may require the posting of a performance bond not to exceed one thousand dollars [~~($1,000.00)~~] to ensure performance of any agreement that may be reached with the owner of the property in question and which results in the postponement of a pending civil order to secure and/or clean.

(e) *Offense.*

It is unlawful for any building owner or person having control of any premises to cause, permit, or allow a public nuisance as defined in this article or to fail to timely comply with a notice to secure ordered by the [~~code compliance~~] director of development services or fire chief, given pursuant to this section. Violation shall be punishable by a fine of not less than fifty dollars [~~($50.00)~~] nor more than two thousand dollars [~~($2,000.00)~~]. Each day's failure to comply after the expiration of the notice period shall constitute a separate offense.

(f) *City may secure structures.*

If the owner fails to comply with the notice to secure, the [~~code compliance~~] director of development services or fire marshal may order the boarding up of all openings to the building so as to prevent entry, or the securing of the structure in any other reasonable fashion.

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(l) *Danger posed by unsecured structure:*

(1) Where the [~~code compliance~~] director of development services finds that an unsecured building, regardless of the date of its construction, poses such a danger to public, health, safety, and welfare that in the director [~~his/her~~] judgment summary abatement is necessary, or where an unsecured building is located within one thousand [~~(1,000)~~] feet of a public or private grammar school, middle school, or high school, or a state recognized day care center, he/she shall cause the structure to be secured and cleaned.

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(3) It shall be unlawful for any person to enter such premises or remove the posted notice without written permission from the [~~code compliance~~] director of development services.

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Sec. 6-175. Emergency Demolitions.

(a) Emergency arising from sudden acts or occurrences.

(1) Where it appears to the [~~Director,~~] Fire Chief~~,~~ or Director of [~~Planning and~~] Development Services [~~("PDS"),~~] or their designees, that due to structural defects or conditions arising from, but not limited to, fire, accident, water damage, vandalism, or other sudden act or occurrence thereby threatening the structural integrity of a building, there is clear and imminent danger to the life, safety or property of any person unless the building is immediately demolished, either [~~any two~~] of these officials shall declare its immediate vacation and demolition. The concurrence of the Director of [~~PDS~~] Development Services shall be required prior to execution of the demolition order. Such concurrence shall include a determination that under the circumstances no other abatement procedure is reasonably available except demolition.

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(b) Emergency arising from long-term deterioration.

(1) Where it appears to the [~~Director,~~] Fire Chief~~,~~ or Director of [~~PDS~~] Development Services, or their designees, that structural defects or conditions arising from long-term deterioration threaten the structural integrity of a building such that there is clear and imminent danger to the life, safety or property of any person unless the building is immediately demolished, [~~any two~~] either of these officials shall declare its immediate vacation and demolition. The concurrence of the Director of Development Services [~~PDS~~] shall be required prior to the execution of the demolition order. Such concurrence shall include a determination that under the circumstances no other abatement procedure is reasonably available except demolition. Upon a determination that an emergency demolition is warranted, the following actions shall be taken:

(2) Notice that the structure has been determined to be a clear and imminent danger to life and safety shall be issued:

A. By placard affixed to the property or by stake driven into the ground. It shall be unlawful for any person to remove the posted notice without written permission of the Director of Development Services and no unauthorized person shall enter the building for any purpose;

B. Via hand-delivery to the owner(s) of record per Bexar County Appraisal District records only if the owner resides within the Bexar County jurisdictional limits;

C. By email to the council district in which the subject structure is located; and

D. By email to the City Manager or designee and Office of Historic Preservation [~~OHP~~].

(3) If the subject structure is designated a historic landmark, located in a historic district, or determined by OHP to have historical, cultural, architectural, or archaeological significance, the OHP shall take the following actions no later than seventy-two [~~(72)~~] hours after notice is issued:

A. Determine, in conjunction with the property owner and any relevant city officials or commissions, including but not limited to the Historic and Design Review Commission or its committees, the feasibility of securing the structure and its stabilization;

B. Notify the San Antonio Conservation Society; and

C. Notify the registered neighborhood association in which the subject structure is located.

(4) Within seventy-two (72) hours of notice, a plan of action to stabilize the structure must be presented to the Director of Development Services [~~PDS~~]. Said plan of action shall be developed by a structural engineer registered in the State of Texas.

A. If the plan is approved by the Director of Development Services [~~PDS~~], said plan must be implemented within twenty-four (24) hours of approval.

B. If the plan is determined infeasible by the Director of Development Services [~~PDS~~], the required affidavits shall be executed for commencement of the emergency demolition.

(5) If stabilization of the structure is begun within twenty-four [~~(24)~~] hours of approval, the structure shall be scheduled for the next available [~~DSDB~~] hearing before the Board charged with declaring public nuisances for presentation of a scope of work with dates certain for completion of rehabilitation.

(c) The emergency demolition shall be executed not later than ninety-six [~~(96)~~] hours after the last required written concurrence is made.

(d) After execution of the emergency demolition, the officials responsible shall:

(1) File copies of the affidavits among the official records of the Dangerous Premises Unit property case file;

(2) Provide notice to the owner and lienholders/mortgagees of record and OHP: and

(3) Advise the [~~DSDB~~] Board at its next regularly scheduled hearing.

(e) The historical designation, location or significance of a building or structure shall not prohibit, prevent, or stay an emergency demolition of a dangerous building or structure determined to be a clear and imminent danger to the life, safety or property of any person. Demolition shall be the remedy of last resort and if the structure can be vacated and secured and feasibly repaired or the condition remedied so that the structure shall no longer be an imminent danger it shall first be ordered.

(f) The City of San Antonio, as a home-rule city, adopts the foregoing emergency abatement action pursuant to Chapter 214.002, Texas Local Government Code, and the powers of self-rule granted by the voters under the City of San Antonio Charter as authorized by the Constitution of the State of Texas.

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SECTION 2. Section 14-61A, 14-62(a), 14-64(a) and (b), and Sec. 14-66(a),(c) of Chapter 14, Article V, of the City Code of San Antonio, Texas are amended by adding the underscored words and deleting those struck through and bracketed to read as follows:

Sec. 14-61. Declaration of public nuisance; areas required to be kept clear; duty of property owners; time period to abate

A. As provided by Chapter 342, Texas Health and Safety Code, Chapters 51 and 54, Texas Local Government Code and the home-rule powers of the city, the following conditions are found to be a threat to the public health, safety, and/or welfare and are [~~hereby~~] declared to be a public nuisance, the prompt abatement of which is a public necessity:

(1) Wherever a lot or parcel contains weeds and/or brush over twelve [~~(12)~~] inches in height within one hundred fifty [~~(150)~~] feet of the curb line of adjacent streets, and where no curb exists, to the edge of the street or road surface, or within one hundred fifty [~~(150)~~] feet of a property line belonging to another.

(2) Lots or parcels of land with accumulations of garbage, trash, debris, rubbish, waste, wood and metal scrap, inoperative or abandoned appliances, furniture, and weed and grass cuttings of such quantity as to be a hazard to pedestrians and notice is issued by the Director of <u>Development Services</u> ("Director") or designee.

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Sec. 14-62. Issuance, service of notice.

(a) Whenever the Director of Development Services [~~director~~]receives information of the existence of any lot or parcel that contains a public nuisance as defined by this Code, the Director of Development Services [~~director of code enforcement services~~] or sanitarian shall cause written notice to be issued to the owner of the lot or parcel of the violation provided that notice shall not be required prior to abatement of violations described in section 14-65

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Sec. 14-64. Abatement by city; payment of costs by owner; imposure of lien for nonpayment; removal of trees for access; alleyway clearance.

(a) If the owner fails to comply with the terms of this article within seven [~~(7)~~] days of notice of a violation, the city may cause the work necessary to abate the violation to be done at the owner's expense.

(b) Whenever the city shall abate a violation as provided by this article, the Director of Development Services [~~director~~] may select a private contractor to cut the vegetation and/or clean the land to bring the lot or parcel into compliance.

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Sec. 14-66. Owner's right to hearing of summary abatement.

(a) Any affected owner may request an administrative hearing by filing a written request with the Director of Development Services [~~director~~] not later than the 30th day after the date of the summary abatement.

(b) The hearing shall be conducted not later than the 20th day after the date the request is filed unless otherwise waived by the owner. The owner may testify, present witnesses, or offer written information related to the city's summary abatement.

(c) The administrative hearing shall be conducted before the city's board charged with declaring public nuisances [~~dangerous structure determination board~~] in accordance with its hearing rules and procedures. After taking testimony the board may uphold or reverse the determination of the Director of Development Services [~~director~~]."

SECTION 3. Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this ordinance, for any reason be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision in this Ordinance be held to be unconstitutional or invalid or ineffective, the remainder shall stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 4. The City Clerk is directed to promptly publish public notice of this ordinance in accordance with Section 17 of the City Charter of San Antonio, Texas.

SECTION 5. The publishers of the City Code of San Antonio, Texas are authorized to amend the code to reflect the changes adopted in this Ordinance, and to correct typographical errors and to index, format and number paragraphs to conform to the existing code.

SECTION 6. This Ordinance is effective immediately upon the receipt of eight (8) affirmative votes, or in the event eight affirmative votes are not received, on the tenth day after passage.

PASSED AND APPROVED this 29th day of September, 2011

M A Y O R
Julián Castro

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

for **Michael Bernard, City Attorney**

Request for COUNCIL ACTION

City of San Antonio

Agenda Voting Results - 22

Name:	5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 19A, 19B, 20B, 20C, 21, 22, 23, 25, 26A, 26B, 26C, 26D, 26E, 26F, 26G, 26H, 26I, 26J, 27A, 27B, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41A, 41B, 41C
Date:	09/29/2011
Time:	11:04:43 AM
Vote Type:	Motion to Approve
Description:	An Ordinance amending Chapter 6, Article VIII, and Chapter 14, Article V, of the City Code to remove Development Services from membership on the Dangerous Structure Determination Board (DSDB), and to provide authority to the director of Development Services to summarily clean and secure unoccupied buildings, to clean vacant lots, to clarify the authority to execute emergency demolitions, and to update the names of City departments, to include changing the name of the Department of Community Initiatives to the Department of Human Services. [T.C. Broadnax, Assistant City Manager, Marc A. Castro, Interim Director, Code Enforcement Services]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x			x	
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x				
Rey Saldaña	District 4		x				x
David Medina Jr.	District 5	x					
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x				
Carlton Soules	District 10		x				