

ORDINANCE NO. 180409

An ordinance amending Sections 12.27.1 and 151.06C3, and adding a new Division 90 to Article 1 of Chapter IX of the Los Angeles Municipal Code relating to nuisance abatement actions.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Section 1. Section 12.27.1 of the Los Angeles Municipal Code is amended to read:

SEC. 12.27.1. ADMINISTRATIVE NUISANCE ABATEMENT PROCEEDINGS.

A. Purpose. It is the intent of this section to consolidate a number of existing code provisions relating to the administrative abatement of public nuisances, and revocations, rescissions, discontinuances or modifications of discretionary zoning approvals. In addition, this section also sets forth procedures allowing the Director to modify or remove conditions imposed as a result of nuisance abatement proceedings; to enforce conditions imposed as part of any discretionary zoning approval; and to require that the cost of a proceeding instituted pursuant to this section be paid by those responsible for the maintenance and operation of the subject use.

These provisions allow the City's zoning authorities to protect the public peace, health and safety from any land use which becomes a nuisance; adversely affects the health, peace or safety of persons residing or working in the surrounding area; or violates any land use related condition imposed pursuant to this chapter or other provision of law, while protecting the constitutional rights of the parties involved.

B. Authority. Notwithstanding any other provision of this Code to the contrary, the Director may require the modification, discontinuance or revocation of any land use or discretionary zoning approval if it is found that the land use or discretionary zoning approval as operated or maintained:

1. Jeopardizes or adversely affects the public health, peace, or safety of persons residing or working on the premises or in the surrounding area; or
2. Constitutes a public nuisance; or
3. Has resulted in repeated nuisance activities, including, but not limited to, disturbances of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises (especially in the late night or early morning hours), traffic violations, curfew violations, lewd conduct, or police detentions and arrests; or

4. Adversely impacts nearby uses; or
5. Violates any provision of this chapter; or any other city, state, or federal regulation, ordinance, or statute; or
6. Violates any condition imposed by a prior discretionary land use approval including approvals granted pursuant to Sections 12.24, 12.27, 12.28, 12.32 or 14.00 of this Code; or an approval initiated by application of a property owner or owner's representative related to the use of land including, but not limited to, parcel map, tentative tract map, coastal development permit, development agreement, density transfer plan, exception from a specific plan, and project permit pursuant to a moratorium or an interim control ordinance.

C. Procedures: Notice, Hearings and Appeals. The Director shall give notice to the record owner and lessee(s) of the real property affected to appear at a public hearing at a time and place fixed by the Director and show cause why the land use or discretionary zoning approval should not be modified, discontinued, or revoked.

1. **Notice.** A written notice shall be mailed not less than 24 calendar days prior to the date of hearing to the owner and lessee(s) of the property involved, and to the owners of all property within and outside of the City that is within 500 feet of the exterior boundaries of the property involved, using for the purpose of notification the last known name and address of the owners, as shown in the City Clerk's records or in the records of the County Assessor. If all property within the 500-foot radius is under the same ownership as the property involved in the proceeding, then the owners of all property which adjoins that ownership shall be included in this notification. Written notice shall also be mailed to residential, commercial and industrial occupants of the property involved, and all property within 500 feet of the exterior boundaries of the property involved. This requirement can be met by mailing the notice to "**occupant.**" If this notice provision will not result in notice being given to at least 20 different owners of at least 20 different lots other than the subject property, then the 500-foot radius for notification shall be increased in increments of 50 feet until the required number of persons and lots are encompassed within the expanded area. Notification shall then be given to all property owners and occupants within the expanded area.

Notwithstanding the above 24-calendar day notification period and the 500-foot notification radius, only 15 calendar days and a 500-foot radius shall be required for any hearing conducted on the same site for a land use or discretionary zoning approval for which a previous final decision pursuant to this section has been made by the City.

2. **Hearing and Decision.** The matter may be set for public hearing before the Director. After the conclusion of a public hearing, the Director may require the modification, discontinuance or revocation of the land use or

discretionary zoning approval, as the case may be. As part of the action, the Director may impose conditions of operation as he or she deems appropriate, including those necessary to protect the best interests of the surrounding property or neighborhood; to eliminate, lessen, or prevent any detrimental effect on the surrounding property or neighborhood; or to assure compliance with other applicable provisions of law or conditions of an earlier discretionary approval. Conditions imposed may include the establishment of amortization schedules, the closure or removal of buildings or structures, and affect the establishment, maintenance, or operation of the subject use, and related land uses, buildings, or structures.

Whenever the Director initiates an action pursuant to this section he or she shall impose a condition requiring payment of the fee set forth in Section 19.01P of this Code (fee condition) to cover the City's costs in processing the matter. A fee is not required if the Director finds that the operation of the land use does not create a nuisance or that the property owner, business operator or person in control, is in substantial compliance with the conditions of operation. The fee condition shall further provide that if the decision is not appealed, then the fee shall be paid in full to the City with confirmation of the payment being provided to the Director within 30 days of the decision date. If an appeal is filed and the decision of the Director is upheld on appeal, then the fee shall be paid in full with confirmation made to the Director within 30 days of the effective date of the decision. If the Council reverses in total the decision of the Director, then no payment of fees other than the appeal fee specified in Section 19.01P shall be required.

Any determination shall be supported by written findings, including a finding that the Director's determination does not impair the constitutional rights of any person. The written determination shall also state that failure to comply with any or all conditions imposed may result in the issuance of an order to discontinue or revoke the land use or discretionary zoning approval. The Director may require the discontinuance or revocation of a land use or discretionary zoning approval only upon finding that:

(a) prior governmental efforts to cause the owner or operator to eliminate the problems associated with the land use or discretionary zoning approval have failed (examples include formal action, such as citations, orders or hearings by the Police Department, Department of Building and Safety, the Director, a Zoning Administrator, the City Planning Commission, or any other governmental agency); and

(b) the owner or operator has failed to demonstrate, to the satisfaction of the Director, the willingness or ability to eliminate the problems associated with the land use or discretionary zoning approval.

If the Director discontinues or revokes any land use or discretionary zoning approval pursuant to this section, the full cost of the abatement, including the cost of inspection, shall become the personal obligation of the business operator, property owner, or person in control. If confirmed by the Council, a lien may be placed against the property in accordance with the procedures described in Administrative Code Sec. 7.35.3.

3. Compliance Review. Upon any finding of nuisance or non-compliance with existing conditions imposed on the land use or discretionary zoning approval, the Director's determination shall impose a condition requiring the business operator or property owner to file a Plan Approval application for Review of Compliance with Conditions within two years of the effective date. At the discretion of the Director, the due date for the Plan Approval application can be set for 90 days, 180 days, one year, 18 months or two years from the effective date of the Director's determination or the Council action on appeal.

4. Appeals. An appeal from the decision of the Director may be taken to the Council in the same manner as prescribed in Section 12.24I.

An appeal fee shall be charged pursuant to Section 19.01P. The Council's decision on appeal shall be processed in the manner prescribed in Section 12.24I6.

Further, if it is determined by the Council that the decision of the Director impairs the constitutional rights of any person, then it shall modify the action accordingly, or refer the matter back to the Director for further action.

5. Violations. It shall be unlawful to violate or fail to comply with any requirement or condition imposed by the Director or the Council pursuant to this section. Violation or failure to comply shall constitute a violation of this chapter and shall be subject to the same penalties as any other violation of this chapter. In the event of a violation of an order to discontinue or revoke a land use or discretionary zoning approval pursuant to this section, the Department of Building and Safety shall order the owner to vacate and secure the property, premises, buildings or portion of any property, premises or building pursuant to Section 91.9003 of this Code. The Department of Building and Safety shall institute enforcement as provided in Section 91.9003.3 of this Code. The Director shall cause the determination or revocation to be recorded.

D. Residential Uses. This subsection shall apply to all single-family and multi-family residential uses, including residential hotels as defined in Section 47.73T of this Code. This subsection shall not apply to hotels or motels that are not residential hotels. Nothing in this section or Section 91.9001 et seq. of this Code is intended to supersede or abrogate the rights of tenants provided by State statute or by the Los Angeles Housing Code and Rent Stabilization Ordinance, or by any other provision of this Code.

1. The Director, as the initial decision maker, or the Council on appeal, shall ask the City Attorney to initiate the process of having the residential use placed in receivership pursuant to California Civil Code Section 3479 and Code of Civil Procedure Section 564(b)(9), upon finding that:

(a) prior governmental efforts to cause the owner or operator to eliminate the problems associated with the land use or discretionary zoning approval have failed (examples include formal action, such as citations, orders or hearings by the Police Department, Department of Building and Safety, the Director, a Zoning Administrator, the City Planning Commission, or any other governmental agency); and

(b) that the owner or operator has failed to demonstrate, to the satisfaction of the Director, the willingness or ability to eliminate the problems associated with the land use or discretionary zoning approval.

2. If the residential use is not placed in receivership and the Director, as the initial decision maker, or the Council on appeal, discontinues or revokes the land use or discretionary zoning approval, resulting in the displacement of tenants then the following provisions shall apply:

(a) The Housing Department shall identify each tenant who was displaced and is eligible for relocation assistance, and shall issue an order requiring the owner to pay relocation benefits in the amounts specified in Section 151.09G of this Code.

(b) If the owner fails to pay relocation benefits to an eligible tenant as required by this subsection, the Housing Department may advance relocation benefits to the tenant in the amount set forth in Section 151.09G of this Code.

(c) If the owner fails to comply with an order of the Housing Department to pay relocation benefits, the owner shall be liable to the City for any relocation payments advanced, and the Housing Department may obtain a lien upon the property pursuant to Los Angeles Administrative Code Section 7.35.3 to recover the amount advanced and associated costs.

(d) Relocation benefits shall not be payable to any tenant who has caused or substantially contributed to the condition giving rise to an order to vacate issued pursuant to Section 91.9003.1 of this Code. The Director shall determine whether a tenant has caused or substantially contributed to the condition giving rise to the order to vacate.

(e) The Housing Department shall inform each eligible tenant of his/her right to re-rental of the same unit, or comparable unit, if the owner,

or subsequent owner, re-establishes the residential use. The Housing Department shall inform the eligible tenant that he/she must advise the owner in writing of his/her interest in re-renting and must provide the owner with an address to which the owner can direct an offer.

(f) When the residential use is re-established, the accommodations shall be offered, and rented or leased at the lawful rent in effect at the time the residential use was discontinued or revoked, plus annual adjustments available under Section 151.06 of this Code.

(g) The Director's determination or the Council's action shall include the provisions of this subsection and shall be recorded by the Director as a covenant with the Office of the County Recorder.

E. Modification of Administrative Decisions. Any administrative nuisance abatement decision made pursuant to this chapter, any conditions imposed by that decision, or any decisions on a discretionary zoning approval pursuant to this section may be modified pursuant to the provisions of this subsection. Upon application by the business operator, property owner or lessee(s), the Director may modify or eliminate the conditions of a prior decision. An application shall be made on official forms provided by the Department of Planning and shall be accompanied by a filing fee as specified in Section 19.01P.

An application may be considered if a time period of at least one year has passed from the date the conditions were originally imposed; or if there have been substantial changes in the nature and operation of the land use or discretionary zoning approval; or if there has been a change in circumstances such that the continued enforcement of the previously imposed conditions is no longer reasonable or necessary. All applications shall include a radius map, a list of property owners and occupants within 500 feet, and plot plan drawn to scale.

An application shall be set for public hearing. The Director may grant or deny the requested application, or modify the prior decision, including imposing new or different substitute conditions as the Director deems appropriate. No modification shall be approved pursuant to this subsection unless the Director finds each of the following:

1. That the requirements for consideration of the application under this subsection have been met; and
2. That due consideration has been given to the effects of the modification on surrounding properties.

An appeal from the decision of the Director may be taken to the Council in the same manner as prescribed in Subsection C of this section.

When the Director orders the discontinuance or revocation of a land use or discretionary zoning approval and the applicant files for re-instatement of the land use pursuant to this subsection, the Director may re-instate the land use if all findings of this subsection are met. The applicant will not be issued a new certificate of occupancy.

Subsequent applications for reconsideration may be filed in accordance with this subsection. If the application is denied with prejudice, a subsequent application for reconsideration shall not be filed within one year from the reconsideration decision date, and then only if a property owner, business operator or lessee(s) shows that the circumstances involving the land use or discretionary zoning approval have substantially and materially changed since the last reconsideration.

F. Continuation of Prior Decisions. Prior administrative nuisance abatement decisions regarding land uses and discontinuances, revocations, rescissions or modifications of discretionary zoning approvals made by the Zoning Administrator, City Planning Commission or the Council shall remain in full force and effect. Further, it shall continue to be unlawful to violate or fail to comply with any prior requirement or condition imposed by the Zoning Administrator, the former Board of Zoning Appeals, the City Planning Commission, or the Council. Violation or failure to comply shall constitute a violation of this chapter and shall be subject to the same penalties as any other violation of this chapter. In the event of a violation of an order of discontinuance or revocation, the Department of Building and Safety shall order the business operator, property owner or lessee(s) to vacate and secure the property, premises, buildings or portion thereof pursuant to Section 91.9003 of this Code. The Department of Building and Safety shall institute enforcement as provided in LAMC Sec. 91.9003.4 of this Code.

Sec. 2. Article 1 of Chapter IX of the Los Angeles Municipal Code is amended by adding:

ARTICLE 1, DIVISION 90

NUISANCE ABATEMENT AND DISCONTINUANCE OF LAND USE AND DISCRETIONARY ZONING APPROVALS; RELOCATION ASSISTANCE; ENFORCEMENT

SEC. 91.9001. GENERAL.

91.9001.1. Purpose of Division. The provisions of this division are intended to provide a just, equitable and practical method, in conjunction with any other remedy available by law, to vacate and secure property whose land use or discretionary zoning approval has been discontinued or revoked by the Director of Planning or City Council pursuant to Section 12.27.1 of the Los Angeles Municipal Code. (Administrative Nuisance Abatement Proceedings).

91.9001.2. Scope. This division shall apply to property whose land use or discretionary zoning approval has been discontinued or revoked by the Director of Planning or City Council pursuant to Section 12.27.1 of the Los Angeles Municipal Code.

SEC. 91.9002. DEFINITIONS. For purposes of this section, the following words shall be construed as defined below.

NUISANCE. Any use of land that jeopardizes or adversely affects the public health, peace, or safety of persons residing or working on the premises or in the surrounding area; or has resulted in repeated nuisance activities, including, but not limited to, disturbances of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assault, robbery, battery, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises (especially in the late night or early morning hours), traffic violations, curfew violations, lewd conduct, or police detentions and arrests; or adversely impacts nearby uses.

PROPERTY. A lot, building, or portions thereof.

SEC. 91.9003. ABATEMENT PROCEDURES.

91.9003.1. Vacate Order. The Department shall issue an order to vacate the property whose land use or discretionary zoning approval has been discontinued or revoked by the Director of Planning or City Council pursuant to Section 12.27.1 of the Los Angeles Municipal Code. Notwithstanding the provisions of Los Angeles Municipal Code Sections 12.26K and 98.0403 to the contrary, there shall be no appeal from this order. The order shall specify that the order applies only to that portion of the property whose land use or discretionary zoning approval has been discontinued or revoked.

91.9003.2. Closure Notification. The order to vacate the property shall be sent to the business operator, property owner, lessees, occupants, and to all persons shown in the title report as having any ownership interest, existing tenant(s) and person(s) in control of the property. The order shall state that the business operator, property owner, or person in control has 15 days from the effective date of the order to discontinue or revoke, to vacate and secure the property until a new land use is authorized.

91.9003.2.1. Time for Compliance. Within 15 days of the effective date of the order, the business operator, property owner or persons in control shall vacate and secure the property against unauthorized entry or the Department shall institute an enforcement action as provided in Section 91.9003.3 of this division.

EXCEPTION: The Department shall give the business operator, property owner or person in control of a residential use no less than a 30-day notice and no more than a 60-day notice to vacate and secure the property. If the property

is subject to the Rent Stabilization Ordinance (RSO) (Sections 151.00, et seq. of the Los Angeles Municipal Code), the business operator, property owner or person in control may apply for an extension of time in which to comply. Nothing in this section is intended to supersede or abrogate the rights of tenants provided by State statute or by the Los Angeles Housing Code and RSO, or by any other provision of the Los Angeles Municipal Code.

91.9003.2.2. Failure to Comply. If the business operator, property owner or person in control fails to maintain the property vacant and secured, the Department shall cause the property to be vacated and secured by whatever means the Department determines as reasonable and necessary pursuant to Section 91.9003.3 of this division. The Department shall tell the Department of Water and Power to disconnect utilities upon verification that there are no persons legally entitled to occupy the property, and if necessary, may padlock, barricade and/or fence the property. The business operator, property owner or person in control is responsible for all costs incurred by the Department pursuant to this section, including the cost of inspection. These costs shall include an amount equal to 40 percent of the cost to perform the actual work, but not less than the sum of \$100.00 to cover the City's costs for administering any contract and supervising the work required. The City may recover these costs through an action before any court of competent jurisdiction.

91.9003.2.3. Relocation Assistance. Whenever the land use or discretionary zoning approval that is revoked is a residential use, the relocation assistance procedure of Section 12.27.1 D2 of the Los Angeles Municipal Code shall apply. The Housing Department shall identify each tenant eligible for relocation assistance, and shall issue an order requiring the landlord to pay relocation benefits in the amounts specified in Section 151.09G of the Los Angeles Municipal Code. No tenant who has caused or substantially contributed to the nuisance activity giving rise to the order to vacate, as determined by the Director of Planning pursuant to Section 12.27.1D2 of the Los Angeles Municipal Code, shall be eligible for relocation benefits.

91.9003.2.4. Vacated Property. No person shall reoccupy any property pursuant to this division until the required clearance(s) and permit(s) are obtained from this Department and the Department of City Planning.

91.9003.2.5 Posting of Property. When the Department orders the owner to vacate and secure a property, the Department shall post a warning placard or sign in a conspicuous place near the entrance. A warning placard or sign posted pursuant to this section shall not be removed, defaced, covered or hidden from view in any manner.

The placard or sign shall read substantially as follows:

**VACATED PROPERTY---DO NOT ENTER
BY ORDER OF THE CITY OF LOS ANGELES**

It is a misdemeanor to enter, to remain, to occupy or be present unlawfully in or on this property. It is a misdemeanor to remove, deface, cover or hide this placard.

Sec. 12.27.1 and Sec. 91.9003 Los Angeles Municipal Code

91.9003.2.6. Recordation. When the Department serves an order to vacate the property as described in Section 91.9003.1 of this division, the Department shall record with the Office of the County Recorder a document stating that the property has been determined to be a nuisance, its present use has been vacated and the property owner, business operator, person in control, and occupants have been notified.

After a new land use or discretionary zoning approval has been established in compliance with all the provisions of the Los Angeles Municipal Code, the Department shall record with the Office of the County Recorder a document terminating the above-recorded document.

91.9003.2.7. Manner of Giving Notice. The orders described in this division shall be written and may be delivered in person to the property or sent by United States mail in a sealed envelope, postage prepaid, addressed to such person(s) at the address as shown in the title search, the business operator, property owner and person in control of the property, and all occupants at the time the order is issued. Service by mail shall be deemed to have been completed at the time of deposit in the post office. The failure of any owner or other person to receive such notice shall not affect in any manner the validity of any of the proceedings taken pursuant to this division. Proof of giving notice may be made by an affidavit of any employee of the City that shows service in conformity with this section.

91.9003.3. Violations - Penalties for Disregarding Initial Orders.

91.9003.3.1. Failure to Comply. The business operator, property owner or person in control of the property who fails to comply with any vacate order pursuant to this division and to Section 12.27.1 of the Los Angeles Municipal Code within the time limits established in this division shall be guilty of a misdemeanor.

91.9003.3.2. Any person who defaces, covers, hides, or removes any notice or order posted as required in this division shall be guilty of a misdemeanor.

91.9003.3.3. Any person who enters, remains, occupies or is present in a property that has been posted by the Department pursuant to this division shall be guilty of a

misdemeanor. This prohibition shall not apply to public officers or public employees acting within the course and scope of their employment or in the performance of their official duties. Notwithstanding any other provision of Los Angeles Municipal Code to the contrary, a police officer with the Los Angeles Police Department shall have the authority to enter any building posted by the Department pursuant to this division, and arrest anyone violating the vacate order.

91.9003.4. Enforcement - Noncompliance with Department Orders.

91.9003.4.1. General. If the owner, business operator or person in control of the property fails to comply with an order issued pursuant to this division within the time set, the Department may institute appropriate action to secure compliance as provided by law for misdemeanor violations, shall have the Department of Water and Power disconnect utilities upon verification that there are no persons legally entitled to occupy the property, and shall barricade, padlock, fence or secure the property by whatever means the Department determines as reasonable and necessary.

91.9003.4.2. Notification. The Department shall obtain a title report listing all persons shown by the county recorder as having an ownership interest or liens or encumbrances or other interests in the real property. The Department shall notify these persons that a lien will be placed against the real property to cover the cost of vacating and securing the property. The notice shall advise them of their right to a hearing.


Sec. 3. Subdivision 3 of Subsection C of Section 151.06 of the Los Angeles Municipal Code is amended to read:

3. If the rental unit is vacated, pursuant to Section 12.27.1 of this Code (Administrative Nuisance Abatement Proceedings), by order of the Director of Planning or City Council to vacate and secure the residential use.

Sec. 4. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of DEC 0 2 2008.

KAREN E. KALFAYAN, City Clerk

By 
Deputy

DEC 12 2008

Approved _____


Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

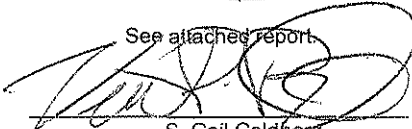
By 
TERRY P. KAUFMANN MACIAS
Deputy City Attorney

Pursuant to Charter Section 559, I approve this ordinance on behalf of the City Planning Commission and recommend that it be adopted

Date 11-17-2008

November 17, 2008

File No. CF 07-3711; CPC 1993-0378-CA

See attached report.

S. Gail Goldberg
Director of Planning