

ORDINANCE NO. MC-1521

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL
OF THE CITY OF SAN BERNARDINO, CALIFORNIA
AMENDING CHAPTERS 2.45, 8.24, 8.30, 8.36, 9.92, 15.04,
15.05, 15.20, AND 15.28 OF THE SAN BERNARDINO
MUNICIPAL CODE, AND ADDING CHAPTER 9.94 OF
THE SAN BERNARDINO MUNICIPAL CODE, RELATED
TO VARIOUS CODE ENFORCEMENT PROCEDURES,
INCLUDING THE CITY'S ADMINISTRATIVE HEARING
PROCEDURES AND APPEALS PROCEDURES**

WHEREAS, the City previously adopted Ordinance No. MC-1474, which established the Building and Accessibility Appeals Board and dissolved the Board of Building Commissioners, as permitted by Health and Safety Code section 19957.5(a); and

WHEREAS, this Ordinance amends Chapter 2.45 to dissolve the Building and Accessibility Appeals Board and establish the Building Appeals Board in order to comply with Health and Safety Code section 17920.5, ease the Board's membership qualifications, and make reaching a quorum easier; and

WHEREAS, this Ordinance also amends Chapter 2.45 to clarify and elaborate on the procedures for appeals before the Building Appeals Board; and

WHEREAS, Ordinance No. MC-1474, when dissolving the Board of Building Commissioners, did not eliminate lateral references to that board elsewhere in the San Bernardino Municipal Code, and

WHEREAS, this Ordinance amends Chapters 8.24, 8.36, 8.69, 9.92, 15.04, 15.20, 15.26, 15.27, and 15.28, in part, to eliminate erroneous references to the defunct Board of Building Commissioners; and

WHEREAS, this Ordinance adds Chapter 9.94 to the San Bernardino Municipal Code to create a uniform process for the handling of administrative hearings and appeals where such rights are granted in the San Bernardino Municipal Code; and

WHEREAS, this Ordinance amends the appeal procedures in Chapters 8.24, 8.30, 8.36, 9.92, 15.04, 15.05, 15.20, and 15.28 of the San Bernardino Municipal Code to clarify hearing and appeal procedures and to refer hearings and appeals to the appropriate body, whether that be the Building Appeals Board under Chapter 2.45 or a hearing officer under Chapter 9.94; and

WHEREAS, this Ordinance amends the San Bernardino Municipal Code and assigns appeals to be heard by the Building Appeals Board consistent with the right granted under California Building Code section 1.8.8.3; and

WHEREAS, this Ordinance amends the San Bernardino Municipal Code to refer all other hearings and appeals to Chapter 9.94 of the San Bernardino Municipal Code; and

WHEREAS, this Ordinance amends Section 8.24.100(H) of Chapter 8.24, Solid Waste Collection, Removal, Disposal, Processing and Recycling, to specify the appealable acts of the City Manager and provide for appeals to a hearing officer under new Chapter 9.94; and

WHEREAS, this Ordinance amends Chapter 8.30, Public Nuisances, to clarify the procedures for summary abatement and demolition procedures, including providing notice to property owners, recovery of abatement costs, and procedures for hearings and appeals; and

WHEREAS, this Ordinance amends Chapter 8.36, Abandoned Vehicles, to clarify the notice to be provided before abatement of a vehicle, eliminate the unique hearing procedures therein, and instead provide for appeals to a hearing officer under Chapter 9.94; and

WHEREAS, this Ordinance amends Chapter 9.92, Administrative Citation Process, to authorize the City to collect delinquent administrative citation fines via any legal means, eliminate collection of delinquent administrative citation fines via liens, and eliminate the second tier of administrative appeal before an appellant may seek judicial review of an administrative citation; and

WHEREAS, this Ordinance amends Chapter 15.04, Building Codes, to adopt all parts of the California Building Standards Code, to eliminate adoptions of other unnecessary uniform codes, and to eliminate an erroneous reference to an impermissible method to calculate fees for building permits; and

WHEREAS, this Ordinance amends Chapter 15.05, Property Maintenance Code, to correct a reference to the current edition of the International Property Maintenance Code; and

WHEREAS, this Ordinance amends Chapter 15.20, Certificate of Occupancy, to provide for appeals to a hearing officer under new Chapter 9.94; and

WHEREAS, this Ordinance amends Chapter 15.28, Dangerous Buildings, which amends the 1997 Uniform Code for the Abatement of Dangerous Buildings adopted by reference in the San Bernardino Municipal Code, to authorize the Code Enforcement Division to exercise the authority granted to the building official, to clarify the authority of the building official to secure buildings ordered vacated, to clarify the right to appeal orders under this code, and to clarify the City's authority to recover costs of abatements done under this code; and

WHEREAS, this Ordinance amends various tables of contents, the numbering of certain sections, section titles, and substantive provisions in order to correct errors, clarify meaning, and as otherwise required according to the foregoing amendments; and

WHEREAS, all other legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN BERNARDINO, CALIFORNIA DO ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Chapter 2.45 of Title 2 of the San Bernardino Municipal Code is hereby amended to state in full as follows:

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**Chapter 2.45
BUILDING APPEALS BOARD**

Sections:

2.45.010	Members
2.45.020	[Reserved]
2.45.030	Duties
2.45.040	Review of the Board's Decision
2.45.050	Oath of Office
2.45.060	Chair - Meetings
2.45.070	Quorum
2.45.080	Hearing Procedures

2.45.010 Members - Appointment

The Building Appeals Board shall be comprised of the members of the San Bernardino Planning Commission, as defined in Section 2.22.010 of this Code. Members shall be appointed on a basis of knowledge in the applicable building codes, regulations, and ordinances of the City, and must be qualified by training and experience to pass on matters pertaining to building construction.

2.45.020 [Reserved]

2.45.030 Duties

Pursuant to Section 1.8.8 of the California Building Code, the Board shall have the duty to consider appeals of orders, decisions, and determinations of the City of San Bernardino Building Official relating to the building standards of the California Building Standards Code. The Board is authorized to establish policies and procedures necessary to carry out its duties.

2.45.040 Review of the Board's Decision

The decision of the Board may be appealed to the City Council in accordance with Chapter 2.64 of this Code. The City Council's decision on an appeal from the Board's decision is final and binding. Pursuant to Code of Civil Procedure Section 1094.5 and 1094.6, any action to review a decision of the City Council shall be commenced not later than the ninetieth (90th) day after the date the City Council's order is adopted.

2.45.050 Oath of Office

Prior to undertaking his or her duties as a member of the Board, the member shall subscribe and file his or her official oath of office with the City Clerk.

2.45.060 Chair - Meetings

- A. The Chairperson of the Board shall be the Chairperson of the Planning Commission, or his or her designee. The Board shall meet only as required to consider an appeal within its jurisdiction.
- B. The Board shall meet at such times and dates, and in such places, as shall be designated by the Chairperson of the Board.
- C. Meetings of the Board shall be open to the public and shall be governed by the provisions of the Ralph M. Brown Act, Sections 54950.5, et seq., California Government Code, except as otherwise provided by law.
- D. A member shall not hear an appeal in which that member has a personal, professional, or financial interest.

2.45.070 Quorum

Any five members in attendance at any meeting shall constitute a quorum.

2.45.080 Hearing Procedures

- A. The Board shall meet upon notice from the chairperson.
- B. The appellant, the appellant's representative, the Building Official, the Building Official's representative, and any person whose interests are affected shall be given an opportunity to be heard.
- C. The Board shall adopt and make available to the public procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.
- D. A quorum of the Board shall hear an appeal.
- E. The Board may modify or reverse the decision of the Building Official by a concurring vote of a majority of its members. The authority of the Board to render a decision is limited to the scope of authority of the Building Official in the first instance. The Board has no authority to waive a requirement of the California Building Standards Code.
- F. The Board must issue a written decision with findings within a reasonably prompt time after filing of the appeal.

SECTION 3. Subdivision H of Section 8.24.100 of Chapter 8.24 of Title 8 of the San Bernardino Municipal Code is hereby amended to state as follows (omitted provisions not amended represented by ellipses [...]):

“8.24.100 Construction and Demolition Debris Recycling Program

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H. Appeal.

Any appellant aggrieved by the decision of the City Manager relating to a Security Deposit under Section 8.24.100(D) or Section 8.24.100(E) may appeal the decision to the hearing officer in the manner provided in Chapter 9.94 of this Code.

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SECTION 4. Various Sections of Chapter 8.30 of the San Bernardino Municipal Code are hereby amended to state as follows (omitted provisions not amended represented by ellipses [...]):

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Chapter 8.30 PUBLIC NUISANCES

Sections:

8.30.010	Purpose
8.30.015	Definitions
8.30.020	Declaration of nuisances
8.30.021	Summary/Emergency Abatement
8.30.022	Summary/Emergency Abatement Post-Abatement Hearing
8.30.023	Method of giving notice
8.30.025	Determination of nuisance
8.30.026	Additional Requirements for Demolition of Buildings or Structures
8.30.030	Appeal
8.30.035	Time limit for compliance
8.30.040	Abatement by City
8.30.041	Invoice of abatement costs
8.30.042	Recovery of attorneys' fees and report of attorneys' fees
8.30.043	Treble damages
8.30.045	Hearing on nuisance abatement costs
8.30.050	Council action
8.30.055	Imposition of special assessment lien and notice
8.30.056	Recording of nuisance abatement lien
8.30.060	Collection of costs and attorney' s fees prior to hearing
8.30.065	Alternative remedies
8.30.070	Violation - Penalty

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8.30.015 Definitions

For the purpose of this Chapter the following words and phrases shall have the meanings given herein:

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c) “Administrative Hearing Officer” or “Hearing Officer” shall mean any individual appointed by the City Manager of the City of San Bernardino, or his/her designee, to hear the appeal under this Chapter..

...

h) “Code Enforcement Director” shall mean the Chief of Police for the City of San Bernardino, or his or her designee.

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8.30.021 Summary/Emergency Abatement

Notwithstanding any other provision of this Chapter with reference to the abatement of public nuisance, the Code Enforcement Director, Fire Chief, Chief of Police, City Engineer, Director of Public Works, Building Official, or their designees, shall have the authority to immediately cause the abatement of any public nuisance if it is determined that the nuisance presents an immediate threat to public health or safety, or an imminent hazard to real or personal property, in their sole discretion. Any such abatement activity may be conducted without observance of any notice requirements described in this chapter. The City is entitled to recover all abatement costs incurred in the abatement of an imminent threat or hazard as set forth in this chapter.

8.30.022 Summary/Emergency Abatement Post-Abatement Hearing

- A. Within 10 business days, or as soon as reasonably possible under the circumstances, following any summary abatement action by the City to abate an immediate threat to public health or safety, or imminent hazard to real or personal property, the City must provide the owner and any other responsible person with a “Notice of Summary Abatement.”
- B. The Notice of Summary Abatement shall be served in accordance with Section 8.30.023 of this Chapter and contain the following information:
 - 1) A brief description of the condition and reasons why it constituted an imminent threat or hazard;
 - 2) A brief description of the law prohibiting or pertaining to the imminent threat or hazard;
 - 3) A brief description of the actions the City took to abate the imminent threat or hazard; and
 - 4) An itemized invoice identifying all nuisance abatement costs related to the summary abatement. The invoice shall further indicate that any unpaid amounts may become a lien and special assessment against the property.
- C. The City’s determination that a public nuisance constituted an imminent threat or hazard may be appealed as set forth in Section 8.30.030. The invoice of abatement costs may be appealed as set forth in Section 8.30.045. Any party to whom an invoice has been issued shall have 45 calendar days from the date of the invoice to remit full payment of the invoice to the City. If the owner or other responsible person fails to make timely, full payment of the abatement costs within 45 days of issuance of the Notice of Summary Abatement or as ordered by the hearing officer after any appeal, the City may then proceed to collect its abatement costs in any manner allowed by law, including as set forth in Section 8.30.055.

- D. Omission of any of the foregoing provisions in a Notice of Summary Abatement, whether in whole or in part, or the failure of an owner or responsible person to receive this document, does not render it defective or render any proceeding or action pursuant to this chapter invalid.
- E. The decision of the Hearing Officer on the determination of nuisance is final. Any appeal of the Hearing Officer's decision shall be governed by California Code of Civil Procedure Section 1094.6 or such section as may be amended from time to time.

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8.30.026 Additional Requirements for Demolition of Buildings or Structures

- A. Whenever the Code Enforcement Director, or designee, intends to abate a public nuisance by demolition of a building or structure, the City must comply with the following additional requirements:
 - (1) The Notice to Abate must contain a statement that the City intends to abate the nuisance with City personnel or contractors by demolition of a building or structure if the nuisance conditions are not repaired, rehabilitated, removed, terminated, or demolished within the compliance deadline set forth in the Notice to Abate.
 - (2) The City shall serve the Notice to Abate on all secured lienholders of record with the San Bernardino County Recorder's Office;
 - (3) Entry onto any real property to abate a public nuisance by demolition of a building or structure must be pursuant to a warrant or other order issued by a court of competent jurisdiction
- B. The provisions of this section do not apply in cases involving summary or emergency abatement under Section 8.30.021 of this Code.

8.30.030 Appeal

- A. Within ten days from the date of giving notice to abate, the violator may file an appeal to the determination of the nuisance with the City Clerk. Such appeal shall be in writing and shall identify the property subject to the Notice to Abate. The City Clerk shall then cause the matter to be set for hearing before a Hearing Officer contracted by the City to hear such matters.
- B. Notice of the date of hearing shall be given in writing. The date of the hearing shall be no sooner than fifteen days from the date when notice of the hearing is given to the appellant and to the Code Enforcement Division.
- C. At the time fixed in the notice, the Administrative Hearing Officer shall hear the testimony of all competent persons desiring to testify respecting the condition constituting the nuisance.
- D. At the conclusion of the hearing, the Hearing Officer shall determine whether or not a nuisance exists, and if the Hearing Officer so concludes, he may declare the conditions existing to be a nuisance and direct the person owning the property upon which the nuisance exists to abate it within ten days after the date of posting on the premises a notice of the Hearing Officer's order. The Hearing Officer may amend time to abate the nuisance, if in his or her opinion, there exists good cause for the amendment of time to abate. If the City is the

prevailing party, the Hearing Officer's decision shall order the responsible parties to pay the confirmed nuisance abatement costs to the City within 30 calendar days, and shall specify that any confirmed nuisance abatement costs not paid within 30 calendar days shall become a lien and special assessment against the property.

- E. The decision of the Hearing Officer on the determination of nuisance is final. Any appeal of the Hearing Officer's decision shall be governed by California Code of Civil Procedure Section 1094.6 or such section as may be amended from time to time.

8.30.035 Time limit for compliance

The violator must abate the nuisance within the period of time set forth in the Notice to Abate, or, in case of an appeal, within ten days from the finding of the Hearing Officer or such longer period as may be determined by the Administrative Hearing Officer.

Unless an emergency situation exists, the violator shall be given at least ten days to abate the nuisance.

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8.30.041 Invoice of abatement costs

- A. In accordance with this Chapter, the City shall serve upon each responsible party and each interested party an invoice identifying all nuisance abatement costs related to a nuisance abatement action.
- B. Any party to whom an invoice has been issued shall have 45 calendar days from the date of the invoice to remit full payment of the invoice to the City. Payment shall be submitted to the City as specified in the invoice. The invoice shall further indicate that any unpaid amounts may become a lien and special assessment against the property.
- C. The statement shall be accompanied by a notice to the owner that the cost of abatement may be protested as set forth in Section 8.30.045. If the cost is not protested within 15 calendar days after service, it shall be deemed final.

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8.30.045 Hearing on nuisance abatement costs

- A. Any responsible party or interested party to whom an invoice has been issued may, within 15 calendar days from the date of the invoice, request a hearing to protest the cost of abatement by filing a written request for a hearing on the abatement costs with the City Clerk. The request for hearing must contain the following information:
- (1) The requestor's full legal name;
 - (2) The requestor's mailing address and telephone number;
 - (3) The amount of nuisance abatement costs disputed;
 - (4) The specific legal and factual grounds for all disputes of the invoice and nuisance abatement costs.
- B. The failure of any party to properly and timely request a hearing is a waiver of the right to contest the invoice, a waiver of the right to a hearing, a failure to exhaust administrative

remedies, and a bar to any further challenge to the City's invoice and nuisance abatement costs.

- C. If a hearing is timely and properly requested, the City Clerk shall cause a Hearing to be set before the Hearing Officer. The City shall provide notice of the date, time, and location of the hearing to all parties at least 10 calendar days before the hearing. At the time fixed for the hearing, the Hearing Officer shall hold an informal hearing to consider the invoice and protests or objections raised by the requestor.
- D. At the conclusion of the hearing, or within 5 days thereafter, the Hearing Officer shall issue a decision approving, denying, or modifying the amount of the nuisance abatement costs that the City is entitled to recover.
- E. The decision of the Hearing Officer shall be in writing and shall be served by mail. The decision of the Hearing Officer on the abatement costs shall be final. If any cost recovery is upheld, even in part, the City shall be the prevailing party. If cost recovery is entirely denied, the requesting parties shall be the prevailing parties.
- F. Any appeal of the Hearing Officer's decision shall be governed by California Code of Civil Procedure Section 1094. 6 or such section as may be amended from time to time.

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SECTION 5. Various Sections of Chapter 8.36 of Title 8 of the San Bernardino Municipal Code are hereby amended to state as follows (omitted provisions not amended represented by ellipses [...]):

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Chapter 8.36 ABANDONED VEHICLES

Sections:

8.36.010	Findings
8.36.020	Definitions
8.36.030	Applicability
8.36.040	Chapter not exclusive
8.36.050	Administration and enforcement
8.36.060	Rights of franchisee to enter private property
8.36.070	Assessment of administrative costs
8.36.080	Abatement authority
8.36.090	Ten-day notice required
8.36.100	Public hearing
8.36.110	Hearings to be held before hearing officer
8.36.120	[Reserved]
8.36.130	Removal of vehicle to scrapyard
8.36.140	Notice to Department of Motor Vehicles of removed vehicles
8.36.150	Assessment of charges against land
8.36.160	Violation - Penalty

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8.36.090 Ten-day notice required

A ten-day notice of intention to abate and remove the vehicle, or part thereof, as a public nuisance shall be issued. Such ten-day notice of intention to abate shall be mailed by certified mail or registered mail, return receipt requested, to the owner of the land, as shown on the last equalized assessment roll, and to the last registered owner and/or legal owner of record of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. All notices must identify the vehicle. Notices mailed to the owner of land must advise that failure to comply with the notice may result in abatement by the City, and costs being assessed against the property. All notices must advise that an aggrieved party may appeal and describe the procedures for filing an appeal.

8.36.100 Public hearing

- A. The owner of the vehicle or owner of the land that is the subject of a ten-day notice issued under this Chapter may appeal the notice to a hearing officer in the manner provided in Chapter 9.94 of this Code.
- B. The appeal must be filed within 10 days following issuance of the ten-day notice. If such a request for hearing is not received by the City within said ten days after mailing of the notice of intention to abate and remove, the City shall have the authority to abate and remove the vehicle or parts thereof as a public nuisance without holding a public hearing.

8.36.110 Hearings to be held before hearing officer

- A. The hearing officer may impose such conditions and take such other action as the hearing officer deems appropriate under the circumstances to carry out the purpose of this Chapter. The hearing officer may delay the time for removal of the vehicle or part thereof if, in the hearing officer's opinion, the circumstances justify it. At the conclusion of the public hearing, the hearing officer may find that a vehicle or part thereof has been abandoned, wrecked, dismantled, or is inoperative on private or public property, and may order the same removed from the property as a public nuisance and disposed of as hereinafter provided, and may determine the administrative costs and the cost of removal to be charged against the owner of the parcel of land on which the vehicle or part thereof is located. The order requiring removal shall include a description of the vehicle or part thereof and the correct identification number and license number of the vehicle if available at the site.
- B. If it is determined at the hearing that the vehicle was placed on the land without the consent of the land owner and that he has not subsequently acquiesced in its presence, the hearing officer shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such landowner.
- C. The decision of the hearing officer in an appeal under Chapter 9.94 of this Code is final.

8.36.120 [Reserved]

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SECTION 6. Various Sections of Chapter 9.92 of Title 9 of the San Bernardino Municipal Code are hereby amended to state as follows (omitted provisions not amended represented by ellipses [...]):

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**Chapter 9.92
ADMINISTRATIVE CITATION PROCESS**

Sections:

9.92.010	Legislative Findings and Statement of Purpose
9.92.020	Administrative Law Officer
9.92.030	Use of Administrative Citation
9.92.040	Violation; Authority; Fines
9.92.050	Service Procedures
9.92.060	Contents of Citation
9.92.070	Satisfaction of the Administrative Citation
9.92.080	Request for Hearing on an Administrative Citation
9.92.090	Failure to Pay Fines
9.92.100	Publication and Availability of Rules and Regulations
9.92.110	Representation at Hearings
9.92.120	Conduct of Hearings
9.92.130	Orders
9.92.140	Disposition of Fines
9.92.150	Punishment of Violations by Imprisonment
9.92.160	Administrative Adjudication Procedures Not Exclusive
9.92.170	Applicability of Administrative Adjudication Procedures
9.92.180	Right to Judicial Review
9.92.190	Severability

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9.92.090 Failure to Pay Fines

- A. Any person who fails to pay to the City any fine imposed pursuant to the provisions of this Chapter on or before the date that fine is due is liable for the payment of any applicable interest charges.
- B. The delinquent obligation shall bear interest at a rate of 10 percent per year. Interest shall be calculated on a prorated monthly basis from the date such obligation becomes delinquent to the date it is paid.
- C. The City may collect any delinquent administrative citation fines or interest charges by use of all available legal means, including personal collection from the responsible parties.
- D. The City also may recover all costs, expenses, and fees, including attorneys' fees, associated with the assessment, enforcement, processing, and collection of the fines associated with the administrative citation in accordance with the provisions of this Code.

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9.92.170 Applicability of Administrative Adjudication Procedures

- A. Notwithstanding any other provision of the ordinances of the City or this Code, all provisions of this Code or ordinances, may be enforced by instituting an administrative adjudication hearing with the Administrative Law Officer as provided in this article.
- B. Notwithstanding any other provision of the ordinances of the City or this Code, any enforcement action, including but not limited to license or permit suspension or revocation, which may be exercised by another department of the City may also be exercised by the Administrative Law Officer as provided in this article.

9.92.180 Right to Judicial Review

Any decision of the Administrative Law Officer is final, subject to judicial review. Within 20 days after service of the decision of the Administrative Law Officer upon the party to the administrative adjudication hearing, that person may seek judicial review of the decision by filing an appeal with the Superior Court of the State of California, in the County of San Bernardino, in accordance with California Government Code section 53069.4. The appealing party must serve upon the City Clerk, either in person or by first-class mail, a copy of the notice of appeal. If the appealing party fails to timely file a notice of appeal, the hearing officer's decision is deemed confirmed."

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SECTION 7. Chapter 9.94 of Title 9 of the San Bernardino Municipal Code is hereby added to state in full as follows:

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Chapter 9.94
ADMINISTRATIVE HEARINGS AND APPEALS

Sections:

9.94.010	Definitions
9.94.020	Purpose and Intent
9.94.030	Scope
9.94.040	Hearing Officer—Selection and Qualifications
9.94.050	Powers and Duties of Hearing Officer
9.94.060	Right to Appeal; Consequence of an Untimely or Incomplete Appeal
9.94.070	Administrative Hearings—Notice Procedures
9.94.080	Administrative Hearings—Conduct of Hearing
9.94.090	Decision of the Hearing Officer
9.94.100	Methods of Service
9.94.110	Costs
9.94.120	Judicial Review
9.94.130	Limitation on Jurisdiction
9.94.140	Severability

9.94.010 Definitions

The following definitions apply in the interpretation and enforcement of this Chapter.

- A. “Action” means an act or decision by an administrative officer or administrative agency for which a right to appeal under the provisions of this Chapter is granted in this Code.
- B. “Administrative agency” means an organ of the city government other than the City Council which under the direction of the City Manager has responsibility for carrying out or enforcing the rules, regulations, and ordinances of the city, but not including boards and commissions of the city.
- C. “Administrative officer” means an officer of the city who is not a member of the legislative body or appointed boards or commissions. Such officers include but are not limited to the City Manager, chief of police, fire chief, director of planning and building, director of transportation, director of public works, or similar officer.
- D. “Aggrieved person” means any person whose personal, pecuniary or property right or interest is directly and adversely affected, or upon whom a substantial burden or obligation is imposed by the action or decision appealed from.
- E. “Appellant” means any aggrieved person who files an appeal.
- F. “Code” means the San Bernardino Municipal Code.
- G. “Hearing officer” means any person duly qualified and authorized by this Chapter to hear and review appeals under this Chapter.
- H. “Respondent” means the administrative officer or agency which took the action appealed from, and any other administrative officer or agency named as respondent in an appeal.

9.94.020 Purpose

It is the purpose and intent of the City Council to afford due process of law to any person who is directly affected by an action or decision of an administrative agency or officer. These procedures are also intended to establish a forum to efficiently and fairly resolve administrative appeals.

9.94.030 Scope

The hearing officer hears appeals from actions taken by an administrative officer or administrative agency when a right to appeal under the provisions of this Chapter is granted in this Code. Except where this Code prescribes another procedure, the rules and procedures pertaining to appeals are as stated herein. The rules and procedures pertaining to appeals under this Chapter may be supplemented or modified as stated in the chapter that grants a right to appeal under these provisions. The hearing officer has no authority to hear appeals of any action taken by the City Council or any other board or commission of the City.

9.94.040 Hearing Officer—Selection and Qualifications

- A. The City Manager must establish procedures for the selection of a qualified person to serve as hearing officer for each matter appealed under this Chapter. Hearing officers must be selected in a manner that avoids the potential for pecuniary or other bias.
- B. For purposes of this section, “qualified person” includes an individual with a background in the practice of law or with a background in local governance, that is particularly experienced or knowledgeable about the subject matter at issue, or that is otherwise deemed qualified by the City Manager.

9.94.050 Powers and Duties of Hearing Officer

- A. As provided by Section 9.94.030, the hearing officer hears all appeals in accordance with the procedures contained in this Chapter or as supplemented or modified in the chapter granting a right to appeal hereunder.
- B. The hearing officer is authorized to issue decisions and take all actions necessary and proper to carry out the functions of the hearing officer in this Chapter, including:
 - (1) Hold conferences for settlement or simplification of the issues;
 - (2) Administer oaths and affirmations;
 - (3) Hear testimony;
 - (4) Rule upon motions, objections, and the admissibility of evidence;
 - (5) Preserve and authenticate the record of the hearing and all exhibits and evidence introduced at the hearing;
 - (6) Regulate the course of the hearing in accordance with this Chapter or other applicable law; and
 - (7) Issue a final order which includes findings of fact and conclusions of law.
- C. The hearing officer may request information, services, facilities, or any other assistance for the purpose of furthering the objectives of this Chapter.
- D. At the hearing, the hearing officer must hear and consider the testimony of the appellant, respondent, and their witnesses, as well as any documentary evidence presented by these persons.
- E. The hearing officer must ensure that parties receive a fair hearing and are afforded due process in accordance with the applicable State and federal law governing such hearings.

9.94.060 Right to Appeal; Consequence of an Untimely or Incomplete Appeal

Except where this Code prescribes another procedure, the following hearing request procedures apply to appeals under this Chapter.

- A. Any aggrieved person may contest an action taken by an administrative officer of the City, as provided in Section 9.94.030, by filing a written notice of appeal with the City Clerk within 15 calendar days. No fee shall be due for the filing of an appeal. The notice of appeal must also include payment to the City Clerk of the appeal fee, as established or amended from time to time by resolution of the City Council.
- B. The notice required by Subsection (A) must be filed no later than 15 days following the date of mailing to appellant of notice of the action from which the appeal is taken or, if there is no such mailing or none is required, no later than 15 days following the date of the action that is the subject of the appeal.
- C. A written notice of appeal must contain the following information:
 - (1) The full name, mailing address, e-mail address, and telephone number of each appellant who is appealing the action;
 - (2) A description of the specific action or decision being appealed, including the date of the action;
 - (3) The grounds for appeal in sufficient detail to enable the hearing officer to understand the nature of the controversy; and
 - (4) The signature of an appellant.
- D. If the City Clerk does not receive a timely notice of appeal, if the notice of appeal is incomplete, or if the notice of appeal does not comply with all of the requirements set forth in this section, the right to appeal the action is waived. In this event, the action is final and binding. A failure to file a timely or proper notice of appeal also constitutes a failure to exhaust administrative remedies.

9.94.070 Administrative Hearings—Notice Procedures

Except where this Code prescribes another procedure, the following hearing notice procedures apply to appeals under this Chapter:

- A. No hearing before a hearing officer under this Chapter may be scheduled or held unless a timely and proper notice of appeal has been submitted to the City Clerk as set forth in Section 9.94.060.
- B. The City Clerk must schedule the hearing no sooner than 15 days and no later than 60 days from receipt of the notice of appeal, unless the parties waive such time limits. The failure to hold the hearing within this time period does not invalidate any action of the hearing officer.

- C. The City Clerk must provide a copy of the appeal to the respondent within five days after filing.
- D. The City Clerk must notify the appellant, respondent, and City Attorney in writing of the date, time, and location of the hearing at least 15 days before the date of the hearing.
- E. Failure to receive notice of the time and place of the hearing shall not dismiss any violation at issue or invalidate any action of the hearing officer, if the notice was given in the manner stated in Subsection (D) of this Section.
- F. The notice of hearing may be served by any of the methods of service listed in Section 9.94.100 of this Chapter.
- G. Unless the notice of appeal names some other respondent, the administrative officer or administrative agency that took the action or made the decision being appealed is designated the “respondent.”

9.94.080 Administrative Hearings—Conduct of Hearing

- A. **Participation.** The hearing officer must be present at all times to preside over the hearing. All hearings are open to the public. The respondent, or another City representative, is required to participate in the hearing. The appellant is required to participate in the hearing.
- B. **Evidence, Witnesses, and Discovery.** All parties have the right to present evidence and cross-examine witnesses. The formal rules of evidence and discovery do not apply. The rules of privilege are effective to the same extent that they are now or hereafter may be recognized in civil actions. Irrelevant and unduly repetitious evidence may be excluded. Oral evidence may be taken only on oath or affirmation. The appellant and respondent may represent themselves or be represented by anyone of their choice.
- C. **Cross-Examination.** No party shall have the right to cross-examine any other party or witness except for good cause shown to the satisfaction of the hearing officer. Each party may cross-examine witnesses.
- D. **Interpretation and Recordation.** The appellant may bring an interpreter to the hearing at his or her sole expense. The City may, at its discretion, record the hearing by stenographer, court reporter, audio recording, or video recording.
- E. **Subpoenas.** In any hearing conducted by the hearing officer, he or she has the power to compel the attendance of witnesses for the production of evidence by subpoenas issued under the authority of the City Council and attested by the City Clerk. Subpoenas may also be issued at the request of the parties prior to the commencement of such hearing. No subpoena may be issued for any reason without the concurrence of the City Attorney that there is good cause for such subpoena to be issued, and such subpoena is approved by the City Council. It is the duty of the Chief of Police to cause all such subpoenas to be served, and the refusal of a person to attend or to testify in answer to such a subpoena subjects the person to prosecution in the same manner set forth by law for failure to appear before the City Council in response to a subpoena issued by the City Council.

- F. **Proof.** The standard of proof applicable to the hearing and to be used by the hearing officer in deciding the issue on appeal is proof by a preponderance of the evidence. The respondent bears the burden of proof at the hearing. The hearing officer determines relevancy, weight, and credibility of testimony and evidence.
- G. **Continuances.** The hearing officer, before or during a hearing, may grant a request for a continuance, in his or her discretion, for good cause; however, in no event may the hearing be continued for more than 30 calendar days without stipulation by all parties.
- H. **Failure of Appellant to Appear.** If the appellant fails to appear at the hearing, the hearing officer may cancel the hearing and send a notice thereof to the appellant to the address stated on the appeal form. A cancellation of a hearing due to non-appearance of the appellant waives the right to appeal and is failure to exhaust all administrative remedies, provided that proper notice of the hearing as required by this Chapter has been provided. In such instances, the action is final and binding.

9.94.090 Decision of the Hearing Officer

- A. The hearing officer must render his or her decision in accordance with the provisions of this Chapter, applicable law, and all ordinances of this City.
- B. The hearing officer's decision must be in writing and must set forth the hearing officer's findings of fact and conclusions of law.
- C. The hearing officer must render a decision within 15 days following the conclusion of the hearing. Failure of the hearing officer to render a decision within this time period does not invalidate any action of the hearing officer.
- D. The hearing officer's decision must be served on all parties in accordance with Section 9.94.100. Failure of a person to receive a properly-served decision does not affect the finality or effectiveness of the decision.
- E. The hearing officer's decision is the final administrative decision of the City regarding the action that is the subject of the appeal. The hearing officer's decision is effective on the date of service of the decision. The decision must contain the following statement: "The decision of the hearing officer is final and binding. Judicial review of this decision is subject to the provisions and time limits set forth in California Code of Civil Procedure section 1094.6 et seq."

9.94.100 Methods of Service

- A. Except where this Code prescribes another procedure, any notice or document required to be served under this Chapter must be served by personal service or first-class mail.
- B. Service is deemed effective on the date it is personally delivered or mailed.

- C. Failure of any person to receive a document properly served under this Chapter does not affect the validity of the notice or document, service, or any action or proceeding under this Chapter.

9.94.110 Costs

Nothing herein limits the City's ability to seek recovery of its costs or fees incurred in connection with the hearing if authorized by law. The City shall keep an accounting of the hearing costs. If any portion of the action is upheld, even in part, the City is the prevailing party.

9.94.120 Judicial Review

The decision of the hearing officer is not subject to appeal to the City Council or any board or commission of the City. Once the hearing officer's decision becomes final as provided in this Chapter, the appellant must both bring judicial action to contest such decision and provide the City with a notice of the action within 90 days after the date of such decision of the hearing officer, in accordance with the Code of Civil Procedure section 1094.6. Failure to do so means all objections to the hearing officer's decision are waived.

9.94.130 Limitation on Jurisdiction

The hearing officer shall not consider appeals of orders, decisions, and determinations of the City of San Bernardino Building Official relating to the building standards of the California Building Standards Code, which must be considered by the Building Appeals Board pursuant to Section 2.45.030 of this Code.

9.94.140 Severability

The provisions of this Chapter are severable, and, if any sentence, section or other part of this Chapter should be found to be invalid, such invalidity shall not affect the remaining provisions, and the remaining provisions shall continue in full force and effect."

SECTION 8. Various Sections of Chapter 15.04 of Title 15 of the San Bernardino Municipal Code are hereby amended to state as follows (omitted provisions not amended represented by ellipses [...]):

“

**Chapter 15.04
BUILDING CODES**

Sections:

15.04.010	Citation
15.04.020	Adoption of Codes by Reference
15.04.030	Applicability
15.04.040	Definitions
15.04.050	CBC Chapter 1, Section 105.5.1 is added - Prima Facie Evidence of Abandoned Work

15.04.060	CBC Chapter 1, Section 112.1.1 is added- Board of Appeals Designated
15.04.070	CBC Chapter 1, Section 105.2, Item 2 is Amended Fences Not Requiring a Building Permit
15.04.080	[Reserved]
15.04.090	CBC Section 2204.1.1 is added- Qualification of Welding Operators.
15.04.100	CBC Section 3109.1.1 is added- Barriers for Swimming Pools
15.04.110	CBC Appendix J, Section J101 .3 is added - Alquist-Priolo Earthquake Fault Zones
15.04.120	CBC Appendix J, Section J101 .4 is added - Enforcement Authority
15.04.130	On-site Improvement Permit
15.04.140	Preparation of Grading Plans
15.04.150	On-Site Improvement Plans and Specifications
15.04.160	Information on On-Site Improvement Plans
15.04.170	On-site Improvement Plan Review and Permit Fees
15.04.180	Inspection of On-Site Improvements
15.04.190	Bonds Required
15.04.200	CBC Appendix J, Section J110.1 is added- Planting of Slopes
15.04.210	CBC Appendix J, Section J112 is added- Grading Operations
15.04.220	CBC Appendix J, Section J110.3 is added- Final Repots
15.04.230	Driveway Configurations
15.04.240	Location of Slopes
15.04.250	Automatic Fire Sprinkler Systems- Residential Additions
15.04.260	Stop Work Order

...

15.04.020 Adoption of Codes by Reference

A. Adoption of the California Building Standards Code by Reference

Those certain rules and regulations as set forth in the following codes are hereby adopted and by this reference are made a part of this Code with the force and effect as though set out herein in full, with the exception of those parts expressly excepted and deleted or as amended by this Code, as the regulations governing the erection, construction, alteration, change of occupancy, repair, removal, and maintenance of all buildings and other structures in the City:

1. The 2016 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, incorporating those state adopted model codes listed pursuant to Health and Safety Code Section 17922, and all state adopted amendments thereon, and incorporating:
 - A. California Building Code (CBC), 2016 edition, and Appendix J thereto;
 - B. California Electrical Code (CEC), 2016 edition;
 - C. California Mechanical Code (CMC), 2016 edition;

- D. California Plumbing Code (CPC), 2016 edition;
- E. California Green Building Standards Code (CGBSC), 2016 edition; and
- F. California Residential Code (CRC), 2016 edition;
- G. California Energy Code, 2016 edition;
- H. California Historical Building Code, 2016 edition;
- I. California Fire Code, 2016 edition;
- J. California Existing Building Code, 2016 edition.

B. Adoption of Other Codes by Reference

In addition to the California Building Standards Codes, those certain rules and regulations, as set forth in the following codes, and appendices are hereby adopted by reference and shall regulate the erection, construction, change of occupancy, alteration, repair, removal and maintenance of all buildings and other structures in the City:

1. Uniform Code for the Abatement of Dangerous Buildings (UCADB), 1997 edition;
2. International Property Maintenance Code (IPMC), 2015 edition

- C. Copies of all Codes listed above shall be on file in the Community Development Department Office for inspection and reference and copies of each code shall be furnished to the Building Official and each deputy.

15.04.030 Applicability

It shall be unlawful to erect, construct, change the occupancy, alter, repair, rehabilitate, remove, move or maintain any building or structure, or grade or alter any land, in the City in violation of, or without complying with the appropriate provisions of this Chapter.

The California Building Standards Code shall govern and prevail in the event of any inconsistency or conflict between the building standards within the California Building Standards Code, as adopted and amended by the City, and the building standards in any other code.

...

15.04.050 CBC Chapter 1, Section 105.5.1 is added - Prima Facie Evidence of Abandoned Work

Section 105.5.1 Prima Facie Evidence of Abandoned Work

Failure on the part of the permittee to obtain an inspection and to demonstrate substantial progress to the satisfaction of the Building Official within any 365 day period shall be prima facie evidence that the work has been abandoned and the permit shall have expired.

15.04.060 CBC Chapter 1, Section 113.1.1 is added Board of Appeals Designated

Section 113.1.1 Board of Appeals Designated

1. In order to hear and decide appeals of orders, decisions, or determinations made by the Building Official relative to the application and interpretation of the building standards of this code, the Building Appeals Board of the City of San Bernardino, established under Chapter 2.45 of this Code, shall serve as the Board of Appeals. The Building Appeals Board has such duties as are delegated to it by the California Building Standards Code and Chapter 2.45 of the San Bernardino Municipal Code.

15.04.070 CBC Chapter 1, Section 105.2, Item 2 is Amended - Fences Not Requiring a Building Permit

2. Fences not over 6 feet high, except concrete and masonry fences greater than three (3) feet above grade. Masonry fences shall be constructed in accordance with the standard design specifications approved by the Building Official, unless an alternate engineered design is submitted and approved. Exemption from the permit requirements shall not be deemed as a waiver of the design requirements contained in the San Bernardino Development Code as it relates to the use or configuration of materials, or to the height of fences in front, side or rear yards.

15.04.080 [Reserved]

...

15.04.120 CBC Appendix J, Section J101.4 is added - Enforcement Authority

J101.4 Enforcement Authority. The Building Official of the City of San Bernardino or his/ her designee shall have the authority for the enforcement of CBC Appendix J and any amendments thereto.

...”

SECTION 9. Chapter 15.05 of Title 15 of the San Bernardino Municipal Code is hereby amended to state in full as follows:

“

**Chapter 15.05
PROPERTY MAINTENANCE CODE**

Sections:

15.05.010 Citation of Sections

15.05.020	Section 102.3 amended
15.05.030	Section 103.1 amended
15.05.040	Section 104.3 amended
15.05.050	Section 106.4 amended
15.05.060	Section 107.1 amended
15.05.070	Section 111 amended
15.05.080	Section 112.4 amended
15.05.090	Section 201.3 amended
15.05.100	Section 302.4 amended
15.05.110	Section 302.9 amended
15.05.120	Section 304.3 amended
15.05.130	Section 304.14 amended
15.05.140	Section 304.18 amended
15.05.150	Section 307 amended
15.05.160	Section 401.3 amended
15.05.170	Section 502.5 amended
15.05.180	Section 505.1 amended
15.05.190	Section 602.2 amended
15.05.200	Section 602.3 amended
15.05.210	Section 602.4 amended
15.05.220	Section 604.2 amended
15.05.230	Section 604.3.1.1 amended
15.05.240	Section 604.3.2.1 amended
15.05.250	Section 702.1 amended
15.05.260	Section 702.2 amended
15.05.270	Section 702.3 amended
15.05.280	Section 704.1 amended
15.05.290	Section 704.2 amended

15.05.010 Citation of Sections

The provisions of this chapter amend the International Property Maintenance Code, 2015 Edition, published by the International Code Conference, as adopted by reference by the City in Chapter 15.04 of this Code.

15.05.020 Section 102.3 amended

International Property Maintenance Code Section 102.3 is amended to read as follows:

102.3 "Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the California Administrative Code, California Building Code, California Energy Code, California Historical Building Code, California Existing Building Code, California Fire Code, California Plumbing Code, California Mechanical Code, and California Electrical Code. Nothing in this code shall be construed to cancel, modify or set aside any provision of the San Bernardino Municipal Code."

15.05.030 Section 103.1 amended

International Property Maintenance Code Section 103. 1 is amended to read as follows:

103.1 "The Chief of Police or the Director of Community Development or their authorized representatives shall be known as the code official as referenced in the International Property Maintenance Code."

15.05.040 Section 104.3 amended

International Property Maintenance Code Section 104.3 is amended to add the following phrase to the end of the last sentence: "including the warrant provisions of Section 1822.50 et seq. of the Code of Civil Procedure of the State of California."

15.05.050 Section 106.4 amended

International Property Maintenance Code Section 106.4 is amended to read as follows:

106.4 "Violation penalties. Any person violating any of the provisions of this title, including, but not limited to, adopted model codes, as amended in this title, shall be subject to the penalty provisions of Chapters 1.12, 9.92 and 9.93 of the San Bernardino Municipal Code."

15.05.060 Section 107.1 amended

International Property Maintenance Code Section 107.1 is amended to read as follows:

107.1 "Notice to Person Responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sections 107.2 and 107.3, or in the manner provided by San Bernardino Municipal Code Section 9.92.050, to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 108.3."

15.05.070 Section 111 amended

International Property Maintenance Code Section 111 and subsections are amended to read as follows:

111 "A party aggrieved by a notice or order issued under this code may appeal in the manner set forth in Chapter 9.94 of the San Bernardino Municipal Code."

15.05.080 Section 112.4 amended

International Property Maintenance Code Section 112.4, Failure to comply, is amended to read as follows:

112.4 Failure to Comply "Any person, firm or corporation who continues work on a building or structure after a stop work order has been issued by any of the employees listed in [SBMC] 9.90.010 A(2, 3, 4, 5, 6 or 8) shall be guilty of a misdemeanor, except such work as that person is

directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00) for each day of the violation. Each day during any part of which the activity prohibited by subdivision 112. 1 of this section continues shall be a distinct and separate offense."

15.05.090 Section 201.3 amended

International Property Maintenance Code Section 201.3 is amended to read as follows:

201.3 Definitions. "Where terms are not defined in this code and are defined in the California Administrative Code, California Building Code, California Residential Code, California Green Building Standards Code, California Energy Code, California Historical Building Code, California Existing Building Code, California Fire Code, California Plumbing Code, California Mechanical Code, or California Electrical Code, or any code adopted by reference under Chapter 15 of the San Bernardino Municipal Code, such terms shall have the meanings ascribed to them as stated in those codes."

15.05.100 Section 302.4 amended

International Property Maintenance Code Section 302.4, paragraph number one, is amended to read as follows:

302.4 Weeds "Weed and rubbish abatement shall be as set forth in the San Bernardino Municipal Code, Chapter 8.30, Abatement of Public Nuisances."

15.05.110 Section 302.9 amended

International Property Maintenance Code Section 302.9, defacement of property, is deleted.

15.05.120 Section 304.3 amended

International Property Maintenance Code Section 304.3 is amended to read as follows:

304.3 Premises Identification "Premises identification shall be as set forth in the San Bernardino Municipal Code sections 12.32.030 and/or 15.16.126."

15.05.130 Section 304.14 amended

International Property Maintenance Code Section 304.14 is deleted.

15.05.140 Section 304.18 amended

International Property Maintenance Code Section 304.18 is deleted.

15.05.150 Section 307 amended

International Property Maintenance Code Section 307, Handrails and guardrails, is amended to read as follows:

307 Handrails and Guardrails "Every exterior and interior flight of stairs shall have a handrail and guard per the requirements of the adopting code at the time the building was permitted. Handrails and guardrails shall be maintained in a safe and useful condition."

15.05.160 Section 401.3 amended

International Property Maintenance Code Section 401. 3 is amended to read as follows:

401.3 Alternative Devices "In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the California Building Code or California Residential Code shall be permitted."

15.05.170 Section 502.5 amended

International Property Maintenance Code Section 502.5, Public toilet facilities, is amended to read as follows:

502.5 Public Toilet Facilities "Public toilet facilities shall be maintained in a safe sanitary and working condition in accordance with the California Plumbing Code. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during occupancy of the premises."

15.05.180 Section 505.1 amended

International Property Maintenance Code Section 505. 1, Plumbing Fixture Connections, is amended to read as follows:

505.1 Plumbing Fixture Connections "General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the California Plumbing Code."

15.05.190 Section 602.2 amended

International Property Maintenance Code Section 602.2, Heating Facilities, is amended to read as follows:

602.2 Heating Facilities "Residential occupancies. Interior spaces intended for human occupancy shall be provided with permanently-installed heating facilities capable of maintaining a room temperature of 68 degrees F (20 C) in all habitable rooms."

15.05.200 Section 602.3 amended

International Property Maintenance Code Section 602. 3, Heat supply, Exceptions #1 and #2 are deleted.

15.05.210 Section 602.4 amended

International Property Maintenance Code Section 602.4, Occupiable work spaces, is deleted.

15.05.220 Section 604.2 amended

International Property Maintenance Code Section 604.2, Service, is amended to read as follows:

604.2 "Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the California Electrical Code. Dwelling units shall be served by a three- wire, 120/ 240 volt, single-phase electrical service having a rating of not less than 60 amperes."

15.05.230 Section 604.3.1.1 amended

International Property Maintenance Code Section 604.3.1.1, Electrical equipment, is amended to read as follows:

604.3.1.1 Electrical Equipment "Electrical equipment. Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, arc fault circuit interruptors, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors and electronic control, signaling and communication equipment that have been exposed to water shall be replaced in accordance with the provisions of the California Electrical Code. The exception provisions of section 604.3.1.1 of the IPMC are hereby deleted."

15.05.240 Section 604.3.2.1 amended

International Property Maintenance Code Section 604.3.2.1, Electrical equipment, is amended to read as follows:

604.3.2.1 Electrical Equipment "Electrical switches, receptacles and fixtures, including furnace, waterheating, security system and power distribution circuits, that have been exposed to fire, shall be replaced in accordance with the provisions of the California Building Code, or California Electrical Code."

The exception provisions of section 604.3.2.1 of the IPMC are hereby deleted.

15.05.250 Section 702.1 amended

International Property Maintenance Code Section 702.1, General, is amended to read as follows:

702.1 General "General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall

comply with the California Fire Code, California Residential Code, or the California Building Code, whichever is more restrictive."

15.05.260 Section 702.2 amended

International Property Maintenance Code Section 702.2, Aisles, is amended to read as follows:

702.2 Aisles "Aisles. The required width of aisles in accordance with the California Fire Code, California Residential Code, California Building Code, or Civil Code 304.18, whichever is more restrictive, shall be unobstructed."

15.05.270 Section 702.3 amended

International Property Maintenance Code Section 702.3, Locked doors, is amended to read as follows:

702.3 Locked Doors "Locked Doors. All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the California Fire Code, California Building Code, or California Residential Code, whichever is more restrictive."

15.05.280 Section 704.1 amended

International Property Maintenance Code Section 704.1, General, is amended to read as follows:

704.1 Fire Protection Systems "General. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the California Fire Code."

15.05.290 Section 704.2 amended

International Property Maintenance Code Section 704.2, Smoke alarms, is amended to read as follows:

704.2 Smoke Alarms "Smoke alarms. Smoke alarms shall be installed and maintained in accordance with the California Fire Code, California Residential Code, or the California Building Code, whichever is more restrictive.""

SECTION 10. Section 15.20.090 of Chapter 20 of Title 15 of the San Bernardino Municipal Code is hereby amended to state as follows (omitted provisions not amended represented by ellipses [...]):

" ...

15.20.090 Hearings

Any person aggrieved by the revocation of any certificate of occupancy by the Building Official may appeal that decision in the manner set forth in Chapter 9.94 of this Code, as such revocation is an administrative enforcement action. Any person aggrieved by the denial of a certificate of occupancy may appeal that decision in the manner set forth in Chapter 2.45 of this Code, as such denial is an order, decision, or determination of the Building Official relating to the building standards of the California Building Standards Code.

...

SECTION 11. Various Sections of Chapter 15.28 of Title 15 of the San Bernardino Municipal Code are hereby amended to state as follows (omitted provisions not amended represented by ellipses [...]):

“

**Chapter 15.28
DANGEROUS BUILDINGS**

Sections:

15.28.010	Referenced Code
15.28.020	Uniform Code for the Abatement of Dangerous Buildings - Amended
15.28.030	[Reserved]
15.28.040	[Reserved]
15.28.050	[Reserved]
15.28.060	[Reserved]
15.28.070	[Reserved]
15.28.080	[Reserved]
15.28.090	[Reserved]
15.28.100	[Reserved]
15.28.110	[Reserved]
15.28.120	[Reserved]
15.28.130	[Reserved]
15.28.140	Securing dangerous buildings from entry
15.28.150	Recovery of costs of abatement of nuisance
15.28.160	Discontinuance of utilities
15.28.170	Filing of notice of pendency of administrative proceedings
15.28.180	[Reserved]
15.28.190	Post-disaster Safety Assessment Placards
15.28.200	Section 103 amended
15.28.210	Section 205 amended
15.28.220	Section 301 amended

...

15.28.020 Uniform Code for the Abatement of Dangerous Buildings - Amended

Chapters 5, 6, and 9 of the Uniform Code for the Abatement of Dangerous Buildings are hereby deleted.

Procedures for appeals, hearings, enforcement of orders, and abatements related to the administrative enforcement procedures in the UCADB shall be in accordance with Chapter 8.30 of the San Bernardino Municipal Code. Except for vacation orders made under Section 404 of the UCADB, enforcement of any notice and order of the building official is stayed during the pendency of an appeal therefrom that is properly and timely filed.

...

15.28.140 Securing dangerous buildings from entry

- A. The building official is authorized to secure from entry any structure that is ordered vacated in accordance with Chapter 4 of the Uniform Code for the Abatement of Dangerous Buildings and where the building official determines, in his or her sole discretion, that securing the structure is necessary to enforce the order to vacate. The enforcement official may secure such structures using any method deemed appropriate under the circumstances in his or her discretion.
- B. It is unlawful to remove a notice to vacate posted in accordance with Chapter 4 of the Uniform Code for the Abatement of Dangerous. Any person who removes a notice to vacate without the express written consent of the City of San Bernardino Building Official is guilty of a misdemeanor, which upon conviction thereof is punishable in accordance with the provisions of Section 1.12.010 of the San Bernardino Municipal Code.
- C. The building official's decision to secure a structure may be appealed in the same manner as the issuance of the underling notice to vacate and as provided in Section 15.28.020.

15.28.150 Recovery of costs of abatement of nuisance

Any costs incurred by the City in connection with the enforcement of the Uniform Code for the Abatement of Dangerous Buildings may be collected by the City according to the procedures specified in Chapter 8.30 of the San Bernardino Municipal Code.

...

15.28.170 Filing of notice of pendency of administrative proceedings

At any time after the Building Official has initiated action to locate and serve the owners with the notice and order referred to in Section 401 of the Uniform Code for the Abatement of Dangerous Buildings, the Building Official or the City Engineer may file with the county recorder a notice of pendency of administrative proceedings which shall constitute notice to any subsequent owner, purchaser, encumbrancer of the property described therein or involved in the proceedings, beneficiary of a trust deed, lienholder, mortgagee, or any other person holding or claiming any interest of any kind in the property described therein who shall be bound by the

administrative proceedings, including liability for all amounts and costs and expenses assessed against the property as a lien for abatement in the same manner as if he had been the owner at the time of commencement of the proceedings and had been properly served at that time.

...

15.28.200 Section 103 amended

Section 301 of the Uniform Code for the Abatement of Dangerous Buildings is amended to read as follows:

"All buildings or structures which are required to be repaired under the provisions of this code shall be subject to the provisions of the California Building Standards Code promulgated by the California Building Standards Commission in Title 24 of the California Code of Regulations, as adopted and amended by the City of San Bernardino."

15.28.210 Section 205 amended

Section 205 of the Uniform Code for the Abatement of Dangerous Buildings is amended by deleting the section.

15.28.220 Section 205 amended

Section 301 of the Uniform Code for the Abatement of Dangerous Buildings is amended to read as follows:

"For the purpose of this code, certain terms, phrases, words, and their derivatives shall be construed as specified in either this chapter or as specified in the International Building Code. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Words used in the singular include the plural and plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

BUILDING CODE is the California Building Code, as adopted and amended by the City of San Bernardino.

DANGEROUS BUILDING is any building or structure deemed to be dangerous under the provisions of Section 302 of this code.""

SECTION 12. All existing provisions of the San Bernardino Municipal Code that are repeated herein are repeated only to aid decision-makers and the public in understanding the effect of the proposed changes. Restatement of existing provisions does not constitute a new enactment.

SECTION 13. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION 14. The City Council finds this Ordinance is not subject to the California Environmental Quality Act (CEQA) in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty, as in this case, that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 15. Effective Date. This Ordinance shall become effective thirty (30) days after the date of its adoption.

SECTION 16. Notice of Adoption. The City Clerk of the City of San Bernardino shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated in the City in a manner permitted under section 36933 of the Government Code of the State of California.

APPROVED and **ADOPTED** by the City Council and signed by the Mayor and attested by the City Clerk this ____ day of _____, 20____.

John Valdivia, Mayor
City of San Bernardino

Attest:

Georgeann Hanna, MMC, City Clerk

Approved as to form:

Gary D. Saenz, City Attorney

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss
CITY OF SAN BERNARDINO)

I, Georgeann Hanna, MMC, City Clerk, hereby certify that the attached is a true copy of Ordinance No. MC-1521 introduced by the Mayor and City Council of the City of San Bernardino, California, at a regular meeting held the 4th day of September, 2019. Ordinance No. MC-1521 was approved, passed and adopted at a regular meeting held the 18th day of September, 2019 by the following vote:

<u>Council Members:</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
SANCHEZ	_____	_____	_____	_____
IBARRA	_____	_____	_____	_____
FIGUEROA	_____	_____	_____	_____
SHORETT	_____	_____	_____	_____
NICKEL	_____	_____	_____	_____
RICHARD	_____	_____	_____	_____
MULVIHILL	_____	_____	_____	_____

WITNESS my hand and official seal of the City of San Bernardino this _____day of _____, 20____.

Georgeann Hanna, MMC, City Clerk