

ORDINANCE NO. 9665 (NEW SERIES)

AN ORDINANCE ADDING SECTION 68.318 AND AMENDING SECTIONS
68.311, 69.102, 69.102.1 AND 69.102.2 OF THE SAN DIEGO COUNTY CODE
OF REGULATORY ORDINANCES
RELATING TO SEPTIC TANKS AND SEEPAGE PITS,
AND CONDEMNATION OF BUILDINGS

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

Section 1. The Board of Supervisors finds and determines that amendments to code sections related to wastewater facilities are needed to clarify and enhance the tools available to the County to protect public health when an onsite wastewater treatment system fails. Section 68.311 currently provides that it is a violation of law to allow sewage from an onsite wastewater treatment system to reach the ground surface. Revisions to this section will clarify that where sewage can be kept underground only by frequent pumping and hauling of a tank or seepage pit, the system is “defective” for purposes of condemnation, and must be promptly repaired or replaced by connection to a public sewer system. Current section 68.312 and 68.313 define conditions under which new and existing buildings must connect to a public sewer rather than rely on an onsite treatment system. New section 68.312.1 will define conditions under which the owner of a failed onsite system must connect to a public sewer. Amendments to sections 69.102 through 69.102.1 would improve the placarding and notice system when premises are condemned as unsanitary or defective, to ensure effective notice to occupants concerning health hazards and the applicable legal process. Finally, section 69.102.2 would state that it is misdemeanor to occupy premises that have been condemned as unsanitary or defective. Taken together, these changes will allow the use of fines and penalties as an additional tool, instead of condemnations to persuade owners to make repairs when needed. Classifying the occupancy of condemned premises as a misdemeanor would also make it feasible to prevent the continued use of condemned premises when this is necessary.

Section 2. Section 68.311 of the County Code is hereby amended to read as follows:

SEC. 68.311. SEWAGE TO DISPOSED OF ACCORDING TO PLUMBING CODE AND THIS CHAPTER.

- (a) It shall be unlawful for any person to cause, suffer or permit the disposal of sewage, human excrement or other liquid wastes, in any place or manner except through and by means of an approved plumbing and drainage system and an approved sewage disposal systems installed and maintained in accordance with the provisions of the Division 3 of Title 5 of this code (County Plumbing Code) and this chapter. “Approved sewage disposal system” means a system that received all required permits at the time of construction and for any modifications, and that is functioning satisfactorily by disposing of all sewage underground without resort to

frequent pumping of the tank or subsurface disposal system to remove accumulated wastes.

- (b) The owner, tenant, and occupants of any premises where sewage is not confined underground are each in violation of this section. Each day in violation is a separate violation.
- (c) Any sewage disposal system that requires frequent pumping to remove accumulated wastes in order to confine sewage underground, is in violation of this section, is a “failed system” for purposes of this chapter, and is a “defective system” for purposes of section 69.101 of this code, whether or not pumping of that system maintains sanitary conditions at the site. Nothing in this chapter limits the ability of the Director to take action pursuant to section 69.101 of this code.
- (d) Unless the associated premises have been vacated and will be demolished, a failed system must be promptly repaired, or replaced by connection to a public sewer if such public sewer exists in the area. Where repair is feasible and is selected, the repair must be completed within 30 days following the failure of the system.

Section 3. Section 68.312.1 is added to the County Code to read as follows:

68.312.1. FAILED SYSTEMS TO BE REPLACED BY CONNECTION TO PUBLIC SEWER WHERE REPAIRS ARE INFEASIBLE

- (a) If the Director determines that repairs to a failed system are infeasible, the Director may require the owner of the affected premises to connect those premises to a public sewer, whether or not that sewer is adjacent or accessible without the acquisition of an additional easement. The Director may determine the length of private lateral that will be allowed to complete that connection.
- (b) Where connection to a public sewer does not require annexation to a sewer district, or the acquisition of an additional easement, the connection must be made within 90 days after the failure of the system. When connection to a public sewer requires annexation, or the acquisition of an additional easement, the connection must be made within 180 days after the failure of the system. The Director may allow additional time if legal action is initiated and diligently pursued by the owner of the affected premises to acquire a necessary easement.
- (c) Where applicable, the Director may use the provisions of 68.161.1 of this code to require that the public sewer be extended to provide access to a public sewer for the affected premises, or to reduce the length of the private lateral that would otherwise be required to make a connection to the public sewer.

Section 4. Sections 69.102, 69.102.1 and 69.102.2 of the San Diego County Code are hereby amended to read as follows:

SEC. 69.102. NOTICE THAT BUILDING HAS BEEN CONDEMNED.

When any building or premises has been condemned by the Director of the Department of Environmental Health, but does not pose an immediate health hazard, said Director shall place or cause to be placed thereon a placard reading as set out below, inserting an effective date five days after the date of posting:

WARNING

THIS BUILDING HAS BEEN CONDEMNED AS BEING DEFECTIVE OR UNSANITARY AND UNFIT FOR HUMAN HABITATION, AND IT IS UNLAWFUL FOR ANY PERSON TO RESIDE IN OR OCCUPY THE SAME. THIS NOTICE IS EFFECTIVE ON AND AFTER [insert date]_.

Director of the Department of Environmental Health

Environmental Health Specialist

- (a) The Director shall provide separate written notice to the tenant occupying the premises if there is a tenant, and to the owner or his agent, that the property is ordered condemned, that the order may be appealed within five days as set out in Section 69.103, and that any such appeal will stay the order until the appeal is resolved. Notice to an owner who is not the occupant of the premises may be provided by mail to the owner's address as listed in County records for the parcel.
- (b) If a stay is issued pursuant to Section 69.103, this placard shall no longer be effective and shall be promptly removed by the Director, if possible prior to the effective date entered on the placard. A new placard may be posted if the appeal is resolved in favor of the condemnation, or if the Director determines based on changed conditions on the premises while the appeal is pending that an immediate health hazard exists.
- (c) When a building or premises has been condemned for any cause and the Director determines that there is an immediate health hazard, said Director shall place or cause to be placed thereon a placard reading as set out below.

WARNING

THIS BUILDING HAS BEEN CONDEMNED AS BEING UNSANITARY AND UNFIT FOR HUMAN HABITATION. AN IMMEDIATE HEALTH HAZARD EXISTS. IT IS UNLAWFUL FOR ANY PERSON TO RESIDE IN OR OCCUPY THIS BUILDING. THIS NOTICE IS EFFECTIVE IMMEDIATELY.

Director of the Department of Environmental Health

Environmental Health Specialist

- (a) The Director shall provide separate written notice to the tenant occupying the premises if there is a tenant, and to the owner or his agent, that the property is ordered condemned, that the order may be appealed within five days as set out in Section 69.103, and that due to the immediate health hazard, the order will not be stayed by any appeal. Notice to an owner who is not the occupant of the premises may be provided by mail to the owner's address as listed in County records for the parcel.

SEC. 69.102.1 REMOVAL OF PLACARDS PROHIBITED

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

SEC. 69.102.2 OCCUPYING POSTED PREMISES PROHIBITED

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

Section 5. Effective Date and Publication. This ordinance shall take effect and be in force on August 14, 2004, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of the Board voting for and against it in the San Diego Commerce, a newspaper of general circulation published in County of San Diego.

PASSED, APPROVED, AND ADOPTED this 14th day of July, 2004.