



THE CITY OF SAN DIEGO

DATE: June 24, 2021

TO: David Nisleit, Chief of Police
San Diego Police Department

FROM: Andy Hanau, City Auditor
Office of the City Auditor

SUBJECT: Hotline Investigation of Board-Up Services

The Office of the City Auditor received a Fraud Hotline report alleging fraud by a vendor that the San Diego Police Department (SDPD) called to board-up and secure a broken window at a business after a burglary. The Fraud Hotline reporter was a small business owner who stated that they received a bill from the vendor and felt the charge was unreasonable due to the size of the window and the amount of time the workers were there.

Our investigation found that the City lacks policies and procedures concerning the use of an outside vendor for this type of service. This creates the risk of the SDPD engaging a vendor without procedures in place for ensuring the vendor has been vetted based on set criteria. We also found that the vendor is used exclusively by SDPD to secure premises even though the City has no contract with the vendor. No apparent legal authority exists for the City to utilize a vendor without a contract in this context. In addition, the City does not have a vetting process or rotation list for companies that are called in to secure structures. This creates the risk that the vendor the City is exclusively utilizing may not be the best qualified and may not be charging consistent, reasonable, and competitive rates.

We found that in 2019 there were 184 calls for board-up service initiated by the SDPD and two business owners we interviewed refused to pay the vendor for the services that they never agreed to use. The current San Diego Municipal Code (SDMC) does not address emergency board-up situations that are frequently encountered by police officers, and thus it is unclear if the City has the authority to



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utilize a vendor to secure these properties and whether the vendor can charge the property owner for this work. The SDMC should be revised to specify when police officers have the authority to abate property, define the responsibilities of the vendor and the business owner or property owner when this type of situation occurs, and include payment or cost recovery procedures for board-up service.

We make three recommendations to amend the SDMC to address emergency abatements, to consider issuing a competitively-bid contract for board-up services, and to amend the SDPD procedures to address abatement of unsecured commercial and residential property when the property owner cannot be contacted.

Management has agreed to implement all three recommendations.

Existing San Diego Municipal Code Sections Do Not Address Emergency Board-Up Procedures

Police officers encounter unsecured buildings or structures when responding to burglar alarms or other calls for service, as well as when on routine patrols. An unsecured commercial or residential building with damaged windows, doors, or walls could allow entry by unauthorized persons and creates a condition that invites criminal activity. These unsafe conditions are defined by the San Diego Municipal Code (SDMC) as a Public Nuisance. Specifically, SDMC § 11.0210 defines a Public Nuisance as:

“... any condition caused, maintained or permitted to exist which constitutes a threat to the public’s health, safety and welfare or which significantly obstructs, injures or interferes with the reasonable or free use of the property in a neighborhood, community or to any considerable number of persons...”

When the police determine a building is unsecure, they attempt to contact the owner or responsible person for the property so they can secure their structure.¹ If the responsible person is not available, to protect the health and safety of the community, the responding officer has an obligation under SDPD’s policy to attempt

¹ “Responsible Person” is defined in SDMC § 11.0210 as a property owner, tenant, person with a Legal Interest in real property, or person in possession of real property.

to secure the building before leaving the scene. However, the current procedures in the SDMC for public nuisance abatements do not address urgent board-up situations. Police officers need to be available to respond to other emergency calls, but also have a competing duty to secure property from criminal activity. Also, police officers presumably often lack the tools and materials for spot abatements. The action taken to secure the premises in non-emergency situations is called an Abatement. SDMC § 11.0210 defines an Abatement as:

... any action the City may take on public or private property and any adjacent property as may be necessary to remove or alleviate a nuisance, including but not limited to demolition, removal, repair, boarding and securing or replacement of property.

No apparent legal authority exists for the City to use a vendor without a contract in this context. SDMC § 12.0608(b) gives the City authority to use a private contracted vendor to abate private property under certain circumstances, but not under emergency conditions.

Specifically, the SDMC establishes procedures for the administrative and summary abatement of public nuisances and code violations. The existing abatement procedures require a City official, usually the Development Services Department Director, to first determine that a property is a public nuisance and serve the responsible person with an Abatement Notice as specified in SDMC § 12.0603.²

However, the SDMC does not address the process for police officers to follow when encountering an unsecured structure that needs immediate boarding and securing, nor does it appear to give police officers the authority to abate a structure on an emergency basis.

² "Director" is defined in SDMC § 54.0302 as the Director of the Permit Issuance and Code Enforcement Division or any other Director authorized by the City Manager and any of their designated agents or representatives.

Current Police Procedures Do Not Address Third-Party Board-Up Services

SDPD Procedure 6.10, dated March 16, 2020, is the current policy for officers who encounter an unsecured non-residential building. It states that the officer should attempt to secure the building, and if that is not possible, they must attempt to notify the owner or responsible person. However, the policy does not address the procedure for obtaining board-up services when the owner cannot be contacted, and it does not address procedures for unsecured residential structures. The policy also does not establish a specific amount of time (such as one hour) that officers should wait for a responsible person to respond.

The SDPD's common practice when they encounter an unsecured residential or non-residential structure and the owner cannot be contacted has been for the SDPD to call a vendor that can respond to the address and perform emergency board-up services. The SDPD does not have a contract with any company to perform board and secure services, and SDPD does not have a written policy or procedure regarding who to call for emergency board-up services.

In the past, the SDPD would call companies listed in the phone book when board-up service was needed. This practice became a problem when companies would not respond quickly to any City location on a 24-hour 365-day basis. Some companies were found to have charged inflated rates for after-hours work, according to the SDPD.

Since approximately 2014, SDPD has called one vendor exclusively for all board-up calls. The local, independent vendor franchise operator bills the property owner directly for their services, even though the property owner is not present to consent to the work being performed.

Our investigation found that there is a frequent need for board-up services in San Diego. We reviewed dispatch records where board-up services were requested by SDPD and found that in 2019 there were 184 calls for board-up service, and in the first eight months of 2020 there were 118 calls for board-up service.³ In all cases, the same vendor was called to perform the service.

³ The Fire-Rescue Department relies on SDPD to secure a structure and request board-up when needed.

SDPD Policy Compared to LAPD Policy

We compared the SDPD procedure for unsecured buildings with the Los Angeles Police Department (LAPD) Board-Up procedure and found several important differences that are shown in **Exhibit 1**.

Exhibit 1***Comparison of LAPD and SDPD Unsecured Building Procedures***

Description	LAPD	SDPD
Procedures for both commercial and residential properties	Yes	No
Procedures establish a minimum amount of time that officers should wait for the responsible person to respond	Yes	No
Officer completes a board-up form for commercial properties	Yes	No
Officer completes a waiver and release form for residential properties	Yes	No
Procedures include an appeal process	Yes	No

Source: Auditor generated based on SDPD Procedure 6.10 and LAPD Board-Up procedure.

The SDPD procedure does not address residential properties, does not specify how much time the officer should attempt to contact the responsible person, and does not require the officer to complete a board-up report. The board-up form used by the LAPD documents the efforts to contact the responsible person, includes the board-up vendor's name and address, and contains instructions for appealing the board-up service. A copy of the LAPD Board-Up Report is left at the scene.

Fraud Hotline Report Alleged Excessive Charges for Board-Up Services

We received a Fraud Hotline report after SDPD responded to a call of a break-in at a small business in San Diego. The business had a broken front window measuring approximately 4 feet by 6 feet. SDPD attempted to contact the business owner through the alarm company but after approximately ten minutes SDPD requested board-up services from the vendor. Two technicians responded to the business and boarded the window. The vendor sent the business owner an invoice for \$891.51. The business owner felt the charges were inflated and filed a Fraud Hotline report. **Exhibit 2** shows an excerpt of the invoice received by the business owner.

Exhibit 2

Excerpt of Invoice Received by the Business Owner for Board-Up Services

Description	Amount
Emergency service call-after business hours to secure property	252.92
Sheating-plywood-1/2	61.52
2 x 4 lumber by Linear ft	18.72
2 technicians 2 hours each	354.84
Vehicle Usage	111.16
Generator	92.35
All work is complete!	
Phone #	E-mail
Total \$891.51	

Source: Confidential business owner.

We interviewed SDPD about the allegation, SDPD contacted the vendor, and the vendor agreed to work with the Fraud Hotline reporter regarding the charges.

As part of our investigation, we contacted several San Diego business owners who had board-up services performed by the same vendor and obtained copies of the itemized invoices they received. We found that some of the itemized charges that were billed were inconsistent and varied according to number of hours billed for the service. **Exhibit 3** is a comparison of vendor invoices received by businesses in San Diego from the vendor.

Exhibit 3***Comparison of Invoices Received from the Vendor***

Invoice	Date	Emer- gency Service	Sheet Plywood	2x4 Lumber	2 Techs 2 hrs ea	2 Techs 1.5 hrs ea	2 Techs 1 hr ea min	Vehicle Usage	Disp Bag for glass	Lag Bolt Hex lag screw	Gener- ator	Total
1	01/20/19	\$ 252.92	\$ 61.52	\$ 18.72		\$ 266.13				\$ 91.62	\$ 92.35	\$ 783.26
2	03/17/19	\$ 252.92	\$ 61.52	\$ 18.72	\$ 354.84			\$ 111.16			\$ 92.35	\$ 891.51
3	03/21/19	\$ 252.92	\$ 30.76	\$ 12.48		\$ 266.13		\$ 111.16			\$ 92.35	\$ 765.80
4	05/06/19	\$ 252.92	\$ 61.52	\$ 31.20	\$ 354.84			\$ 111.16	\$ 17.34		\$ 92.35	\$ 921.33
5	07/05/20	\$ 213.82	\$ 30.72				\$ 160.36	\$ 111.16				\$ 516.06
6	08/01/20	\$ 213.82	\$ 30.72				\$ 160.36	\$ 111.16	\$ 2.89			\$ 518.95
7	08/11/20	\$ 213.82	\$ 61.44				\$ 160.36	\$ 111.16	\$ 8.67			\$ 555.45
8	08/26/20	\$ 213.82	\$ 61.44	\$ 31.20	\$ 320.72			\$ 111.16	\$ 11.56			\$ 749.90

Source: Auditor generated based on vendor invoices.

Two of the business owners we spoke with said that they did not pay the invoice received from vendor because they did not authorize the work and felt the charges were too high. Another business owner stated that they would have done the work themselves if they had known how much it would cost. We spoke with the vendor franchise operator who told us that the parent company uses a commercial billing software used by insurance companies. Since we do not have billing data from other commercial companies that provide board-up services, we were unable to determine whether the vendor franchise operator's charges were consistent with what other companies charge.

The City Uses a Competitive Process for No-Cost City Contracts

The City may benefit from issuing a formal Request for Information to determine if local companies are willing and able to meet the City's requirements for board-up services, including response times, availability, and pricing guidelines.

The City uses this type of process for other, similar services, but it does not appear to be required. One example of a no-cost City contract currently being used is for weed inspection and abatement on private, vacant property. The contract calls for the vendor to inspect the property and notify the property owner of a violation. If the property owner fails to remedy the violation or does not appeal the abatement notice within a specified time period, the vendor is authorized to abate the fire hazard. The vendor bills the property owner in amounts no greater than specified in the contract.

Contracting with a board-up company in a similar type of contract would enable the City to:

- Evaluate the vendor based on a predetermined set of criteria;
- Ensure the vendor has required liability insurance;
- Ensure the vendor complies with City ordinances;
- Set maximum rates that the vendor can bill and ensure that rates are reasonable and competitive; and
- Allow other small local businesses to compete for the work (the current vendor used by the SDPD is not located in the City of San Diego).

Various Approaches to Board and Secure Needs Have Been Implemented in Other California Cities

In the past, the City and the SDPD have recognized the need for better policies and procedures regarding abating unsecured structures. Our investigation found that SDPD had conducted a prior survey of board and secure procedures at other large California cities in 2010; the findings varied. Three cities had contracts with vendors to provide board-up service and the city paid the vendor and sought reimbursement from the property owners. Another city had a contract with a vendor, but the vendor billed the property owner directly. One city used its fire department for securing structures and sought reimbursement for costs incurred, and another city did not have any contracts with vendors but maintained a list of vendors to call when needed.

We contacted four cities from the 2010 survey and found that three of the cities currently have contracts for board-up services. San Jose, Long Beach, and Los Angeles pay their contracted vendor for board-up services and seek reimbursement from the property owners.

In April 2015, the Long Beach Office of the City Auditor conducted an audit of the city's Emergency Board-Up Services Contract in response to a Fraud Hotline complaint related to an emergency board-up service performed under the contract. One of the issues found during the audit was that the contracted vendor was subcontracting a portion of their contract to two different companies which caused increased rates charged by the subcontractors to be passed onto the property owners. In addition, the subcontractors were not vetted by the City of Long Beach

and therefore the city was not involved in the selection or monitoring of the subcontractors.

In response, the City of Long Beach revised its contracting procedures for board-up services. The current board-up contract for the City of Long Beach is a Blanket Purchase Order in which the lowest responsive bidder was selected from an Invitation to Bid. This agreement forbids the vendor to subcontract any portion of the work without written consent of the city.

The San Diego Police Department Was Prepared to Amend the Municipal Code and Award a Sole-Source Contract Several Years Ago

In 2014, the SDPD drafted proposed amendments to the SDMC and proposed a no-cost agreement with a vendor for board and secure services. The proposal was scheduled to be presented at the Public Safety and Livable Neighborhoods Committee on May 14, 2014; however, it was never heard at committee and for unknown reasons the amendments to the SDMC have not been pursued.

The 2014 proposed amendments to the SDMC included adding a provision to the burglary alarm permit section to require a signed authorization form to accompany each alarm user permit authorizing the City or a private contractor to enter the property and secure the building if the responsible person is unavailable or unwilling to secure the premises. The changes also included adding a new Division to the SDMC which would specify procedures for abatement of unsecured structures on public or private property. This proposed change would have given the Chief of Police and all police officers authorization to abate unsecured structures. See **Attachment B** for a draft of the proposed changes to the SDMC.

Los Angeles Municipal Code Section 103.206.2 contains some key elements for securing commercial buildings that are not currently in the SDMC and should be considered in future amendments. Specifically, the Los Angeles Municipal Code states:

- Business owners are required to provide names and non-business phone numbers of at least two people authorized to take control and secure the property;
- Any unoccupied, unsecured commercial building encountered by police is declared a public nuisance;

- If unable to contact a responsible person within one hour, the City or its contractor may enter and secure the building;
- All expenses incurred by the City are an indebtedness of the business owner;
- The Department shall give written notice of any action to secure a building; and
- An administrative appeal hearing procedure shall be developed.

Conclusion

A Fraud Hotline report led to an investigation into the SDPD's policy and practices related to emergency board and secure activities Citywide. We found that there is no policy and no contract in place that addresses the use of a private contractor and that business owners and residents have been required to pay for services they did not agree to. There is no apparent legal authority for the City to utilize an uncontracted vendor for this type of service, and it is unclear whether the vendor has the authority to charge the responsible parties for these services. Other cities have attempted to address the same problem and have contracted with board-up vendors and addressed the issue in their municipal codes and police procedures. The City prepared a solution in 2014 but did not pursue it for unknown reasons.

We made the following recommendations to give the police officers authority to secure property when the responsible person is not available and to define the responsibilities of the police officer and property owner when these types of situations are encountered. In addition, contracting with a vendor would improve the City's oversight of the vendor, and ensure that board-up services are performed at agreed-upon, reasonable, and competitive rates.

Recommendations and Management's Responses (see Attachment A for definitions of Fraud Hotline recommendation priorities)

- 1. We recommend that the San Diego Police Department, in consultation with the City Attorney's Office, develop a proposal for City Council to consider amending the San Diego Municipal Code to address abatement of unsecured commercial and private property by police officers. This should include considering the language proposed in 2014. (Priority 2)**

Management Response: Agreed: SDPD will work with the City Attorney's Office to develop a proposal for City Council to consider amending the San Diego Municipal Code (SDMC) to address abatement of unsecured properties by its police officers.

Target Implementation Date: July 1, 2022 – It will take 9–12 months to develop an ordinance to amend the SDMC.

- 2. We recommend that the San Diego Police Department procure a competitive contract with a board and secure vendor to ensure a capable vendor is selected. The process should evaluate the vendors based on a predetermined set of criteria, require the vendor to have liability insurance, prohibit unapproved subcontractors, and require the vendor to specify maximum rates that the vendor can bill for specified services. (Priority 2)**

Management Response: Agreed: SDPD will coordinate with Purchasing & Contracting to engage in a competitive process to select an appropriate vendor(s) that meets required criteria.

Target Implementation Date: April 1, 2023 – This process will take approximately 6–9 months and will follow City Council action to amend the SDMC.

- 3. We recommend that the San Diego Police Department update its current procedures to include residential properties, a board-up report, a waiver of liability form, details regarding the amount of time officers will spend attempting to contact a responsible person, and appeal procedures. (Priority 3)**

Management Response: Once a vendor is selected, and the terms of a contract are agreed upon, SDPD will update its current procedure (DP 6.10), as well as create applicable forms recommended by the OCA. New and updated Department procedures are subject to meet and confer with the San Diego Police Officers Association before implementation, and this will take 3–6 months.

Target Implementation Date: October 1, 2023.

This investigation was conducted by Fraud Investigator Gina Rouza under the authority of California Government Code Section 53087.6 which states:

(e) (2) Any investigative audit conducted pursuant to this subdivision shall be kept confidential, except to issue any report of an investigation that has been substantiated, or to release any findings resulting from a completed investigation that are deemed necessary to serve the interests of the public. In any event, the identity of the individual or individuals reporting the improper government activity, and the subject employee or employees shall be kept confidential.

(3) Notwithstanding paragraph (2), the auditor or controller may provide a copy of a substantiated audit report that includes the identities of the subject employee or employees and other pertinent information concerning the investigation to the appropriate appointing authority for disciplinary purposes. The substantiated audit report, any subsequent investigatory materials or information, and the disposition of any resulting disciplinary proceedings are subject to the confidentiality provisions of applicable local, state, and federal statutes, rules, and regulations.

Thank you for your commitment to take action on this issue.

Respectfully submitted,



Andy Hanau
City Auditor

Attachment A – Definition of Fraud Hotline Recommendation Priorities

DEFINITIONS OF PRIORITY 1, 2, AND 3

FRAUD HOTLINE RECOMMENDATIONS

The Office of the City Auditor maintains a priority classification scheme for Fraud Hotline recommendations based on the importance of each recommendation to the City, as described in the table below. While the City Auditor is responsible for providing a priority classification for recommendations, it is the City Administration's responsibility to establish a target date to implement each recommendation taking into considerations its priority. The City Auditor requests that target dates be included in the Administration's official response to the findings and recommendations.

Priority Class ⁴	Description
1	Fraud or serious violations are being committed. Significant fiscal and/or equivalent non-fiscal losses are occurring. Costly and/or detrimental operational inefficiencies are taking place. A significant internal control weakness has been identified.
2	The potential for incurring significant fiscal and/or equivalent non-fiscal losses exists. The potential for costly and/or detrimental operational inefficiencies exists. The potential for strengthening or improving internal controls exists.
3	Operation or administrative process will be improved.

⁴The City Auditor is responsible for assigning Fraud Hotline recommendation priority class numbers. A recommendation which clearly fits the description for more than one priority class shall be assigned the higher priority.

Attachment B – San Diego Municipal Code Changes Proposed in 2014

DRAFT Ordinance – Abatement of Unsecured
Structures

WHEREAS, Article XI, section 7 of the California Constitution provides that a city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, section 38771 of the California Government Code provides that the legislative body of a city may declare what constitutes a nuisance; and

WHEREAS, section 38773 of the California Government Code provides that the legislative body of a city may provide for the summary abatement of any nuisance at the expense of the person creating, causing, committing, or maintaining it, and by ordinance may make the expense of abatement of a nuisance a lien against the property on which the nuisance is maintained and a personal obligation against the property owners; and

WHEREAS, unsecured commercial and residential buildings are subject to entry by unauthorized persons; and

WHEREAS, police officers encounter unsecured structures when responding to calls for service or burglary alarms, as well as on routine patrols; and

WHEREAS, police officers are unavailable to respond to calls for service while attempting to address unsecured structures; and

WHEREAS, property owners are ultimately responsible for ensuring that structures are secure from unauthorized intrusion; and

WHEREAS, the Council of the City of San Diego finds that the presence of unsecured buildings, as determined by the existence of damaged windows, doors, or walls that cannot be secured to prevent entry by unauthorized persons, create conditions that invite criminal activity including, but not limited to, prowling, looting, burglary, vandalism, graffiti, and unlawful lodging; and

WHEREAS, the Council of the City of San Diego finds that an unsecured structure is a public nuisance and has detrimental effects upon the health, safety, and welfare of the city's residents, businesses, visitors, and the general public; NOW
THEREFORE,

BE IT ORDAINED, BY THE Council of the City of San Diego, as follows:

Section 1. That Chapter 1, Article 2, Division 5 of the San Diego Municipal Code is amended by amending section 12.0501 to read in its entirety as follows:

- (a) [No change in text.]
 - (1) Through (4) [No change in text.]
 - (5) A Notice of Summary Abatement of Unsecured Structure issued pursuant to Division 11, Article 4, Chapter 5 of the Municipal Code.
- (b) Through (d) [No change in text.]

Section 2. That Chapter 3, Article 3, Division 37 of the San Diego Municipal Code is amended by amending section 33.3707 to read in its entirety as follows:

- (d) Through (e) [No change in text.]
- (f) Each alarm user permit application must be accompanied by a signed authorization form by the alarm user stating the following:
 - (1) The name, address, and telephone number of the *person* responsible for securing the premises in the event the building is found in an unsecured condition or becomes unsecured as a result of entry by police officers. A building is considered to be in an unsecured condition when it satisfies the definition of “unsecured structure” in San Diego Municipal Code section 54.1102.
 - (2) Authorizing the City or private contractor to enter the property and secure the building if (i) the *responsible person* identified on this form is unavailable, unable, or unwilling to take responsibility for the premises within one hour of a police officer’s attempts to contact him or her; or (ii) the police officer must respond to another call for service, complaint, or incident before the *responsible person* is able to arrive at the scene.
 - (3) Accepting financial responsibility for all costs associated with securing the building that may be incurred by the City and any private contractor.
 - (4) Releasing the City and its officers, agents, employees, and contractors from all liability that may arise from activities associated with securing any building on the property.

Section 3. That Chapter 5, Article 4 of the San Diego Municipal Code is amended by adding Division 12, to read in its entirety as follows:

Division 12 – Summary Abatement of Unsecured Structure

§54.1201 Declaration of Purpose

(a) It is the purpose and intent of this Division to provide a procedure for *abatement of unsecured structures* on public or private property in order to reduce blight and deterioration within the City, to prevent crime, and to protect the public health and safety.

(b) The City finds and determines that *unsecured structures* constitute a *public nuisance* and must be abated to avoid potential detrimental effects on the City and its residents.

§54.1202 Definitions

Defined words appear in italics. The words and phrases used in this Division have the meanings set forth in this section:

“Unsecured structure” means any building of any kind with a window, wall, or door that is broken or damaged, or otherwise invites intrusion, vandalism, trespass, theft, malicious mischief, or other criminal activity. This definition also includes windows, walls, or doors whose state constitutes a hazard to public health or safety.

“Chief of Police” and *“Police Officer”* have the same meaning as in San Diego Municipal Code section 33.0201.

The following terms have the same meaning as in San Diego Municipal code section 11.0210: *“Abatement,” “Person,” “Property Owner,” “Public nuisance,” “Responsible Person,”* and *“Written.”*

§54.1203 Abatement Authority

The *Chief of Police* and all *Police Officers* are authorized to abate any *unsecured structures* located on publicly or privately owned property in the City of San Diego.

§54.1204 Abatement of *Unsecured Structures* by City on Private Property

(a) Upon discovering an *unsecured structure*, any *police officer* may summarily abate the *public nuisance* by any reasonable means and without notice or hearing when immediate action is necessary to preserve or protect the public health or safety.

(b) The *responsible person* shall be notified within ten calendar days of the actions taken at the property and the right to appeal the *abatement* action in accordance with section 54.1108.

(c) The *responsible person* may be billed for any costs incurred by the City in abating the nuisance. If the bill is not paid within thirty days from the date of mailing, the City may obtain a special assessment and/or lien against the property in accordance with the procedures set forth in Division 2, Article 3 of Chapter 1 of this Code.

§54.1205 Abatement of *Unsecured Structures* by City on Public Property

(a) Where an *unsecured structure* is located on property owned by a public entity other than the City, *abatement* may be authorized only after securing the consent of an authorized representative of the public entity having jurisdiction over the property.

§54.1206 Cost Recovery by the City

(a) The *Chief of Police* may recover the City's costs of *abatement* from the *property owner* and any such costs become the indebtedness of the *property owner*.

(b) *Abatement* costs shall include the City's cost to administer the *abatement*, any actual work performed by the City, and any other incurred costs related to the *abatement*.

(c) The City shall follow the cost recovery procedures found in Division 3, Article 3 of Chapter 1 of this Code.

§54.1206 Cost Recovery by Private Contractors

(a) An authorized private contractor shall recover any *abatement* costs it incurred directly from the *property owner*. Any such costs become the indebtedness of the *property owner*.

§54.1208 Notice of Abatement

- (a) *Written* notice of *abatement* actions conducted under this Division shall be provided to the *responsible person* in a form approved by the *Chief of Police*.
- (b) Notice of *abatement* action shall be served by any of the following methods:
 - (1) Personal service; or
 - (2) Posting the notice conspicuously on or in front of the property subject to the *abatement*; or
 - (3) Delivery by regular mail.
- (c) The failure of any *person* with an interest in the property to receive any notice served in accordance with this section shall not affect the validity of any proceedings taken under this Code.
- (d) For notice by regular mail, it is sufficient to mail the notice via first class mail. Such mail is presumed delivered five days after its postmark date.
- (e) Proof of service of notice may be made by the certificate of any officer or employee of this City or by affidavit of any person over the age of eighteen years. The proof of service shall show that service was done in conformity with this Code or other provisions of law applicable to the subject matter concerned.

§54.1209 Request for Appeal Hearing

- (a) Any *responsible person* served with a notice of summary *abatement* of *unsecured structure* may file an appeal in accordance with Division 5, Article 2 of Chapter 1.
- (b) Failure to submit a timely and complete request for appeal hearing shall terminate a *person's* right to contest the notice and the *abatement* actions and shall constitute a failure to exhaust administrative remedies.
- (c) The Enforcement Hearing Officer shall only consider evidence that is relevant to the issue of whether the structure, at the time of *abatement*, met the definition of *unsecured structure* as provided in this Division.
- (d) The Enforcement Hearing Officer may assess administrative costs.