

Legal Standards for Code Enforcement Notices (Mar–Apr 2023)

Sacramento City Code Requirements (Notices, Service, Appeals, Enforcement)

Under Sacramento City Code Chapter 8.100 (“Housing Code”), a “**Notice and Order**” is the primary tool to initiate code enforcement on substandard buildings. Key legal requirements include:

- **Contents of Notice:** The Notice and Order must be directed to the record owner and **identify the property** (address/legal description), **describe the substandard conditions** found, and **state the required corrective action** ¹. It must also advise that **any person with a recorded title or legal interest may appeal in writing**, and warn that **failure to appeal within the allowed time waives the right to a hearing and makes the order final**, subject only to judicial review under CCP §1094.5 ² ³.
- **Service of Notice:** The code specifies that the Notice and Order (and any amended Notice) **shall be served on the record owner** and *posted on the property*. Service may be accomplished either by personal delivery or by **certified mail (return receipt)** sent to the owner’s address on the latest county assessment roll (or as otherwise known to the department) ⁴. If standard service is refused or not possible, the Code provides for substitute methods (e.g. posting and first-class mailing, or publication) to ensure notice is reasonably calculated to reach the owner ⁵ ⁶. A proof of service must be made for the record (e.g. via affidavit or certified mail receipt) per City Code §§8.100.750 ⁷. **Posting** the notice on the building itself is required in all cases as a supplement to service on the owner ⁸.
- **Appeal Rights and Timeline:** The property owner or any party with a legal interest has **30 days from service of the Notice** to file a written appeal of the Notice and Order ⁹. The City’s Housing Code Advisory and Appeals Board is the body that hears such appeals. Upon a timely appeal and payment (or waiver) of any appeal fee, the **appeal is calendared for a hearing** at the Board’s next available meeting (or the subsequent meeting, depending on filing date) ⁹. The appellant is entitled to a **hearing before an impartial hearing officer/board**, with at least 10 days’ prior written notice of the hearing date provided to the appellant ¹⁰. At the hearing, the Board must allow the appellant to present evidence and arguments. After the hearing, the Board issues a written decision with findings; that decision is deemed final (administratively) ¹¹ ¹². If no appeal is filed within 30 days, the Notice and Order **becomes final and unappealable by operation of law** ¹³.
- **Failure to Appeal or Comply:** Once a Notice and Order becomes final (either because no appeal was filed in time or after an appeal decision), the owner is legally obligated to obey it. **Failure to obey a final order** is a misdemeanor offense under the City Code ¹⁴. In addition, if the owner fails to timely *comply* with the order’s requirements, the **City’s building official is empowered to take**

enforcement action. Specifically, the building official **may prosecute the responsible person, abate the public nuisance** by initiating civil action, **or directly repair/demolish the building** to correct the violations ¹⁵. The Code thus authorizes the City to undertake the necessary work if the owner does not, once due process is exhausted. The City may also **secure the building** (e.g. by boarding or posting it as substandard) to prevent habitation if repairs do not commence by the deadline ¹⁶. Entering a posted substandard building without permission is a misdemeanor ¹⁶.

- **Enforcement Fees and Liens:** Sacramento’s code imposes certain fees on the property owner to recover enforcement costs. For example, upon issuing a Notice and Order, the City charges a “notice and order” enforcement **fee**, and may charge additional re-inspection “monitoring” fees and a case closure/“declaration termination” fee ¹⁷ ¹⁸. These fees are set by Council resolution and become due regardless of whether the owner abates the nuisance in response to the notice ¹⁹. If an owner appeals a fee or fails to pay, the unpaid amounts **can be collected by placing a lien or special assessment on the property** (pursuant to Chapter 8.96, Article IX) ²⁰. In short, the City Code provides that enforcement costs attach to the property and can be recovered even if the violation is corrected ²¹.

Version Risk: *Sacramento City Code provisions (Section 8.100.720 et seq.) cited above reflect the current code text as hosted by American Legal Publishing. The publisher does not provide archived versions, so we assume these sections were materially the same in March–April 2023. The last known amendments to these sections (e.g. Ord. 2016-0028 & 0029) occurred in 2016 ²² ²³, suggesting the notice, service, appeal and enforcement provisions were in effect during 2023. However, because an official historical code for Spring 2023 is unavailable, there is a risk that minor changes (if any) after 2016 are not captured here. No subsequent amendments were found in the City’s ordinance tables for §8.100.720 or the related sections through 2023. ²⁴ ²⁵*

California Health & Safety Code Provisions (State Law References)

State law (the California Health & Safety Code, “HSC”) sets baseline procedural requirements that local code enforcement must follow. The Notice and Order packet references the following HSC sections, which outline enforcement procedure under the State Housing Law:

- **HSC §17980 – Notice to Abate and Time to Comply:** This section requires that if a building is found substandard or a nuisance, the enforcement agency **must give the owner notice and a reasonable time to abate** the violation **before initiating enforcement action**. Specifically, the agency “shall, after **30 days’ notice to abate** the nuisance or violation (or a shorter period if necessary to prevent an immediate threat to health and safety), institute the appropriate action or proceeding to prevent or abate the violation or nuisance” ²⁶. In other words, absent an urgent hazard, the owner gets at least 30 days to correct issues after notice. (If extreme immediate dangers exist, the agency can order shorter compliance times or even emergency abatement, but must be prepared to justify the urgency.) Section 17980 also provides that an owner who has recently acquired a foreclosed residential property and is diligently repairing it gets a minimum 60-day grace period before enforcement actions commence ²⁷. **Importantly, HSC §17980(e)** mandates that **all violation notices include a specific advisory:** the owner is notified that under the tax code (Revenue & Taxation Code §§17274 & 24436.5) they may **lose tax deductions** for interest, taxes, depreciation, or amortization on a substandard property ²⁸. The statute further requires that tenants of a substandard residential building be given copies of any violation notice or order that affects their health and safety, and of any subsequent abatement orders or permits – thus extending notice to

occupants as well ²⁹ ³⁰ . The enforcement agency may charge the owner for the cost of postage/ mailing these notices ³¹ .

- **HSC §17980.7(c) – Receivership Petition:** If an owner **fails to comply with a Notice or Order** issued pursuant to the State Housing Law (specifically, fails to correct the violations cited in the official notice within the time given, as described in HSC §17980.6), the law authorizes a judicial **receivership remedy**. Under **§17980.7(c)**, *“The enforcement agency, tenant, or tenant association or organization may seek and the court may order, the appointment of a receiver for the substandard building pursuant to this subdivision.”* ³² In practice, this means a city or county may petition the superior court to appoint a **temporary receiver** to take control of the property, correct the code violations, and manage the premises, if the owner has been given notice and a reasonable opportunity to rehabilitate the building but has not done so ³³ ³⁴ . Procedurally, the statute requires that the enforcement agency give the owner (and all parties with a recorded interest in the property) a **minimum 3-day advance notice** of its intent to seek a receivership before filing the court petition ³⁵ . If a receiver is appointed, the owner and their agents are enjoined from interfering, from collecting rents, or from transferring the property while the receivership is in place ³⁶ . The court-appointed receiver is granted broad powers to remedy the substandard conditions, including entering contracts, collecting rents, borrowing funds via “receiver’s certificates” (which can be recorded as super-priority liens), and, if authorized by the court, selling the property if needed to satisfy the rehab costs ³⁷ ³⁸ . This receivership provision is a **powerful enforcement tool** designed to ensure abatement of serious violations when an owner fails to act.
- **HSC §17985 – Recordation of Enforcement Action (Lis Pendens):** Section 17985 protects purchasers and the public by requiring record notice of any pending enforcement lawsuit. **Whenever an enforcement agency initiates a court action or proceeding under these housing laws, it must record a Notice of Pendency of Action** with the County Recorder where the property is located ³⁹ . This notice has the same effect as a lis pendens in a civil action – it alerts prospective buyers or lenders that the property is subject to enforcement litigation ⁴⁰ . The agency may charge the owner for the recording fee, but must reimburse that cost if the case is later dismissed or the owner is found not liable ⁴¹ . Likewise, once the enforcement action is resolved, **the agency must record a Notice of Final Disposition** with the Recorder to show the outcome (e.g. that the case was resolved or the nuisance abated) ⁴² . These recorded notices ensure there is a public record trail from the start of litigation to the end, preventing owners from quietly selling or refinancing during an enforcement action without disclosure.
- **HSC §17991 – Sale/Transfer of Substandard Property:** Section 17991 addresses situations where an owner transfers the property in the midst of code enforcement. **Transferring the property does NOT moot or avoid the enforcement action:** the statute explicitly says that even if the property is sold, any pending administrative or judicial proceeding “shall not be rendered moot” and continues against the original owner (the owner of record when the violation notice was issued) ⁴³ . In addition, the original owner (transferor) has affirmative duties upon sale of the substandard building *before abatement is complete*. The owner must, **within 5 days of the sale, record a “Notice of Conveyance of Substandard Property” with the County Recorder** ⁴⁴ . This recorded notice provides the name and address of the new owner and signals that the property has an ongoing substandard condition. The transferor must also **provide the enforcement agency, within 5 days, detailed information about the new owner** (name, address and, if the new owner is an entity, the identities of principal individuals behind the entity) ⁴⁴ ⁴⁵ . These requirements ensure the

enforcement agency can continue the case by contacting the new owner, and they prevent an owner from escaping enforcement by transferring the property to an uninformed third party. Finally, any person who acquires an interest in the property after an enforcement notice has been recorded (e.g. via a lis pendens or a recorded violation notice) is statutorily **subject to the prior enforcement order** – meaning the new owner is bound to comply with outstanding orders to repair or abate, within the original compliance timelines, despite the change in ownership ⁴⁶ .

Version Risk: *The cited Health & Safety Code sections are drawn from current California law. As of 2023, the provisions of §§17980, 17980.7, 17985, and 17991 were in effect in substantially the form described. We note that minor amendments took effect after April 2023 (for example, Stats. 2022, ch. 753 (SB 1465) amended §17980.7(c) effective Jan. 1, 2024, to clarify that receivers can be appointed under other statutory authority). These changes do not appear to alter the core procedural requirements cited above, but exact wording may have differed slightly in early 2023. The operative language quoted (notice periods, recording requirements, etc.) is consistent with the statutes as they existed in March–April 2023. Nonetheless, because official legislative sources do not provide the 2023 codified text in this format, there is a small risk that nuances or recently added clauses (e.g., in §17980.7(c)) are not fully reflected here.* ⁴⁷ ⁴⁸

Due Process Standards for Enforcement Notices (California Case Law)

California courts have established constitutional **due process minima** that local agencies must satisfy when enforcing code violations through administrative notices and orders. In general, an administrative enforcement action that can lead to deprivation of property (fines, liens, demolition of a structure, etc.) must afford the property owner **notice and an opportunity to be heard** at a meaningful time and in a meaningful manner ⁴⁹ . From the case law, the following *checklist* of notice-related due process requirements emerges:

- **Clear and Timely Notice to Owner:** The owner (and any other person with a substantial property interest) must receive **written notice** of the alleged violations and the intended enforcement action **before** significant penalties or abatement occurs. The notice should describe the violations or conditions to be corrected with sufficient specificity and indicate the potential consequences (e.g. fines, abatement, or demolition). *“When a city threatens to demolish structures, due process requires that the city provide the property owner and other interested parties with notice”* of the defects and intended action ⁵⁰ . Furthermore, unless an actual emergency exists, **notice must be given far enough in advance** to allow the owner to respond or correct the issue (state law sets a **floor of 5 days** for any abatement order and typically 30 days for non-emergency repairs ⁵¹ ²⁶).
- **Opportunity to Correct Before Drastic Action:** Due process in the code enforcement context includes giving owners a chance to **voluntarily fix the problem** within a reasonable period. Especially for severe outcomes like demolition, the owner must be given an **opportunity to repair or abate the nuisance** after receiving notice. The California Court of Appeal stated that before a city demolishes a building, the owner is entitled not just to notice and hearing, but also *“the opportunity to correct or repair the defect before demolition.”* ⁵⁰ In other words, the process should be structured to encourage compliance (e.g. by allowing repairs) rather than rushing to abatement, unless public safety urgently demands otherwise.

- **Opportunity to Be Heard (Appeal/Hearing):** The owner must have a meaningful **opportunity to contest** the allegations or enforcement decision at an **administrative hearing**. This means the owner can present objections, evidence, or arguments before an impartial decision-maker **before the government imposes fines or takes the property (e.g. by demolition or lien)** ⁵². The hearing must occur at a **“meaningful time and in a meaningful manner”** – generally, this is interpreted to mean prior to the final deprivation (pre-deprivation hearing), except in exigent circumstances ⁴⁹. A California court emphasized that *“the right to be heard must be ‘at a meaningful time and in a meaningful manner’”* in the code enforcement context ⁴⁹. In practice, providing a right to appeal the Notice and Order to a neutral board or hearing officer satisfies this element, so long as the owner is notified of that right and given a reasonable window of time to exercise it.
- **Neutral Decision-Maker:** At the administrative hearing, due process **requires a fair and impartial tribunal**. The case law underscores that the official or body adjudicating the appeal cannot have a pecuniary interest or institutional bias in the outcome ⁵³. For example, *Nightlife Partners, Ltd. v. City of Beverly Hills* is cited for the rule that an unbiased adjudicator is part of due process ⁵⁴. Recent cases (such as *Lippman v. City of Oakland* and *Temple of 1001 Buddhas v. City of Fremont*, involving Building Code appeals) have struck down local systems where appeals were heard by someone employed in the same department that issued the notice, finding that to violate state law and due process ⁵⁵ ⁵⁶. In short, the owner is entitled to an independent judgment on the appeal – typically by a separate appeals board or hearing examiner – rather than the very inspector who issued the notice.
- **Findings and Evidence:** The administrative body should base its decision on **substantial evidence** and, where required by statute, issue **written findings** supporting its decision (especially if the owner is to be ordered to abate or a structure is to be condemned). While not always a constitutional requirement, written findings bolster the fairness of the process and enable court review. Courts have indicated that an order lacking factual support or issued without allowing the owner to present evidence could violate due process (as it would be arbitrary). Thus, a proper Notice and Order process will typically include an inspection report or factual basis in the record, and any decision on appeal will address the owner’s defenses or compliance efforts in the findings ⁵⁷ ⁵².
- **Emergency Abatement Exception (Post-deprivation Hearing):** If there is a **true emergency** posing an immediate danger to public health or safety, due process tolerates a shortened process. In urgent cases (e.g. a building on verge of collapse or an active hazardous condition), the City may **act first** – for example, summarily vacating or even demolishing a dangerous structure **without a prior hearing** – but only **if** it is prepared to later prove that an actual emergency existed. Even in emergencies, the owner is owed notice if practicable (perhaps very short notice) and in all cases a **prompt post-deprivation hearing** to contest the action. As one court explained: in exigent circumstances a city *“may act summarily to abate a nuisance, but in such case the city must be prepared to establish by a [preponderance of evidence] that an emergency existed”* justifying the lack of prior notice ⁵⁸ (see *Leppo v. City of Petaluma* (1971) 20 Cal.App.3d 711). If the city cannot substantiate the emergency after the fact, its summary action may be deemed a due process violation. Accordingly, the **general rule** is that **pre-deprivation notice and hearing** are required, except where immediate action is necessary; and in the latter scenario, the property owner still must be given an opportunity to challenge the city’s action as soon as feasibly possible thereafter ⁵⁹ ⁶⁰.

In summary, an **adequate enforcement notice** under due process standards is one that (a) clearly apprises the owner of what the problem is and what must be done, (b) is served in a manner likely to inform the owner, (c) grants a reasonable time to voluntarily comply, and (d) is coupled with a fair opportunity to contest the allegations or seek relief before an impartial body, **before** irreversible measures or penalties are imposed ⁵² ⁴⁹ . California decisions repeatedly affirm that **notice, hearing, and chance to repair** are the touchstones of lawful code enforcement ⁵⁰ ⁴⁹ . Administrative notices that omit these fundamentals (for example, failing to mention the right to appeal or immediately ordering abatement without time for compliance) risk being found procedurally deficient. The checklist above, derived from case law such as *D & M Financial Corp. v. City of Long Beach (2006) 136 Cal.App.4th 165* and others, provides a framework to evaluate whether Sacramento's Notice and Order in March–April 2023 met the required due process standards.

¹ ² ³ ¹³ ¹⁷ ¹⁸ ¹⁹ ²⁰ ²¹ ²⁴ **8.100.720 Notice and order-Issuance-Contents-Fee.**

https://codelibrary.amlegal.com/codes/sacramentoca/latest/sacramento_ca/0-0-0-19090

⁴ ⁵ ⁶ ⁷ ⁸ **69226**

<https://records.cityofsacramento.org/ViewDoc.aspx?ID=s6tFBnt4W+IPbWwHdEJNshtfROmfG3MW>

⁹ ¹⁰ ¹¹ ¹² **8.100.760 Appeal.**

https://codelibrary.amlegal.com/codes/sacramentoca/latest/sacramento_ca/0-0-0-19115

¹⁴ **8.100.840 Generally.**

https://codelibrary.amlegal.com/codes/sacramentoca/latest/sacramento_ca/0-0-0-19163

¹⁵ **8.100.850 Failure to obey order.**

https://codelibrary.amlegal.com/codes/sacramentoca/latest/sacramento_ca/0-0-0-19165

¹⁶ **8.100.865 Entering a substandard building.**

https://codelibrary.amlegal.com/codes/sacramentoca/latest/sacramento_ca/0-0-0-19177

²² ²³ **ORDINANCE LIST AND DISPOSITION TABLE**

https://codelibrary.amlegal.com/codes/sacramentoca/latest/sacramento_ca/0-0-0-43553

²⁵ **Chapter 8.100 HOUSING CODE**

https://codelibrary.amlegal.com/codes/sacramentoca/latest/sacramento_ca/0-0-0-18718

²⁶ ²⁷ ²⁸ ²⁹ ³⁰ ³¹ ⁴⁷ **California Health and Safety Code section 17980 (2025)**

https://california.public.law/codes/health_and_safety_code_section_17980

³² ³³ ³⁴ ³⁵ ³⁶ ³⁷ ³⁸ **California Health and Safety Code Section 17980.7(c) Receiverships | Michael Reiter, Municipal Attorney**

<https://michaelreiterlaw.wordpress.com/2011/08/09/california-health-and-safety-code-section-17980-7c-receiverships/>

³⁹ ⁴⁰ ⁴¹ ⁴² **California Health and Safety Code § 17985 (2024) :: 2024 California Code :: U.S. Codes and Statutes :: U.S. Law :: Justia**

<https://law.justia.com/codes/california/code-hsc/division-13/part-1-5/chapter-5/article-3/section-17985/>

⁴³ ⁴⁴ ⁴⁵ ⁴⁶ ⁵¹ **Article 3. Actions And Proceedings :: California Health and Safety Code :: 2009 California Code :: California Code :: U.S. Codes and Statutes :: U.S. Law :: Justia**

<https://law.justia.com/codes/california/2009/hsc/17980-17992.html>

48 Amendments to the California Health & Safety Code §17980 that ...

<https://jones-mayer.com/amendments-to-the-california-health-safety-code-%C2%A717980-that-could-assist-law-enforcement-code-enforcement-fire-and-building-in-addressing-illegal-activity-at-commercial-buildings/>

49 50 52 53 54 57 58 59 60 Colmar Properties, LLC v. City of Stockton | C060431 | Cal. Ct. App. | Judgment | Law | CaseMine

<https://www.casemine.com/judgement/us/627e216c714d585d57cb72ff/amp>

55 56 Temple of 1001 Buddhas v. City of Fremont :: 2024 :: California Courts of Appeal Decisions :: California Case Law :: California Law :: U.S. Law :: Justia

<https://law.justia.com/cases/california/court-of-appeal/2024/a167719.html>