



DEMOLITION BY NEGLECT

As described by the National Trust for Historic Preservation, “Demolition by Neglect” is the term used to describe a situation in which a property owner intentionally allows a historic property to suffer severe deterioration, potentially beyond the point of repair. Property owners may use this kind of long-term neglect to circumvent historic preservation regulations.

Current Pleasanton Municipal Code Sections:

Section 18.74.200 Duty to maintain structures and premises—Demolition by neglect prohibited.

Every person in possession or control of a non-single-family residence structure and appurtenant premises in the district shall maintain and keep in good repair such structure and premises. Structures and appurtenant premises in good repair present no material variance in apparent condition from surrounding structures in compliance with these requirements. “Good repair” means and includes that level of maintenance and repair which: (1) clearly ensured the continued availability of such structure and premises for lawful reasonable uses; (2) prevents deterioration, dilapidation and decay of any exterior portion of such structure and premises; and (3) avoids impairment to surrounding structures of the benefits of the district.

Staff Comment: Section 18.74.200 does not apply to single-family homes. It applies to other structures (e.g., multi-family dwellings and commercial structures) within the Downtown Revitalization District only, which is smaller area than the Downtown Specific Plan Area.

Excerpts of Chapter 9.28, Property Maintenance

9.28.020 Unlawful Property Nuisances

It is unlawful for any person owning, leasing, renting, occupying or having charge or possession of any property in the city to maintain or to allow to be maintained such property in such manner that any of the following conditions are found to exist thereon, except as may be allowed by this code:

- H. Buildings which are abandoned, partially destroyed, left in an unreasonable state of partial construction or have been declared substandard or dangerous by the building official;
- I. Unpainted buildings and those having dry rot, warping or termite infestation. Any building on which the condition of the paint has become so deteriorated as to permit decay, excessive checking, cracking, peeling, chalking, dry rot, warping or termite infestation as to render the building unsightly and in a state of disrepair;
- J. Buildings with windows containing broken glass or no glass at all, where the window is of a type which normally contains glass, which constitutes a hazard and/or invites trespassers and malicious mischief. Plywood or other material used to cover such window space, if permitted under this code, shall be painted in a color or colors compatible with the remainder of the building;

- K. Building exteriors, walls, fences, driveways, sidewalks or walkways which are maintained in such condition as to become defective or unsightly or are materially detrimental to nearby properties and improvements;

Staff Comment: While Chapter 9.28 applies to all properties/structures in the City, it does not specifically address demolition by neglect.

Possible Option: Create a new Municipal Code section similar to Pleasanton's Section 18.74.200 or similar to another city's section (examples below) which would apply to all structures within the Downtown Specific Plan Area. Below is how the section could possibly read:

Every person in possession or control of a structure and appurtenant premises in the Downtown Specific Plan Area shall maintain and keep in good repair such structure and premises. "Good repair" means and includes that level of maintenance and repair which: (1) clearly ensures the continued availability of such structure and premises for lawful reasonable uses; (2) prevents deterioration, dilapidation, and decay of any exterior portion of such structure and premises; and (3) prevents deterioration, dilapidation, and decay of interior portions whose maintenance is necessary to prevent deterioration, dilapidation, and decay of an exterior feature.

Enforcement of this section could follow the process outlined in the Property Maintenance Chapter of the Municipal Code (starting with Section 9.28.030, attached).

Examples from a few other Cities:

Danville

32-72.9 Maintenance of Heritage Resources.

- a. The owner of a historically significant resource, a heritage resource or a contributing property within an historic district shall maintain in good condition the exterior of the resource consistent with the Design Guidelines and all interior portions whose maintenance is necessary to prevent deterioration and decay of an exterior feature.
- b. Nothing in this section shall be construed to prevent the ordinary maintenance or repair of an exterior feature that does not involve a change in design, material or external appearance.

Pasadena

Demolition by Neglect. The failure to provide ordinary and necessary maintenance and repair to a historic resource, whether the neglect is willful or unintentional or by design, by the owner or any party in possession of the property, which results in one or both of the following conditions:

- a. The severe deterioration of exterior features so as to create or permit a dangerous or unsafe condition to exist, as defined in Title 14 of the Municipal Code.
- b. The severe deterioration of exterior walls, roof, chimneys, doors, windows, porches, structural or ornamental architectural elements, or foundations, that could result in permanent damage and loss of the architectural and/or historic significance of a historic resource.

Sunnyvale

19.96.140. Duty to keep in good repair.

The owner, occupant, or other person in actual charge of a landmark or an improvement, building or structure in a landmark district shall keep in good repair all of the exterior portions of such improvement, building or structure; all of the interior portions thereof when subject to control by reason of designation or permit; and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature. It shall be the duty of the director of community development to enforce this section.

Los Gatos

Sec. 29.80.315. - Duty to keep in good repair.

The owner, lessee, and any other person in actual charge or possession of a pre-1941 structure, designated landmark or structure in the LHP or landmark and historic preservation overlay zone shall keep all of the exterior portions in good repair as well as all of the interior portions which are subject to control by the terms of the designating ordinance, and all portions whose maintenance is necessary to prevent deterioration or decay of any exterior portion.

Benicia

17.54.120 Maintenance of structures and premises.

All property owners in H districts and owners of designated landmarks shall have the obligation to maintain structures and premises in good repair. Structures and premises in good repair shall present no material variance in apparent condition from surrounding structures in compliance with the provisions of this chapter. Good repair includes and is defined as the level of maintenance that ensures the continued availability of the structure and premises for a lawfully permitted use, and prevents deterioration, dilapidation, and decay of the exterior portions of the structure and premises.

Palo Alto

16.49.080 Maintenance of historic structures in the downtown area.

The owner, lessee or other person legally in possession of a historic structure in the downtown area shall comply with all applicable codes, laws and regulations governing the maintenance of property. Additionally, it is the intent of this section to preserve from deliberate or inadvertent neglect the exterior features of buildings designated as significant or contributory in the downtown area, and the interior portions thereof when such maintenance is necessary to prevent deterioration and decay of the exterior. All such buildings shall be preserved against such decay and deterioration, and shall remain free from structural defects through prompt corrections of any of the following defects:

- (a) Facades which may fall and injure members of the public or property;
- (b) Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports;
- (c) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration;
- (d) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors;
- (e) Defective or insufficient weather protection for exterior wall covering, including lack of paint or other protective covering;
- (f) Any fault or defect in the building which renders it not properly watertight or structurally unsafe.