



## Planning Services Division

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### CHAPTER 8-21 CODE ENFORCEMENT

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#### 8-2101 Findings and determination

The city council finds and determines as follows:

- (a) Sections 8-2101 through 8-2115, inclusive, shall be known as the code enforcement ordinance.
- (b) The purpose and intent of this chapter is to:
  - (1) Enhance and maintain the appearance of real property, both improved and unimproved, and by doing so, enhance and maintain the livability, appearance and economic well-being of the community;
  - (2) Ensure that property improvements and land uses permitted by the city pursuant to Title 6 are maintained in compliance with such permits;
  - (3) Utilize the sanctions and penalties of this chapter only after all reasonable efforts at resolution by educational and cooperative means have been exhausted, it being recognized that voluntary compliance is preferred over all other remedies; and
  - (4) Recover city costs for the abatement of violations.
- (c) As described in this chapter, the use and abuse of real properties, whether improved or unimproved reasonably relate to the proper exercise of police power of the city to protect the health, safety and general welfare of the community.
- (d) The abatement of continued violations impacts city resources, requires resources over and above the level of enforcement services normally provided, and constitutes a public nuisance the costs of which should be paid by the responsible property owners.

(e) This chapter is enacted under the authority of California Government Code Sections 36901 and 53069.4.

(f) The procedures set forth in this chapter for abatement, liens and special assessments are adopted under Government Code Section 38773.5.

(g) The procedures set forth in this chapter are not exclusive and are in addition to the procedure for abatement which is conferred upon the city by Civil Code 3494, Code of Civil Procedure Section 731, Government Code Section 38773 or other lawful authority.

(h) Each person who violates a provision of this chapter is guilty of a misdemeanor and shall be punished as provided in section 1-302 of this code, unless, in the City's discretion, the violation is charged as an infraction or enforced through the administrative citation procedure set forth in chapter 1-9 of this code. The penalties provided for an infraction in section 1-302 of this code or an administrative citation in chapter 1-9 of this code are in addition to provisions of this code that provide for forfeiture of the permit.

(i) Use of this chapter is at the sole discretion of the city.

#### 8-2102 Definitions

(a) "Adjoining property" means a property which shares a common boundary with a subject property or a property that is directly across a public or private street or road from a subject property.

(b) "Code enforcement appeals board" or "board" shall mean the code enforcement appeals board as described in chapter 2-10.

(c) "Code enforcement officer" or "officer" shall mean the city employee or employees designated by the city manager to implement the provisions of this chapter.

(d) "Days" shall mean calendar days. In the event the last day of the specified time period falls on a Saturday, Sunday or federal holiday observed by the city, then the last day of the specified time period shall be the next business day.

(e) "Owner" shall mean the owner or owners of record of real property as shown on the latest county equalized assessment roll; the lessee, tenant or other person having control or possession of the property; the mortgagee under a recorded deed of trust; and any other person having a recorded beneficial or legal interest.

(f) "Public view" means the view from a public or private street or road which serves more than one property or from a public walkway or trail.

(g) "Screened" means shielded, concealed and substantially hidden from public view or adjoining property, at an elevation at least six feet above ground level, by a fence, wall, lattice, hedge, berm, or similar structure, architectural or landscape feature, or combination thereof, as deemed appropriate by the planning services manager.

(h) "Vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a highway, street, road, avenue, lane, alley, court, place, square, curb or other similar surface improved, designed or ordinarily used for vehicular traffic, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.

### 8-2103 Other chapters of this municipal code

Other chapters of this municipal code are subject to enforcement pursuant to the provisions of this chapter.

### 8-2104 Permit violations

(a) All property improvements and other changes and land uses permitted under Title 6 of this code shall be maintained in accordance with those permits along with approved plans and conditions of approval.

(b) It is unlawful for any property owner to maintain his or her property in any manner that violates any condition of approval or other term or provision imposed in connection with the city's approval of some land use entitlement, whether temporary or permanent, including, for example, and without limitation, a rezone, variance, subdivision approval, land use permit, design review or hillside development permit.

### 8-2105 Property violations

It is unlawful for any owner to maintain his or her property in such manner that any of the conditions listed below are found to exist thereon, except as may be allowed by this municipal code. The code enforcement officer shall determine when any of the following conditions are property violations and substantially detract from the overall appearance of adjoining properties, and/or are detrimental to adjoining properties and their property values:

(a) General property violations. The following violations apply to all properties within the city regardless of their zoning and/or use:

- (1) Substandard compliance with housing, health, and/or building codes;
- (2) Vacant or partially destroyed building or structure that is not secured or is not being actively maintained and monitored;
- (3) Building exterior, wall, roof, fence, or accessory structure that is deteriorated or in disrepair;
- (4) Broken or missing exterior doors and/or windows;
- (5) Used, damaged or discarded building materials, storage containers, furniture, household appliances, automotive parts, tools, machinery, mechanical apparatus or equipment, or junk or trash visible from public view or an adjoining property;
- (6) Attractive nuisances, particularly to children, including neglected, abandoned, or unsafe household appliances, machinery, swimming pools, spas, ponds, or excavations;
- (7) Construction equipment, materials, or machinery visible from public view or an adjoining property when stored on a property where there is no active building permit;
- (8) Dead, decayed, diseased, or hazardous trees, shrubs, or weeds, or overgrown vegetation that pose a fire or other hazard to the public right-of-way and/or an adjoining property, except when such trees are subject to chapter 6-17; and/or
- (9) Maintenance of property in a condition of deterioration or disrepair, in such a condition to be detrimental to the public health, safety, or general welfare, or in such a manner as to constitute a public nuisance.

(b) Residential property violations. The following violations apply to those properties that are zoned or otherwise legally used for residential purposes:

- (1) Portable carport or other temporary structure not screened from public view or an adjoining property;
- (2) Vehicle or other equipment pursuant to chapter 6-23;
- (3) Household waste, recycling, or garden waste receptacles or other trash visible from public view except on the day before and the day of regularly scheduled pickup; and/or
- (4) Construction, repair, disassembly or service of an appliance; or any other mechanical or motorized apparatus or device of any kind for more than eight days per year, or between the hours of 10:00 pm and 7:00 am.

(c) Nonresidential property violations. The following violations apply to those properties that are zoned or otherwise legally used for nonresidential purposes:

- (1) Accumulation of dirt, litter, or debris in vestibules, doorways, or adjoining sidewalks, passages, or breezeways of a building;
- (2) Deteriorated off-street parking surfaces or structures or driveways;
- (3) Graffiti or other unauthorized markings which remain on a building exterior, wall, fence, or other structure and which are visible from public view or an adjoining property;
- (4) Unmaintained landscaping which is visible from public view or an adjoining property;
- (5) Shopping cart removed from the business premises where it belongs; and/or
- (6) Unmaintained or nonoperational lighting on the exterior of a building or within off-street parking areas.

#### 8-2106 Declaration of public nuisance

(a) All property found to be maintained in violation of any one or more of the provisions of this chapter is declared to be a public nuisance and shall be abated by removal, correction, demolition and/or repair pursuant to the procedures set forth herein. The procedures set forth herein shall not be exclusive and shall not in any manner limit or restrict the city from enforcing other city regulations or abating public nuisances by all other remedies, including the issuance of administrative citations pursuant to chapter 1-9, through the commencement of a criminal or civil proceeding, or through other legally established procedures.

#### 8-2107 Responsibility for conformance to codes and permits

(a) Every owner is required to maintain his or her property in a manner that does not violate the provisions of this chapter, and such owner remains liable for any violation regardless of any contract or agreement with any third party regarding such property.

(b) To the extent allowed by law, the code enforcement officer may enter on such property at reasonable times to make inspections.

#### 8-2108 Violation

Whenever the code enforcement officer determines that a violation exists on a property pursuant to this chapter and that the violation does not pose an immediate hazard to the general welfare, health and safety, so as to require summary abatement pursuant to section 8-2109, below, the code enforcement officer may issue a notice of violation to the person responsible for the violation, followed by an administrative citation, pursuant to the procedures outlined in chapter 1-9 of this code.

#### 8-2109 Summary abatement to protect health, safety and welfare

(a) If the code enforcement officer or other city employees designated by the city manager determines a violation presents an immediate danger to the health and safety of person(s) or property or to the general welfare of the city unless immediately corrected, and that there is not time to seek a court order or administrative order granting the code enforcement officer permission to abate the violation, the violation may be summarily abated without compliance with this chapter. Abatement shall include only such actions as are required to alleviate those conditions that present the immediate health and/or safety concerns, and may include, without limitation boarding of windows, doors, and other openings; removal of junk and debris; and/or securing the perimeter of the property.

(b) The code enforcement officer shall document the health and and/or safety conditions that require immediate abatement; all corrective measures taken in the abatement; and the costs thereof, so that these costs may be recovered pursuant to this section 8-2111(c) of this chapter.

(c) If summary abatement is performed under this section, the city shall provide the party responsible for the violation with a post-abatement hearing to contest the validity of the summary abatement pursuant to the procedures for an appeal.

### 8-2110 Appeals

A recipient of an administrative citation may appeal the citation and may request a hearing before the code enforcement appeals board pursuant to the procedure outlined in section 1-907 of this code. An appeal conducted pursuant to this section shall be in accordance with sections 1-908 – 1-910 of this code.

### 8-2111 Abatement by code enforcement officer

(a) If a violation is not abated within the time limit specified in the notice of violation, the code enforcement officer may cause the abatement of the violation. The officer is hereby authorized to enter the subject property to abate the violation subject to the consent of the property owner or occupant to do so. If the officer is unable to get consent from the property owner or occupant, the officer may enter the subject property to abate the violation pursuant to an abatement warrant issued pursuant to the procedures outlined in Sections 1822.50, *et seq.*, the California Code of Civil Procedure.

(b) If a violation is abated by the city pursuant to this section, the costs of abatement shall be billed to the property owner pursuant to section 8-2112(c) of this chapter.

(c) The city may pursue any and all available legal remedies to collect unpaid abatement costs, including, but not limited to, those set forth in section 8-2113 of this chapter.

### 8-2112 Administrative penalties, administrative costs and abatement costs

(a) Administrative penalties. If a violation is not abated within the time limit specified in the notice of violation and an administrative citation is issued, then the citation shall include a penalty at the maximum amount allowed by law and established by city council resolution, including, but not limited to, the penalties contained in Chapter 1-3 and Chapter 1-9 of this code, exclusive of administrative costs.

(b) Administrative costs.

(1) If a violation is not abated within the time limit specified in the notice of violation and an administrative citation is issued, then the administrative citation may include a charge to recover the administrative costs for the issuance of the notice of violation and administrative citation and other city activities related to the abatement of the violation. The amount of the charge shall be based on an analysis of direct and indirect personnel costs (including attorney fees), costs of documenting the violation and the actual costs of preparing, printing and mailing the notice of violation and administrative citation. The administrative costs shall become due and payable thirty (30) days of the effective date of the administrative citation.

(2) If an administrative penalty is not paid within the time limit specified in the administrative citation, an administrative cost may be added to the administrative penalty already due and owing to recover the administrative costs related to collecting the unpaid penalty. The amount of the charge shall be based on an analysis of direct and indirect personnel costs (including attorney fees) incurred to recover the penalty, including the costs of documenting the late payment, preparing, printing and mailing related notices and correspondence to the violator demanding payment and may include interest as provided by law.

(c) Abatement costs. If a violation is abated by the city pursuant to this chapter, the abatement costs, including incidental costs, shall be billed to the property owner and be due and payable within thirty (30) days of the date the billing is mailed to the property owner. The term "incidental costs" shall include, but not be limited to, direct and indirect personnel costs, attorney fees, costs incurred in documenting the violation and actual expenses and costs for the preparation of notices, specifications and contracts, for inspection of the abatement and for the printing and mailing of notices.

### 8-2113 Recovery of administrative penalties, administrative costs and abatement costs

(a) Cumulative remedies. At its discretion, the city may pursue any and all legal and equitable remedies for the recovery of administrative penalties, administrative costs and/or abatement costs owed to the city. Pursuit of one remedy does not preclude the pursuit of any other remedies. Any property owner who fails to

pay any abatement penalties, administrative costs and/or abatement costs owed to the city shall be liable in any action brought by the city for its costs incurred in bringing such action. The city's collection costs may include, but are not limited to, those for personnel, materials, overhead, attorney's fees and any other city expenditures expended in the action to collect the unpaid administrative penalties, administrative costs and/or abatement costs.

(b) Liens; special assessments. The amount of any unpaid administrative penalties, administrative costs and/or abatement costs may be made a lien or special assessment on the real property on which the violation occurred.

(1) The code enforcement officer shall present a report on unpaid penalties, charges and/or costs and a resolution of lien or special assessment to the city council.

(2) At least ten (10) days before the city council meeting at which the cost report and resolution of lien or special assessment are considered, the officer shall mail the owner a copy, together with a notice of the time and place of the council meeting at which the report will be considered, and advising the owner that he or she may appear and protest any penalty and/or cost contained in the report. The report and notice shall also be posted conspicuously on the subject property.

(3) At the time fixed for hearing on the report of expenses, the council shall consider the report and protests or objections by the owner liable to be assessed for the penalties, and/or costs. The council may revise, correct or modify the report as it considers just. Thereafter, the council may confirm the report and approve the lien or special assessment. The owner shall be notified by mail of the council's action.

(4) The lien or special assessment shall attach when the officer records a certificate listing unpaid administrative penalties, administrative costs and/or abatement costs with the county recorder's office. The certificate shall specify the amount of the lien or special assessment, the street address, legal description, and assessor's parcel number of the parcel on which the lien or special assessment is imposed, and the name and address of the record owner of the parcel. In the event that the lien or special assessment is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified above shall be recorded by the officer. The lien or special assessment may be foreclosed by an action brought by the city for a money judgment. Until the lien or special assessment is discharged, released or satisfied, interest shall apply at the maximum amount allowed by law.

#### 8-2114 Abatement on recurrence

When a violation previously abated in accordance with this chapter recurs within twelve (12) months of such abatement, no warning notice is required. The code enforcement officer shall send a notice of violation to the property owner pursuant to section 1-903, with the exception that the time limit for abating the violation shall not exceed ten (10) days from the effective date of the notice of violation. Such notice shall be served on the property owner in accordance with the provisions of section 1-905.

#### 8-2115 Additional violations

(a) Any property owner who violates any order of abatement pursuant to this chapter is guilty of an infraction or misdemeanor.

(b) Any person who removes or defaces any notice as required by this chapter is guilty of an infraction or misdemeanor.

(c) Any person who obstructs, impedes or interferes, or causes another to do so, with any abatement actions performed pursuant to this chapter is guilty of an infraction or misdemeanor.