
Chapter 8.10
PUBLIC NUISANCE

Sections:

- [8.10.010](#) Definitions.
- [8.10.020](#) Enforcement of chapter.
- [8.10.030](#) Nuisance.
- [8.10.040](#) Voluntary abatement – Emergency abatement.
- [8.10.050](#) Abatement of violations of the City’s construction and fire standards.
- 8.10.060 Repealed by Ord. 1620.
- [8.10.070](#) Procedures for abating public nuisances that do not constitute an emergency – Recovery of cost of abatement.
- [8.10.080](#) Violations – Additional remedies – Injunction.

8.10.010 Definitions.

For the purposes of this chapter, the words set out in this section shall have the following meanings:

“Abandoned” or “vacant” means a property that is unoccupied, or occupied by unauthorized persons, for any amount of time. Conditions evidencing that a property is “abandoned” or “vacant” for the purpose of enforcing the provisions of this chapter include, but are not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, and statements by neighbors, passersby, delivery agents and/or government employees that the property is abandoned or vacant.

“Authorized” means authorized, allowed, approved or permitted by the City Manager or his or her designee.

“Boat” means and includes any device or part thereof designed to propel, move or draw any person upon water, including, but not limited to, boats, ships, jet skis, and wave runners. “Boat” is also included within the term “vehicle.”

“Building” means any structure having a roof supported by columns or walls, used or intended for supporting or sheltering any use, occupancy or storage.

“Charge” or “possession” means the right to actively control or possess property subject to this chapter for the purposes of causing the maintenance, repair and/or rehabilitation of such property, including, but not limited to, a beneficiary/trustee of distressed property, executor, administrator, conservator, trustee, property management agent or company, etc.

“Construction and fire standards” means those construction and fire codes, and any modifications and amendments thereto, adopted from time to time by the Vacaville City Council, including, but not limited to, the California Building Code, the California Plumbing Code, the California Mechanical Code, the California Electrical Code, the Uniform Housing Code, the Uniform Code for the Abatement of Dangerous Buildings, the Uniform Sign Code, the Uniform Pool, Spa and Hot Tub Code, the Fire Code of the City of Vacaville, the California Fire Code, the Miscellaneous Construction Standards, Building Security, and the Development Standards for New Construction Adjacent to Open Space Lands Where Wildfire is a Threat.

“Distressed” means a property that is under a current notice of default, notice of trustee’s sale, or pending tax assessor’s lien sale, or has been foreclosed upon by the trustee or conveyed to the beneficiary/trustee via a deed in lieu of foreclosure/sale.

“Enforcement agency” means the City of Vacaville.

“Front yard” means that area of a property which fronts on a public street and encompasses the entire area up to the property’s side fence or gate, or to a point 10 feet along the side of the primary structure on the property if there is no fence.

“Hearing Board” or “Hearing Examiner” means the Planning Commission or those persons or that person otherwise appointed by the City Manager to conduct hearings pursuant to the provisions of this chapter or pursuant to any of the construction and fire standards as adopted by the City of Vacaville.

“Landscaping” means grass, ground covers, bushes, shrubs, hedges or similar plantings, and decorative rock or bark or artificial turf/sod designed specifically for exterior landscaping. “Landscaping” does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch, indoor-outdoor carpet, or any similar material.

“Local” means within 40 road/driving miles’ distance of the subject property.

“Maintenance,” for the purpose of maintenance of landscaping required under this chapter, includes, but is not limited to, regular watering, irrigation, cutting, pruning, and mowing of required landscaping and removal of all trimmings.

“Out-of-area” means in excess of 40 road/driving miles’ distance of the subject property.

“Owner” means any person owning property, as shown on the last equalized assessment roll for City taxes, and/or the lessee, tenant or other person having control or possession of the property.

“Person” means a natural person, his heirs, executors, administrators, or assigns, and also includes an individual, partnership, corporation, association or other organization, or their successors or assigns, or the agent of any of the aforesaid.

“Property” and/or “premises” means all real property, including land, tenements and hereditaments, including, but not limited to, front yards, side yards, back yards, driveways, walkways and sidewalks and shall include any building located on such property.

“Rear yard” is that area of a property that is not within the front yard as defined herein, excepting therefrom the surface area covered by the residential building and garage.

“Secured” means such measures as may be directed by the City that assist in rendering abandoned or vacant property inaccessible to unauthorized persons or animals, including, but not limited to, the repairing of fences and walls, chaining/padlocking of gates, and closure and locking of windows, doors (walk-through, sliding and garage) and/or any other opening of such size that it may allow a child or animal to access the interior of the property and/or structure(s). In the case of broken windows, “secured” means the reglazing or boarding of the window as directed by the City.

“Side yard” is that area normally and customarily found in residential property between the fence line at the front of a structure and extending along the sides of the building until the rear yard is reached.

“Substantial obstruction” means any obstruction which is a threat to health, safety or welfare, or which impairs the clear or safe passage of any vehicle, pedestrian or device to assist any pedestrian, including, but not limited to, wheelchairs, or which impairs safe sight distances for the operation of motor vehicles. In order to provide appropriate fire protection, “substantial obstruction” includes the failure to keep a clear lane of four feet or more on one side yard or the other of a structure in order to provide appropriate access for the provision of firefighting personnel and apparatus. (Ord. 1494 §2(part), 1993).

(Ord. 1808, Amended, 07/22/2008; Ord. 1614, Amended, 04/07/1999)

8.10.020 Enforcement of chapter.

A. Authority – Department Head Defined. The City Manager or his or her designee shall be the department head with the principal responsibility for enforcing this chapter. Additionally, the City Attorney, Fire Chief, Chief of Police, Director of Public Works, Director of Community Development, Building Official, Director of Housing and Redevelopment, and Code Compliance Technicians, or any of their designees, shall have authority to enforce the provisions of this chapter. Any provision of this chapter that refers to the City Manager shall be interpreted to include a reference to a designee of the City Manager or anyone specified herein to have enforcement authority.

B. Appointment of Hearing Examiner. In order to hear cases brought under the provisions of this code, the City Manager or his/her designee shall appoint one or more hearing examiners who shall serve at the City Manager’s pleasure. A hearing examiner may be a permanent city employee. Should a property owner object to a city employee serving as hearing examiner, then the City Manager or his/her designee shall appoint an outside hearing examiner to hear the matter.

C. Violations. Upon entry of second or subsequent civil or criminal judgment within a two-year period finding that an owner or property is responsible for the same or a similar condition described in Section [8.10.030](#), the court or the hearing officer may order the owner to pay triple the costs of abatement. (Ord. 1494 §2(part), 1993).

(Ord. 1808, Amended, 07/22/2008; Ord. 1721, Amended, 09/10/2004; Ord. 1620, Amended, 07/08/1999; Ord. 1614, Amended, 04/07/1999)

8.10.030 Nuisance.

A. Generally. It is declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in this City, whether commercial, industrial or residential, to maintain or use, or allow the maintenance or use of, such premises in such a manner that any one or more of the conditions or activities described in the following subsections are found to exist. However, these provisions relating to nuisances are not intended to, nor shall they, supersede the enforcement as a nuisance of the violation of any other provisions of state law or the Vacaville Municipal Code.

1. Any condition as described in the Uniform Code for the Abatement of Dangerous Buildings as adopted in Chapter 14.20.256 or in the Uniform Housing Code as adopted in Chapter 14.20.255. Reference to said code is not intended to, nor shall it reduce, supersede, diminish or otherwise affect enforcement through the provision of said Uniform Code, or any other code. Said Uniform Code provisions shall remain in full force and effect;

2. Any condition as described in the California Fire Code as adopted in Chapter 14.20.271. Reference to said code is not intended to, nor shall it reduce, supersede, diminish or otherwise affect enforcement through the provision of said fire code, or any other code. Said fire code provisions shall remain in full force and effect. In addition, and in order to provide appropriate access for the provision of firefighting personnel and apparatus, property owners must keep a clear lane of four feet or more throughout one side yard of a structure;

3. Any building or structure which has been abandoned or vacant for any amount of time, such that it constitutes an attractive nuisance or hazard to the public, or which has been so damaged by fire, wind, earthquake, flood, neglect or which has become so dilapidated or deteriorated as to (a) become an attractive nuisance to children; (b) become a harbor for criminal persons or persons appearing to engage in criminal activity; or (c) which enables persons to resort thereto or utilize said property for the purpose of acts threatening safety of oneself, other persons, or the property;

4. Any building or structure which has been abandoned or vacant for any amount of time, unless one of the following applies:

a. The building or structure is the subject of an active building permit for repair or rehabilitation and the owner or other person having charge or possession of the property is progressing diligently to complete the repair or rehabilitation; or

b. The building or structure complies with all applicable provisions of the State Housing Law (California Health and Safety Code Sections 17920 et seq.), the Federal Housing Quality Standards and/or the Vacaville Municipal Code, including but not limited to the City's construction and fire standards (Division 14.20 of this code), is ready for occupancy, and is either actively being offered for sale, lease or rent or is actively being maintained and monitored by the owner or other person having charge or possession of the property so as not to contribute to blight or otherwise

detrimentally affect the public safety or welfare, including, but not limited to:

i. Maintenance of landscaping and plant materials in good condition;
and

ii. Maintenance of the exterior of the building or structure; including, but not limited to, paint and finishes in good condition, and if the property contains an exterior pool or spa, such pool or spa is being kept in good working order so the water remains clear and free of pollutants and debris or has been drained and kept dry, and there is an enclosure surrounding such pool or spa that complies with the minimum pool barrier requirements of the State of California; and

iii. Regular removal and disposal of all exterior trash, debris, and graffiti or other inscribed material (as set forth in Vacaville Municipal Code Chapter 8.13), and any other items that give the appearance that the property is abandoned or vacant, such as the accumulation of newspapers, circulars, flyers, or notices (except those required by federal, State or local law) and discarded personal property; and

iv. Prevention of criminal activity on the premises, including but not limited to the use and sale of controlled substances, prostitution, criminal street gang activity, trespassing and vandalism; and

v. The building or structure has been secured against intrusion by unauthorized persons or animals; and

vi. If the building or structure remains, or is anticipated to remain, abandoned or vacant for 30 or more days, the property owner or other person having charge or possession of the property has notified the City's Code Compliance Division thereof in writing, including the name, address, and telephone number of the owner or other person having charge or possession of the property and, if applicable, a 24-hour contact phone number of the property management company in control of the building or structure; and

vii. If the building or structure is owned or controlled by a corporation and/or out-of-area beneficiary/trustee/owner or other person having charge or possession of the property, a local property management company shall be hired to perform weekly inspections to verify that the requirements of this chapter, and any other applicable federal, State or local laws, are being met;

c. Any abandoned or vacant building or structure that also constitutes a public nuisance as defined in this or any other chapter of the Vacaville Municipal Code shall be subject to monthly monitoring fees and enforcement response fees, to recover the City's regulatory costs to monitor and respond to the nuisance. The separate monthly monitoring fee and enforcement response fee shall be set by resolution of the City Council. The monitoring fee shall be applicable, even in the absence of any action, administrative or otherwise, by the City. The monitoring fee shall be imposed upon the owner or other person having charge or possession of the property, upon the City's initial determination that the building or structure constitutes a public nuisance. The fee shall thereafter be imposed in each 30-day period following the imposition of the initial monitoring fee. On buildings or structures requiring an involuntary City enforcement response within any 30-day period, an additional and

separate enforcement response fee shall be imposed, for each response, upon the owner or other person having charge or possession of the property;

d. Any monitoring or enforcement response fee imposed pursuant to this subdivision may be appealed and shall be collected in the same manner as is specified in Section [8.10.070](#) of this chapter. Monitoring and enforcement response fees shall be imposed as long as the abandoned or vacant building or structure remains a public nuisance;

5. Any occupied building or structure designed for human occupancy where conditions exist which endanger the health, safety or welfare of the public or the occupant(s), including, but not limited to, buildings violating applicable provisions of the City's construction and fire standards, the State Housing Law, Federal Housing Quality Standards or the Vacaville Municipal Code;

6. Gasoline service stations which are not in operation and are either boarded up or have removed dirt and other materials from the ground and left open excavations, even if the open excavations have been fenced, for a period of sixty days, unless such station has sought and received remediation plans from a local, state or federal agency relative to the management of hazardous or toxic waste and said actions are pursuant to said remediation plan;

7. Any building or structure which, because of obsolescence, dilapidated conditions, deterioration, damage, unsafe electrical wiring, unsafe gas connections, or other causes, is in such a condition as to constitute a fire, or other health and safety hazard;

8. Any unauthorized accumulation, storage, depositing or keeping of lumber, garbage, trash, debris, salvage materials, or any cast-off, damaged, discarded, obsolete, salvage, scrapped, unusable, worn-out or wrecked object, thing or material composed in whole or in part of asphalt, brick, carbon, cement, plastic or other synthetic substance, fiberglass, metal, paper, plaster, plaster of paris, rubber, terra cotta, wool, cotton, cloth, canvas, organic matter, abandoned or unused furniture, appliances, sinks, toilets, cabinets or other fixtures, abandoned, wrecked, dismantled or inoperative vehicles as set forth in Chapter 10.48 hereinafter, camper shells, automobile parts, wheels or tires, unseaworthy boats or other substances in the front yard of a residential property. This section is not intended to, nor shall it, prohibit the temporary storage for a period not to exceed 30 days of construction or landscaping materials to be used in the improvement of the residential property itself. Further, This section does not prohibit authorized commercial storage and display of products and/or goods nor does it prohibit the weekly placing of waste containers as required for garbage service, however such waste receptacles must be at the side of the house or in the rear yard at all other times;

9. Any unauthorized accumulation, storage, depositing or keeping of lumber, junk, garbage, trash, debris, salvage materials or any cast-off, damaged, discarded, obsolete, salvage, scrapped, unusable, worn-out or wrecked object, thing or material composed in whole or in part of asphalt, brick, carbon, cement, plastic or other synthetic substance, fiberglass, metal, paper, plaster, plaster of paris, rubber, terra cotta, wool, cotton, cloth, canvas, organic matter, abandoned or unused furniture, appliances, sinks, toilets, cabinets or other fixtures, abandoned, wrecked, dismantled

or inoperative vehicles as set forth in Chapter 10.48 hereinafter, camper shells, automobile parts, wheels or tires, unseaworthy boats or other substances in the rear or side yard of a residence which is stored or stacked outside of permitted storage sheds or structures above the level of the lowest fencing in said rear or side yard, or which covers more than 25% of the surface area of the rear or side yard. Approved structures, vehicles and children's play equipment which exceed the height of a fence, are allowed in rear or side yards but their surface coverage shall be included within the 25% coverage limit. This section does not prohibit authorized commercial storage and display of products and/or goods under an approved conditional use permit;

10. Where there is an attractive nuisance to children, including but not limited to, appliances, equipment, machinery, camper shells, unenclosed pools or ponds, vehicles, uncapped wells or excavations which may be hazardous to children;

11. The operation of any motor vehicle salvage yard or salvage yard as defined in Vacaville Municipal Code Section 14.016.020 in violation of the provisions of Title 14 of the Vacaville Municipal Code;

12. Property with dead, decayed, diseased or hazardous trees, weeds, plants, shrubs or overgrown vegetation which is likely to harbor rats, vermin or other pests, or any trees, weeds, plants, shrubs or overgrown vegetation which adversely impacts on public property as follows:

a. which lies upon or protrudes over or across a city sidewalk so that less than a minimum of 36 inches clear passage exists, or so as to otherwise substantially obstruct the clear passage of pedestrians or which impairs the safe sight distances for the operation of motor vehicles; or

b. which has branches or limbs which protrude over or across a city sidewalk at a height lower than seven (7) feet, or otherwise substantially obstruct the clear passage of pedestrians or impairs the safe sight distances for the operation of motor vehicles; or

c. which has branches or limbs which protrude over a city street at a height lower than fourteen (14) feet, or which otherwise substantially obstruct the clear passage of vehicles or impairs the safe sight distances for the operation of motor vehicles; or the continued existence of any tree or other plant on private property within the city limits that is infested with insects, mites, fungus, bacteria, virus or growths which constitute a threat to, or may be injurious to trees or other plants owned or maintained by the City in the surrounding area; or any plant which impairs, destroys, or causes safety problems with any street improvement, sidewalk, curb, gutter, sewer, street trees, or other public improvements.

The city may inspect any tree or other plant on private property to determine whether the same, or any portion thereof, is in such condition as to constitute a public nuisance and in addition, for the purpose of abating or correcting any condition or thing declared to be a public nuisance.

Nothing contained in this section shall be deemed to impose any liability or responsibility up on the city, its officers, or employees to undertake abatement of a nuisance arising between private neighboring properties, nor to relieve the owner of

any private property from the duty to keep any tree or other plant upon his property or under his control, in such a condition as to prevent such tree or other plant from constituting a public nuisance.

13. Vehicles (as defined in Vacaville Municipal Code Section 10.48.010(B) (11)), which are parked upon or protrude over or across a city street or sidewalk;

14. Vehicles (as defined in Vacaville Municipal Code Section 10.48.010(B) (11)), boats, recreational vehicles, campers, trailers or portions thereof which are parked or standing on private property in the front yard or unenclosed side yard:

a. Not parked on the following surfaces: 1) continuous improved impervious surface which includes concrete, asphalt, brick or fitted stone; 2) continuous improved surface consisting of gravel, loose rock or lava.

b. When the parking area in a front yard exceeds the standards set forth in Vacaville Municipal Code Section 14.074.130(A)(4) providing for a maximum vehicle parking area of 24 feet for residences with one and two car garages and 36 feet for residences with three or more car garages. In addition, vehicles may be stored in a side or rear yard. While it is preferred to have this additional parking area adjacent to the driveway at a residence, that is not required and an additional driveway area may be at another location on a lot so long as the 50% of front yard landscaping is maintained and the total aggregate driveway area does not exceed the 24 foot and 36 foot limits set forth herein.

c. The Director of Community Development may permit minor increases relative to sub-sections (a) and (b) above in exceptional circumstances where the application of these standards will create an unreasonable hardship on the property owner so long as it can also be determined that the adjacent properties and the character of the neighborhood will not be adversely impacted by the additional paving.

d. Further excepted from this provision is farm equipment used for agricultural production on land owned or leased by the property owner.

e. In order to protect the public's right to safely use public sidewalks and streets, any driveway or front-yard vehicle parking area must be designed or constructed in such a way as to keep materials used for parking from being carried on to the public sidewalk or street.

15. Where any pooled oil or hazardous or toxic waste substances are stored or accumulated in any unapproved container or are in violation of any federal, state, county or city statute; or when any such substance heretofore mentioned in allowed to flow onto a public right-of-way, storm drain, or onto or into any public improvement; or where excessive accumulation of grease or oil on paved surfaces, buildings, walls, fences or other structures has occurred;

16. Any unpermitted obstruction of or encroachment on public property, including, but not limited to, any public street, highway, sidewalk, curb, gutter, park, building or any other public improvement. Unpermitted structures may be removed by city at owner's expense;

17. Any building or structure that is marked or defaced with spray paint, dye,

or like substance in a manner commonly described as graffiti or as defined in Chapter 8.13 of this code, and which is visible from public or private property when the observer is standing a normal or customary place from which to observe the alleged nuisance or which is found when observed during an inspection pursuant to a warrant;

18. Vacant lots not maintained free of weeds, trash, clutter, litter, junk, discarded vehicles or vehicle parts, or has become a parking area resulting in dirt/mud tracking onto public right-of-way;

19. *When excessive noise, as defined herein, occurs or is allowed to occur. Excessive noise is that noise or sound emanating from any property which is loud, unusual or unnecessary and which disturbs the peace or quiet of nearby property or which would cause annoyance or discomfort to a reasonable person of normal sensitivity in the area. Excessive noise includes the use or operation of any radio receiving set, television set, musical instrument, phonograph or stereo, or any other machine or device which produces or reproduces sound in such a manner as to unreasonably disturb the peace, quiet and comfort of neighboring residents. This provision shall apply to all land uses, whether such uses meet other standards under the zoning code of the City. In addition, the following special noise regulations shall constitute nuisances whenever they occur between the hours of 10:00 p.m. and 6:00 a.m. the next morning. This limitation shall extend until 8:00 a.m. on Sunday mornings.*

a. *Noise from Construction Activities. It is unlawful for any person within 500 feet from any occupied residence to operate equipment or perform any out-of- doors construction or repair work on any building, structure or other building or repair project, except that interior work which would not create noise or disturbance noticeable to a reasonable person of normal sensitivity in the surrounding neighborhood shall not be subject to these restrictions;*

b. *A request for an exception to the permitted construction hours and days may be granted by the director of community development, or his or her designee, for emergency work, to offset project delays due to inclement weather, for 24-hour construction projects or other similar occurrences;*

c. *City projects determined by the director of public works to be emergencies, as defined in Chapter 14.03, Environmental Review, shall be exempt from these provisions.*

20. *Noise from Construction Activities. No construction or grading equipment shall be operated nor any outdoor construction or repair work shall be permitted within 500 feet from any occupied residence between dusk (one-half hour after sunset) and 7:00 a.m. Monday through Saturday, and no such construction or grading activities shall be allowed on Sundays or holidays except as provided for herein:*

a. *Interior work which would not create noise or disturbance noticeable to a reasonable person of normal sensitivity in the surrounding neighborhood shall not be subject to these restrictions.*

b. *Construction or repair work performed by or under the direction of a homeowner at his or her residence is exempt from these restrictions on Sundays and*

holidays, but such construction or repair work shall be limited to the hours between 8:00 a.m. and dusk on Sundays and holidays.

c. A request for an exception to the permitted construction hours and days may be granted by the Director for emergency work, to offset project delays due to inclement weather, for 24-hour construction projects, or other similar occurrences.

d. City projects undertaken by the Public Works Department shall be exempt from these provisions;

21. Noise from Commercial Activities. It is unlawful for any person within five hundred feet from any occupied residence to operate equipment, including, but not limited to, parking lot cleaning and sweeping machines, leaf blowers, and mowing machines. This section does not prohibit the loading or unloading of commercial vehicles;

22. Excessive direct lighting, as defined herein, occurs or is allowed to occur. Excessive direct lighting is that light emanating from any property which is bright, unusual, or unnecessary and which disturbs the peace or quiet of nearby property or which would cause annoyance or discomfort to a reasonable person of normal sensitivity in the area. Excessive direct lighting does not include diffused light which is shielded or directed away from adjoining property and, therefore, does not shine directly onto another property;

23. Violation of any provision of the Vacaville Municipal Code;

24. Any condition recognized in law or in equity constituting a public nuisance.

B. Declaration of Public Nuisance. Any property found to be maintained, used or allowed to be maintained or used in violation of the foregoing section is declared to be a public nuisance and shall be abated by rehabilitation, removal, demolition or repair pursuant to the procedures set forth herein. The declaration of a nuisance and the procedures for abatement set forth here shall not be exclusive and shall not in any manner limit or restrict the city from enforcing other city ordinances or abating public nuisances in any other manner provided by law.

C. Procedures for the Abatement of Nuisances. The City shall follow the provisions of Section [8.10.070](#) regarding the procedures necessary to provide due process to a property owner in a nuisance abatement action.

D. Right of Entry for Enforcement Officer.

1. Whenever an enforcement officer has reason to believe that a nuisance exists or that an inspection is necessary to enforce any provision of this chapter or any other chapter of the municipal code relating to a public nuisance, and to the extent authorized by law, the officer may enter the premises at a reasonable time to perform the inspection or any other right or duty imposed by this chapter, subject to the requirements of Amendment IV of the United States Constitution and any other provisions of applicable federal, State, or local law.

2. Whenever an enforcement officer is authorized by law to enter upon private premises in order to enforce the provisions of this chapter or any other chapter of the

municipal code relating to a public nuisance, no owner or other person having charge or possession of the property shall fail, refuse, or neglect to promptly permit entry therein by the enforcement officer. Whenever practicable, the enforcement officer shall contact the occupant of such premises prior to entry and inform the occupant of the reasons for such entry onto such property, and if the occupant is other than the owner, the enforcement officer shall also, if practicable, contact such owner. Notwithstanding the foregoing, unless such contact is required under applicable federal or State law, the failure of the enforcement officer to contact the occupant and/or owner of the property prior to entry shall not invalidate the enforcement officer's right to enter upon the property.

3. Any person who obstructs, impedes, or interferes with any officer, employee, contractor, or authorized representative of the city, or with any person who owns or holds any estate or interest in any premises on which a nuisance exists and which must be abated under the provisions of this code, whenever such officer, employee, contractor or authorized representative of the city, or person having an interest or estate in such premises is engaged in the work or abating any nuisance as required by the provisions of this code, or in performing any necessary act preliminary to or incidental to such work authorized or directed pursuant to this code is guilty of a misdemeanor. (Ord. 1542 §6, 1995; Ord. 1535 §13, 1995; Ord. 1494 §2(part), 1993).

(Ord. 1808, Amended, 07/22/2008; Ord. 1751, Amended, 07/26/2005; Ord. 1739, Amended, 09/06/2005; Ord. 1721, Amended, 09/10/2004; Ord. 1620, Amended, 07/08/1999; Ord. 1614, Amended, 04/07/1999)

8.10.040 Voluntary abatement – Emergency abatement.

A. Voluntary Abatement. Except in emergencies or where abatement of a particular nuisance has occurred more than twice in the prior two years, enforcing departments shall seek voluntary abatement of the nuisance prior to initiating formal abatement action.

B. Emergency Abatements. Notwithstanding any other provision of this code, the City may act to immediately abate any nuisance or violation of this chapter whenever the department head or enforcement agency determines that a condition poses a clear and imminent danger to, or requires immediate action to prevent or mitigate the loss or impairment of, life, limb, health, property, safety or welfare of anyone, or essential public services. The abatement shall include all actions necessary to secure the premises to prevent further occurrences of the nuisance.

The City may perform this abatement without providing prior notice or hearing to the owner or other person in charge or possession of the offending premises. The City shall issue a notice and order in accordance with Section [8.10.070](#) as soon as practicable following completion of the abatement, and persons receiving such notice and order shall be entitled to all hearing rights as provided therein.

C. Review and Legal Advice of City Attorney Required. Except as set forth below, no action shall be taken under this section unless the city attorney or his or her authorized representative shall first review the proposed action and render his or her legal advice as to whether the requirements of Subsection B have been met. In circumstances where person or property is, in the determination of the Fire Chief, the

Chief of Police or the Building Official, in imminent danger of harm, the Fire Chief, the Chief of Police or the Building Official may cause the immediate abatement of the condition posing and immediate threat.

D. Cost Recovery. The costs of any emergency abatement shall be charged against and collected from the property subject to the emergency abatement. (Ord. 1494 §2(part), 1993).

(Ord. 1808, Amended, 07/22/2008; Ord. 1721, Amended, 09/10/2004; Ord. 1620, Amended, 07/08/1999; Ord. 1614, Amended, 04/07/1999)

8.10.050 Abatement of violations of the City's construction and fire standards.

This chapter shall apply to the abatement of nuisances pursuant to the City's construction and fire standards to the extent such abatement does not conflict with any provisions or procedures of said standards. To the extent that a conflict between this chapter and applicable provisions or procedures of said standards exists, the provisions or procedures of the City's construction and fire standards shall apply.

(Ord. 1808, Amended, 07/22/2008; Ord. 1620, Amended, 07/08/1999; Ord. 1614, Amended, 04/07/1999)

8.10.070 Procedures for abating public nuisances that do not constitute an emergency – Recovery of cost of abatement.

Whenever a property owner does not voluntarily abate a nuisance, the City may abate the nuisance and collect or otherwise recover the costs of such abatement in accordance with State law, including, but not limited to, reasonable attorneys' fees incurred by the City to enforce this chapter, and record an assessment or lien against property to recover all City costs pursuant to Section [8.04.080](#). The following procedures shall apply to the abatement of public nuisances that do not constitute an emergency:

A. Commencement of Nuisance Abatement Proceedings. The City department responsible for abating the nuisance shall issue a notice of declaration of public nuisance and order to abate (notice and order), directed to the record owner(s) of the premises. The notice and order shall contain:

1. The street address and/or such other description as is required to identify the premises;

2. A statement specifying the conditions which constitute the nuisance and declaring such conditions to be a public nuisance;

3. A statement of the action required to be taken to eliminate the public nuisance;

4. A statement ordering the owner to abate the nuisance prior to a set date;

5. A statement advising that any person having record title or legal interest in the premises may appeal the notice and order by filing a written request for appeal hearing within 10 days from the date of service of the notice and order;

6. A statement that failure to appeal the notice and order will constitute a waiver of all right to an administrative hearing and will be a final determination of the matter;

7. A description of the range and amount of the administrative, civil and/or criminal actions and monetary fines, as described in this chapter, that the City may impose for such violations if not corrected; and

8. A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid. In the case of a continuing violation pertaining to a building, plumbing, electrical or other similar structural or zoning issue that, in the opinion of the enforcement officer issuing the notice and order, does not create an immediate danger to health, safety or public welfare, a reasonable time, not to exceed 120 days, shall be provided to remedy or correct the violation prior to the imposition of fines or penalties. In determining what constitutes a reasonable time, the enforcement officer may consider the estimate of local professionals including licensed contractors, but shall have sole discretion to make the final determination as to what the reasonable time shall be.

B. Service of Notice and Order.

1. The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner and posted conspicuously on or in front of the property; and one copy thereof shall be served on each of the following if known to the department or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in or to the building or the land on which it is located. Service may be given either by personal delivery thereof to the person to be notified or by deposit in the United States mail, in a sealed envelope postage prepaid, addressed to such person to be notified at his or her last known business or residential address as the same appears in the public records or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in a United States mail box. The failure of the department to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

2. As an alternative to the above requirements for service, substituted service may be made as follows:

a. By leaving a copy during usual business hours at the recipient's business with the person who is apparently in charge, and then mailing a copy by first-class mail to the recipient at the address where the copy was left; or

b. By leaving a copy at the recipient's dwelling or usual place of abode, in the presence of a competent member of the household, and then mailing a copy by first-class mail to the recipient at the address where the copy was left;

c. If the party entitled to service has a property manager or rental agency overseeing the property, substituted service may be made as set forth above upon the

property manager or rental agency.

3. If the person entitled to service cannot be located or service cannot be made as set forth in this section, service may be made by publication in a newspaper of general circulation in Solano County. Service shall be deemed sufficient when it is accomplished pursuant to Government Code Section 6063.

4. The failure of the department to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this section.

5. Proof of giving any notice may be made by the certificate of any officer or employee of the City, or by affidavit of any person over the age of 18 years, which shows service in conformity with this code or other provisions of law applicable to the subject matter concerned.

C. Appeal of Notice and Order. The following procedures shall apply to the appeal of a notice and order:

1. Form of Appeal. Any person having any record title or legal interest in the premises may appeal from any notice and order by filing a written request for appeal hearing within 10 days from the date of service of the notice and order. The request for appeal hearing shall contain:

a. A brief statement setting forth the legal interest of each of the appellants in the premises involved in the notice and order;

b. A brief statement in ordinary and concise language of the specific order or action protested, together with any material facts claimed to support the contentions of the appellant;

c. A brief statement in ordinary and concise language of the relief sought, and the reasons why it is claimed the protested order or action should be reversed, modified, or otherwise set aside;

d. The signatures of all parties named as appellants and their official mailing addresses, with statements from each appellant that each agrees to accept service of the written notice of the time and place of the appeal hearing and the decision of the Hearing Examiner at such address; and

e. The verification by declaration under penalty of perjury of at least one appellant as to the truth of the matters stated in the appeal.

2. Processing of Appeal. Upon receipt of any appeal filed, the department shall transmit said appeal to the Hearing Examiner, who shall calendar it for hearing. The department shall also submit a written report to the Hearing Examiner along with the appeal, which shall include:

a. A chronology summarizing the relevant facts giving rise to the notice and order;

b. The City code section(s) alleged to have been violated by appellant and the reasons supporting the department's determination that said code section(s) was violated;

c. A summary of administrative costs incurred by the City in attempting to abate the nuisance; and

d. A recommendation as to the administrative penalty amount sought to be imposed against the appellant pursuant to Section [8.10.080.A.1](#), if any, together with the reasons supporting that recommendation.

3. Noticing of Appeal for Hearing. Written notice of the time and place of the appeal hearing shall be given at least 10 calendar days prior to the date of the hearing to each appellant by the Hearing Examiner, including a copy of the report required by subsection C.(2) of this section, by causing a copy of such notice and report to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his or her address shown on the appeal.

4. Appeal Fee. The department may collect and require an appeal fee to be paid at the time the written notice of appeal is filed. The appeal fee shall be set by resolution of the City Council. The fee shall be calculated to recover the total City costs incurred in the appeal, including, but not limited to, staff time to process and handle the appeal, Hearing Examiner compensation, preparation and service of notices, and staff appearance in the appeal hearing. No appeal shall proceed without payment of the fee at the time the appeal is filed; provided, that the department head may waive or defer the appeal fee upon written request for good cause shown. Good cause may include severe economic hardship, significant attempts to comply with the notice and order, and other factors indicating good faith attempts to comply.

5. Effect of Failure to Appeal. Failure of any person to file a timely appeal in accordance with the provisions of this section shall constitute an irrevocable waiver of the right to an administrative hearing and a final adjudication of the notice and order, or any portion thereof.

6. Staying of Order Until Appeal. Enforcement of any notice and order shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

7. Hearing Procedures. The following procedures shall apply to the hearing of an appeal hereunder:

a. The Hearing Examiner may, upon request of the owner of the premises or upon request of the department, grant continuances from time to time for good cause shown, or upon his or her own motion.

b. The proceedings at the hearing shall be electronically recorded. Either party may provide a certified shorthand reporter to maintain a record of the proceedings at the party's own expense. Preparation of a record of the proceeding shall be governed by California Code of Civil Procedures Section 1094.6, as presently written or hereinafter amended.

c. The Hearing Examiner shall administer the oath or affirmation.

d. California Government Code Section 11513, as presently written or hereinafter amended, shall apply to the hearing.

e. Each party may represent themselves, or be represented by anyone of their choice.

f. The department shall present the City's case first. The appellant shall then present his or her case, followed by a question-and-answer period by the Hearing Examiner so as to allow the Hearing Examiner an opportunity to ask pertinent questions of both sides before making a determination.

g. The Hearing Examiner may inspect the premises involved in the hearing prior to, during, or after the hearing; provided, that notice of such inspection has been given to the parties before the inspection is made; the parties are given an opportunity to be present during the inspection; and the Hearing Examiner shall state for the record during the hearing, or file a written statement after the hearing for inclusion in the record, upon completion of the inspection, the material facts observed, and the conclusion(s) drawn therefrom. Each party shall have the right to rebut or explain the matters so stated by the Hearing Examiner either for the record during the hearing or by filing a written statement after the hearing for inclusion in the hearing record.

8. Decision of Hearing Examiner. Within 10 days of the conclusion of the hearing, the Hearing Examiner shall issue a decision. If it is shown by a preponderance of the evidence that the condition of the premises constitutes a public nuisance:

a. The decision of the Hearing Examiner shall contain findings of fact and a determination of the issues presented;

b. The decision shall require the owner to commence abatement of the nuisance not later than 15 days after the issuance of the decision, and that the abatement be completed within such time as specified by the Hearing Examiner, or in the alternative, within the time designated by the department;

c. The decision shall inform the owner that if the nuisance is not abated within the time specified, the nuisance may be abated by the City without further notice in such manner as may be ordered by the department and the expense thereof made a lien on the property involved and/or a personal obligation;

d. The decision shall include an order to pay the administrative costs incurred by the City in attempting to abate the nuisance, together with any administrative penalties deemed appropriate by the hearing examiner pursuant to Section [8.10.080.A](#), taking into account the duration and seriousness of the violation, any good faith efforts on the part of the appellant to achieve timely compliance with the notice and order, the frequency of violations by the appellant, the impacts of the violation on the community, and the economic impact of the penalty on the appellant;

e. The decision shall inform the appellant that the time for judicial review is governed by California Code of Civil Procedure Section 1094.6; and

f. The decision shall be final when signed by the Hearing Examiner and

served as herein provided.

9. Service of Hearing Examiner's Decision. Upon issuance of the decision, the department shall post a copy thereof conspicuously on the premises involved and shall serve a copy on the record owner in the same manner as set forth in subsection B of this section, and one copy shall be served on each of the following, if known to the department or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in the premises.

10. Decision of Hearing Examiner Final. The decision of the Hearing Examiner shall be final and conclusive and is not subject to further administrative appeal.

D. Recordation of Notice and Order. If compliance is not had with the notice and order within the time specified therein and no administrative appeal has been properly and timely filed, or following the hearing of an appeal compliance is not had with the hearing officer's decision within the time specified therein and no judicial challenge has been properly and timely filed, the City department responsible for abating the nuisance shall file in the office of the County Recorder a certificate describing the property and certifying (1) that the property is being maintained as a public nuisance, and (2) the owner has been so notified. Whenever the corrections ordered shall thereafter have been completed, or, in the case of a building or structure that constitutes a nuisance, the building or structure has been demolished so that it no longer exists as a nuisance, the City department shall file a new certificate with the County Recorder certifying that the corrections ordered have been completed or the building or structure has been demolished, whichever is appropriate.

The failure of the department to record the notice and order as required herein shall not invalidate any proceedings hereunder or relieve any person from any duty or obligation imposed by the provisions of this section.

(Ord. 1810, Amended, 09/09/2008; Ord. 1808, Amended, 07/22/2008; Ord. 1721, Amended, 09/10/2004; Ord. 1620, Amended, 07/08/1999; Ord. 1614, Amended, 04/07/1999)

8.10.080 Violations – Additional remedies – Injunction.

A. The owner or other person having charge or control of any such building or premises who maintains any public nuisance defined in this chapter, shall be subject to the following:

1. Upon the first or second violation within any consecutive 12-month period, the owner or other person having charge or control of the property shall be guilty of an infraction, each punishable pursuant to Section [1.16.010.C](#). The owner or other person having charge or control of the property may appeal said punishment pursuant to Section [8.10.070](#).

2. Upon the third or subsequent violation within any consecutive 12-month period, the owner or other person having charge or control of the property shall be guilty of a misdemeanor punishable pursuant to Section [1.16.010.B](#).

3. In addition to any and all other costs, fees, penalties and expenses which may be assessed or imposed as a result of a violation of this chapter, any owner or other person having charge or control of the property who violates any provision of this chapter shall be liable and responsible for, and shall pay to the City, an administrative fine as follows:

a. A fine not exceeding one hundred dollars for the first violation;

b. A fine not exceeding two hundred dollars for the second violation within any consecutive 12-month period; and

c. A fine not exceeding five hundred dollars for the third or subsequent violation within any consecutive 12-month period.

4. Notwithstanding the above, a violation of the City's construction and fire standards or any other City code relating to public health or safety is punishable by:

a. A fine not exceeding one hundred dollars for the first violation;

b. A fine not exceeding five hundred dollars for the second violation within any consecutive 12-month period; and

c. A fine not exceeding one thousand dollars for the third or subsequent violation within any consecutive 12-month period.

5. A 10 percent late payment fee shall be imposed on any fine which is not paid within 30 days of the issuance of the notice and order.

6. The administrative fines outlined above shall be levied in addition to the recovery of any costs outlined in this chapter.

7. The owner or other person having charge or control of the property may appeal said fine pursuant to Section [8.10.070](#).

8. Each day or portion thereof that the provisions of these codes are violated shall be deemed as a separate offense. It is in the enforcement officer's discretion whether to issue citations or to attempt to gain voluntary compliance. Failure of the enforcement officer to issue a citation for any violation of this section does not waive that or any other future violation and the penalty may be escalated regardless of whether a previous citation has been issued.

B. Any occupant or lessee in possession of any such building or structure who fails to vacate said building or structure in accordance with an order given as provided in this chapter, or who violates any order of abatement served as provided in Section [8.10.050](#) or pursuant to the City's construction and fire standards, is guilty of a misdemeanor. Each day such violation is committed or permitted to continue after notification to cease and desist shall constitute a separate offense and each subsequent violation shall, upon conviction, be punishable as prescribed by law.

C. Any person who removes any notice or order posted as required in this chapter, for the purpose of interfering with the enforcement of the provisions of this chapter is guilty of a misdemeanor. In the discretion of the Chief of Police or the City Attorney a

violation of this chapter may be enforced as an infraction. Each day such violation is committed or permitted to continue after notification to cease and desist shall constitute a separate offense and each subsequent violation shall, upon conviction, be punishable as prescribed by law.

D. As an additional remedy, the operation or maintenance of any property or thing in violation of the provisions of this chapter shall be deemed and is declared to be a public nuisance and may be subject to abatement by restraining order or injunction issued by a court of competent jurisdiction. All remedies and actions shall be cumulative and use of one remedy shall not prevent or diminish the use of any other. (Ord. 1494 §2(part), 1993).

(Ord. 1808, Amended, 07/22/2008; Ord. 1721, Amended, 09/10/2004; Ord. 1614, Amended, 04/07/1999)



The Vacaville Municipal Code is current through Ordinance 1890, passed September 8, 2015.

Disclaimer: The City Clerk's Office has the official version of the Vacaville Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.cityofvacaville.com/> (<http://www.cityofvacaville.com/>)

Code Publishing Company
(<http://www.codepublishing.com/>)