

Chapter 8.16

NUISANCE

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Section 8.16.010 Purpose.

The City Council finds that the promotion of voluntary compliance with minimum property maintenance standards is vital to the protection of the public's health, safety and quality of life. The Council recognizes that the City has an important interest in setting standards for the improvement of the overall appearance and maintenance of properties in the City because adequate maintenance and appearance promote property values and improve the general welfare and quality of life of its citizens. The Council believes there exists a need for further emphasis, than currently exists, on property maintenance and sanitation to avoid certain conditions, as described herein, which are injurious and adverse to the public health, safety and welfare of the residents of the City and which contribute substantially and increasingly to the deterioration and blight of residential neighborhoods, commercial areas and industrial areas. Said conditions are declared to be public nuisances and violations of this Code, to constitute visual blight or result in conditions which are harmful or deleterious to the public health, safety and welfare.

The purpose of this Chapter is to identify those conditions which are offensive or annoying to the senses, detrimental to property values and community appearance, an obstruction to or interference with the comfortable enjoyment of adjacent property, or are hazardous or injurious to the health, safety or welfare of the general public so as to constitute a nuisance. Abatement of these conditions is in the best interest of the health, safety and welfare of the residents of the City because maximum use and enjoyment of properties closely proximate to one another depends upon maintenance of those properties at or above a minimum standard of sightliness. The beneficial effects of maintaining standards of sightliness for property in the City include, but are not limited to, appreciation of property values, physical improvement and stability of residential and commercial areas, attraction of investors of capital, and maximum use of property for its highest and best use.

By this Chapter, the Council seeks to develop regulations that will promote the maintenance of property and the enhancement of the livability, community appearance, quality of life and the social, economic and environmental conditions of the community. Such regulations shall serve to promote the health, safety and general welfare of the public by requiring a level of maintenance of property, which will protect the habitability and appearance of the City, and prevent the impairment of property values which result from the neglect and deterioration of property. It is the intent of the Council to impose minimum Citywide standards for property maintenance.

This Chapter is intended to exist separate and apart from any existing community standards contained in any set of covenants, conditions and restrictions, and are not intended to enforce those standards. This Chapter shall apply to all publicly and privately owned property in the City, including City property, to the extent allowed by law. (Ord. 765 §1, 2008)

Section 8.16.020 Definitions.

A. The term "Chief Code Compliance Officer" means the Person designated pursuant to Chapter 1.10 of this Code.

B. The term "Neighborhood Code Compliance Division" means the division of the City's Departments of Building and Planning, created pursuant to Chapter 1.10 of this Code.

C. The term "Noxious growth" means weeds, dry grass, vines or brush which bear seeds of a wingy or downy nature or which achieve a high growth as to become a fire menace when dry, or which contain poisonous oils that become dangerous to the life and health of the community Poison oak and poison ivy shall be deemed to be a noxious growth when the conditions of growth are such as to constitute a menace to the public health of the community.

D. The term "Person" means any natural person, firm, association, business, trust, organization, corporation, partnership, trust company, or any other entity which is recognized by law as the subject for rights or duties.

E. The term "Responsible Person" means any Person who owns, controls or otherwise has the authority to act on behalf of any real property, building or structure, which is subject to this Code, and further includes any lender or other financial institution in possession of probate property by virtue of any judicial or non-judicial foreclosure proceeding

F. The term "Weeds" means vegetation growing upon streets, sidewalks, or private property including any of the following:

1. Vegetation that bears seeds of a downy or wingy nature,
2. Vegetation that is not pruned or is otherwise neglected so as to attain such large growth as to become, when dry, a fire menace to adjacent improved property.
3. Vegetation that is otherwise noxious or dangerous.
4. Dry grass, stubble, brush, or other conditions of growth which endangers the public

safety by creating a fire hazard in any area of the City.

G. The term "Vacant Structure" means a residential or commercial building which has remained unoccupied for a period of more than thirty (30) days.

H. The term "Public Nuisance" means a neglected structure shall constitute a public nuisance. (Ord. 765 §1, 2008)

Section 8.16.030 Nonexclusive Regulations.

The procedures set forth in this Chapter constitute an alternative procedure, are nonexclusive and do not, in any manner, limit or restrict the City or the Neighborhood Code Compliance Division in the enforcement of other City ordinances, other Chapters of this Code, or the abatement of public nuisances in any other manner provided by law. (Ord. 765 §1, 2008)

Section 8.16.040 Property Maintenance Standards.

It is unlawful, and a public nuisance, for any Person, to maintain or allow to be maintained, permit or cause real property, including adjacent parkways, sidewalks or streets, to be maintained with any of the following conditions, which are visible from the street, sidewalk, public right-of-way, or other public or private property:

The growth, existence or dumping of the accumulation of dirt, litter, rubbish, garbage, junk, debris, weeds, noxious growth, landscaping, trees, bushes, hedges, lawns, shrubs, plants, dry lawns or grass, or other vegetation on the property to such an extent that it may in any way interfere with the passage of pedestrians or vehicles, may endanger health or property, or otherwise constitutes visual blight.

B. Neglected or inadequately maintained landscaping, trees, bushes, hedges, lawns, shrubs, plants or other vegetation, which:

1. Is dead, decayed, diseased, debris laden, weed infested, overgrown, or dying as a result of

neglect, physical damage, disease, pest infestation or lack of water;

2. Is overgrown as to be likely to harbor rats or vermin;

3. Could create a fire hazard or is otherwise dangerous to the public health, safety and welfare;

4. Interferes with or impedes the flow of traffic, whether vehicular or pedestrian, or obstructs visibility on streets, intersections, sidewalks or other public rights-of-way; or

5. Creates a blighted appearance.

Provided, however, that the provision as to dead or dying vegetation due to lack of water shall not be enforced during a drought, as determined by the City. For purposes of this Section, a lawn area shall be deemed "overgrown" if fifty percent (50%) or more of its area exceeds six (6) inches in height.

C. The parking of vehicles on lawns, vegetation, dirt, or any other area that is not surfaced with an all-weather material, such as concrete, asphalt, stone or gravel. The all-weather material shall be a minimum of two (2) inches deep and sufficiently compacted so to as to eliminate the unreasonable accumulation of dust, dirt, mud, or weeds and shall be sufficiently maintained so that it will drain and dispose of all surface water per the City's standard specifications.

D. The removal, or failure to maintain in good condition, any fencing required as a condition of any permit or development approval, or included in the project plan or application, as approved by the City, including, but not limited to, those fences which abut major thoroughfares, sound walls or those fences required by a Use Permit.

E. Buildings, windows, doors, walls, fences, trash enclosures, parking areas or other structures, which are:

1. Significantly cracked or broken, fallen, decayed, dry-rotted, warped, deteriorated, defective, defaced, in disrepair or missing components, or which either (a) threaten

structural integrity, or (b) result in a dilapidated, decaying, disfigured, or partially ruined appearance to such an extent that they contribute to blight or threaten the public health, safety or welfare;

2. Leaning or listing more than fifteen (15) degrees from perpendicular or are in danger of collapse due to the elements, pest infestation, dry rot, lack of maintenance or other damage; or

3. Poorly maintained so as to become so defective, blighted, or in such condition of deterioration or disrepair that the same causes depreciation of the values of surrounding property or is materially detrimental to nearby properties and improvements.

F. The existence of indoor plumbing fixtures, (including but not limited to toilets or sinks) appliances or furniture, excluding lawn and patio furniture.

G. Public nuisances and attractive nuisances, including but not limited to:

1. Abandoned, neglected, inoperative and/or broken equipment, vehicles, furniture, appliances or machinery; or

2. Improperly fenced, unsanitary or otherwise hazardous pools, ponds and excavations.

H. Lumber which has been present on the property for more than one hundred eighty (180) days (excluding stacked firewood or lumber for a construction project on the property with a current valid permit), junk, trash or salvage materials (including, but not limited to, auto parts, scrap metals, tires, concrete, bricks, cans, bottles and plastic materials).

I. Broken windows constituting blighted or hazardous conditions or which invite trespassers and malicious mischief.

J. Property otherwise maintained in such a blighted condition, or in such condition of deterioration or disrepair that the same causes appreciable diminution of the property values of

surrounding properties or is materially detrimental to proximal properties and improvements. (Ord. 765 §1, 2008)

Section 8.16.050 Security Standards for Vacant Structures.

A. All vacant structures shall be maintained in a way which minimizes the appearance of vacancy and secures it from any unauthorized entry.

B. The owner or responsible agent of a vacant structure which has suffered an unauthorized entry must provide security which meets the following minimum standards:

1. All windows and sliding doors shall provide either intact glazing or boarder.

2. Doors and service openings with thresholds located ten (10) feet or less above the grade, stairway, landing, ramp, porch, roof or similarly accessible area shall provide resistance to entry equivalent to or greater than that of a closed single panel or hollow core door one and three-eighths (1 3/8) inches thick equipped with a half-inch throw deadbolt or boarded.

3. Exterior doors, if operable, may be closed from the interior of the structure by toe nailing them to the door frame using 10D or 16D galvanized nails.

4. There shall be at least one operable door into each structure and into each housing unit. If an existing door is operable, it may be used and secured with a suitable lock such as a hasp and padlock or a one-half (1/2) inch deadbolt or dead latch;

5. All exterior surfaces, including any boarded windows or doors shall be applied with sufficient paint, siding, stucco or other finishes, in the same color or similar color as the adjoining areas, to weatherproof the vacant structure and to create a sufficient appearance of repair to deter unauthorized occupancy.

6. The exterior of any vacant structure property, including all landscaping, shall be kept in such condition as not to create the appearance of an unsecured, unoccupied structure or other

hazard to public safety. (Ord. 765 §1, 2008)

Section 8.16.060 Fire Safety Standards for Vacant Structures

All vacant structures shall be maintained in a manner which does not create an unreasonable risk of fire, including the removal of weeds which may constitute a fire hazard.

A. No vacant structure or portion thereof shall be used for the storage of flammable liquids or other materials which would constitute a safety or fire hazard.

B. Heating facilities or heating equipment in vacant structures shall either be removed or maintained in accordance with applicable codes or ordinances. If heating equipment is removed, any fuel supply shall be removed or terminated. (Ord. 765 §1, 2008)

Section 8.16.070 Throwing or Burning on Streets Prohibited.

Except as expressly permitted by the City during scheduled collection of the same, it is unlawful, and a public nuisance, for any Person to throw or deposit any vegetation, garden refuse, leaves, tree trimmings, ashes, tin cans, litter, rubbish, garbage, junk, debris or any other offensive or nauseous substances, or to burn the same, or any other substance, upon any parkways, sidewalks, streets or any public property. (Ord. 765 §1, 2008)

Section 8.16.080 Strict Liability.

Violations of this Chapter shall be treated as strict liability offenses regardless of intent. (Ord. 765 §1, 2008)

Section 8.16.090 Abatement Procedures.

A. Whenever any provision of this Chapter is violated, written notice in the form of a Notice of Violation, shall be given to the Responsible Person or other Person who has caused the violation. The Notice of Violation shall require

abatement of the violation within the time frame deemed appropriate by the Neighborhood Code Compliance Division, and shall include the following information:

1. The name and address of the Responsible Person or other Person who has caused the violation;

2. The address of the location of the violation;

3. The section(s) of this Chapter that have been violated;

4. A description of the violation;

5. A list of necessary corrections to abate the violation;

6. The deadline or specific date to abate the violation;

7. Reference to the potential consequences should the violation not be abated within by the deadline or date specified in the Notice including, but not limited to: criminal prosecution, civil injunction, administrative citations, administrative abatement, civil penalties, code enforcement liens, revocation of permits, recordation of the Notice of Violation, and withholding of future municipal permits.

B. If the violation is not abated within specified time frame, the Responsible Person or other Person who has caused the violation may be issued an administrative citation, as set forth in Chapter 1.12 of this Code, which shall require the payment of a fine, the amount of which shall be fixed or established by Resolution of the City

Council. Unpaid fines may be assessed as a lien or special assessment against the property of the Responsible Person or other Person who has caused the violation.

C. If the violation is not cured after the issuance of three (3) administrative citations, the Chief Code Compliance Officer may abate, or direct another Person to abate the violation. The cost of said abatement shall be charged to the Responsible Person or other Person who has caused the violation and may be assessed as a lien or special assessment against the property of said Person pursuant to Governmental Code §§ 38773.1 or 38773.5.

D. Should the City institute any action, administrative proceeding, or special proceeding to abate a nuisance, attorney's fees shall be recoverable by the prevailing party in said action on proceedings. Recovery of attorney's fees by the prevailing party shall not exceed the amount of reasonable attorney's fees incurred by the City in the action or proceeding.

E. Any Responsible Person or other Person who violates any of the provisions of this Chapter shall also be guilty of an infraction, and may be fined pursuant to Section 1.08.030.

F. In addition to any other remedy provided by law, the provisions of this Chapter may be enforced in accordance with any of the procedures set forth in Chapter 1.10 and 1.12 of this Code. (Ord. 765 §1, 2008)