

LOCAL NUISANCE ORDINANCES

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CODE ENFORCEMENT AGENCIES BY CITY

Relevant phone numbers

- Albany: Police Dept. Non-Emergency: 510-525-7300
- Antioch: Neighborhood Improvement Services (925) 779-7042.
<http://www.ci.antioch.ca.us/CityGov/CommDev/NIS.htm>
- Concord: Neighborhood Preservation Division at (925) 671-3075. 24 Hour hotline: 671-3282
- Berkeley: Code Enforcement Unit. 981-CITY.
- Emeryville: Police (510) 596-3700
 - a. Drug Hotline 510 596-3784
 - b. Graffiti Hotline 510 596-3773
 - c. Vehicle Abatement 510 596-3727
- Piedmont: Police: (510) 420-3000
- Richmond: Code Enforcement Division: 510-620-6944.
- Walnut Creek: call (925) 943-5834 and ask to be transferred to Nuisance Abatement. If you see what you believe is illegal building construction, call 943-5834 and ask to be transferred to the Building Division.

California Statutes

Cal Civ Code § 3479. What constitutes a nuisance

Anything which is injurious to health, including, but not limited to, the illegal sale of controlled substances, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a nuisance.

Cal Civ Code § 3480. Public nuisance

A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

§ 3481. Private nuisance

Every nuisance not included in the definition of the last section is private.

Cal Civ Code § 3482. What is not deemed a nuisance

Nothing which is done or maintained under the express authority of a statute can be deemed a nuisance.

Cal Code Civ Proc § 731 (2005) Right to bring action to enjoin or abate nuisance, and to recover damages; Abatement of public nuisance

An action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by a nuisance, as the same is defined in section thirty-four hundred and seventy-nine of the Civil Code, and by the judgment in such action the nuisance may be enjoined or abated as well as damages recovered therefor. A civil action may be brought in the name of the people of the State of California to abate a public nuisance, as the same is defined in section thirty-four hundred and eighty of the Civil Code, by the district attorney of any county in which such nuisance exists, or by the city attorney of any town or city in which such nuisance exists, and each of said officers shall have concurrent right to bring such action for a public nuisance existing within a town or city, and such district attorney, or city attorney, of any county or city in which such nuisance exists must bring such action whenever directed by the board of supervisors of such county or whenever directed by the legislative authority of such town or city.

Cal Pen Code § 370 (2005)

§ 370. Public nuisances

Anything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a public nuisance.

§ 372. Maintaining a nuisance, a misdemeanor

Every person who maintains or commits any public nuisance, the punishment for which is not otherwise prescribed, or who willfully omits to perform any legal duty relating to the removal of a public nuisance, is guilty of a misdemeanor.

Cal Pen Code § 373a (2005)

§ 373a. Maintaining or permitting public nuisance after abatement notice

Every person who maintains, permits, or allows a public nuisance to exist upon his or her property or premises, and every person occupying or leasing the property or premises of another who maintains, permits or allows a public nuisance to exist thereon, after reasonable notice in writing from a health officer or district attorney or city attorney or prosecuting attorney to remove, discontinue or abate the same has been served upon such person, is guilty of a misdemeanor, and shall be punished accordingly; and the existence of such nuisance for each and every day after the service of such notice shall be deemed a separate and distinct offense, and it is hereby made the duty of the district attorney, or the city attorney of any city the charter of which imposes the duty upon the city attorney to prosecute state misdemeanors, to prosecute all persons guilty of violating this section by continuous prosecutions until the nuisance is abated and removed.

County Ordinances

Alameda County: Nuisance Conditions in Urban Residential Property

The following Section 6.64.030 of the Alameda County General Code, current as of July 26, 2000, defines those conditions of property that constitute a nuisance, for which the county is empowered to order abatement (action that will remove or ameliorate the nuisance).

In addition to the conditions described here, County Code section 6.48.030 states that "any abandoned, wrecked, dismantled or inoperative vehicle or parts thereof located on public or private property" is a public nuisance that shall be abated by county officials.

In the following ordinance the term "blight and property degradation" means "the condition of a specific property or group of properties that would be offensive in the eyes of the public as compared to standards of maintenance of at least seventy-five percent of the properties in that community or neighborhood where those items or conditions are visible from public or private streets." (Section 6.64.020)

Section 6.64.030 Unlawful urban residential property nuisance.

It shall be unlawful for any person owning, leasing, renting, occupying or having charge or possession of any urban residential property in the county to maintain the property or to allow the property to be maintained in a manner such that any of the following conditions are found to exist thereon and be visible from a public street or approved private street for an unreasonable period of time as determined by the enforcement officer, except as otherwise stated herein or as may be allowed by any other provision of law or when existing in conjunction with a lawfully existing home occupation use. The prohibited conditions are:

A. Unlawful Outdoor Storage.

1. The accumulation of abandoned, discarded or dilapidated objects, including but not limited to broken or neglected equipment, machine parts, scrap material, appliances, furniture, household equipment and furnishings, shopping carts, containers, packing materials, salvage materials, firewood, plant cuttings, litter, rubbish and debris, or similar materials that constitute a threat to the health or safety of any person or contribute to conditions that cause blight and property degradation. This prohibition includes the accumulation of litter, rubbish and debris in any yard that extends above

lawful fencing and is unscreened from view of an adjoining property. Upon written notice that sets forth prohibited conditions on vacant lots, the enforcement officer may order the property to be enclosed by chain link or equal fencing;

2. The accumulation of dirt, sand, gravel, concrete, or other similar material not incorporated into landscaped areas on the property;
3. Attractive nuisances generally considered dangerous to children including abandoned, broken or neglected vehicles, equipment, machinery, refrigerators and freezers, hazardous pools, ponds and excavations;
4. Boats, trailers, camper shells, recreational vehicles, vehicle parts or other articles of personal property that are left in a state of partial construction or disrepair;

B. Landscaping and Vegetation.

1. Dead or hazardous trees, other vegetation that is unsightly or dangerous to public health, safety and welfare, or contributes to blight and property degradation;
2. Overgrown vegetation likely to: harbor rats, vermin and other nuisances dangerous to public health; cause a detriment to neighboring property; contribute to conditions that cause blight and property degradation, or grow into the public right-of-way such that it obstructs the view of drivers on public streets or private driveways, or substantially obstructs the use of a public sidewalk area;
3. Lawn areas that are dead and/or exceed a height of twelve (12) inches from grade; or lack plant material necessary to prevent erosion or prevent an unsightly landscape appearance that contributes to conditions that cause blight and property degradation;

C. Trash and Recycling Containers.

1. Trash, garbage, recycling or greenwaste cans, bins, boxes or other such containers stored for more than forty-eight (48) hours including trash and recycling pick-up day for such property in any front or street side yard, public street, private driveway and public sidewalk area unless otherwise authorized by the enforcement officer;
2. Permanent dumpsters, debris boxes and other such trash containers that are unscreened from view from the street;
3. Trash or garbage containers, permanent dumpsters, debris boxes and other such trash containers without covers that fit securely; this provision shall not apply to debris boxes or recycling containers;

D. Buildings and Structures.

1. Buildings that are dilapidated, abandoned, boarded up, partially destroyed, have broken windows or broken windows secured with wood or other materials, or that are left in a state of partial construction or demolition, or disrepair;
2. Buildings that are unpainted (except color coated or natural finish coated), or where the paint on the building exterior is mostly worn off, cracked or peeling; or where roofing or other exterior materials or components are deteriorated, mostly infected with dry rot, or warped so as to constitute an unsightly appearance; or contribute to blight and property degradation;

F. Fences and Gates.

1. Fences, gates and similar structures that are sagging, leaning, missing boards, fallen or otherwise in an unsafe condition, or constitute an unsightly appearance, or are left in a state of partial construction or disrepair;

G. Graffiti.

1. Graffiti including but not limited to words, symbols or drawings on the exterior of any building, fence, wall, pole or other structure;

H. Parking Limitations.

1. Wrecked vehicles, recreational vehicles, travel trailers, utility trailers, unmounted camper tops, or boats with significantly cracked or dust-covered wind shields, mostly peeling or faded paint, flat tires, or major body damage stored in violation of Alameda County General Code Sections 17.52.330 (Yard regulations) and where applicable, 17.30.150 (RV combining district - Regulations);
2. Recreational vehicles, travel trailers, utility trailers, unmounted camper tops and boats stored in violation of Alameda County General Code Sections 17.52.330 (Yard regulations) and where applicable, 17.30.150 (RV combining district - Regulations);
3. Vehicles parked or stored on other than a driveway or parking area constructed with an all-weather concrete, brick or similar material and extending at least twenty (20) feet from road right-of-way;
4. Except as allowed under Alameda County General Code Sections 17.52.310 (Accessory building - In front yard) and excluding any standard walkway or driveway, parking or storage of vehicles in the front yard or street side yard exceeding more than fifty (50) percent of the width of the lot;

I. Vehicle Repair.

1. The performance of major mechanical or body repairs, or dismantling of any motorized or nonmotorized vehicle, unmounted camper top, boat or part thereof, in a location visible from the street. This section shall not prohibit the registered owner of a vehicle or boat, or part thereof, from performing minor repair on said vehicle in the driveway or other paved surface of a residence, provided that the vehicle or boat is registered to someone living at the residence and that any such minor repair is completed within seventy-two (72) hours;

J. Sidewalks, Parking Strips and Gutters.

1. Allowing the accumulation of any material, the placement of any object, or any overgrown vegetation that obstructs the view of drivers on public streets or private driveways, or substantially obstructs the use of a public sidewalk area;
2. Allowing overgrown vegetation or the accumulation of abandoned, discarded or dilapidated objects, including but not limited to broken or neglected equipment,

machine parts, scrap material, appliances, furniture, household equipment and furnishings, shopping carts, containers, vehicle parts, packing materials, salvage materials, firewood, plant cuttings, litter, rubbish and debris or similar materials in that area between the sidewalk and the curb commonly known as a "parking strip";

3. Allowing the accumulation of leaves, litter, debris or weeds in the gutter in front or street side of any property;

K. Garage Sales.

1. Garage sales in excess of two per property in any calendar year, and any garage sale lasting longer than two consecutive days unless otherwise authorized by the enforcement officer;

L. Miscellaneous.

1. Any other condition or use of a property that gives rise to a reasonable determination by the enforcement officer that such condition or use represents a threat to the health and welfare of the public by virtue of its unsafe, dangerous or hazardous nature; or that is out of harmony with the standards of properties in the vicinity so as to cause a diminution of the enjoyment and use of the property; or contributes to blight or property degradation.

<http://www.co.alameda.ca.us/admin/admincode/>

Section 6.60.010 Declaration of policy.

In order to control unnecessary, excessive and annoying noise in the county, it is hereby declared to be the policy of the county to prohibit such noise generated from or by all sources as specified in this chapter. It shall be the policy of the county to maintain quiet in areas which exhibit low noise levels and to implement programs aimed to reduce noise in those areas within the county where noise levels are above acceptable values.

It is determined that certain noise levels are detrimental to the public health, welfare and safety, and are contrary to public interest. Therefore, the board of supervisors does ordain and declare that creating, maintaining, causing or allowing to be created, caused or maintained, any noise in a manner prohibited by or not in conformity with the provisions of this chapter, is a public nuisance and shall be punishable as such. (Prior gen. code § 3-107.101)

Section 6.60.020 Definitions.

"Ambient noise level" means the all encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

"A' weighted sound level" means the total sound level in decibels of all sound as measured with a sound level meter with a reference pressure of twenty (20) micropascals using the 'A' weighted network (scale) at slow response. The unit of measurement shall be defined as dB(A).

"Church" means any building or portion thereof regularly used by people as a place to worship God and known by those familiar with the neighborhood to be so used.

"Commercial properties" means any building, structure, premise or portion thereof used for wholesale or retail purposes on which the property user or employees are engaged in work for which it is intended that compensation be received for goods or services.

"Construction" means construction, erection, enlargements, alteration, conversion or movement of any building, structures or land together with any scientific surveys associated therewith.

"Cumulative period" means an additive period of time composed of individual time segments which may be continuous or interrupted.

"Decibel (dB)" means a unit for measuring the amplitude of sounds, equal to twenty (20) times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals.

"Director" means the director of environmental health of the county or his duly authorized deputy.

"Dwelling unit" means a single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

"Emergency work" means the use of any machinery, equipment, vehicle, manpower or other activity in a short term effort to protect or restore safe conditions in the community, or work by private or public utilities when restoring utility service.

"Hospital" means any building or portion thereof used for the accommodation and medical care of the sick, injured or infirm persons and includes rest homes and nursing homes.

"Impulsive noise" means a noise of short duration usually less than one second and of high intensity with an abrupt onset and rapid decay.

"Intruding noise level" means the total sound level in decibels, created, caused, maintained or originating from an alleged offensive source at a specified location while the alleged offensive source is in operation.

"Noise disturbance" means any sound as judged by any person empowered to enforce this chapter, which (A) endangers or injures the safety or health of human beings or animals, or (B) endangers or injures personal or real property, or (C) annoys or disturbs a reasonable person of normal sensitivity. The factors which shall be considered in determining whether a violation of (C) exists shall include, but not be limited to the following:

1. The relative sound level of the objectionable noise to the ambient noise;
2. The proximity of the objectionable noise to residential sleeping facilities or public camping facilities;
3. The number of persons affected by the objectionable noise;
4. The day of the week and time of day or night the objectionable noise occurs;

5. The duration of the objectionable noise and its tonal, informational or musical content;
6. Whether the objectionable noise is continuous, recurrent or intermittent;
7. The nature and zoning of the area within which the objectionable noise emanates.

"Person" means a person, firm, association, partnership, joint venture, corporation or any entity, public or private in nature.

"Recreational motor vehicle" means any motor vehicle (as that term is defined in the California Vehicle Code) and shall also include, but not be limited to, motorcycles, go-carts, campers, dune buggies and commercial or noncommercial racing vehicles. A "recreational motor vehicle" does not include a motorboat.

"Residential property" means a parcel of real property which is developed and used either in whole or in part for residential purposes.

"School" means public or private institutions, including vocational schools, conducting regular academic instruction at preschool, kindergarten, elementary, secondary or collegiate levels.

"Simple tone noise" means any sound which is distinctly audible as a single pitch or a set of single pitches as judged by any person empowered to enforce this chapter.

"Sound level meter" means an instrument used for measurement of sound levels, which meets the American National Standard Institute's Standard S14-1971 or most recent revision thereof for Type 1 or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

"Sound pressure level" of a sound, in decibels, means twenty (20) times the logarithm to the base ten of the ratio of the pressure of the sound to a reference pressure which is twenty (20) micropascals. (Prior gen. code §§ 3-107.201--3-107.221)

Section 6.60.030 Noise measurement criteria.

A. Any noise measurement made pursuant to the provisions of this chapter shall be made with a sound level meter using the 'A' weighted network (scale) at slow meter response. Fast meter response shall be used for an impulsive noise. Calibration of the measurement equipment, utilizing an acoustic calibrator, shall be performed immediately prior to recording any noise data.

B. The exterior noise levels shall be measured at any point on the affected residential property, school, hospital, church, public library or commercial property. Where practical, the microphone shall be positioned three to five feet above the ground and away from reflective surfaces. (Prior gen. code §§ 3-107.301, 3-107.302)

Property Nuisance

Section 6.64.010 Intent.

The ordinance codified in this chapter is adopted by the county of Alameda to improve the general appearance and cleanliness of substandard private property in unincorporated Alameda County to the general standard, written or unwritten, of the

neighborhood in which the property is situated, and to cause the swift abatement of blight. (Ord. 99-49 § 1 (part))

Section 6.64.020 Definitions.

"Blight and property degradation" means the condition of a specific property or group of properties that would be offensive in the eyes of the public as compared to standards of maintenance of at least seventy-five percent of the properties in that community or neighborhood where those items or conditions are visible from public or private streets.

"Board" means Alameda County board of supervisors.

"Building" means any house, garage, duplex, apartment, condominium, stock cooperative and other residential and nonresidential structures.

"County" means the unincorporated area of the county of Alameda.

"Enforcement officer" means the Alameda County planning director or designee.

"Enforcement agency" means the Alameda County planning department.

"Owner" means any person or persons owning property, as shown on the last equalized assessment roll for county taxes or the lessee, tenant or other person having control or possession of the property.

"Person" means any individual, partnership, corporation, association or other organization, however formed.

"Nonresidential property" means all real property zoned in an agricultural, commercial, or industrial district, including any building or structure located on such property. Where applicable as determined by the enforcement officer, this shall also mean designated property in the public road right-of-way.

"Rural residential property" means all residentially zoned real property, including any building or structure located on such property, having a zoning density of less than four units per acre as prescribed under the Alameda County zoning ordinance.

"Urban residential property" means all residentially zoned real property, including any building or structure located on such property, having a zoning density of more than four units per acre as prescribed under the Alameda County zoning ordinance.

"Front or street side yard" means that area between the public street or approved private street and the farthest building wall facing said public street or approved private street. (Ord. 99-49 § 1 (part): prior gen. code §§ 3-301.0--3-301.6)

Section 6.64.030 Unlawful urban residential property nuisance.

It shall be unlawful for any person owning, leasing, renting, occupying or having charge or possession of any urban residential property in the county to maintain the property or to allow the property to be maintained in a manner such that any of the following conditions are found to exist thereon and be visible from a public street or approved private street for an unreasonable period of time as determined by the enforcement officer, except as otherwise stated herein or as may be allowed by any other provision of law or when existing in conjunction with a lawfully existing home occupation use. The prohibited conditions are:

A. Unlawful Outdoor Storage.

1. The accumulation of abandoned, discarded or dilapidated objects, including but not limited to broken or neglected equipment, machine parts, scrap material, appliances, furniture, household equipment and furnishings, shopping carts, containers, packing materials, salvage materials, firewood, plant cuttings, litter, rubbish and debris, or similar materials that constitute a threat to the health or safety of any person or contribute to conditions that cause blight and property degradation. This prohibition includes the accumulation of litter, rubbish and debris in any yard that extends above lawful fencing and is unscreened from view of an adjoining property. Upon written notice that sets forth prohibited conditions on vacant lots, the enforcement officer may order the property to be enclosed by chain link or equal fencing;

2. The accumulation of dirt, sand, gravel, concrete, or other similar material not incorporated into landscaped areas on the property;

3. Attractive nuisances generally considered dangerous to children including abandoned, broken or neglected vehicles, equipment, machinery, refrigerators and freezers, hazardous pools, ponds and excavations;

4. Boats, trailers, camper shells, recreational vehicles, vehicle parts or other articles of personal property that are left in a state of partial construction or disrepair;

B. Landscaping and Vegetation.

1. Dead or hazardous trees, other vegetation that is unsightly or dangerous to public health, safety and welfare, or contributes to blight and property degradation;

2. Overgrown vegetation likely to: harbor rats, vermin and other nuisances dangerous to public health; cause a detriment to neighboring property; contribute to conditions that cause blight and property degradation, or grow into the public right-of-way such that it obstructs the view of drivers on public streets or private driveways, or substantially obstructs the use of a public sidewalk area;

3. Lawn areas that are dead and/or exceed a height of twelve (12) inches from grade; or lack plant material necessary to prevent erosion or prevent an unsightly landscape appearance that contributes to conditions that cause blight and property degradation;

C. Trash and Recycling Containers.

1. Trash, garbage, recycling or greenwaste cans, bins, boxes or other such containers stored for more than forty-eight (48) hours including trash and recycling pick-up day for such property in any front or street side yard, public street, private driveway and public sidewalk area unless otherwise authorized by the enforcement officer;

2. Permanent dumpsters, debris boxes and other such trash containers that are unscreened from view from the street;

3. Trash or garbage containers, permanent dumpsters, debris boxes and other such trash containers without covers that fit securely; this provision shall not apply to debris boxes or recycling containers;

D. Buildings and Structures.

1. Buildings that are dilapidated, abandoned, boarded up, partially destroyed, have broken windows or broken windows secured with wood or other materials, or that are left in a state of partial construction or demolition, or disrepair;

2. Buildings that are unpainted (except color coated or natural finish coated), or where the paint on the building exterior is mostly worn off, cracked or peeling; or where roofing or other exterior materials or components are deteriorated, mostly infected with dry rot, or warped so as to constitute an unsightly appearance; or contribute to blight and property degradation;

F. Fences and Gates.

1. Fences, gates and similar structures that are sagging, leaning, missing boards, fallen or otherwise in an unsafe condition, or constitute an unsightly appearance, or are left in a state of partial construction or disrepair;

G. Graffiti.

1. Graffiti including but not limited to words, symbols or drawings on the exterior of any building, fence, wall, pole or other structure;

H. Parking Limitations.

1. Wrecked vehicles, recreational vehicles, travel trailers, utility trailers, unmounted camper tops, or boats with significantly cracked or dust-covered wind shields, mostly peeling or faded paint, flat tires, or major body damage stored in violation of Alameda County General Code Sections 17.52.330 (Yard regulations) and where applicable, 17.30.150 (RV combining district - Regulations);

2. Recreational vehicles, travel trailers, utility trailers, unmounted camper tops and boats stored in violation of Alameda County General Code Sections 17.52.330 (Yard regulations) and where applicable, 17.30.150 (RV combining district - Regulations);

3. Vehicles parked or stored on other than a driveway or parking area constructed with an all-weather concrete, brick or similar material and extending at least twenty (20) feet from road right-of-way;

4. Except as allowed under Alameda County General Code Sections 17.52.310 (Accessory building - In front yard) and excluding any standard walkway or driveway, parking or storage of vehicles in the front yard or street side yard exceeding more than fifty (50) percent of the width of the lot;

I. Vehicle Repair.

1. The performance of major mechanical or body repairs, or dismantling of any motorized or nonmotorized vehicle, unmounted camper top, boat or part thereof, in a location visible from the street. This section shall not prohibit the registered owner of a vehicle or boat, or part thereof, from performing minor repair on said vehicle in the driveway or other paved surface of a residence, provided that the vehicle or boat is registered to someone living at the residence and that any such minor repair is completed within seventy-two (72) hours;

J. Sidewalks, Parking Strips and Gutters.

1. Allowing the accumulation of any material, the placement of any object, or any overgrown vegetation that obstructs the view of drivers on public streets or private driveways, or substantially obstructs the use of a public sidewalk area;

2. Allowing overgrown vegetation or the accumulation of abandoned, discarded or dilapidated objects, including but not limited to broken or neglected equipment, machine parts, scrap material, appliances, furniture, household equipment and furnishings, shopping carts, containers, vehicle parts, packing materials, salvage materials, firewood, plant cuttings, litter, rubbish and debris or similar materials in that area between the sidewalk and the curb commonly known as a "parking strip";

3. Allowing the accumulation of leaves, litter, debris or weeds in the gutter in front or street side of any property;

K. Garage Sales.

1. Garage sales in excess of two per property in any calendar year, and any garage sale lasting longer than two consecutive days unless otherwise authorized by the enforcement officer;

L. Miscellaneous.

1. Any other condition or use of a property that gives rise to a reasonable determination by the enforcement officer that such condition or use represents a threat to the health and welfare of the public by virtue of its unsafe, dangerous or hazardous nature; or that is out of harmony with the standards of properties in the vicinity so as to cause a diminution of the enjoyment and use of the property; or contributes to blight or property degradation. (Ord. 99-49 § 1 (part): Ord.. 93-86 § 1 (part): prior gen. code § 3-302.0)

Section 6.64.040 Unlawful rural residential property nuisance.

It shall be unlawful for any person owning, leasing, renting, occupying or having charge or possession of any rural residentially property in the county to maintain the property or to allow the property to be maintained in a manner that any of the following conditions are found to exist thereon and be visible from a public street or approved private street for an unreasonable period of time as determined by the enforcement officer, except as may be allowed by any other provision of law, or when existing in conjunction with a lawfully existing home occupation use. The prohibited conditions are:

A. Unlawful Outdoor Storage.

1. The accumulation of abandoned, discarded or dilapidated objects, including but not limited to broken or neglected equipment, machine parts, scrap material, appliances, furniture, household equipment and furnishings, shopping carts, containers, packing materials, salvage materials, firewood, plant cuttings, litter, rubbish and debris or similar materials that constitute a threat to the health or safety of any person or contribute to blight and property degradation. Upon written notice that sets forth prohibited conditions on vacant lots, the enforcement officer may order the property to be enclosed by chain link or equal fencing;

2. The accumulation of dirt, sand, gravel, concrete, or other similar material not incorporated into landscaped areas on the property;

3. Attractive nuisances generally considered dangerous to children including abandoned, broken, or neglected vehicles, equipment, machinery, refrigerators and freezers; or hazardous pools, ponds and excavations;

4. Boats, trailers, camper shells, recreational vehicles, vehicle parts or other articles of personal property that are left in a state of partial construction, or disrepair;

B. Landscaping and Vegetation.

1. Dead or hazardous trees, or other vegetation that is unsightly or dangerous to public health, safety and welfare;

2. Overgrown vegetation likely to: harbor rats, vermin and other nuisances dangerous to public health, or grow into the public right-of-way such that it obstructs the view of drivers on public streets or private driveways, or blocks the free use of a public sidewalk;

C. Trash and Recycling Containers.

1. Trash, garbage, recycling or greenwaste cans, bins, boxes or other such containers stored for more than forty-eight (48) hours including trash and recycling pick-up day for such property in any front or street side yard, public street, private driveway and public sidewalk area unless otherwise authorized by the enforcement officer;

2. Permanent dumpsters, debris boxes and other such trash containers that are unscreened from view from the street;

3. Trash or garbage containers, permanent dumpsters, debris boxes and other such trash containers without covers that fit securely; this provision shall not apply to debris boxes or recycling containers;

D. Buildings and Structures.

1. Buildings that are dilapidated, abandoned, boarded up, partially destroyed, have broken windows or broken windows secured with wood or other materials, or that are left in a state of partial construction or demolition, or disrepair;

2. Buildings that are unpainted (except color coated or natural finish coated), or where the paint on the building exterior is mostly worn off, cracked, or peeling; or where roofing or other exterior materials or components are deteriorated, mostly infected with dry rot, or warped so as to constitute an unsightly appearance; or contributes to conditions which cause blight and property degradation;

F. Fences and Gates.

1. Fences, gates, and similar structures that are sagging, leaning, missing boards, fallen, or otherwise in an unsafe condition; or constitute an unsightly appearance; or are left in a state of partial construction or disrepair;

G. Graffiti.

1. Graffiti including but not limited to words, symbols or drawings on the exterior of any building, fence, wall, pole, or other structure or object on a property;

H. Parking Limitations.

1. Wrecked vehicles, recreational vehicles, travel trailers, utility trailers, unmounted camper tops or boats with significantly cracked or dust-covered wind shields, mostly peeling or faded paint, flat tires or major body damage stored in violation of Alameda County General Code Sections 17.52.330 (Yard regulations) and where applicable, 17.30.150 (RV combining district - Regulations);

2. Recreational vehicles, travel trailers, utility trailers, unmounted camper tops and boats stored in violation of Alameda County General Code Sections 17.52.330 (Yard regulations) and where applicable, 17.30.150 (RV combining district - Regulations);

3. Vehicles parked or stored on other than a driveway or parking area constructed with an all-weather, dust-free surface of compacted crushed gravel, asphalt, concrete, brick, or similar material extending at least twenty (20) feet from road right-of-way;

I. Garage Sales.

1. Garage sales in excess of two per property in any calendar year, and any garage sale lasting longer than two consecutive days unless otherwise authorized by the enforcement officer;

J. Miscellaneous.

1. Any other condition or use of a property that gives rise to a reasonable determination by the enforcement officer that such condition or use represents a threat to the health and welfare of the public by virtue of its unsafe, dangerous or hazardous nature; or that is out of harmony with the standards of properties in the vicinity so as to cause a diminution of the enjoyment, and use of the property; or contributes to blight or property degradation. (Ord. 99-49 § 1 (part): Ord. 93-86 § 1 (part): prior gen. code § 3-302.0)

Other ordinances indicate how nuisance is dealt with. Enforcement officer, Notice of nuisance, Notice to abate, Admin hearing etc.

Contra Costa- Nuisance

720-2.006 Residential *property nuisance*.

No person owning, leasing, renting, occupying or having charge or possession of residential real *property* shall maintain or allow the maintenance of the *property* in such a manner that any of the following conditions exist on the *property* and are visible from a street, highway, or private road:

- (a) Attractive nuisances dangerous to children, such as abandoned, broken or neglected equipment, machinery, refrigerators or freezers, or unsafe pools, ponds or excavations;
- (b) Shopping carts, household equipment or broken or discarded furniture for an unreasonable period of time;
- (c) Garbage or trash cans for more than thirty-six hours;
- (d) Boats, trailers, vehicle parts or other articles of personal *property* that are abandoned or left in a state of partial construction or repair for an unreasonable period of time;
- (e) Construction and wood debris, including cuttings, for an unreasonable period of time;
- (f) Weeds over eighteen inches in height. (Ords. 2002-46 § 3, 89-49 § 3).

Big Trees

816-2.204 Purpose and intent. (CCC)

The purpose of this chapter is to provide a method for private property owners to gain restoration of views and sunlight lost due to tree growth by another private property owner as defined in Article 816-2.4. It is not intended by this chapter to create any greater right to a view or access to sunlight than existed at the time any claimant purchased his property. (Ord. 84-3).

816-2.604 Rights.

A claimant has no right greater than that which existed at the time of the claimant's acquisition of the property involved in the view claim, and shall provide evidence to prove the extent of that original view and right. (Ord. 84-3).

416-12.202 Animal *noise*.

(a) No person shall own, possess, harbor, control, or keep on any premises, any dog, fowl, or other animal, that barks, bays, cries, howls, or makes any other *noise* so continuously or incessantly as to unreasonably disturb the peace or quiet of any two persons living in different households within three hundred feet of the location of the disturbance.

(b) Any person who shall keep or permit to remain on any premises any animal as defined in subsection (a) of this section is guilty of a violation of this division, provided that during the time that the animal is making such a *noise*, no person or other animal is trespassing or threatening to trespass or no person is teasing or provoking the animal. This section shall not be construed to prohibit the keeping of any watchdog, provided that the keeper thereof takes immediate steps to quiet such dog whenever it barks, and provided that such keeper never leaves such dog unattended on the premises in a place where its barking, if prolonged or repeated an undue number of times, disturbs the peace or quiet of any two persons living in different households within three hundred feet of the locations of the disturbance. (Ord. 80-97 § 2).

City Ordinances

City of Albany

Nuisance shall mean any nuisance known as common law or in equity jurisprudence, whatever is dangerous or detrimental to human life or health, uncleanness or improper sanitation or whatever is offensive to the senses or may act as an asylum feeding or breeding place for rodents, vermin, insects. Noise that disturbs the public peace is included.

10-4.1 General Purpose.

It is unlawful and shall constitute a public **nuisance** for any person to keep within the limits of the City any animal which disturbs the peace and comfort of the inhabitants of the neighborhood in which such animal is kept, or interferes with any person in the enjoyment of life or property, or creates a risk of injury to life or property.

If any **nuisance** described in this section is of a continuing nature, and if no person owning or having custody of the animal is present, the City may enforce the provisions of this title who himself or herself perceives the **nuisance** may enter any premises where such animal is kept, other than a place of residence or closed garage or out-building, and summarily abate the **nuisance** in a reasonable and humane manner. If the **nuisance** cannot be abated in any other manner, the animal may be destroyed in the absence of other means of restraint.

For barking dogs or other such noise nuisances, this section shall be viewed in conjunction with the City's existing noise ordinance. (Ord. #98-02, §1; Ord. #04-03, §1)

g. *Vegetation Management.*

All weeds growing upon the streets, sidewalks or upon private property within the City of Albany, which attain such a large growth as to become a fire menace when dry, or which are otherwise noxious or dangerous, and all accumulated debris on property, are declared to be a public **nuisance**. The Fire Marshal or his/her designee shall notify the property owner in writing of said dangerous accumulations which must be abated by the removal of all debris and weeds or grass in a thirty (30) foot strip adjacent to all improvements and other requirements per NFPA 299 to maintain a defensible space.

(Ord. #94-010, §§1-7; Ord. #96-08, §§2-8; Ord. #96-011; Ord. #97-09, §§2, 3)

18-1.4 Declaration of Nuisance.

a. It is declared to be a public **nuisance** for any person owning, leasing, occupying using or having charge or possession of any public or private property in the City, or any other person, to cause, or to permit, or to maintain any prohibited activity or unlawful condition or an attractive **nuisance** thereon as described in this section.

b. The City Council shall have the power to declare by resolution or ordinance that a particular activity or condition other than and in addition to those described herein shall constitute a public **nuisance** subject to abatement.

(Ord. #03-03, §8.20.4)

8-1 NOISE.^{1[2]}

8-1.1 Declaration of Policy.

It is hereby declared to be the policy of the City of Albany to prohibit unnecessary, excessive, and annoying noises from all sources subject to its police power. At certain levels noises are detrimental to the health and welfare of the citizenry and in the public interests shall be systematically proscribed. The primary objective of this Chapter is to control **noise** nuisances, which are not necessary to the normal functioning of the City, and which, because of their disturbing nature, have an adverse impact on the health and welfare of people residing within the City of Albany.

Provisions of this section are intended to be supplemental to any other provisions of State or local laws, including, but not limited to California Penal Code Section 415 "Disturbing the Peace", and are not meant to supersede or otherwise prevent law enforcement officers, citizens or other individuals from protection rights according to other applicable laws. (Ord. #91-08, §2)

8-1.2 Definitions.

Unless the context otherwise clearly indicates, the words and phrases used in this Chapter shall be defined as follows:

a. *Ambient **noise level*** shall mean the all-encompassing **noise** level associated with a given environment, being a composite of sounds from all sources, excluding the **noise** in question, at the location and approximate time at which a comparison with the **noise** in question is to be made. For the purpose of this section, ambient **noise** level is the level obtained when the **noise** level is averaged over a period of fifteen (15) minutes without inclusion of **noise** from isolated, identifiable sources, at the location and time of day near that at which a comparison is to be made. Averaging the **noise** levels may be done by instrumental analysis in accordance with the latest approved American National Standards Institute specifications (ANSI S1.4, 1.4a, S1.8, and S1.42 or the latest approved version thereof).

b. *'A' weighted sound level* shall mean the total sound level in decibels of all sound as measured with a sound level meter using the 'A' weighted network to approximate the frequency characteristics of human hearing, as specified in American National Standards Institute specifications for sound level meters (ANSI S1.4 and S1.6 or the latest approved version thereof). The unit of measurement shall be designated as Db(A).

c. *Construction* shall mean any site preparation, assembly, erection, substantial repair, alteration, or similar action, for or of public or private rights-of-way, structures, utilities or similar properties.

d. *Decibel (dB)* shall mean a unit for measuring the amplitude of sounds, equal to twenty (20) times the logarithm of the base ten (10) of the ratio of the pressure of the sound measured to the reference pressure, which is twenty (20) micropascals.

e. *Demolition* shall mean any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces, or similar property.

f. *Emergency work* shall mean the use of any machinery, equipment, vehicle, manpower or other activity in a short term effort to protect or restore safe conditions in the community, or work by private or public utilities when restoring utility service.

g. *Intruding noise level* shall mean the total sound level in decibels, created, caused, maintained or originating from the source of the **noise** in question at a specified location while the source of **noise** in question is in operation.

h. *Noise disturbance* shall mean any sound which endangers or injures the safety or health of human beings or annoys or disturbs a reasonable person of normal sensitivity. The factors which may be considered in determining whether a **noise** disturbance exists shall include, but not be limited to the following:

1. The relative sound level of the objectionable **noise** to the ambient **noise**.
2. The proximity of the objectionable **noise** to residential sleeping facilities.
3. The day of the week and time of day or night the objectionable **noise** occurs.
4. The duration of the objectionable **noise** and its nature.
5. Whether the objectionable **noise** is continuous, recurrent or intermitten
6. The nature and zoning of the area within which the objectionable **noise** emanates.

i. *Noise in question* shall mean **noise** suspected of exceeding the limits of subsections 8-1.4 or 8-1.5 of this Chapter.

j. *Noise source* shall mean the person responsible for the **noise** in question or **noise** which in fact exceeds the standards of subsections 8-1.4 or 8-1.5 of this Chapter.

- k. *Person* shall mean a person, firm, association, partnership, joint venture, corporation or any entity, public or private in nature.
- l. *Public facilities zoned property* shall mean a parcel of real property which is designated on the City of Albany Zoning Map as PF, Public Facilities.
- m. *Residentially zoned property* shall mean a parcel of real property which is located within an area designated R-1, R-2, R-3, R-4 or HD districts.
- n. *School* shall mean public or private institutions, including vocational schools, conducting regular academic instruction at preschool, kindergarten, elementary, secondary or collegiate levels.
- o. *Significant* shall mean any **noise** which violates any of the provisions of this chapter.
- p. *Sound level meter* shall mean an instrument used for measurement of sound levels which meets the American National Standard Institute's Standard S1.4-1971 or most recent revision thereof for Type 1 or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.
- q. *Sound pressure level of a sound, in decibels*, shall mean twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound to a reference pressure which is twenty (20) micropascals.
- r. *Warning device* shall mean a siren or horn which is used on a police, ambulance or fire vehicle, in accordance with the applicable regulations pertaining to such use. "Warning Device" shall also mean a horn used by a moving train or any other **noise** producing device required by law.

(Ord. #91-08, §1)

8-1.3 Noise Measurement Criteria.

The following criteria shall be used for measuring a **noise** in question as defined in subsection 8-1.2 of this Chapter:

- a. Any **noise** measurement made pursuant to the provisions of this Chapter shall be made with a sound level meter using the 'A' weighted network (scale) at slow meter response. Fast meter response shall be used for an impulsive **noise**. Calibration of the measurement equipment, utilizing an acoustic calibrator, shall be performed immediately prior to recording any **noise** data.
- b. The exterior **noise** levels shall be measured at any point on the affected residential property, school, hospital, church, public library or commercial property.

Where practical, the microphone shall be positioned three (3') to five (5') feet above the ground or floor level of the affected property and at least four (4') feet away from reflective surfaces.

c. The interior **noise** levels shall be measured with the windows in a normal seasonal configuration. The measurement shall be made at a point at least four (4') feet from the wall, ceiling or floor nearest the affected occupied area, and the **noise** meter shall be pointed in the general direction of the **noise** to be measured.

d. The following information shall be recorded to accompany sound level measurements:

1. Name and title of person responding to complaint and performing the **noise** measurement.
2. Name, address, title of person at the location of **noise** disturbance and name and address of complainant.
3. Type of **noise** source.
4. Location of **noise** source relative to complainant's property.
5. Time period during which **noise** source is considered by complainant to be intrusive.
6. Total duration of **noise** produced by **noise** source.
7. Date and time of **noise** measurement survey.
8. Height and location of the sound level meter microphone.

(Ord. #91-08, §1)

8-1.4 Exterior Noise Standards.

a. It is unlawful for any person at any location within the City of Albany to create any **noise** or to allow the creation of any **noise** on property owned, leased, occupied or other-wise controlled by such person which does not comply with the provisions of this section un-less the provisions of subsection 8-1.13 have been met.

b. Exterior **noise** levels when measured at any receiving single or multiple family residential or public facility zoned property situated in the City of Albany do not conform to the provisions of this section when they exceed the **noise** level standards set forth in Table I or Table II following:

Table I - Receiving Land Use: Properties in All *Residential and Public Facilities Zones

Cumulative Number of Minutes in Any One Hour Time Period	Daytime 8:00 a.m.— 10:00 p.m.	Nighttime 10:00 p.m.— 8:00 a.m.
30	55	50
15	60	55
5	65	60
1	70	65
0	75	70

*Includes R-1 (Residential Low Density Single-Family), R-2 (Residential Moderate Density), R-3 (Residential High Density), R-4 (Residential Towers) and HD (Hillside District).

Table II - Receiving Land Use: Properties in All Other Zones* Not Covered in Table I

Cumulative Number of Minutes in Any One Hour Time Period	Daytime 8:00 a.m.— 10:00 p.m.	Nighttime 10:00 p.m.— 8:00 a.m.
30	65	60
15	70	65
5	75	70
1	80	75
0	85	80

*Includes C-1 (General Commercial), C-2 (Highway Commercial), and C/S/LI (Commercial, Service, Light Industrial).

c. The **noise** level limits for Waterfront Zoned (WF) areas of the City shall be as follows: During the period from 8:00 a.m. to 10:00 p.m. the **noise** limits shall be as stated in Table II, above. After 10:00 p.m., the limits shall be as stated in Table I, above.

d. In the event the measured ambient **noise** level exceeds the applicable standards, the thirty (30) minute **noise** standards in Table I or Table II shall be adjusted so as to equal said ambient **noise** level plus 5 dB(A), with the fifteen (15), five (5), one (1) and zero (0) minute standards adjusted upwards in 5 dB(A) increments, based on the ambient **noise** level measured. In no case shall the ambient level standard exceed a 100 dBA standard for the zero (0) minute measurement.

e. If the intruding **noise** source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient **noise** level can be measured, the **noise** level measured while the source is in operation shall be compared directly to the applicable **noise** level standards in Table I or Table II.

(Ord. #91-08, §1)

8-1.5 Interior Noise Limits.

a. No person shall operate or cause to be operated within any single-family house, apartment, townhouse, duplex or multiple dwelling unit, in any zoning district, any source of sound or allow the creation of any **noise** which causes the sound level when measured inside a neighboring receiving dwelling unit to exceed the limits shown in the following table:

Table III - Interior Noise Limits Noise Level Standards, dB(A)

Cumulative Number of Minutes in Any One Hour Time Period	Daytime 8:00 a.m.— 10:00 p.m.	Nighttime 10:00 p.m.— 8:00 a.m.
30	45	40
15	50	45
5	55	50
1	60	55
0	65	60

b. In the event the measured ambient **noise** level exceeds the applicable standards, the thirty (30) minute **noise** standards shall be adjusted in Table III so as to equal said ambient **noise** level plus 5 dB(A), with the fifteen (15), five (5), one (1) and zero (0) minute standards being adjusted upwards in 5 dB(A) increments, based on the ambient **noise** level measured. In no case shall the ambient level standard exceed a 100 dBa standard for the zero (0) minute measurement.

c. If the intruding **noise** source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the ambient **noise** level can be measured, the **noise** level measured while the source is in operation shall be compared directly to the applicable **noise** level standards in Table III.

(Ord. #91-08, §1)

Antioch Municipal Code

Common Antioch Municipal Code Violations

SECTION 4-16.07. Requires that all vehicles or boats in public view in a residential district shall display current registration and shall be operational. (CA DMV non-op status does not meet City of Antioch requirements.)

SECTION 5-1.402. Graffiti has been declared a public nuisance, subject to abatement.

SECTION 5-1.201(x). Prohibits the parking of a motor vehicle or mobile equipment upon an unpaved surface on any premises within the City of Antioch.

SECTION 5-1.201(y). It is unlawful for any person to own a premises and maintain such premises where there is permitted to be furniture, appliances, trash, refuse or any accumulation of objects, vegetation, or other things, in public view, in such quantity, arrangement, appearance or condition as to constitute an eyesore.

SECTION 6-3.02(f). Failure to subscribe for the collection and disposal of garbage, rubbish, and recyclable, salvageable materials is unlawful and shall be presumed to create a public nuisance.

SECTION 6-3.18. It shall be unlawful for any person, firm, or corporation to deposit or dump any garbage or rubbish in any location on public or private property.

SECTION 6-4.109. It is unlawful for any person to discharge or cause to be discharged any waste into any storm sewer containing grease, fat, antifreeze, oil, gasoline, or other flammable or explosive liquid or gas (storm drain). (Liquids dumped into the storm drain flow directly to the river.)

SECTION 7-2.203. No part of right-of-way (sidewalk) may be unduly obstructed at any time.

SECTION 9-5.412. Stipulates that no trailer may be used as living quarters in a residential district.

SECTION 9-5.508 (L) Prohibited Signs. On-site signs, either temporary or permanent, where placed within, upon, or over any public street right-of-way, parking area, sidewalk, required landscaping, or utility pole.

SECTION 9-5.1210. Stipulates that branches from any tree or shrub shall be trimmed to the height of seven feet (7') over the public sidewalk and to the height of fourteen feet (14') over the public street.

§ 5-1.201 NUISANCES SPECIFIED.

It is hereby declared a public nuisance for any person owning, leasing, occupying, or having charge or possession of any premises in the city to maintain such premises in such a manner that any one or more of the following described conditions are found to exist:

(A) Any discarded, used, secondhand, salvaged, abandoned, or replaced streetcars, boxcars, refrigerator cars, motor bus bodies, or similar means of conveyance or structures of similar nature or construction for places of habitation, residence, or business in the city;

(B) A building or structure which is structurally unsafe, or which is not provided with adequate egress, or which constitutes a fire hazard, or which is otherwise dangerous to human life, or which, in relation to existing use, constitutes a hazard to safety or health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment;

(C) A building or structure, equipment, or facility maintained in violation of the provisions of subsection (a) of § 203 of the Uniform Building Code of the city;

(D) Any land the topography, geology, or configuration of which, whether in natural state or as a result of grading operations, causes erosion, subsidence, or surface water runoff problems of such magnitude as to be injurious or potentially injurious to the public health, safety, and welfare or to adjacent properties;

(E) Premises maintained so as to constitute a fire hazard by reason of wood, rank overgrowth, or an accumulation of debris, whether the same be a causative or only a contributing factor;

(F) A building or structure which has been abandoned, boarded up, partially destroyed, or left unreasonably in a state of dilapidation or partial construction;

(G) Any building the condition of the paint on which causes dry rot, warping, or termite infestation;

(H) Broken windows constituting a hazardous condition or inviting trespassers or malicious mischief;

(I) Overgrown vegetation which is likely to harbor rats, vermin, or other nuisances or which causes detriment to neighboring properties or property values;

(J) Any dead, decayed, diseased, or hazardous tree, weeds, or debris which constitutes an unsightly appearance, or which is dangerous to the public safety and welfare, or which is detrimental to nearby property values;

(K) Any trailer, camper, boat, or other mobile equipment stored for an unreasonable period of time in any yard areas open to view from the street causing depreciation of nearby property values;

(L) Any storage or display (except within an enclosed garage or building, or a commercial establishment lawfully engaged in retail sales) of any abandoned, wrecked, dismantled or inoperative vehicle or boat or parts thereof for a period in excess of five calendar days on any premises open to view from a public street;

(M) Any attractive nuisance dangerous to children and consisting of abandoned or broken equipment, a hazardous pool, pond, or excavation, or any abandoned, neglected, unused, or unprotected machinery, or any pool or reservoir, whether or not the same contains any water or liquid, located upon premises which have not been occupied for an unreasonable period of time;

(N) Any broken or discarded furniture or household equipment remaining in any yard area for an unreasonable period of time and causing damage or detriment to neighboring property;

(O) Any clothes line in a front yard area;

(P) Any garbage can, refuse container, or garbage or refuse stored or maintained in a front or side yard area and visible from a public street;

(Q) Any packing box or debris stored or maintained in any yard area and visible from a public street for an unreasonable period of time and causing detriment to neighboring property;

(R) Any neglect of property to spite neighbors, or to influence a zone change or other zoning relief, or to cause detrimental effect upon nearby property or property values;

(S) The maintenance of premises in such condition as to be detrimental to the public health, safety, or general welfare or in such manner as to constitute a public nuisance, as defined by Cal. Civ. Code § 3480;

(T) The maintenance of property in such an unsightly or defective 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 nearby properties and improvements;

(U) The maintenance of premises so out of harmony or conformity with the maintenance standards of adjacent properties as to cause substantial diminution of the enjoyment, use, or property values of such adjacent properties;

(V) The maintenance of any property in relation to others so as to establish a prevalence of depreciated values, impaired investments, and social and economic maladjustments to such an extent that the capacity to pay taxes is reduced, and tax receipts from such property are inadequate for the cost of public services rendered thereto;

(W) Any wall, fence, or hedge in such condition as to constitute a hazard to persons or property or to cause depreciation in the value of any adjacent or nearby property;

(X) Any premises upon which any motor vehicle or mobile equipment is parked or allowed to be parked, other than upon a paved surface;

(Y) Any premises upon which there is or is permitted to be building materials (except those reasonably necessary for use in the construction of a building or improvements on the same or contiguous lot), rocks (except in their natural state or location), dirt or fill materials deposited contrary to any provision of law, furniture or appliances (except lawn furniture in residential yards and except new or used furniture lawfully stored or displayed in connection with a business engaged in the sale or purchase of furniture or appliances), trash, refuse or any accumulation of objects, animals, vegetation, or other things in such quantity, arrangement, appearance, or condition as to cause depreciation of property values in the immediate vicinity or so as to constitute an eyesore or to interfere with or lessen the health, well-being, enjoyment, or peace of other persons;

(Z) Any premises upon which is conducted a junk yard, an automobile dismantling facility, an automobile wrecking yard, a house wrecking yard, including the parking, placement, maintenance, storage, or repair of house wrecking equipment or materials or houses or buildings being stored, moved, or in transit, scrap metal processing, or storage of structural steel, equipment, and materials, unless the same shall be located and conducted solely within a zone in which the same is permissible and is conducted in accordance with all laws and regulations applicable thereto;

(AA) Any premises upon which there exists or is conducted, maintained, or permitted any public nuisance known at common law or in equity juris-prudence, including, but not being limited to, abandoned or unused wells, shafts, basements, excavations, or foundations;

(BB) Any premises existing or maintained contrary to any valid law or regulation, including premises that have insufficient ventilation or illumination, inadequate or unsanitary sewerage or plumbing facilities, are overcrowded with persons or animals, are determined by the Health Officer to be unclean or unsanitary, or are in a condition which the Health Officer determines to render air, food, or drink unwholesome or detrimental to the health of human beings, or upon which stagnant or con-taminated water is deposited or remains;

(CC) Any premises that are painted in such a garish manner, or which contain signs of such size or quantity, or which depict persons, things, or acts in such a manner or to such an extent as to be unreasonably and unnecessarily offensive to the senses or to the health, well-being, and happiness of other persons or unreasonably and unnecessarily injurious and detrimental to other properties and improvements in the vicinity;

(DD) Any premises upon which there exists or is caused or permitted unnecessary noises or sounds emanating beyond the confines of such premises which noises or sounds are physically annoying to persons of ordinary sensitiveness or which are so harsh or so prolonged, unnatural, or unusual in their use, time, or place as to cause physical discomfort to persons or injury to, or depreciation in, the value of other properties or improvements; and

(EE) Any building or structure which has any or all of the following conditions or defects:

(1) Whenever any door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size, or is not so arranged, as to provide safe and adequate means of exit, in case of fire or panic, for all persons housed or assembled therein who would be required to, or might, use such door, aisle, passageway, stairway, or other means of exit;

(2) Whenever the stress in any material, member, or portion thereof, due to all dead and live loads, is more than one and one-half times the working stress or stresses allowed in the Uniform Building Code;

(3) Whenever any portion thereof has been damaged by earthquake, wind, flood, or by any other cause in such a manner that the structural strength or stability thereof is appreciably less than it was before such damage and is less than the minimum requirements of this code for a new building or similar structure, purpose, or location;

(4) Whenever any portion or member, or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property;

(5) Whenever any portion of a building, or any member or ornamentation on the exterior thereof, is not of sufficient strength or stability or is not so anchored, attached, or fastened in place so as to be capable of resisting a wind pressure of one-half that specified in the Uniform Building Code without exceeding the working stresses permitted in the Uniform Building Code;

(6) Whenever any portion thereof has settled to such extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of new construction;

(7) Whenever any building or structure, or any portion thereof, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the purpose of supporting such building or portion thereof, or some other cause, is likely to partially or completely collapse or some portion of the foundation or underpinning is likely to fall or give way;

(8) Whenever, for any reason whatsoever, a building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is used;

(9) Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base;

(10) Whenever the building or structure, exclusive of the foundation, shows 33% or more of damage or deterioration to the members of 50% of damage or deterioration of a non-supporting inclosure or outside wall or covering;

(11) Whenever the building or structure has been so damaged by fire, wind, earthquake, or flood, or has become so dilapidated or deteriorated, as to become an attractive nuisance to children who might enter the same or remain therein to their danger or hazard, or as to afford a harborage for vagrants, criminals, or immoral persons, or as to enable persons to resort thereto for the purpose of committing any nuisance or any unlawful or immoral act;

(12) Any building or structure which has been constructed or which exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure of the building regulations of the city, as set forth in the Uniform Building Code or Uniform Housing Code, or of any law or ordinance of the state or city relating to the condition, location, or structure of buildings;

(13) Any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member, or portion less than 50%, or in any supporting member less than 66%, of the strength, fire-resisting qualities or characteristics, or weather-resisting qualities or characteristics required by law or ordinance in the case of like area, height, and occupancy in the same location;

(14) Whenever a building or structure used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, or faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation, or is in a condition determined by the Health Officer to be likely to cause sickness or disease, or is likely to work injury to the health, safety, or general welfare of those living within;

(15) Whenever a building or structure used or intended to be used for dwelling purposes has light, air, and sanitation facilities inadequate to protect the health, safety, or general welfare of persons living within; and

(16) Whenever any building or structure, by reason of obsolescence, dilapidated condition, deterioration damage, electric wiring, gas connections, heating apparatus, or other cause, is in such condition as to be a fire hazard and is so situated as to endanger life or other buildings or property in the vicinity or

provide a ready fuel supply to augment the spread and intensity of fire arising from any cause.

(FF) (1) Any property that encourages the presence of vectors, including any of the following:

(a) Any artificial alteration of property, excluding water, from its natural condition, resulting in it supporting the development, attraction, or harborage of vectors, with the presence of vectors in their developmental states on property being prima facie evidence that the property is a public nuisance;

(b) Any water that is a breeding place for vectors, with the presence of vectors in their developmental stages in the water being prima facie evidence that the water is a public nuisance; or

(c) Any activity that supports the development, attraction, or harborage of vectors, or that facilitates the introduction or spread of vectors.

(2) For the purpose of the foregoing, VECTOR means any animal capable of transmitting the causative agent of human disease or capable of producing human discomfort or injury, including, but not limited to, mosquitoes, flies, mites, ticks, other arthropods, and rodents and other vertebrates.

('66 Code, § 5-1.201) (Ord. 118-C-S, passed 6-10-70; Am. Ord. 665-C-S, passed 3-12-87; Am. Ord. 870-C-S, passed 10-28-93; Am. Ord. 1030-C-S, passed 8-10-04) Penalty, see §§ 1-2.01 et seq.

§ 5-1.202 ABANDONED BUILDINGS.

(A) For the purpose of this chapter, the following definition shall apply unless the context

clearly indicates or requires a different meaning.

ABANDONED BUILDING. Any building or structure that has been vacant for a period in excess of six months from the date of a written notice from the city to the owner of the real property, as shown on the last equalized tax rolls, and which either has had utilities discontinued at the property or has one or more entrances or windows secured by boarding-up.

(B) The City Council hereby finds that abandoned buildings are a public nuisance. Such buildings represent threats to the public health and safety, because they:

(1) Invite trespassers who would be unnoticed by occupants; or

(2) Represent fire hazards because fires can begin without being observed and reported by occupants; or

(3) Can become infested with rats, insects and other vectors which can adversely affect surrounding properties; or

(4) Can become littered and serve as a dumping ground for garbage and refuse;
or

(5) Can encourage criminal activity because the property is unsupervised.

Such properties also represent a visual blight on the surrounding neighborhood and reduce surrounding property values because such buildings are often boarded-up, lack landscaping or structure maintenance and repair.

(C) It is declared unlawful and a public nuisance for any owner of property to allow to exist on the property any building or structure whose doors, windows or other opening are broken or missing. The temporary boarding of doors, windows or other openings shall comply with requirements promulgated by the Building Official or, upon his recommendation, the City Manager.

(1) Although the owner of any property has the obligation to temporarily board openings as soon as practicable after the opening becomes broken or missing, it shall be a violation of this section if the owner allows the opening to remain unboarded more than 15 calendar days after written notice from the City of the unsecure condition.

(2) The foregoing paragraph shall not apply to temporary coverings necessitated by storm, vandalism or criminal acts, so long as such temporary coverings are not in place in excess of fifteen calendar days.

(D) Abandoned buildings may be abated by demolition if the owner has not caused the building to be occupied within six months of the date of the notice from the city or has not taken other steps, as directed by the city's notice, to eliminate the public nuisance(s) associated with the structure. Any such abatement and/or demolition shall be conducted pursuant to Article 3 of this chapter. In addition to the procedures set out in Article 3, the city shall provide notice of the abatement to any person with a record interest in the property as disclosed on information readily available to the city, including by way of example a Lot Book Guarantee report. Any such person or entity shall have the same rights as the owner in the proceedings. Nothing herein shall require the city to obtain a preliminary title report.

(E) The City Council hereby finds that economic conditions can reasonably cause commercial buildings to be vacant for more than six months. However, because of the demand for housing, the Council finds that there generally is not a justifiable real estate market reason for residential buildings to be vacant for this period of time. Therefore, the city may enforce this provision on housing units on a more timely basis than it may

choose to do so for commercial units, if vacant commercial units are maintained in a manner so as not to create a public nuisance.

(F) The authority contained in this section is supplementary to any other power of the city and does not supersede any other power of procedure.

(Ord. 939-C-S, passed 5-26-98; Am. Ord. 944-C-S, passed 8-25-98)

§ 5-1.203 ELECTRIFIED FENCES.

(A) An *ELECTRIFIED FENCE* for the purpose of this section means any fence and appurtenant devices, including, but not limited to, fences and devices used in animal control, and including, but not limited to, a fence consisting of a single strand of wire supported by posts or other fixtures, which has an electrical charge or is connected to a source of electrical current, and which is so designed or placed that a person or animal coming into contact with the conductive element of the fence receives an electrical shock.

(B) No person shall install or maintain within the city limits an electrified fence.

(C) The Legislature has founds, at Cal. Food & Agric. Code § 17150, that electrified fences have caused injuries and deaths to persons, particularly children, coming into contact with such fences. The City Council adopts and incorporates those legislative findings. Additionally, the City Council finds that such fences pose threats to police officers, who may be required to climb or go under fences during darkness of night in the performance of their duties, and who may inadvertently come into contact with electrified fences, potentially causing injury or death to such officers.

(Ord. 1023-C-S, passed 7-27-04) Penalty, see §§ 1-2.01 et seq.

ARTICLE 3: ABATEMENT PROCEDURE

§ 5-1.301 METHOD.

All or any part of premises found, as provided in § 5-1.201 of this chapter, to constitute a public nuisance shall be abated by rehabilitation, demolition, repair, or removal pursuant to the procedures set forth in this article. The procedures set forth in this article shall not in any manner limit or restrict the city from enforcing any other provisions of this code or from abating any public nuisance in any other manner provided by law.

('66 Code, § 5-1.301) (Ord. 118-C-S, passed 6-10-70)

§ 5-1.302 ABATEMENT METHODS.

All or any part of any real property, or any building or structure or any abandoned, wrecked, dismantled or inoperative vehicle or boat or parts thereof, located thereon, and found as provided in this chapter, to constitute a public nuisance, shall be abated by

rehabilitation, demolition, repair or removal pursuant to the procedures set forth in this chapter.

('66 Code, § 5-1.302) (Ord. 118-C-S, passed 6-10-70; Am. Ord. 776-C-S, passed 4-12-90; Am. Ord. 870-C-S, passed 10-28-93)

§ 5-1.303 DECLARATION OF NUISANCE.

Whenever the City Manager or a designated city employee finds that any real property, or any building or structure located thereon within the city, is being maintained contrary to the conditions of this chapter, the matter may, at the request of the property owner, be set for public hearing before a hearing officer, who shall be designated by the City Manager. The city shall inform the property owner of the opportunity for a hearing. If the property owner desires a hearing, he or she shall so advise the city within the time specified in the notice from the city. With the concurrence of the City Attorney, a lis pendens giving notice of the proceedings may be recorded.

('66 Code, § 5-1.303) (Ord. 118-C-S, passed 6-10-70; Am. Ord. 776-C-S, passed 4-12-90; Am. Ord. 870-C-S, passed 10-28-93; Am. Ord. 937-C-S, passed 3-24-98)

§ 5-1.304 ABATEMENT HEARING; NOTICE.

(A) The Hearing Officer shall give at least 10 days written notice to the owner of the affected property, based on the last equalized assessment roll or the supplemental roll, whichever is more current. The notice shall be served in the same manner as a summons in a civil action. If the owner of record, after diligent search, cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of 10 days and publication in a newspaper of general circulation published in the city pursuant to Cal. Gov't Code § 6062. The notice shall describe the premises involved by street address, assessor's parcel number, and shall give a brief description of the conditions which are, or may be, contrary to the provisions of this chapter.

(B) **OWNER**, as used in this section, includes any person in possession of the affected premises, and any person having or claiming to have any legal or equitable interest in the premises, as disclosed by a title report or lot book guarantee. The failure of any person to receive notice shall not affect the validity of any proceedings under this chapter.

('66 Code, § 5-1.304) (Ord. 118-C-S, passed 6-10-70; Am. Ord. 776-C-S, passed 4-12-90; Am. Ord. 870-C-S, passed 10-28-93)

§ 5-1.305 ABATEMENT HEARING; PROCEDURE.

(A) At the time and place set for the hearing, the Hearing Officer shall hear and consider all relevant evidence, including, but not limited to, applicable staff reports, objections, or protests relative to the existence of the alleged public nuisance and/or the

manner proposed for abatement thereof. The owner may present relevant evidence to show cause why the alleged public nuisance should not be abated and why any costs incurred by the city for the abatement thereof should not constitute a special assessment against the premises. The hearing may be continued from time to time, without further written notice. The hearing shall not be bound by the formal rules of evidence.

(B) Upon the conclusion of the hearing, the Hearing Officer shall, based upon the evidence presented, determine whether the premises, or any part thereof, as maintained, constitutes a public nuisance. If the Hearing Officer finds that a public nuisance exists, the Hearing Officer shall issue an order of abatement, which shall direct and order the nuisance abated within the time, and in the manner, set forth in the order, and that all abatement costs that may be incurred by the city to abate the nuisance, if necessary, shall constitute a special assessment against said premises.

(C) If no hearing is requested by the property owner, the hearing officer shall review the documentary evidence, staff reports, photographs, letters and any other material matter in the file to determine whether the premises, or any part thereof, as maintained, constitutes a public nuisance. The hearing officer shall retain the file of matters relied upon for one year following such determination.

('66 Code, § 5-1.305) (Ord. 118-C-S, passed 6-10-70; Am. Ord. 776-C-S, passed 4-12-90; Am. Ord. 870-C-S, passed 10-28-93; Am. Ord. 937-C-S, passed 3-24-98)

§ 5-1.306 APPEAL.

(A) Any aggrieved person, including any owner of any real property which is the subject of a proceeding pursuant to this chapter, may appeal the Hearing Officer's determination to the Board of Administrative Appeals. Such an appeal shall be timely only if filed within 15 calendar days from and after the giving of notice by the Hearing Officer of his determination.

(B) The appeal shall be in writing, and shall be filed with the Secretary to the Board within the time permitted pursuant to this chapter. A filing and processing fee, if required by resolution of the City Council, shall be paid. Upon the receipt of the appeal and the fee, if any, the Secretary shall prepare an administrative record which shall consist of the minutes of the proceedings before the Hearing Officer, copies of the written material submitted at the hearing, if any, and a copy of the Hearing Officer's determination, along with any photographs presented at the hearing. The administrative record shall then be transmitted to each member of the Board of Administrative Appeals. The Secretary shall set a time and place for the Board's hearing upon the appeal.

(C) At the time of the hearing, the Board shall permit any interested person to present written or oral arguments relating to the appeal, but shall not permit the introduction of any new evidence, unless a showing is made by the offering party that the evidence could not reasonably have been presented to the Hearing Officer at the time and place of that hearing or hearing opportunity. Additionally, the Board may permit the

presentation of evidence if the evidence is reasonably calculated to show that there has been a substantial change in the condition of the property since the time of the hearing or hearing opportunity. Thereafter, based upon the administrative record, the evidence as may be presented pursuant to the this paragraph, and the written or oral arguments of interested persons, the Board shall determine whether the property, in its then condition, constitutes a public nuisance. If it finds that a public nuisance exists, it shall issue an order or abatement requiring the abatement thereof, in the time and manner set forth in the order, along with an order that the abatement costs shall constitute a special assessment against the property; if it finds that a nuisance does not exist, it shall dismiss the proceedings. If the property owner chooses not to attend the hearing, the Board may make its determinations notwithstanding such absence.

('66 Code, § 5-1.306) (Ord. 118-C-S, passed 6-10-70; Am. Ord. 776-C-S, passed 4-12-90; Am. Ord. 870-C-S, passed 10-28-93; Am. Ord. 937-C-S, passed 3-24-98)

§ 5-1.307 ABATEMENT ORDER SERVICE.

A copy of the final order of abatement shall be served upon the owners of the property in the same manner as notice is provided to them pursuant to this chapter, together with a detailed list of needed corrections and/or abatement methods. Any owner shall have the right to have any such premises rehabilitated in the manner and in the time specified by the Hearing Officer, or have the buildings or structures demolished or repaired, or to remove from public view such vehicles or boats, or parts thereof, in accordance with the abatement order, all at the owner's expense, provided that such work is done prior to the expiration of the time set in the abatement order, and provided that the abatement order has not found that immediate demolition is necessary to protect safety of the public or of surrounding properties, in which case demolition shall be the only remedy.

('66 Code, § 5-1.307) (Ord. 118-C-S, passed 6-10-70; Am. Ord. 776-C-S, passed 4-12-90; Am. Ord. 870-C-S, passed 10-28-93)

§ 5-1.308 CITY ABATEMENT.

If the nuisance is not completely abated by the owner in the time and manner set forth in the order of abatement, the City Manager shall cause the nuisance to be abated by city forces or by private contract; entry upon the premises to which an order relates is expressly authorized for such purposes.

('66 Code, § 5-1.308) (Ord. 118-C-S, passed 6-10-70; Am. Ord. 776-C-S, passed 4-12-90)

§ 5-1.309 ABATEMENT COST; RECORD.

The City Manager or designee shall keep an accounting of the cost, including incidental expenses and administrative costs, of abatement of the nuisance for each separate lot, or parcel of land, where the work has been done pursuant to the preceding

section, and shall prepare an itemized report thereof, showing the cost of abatement, including salvage value, if any. A copy of the report shall be served upon the property owners in the manner specified for service of abatement notices. The report shall also include a notice of opportunity of a hearing regarding the abatement costs.

('66 Code, § 5-1.309) (Ord. 118-C-S, passed 6-10-70; Am. Ord. 776-C-S, passed 4-12-90; Am. Ord. 870-C-S, passed 10-28-93; Am. Ord. 937-C-S, passed 3-24-98)

§ 5-1.310 ABATEMENT COST; HEARING.

The Hearing Officer shall hear and pass upon the report, together with any written or oral objections or protests, which must be presented at the hearing, or if no hearing has been requested, upon the documentation in the file. Thereupon, the Hearing Officer shall make such revision, correction or modification to the report as is appropriate, after which the report shall be confirmed by order of the Hearing Officer. The decision of the Hearing Officer may be appealed as provided in § 5-1.306. All of the procedures for the appeal and for the hearing on the confirmation of costs shall be the same as the procedures for the hearing and appeal on the nuisance itself.

('66 Code, § 5-1.310) (Ord. 118-C-S, passed 6-10-70; Am. Ord. 776-C-S, passed 4-12-90; Am. Ord. 870-C-S, passed 10-28-93; Am. Ord. 937-C-S, passed 3-24-98)

§ 5-1.311 ABATEMENT COST; COLLECTION.

The cost of abatement of a nuisance, as reflected in the confirmed report from either the Hearing Officer or the Board of Administrative Appeals shall constitute a special assessment against the property, pursuant to Cal. Gov't Code § 38773.5. The written order confirming the special assessment shall be recorded. The assessment shall be collected at the same time and in the same manner as ordinary municipal taxes, all pursuant to Cal. Gov't Code § 38773.5.

('66 Code, § 5-1.311) (Ord. 118-C-S, passed 6-10-70; Am. Ord. 776-C-S, passed 4-12-90; Am. Ord. 870-C-S, passed 10-28-93)

§ 5-1.312 ALTERNATIVE PROCEDURES.

Nothing set forth in this chapter shall be deemed to prevent the city from using any alternative proceedings for the abatement of nuisances, such as use of the Uniform Code for the Abatement of Dangerous Buildings. Nor shall this chapter prevent the City Attorney from commencing a civil or criminal proceeding to abate a public nuisance, nor shall this chapter prevent the Code Enforcement Officer or a peace officer from issuing citations for violations of this code.

('66 Code, § 5-1.312) (Ord. 118-C-S, passed 6-10-70; Am. Ord. 776-C-S, passed 4-12-90)

§ 5-1.313 NUISANCES UNLAWFUL.

No person shall maintain property in violation of § 5-1.201 of this chapter, and it shall be unlawful to do so. In addition to and as an alternative to the civil remedies provided in this chapter, said § 5-1.201 may be enforced by criminal proceedings by the issuance of citations or criminal complaints by persons authorized to do so.

('66 Code, § 5-1.313) (Ord. 118-C-S, passed 6-10-70; Am. Ord. 776-C-S, passed 4-12-90) Penalty, see §§ 1-2.01 et seq.

§ 5-1.314 SUMMARY ABATEMENT.

Where any real property, or any building or structure within the city, in the opinion of the City Manager, constitutes a public nuisance and an immediate threat of injury to persons or damage to property exists, he shall order the condition abated by such means as may be reasonably required to eliminate the threat of injury or damage. He may reduce the time periods for notice and hearing, or persons noticed, in appropriate cases. In extreme cases where threat to safety of persons or property is imminent, he may dispense with the notice and hearing provisions regarding the existence of a nuisance and order the property, building or structure to be repaired or demolished. Thereafter, he shall advise the City Council and the property owner of the actions taken and the reasons therefor. Proceedings to recover costs shall comply with the requirements of this chapter.

('66 Code, § 5-1.314) (Ord. 118-C-S, passed 6-10-70; Am. Ord. 776-C-S, passed 4-12-90)

ARTICLE 4: GRAFFITI

§ 5-1.401 FINDINGS AND PURPOSE.

The City Council finds that the increase of graffiti on both public and private buildings, structures, and other places creates a condition of blight within the city that can result in the deterioration of property values, business opportunities, and enjoyment of life for persons using adjacent and surrounding properties. The City Council further finds that the presence of graffiti is inconsistent with the city's goals of maintaining property, preventing crime, and preserving aesthetic standards. Unless graffiti is quickly removed, it encourages the creation of additional graffiti on nearby buildings and structures.

(Ord. 931-C-S, passed 9-30-97)

§ 5-1.402 DECLARATION OF PUBLIC NUISANCE.

The City Council declares graffiti is a public nuisance, subject to abatement as prescribed in this chapter.

(Ord. 931-C-S, passed 9-30-97)

§ 5-1.403 PROCEEDINGS AGAINST PROPERTY OWNER.

(A) *Notice of violation.* A property owner shall not permit property that has been defaced with graffiti to remain so defaced for a period of 10 calendar days after Neighborhood Improvement Services has by first class mail served the property owner with notice of the existence of the graffiti nuisance. The notice of violation shall inform the property owner of his or her right to request a hearing.

(B) *Notice of hearing.* If a hearing is requested by the property owner, Neighborhood Improvement Services shall give the property owner not less than 48 hours notice of a hearing to be held by the hearing officer for the purpose of showing cause why the public nuisance should not be abated by the city. The notice shall contain:

(1) The street address and such other description as is required to identify the premises.

(2) A statement specifying the conditions that constitute the nuisance.

(3) An order to the property owner to appear before a hearing officer at a stated time, but in no event less than 48 hours after having mailed such notice, to show cause why the premises should not be declared a public nuisance and abated in accordance with this chapter.

(4) A statement advising the property owner that he or she has the option of voluntarily abating the nuisance prior to the date set for the hearing. If the property owner chooses voluntary abatement, such abatement must be completed prior to the hearing date. The property owner must advise Neighborhood Improvement Services in writing that he or she will abate the nuisance, and the date of completion. Neighborhood Improvement Services will inspect the premises on the completion date, and if the nuisance has been abated, the hearing will be taken off the calendar and administrative fee refunded. The property owner may request a continuance of the hearing pursuant to § 5-1.403 (F).

(C) *Service of hearing notice.* The hearing notice, and any amended or supplemental notice, shall be served upon the property owner in the same manner as a summons in a civil action.

(D) *Hearings - generally.* At the time set for hearing, the hearing officer shall proceed to hear testimony of investigators of Neighborhood Improvement Services, witnesses, the property owner, and any other competent person regarding the condition of the premises, and other relevant facts concerning the matter.

(E) *Record or oral evidence at hearing.* The proceedings at the hearing shall be recorded by a tape recorder. 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 Cal. Civ. Proc. Code § 1094.6, as presently written or subsequently amended.

(F) *Continuances.* The hearing officer may, upon request of the property owner or upon request of the Coordinator of Neighborhood Improvement Services, grant continuances from time to time for good cause shown, or upon his or her own motion. However, continuances shall be disfavored due to the legislative finding that graffiti tends to encourage additional graffiti.

(G) *Evidence rules.* Cal. Gov't Code § 11513 (a)-(c), as presently written or subsequently amended, shall apply to hearings under Title 5 of the Antioch Municipal Code.

(H) *Rights of parties.*

(1) Each party may represent himself or herself or be represented by a person of his or her choice.

(2) If a party does not proficiently speak or understand the English language, he or she may provide an interpreter, at his or her own cost, to translate for the party. An interpreter shall not have any involvement in the issues of the case prior to the hearing.

(I) *Official notice.* In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact that may be judicially noticed by the courts of this state or that may appear in any of the official records of the city or any of its departments.

(J) *Form and contents of decision; finality of decision.*

(1) The decision of the hearing officer shall be in writing and shall contain findings of fact and a determination of the issues presented. The decision shall also require the property owner to commence abatement of the nuisance not later than 10 days after the issuance of the decision, and that the abatement be completed within such time as specified by the hearing officer, or in the alternative, within the time designated by the Coordinator of Neighborhood Improvement Services. The decision shall inform the property owner that if the nuisance is not abated within the time specified, the nuisance may be abated by the city in such manner as may be ordered by the Coordinator of Neighborhood Improvement Services.

(2) The decision shall also inform the applicant that the time for judicial review is governed by Cal. Civ. Proc. Code § 1094.6. However, nothing herein shall extend the time period for complying with the abatement order. Copies of the decision shall be delivered promptly to the parties personally or sent to them by certified mail. The decision shall be final when signed by the hearing officer and served as provided in this chapter.

(K) *Service of the hearing officer decision.* Upon issuance of the decision, the head of the Neighborhood Improvement Services shall post a copy of it conspicuously on the premises involved and shall serve a copy on the property owner by either personal service or by certified mail.

(Ord. 931-C-S, passed 9-30-97)

§ 5-1.404 ABATEMENT BY CITY.

If a hearing has not been requested by the property owner, the city may enter upon the property for the purpose of removing the graffiti, in accordance with divisions (A) and (B) below:

(A) Prior to entering upon private property or property owned by a public entity other than the city for the purpose of removing graffiti, the city shall attempt to secure the consent of the property owner and a release of the city from liability for damage to the property.

(B) If a property owner fails to remove the offending graffiti within the specified 10-day period, or if the property owner has refused to give consent to the city for entry on terms acceptable to the city consistent with this chapter, the city may commence abatement of the graffiti nuisance and proceedings to recover the expense of abatement according to the procedures set forth in this chapter.

(Ord. 931-C-S, passed 9-30-97)

§ 5-1.405 RECOVERY OF EXPENSES OF ABATEMENT AGAINST PROPERTY OWNER.

The recovery of the expenses of abatement against a property owner shall be according to the following procedures:

(A) Upon the city's removal of the public nuisance, the city may provide an accounting of the expense of abatement along with a demand for payment to the property owner.

(B) If the expense of abatement has not been paid within 30 days from the date of issuing an accounting and demand for payment, the unpaid amount shall constitute a lien pursuant to Cal. Gov't Code §§ 38773.5. Prior to recording a notice of lien, the hearing officer shall provide notice pursuant to Cal. Gov't Code § 38773.

(C) As an alternative to the lien described in division (B), above, the expense of abatement may, pursuant to Cal. Gov't Code § 38773.5, constitute a special assessment against a parcel of land owned by the property owner. The assessment shall be collected as provided for in Cal. Gov't Code § 38773.5.

(D) In addition to any other remedy provided in this chapter or available at law, the expense of abatement pursuant to Cal. Gov't Code §§ 38773, 38773.1 and 38773.5 shall constitute a personal obligation against the property owner.

(Ord. 931-C-S, passed 9-30-97)

§ 5-1.406 PROCEEDINGS AGAINST

§ 5-1.408 CUMULATIVE REMEDIES.

The procedures set forth in this chapter are not exclusive and nothing contained herein shall be deemed to preclude the pursuit of any available remedy, whether it is civil or criminal.

(Ord. 931-C-S, passed 9-30-97)

§ 4-7.301 DECLARATION OF NUISANCES.

The following conditions are hereby declared public nuisances:

(A) The existence on sidewalks, park strips, or streets in the city of grass, weeds, rubbish, refuse, dirt, or other obstructions; and

(B) The existence on any property, lands, lots, or parcels in the city of grass, weeds, rubbish, refuse, dirt, or other material dangerous or injurious to neighboring property or to the health or welfare of residents of the vicinity.

('66 Code, § 4-7.301) (Ord. 152-C-S, passed 10-20-71)

§ 4-10.01 FINDINGS AND DETERMINATIONS; DEFINITIONS.

(A) In addition to and in accordance with the determination made and the authority granted by the state pursuant to the provisions of Cal. Veh. Code § 22660 to remove abandoned, wrecked, dismantled, or inoperative vehicles, or parts thereof, as public nuisances, the Council hereby makes the following findings and declarations:

(1) The accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles, or parts thereof, on private or public property, not including highways, is hereby found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects, and to be injurious to the health, safety, and general welfare.

(2) Therefore, the presence of an abandoned, wrecked, dismantled, or inoperative vehicle, or parts thereof, on private or public property, not including

highways, except as expressly permitted by the provisions of this chapter, is hereby declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this chapter.

§ 5-13.01 FINDINGS AND PURPOSE.

The City Council hereby finds that the control of parties, gatherings or events on private property is necessary when such activity is determined to be a threat to the peace, health, safety or general welfare of the public. Frequently police officers have been required to make return calls to the location of a party, gathering or event in order to disperse uncooperative participants, causing a drain of manpower and resources sometimes leaving other areas of the city with inadequate police protection.

('66 Code, § 5-13.01) (Ord. 828-C-S, passed 2-13-92)

§ 5-13.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PARTY, GATHERING or EVENT. A group of persons who have assembled or are assembling for a social occasion or for a social activity, or who are creating a public nuisance by creating excessive noise.

PERSON RESPONSIBLE FOR THE EVENT.

The person who owns, rents, leases or otherwise has control of the premises where the party, gathering or event takes place, the person in charge of the premises and/or the person who organized the event. If the person responsible for the event is a minor (under 18 years of age), then the parents or guardians of that minor will be jointly and severally liable for the costs incurred for police services pursuant to this chapter.

POLICE SERVICES. The salaries of the police officers for the amount of time actually spent in responding to or in remaining at the party, gathering or event at a rate established by resolution of the City Council, the actual cost of any medical treatment to injured officers, and the cost of repairing any damaged city equipment or property.

('66 Code, § 5-13.02) (Ord. 828-C-S, passed 2-13-92)

§ 5-13.03 UNLAWFUL GATHERINGS ON PRIVATE PROPERTY.

After a first warning to the person(s) responsible for the event to control the threat to the public peace, health, safety or general welfare, when a party, gathering or event occurs on private property and a police officer at the scene determines that there is a threat to the public peace, health, safety or general welfare, the person(s) responsible for the event will be held liable for the cost of providing police services during a second response by the police, which second response is deemed necessary or appropriate by the

senior responding officer. Any police response may also result in the arrest and/or citation of violators of the California Penal Code, or other provisions of the municipal code.

('66 Code, § 5-13.03) (Ord. 828-C-S, passed 2-13-92)

§ 5-13.05 POLICE SERVICES FEE.

The police services fee shall include the cost of personnel and equipment, but shall not exceed \$1,000 for a single incident; provided, however, that the city does not hereby waive its right to seek reimbursement for actual costs exceeding \$1,000 through other legal remedies. The amount of such fees shall be deemed to be a debt to the city of the person responsible for the event and, if minors, their parents or guardians. Any person owing such fees shall be liable in an action brought in the name of the city of recovery of such fees, including reasonable attorney fees.

('66 Code, § 5-13.05) (Ord. 828-C-S, passed 2-13-92; Am. Ord. 984-C-S, passed 10-9-01)

§ 6-1.19 NUISANCE COMPLAINTS; PROCEDURE.

The City Attorney shall have the authority to issue a notice to appear to the owner of any dog which creates a public nuisance. The notice may direct the owner to attend a conference with either the City Attorney or the Animal Control Officer. If the nuisance continues after such conference, or if the owner fails to attend, the City Attorney, upon the receipt of a petition from the complaining party and other persons disturbed by the nuisance, may file a criminal complaint against the owner of the dog. The complaint shall be signed by the complaining party. ('66 Code, § 6-1.19) (Ord. 446-C-S, passed 8-7-80)

§ 6-3.02 GARBAGE; MANDATORY SERVICE.

Unless special contractual arrangements have been made by the subscriber with the contractor for commercial containers, cart services, or otherwise, every subscriber described in this section shall be subject to the provisions of this section.

(A) Every owner, proprietor, person in possession, manager, or other person, firm, or corporation having the charge or control of any boarding or lodging house, hotel, club, bar, restaurant or other eating place, or vegetable or food processing or handling establishment within the city, unless other contractual arrangements are made with the contractor, shall provide and keep at all times a sufficient number of consumer containers in which shall be placed all garbage, rubbish, and recyclable/ salvageable materials produced or accumulated on the premises; provided, however, there shall not be placed more than 70 pounds of material in any one such container.

(B) The owner, manager, person in possession, or other entity having the charge or control of any owner-occupied, leased, or rented single-family dwelling or any apartment, flat, duplex, or other multiple-family dwelling of four units or less, unless other contractual arrangements are made with the contractor, shall provide and keep at all times, for each unit, one to three consumer containers in which shall be placed all

garbage, rubbish, and recyclable/ salvageable materials produced or accumulated on the premises; provided, however, there shall not be placed more than 70 pounds of material in any one such container.

(C) The owner of any owner-occupied apartment, flat, or other multiple-family dwelling of five units or more or any commercial or industrial business, unless other contractual arrangements are made with the contractor, shall provide and keep at all times, for each unit, one to three consumer containers in which shall be placed all garbage, rubbish, and recyclable/salvageable materials produced or accumulated on the premises; provided, however, there shall not be placed more than 70 pounds of material in any one such container.

(D) Every person, firm, or corporation required by this chapter to provide and keep garbage or rubbish containers for recyclable/salvageable materials shall subscribe with the contractor for the collection and disposal of garbage, and/or rubbish, and/or recyclable/salvageable materials. In the case of any leased or rented single-family dwelling or leased or rented apartment, flat, duplex, or multiple-family dwelling, the owner shall subscribe for such collection and disposal service for each family residing therein and shall be responsible for the payment of the charges therefor.

(E) The contractor shall give written notice to the City Manager or his designee of the address of any commercial or industrial business or occupied premises within the city which are not furnished with the collection and disposal service provided by the contractor.

(F) Failure to subscribe for the collection and disposal of garbage, rubbish, and recyclable/ salvageable materials as required by this chapter shall be unlawful and shall be presumed to create a public nuisance or a hazard to the public health upon the premises which have not subscribed to or been provided with such service, and, after the show cause procedures set forth in division (G) of this section have been completed, a continued failure shall constitute an infraction punishable as set forth in §§ 1-2.01 et seq. of this code and/or by a fine of \$50 for the first offense, \$100 for the second offense, and, upon conviction for the third wilful violation, it shall be deemed a misdemeanor.

(G) If the City Manager or his designee, upon written notice from the contractor, the Health Officer, or from his own investigation, finds that any person, firm, corporation, or entity has failed to subscribe for the collection and disposal of garbage, rubbish, and recyclable/salvageable materials as required by this chapter, the City Manager or his designee shall serve a written notice upon such person, firm, corporation, or entity informing such person, firm, corporation, or entity of the requirements of this chapter and that, because of the failure to comply with such requirements, a nuisance is presumed to exist upon the premises owned, managed, or controlled by him which have not been provided with such collection and disposal service. The notice shall direct the person, firm, corporation, or entity to subscribe with the contractor for the collection and disposal of garbage within 10 days after the service of the notice or to request a hearing before the City Manager or his designee within such 10 day period to show cause why he

should not be required to so subscribe. The notice shall also inform the nonsubscriber of the penalties for failure to comply.

(H) Any notice required by this chapter shall be deemed served when such notice is deposited in the United States Post Office, with postage prepaid, and addressed to the responsible person, firm, corporation, or entity at its residence or place of business or at its last-known address as shown on the assessment roll of the county. The contractor shall notify the City Manager or his designee in writing whether the person, firm, corporation, or entity upon whom such notice was served, within 10 days after such service, has subscribed for the collection and disposal of garbage and rubbish.

(I) If the notice required by division (G) of this section is served upon any person, firm, corporation, or entity other than the owner of record of any leased or rented premises, a copy of such notice, at the same time and in the same manner, shall be served upon the owner of record of such leased or rented premises.

(J) Any person, firm, corporation, or entity subject to the requirements of this chapter may request a hearing before the City Manager or his designee to show cause why such person, firm, corporation, or entity should not be required to subscribe for the collection and disposal of garbage, rubbish, and recyclable/salvageable materials. The hearing shall be held at a time and place fixed by the City Manager or his designee within the city within 10 days after the request therefor. The hearing may be conducted by the City Manager or his designee. The City Manager or his designee may exempt from the requirement of garbage, rubbish, and recyclable/salvageable materials collection service any person, firm, corporation, or entity which shows, and so long as such person, firm, corporation, or entity can continue to show, that the premises are unoccupied or that no unsanitary condition or hazard to health or public nuisance will arise upon the premises owned, managed, or controlled by him if such premises are not provided with the collection and disposal of garbage, rubbish, or recyclable/salvageable materials.

(K) No provision of this chapter shall be construed to prevent an owner from requiring his tenant to furnish the containers required by this chapter or to subscribe for the collection and disposal of garbage, rubbish, and recyclable/salvageable materials; provided, however, such arrangement shall in no way excuse the owner if the tenant fails to comply with the provisions of this chapter.

(L) Nothing in this chapter shall be construed to prevent any person, firm, corporation, or entity from removing and disposing of rubbish from premises owned, managed, or controlled by him, unless the material removed includes hazardous, infectious, or special handling materials, or to so remove the material would constitute a hazard to the public health or safety or would constitute a public nuisance, or unless such person, firm, corporation, or entity is engaged in the business of hauling.

('66 Code, § 6-3.02) (Ord. 711-C-S, passed 6-9-88)

§ 6-3.03 GARBAGE AND RUBBISH CONTAINERS; LOCATION.

(A) All garbage, rubbish, and recyclable/salvageable materials containers and dumpsters shall be placed and maintained in a location, readily accessible to the contractor, which will minimize fire hazard and which will not be a public nuisance or offensive.

(B) Upon written notification from the Fire District that the containers are being maintained in a fire hazardous location, they shall be relocated forthwith by the person, firm, corporation, or entity subscribing to the collection service.

(C) Failure to relocate the container as required by the Fire District shall be unlawful and shall be presumed to create a public nuisance and a hazard to the public health or safety and shall constitute an infraction punishable as set forth in §§ 1-2.01 et seq. of this code and/or by a fine of \$100 for the first offense, \$200 for the second offense, and, upon conviction for the third willful violation, it shall be deemed a misdemeanor.

(D) The contractor, upon written notification from the Fire District, shall refuse to empty and service any container which is so located as to constitute a fire hazard. Failure by the contractor to provide service to the subscriber due to such notification shall not operate to relieve the subscriber of his liability for monthly service charges.

('66 Code, § 6-3.03) (Ord. 711-C-S, passed 6-9-88)

§ 6-3.04 GARBAGE AND RUBBISH CONTAINERS; TYPE PERMITTED; CLEANING.

(A) Only those containers defined in division (A) of § 6-3.01 of this chapter as consumer containers may be supplied or used by subscribers, unless special contractual agreements are made with the contractor for the use of commercial containers and/or other containers approved by the city and contractor, including, but not limited to, containers for recyclable and salvageable materials.

(B) All garbage, rubbish, and recyclable/ salvageable materials containers shall be maintained in a clean and sanitary condition.

(C) Failure to maintain containers in a clean and sanitary condition shall be unlawful and shall be presumed to create a public nuisance and a hazard to the public health or safety.

(D) The contractor, upon written notification of unsanitary conditions by the city, shall clean such garbage and rubbish containers. Any such cleaning shall constitute an extra service and shall be the liability of and recoverable from the person, firm, or corporation subscribing to the service at an amount equal to actual cost, but not to exceed the fee established by resolution of the Council.

('66 Code, § 6-3.04) (Ord. 711-C-S, passed 6-9-88) Penalty, see §§ 1-2.01 et seq.

City of Berkeley Municipal Code

Section 13.40.010 Purpose and intent.

The Council finds and determines that:

- A. Certain sound levels and vibrations are detrimental to the public health, welfare, safety, and quality of life, and are contrary to the public interest;
- B. Every person is entitled to an environment in which the noise is not detrimental to his or her life, quality of life, health, or enjoyment of property;
- C. The making and creating of disturbing, excessive, or offensive noises within the jurisdictional limits of the City is a condition that has persisted, and the level and frequency of occurrences of such noises continues to increase;
- D. The public health, comfort, convenience, safety, welfare, prosperity, peace, and quiet of the City and its inhabitants will be promoted by maintaining quiet in those areas which exhibit low sound levels and by reducing noise in those areas within the City where sound levels are above acceptable values. (Ord. 5500-NS § 1 (part), 1982)

Section 13.40.070 Prohibited acts.

- A. Noise disturbances prohibited. No person shall unnecessarily make, continue, or cause to be made or continued, any noise disturbance.
- B. Specific prohibitions. The following acts, and the causing or permitting thereof, are declared to be in violation of this chapter:
 - 1. Radios, television sets, musical instruments and similar devices. Operating, playing or permitting the operation or playing of any radio, television set, phonograph, drum, musical instrument, or similar device which produces or reproduces sound in such a manner as to create a noise disturbance, or at any time to violate the provisions of Sections 13.40.050 or 13.40.060, except for activities for which a variance has been issued by the NCO.
 - 2. Loudspeakers (amplified sound). Using or operating for any purpose any loudspeaker, loudspeaker system, or similar device, such that the sound therefrom creates a noise disturbance or at any time violates the provisions of Sections 13.40.050 or 13.40.060, except for any activity for which a variance or permit has been issued by the NCO.
 - 3. Yelling, shouting. Loud or raucous yelling, shouting, whistling or singing so as to cause a noise disturbance is hereby prohibited.
 - 4. Street sales. The solicitation, sale, or advertising of any product or service by shouting or outcry within any residential or commercial area or noise sensitive zone of the City except by variance issued by the NCO.

The provisions of this section shall not be construed to prohibit the selling by outcry of merchandise, food, beverages at licensed sporting events, parades, fairs, circuses, or other similar licensed public entertainment events.
 - 5. Animals. Keeping or maintaining, or permitting to be kept or maintained on any premises owned, occupied, or controlled by any person of any animal or animals which by any frequent or long continued noise shall cause annoyance or discomfort to two or more reasonable persons of normal sensitiveness who reside

in separate residences (including apartments and condominiums). However, the NCO or his or her agent may proceed on the basis of a complaint of only one person if circumstances are determined to exist whereby a noise disturbance caused by an animal affects only one individual. Any noise which is audible continuously for ten minutes or intermittently for thirty minutes shall be prima facie evidence of such annoyance or discomfort.

Factors which can be used to evaluate excessive animal noise include, but are limited to, (a) pitch; (b) pattern; (c) and (d) frequency of occurrence.

6. Loading and unloading. Loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, or similar objects between the hours of ten p.m. and seven a.m. in such a manner as to cause a noise disturbance across a residential real property line or at any time to violate the provisions of Sections 13.40.050 or 13.40.060.

7. Construction/demolition.

a. Operating or causing the operation of any tools or equipment used in construction, drilling, repair, alteration, or demolition work between weekday hours of seven p.m. and seven a.m., or eight p.m. and nine a.m. on weekends or holidays such that the sound therefrom creates a noise disturbance across a residential or commercial real property line, except for emergency work of public service utilities or by variance issued by the NCO. (This section shall not apply to the use of domestic power tools as specified in Section 13.40.070, subsection B.11.)

b. Noise restrictions at affected properties. Where technically and economically feasible, construction activities shall be conducted in such a manner that the maximum sound levels at affected properties will not exceed those listed in the following schedule:

AT RESIDENTIAL PROPERTIES: Mobile Equipment. Maximum sound levels for nonscheduled, intermittent, short-term operation (less than ten days) of mobile equipment:

Table 13.40-3

	R-1, R-2 Residential	R-3 and above Multi-Family Residential	Commercial/Industrial
Daily, 7:00 a.m. to 7:00 p.m.	75dBA	80dBA	85 dBA
Weekends, 9:00 a.m. to 8:00 p.m. and legal holidays	60	65	70

Stationary Equipment. Maximum sound levels for repetitively scheduled and relatively long term operation (period of ten days or more) of stationary equipment:

Table 13.40-4

	R-1, R-2 Residential	R-3 and above Multi-Family Residential	Commercial/Industrial
Daily, 7:00 a.m. to 7:00 p.m.	60 dBA	65 dBA	70 dBA
Weekends, 9:00 a.m. to 8:00 p.m. and legal holidays	50	55	60

8. Vibration. Operating or permitting the operation of any device that creates a vibration which annoys or disturbs at least two or more reasonable persons of normal sensitiveness who reside in separate residences (including apartments and condominiums) at or beyond the property boundary of the source if on private property or at least one hundred fifty feet (forty-six meters) from the source if on a public space or public right-of-way.

9. Powered model vehicles. Operating or permitting the operation of powered model vehicles so as to create a noise disturbance across a residential or commercial real property line or at any time to violate the provisions of Sections 13.40.050 or 13.40.060.

10. Emergency signaling devices.

a. The intentional sounding or permitting the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle, or similar stationary emergency signaling device, except for emergency purposes or for testing, as provided in subparagraph b. below.

b. (i) Testing of a stationary emergency signaling device shall not occur before seven a.m. or after seven p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed sixty seconds.

(ii) Testing of the complete emergency signaling system, including the functioning of the signaling device, and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall not occur before seven a.m. or after ten p.m. The time limit specified in subparagraph b. (i) shall not apply to such complete system testing.

c. Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm unless such alarm is terminated within fifteen minutes of any single security violation or false alarm.

11. Domestic power tools, machinery.

a. Operating or permitting the operation of any mechanically powered saw, sander, drill, grinder, lawn or garden tool, or similar tool between ten p.m. and seven a.m. on weekdays (or eight p.m. and nine a.m. on weekends and legal holidays), so as to create a noise disturbance across a residential or commercial real property line.

b. Any motor, machinery, pump, such as swimming pool equipment, etc., shall be sufficiently enclosed or muffled and maintained so as not to create a noise disturbance in accordance with Sections 13.40.050 or 13.40.060.

12. Places of public entertainment. Operating or permitting the operation or playing of any loudspeaker, musical instrument, motorized racing vehicle, or other source of sound in any place of public entertainment that exceeds ninety-five dBA as read on the scale of a sound level meter at any point normally occupied by a customer, without a conspicuous and legible sign stating: "WARNING! SOUND LEVELS WITHIN MAY CAUSE HEARING IMPAIRMENT."

13. Tampering. The removal or rendering inoperative, other than for purposes of maintenance, repair, or replacement, of any noise control device or element thereof, of any product required to meet specified noise emission limits under federal, state or local law, and the use of said product after its noise control device has been removed or rendered inoperative, other than for purposes of maintenance, repair or replacement.

14. Notwithstanding Subsection B.11 of this section, it shall be unlawful for any person, including any City employee, to operate any portable machine powered with a gasoline engine used to blow leaves, dirt, and other debris off sidewalks, driveways, lawns or other surfaces within the City limits.

a. Notice of this prohibition shall be posted in all stores selling such gasoline powered machines within the City limits. (Ord. 6026-NS § 1, 1990: Ord. 5500-NS § 1 (part), 1982)

Richmond

9.40.020 Attractive nuisance--Generally.

Any vacant lot or open area of ground within which any of the following conditions occur and to which the public, and particularly children, have access is termed an attractive nuisance:

- (1) Ponding or impounding of water;
- (2) Open pits, shafts, caves or ditches;
- (3) Noxious weeds or vegetation;
- (4) Trash, debris or machinery.

.40.050 Tenants vacating buildings to leave premises in clean and sanitary condition.

It is unlawful for any person leasing, renting or occupying any house, flat, tenement, apartment or other building to leave such building or the premises used in connection therewith in an unclean or unsanitary condition, or to leave any rubbish or waste material of any kind in such house, flat, tenement, apartment or other building, or on the premises used in connection therewith, upon the termination of such tenancy or occupancy.

(Source: Ordinance No. 1746)

8.16.060 Fire hazards and nuisances--Abatement.

(a) All violations of this chapter are fire hazards and public nuisances and shall be abated.

(b) General Abatement.

(1) When a fire hazard and *nuisance* as generally described in Sections 8.16.010 through 8.16.050 above; as described in Sections 8.16.070 and 8.16.090 below; or as describe in Sections 103.4.4 and 103.4.3.1 of the California Fire Code exists, it shall be the duty of the Fire Marshal to notify in writing the owner or occupant of such premises to abolish and abate such *nuisance* and, if necessary, remove said matter, provided, that such notification shall not be required in a situation which, in the Fire Marshal's judgment, constitutes an emergency requiring immediate abatement of such *nuisance*. In such an emergency situation, the Fire Marshal may order the owner or occupant, orally or in writing to abate the *nuisance* immediately or may proceed to cause the *nuisance* to be abated without any such notice if, in the Fire Marshal's judgment, the situation warrants such action in the interest of the public health, safety or welfare.

(2) The required notice shall provide a specified time in which such *nuisance* must be abated or removed.

(3) Before complying with the requirements of the required notice, the owner may request a hearing before the Fire Marshal at a time and place fixed by the Fire Marshal. The hearing request must be made in writing and must be made within the time limit specified in the required notice.

(4) The Fire Marshal shall:

- (A) Conduct the hearing;
 - (B) Re-determine whether or not a *nuisance* as described in subsection (a) hereof exists and whether or not the owner or occupant shall abate the *nuisance*; and
 - (C) Specify the time within which the work shall be completed.
- (5) In the event the *nuisance* is not abated within the time specified in the original required notice and/or the time specified at the hearing, the City may abate such a *nuisance*.
- (6) The person whose duty it was to abate or abolish a *nuisance* as ordered by the Fire Marshal pursuant to this chapter, in addition to incurring penalties as provided in these regulations, shall become indebted to the City of Richmond for the damages; costs and charges incurred by the City by reason of the existence of said *nuisance* or removal of said matter. This cost may become a lien upon the property upon which the *nuisance* existed.
- (c) Those properties which are deemed public nuisances because of the presence of weeds (as weeds are defined in Chapter 9.50 of this Municipal Code), dry grass, stubble, brush, rubbish, litter or other combustible or flammable material which creates a fire hazard, a menace to the public health or which is otherwise noxious or dangerous shall be subject to the abatement procedures set forth in Sections 9.22.100, 9.22.110 and 9.22.120 of this Municipal Code.
- (d) Firebreaks. In lieu of ordering the abatement of fire hazards as provided in this Section, the Fire Chief may order the preparation of firebreaks around parcels of property when combustible weeds, crops, or brush are present. In determining the proper width for firebreaks, the Fire Chief shall consider the height of the growth, weather conditions, topography, and the accessibility to the property of fire protection equipment. The procedure set forth in subsection (h) above shall also apply to the preparation of firebreaks.
- (e) Alternate Procedures. The procedures provided for by this Section are an alternative to any other procedure adopted by the City Council for the abatement of public nuisances, or any procedure which may be authorized by the laws of the State of California.

9.22.090 Nuisances specified.

It is declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in this City to maintain such premises or to permit such premises to be maintained in such a manner that any one or more of the conditions or activities described in the following subsections are found to exist:

(a) Generally.

(1) Any dangerous, unsightly, or blighted condition which is detrimental to the health, safety or welfare of the public;

(2) Any condition in violation of Chapters 6.04, 6.16, 6.20, 6.24, 6.28 or 6.32 of this Code (Uniform Building Code, Uniform Electric Code, Uniform Mechanical Code, Uniform Housing Code, Uniform Plumbing Code and Standards and Uniform Security Code, respectively);

- (3) Any condition in violation of Chapter 9.24 of this Code (Animal Control Law);
- (4) Any condition in violation of Chapters 15.04, 15.06 and 15.08 of this Code (zoning, sign and subdivision ordinances);
- (5) Any condition in violation of Chapter 8.16 of this Code (Uniform Fire Prevention Code);
- (6) Any condition in violation of any rule, regulation, standard or other requirement of the air pollution control district in which the City lies;
- (7) Any condition recognized in law or in equity as constituting a public nuisance.

(b) Buildings or Structures in a State of Disrepair.

(1) Any building or structure which is structurally unsafe or which constitutes a fire hazard, or which is otherwise dangerous to human life, or which, in relation to existing use constitutes a hazard to safety or health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence or abandonment. This shall include, but not be limited to, any building or structure which is maintained in a condition so as to violate Section 203(a) of the Uniform Building Code (Chapter 6.04 of this Code) or to meet the definition of a "substandard building" contained in Chapter 10 of the Uniform Housing Code (Chapter 6.24 of this Code);

(2) Any building or structure, including, but not limited to, walls, fences, signs or retaining walls, which are broken, deteriorated, or substantially defaced (including defacement by markings commonly referred to as "graffiti") so that the disrepair poses a risk of harm to the public or constitutes visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to the use and enjoyment of nearby properties or reduces nearby property values;

(3) Any building or structure having dry rot, warping or termite infestation or any building or structure on which the condition of the exterior finish has become so deteriorated as to permit decay, excessive checking, cracking, peeling, chalking, dry rot, warping or termite infestation so that the disrepair poses a risk to the public or constitutes visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to the use and enjoyment of nearby properties or reduces nearby property values.

(c) Property Inadequately Maintained.

(1) The keeping, storage, depositing or accumulation on the premises of any personal property, including, but not limited to abandoned, wrecked, dismantled or inoperative vehicles, automotive parts or equipment, appliances, furniture, containers, packing materials, scrap metal, wood, building materials, junk, solid waste, rubbish, and debris, which is within the view of persons on adjacent or nearby real property or the public right-of-way and which poses a risk of harm to the public or constitutes visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to the use and enjoyment of nearby properties or reduces nearby property values; provided, however, that wood and building materials being used or to be used for a project of repair or renovation for which a valid and current building permit has

been obtained may be stored for such period of time as is necessary expeditiously to complete the project;

(2) The keeping, storage, depositing or accumulation of dirt, sand, gravel, concrete or other similar materials, which constitutes visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to the use and enjoyment of nearby properties or reduces nearby property values; provided however, that building materials being used or to be used for a project of repair or renovation for which a valid and current building permit has been obtained may be stored for such period of time as is necessary expeditiously to complete the project;

(3) Property on which overgrown, dead or decayed trees, weeds or other vegetation pose a risk of harm to the public, or constitutes visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to the use and enjoyment of nearby properties or reduces nearby property values;

(4) Any parking lot, driveway, sidewalk or path which is cracked or has potholes or other breaks in the surface which poses a risk or harm to the public;

(5) Any swimming pool, pond or other body of water which is abandoned, unattended, unfiltered or otherwise not maintained, resulting in the water becoming polluted by excess bacterial growth or by the presence of garbage, refuse, debris, papers or any other foreign matter or material which creates an unhealthy or unsafe condition;

(6) Maintenance of property in such a manner that matter, including, but not limited to smoke, odors, dust, dirt, or debris, is permitted to be transported by wind or water or otherwise upon any street, course, alley, sidewalk or other public property or onto neighboring or adjacent properties so as to pose a risk of harm to the public, or to create a condition which is offensive to the senses or detrimental to the use and enjoyment of nearby properties or reduces nearby property values;

(7) Failure to install or to maintain landscaping which is required by this Code or which is required by the Richmond Redevelopment Agency for a redevelopment project area;

(8) Storage of solid waste receptacles or bins in front or side yards or visible from the public right-of-way except where:

(A) The layout or configuration of the property and the buildings thereon would impose a hardship upon the property owner seeking to comply with this section, or

(B) Compliance with this section would itself constitute a hazard to public health, safety or welfare.

Any exception granted pursuant to this subsection (8) shall be subject to the review of the Director of Public Works on a periodic basis set by the Director;

(9) Property on which any condition poses a fire hazard;

(10) Property on which any condition exists which is likely to harbor rats, vermin or other pests.

(d) Abandoned or Unsecured Buildings.

(1) Any building, fence or other structure which is or has been abandoned, boarded up, partially destroyed or permitted to remain in a state of partial construction so that it poses a risk of harm to the public, or constitutes visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to the use and enjoyment of nearby properties or reduces nearby property values; provided, however, that no partially constructed, reconstructed or demolished structure shall be considered in a state of partial construction if there exists a valid and current building or demolition permit and substantial work has been done pursuant to such permit within the immediately preceding three months.

(2) Any building, structure or other property which is unlocked or unsecured or has broken or missing doors or windows or other glazed openings allowing unauthorized access by the public so as to constitute a potential attraction to children or trespassers or a harbor for vagrants, criminals, or other unauthorized persons, or so as to enable persons to resort thereto for the purpose of committing a nuisance or other unlawful act.

(e) Parking and Storage of Vehicles and Equipment.

(1) Parking or storage of construction equipment or machinery or other industrial or commercial equipment or machinery in any area zoned for residential uses so that it is within the view of persons on adjacent or nearby real property or on the public right-of-way except while excavation, construction or demolition operations covered by an active building or demolition permit are in progress on the property.

(2) Parking or storage of motor vehicles, trailers, campers, boats and other mobile equipment in any area not designated as a parking space on the approved site plan.

(f) Hazardous and Attractive Nuisances.

(1) Any building, object or condition, whether natural or manmade, which due to its accessibility to the public or due to its potential attraction to children poses a hazard, including, but not limited to, abandoned, unsecured, unused or neglected motor vehicles, machinery or equipment, abandoned or unprotected wells, shafts, foundations, or basements, hazardous or unprotected pools, ponds, construction sites, or excavations, and stored chemicals, gas, oil, or toxic or flammable substances;

(2) Erosion, subsidence, or surface water drainage problems which are hazardous or injurious to the public or to adjacent properties whether caused by grading operations, excavations or fill or as a result of the topography, geology or configuration of the land in its natural state.

(g) Noise.

(1) The emanation of noise of such a loud, unusual penetrating, persistent, raucous or boisterous nature so as to unreasonably disturb, annoy, interfere with or endanger the comfort, repose, health, peace, safety or welfare of neighboring residents of normal sensitivity.

(h) Vector Control. It shall be a violation of this ordinance for anyone to create, cause, commit, or maintain a public nuisance, which is hereby defined as any one or more of the following:

- (1) Anything that is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of person, or that unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway;
 - (2) Any artificial alteration of property, excluding water, from its natural condition, resulting in it supporting the development, attraction, or harborage of vectors, with the presence of vectors in their developmental stages on property being prima facie evidence that the property is a public nuisance;
 - (3) Any water that is a breeding place for vectors, with the presence of vectors in their developmental stages in the water being prima facie evidence that the water is a public nuisance; or
 - (4) Any activity that supports the development, attraction, or harborage of vectors, or that facilities the introduction or spread of vectors.
- (Source: Ordinance No. 18-89 N.S. amended by Ordinance No. 22-03)

9.22.100 Abatement procedure.

- (a) Authority. Whenever the Director of Public Health or the Director of Public Works has inspected or caused to be inspected any premises and has found and determined that such premises are in violation of this chapter, the Director shall commence proceedings to cause abatement of the *nuisance* as provided herein.
- (b) Notice of Violation. Upon determining that premises located in the City are in violation of this chapter, the Director shall issue a notice directed to the record owner and to the occupants, as appropriate, of the premises. The notice shall contain:
 - (1) The street address and such other description as is required to identify the premises;
 - (2) A statement which specifies the conditions which constitute the *nuisance* and which also may specify the measures necessary to abate the *nuisance*;
 - (3) An order that the *nuisance* be abated within a specified time period; and
 - (4) A statement that the owner (or any occupant to whom the notice has been directed) has the right to request a hearing before the Board of Appeals and that such request must be made in writing and must be made within the time period within which the owner (or occupant) has been ordered to abate the *nuisance*.
- (c) Service of Notice. The written notice shall be served upon any occupant to whom it has been directed and upon the record owner of the property upon which the *nuisance* exists at least five days before the abatement deadline date specified in the notice. The written notice shall be served either by personal delivery upon the record owner or by mailing a copy to the record owner by certified mail, return receipt requested, at the owner's last known address as it appears on the latest equalized assessment roll of the county. Service on any occupant to whom the notice has been directed shall be made by personal delivery to the occupant or by mailing a copy to the occupant by certified mail, return receipt requested, at the address of the subject property or to another address known to be the occupant's home, business or mailing address. In all instances, a copy of the notice shall also be posted on the premises.

(d) Duty to Abate--Request for Hearing. After the written notice has been served, it shall be the duty of the owner (or any occupant to whom the notice has been directed) to abate such *nuisance* within the time specified by the notice. However, within the time specified in the notice to abate the *nuisance*, the owner (or occupant) may request a hearing before the Board of Appeals, created in Section 6.02.030 of this Code (Board of Appeals). Such request must be made in writing and should set forth the reasons why the abatement is not necessary.

(e) Hearing--Decision. On receipt of a timely written request for hearing, the Board of Appeals shall set a date for and on that date shall conduct a hearing on the proposed abatement. At the hearing the Board of Appeals shall redetermine whether or not a *nuisance* exists and whether or not the owner (or any occupant to whom the notice has been directed) should abate the *nuisance*. If the Board of Appeals finds, based on a preponderance of the evidence, that the *nuisance* continues to exist, the Board of Appeals shall issue a written decision informing the owner (or occupant) of that finding and specifying the time within which the abatement shall be completed. The decision of the Board of Appeals shall be the final and conclusive administrative decision.

(f) Service of Hearing Decision. The hearing decision shall be served on the record owner and on any occupant to whom the notice has been directed in the same manner as set forth in subsection (c) of this section. One copy of the hearing decision shall also be served on each of the following, if disclosed from official public records: The holder of any mortgage, deed of trust or other lien or encumbrance of record and the holder of any other estate or legal interest of record in the premises.

(Source: Ordinance No. 18-89 N.S.)

The City of Richmond is our first commitment. We are here to assist you.

If you have any questions please do not hesitate to call.

Code Enforcement Officers:

Sgt. Darren Monahan Code Enforcement Supervisor: 621-1279

Eva Mann, CEOII: 621-1283

Angela Ragland, CEOII : 621-1281

Theresa Tingle, CEOII: 621-1280

Marie Ries: 236-8450

Roszonne Fletcher: 236-9158

Officer Frank Muratore, Private Property Vehicle Tows: 621-1278

Community Services: 620-6944

Code Enforcement: 620-6886

Complaints: 620-6944

Walnut Creek

Article 3. Declaration of Nuisances

Sec. 1-6.301. Generally.

It is hereby declared a public nuisance for any person owning, leasing, occupying, or having charge or possession of any premises in this City to maintain 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:

a. The maintenance or tolerance of any dangerous building as the same is defined in the most recent edition of the Uniform Code for the Abatement of Dangerous Buildings which has been adopted by the City.

b. The maintenance or tolerance of any substandard building as the same is defined in the most recent edition of the Uniform Housing Code which has been adopted by the City.

c. The keeping, storage, depositing, or accumulation on the premises for an unreasonable period of any personal property (including but not limited to appliances, furniture, containers, packing materials, scrap metal, wood, building materials, junk, rubbish, and debris) which is within the view of persons on the public right-of-way or a private street and which constitutes visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to nearby property or to property values; provided, however, that wood and building materials being used or to be used for a project of construction, repair, or renovation for which a building permit has been obtained may be stored on the site for such period of time as is necessary to the expeditious completion of the project.

d. The keeping, storage, depositing, or accumulation on the premises for an unreasonable period of dirt, sand, gravel, concrete, or other similar materials, which manner of keeping, storage, depositing, or accumulation constitutes visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to nearby property or to property values.

e. The maintenance of the exterior of any vacant or unoccupied building, or of any fence, wall, or vegetation located on vacant or unoccupied premises or of the interior of any vacant or unoccupied building which is readily visible from any public street, private street or adjacent parcel of property in a state of unsightliness so as to constitute a blighted condition detrimental to the property values in the neighborhood or otherwise detrimental to the public welfare.

f. Maintaining or managing land, or failing to maintain or manage land, in such a manner as to create the likelihood of harm to the property of others, whether due to an artificial or a natural condition of the land.

- g. Maintaining or managing, or failing to maintain or manage, slopes, debris, erosion, protection structures or the growth of vegetation, including trees, shrubs, weeds, and ornamental flowers and plants, in such a manner as to constrict or inhibit the flow of waters, including flood waters, in any natural stream or creek bed.
- h. Maintenance of any obstruction to visibility at an intersection in violation of Title 3, Chapter 5, Article 17 of this Code.
- i. The deposit or accumulation of sewage on the surface of property, the improper functioning of a sewer system or any other condition relating to sewage which the Contra Costa County Health Officer determines to be detrimental to the public health, safety or welfare.
- j. Maintenance of any premises so as to constitute a fire hazard or a harbor for rats, vermin, or insects by reason of wood, rank overgrowth, or an accumulation of debris, whether the same be a causative or only a contributive factor, or which causes detriment to neighborhood properties or property values.
- k. Maintenance of any attractive nuisance dangerous to children and consisting of abandoned or broken motor vehicles and equipment; hazardous pools, ponds, or excavations; abandoned, neglected, unused, or unprotected machinery; or any pool or reservoir, whether or not the same contains any water or liquid, located upon premises which have not been occupied for an unreasonable period of time.
- l. The leaving of any garbage can or refuse container in a front or side yard area visible from a public street for more than 36 hours before or after the time for collection of garbage from said container.
- m. Placement or maintenance of any obstruction other than a vehicle properly using appropriate travel lanes, on any public street or public way, including sidewalks, pedestrian paths, bicycle paths, roadways, and roadway shoulders, except as may be allowed in a permit issued pursuant to Section 4-8.02 of this Code. As used in this subsection, "obstruction" includes vegetative growth as well as structures and things.
- n. The keeping, depositing, or accumulation, or the tolerance of the depositing or accumulation on the premises of any garbage, refuse, or rubbish for any unreasonable period of time or in such a manner that the public health, safety, or welfare are threatened or so as to constitute a blight upon the neighborhood or a detriment to neighboring properties or property values.

For purposes of this subsection the term "garbage" shall mean putrescible animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food; "refuse" shall mean putrescible animal and non-putrescible solid wastes, including garbage, rubbish, ashes, street cleanings, accumulations of filth or decaying animal excrement, dead animals, abandoned automobiles, and solid market and industrial wastes; and "rubbish" shall mean non-putrescible solid waste consisting of both combustible and

noncombustible waste such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and similar materials.

o. The maintenance or tolerance of weeds upon any piece or parcel of land or upon any sidewalk traversing or adjoining such land or upon that portion of any street adjoining such land from the property to the centerline of the street.

For purposes of this subparagraph, "weeds" shall mean weeds which, when mature, bear wingy or downy seeds or which will attain such growth as to become a fire menace when dry or which are otherwise noxious or dangerous or unsightly.

p. The maintenance of street trees as the same are defined in section 7-1.403 of this Code in such a manner that the branches of the trees restrict or impede access to or public use of adjacent sidewalks or streets; obstruct official traffic control devices, including traffic signs and signals; or prevent access by city street sweepers to clean the streets.

q. Maintenance for period of six months or longer of any on-site sign, including its supporting structure or structures, which is so disfigured or obsolete that it no longer identifies the current occupancy of the premises upon which such sign is located or otherwise fails to serve its intended purpose.

r. Maintenance of any unsafe or insecure sign or supporting structure(s) thereof or of any sign or supporting structure which is damaged to the point of presenting a possible safety hazard.

s. Maintenance of any noise in violation of Article 2 of Chapter 6 of Title 4 of the Municipal Code or of the Noise Element of the General Plan.

t. Maintenance of any condition on real property or operation of any equipment which raises dust or otherwise pollutes the air in violation of State or local standards.

u. Any encroachment as defined in Chapter 1 of Title 7 of this Code which is not exempted by the provisions of that chapter and for which no encroachment permit has been issued, or which is in violation of the provisions of the encroachment permit or this Code, and any fence, wall or other permanent structure which has been erected in violation of this Code and which encroaches upon any public right-of-way.

v. Parking or storage of non-operational motor vehicles and motorcycles or of operational motor vehicles and motorcycles which have been placed on blocks or otherwise immobilized in a residential zone where such motor vehicle or motorcycle can be seen from the public street or right-of-way or a private street.

w. Repair and/or dismantling of any vehicle or boat in a residential zone where such activity can be seen from the public street or right-of-way or a private street, except where such repair and or tools, equipment, motor oils and other fluids, rags, spills, parts, and debris, is removed within 168 hours after the repair or dismantling was begun

x. Every violation of the City subdivision, zoning, and design review laws, Title 10 of the Municipal Code, including, but not limited to, every use of property, grading, construction, signing, and tree removal in violation of that title or of Chapter 8 of Title 3 of this Code.

y. Any dangerous, unsanitary, blighted, or unsightly condition which is detrimental to the health, safety, or welfare of the public.

z. Any other condition recognized in law or in equity as constituting a public nuisance.

aa. Every other activity, use of property, or condition of property which the City Council may from time to time declare to be a nuisance pursuant to state law.

bb. Any artificial alteration of property, excluding water, from its natural condition, resulting in it supporting the development, attraction, or harborage of vectors, with the presence of vectors in their developmental stages on property being prima facie evidence that the property is a public nuisance.

cc. Any water that is a breeding place for vectors, with the presence of vectors in their developmental stages in the water being prima facie evidence that the water is a public nuisance. (*§1, Ord. 1690, eff. 8/19/88; by §3, Ord. 1761, eff. 3/2/91; by §1, Ord. 1779, eff. 1/16/92; by §4, Ord. 1826, eff. 10/21/93; and by §2, Ord. 2013, eff. 5/1/03*)

Sec. 1-6.302. List Not Exclusive.

The list of activities, uses of property, and conditions of property declared to be nuisances in Section 1-6.301 of this Article is not intended to be exclusive. The City Council expressly reserves to itself the right to declare other and additional activities, uses of property, and conditions of property to be nuisances subject to correction and abatement pursuant to this chapter or by any other means authorized by law. (*§1, Ord. 1690, eff. 8/19/88*)

Sec. 1-6.303. Building Occupancy.

Once proceedings have been commenced pursuant to this chapter to declare a building to be a public nuisance under this article, no such building shall be deemed to be in compliance with this chapter solely because such building thereafter becomes occupied. (*§1, Ord. 1690, eff. 8/19/88*)

Article 4. Enforcement

Sec. 1-6.401. Violations.

Every person who maintains or permits the maintenance of any nuisance declared in this chapter or by the City Council by ordinance is guilty of an infraction. Each day such nuisance is maintained or permitted to continue shall constitute a separate violation.

Each violation shall be punishable as set forth in Section 36900 of the California Government Code.

Person as used in this section shall include natural persons, corporations, firms, or other associations of persons, whether the owner, lessee, sublessor, sublessee, or occupant of any premises whereon such a nuisance is being maintained, so long as that person is responsible for the creation, maintenance, or continuation of such nuisance or is the person responsible for permitting or allowing such nuisance to be created, continued, or maintained. (*§1, Ord. 1690, eff. 8/19/88*)

Sec. 1-6.402. Authority: Right of Entry.

a. The division head is hereby authorized and directed to use the provisions of this Code for the purpose of abating those nuisances which exist as a result of the violation of those ordinances for which his division has primary enforcement responsibility.

b. To the extent not prohibited by law, the division head may enter private premises at reasonable times to make inspections required to carry out his duties hereunder. (*§1, Ord. 1690, eff. 8/19/88*)

1-6.403. Commencement of Proceedings.

Whenever the division head has inspected or has caused to be inspected any premises and has found and determined that any nuisance declared in this chapter or by other ordinance of the City Council is being maintained on such premises, he may commence proceedings to cause abatement of the nuisance as provided herein. "Abatement" as used in this paragraph may be accomplished by abatement proceedings pursuant to Article 5 hereof, citation proceedings pursuant to Article 6 hereof, or by any other procedures available under state or local law. The decision of the division head to

commence proceedings or not to commence proceedings shall be final and, notwithstanding any other provision of this Code to the contrary, shall not be subject to appeal. (*§1, Ord. 1690, eff. 8/19/88*)

Sec. 1-6.404. Hearing Notice.

a. Whenever the division head has determined to commence proceedings pursuant to Article 5 or 6 hereof, he shall issue a notice directed to the record owner of the premises and to the occupant of the premises or other person believed to be responsible for the nuisance, if such person is not the record owner, with a copy to any other persons with an interest of record in the premises. The notice shall contain:

1. The street address and such other description as is required to identify the premises.
2. A statement specifying the conditions which constitute the nuisance.

3. An order to appear before a hearing examiner at a stated time, but in no event less than 20 calendar days after having mailed such notice, to show cause why the premises should not be declared a public nuisance and the same corrected or abated in accordance with this chapter.

4. A statement advising the recipient of the notice that he has the option of abating the nuisance voluntarily prior to the date set for hearing. If the recipient chooses voluntary abatement, such abatement must be completed prior to the hearing date. The recipient must advise the division head in writing that he will abate the nuisance and

5. of the date of completion. The division head will inspect the premises on the completion date and, if the nuisance has been abated, will take the hearing off calendar. The recipient may request a continuance of the hearing pursuant to §1-6.407.

b. The hearing notice, and any amended or supplemental notice, shall be served as follows:

1. Upon the owner, the occupant of the premises or other person believed to be responsible for the nuisance if such person is not the owner, and any person with an interest of record in the premises, either by personal delivery or by mail. If notice is served by mail, it shall be sent by first class mail, postage prepaid, and by certified mail, postage prepaid, return receipt requested, to the address of the addressee as it appears of record or as otherwise known to the division head.

2. A copy of the hearing notice shall, in addition, be posted on the premises.

c. Proof of service of the hearing notice shall be certified by written declaration under penalty of perjury executed by the person effecting service, declaring the time, date, and manner in which service was made. (*§1, Ord. 1690, eff. 8/19/88*)

Sec. 1-6.405. Hearings Generally.

At the time set for hearing, the hearing examiner shall hear any testimony offered by the division head, the owner, and other persons capable of giving competent testimony respecting the condition of the premises and other relevant facts concerning the matter. (*§1, Ord. 1690, eff. 8/19/88*)

Article 2. Noise

Sec. 4-6.201. Purpose of Provision.

It is hereby found and declared that:

a. The creation or maintenance of excessive noise or vibration which is prolonged or unreasonable in its time, place and use is deemed to be a serious detriment to the public health, safety and quality of life of the residents of the City; and

b. Therefore, it is the intent of the City to control and, in some instances, prohibit noise and vibration which may impact the health, safety or welfare of the citizens of Walnut Creek. (5410 and by §1, Ord. 1753, eff. 11/8/90)

Sec. 4-6.202. Definitions.

Loud Noise is defined as excessive or unreasonable noise, sound or vibration which endangers the comfort, repose, health, peace or safety of others within the limits of the City. The determination of whether a noise is unreasonable shall be based on, among other things, consideration of the hour, place, nature, and circumstances of the emission or transmission of any loud noise.

Holidays are those days enumerated in the resolution of the City Council entitled "Resolution Enumerating Holidays" on file in the office of the City Clerk. (5411 and by §1, Ord. 1753, eff. November 8, 1990)

Sec. 4-6.203. Prohibited Noises Enumerated.

As used in this article, loud, excessive or unreasonable noise shall include, but not be limited to, the following:

a. **Radios, Phonographs, etc.** The use, operation or maintenance of sound, from any radio, musical instrument, phonograph or other device designed for the production or reproduction of sound in such a manner as to disturb the peace, quiet and comfort of individuals on a public street, or in or near a residence, business or other such occupied structure. The creation or maintenance of such noise in such a manner so as to be plainly audible at a distance of fifty feet (50') from the source of such noise shall be prima facie evidence of a violation of this Section.

b. **Loudspeakers and Amplifiers for Advertising.** The use, operation, or maintenance of any loudspeaker, sound amplifier or other machine or device used for the production or reproduction of sound which is directed toward, or cast upon or across, a residential or commercial property line for the purposes of commercial advertising unless a permit for such sound is secured from the Chief of Police. The Chief of Police may issue a permit, subject to reasonable restrictions.

Such restrictions shall be based upon the area in which the proposed broadcast is to occur, the hours of the proposed broadcast, and the method by which such amplification or broadcast shall occur. In residential zones, a permit shall be granted only for broadcast during the hours of 8 a.m. and 6 p.m. on weekdays which are not holidays and between the hours of 9 a.m. and 5 p.m. on weekends and holidays but such amplification shall not be plainly audible from a distance of more than 50' (fifty feet) from the source of such amplification. In all other zones, a permit shall be granted only for broadcast during the hours of 8 a.m. and 9 p.m. on weekdays, weekends and holidays but such amplification shall not be plainly audible from a distance of more than 50' (fifty feet) from the source of such amplification.

The applicant for such a permit, if the same is denied for cause, may appeal this denial to the City Manager. The City Manager shall thereupon issue or deny the permit. Any permit issued by the Chief of Police may be revoked by either the City Manager or the Chief of Police if the applicant violates any of the conditions set forth in the permit.

c. ***Distraction of Drivers of Motor Vehicles.*** The use, operation, or maintenance of any horn, radio, machine or device used for the production or reproduction of sound which is directed to, or cast upon, public streets or highways which distracts, or is intended to distract, the attention of drivers of motor vehicles, unless operated to request assistance or warn of a hazardous situation. This section does not apply to authorized emergency vehicles or vehicles operated by gas, electric, communications, water, or other such public utilities.

d. ***Yelling, Shouting, etc.*** Yelling, shouting, hooting, whistling, or singing on a public street at any time or place with the intent to annoy or disturb the quiet, comfort or repose of a person or persons in any dwelling, office, building or structure, or of any person or persons in the vicinity.

e. ***Animals, Birds, etc.*** The keeping of any animal or bird, as pet or livestock, which, by causing frequent or continuous noise disturbs the comfort or repose of any persons in the vicinity. The creation or maintenance of noise by animals in such a manner as to be plainly audible at a distance of 50' (fifty feet) from the source of such noise shall be prima facie evidence of a violation of this Section.

f. ***Construction or Repair of Buildings.*** The erection, construction, demolition, alteration or repair of any building, structure or residence that requires a permit, or the excavation of any earth, fill, streets or highways that requires a grading permit, other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays which are not holidays, or those precise hours of operation enumerated in individual building and grading permits.

If the Chief of Code Enforcement determines that the public health, safety and welfare will not be impaired by the erection, construction, demolition, alteration or repair of any building, structure or residence during hours other than permitted in the preceding paragraph, and if he or she further determines that loss or inconvenience would result to any person in interest, he or she may grant permission for such work to be done, the specific hours and days of operation to be enumerated in the permit.

If the City Engineer determines that the public health, safety and welfare will not be impaired by the excavation of any earth, fill, streets or highways during the hours of the first paragraph of this subsection and if he or she further determines that loss or inconvenience would result to any person in interest, he or she may grant permission for such work to be done, the specific hours and days of operation to be enumerated in the permit.

In case of urgent necessity in the interest of public health and safety, the Chief of Code Enforcement or the City Engineer may issue a permit to conduct such emergency

work for a period not to exceed three (3) days or less while the emergency continues. Such permit may be renewed for periods of three (3) days or less while the emergency continues.

This Section shall not be construed to require a permit for a public utility engaged in any of the aforementioned activities provided reasonable effort is made to minimize noise disturbance while such work is in progress.

g. ***Maintenance Equipment.*** The use and operation of any noise-creating commercial or residential landscaping or home maintenance equipment or tools including, but not limited to, hammers, blowers, trimmers, mowers, chainsaws, power fans or any engine, the operation of which causes noise due to the explosion of operating gases or fluids, other than between the hours of 8:00 a.m. and 7:00 p.m. on weekdays and 9:00 a.m. and 7:00 p.m. on weekends and holidays. (*§1, Ord. 1753, eff. November 8, 1990*)

Sec. 4-6.204. Loud Noises Prohibited.

No person shall make, continue or cause to be made or continued, any loud, excessive or unreasonable noise or sound within the limits of the City. (*§1, Ord. 1753, eff. November 8, 1990*)

Sec. 4-6.205. Exemptions.

a. The provisions of this article shall not apply in actual or threatened emergency situations such as those caused by natural or man-made disasters.

b. Businesses and individuals using maintenance equipment in the Core Area and in business parks may commence at 7:00 a.m. on weekdays which are not holidays but are otherwise subject to the limitations set forth above.

c. Schools within the City's limits using maintenance equipment may commence at 7:00 a.m. on weekdays which are not holidays but are otherwise subject to the limitations set forth above. (*§1, Ord. 1753, eff. November 8, 1990*)

d. If the Community Development Director determines that the public health, safety and welfare will not be impaired by the operation of golf course maintenance equipment, expressly for the purpose of preparing greens and sand trap areas prior to a course being opened for play, he or she may allow such operations to occur prior to the normal operating hour limitations as set forth in Section 4-6.203 (g) of the Municipal Code, but in no instance prior to 30 minutes before sunrise or 6:00 A.M., whichever is later. In granting such an exemption, the Community Development Director may impose any conditions as deemed necessary to ensure that the operation of golf course maintenance equipment prior to the normally permitted operating hours will not unreasonably disturb the occupants of residences located adjacent to the golf course requesting the exemption. Exemptions granted by the Community Development Director

can be revoked at any time. Decisions by the Community Development Director shall be final. (*§1, Ord. 1920, eff. 2/19/98.*)

Sec. 4-6.207. Penalty; Misdemeanor or Infraction.

Any person who violates any provision of §§4-6.203 through 4-6.204 shall be deemed guilty of a misdemeanor or an infraction.

a. If charged as an infraction, the penalty upon conviction of such person shall be a fine as set forth in §1-2.01 of this Code.

b. If charged as a misdemeanor, the penalty upon conviction of such person shall be imprisonment in the county jail for a period not to exceed six months, or by a fine not exceeding \$1000.00, or by both fine and imprisonment. (*§1, Ord. 1753, eff. November 8, 1990*)

Sec. 4-6.208 Abatement of Noise as Nuisance.

Any noise maintained in violation of any provision of this article shall additionally be deemed a public nuisance. Such public nuisance may be abated by the Chief of Police, the Community Development Director, or his or her designees, in accordance with the procedures authorized by this Code. (*§1, Ord. 1753, eff. November 8, 1990*)