

Chapter 6.15

ABATEMENT OF PUBLIC NUISANCES**Sections:**

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Section 6.15.010 Purpose.

It is hereby declared to be in the public interest to promote the health, safety and welfare of the residents of the City of Riverside by providing procedures for the abatement of nuisances as declared by the City Council of the City of Riverside, which abatement procedures shall be in addition to all other proceedings authorized by this Code or otherwise by law. (Ord. 6844 § 4, 2006; Ord. 5910 § 1, 1991)

Section 6.15.015 Definitions.

For the purpose of this Chapter the following words and phrases shall have the meanings given herein:

"Abandoned vehicle" means an unlicensed or physically inoperable vehicle.

"Abatement" means the demolition, removal, repair, maintenance, construction, reconstruction, replacement, or reconditioning of structures, appliances or equipment; or the removal, transportation, disposal and treatment of waste and abandoned materials and equipment capable of harboring, breeding, or attracting rodents or insects or producing odors or blight.

"Agricultural groves" means any grove of ten or more trees on a parcel or lot.

"Attractive nuisance" means any condition, instrumentality, or machine which is unsafe and unprotected and thereby dangerous to young children by reason of their inability to appreciate the peril which exists, and which may reasonably be expected to attract young children to the premises and risk injury by playing with, in, or on it. Attractive nuisances may include, but shall not be limited to:

1. Abandoned and/or broken equipment;
2. Swimming pools being used as fish ponds or other uses contrary to permitted swimming or other pool uses, subject to state or local regulations requiring, without limitation, that drains be visible from the water's surface and that the water be filtered;

3. Hazardous and/or unmaintained pools, ponds, culverts, excavations; and
4. Neglected machinery.

"Building" means any structure including, but not limited to any house, garage, duplex, apartment, condominium, stock cooperative, mobile home, or other residential structure or any portion thereof, which is designed, built, rented or leased to be occupied or otherwise is intended for supporting or sheltering any use or occupancy, and any commercial, industrial, or other establishment, warehouse, kiosk, or other structures affixed to or upon real property, used for the purpose of conducting a business, storage or other activity.

"Construction material" means any discarded material from the building or destruction of structures, road and bridges including concrete, rocks, asphalt, plasterboard, wood and other related material.

"Code Compliance Manager" shall mean the Code Compliance Manager for the City of Riverside.

"Code Enforcement Manager" shall mean the Code Enforcement Manager, Code Enforcement Division of the Community Development Department for the City of Riverside.

"Excavation" means any wells, shafts, basements, cesspools, septic tanks, fish ponds, and other like or similar conditions more than six inches in diameter and three feet in depth.

"Foul" means very offensive to the senses.

"Garbage" means any putrescible animal, fish, fowl, food, fruit, or vegetable matter resulting from the cultivation, preparation, storage, handling, decay or consumption of the substance.

"Hazardous materials and waste" means any chemical, compound, mixture, substance or article which is identified or listed by the United States Environmental Protection Agency or appropriate agency of the State of California as a "hazardous waste" as defined in 40 C.F.R. §§§§ 261.1 through 261.33, except that for purposes of this Chapter, hazardous waste also shall include household waste as defined in 40 C.F.R. 261.4(B)(1).

"Hearing Officer" means the individual appointed by the City Manager of the City of Riverside to hear the appeal on a determination of the existence of a nuisance.

"Noxious" means hurtful or unwholesome.

"Odor" means any smell, scent, or fragrance.

"Owner" means any person, agent, firm or corporation having legal or equitable interest in the property.

"Premises" means any lot or parcel of land upon which a building is situated, including any portion thereof improved or unimproved, and adjacent streets, sidewalks, parkways and parking areas.

"Property" means any lot or parcel of land, including any alley, sidewalk, parkway or unimproved public easement.

"Refuse" means any putrescible and nonputrescible solid waste, except sewerage, whether combustible or noncombustible and includes garbage and rubbish.

"Stagnant water": Water which is allowed to become stagnant contained in ditches, pools, ponds, streams excavations, holes, depressions, open cesspools, privy vaults, fountains, cisterns, tanks, shallow wells, barrels, troughs, urns, cans, tires, boxes, bottles, tubs, buckets, roof gutters, tanks of flush closets, reservoirs, vessels, receptacles of any kind or other containers or devices which may hold water.

"Unmerchantable" means unsalable.

"Vehicle" means any device by which any person or property may be propelled, moved, or drawn upon a highway, or upon water, excepting a device moved exclusively by human power, or used exclusively upon stationary rails or tracks.

"Violator" means any responsible party, including the landowner, or lessee, tenant, or any other person who had possession or custody of the property.

"Waste matter" means any rubbish or construction material.

"Weeds" means useless and troublesome plants generally accepted as having no value and frequently of uncontrolled growth. (Ord. 6844 § 5, 2006; Ord. 6788 § 3, 2005; Ord. 5910 § 1, 1991)

Section 6.15.020 Declaration of nuisances.

It is unlawful and is hereby declared a nuisance for any person owning, leasing, occupying or having charge or possession of any property and any vehicles thereon, in the City to maintain the property in such a manner that any of the following conditions are present:

A. The existence of any garbage, rubbish, refuse or waste matter upon the premises contrary to the provisions of Chapter 6.04 of the Riverside Municipal Code.

B. The existence of weeds upon the premises, including public sidewalks, streets or alleys between said premises and the centerline of any public street or alley.

C. The existence of overgrown, dead, decayed, diseased or hazardous trees, and other vegetation, including but not limited to dead agricultural groves which are: (1) likely to attract rodents, vermin or other nuisances, or (2) constitutes a fire hazard, or (3) is dangerous to the public safety and welfare.

D. Overgrown vegetation including trees, shrubbery, ground cover, lawns and decorative plantings which substantially detract from the aesthetic and property values of neighboring properties.

E. Any abandoned or discarded furniture, stove, refrigerator, freezer, sink, toilet, cabinet, or other household fixture or equipment visible from a public right-of-way.

F. The existence of any abandoned, wrecked, dismantled or inoperative motor vehicle upon the premises contrary to the provisions of Chapter 9.28 of the Riverside Municipal Code.

G. The storage or parking of certain vehicles as follows:

1. The storage or parking of trucks exceeding the manufacturer's gross vehicle weight rating of 10,000 pounds on all areas of all residential zones, and the storage or parking of other vehicles on the landscaped front and street side yard setback area of all residential zones, including but not limited to the front lawn areas, contrary to the provisions of Riverside Municipal Code §§ 19.74.052, 19.74.060 and 19.74.150.

2. The storage or parking of vehicles on any unpaved parcel of property where such vehicle (a) is likely to disrupt traffic flow in the City; (b) stir up dust from driving on the unimproved surface; (c) negatively impact the aesthetics of the City; (d) allow oils and other unwanted substances to drip onto the untreated dirt surface; and/or (e) cause traffic obstructions by impeding the line of vision of drivers at intersections. Vehicles parked in conjunction with a temporary use as permitted under Riverside Municipal Code Chapter 19.69 are excepted.

H. The outdoor storage of personal property on private property as follows:

1. Any furniture (except for furniture specifically designed for outdoor use), on porches, balconies, sun decks, front, side and/or rear yards, any other personal property not designed for outdoor use and in good working order;

2. The existence of any hay, straw, lumber, papers, or other substances, junk, packing boxes, recyclable materials, salvage materials, building/construction materials, equipment; unless necessarily kept or stored under validly permitted, current construction; appliances, commercial/industrial machinery and/or equipment (whether operable or inoperable); and

3. Any item causing an unsightly appearance which is visible from the public right-of-way or sites of neighboring properties or which provides a harborage for rats and/or other vermin, or creates any other potential health hazard or nuisance.

I. The outdoor storage of personal property on public property as follows:

1. The use of public property to store, maintain, place or abandon any personal property, on any public street, any public sidewalk, any parking lot or public area, improved or unimproved, any public park, parkway, median or greenbelt, except as otherwise provided.

2. Any personal property stored, maintained, placed or abandoned in violation of this section may be removed and discarded at the discretion of the Public Works Director or his designee.

J. Any dangerous or substandard building, whether or not occupied, abandoned, boarded-up or partially destroyed contrary to the provisions of the Uniform Fire Code, Uniform Building Code, Uniform Housing Code, and/or Uniform Code for Abatement of Dangerous Buildings.

K. Peeling or blistering paint on any building or structure such that the condition is plainly visible from a public right-of-way.

L. The existence of loud or unusual noises, or foul or noxious odors which offend the peace and quiet of persons of ordinary sensibilities and which interferes with the comfortable enjoyment of life or property and affect the entire neighborhood or any considerable number of persons.

M. The existence of hazardous substances and waste unlawfully released, discharged, or deposited upon any premises onto any City property.

N. The existence of any stagnant water or water contained in hazardous and/or unmaintained swimming or other pools which obscure required visibility and proper filtering.

O. Any attractive nuisance.

P. Any other condition which is contrary to the public peace, health and safety.

Q. Any other violation of this code pursuant to section 1.01.110E. (Ord. 6844 § 6, 13, 2006; Ord. 6788 § 4, 2005; Ord. 6580 § 1, 2001; Ord. 6347 § 1, 1997; Ord. 6150 § 1, 1994; Ord. 6076 § 1, 1993; Ord. 6022 § 2, 1992; Ord. 5910 § 1, 1991)

Section 6.15.021 Summary Abatement.

In cases of manifest public danger and/or immediate necessity, the Building Official or the Code Enforcement Manager, or their designees, shall have the authority to immediately call a contractor to abate any public nuisance, which presents an immediate threat to public health or safety, at the sole discretion of the Code Enforcement Manager, Building Official, or their designees. Any such abatement activity may be conducted without observance of any notice requirements described in Chapter 6.15. The City may recover all abatement costs as set forth in Chapter 6.15. (Ord. 6844 § 14, 2006)

Section 6.15.022 Method of giving notice.

Any notice required by this chapter may be served in any one of the following methods: (1) by personal service on the owner, occupant, or person in charge or control of the property; or (2) by regular mail addressed to the owner or person in charge and control of the property, at the address shown on the last available assessment roll, or as otherwise known; or (3) by posting in a conspicuous place on the premises or abutting public right-of-way, or (4) in the alternative, insertion of a legal advertisement at least once a week for the period of two weeks in a newspaper of general circulation in the City of Riverside. (Ord. 6724 § 4, 2004)

Section 6.15.025 Determination of nuisance.

A. The Code Enforcement Manager may determine that any premises within the City may constitute a public nuisance pursuant to any provisions of Section 6.15.020 and may initiate abatement proceedings pursuant to this Chapter. The Code Enforcement Manager or the authorized representative thereof shall set forth in such determination in a notice to abate which shall identify the premises and state the conditions which may constitute the nuisance and shall require that such conditions be corrected within such time periods set forth in the notice to abate.

B. The notice to abate to the owner or person in control or charge of the property shall include (1) the condition or conditions on the premises creating the nuisance; (2) a reasonable

time limit to abate the nuisance; and (3) the right to appeal. The notice shall direct the abatement of the nuisance and refer to this chapter for particulars.

C. The notice shall be served not less than ten calendar days before the date of the hearing. Failure of the owner to accept or otherwise receive such notice shall not affect the validity of any proceeding pursuant to this Chapter.

D. "Owner" as used in this chapter shall mean any person in possession and also any person having or claiming to have any legal or equitable interest in said premises, as disclosed by a current title search from any accredited title company. (Ord. 6844 § 7, 2006; Ord. 6724 § 5, 2004; Ord. 5910 § 1, 1991)

Section 6.15.030 Appeal.

A. Within ten days from the date of giving notice to abate, the violator may file an appeal to the determination of the nuisance with the Code Enforcement Manager. Such appeal shall be in writing and shall identify the property subject to the Notice to Abate. The Code Enforcement Manager shall then cause the matter to be set for hearing before a Hearing Officer contracted by the City to hear such matters.

B. Notice of the date of hearing shall be given in writing. The date of the hearing shall be no sooner than fifteen days from the date when notice of the hearing is given to the appellant and to the Code Enforcement Manager.

C. At the time fixed in the notice, the Contract Hearing Officer shall hear the testimony of all competent persons desiring to testify respecting the condition constituting the nuisance.

D. At the conclusion of the hearing, the Hearing Officer shall determine whether or not a nuisance exists, and if the Hearing Officer so concludes, he may declare the conditions existing to be a nuisance and direct the person owning the property upon which the nuisance exists to abate it within ten days after the date of posting on the premises a notice of the Hearing Officer's order. The Hearing Officer may grant additional time to abate the nuisance, if in his or her opinion, good cause for additional time exists.

E. The decision of the Hearing Officer on the determination of nuisance is final. Any appeal of the Hearing Officer's decision shall be governed by California Code of Civil Procedure Section 1094.6 or such section as may be amended from time to time. (Ord. 6844 § 8, 2006; Ord. 6724 § 6, 2004; Ord. 6024 § 1, 1992; Ord. 5910 § 1, 1991)

Section 6.15.035 Time limit for compliance.

The violator must abate the nuisance within the period of time set forth in the Notice to Abate, or, in case of an appeal, within ten days from the finding of the Hearing Officer or such longer period as may be determined by the Hearing Officer. Unless an emergency situation exists, the violator shall be given at least ten days to abate the nuisance. (Ord. 5910 § 1, 1991)

Section 6.15.040 Abatement by City.

A. If the nuisance is not abated by the violator within the time limits set forth above in Section 6.15.035, the City, by its employees or any hired contractor, may cause the nuisance to be abated. (Ord. 6724 § 7, 2004; Ord. 6515 § 2, 2000; Ord. 5910 § 1, 1991)

Section 6.15.041 Report of abatement costs.

A. The Code Enforcement Manager shall thereafter cause a report of the action and an accurate account of the costs to be filed with the City Clerk of the City of Riverside.

B. The statement shall be accompanied by a notice to the owner that the cost of abatement may be protested as set forth in Section 6.15.045. If the cost is not protested within ten calendar days after service, it shall be deemed final. (Ord. 6844 § 9, 2006; Ord. 6724 § 8, 2004; Ord. 6515 § 3, 2000)

Section 6.15.042 Recovery of attorneys' fees and report of attorneys' fees.

In any action, administrative proceeding, or special proceeding to abate a nuisance, the prevailing party shall be entitled to recovery of attorneys' fees. The recovery of attorneys' fees by the prevailing party shall be limited to those individual actions or proceedings in which the City elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees.

In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding. The City Attorney's Office shall thereafter cause a report of the action and an accurate account of costs to be filed with the City Clerk of the City of Riverside. (Ord. 6515 § 3, 2000)

Section 6.15.043 Treble damages.

Upon entry of a second or subsequent civil or criminal judgment within a two-year period finding that an owner of property is responsible for a condition that may be abated in accordance with this ordinance, except for conditions abated pursuant to Section 17980 of the Health and Safety Code, related to substandard buildings, the court may order the owner to pay treble the costs of the abatement. (Ord. 6515 § 3, 2000)

Section 6.15.045 Protest of abatement costs.

A. The property owner may protest the cost of abatement by filing a written request for a hearing on the abatement costs with the Code Enforcement Manager, and the Code Enforcement Manager shall cause a Hearing Officer to be appointed to hear the protest. At the time fixed for the hearing on the statement of abatement costs, the Hearing Officer shall consider the statement and protests or objections raised by the person liable to be assessed for the cost of the abatement.

B. The Hearing Officer may revise, correct or modify the statement as the Hearing Officer considers just and thereafter shall confirm the cost.

C. The decision of the Hearing Officer shall be in writing and shall be served by mail. The decision of the Hearing Officer on the abatement costs shall be final.

D. Any appeal of the Hearing Officer's decision shall be governed by California Code of Civil Procedure Section 1094.6 or such section as may be amended from time to time. (Ord. 6844 § 10, 2006; Ord. 6724 § 9, 2004; Ord. 6515 § 4, 2000; Ord. 5910 § 1, 1991)

Section 6.15.050 Council action.

A. If the property owner does not pay the cost of abating the nuisance within thirty calendar days after the cost becomes final or the hearing officer confirms the costs of abatement, the cost shall become a special assessment against the real property upon which the nuisance was abated. The assessment shall continue until it is paid, together with interest at the legal maximum rate computed from the date of confirmation of the statement until payment. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes.

B. The City Council shall adopt a resolution assessing such unpaid costs of abatement as liens upon the respective parcels of land as they are shown upon the last available assessment roll. (Ord. 6724 § 10, 2004; Ord. 6515 § 5, 2000; Ord. 5910 § 1, 1991)

Section 6.15.055 Imposition of special assessment lien and notice.

A. The City Clerk shall prepare and file with the County Auditor a certified copy of the resolution of the City Council assessing the costs of abatement as a lien on the land, adopted pursuant to the preceding section.

B. Notice of lien shall be mailed by certified mail to the property owner, if the property

owner's identity can be determined from the County Assessor's or County Recorder's records. The notice shall be given at the time of imposing the assessment and shall specify that the property may be sold after three years by the Tax Collector for unpaid delinquent assessments. The Tax Collector's power of sale shall not be affected by the failure of the property owner to receive notice.

C. The County Auditor shall enter each assessment on the County tax roll upon the parcel of land. The assessment shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and procedure and sale in case of delinquency as is provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice. (Ord. 6724 § 11, 2004; Ord. 6515 § 6, 2000; Ord. 5910 § 1, 1991)

Section 6.15.056 Recording of nuisance abatement lien.

As an additional remedy, the Code Enforcement Manager may cause a nuisance abatement lien for costs related to abatements, other than dangerous building abatements, to be recorded with the Riverside County Recorder's Office, pursuant to the provisions of Government Code Section 38773.1. (Ord. 6844 § 11, 2006; Ord. 6724 § 13, 2004)

Section 6.15.060 Collection of costs and attorney's fees prior to hearing.

The Finance Department of the City may accept payment of any amount due at any time prior to the filing of a certified copy of the City Council resolution assessing the abatements costs with the County Auditor. (Ord. 6724 § 12, 2004; Ord. 6515 § 7, 2000; Ord. 5910 § 1, 1991)

Section 6.15.065 Alternative remedies.

The procedures established in this Chapter shall be in addition to criminal, civil or other legal or equitable remedies established by law which may be pursued to address violations of this Code or applicable state codes and the use of this Chapter shall be at the sole discretion of the City. (Ord. 6844 § 12, 2006; Ord. 6076 § 2, 1993)