

Chapter 6  
**ABATEMENT OF NUISANCES**

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SEC. 6.1 INTENT.

The purpose of this chapter is to promote the health, safety and welfare of Piedmont citizens by prohibiting conditions and activities which are hazardous to the health and safety of residents or which substantially detract from the appearance of a neighborhood and tend to impair surrounding property values. (Ord. 518 N.S., 7/90)

SEC. 6.2 DEFINITIONS.

For purposes of this chapter, the following definitions shall apply. (Ord. 518 N.S., 7/90)

6.2.1: Abatement Authority. "Abatement Authority" shall mean the Fire Chief, if the nuisance is a fire hazard; the Director of Public Works, if the nuisance is in the nature of a violation of Chapter 5 or 17 of this Code; the City Administrator if the nuisance is one defined in sections 6.2.3(e) through (q); the Chief of Police for all other nuisances; and the designee of any of these officers. This ordinance should be administered by regularly salaried full-time city employees, except that abatement of any nuisance may be by any other duly authorized person.

6.2.2: Building. "Building" means any structure used or intended for supporting or sheltering any use or occupancy and includes any house, garage, duplex, apartment, condominium, or other residential structure, and all retail and commercial structures.

6.2.3: Nuisance. "Nuisance" shall mean any of the following:

- (a) Anything declared by state law, judicial action, or resolution of the City Council to be a nuisance and not otherwise described in this chapter.
- (b) Weeds, as defined in Government Code Section 39561.5 or successor statutes, growing in or on streets, sidewalks and private property in the City.
- (c) Rubbish, refuse, unsightly accumulations of dirt, sand, and gravel, and the like on parkways, sidewalks, streets or private property in the City.
- (d) Any structure, other improvement, activity, use or act which is in violation of the provisions of the City Code.

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- (e) Tangible personal property not intended for outdoor use (including but not limited to broken or discarded furniture, household equipment and furnishings, garbage cans, or shopping carts) which is stored on property so as to be visible from a public street or the vicinity of the property. Garbage cans must be reasonably screened from view, except when temporarily placed near a public street to be emptied.
- (f) Overgrown vegetation visible from a public street and likely to harbor rats, vermin or other nuisances or which obstructs the view of drivers on public streets or private driveways and creates a safety hazard, or which impedes, obstructs or denies pedestrian or other lawful travel on sidewalks, walkways, or other public rights-of-way.
- (g) Dead, decayed, diseased or hazardous trees, weeds, or other vegetation which is unsightly, dangerous to the public safety and welfare and visible from a public street.
- (h) Packing boxes, cardboard boxes, lumber, trash, barrels, drums, salvage materials, vehicle parts or other debris kept on the property for more than sixty (60) days, and visible from a public street or the vicinity of the property.
- (i) Attractive nuisances dangerous to children and other persons, including but not limited to abandoned, broken, neglected or hazardous equipment, machinery, appliances, refrigerators and freezers, hazardous pools, ponds and excavations.
- (j) Vehicles which are wrecked, inoperable, or in a state of partial repair, whether or not located in a paved or graveled driveway, when visible from a public street or the vicinity of the property.
- (k) Vehicles parked or stored on property in residential zoning districts in places other than a paved or graveled driveway, which are visible from a public street or the vicinity of the property.
- (l) Boats, trailers or mobile homes which are not currently registered for a period in excess of sixty (60) days if located on a paved or graveled driveway, or any boat, trailer or mobile home located elsewhere on the property when visible from a public street or the vicinity of the property.

- (m) Buildings which appear to be abandoned, partially destroyed, left in an unreasonable state of partial construction or have been declared substandard or dangerous by the City's building official.
- (n) Buildings with windows and doors intended to be glazed which contain broken glass or no glass at all. Plywood or other material used to cover such window and door space for more than two weeks, if permitted under this code, shall be painted in a color or colors compatible with the remainder of the building.
- (o) Building exteriors, walls, fences, driveways, sidewalks or walkways which are unsafe, unsightly, or otherwise detrimental to nearby properties and improvements.
- (p) Scaffolding, construction equipment and other machinery of any type or description parked or stored on property when it is visible from a public street or the vicinity of the property, except during excavation, construction or demolition operations covered by an active building permit which are in progress on the property or an adjoining property.
- (q) Property with inadequate landscaping, turf or plant material which causes an unreasonable period of time.
- (r) Maintenance of property so out of harmony or conformity with the maintenance standards of adjacent properties as to cause substantial diminution of the enjoyment and use of such adjacent properties.

6.2.4: Owner. "Owner" means any person owning property as shown on the last equalized assessment roll for City taxes, or the lessee, tenant, or other person having control or possession of the property, or any person otherwise known by the City to be the legal owner of the property.

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

6.2.6: Property. "Property" means all property within the City and includes any building or other structure located on such property.

6.2.7: Unreasonable State of Partial Construction. "Unreasonable state of partial construction" means any unfinished building or structure (1) which has been under construction more than one year or where no substantial work has occurred for more than six months and, (2) because of the incomplete construction, exterior finish or painting, the building or structure substantially detracts from the safety or attractiveness, or both, of the immediate neighborhood or otherwise adversely affects neighboring properties.

6.2.8: Abandoned. As applied to 6.2.3(m), "abandoned" means any building which is in a substantial state of disrepair and has not been occupied for more than six (6) months. (Ord. 518 N.S., 7/90)

SEC. 6.3      NUISANCE PROHIBITED.

Maintaining or permitting a nuisance as defined in Section 6.2 is prohibited. (Ord. 518 N.S., 7/90)

SEC. 6.4      AUTHORITY TO ABATE.

The Abatement Authority may abate any nuisance within the City of Piedmont and make the expense of abatement (1) a personal obligation of the property owner, and (2) a lien against the property on which the nuisance exists or is maintained which may be assessed and collected with ordinary municipal taxes, pursuant to the provisions of this chapter. (Ord. 518 N.S., 7/90)

SEC. 6.5      INITIAL NOTICE OF ABATEMENT.

6.5.1: Determination of Nuisance. The Abatement Authority shall determine the existence of a nuisance and notify the property owner of that determination as follows:

- (a) The Abatement Authority shall cause to be delivered a letter by hand to the property owner or any other adult residing at the property stating that a nuisance exists and requesting a written or oral response from the property owner within fourteen (14) days of the date of delivery. If no adult is present to accept delivery, the letter shall be attached to the front door of the residence or primary building on the property.
- (b) If the City's records indicate that the property owner does not reside at the property, the Abatement Authority shall proceed as follows:
  - (1) If the City's records indicate that the address of the property owner is elsewhere in Piedmont, the Abatement Authority shall

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follow the same procedure as in 6.5.1(a), but shall instead make the delivery of the letter or post it on the front door of the address shown in the City's records.

- (2) If the City's records indicate that the address of the property owner is outside of Piedmont, the Abatement Authority shall mail the letter to the property owner at the address shown in the City's records by certified mail, return receipt requested, and the response time set forth in 6.5.1(a) shall instead be eighteen (18) days after the date the letter is mailed.
- (3) After fourteen (14) days from the date of delivery of the letter in Piedmont, or after eighteen (18) days from the date that the letter is mailed, as the case may be, if the nuisance continues or arrangements to abate the nuisance satisfactory to the Abatement Authority have not been made, then the Abatement Authority may proceed with a notice of abatement as set forth in Section 6.5.2 and succeeding Sections hereafter.

6.5.2: Notice Form. The notice shall contain the following information:

- (a) The location of the subject property by common street address and County Assessor's parcel number.
- (b) A description of the nuisance and its approximate location.
- (c) The date on or after which the City will issue an order of abatement, which shall be no less than ten (10) days from the date of service of the initial notice of abatement.
- (d) The right of the property owner to abate the nuisance before the City does so.
- (e) The right of the property owner and the owner of a vehicle deemed a nuisance, if other than the property owner, to object to abatement of the nuisance in writing or in person to the Abatement Authority within ten (10) calendar days of the date of mailing of the notice.
- (f) A lien may be created against the property for all costs of abatement, to be collected by the County Auditor along with municipal taxes and other

assessments.

6.5.3: Service. The notice shall be mailed first class to the property owner. Alternatively, a written notice containing the information set forth in subsection (b) above may be posted conspicuously on or in front of the property on which the nuisance exists at least ten (10) calendar days before the date of the order of abatement, as follows:

- (a) One (1) notice to each separately-owned parcel of property of not over fifty feet (50') frontage.
- (b) Not more than two (2) notices to any such parcel of one hundred feet (100') frontage or less.
- (c) Notices of not more than one hundred feet (100') apart if the frontage of such a parcel is greater than one hundred feet (100').

In the case of motor vehicles, notice must be served by registered or certified mail to the property owner and to the last registered and legal owner of record, of the vehicle. (Ord. 518 N.S., 7/90)

SEC. 6.6 HEARING; CONTINUANCES.

The Abatement Authority shall hear and consider all objections to the proposed abatement from any interested person on or before ten (10) calendar days from the date of the initial notice of abatement or at the convenience of the Abatement Authority after ten (10) calendar days. He may continue the hearing from time to time. If objections are submitted in writing, the Abatement Authority shall consider such objections at the time of receipt, except that no written objections received later than ten (10) calendar days after the date of the initial notice of abatement may be considered. (Ord. 518 N.S., 7/90)

SEC. 6.7 INITIAL ABATEMENT ORDER.

After considering objections made or, if there are no objections, when ten (10) days from the date of the initial notice to abate have elapsed, the Abatement Authority shall confirm the existence of a nuisance or rescind the initial order to abate. If the Abatement Authority confirms the existence of a nuisance, the Abatement Authority shall issue written findings and an order for abatement, which shall be sent to the owner by first class mail on the day signed. In addition, a copy of the findings and order shall be posted conspicuously on the property immediately. The order shall also inform the owner of the right to appeal the order. (Ord. 518 N.S., 7/90)

SEC. 6.8      ABATEMENT, NO APPEAL.

If the owner has not abated the nuisance within fifteen (15) calendar days from the date of the order to abate and if no appeal of that order has been properly filed, the Abatement Authority may order the nuisance abated by any reasonable means by City employees or by contract with a private person. The Abatement Authority or his agent or designee is authorized to enter onto the property for this purpose. (Ord. 518 N.S., 7/90)

SEC. 6.9      APPEAL.

The owner may appeal the Abatement Authority's findings and order to the City Council by filing an appeal with the City Clerk within ten (10) days of the date of the service of the Abatement Authority's decision. The appeal shall contain: (Ord. 555 N.S., 7/93)

6.9.1: A specific identification of the subject property;

6.9.2: The names and addresses of all appellants;

6.9.3: A statement of appellant's legal interest in the subject property;

6.9.4: A statement in ordinary and concise language of the specific order or action protested and the grounds for appeal, together with all material facts in support of the appeal;

6.9.5: The date and signature of all appellants; and

6.9.6: The verification of at least one appellant as to the truth of the matters stated in the appeal.

As soon as practical after receiving the appeal, the City Clerk shall set a date for the City Council to hear the appeal; the hearing shall be no less than seven (7) working days nor more than thirty (30) calendar days from the date the appeal was filed, unless another date is mutually agreed to by the City and the owner. The City Clerk shall give each appellant and all adjacent neighbors written notice of the time and the place of the hearing at least five (5) calendar days prior to the date of the hearing, either by causing a copy of the notice to be delivered to the appellant and adjacent neighbors personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal and to all adjacent neighbors. Continuances of the hearing may be granted by the City Council on request of the owner for good cause shown, or on the City Council's own motion. (Ord. 518 N.S., 7/90)

SEC. 6.10      FINAL ORDER TO ABATE.

Upon the conclusion of the hearing, the City Council shall determine whether a nuisance exists on the property. If the Council determines a nuisance exists, the Council shall adopt a resolution declaring the property to be a nuisance, setting forth its findings and ordering the abatement of the nuisance by having the property rehabilitated, repaired, removed or demolished in the manner and means specifically set forth in the resolution. The resolution shall set forth the time within which the work shall be completed by the owner, in no event more than fifteen (15) calendar days. The decision and order of the Council shall be final. (Ord. 518 N.S., 7/90)

**SEC. 6.11 SERVICE OF ORDER TO ABATE.**

A copy of the resolution of the Council ordering the abatement of the nuisance shall be mailed to the owner(s) of the property by first class mail and posted prominently on the front of the property. Upon abatement in full by the owner, the proceedings hereunder shall terminate. (Ord. 518 N.S., 7/90)

**SEC. 6.12 ABATEMENT BY CITY.**

If the nuisance is not abated as ordered within the abatement period, the Abatement Authority shall cause the nuisance to be abated by City employees or private contract. The Abatement Authority is expressly authorized to enter upon the property for such purposes. The cost, including incidental expenses, of abating the nuisance shall be billed to the owner and shall become due and payable thirty (30) days thereafter. The term "incidental expenses" shall include but not be limited to personnel costs, both direct and indirect; costs incurred in documenting the nuisance; the actual expenses and costs of the City in the presentation of notices, specifications and contracts, and in inspecting the work; and the costs of printing and mailing required by this chapter.

Upon removal of any motor vehicle under this chapter, notice shall be given within five (5) calendar days after the date of removal to the California Department of Motor Vehicles, identifying the vehicle and any available evidence of registration. (Ord. 518 N.S., 7/90)

**SEC. 6.13 LIMITATION ON FILING JUDICIAL ACTION.**

Any action appealing the Council's decision and order shall be commenced no later than ninety (90) days from the date of the decision. Abatement action by the City may occur before the ninety (90) day period is complete, unless such action is prohibited by an order of the Superior Court. (Ord. 518 N.S., 7/90)

**SEC. 6.14 REPORT OF COST OF ABATEMENT.**

The Abatement Authority shall keep an account of the cost, including incidental expenses, of abating the nuisance on each separate lot or parcel of land where the work is done by the City and shall render an itemized report in writing to the City Council showing the cost of abatement including the rehabilitation, demolition, or repair of the property, including any salvage value. Before the report is submitted to the City Council, a copy of the report shall be posted for at least five (5) days upon the property, together with a notice of the time when the report shall be heard by the City Council for confirmation. A copy of the report and notice shall be mailed to the owners of the property at least ten days prior to the City Council hearing on the cost report. Proof of the posting and service shall be made by affidavit filed with the City clerk. (Ord. 518 N.S., 7/90)

SEC. 6.15 HEARING TO CONFIRM COSTS.

The Abatement Authority shall present the itemized cost report to the City Council for its review and confirmation. The property owner and any other interested party shall have the right to object in person or in writing to the cost report prior to City Council confirmation. The City Council may reduce the costs to be assessed, if the City Council determines the costs are unreasonable, based on evidence presented at the hearing. (Ord 518 N.S., 7/90)

SEC. 6.16 ASSESSMENT LIEN.

6.16.1: Special Assessment. The total cost for abating the nuisance, as so confirmed by the City Council, shall constitute a special assessment against the parcel of land where the nuisance is or was located, except that if the City Council finds that the property owner is not responsible for the presence of a vehicle on his land which constitutes a nuisance under this chapter, and is there without his or her consent, no costs shall be assessed against the property, and abatement costs shall not otherwise be due from the property owner. When a notice of lien has been recorded in the office of the county recorder a lien on the property for the amount of the assessment shall exist.

6.16.2: Collection. After the confirmation and recordation, a certified copy of the Council's decision shall be filed with the Alameda County Auditor-Controller on or before August 1st of each year. The Auditor-Controller shall add the amounts of the assessment to the next regular tax bill levied against the property for municipal purpose and 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 the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such special assessment.

6.16.3: Foreclosure. In the alternative, after being recorded, the lien may be foreclosed by judicial or other sale in the manner and means provide by law.

6.16.4: Notice of Lien. The notice of lien for recordation shall be in form substantially as follows:

**NOTICE OF LIEN**  
(Claim of City of Piedmont)

Pursuant to Section 6.17 of the Piedmont Municipal Code the Abatement Authority abated a nuisance on the property hereinafter described to be rehabilitated or the building or structure on the property hereinafter described, to be repaired or demolished in order to abate a public nuisance on the property; and the City Council of the City of Piedmont did on the \_\_\_ day of \_\_\_\_\_, 19\_\_\_, assess the cost of such rehabilitation, repair or demolition in the amount of said assessment, to wit: the sum of \$\_\_\_\_\_; and the same, shall be lien upon said real property until the same has been paid in full and discharged of record.

The real property hereinabove mentioned, and upon which a lien is claimed, is that certain parcel of land lying and being in the City of Piedmont, County of Alameda, State of California, and particularly described as follows:

(DESCRIPTION)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_

\_\_\_\_\_  
Abatement Authority  
City of Piedmont

(Ord. 518 N.S., 7/90)

**SEC. 6.17 ALTERNATIVE ACTIONS AVAILABLE.**

Nothing in this chapter shall be deemed to prevent the Council or the Abatement Authority from ordering the commencement of a civil or criminal proceeding to abate a public nuisance or from pursuing any other means available to them under provisions of applicable ordinances or state law to correct hazards or deficiencies in real property in addition to or as alternatives to the proceeds set forth in this chapter. (Ord. 518 N.S., 7/90)

**SEC. 6.18 RECONSTRUCTION OF ABANDONED VEHICLES.**

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After a wrecked or inoperable vehicle has been removed under this chapter, it shall not be reconstructed or made operable unless it qualifies for horseless carriage license plates or historical vehicle license plates. (Ord. 518 N.S., 7/90)

### SEC. 6.19     EXCEPTIONS.

This chapter does not apply to a vehicle or vehicle part which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property and the storage is not a part of - or incident to - an activity otherwise prohibited by this Code. (Ord. 518 N.S., 7/90)

### SEC. 6.20     ABANDONED VEHICLES.

Whenever an abatement of a vehicle takes place pursuant to this Chapter 6, including but not limited to any abandoned vehicle, the California Department of Justice must be advised thereof pursuant to Section 22853 of the California Vehicle Code. (Ord. 555 N.S., 7/93)

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