

ORDINANCE NO. 1711 N.C. (2d)

**AN ORDINANCE AMENDING CHAPTER 7. 54 OF THE VALLEJO PROPERTY
MAINTENANCE ORDINANCE**

THE COUNCIL OF THE CITY OF VALLEJO DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 7.54 of the Vallejo Municipal Code – “Property Maintenance” is hereby amended to read as follows:

7.54.010 Findings and determination.

The city council finds and determines as follows:

- A. Sections 7.54.010 through 7.54.180, inclusive, shall be known as the property maintenance ordinance.
- B. This chapter was developed based on the firm belief that the current and future values and general welfare of the community are affected significantly by the appearance and maintenance of real property and property values and that implementation of this chapter will avoid further deterioration of residential and nonresidential areas and be of benefit to the community as a whole.
- C. The purpose and intent of this chapter is to:
 - 1. Enhance and promote the maintenance of real property, both improved and unimproved, and by doing so, improve the livability, appearance and social and economic conditions of the community;
 - 2. Elevate the self-esteem of all members of the community, develop a cohesive and caring sense of community, and thereby be beneficial to the growth and prosperity of the city;
 - 3. Utilize the sanctions and penalties of this chapter after all reasonable efforts at resolution by educational and nonconfrontational means have been exhausted, it being recognized that voluntary compliance is preferred over all other remedies; and
 - 4. Ensure that real properties, whether improved or unimproved, do not reach such a state of deterioration or disrepair as to cause the depreciation of the value of surrounding property or be materially detrimental to nearby properties and improvements.
- D. As described in this chapter, the use and abuse of real properties, whether improved or unimproved reasonably relate to the proper exercise of police power of the city to protect the health, safety and general welfare of its residents. The enforcement of this chapter is intended to enhance the appearance and value of such properties rather than place an undue burden on the owners thereof.
- E. The abatement of continued violations impacts city personnel and resources, requires resources over and above the level of enforcement services normally provided, and constitutes a public nuisance the costs of which should be paid by the responsible property owners.

(Ord. 1456 N.C. (2d) § 1 (part), 2001.)

7.54.020 Definitions.

- A. "Code enforcement appeals board" or "board" shall mean the code enforcement appeals board as described in Chapter 2.49.
- B. "Code enforcement supervisor" shall mean the head of the code enforcement division as designated by the city manager and chief of police or the designated representative of the code enforcement supervisor.
- C. "Days" shall mean calendar days. In the event the last day of the specified time period falls on a Saturday, Sunday or federal holiday observed by the city, then the last day of the specified time period shall be the next business day.
- D. "Property owner" shall mean the owner or owners of record of real property as shown on the latest equalized assessment roll of Solano County, or as otherwise known to the code enforcement supervisor or other city official by virtue of more and recent and reliable information.
- E. "Violation" shall mean one or more violations of the provisions of this chapter.

(Ord. 1456 N.C. (2d) § 1 (part), 2001.)

7.54.030 Unlawful property violations.

It is unlawful for any person owning, renting, leasing, occupying or having charge or possession of any property in the city to maintain such property in such manner that any of the conditions listed below are found to exist thereon, except as may be allowed by this code. The code enforcement supervisor shall determine when any of the following conditions are property violations and substantially detract from the overall appearance of adjacent properties and/or are detrimental to properties and/or property values;

- A. Vacant buildings;
- B. Unpainted structures, structures with deteriorated paint or those having dry rot, warping or termite infestation. Any structures in which the condition of paint has become so deteriorated as to permit decay, excessive checking, cracking, peeling, chalking, dry rot, warping or termite infestation as to render the building unsightly or in a state of disrepair;
- C. Buildings with windows and/or doors containing broken glass or no glass at all where the window is of a type which normally contains glass or buildings with missing or unsecured doors constituting hazardous conditions and inviting trespassers and malicious mischief. Plywood or other material used to cover window and/or door space, if permitted under this code, shall meet the standards of the code enforcement division;
- D. Building exteriors, walls, roofs, fences, accessory structures, driveways, sidewalks, walkways or alleys that are maintained in a condition of deterioration or disrepair;
- E. The accumulation of dirt, litter or debris in vestibules, doorways or the adjoining sidewalks, passages or breezeways of a building;
- F. Used or damaged lumber, junk, trash, debris, automotive parts or tools, salvage materials and abandoned or unused furniture, stoves, sinks, toilets, cabinets or other household fixtures or equipment stored as to be visible at ground level from a public right-of-way or from adjoining properties, except nothing herein shall preclude the placement of stacked firewood (not to exceed one cord of such wood) for use on the

premises. Tarps or other covers placed over the above mentioned items shall not constitute compliance with this section;

- G. Attractive nuisances dangerous to children and other persons, including but not limited to, abandon, broken or neglected household appliances, equipment and machinery, hazardous pools, ponds and excavations;
- H. Construction equipment, materials or machinery of any type of description parked or stored so as to be visible from a public right-of-way or from adjoining properties except while excavation, construction or demolition operations covered by an active building permit are in progress on the subject property or an adjoining property;
- I. Improper maintenance of signs related to uses no longer conducted or products no longer sold on the property;
- J. Vehicles, including recreational vehicles as described in Health and Safety Code § 18010, trailers and boats, parked in front yards in a residential zoning district except when such vehicles are parked on a drive approach to the garage or other durable or permanent driveway, apron or pad installed for the purpose of parking such vehicles and meeting the standards of the planning division, but in no event routinely parked on the lawns, grassy or landscaped areas of front yards;
- K. Dead, decayed, diseased or hazardous trees, weeds and overgrown or uncultivated vegetation which is likely to harbor rats, vermin or constitute an unsightly appearance;
- L. Clotheslines in front yards and the drying of laundry or routinely washed articles on front porch or stair railings or placing on fences, hedges or other supporting structures located in front yards;
- M. Any wall, fence or hedge maintained in a condition of deterioration or disrepair as to constitute a hazard to persons or property;
- N. Any property with pooled oil accumulation, oil flowing into a public right-of-way or adjoining property, or excessive accumulation of grease or oil on paved surfaces, buildings, walls or fences;
- O. Any yard areas which cause excessive dust or allow the accumulation of debris;
- P. Graffiti or other words, letters or drawings which remain on the exterior of any building, fence or other structure and are visible from a public right-of-way or adjoining property;
- Q. The keeping, storage, depositing or accumulation of dirt, sand, gravel, concrete or other similar materials on the premises for an unreasonable period of time which manner of keeping, storage, depositing or accumulating constitutes visual blight or reduces the aesthetic appearance of surrounding areas;
- R. The leaving of any garbage can, recycling container or refuse container in a front or side yard area visible from a public right-of-way, except as permitted by Section 7.44.020 of this code; or
- S. Maintenance of property in a condition of deterioration or disrepair, in such condition to be detrimental to the public health, safety or general welfare, or in such a manner as to constitute a public nuisance.

(Ord. 1456 N.C. (2d) § 1 (part), 2001.)

7.54.040 Declaration of public nuisance.

All property found to be maintained in violation of any one or more of the provisions of this chapter is declared to be a public nuisance and shall be abated by rehabilitation, demolition and/or repair pursuant to the procedures set forth herein. The procedures set forth herein shall not be exclusive and shall not in any manner limit or restrict the city from enforcing other city ordinances or abating public nuisances by all other remedies, including Chapter 1.15, through the commencement of a criminal or civil proceeding or through other legally established procedures.

(Ord. 1456 N.C. (2d) § 1 (part), 2001.)

7.54.050 Responsibility for property maintenance.

- A. Every property owner within the city is required to maintain such property in a manner that does not violate the provisions of this chapter, and such owner remains liable for any violation regardless of any contract or agreement with any third party regarding such property.
- B. Every occupant, lessee, tenant or holder of any interest in real property, other than the owner thereof, who has assumed responsibility for maintenance of such property under the terms of a written lease, rental agreement or other contractual arrangement, and to the extent of that legal responsibility, shall maintain the property in a manner so as not to violate the provisions of this chapter. At the request of the code enforcement supervisor, the person claiming a limitation on his or her responsibility for maintenance shall produce for inspection the document establishing such limitation.
- C. To the extent authorized by law, the code enforcement supervisor may enter on such property at reasonable times to make inspections.

(Ord. 1456 N.C. (2d) § 1 (part), 2001.)

7.54.060 Notification of violation.

- A. **Warning Notice.** Whenever the code enforcement supervisor determines that a property is not being maintained in compliance with this chapter and that the conditions on the property do not pose an immediate hazard to the general welfare, health and safety, the supervisor shall issue a warning notice to the property owner. Such warning notice shall be served on the owner in accordance with the provisions of Section 7.54.070, and shall include but not be limited to the following:
 - 1. Description of the section or sections being violated;
 - 2. Suggestions for abating the violation;
 - 3. Reasonable time limit for abating the violation not to exceed twenty days based on the type, severity and number of previous violations on the same property, unless the supervisor determines there are circumstances of hardship that warrant additional time for abatement; and
 - 4. Consequences for not abating the violation within the time specified in the warning, including but not limited to the imposition of administrative charges, incurring of city abatement costs, issuance of administrative citations and/or other legal remedies available to the city.

- B. Notice of Violation. If the violation is not abated within the time limit specified in the warning, a written notice of violation shall be sent to the property owner. Such notice shall be served on the owner in accordance with the provisions of Section 7.54.070, and shall include but not be limited to the following:
1. Description of the section or sections being violated;
 2. Suggestions for abating the violation;
 3. Time limit for abating the violation not to exceed twenty days based on the type, severity and number of previous violations on the same property, unless the code enforcement supervisor determines there are circumstances of hardship that warrant additional time for abatement;
 4. Consequences of not abating the violation within the time specified in the notice;
 5. Amount of the administrative charge owed the city pursuant to Section 7.54.140, the time limit not to exceed twenty days to pay the charge, and the consequences of not paying the charge within the time specified in the notice; and
 6. Process to appeal the notice of violation, amount of the appeal fee and procedure for requesting an appeal fee waiver pursuant to Sections 7.54.080 and 7.54.090
- C. Hazardous Conditions. If the code enforcement supervisor or other city employees designated by the city manager determines the violation to be immediately dangerous to the general welfare, health and safety, the same may be summarily abated without compliance with the provisions of this code. Abatement may include, but is not limited to boarding of windows, doors and other openings to city specifications, removal of junk and debris, and securing the perimeter of the property with fencing, gates or barricades to prevent further occurrences of the nuisance activity.

(Ord. 1456 N.C. (2d) § 1 (part), 2001.)

7.54.070 Service of notices.

Notices shall be served in one of the following methods:

- A. The code enforcement supervisor may personally serve the notice on the property owner. The notice shall become effective on the date of personal service.
- B. The code enforcement supervisor may mail the notice by certified mail to the property owner at the address shown on the county's last property tax assessment rolls or to any other address known for the property owner. The notice shall become effective on the date of certified mail mailing.
- C. The code enforcement supervisor may post the property where the violation occurs with the notice in a conspicuous place when the property owner resides at an unknown address. The notice shall become effective on the date of the posting of the property.
- D. The failure of any property owner to receive the notice shall not affect the validity of any proceedings taken under this chapter.

(Ord. 1456 N.C. (2d) § 1 (part), 2001.)

7.54.080 Appeal of notices.

- A. Any property owner who is the recipient of a notice of violation may appeal the notice and may request a hearing before the code enforcement appeals board as follows:
1. An appeal form shall be obtained from the code enforcement supervisor. The completed appeal form shall be filed with the supervisor within thirty days of the effective date of the notice of violation together with an appeal fee as established by resolution by the city council or a request for an appeal fee waiver pursuant to Section 7.54.090
 2. Only after the completed appeal form has been filed together with the appeal fee or with an approved appeal fee waiver shall the code enforcement supervisor set the date for a hearing. The hearing shall be set for a date not less than fifteen days nor more than sixty days after the supervisor received the request.
 3. The appellant may request one continuance, but in no event shall the hearing be continued more than thirty days after the date of the originally scheduled hearing unless the code enforcement supervisor finds circumstances of hardship warrant a longer continuance not to exceed ninety days after the date of the originally scheduled hearing.
 4. The appellant shall be notified by certified mail of the date, time and place set for the hearing. Such notice shall be sent at least ten days prior to the date of the hearing. The notice shall include a statement that if the violation is found to be a public nuisance and the violation is not substantially abated, then the city may pursue any and all legal and equitable remedies for the recovery of unpaid abatement costs and administrative charges. The notice shall be sent to the appellant at the address provided on the completed appeal form. Failure of the appellant to receive such notice shall not affect the validity of any proceedings taken under this chapter.
 5. Any documentation, other than the notice of violation, which the code enforcement supervisor has submitted or will submit to the code enforcement appeals board shall be served on the appellant at least three days before the hearing.
- B. Failure of any property owner to file an appeal in accordance with the provisions of this section shall be deemed to waive his or her right to an appeal hearing.

(Ord. 1456 N.C. (2d) § 1 (part), 2001.)

7.54.090 Appeal fee waiver.

Any property owner who requests a hearing to appeal a notice of violation and is financially unable to pay the appeal fee as required in Section 7.54.080 may file a request for an appeal fee waiver as follows:

- A. The request for waiver shall be made on a form obtained from the code enforcement supervisor and submitted to the supervisor within fifteen days of the effective date of the notice of violation.
- B. The code enforcement supervisor may issue an appeal fee waiver only if the person requesting the waiver submits a sworn affidavit together with any supporting documents demonstrating to the satisfaction of the supervisor the person's financial

inability to deposit with the city the full amount of the fee in advance of the appeal hearing.

- C. The code enforcement supervisor shall issue a written decision specifying the reasons for issuing or not issuing the waiver within ten days of the receipt of the request. The decision of the supervisor shall be final.
- D. If the code enforcement supervisor determines a waiver is not warranted, the property owner shall remit the appeal fee within ten days of the determination. If the supervisor does not receive the appeal fee within this time period, the request for hearing shall not be accepted and shall constitute a failure of the property owner to exhaust his or her administrative remedies.

(Ord. 1456 N.C. (2d) § 1 (part), 2001.)

7.54.100 Appeal hearing procedure.

- A. No appeal hearing shall be held unless the appeal fee has been paid in accordance with Section 7.54.080 or an appeal fee waiver has been granted in accordance with Section 7.54.090
- B. Hearings by the code enforcement appeals board are informal and formal rules of evidence and discovery shall not apply.
- C. The city and appellant shall be given the opportunity to testify and present evidence concerning the alleged violation and proposed rehabilitation, repair and/or demolition of the subject property.
- D. The notice of violation and any additional report submitted by the code enforcement supervisor shall constitute prima facie evidence of the respective facts contained in those documents.
- E. The code enforcement appeals board may continue a hearing to request additional information from the code enforcement supervisor and/or appellant and/or to conduct an inspection of the subject property prior to concluding the hearing.
- F. The code enforcement appeals board may inspect the subject property prior to the concluding the hearing provided that the appellant consents to the inspection, is given the notice of the date and time of the inspection, and is permitted to be present during the inspection. The board shall state for the record during the hearing the material facts observed and conclusions drawn from the inspection. The appellant shall be afforded an opportunity to rebut or explain the matters so stated by the board. If the subject property can be inspected from areas accessible to the general public or with the permission of other persons authorized to provide access to the property, then notice to and consent of the appellant is not required.
- G. Failure of the appellant to appear at the hearing shall constitute a waiver of his or her right to an administrative hearing.

(Ord. 1456 N.C. (2d) § 1 (part), 2001.)

7.54.110 Decision of the code enforcement appeals board.

- A. After considering all of the testimony and evidence submitted during the hearing, the board shall issue a written decision to the appellant within ten days of the conclusion of

the hearing to uphold, modify or cancel the notice of violation. The effective date of the written decision shall be the date the decision is mailed first class to the appellant. The board shall give its decision orally at the conclusion of the hearing prior to issuing the written decision. The decision of the board is final. The written decision shall include the reasons for that decision which may be based on any or all of the following factors:

1. Duration of the violation;
 2. Frequency, recurrence and/or number of related or unrelated violations by the appellant;
 3. Seriousness of the violation;
 4. Good faith efforts of the appellant to abate the violation;
 5. Economic impact of abatement on the appellant; and/or
 6. Other factors as justice may require.
- B. If the code enforcement appeals board determines the notice of violation should be upheld, then the written decision shall include the action required to correct the violation and the date by which such action must be completed. The date of compliance shall be no more than sixty days from the date of the board's decision. The decision shall include a payment schedule for any unpaid administrative charges. The decision shall also include the consequences of failing to correct the violation and the right to judicial review pursuant to Section 7.54.120
- C. If the code enforcement appeals board determines the notice of violation should be modified in terms of methods of abatement and/or time limit for compliance, then the written decision shall include the modified action to correct the violation and/or the date by which correction must be completed. The decision shall include a payment schedule for any unpaid administrative charges. The decision shall also include the consequences of failing to correct the violation and the right to judicial review pursuant to Section 7.54.120
- D. The code enforcement appeals board may determine that the notice of violation should be canceled and all further actions related to this notice of violation shall be terminated.

(Ord. 1456 N.C. (2d) § 1 (part), 2001.)

7.54.120 Limitation on judicial review.

The appellant may seek judicial review of the board's decision by filing a petition with a court of competent jurisdiction pursuant to California Code of Civil Procedure sections 1094.5 and 1094.6. The written decision of the board shall contain a statement so advising the appellant of this time limit on seeking court review.

(Ord. 1456 N.C. (2d) § 1 (part), 2001.)

7.54.130 City abatement.

If a violation is not abated within time limit specified in the notice of violation or, if appealed, in the written decision of the code enforcement appeals board, the code enforcement supervisor may abate the violation with city employees and/or by private contract. The supervisor is hereby

authorized to enter the subject property to abate the violation. The costs of abatement shall be billed to the property owner pursuant to Section 7.54.140.

(Ord. 1456 N.C. (2d) § 1 (part), 2001.)

7.54.140 Administrative charges and abatement costs.

- A. **Administrative Charges.** If a violation is not abated within the time limit specified in the warning notice and a notice of violation is issued, then the notice of violation shall include a charge to recover the administrative costs for the issuance of the notice of violation and other city activities related to the abatement of the violation. The amount of the charge shall be established by city council resolution based on an analysis of direct and indirect personnel costs (including attorney fees), costs of documenting the violation and the actual costs of preparing, printing and mailing the notice of violation. The administrative charge shall become due and payable thirty days of the effective date of the notice of violation.
- B. **Abatement Costs.** If a violation is abated by the city pursuant to this chapter, the abatement costs, including incidental costs, shall be billed to the property owner and be due and payable within thirty days of the date the billing is mailed to the property owner. The term "incidental costs" shall include, but not be limited to, direct and indirect personnel costs, attorney fees, costs incurred in documenting the violation and actual expenses and costs for the preparation of notices, specifications and contracts, for inspection of the abatement and for the printing and mailing of notices.

(Ord. 1456 N.C. (2d) § 1 (part), 2001.)

7.54.150 Recovery of abatement costs and administrative charges.

- A. **Cumulative Remedies.** At its discretion, the city may pursue any and all legal and equitable remedies for the recovery of abatement costs and/or administrative charges owed to the city. Pursuit of one remedy does not preclude the pursuit of any other remedies until the total of administrative and abatement charges have been recovered. Any property owner who fails to pay any abatement costs or administrative charges owed to the city shall be liable in any action brought by the city for costs incurred in securing payment of the delinquent amount. The city's collection costs may include, but are not limited to, those for personnel, materials, overhead, attorney's fees and any other city expenditure required to collect unpaid abatement costs or administrative charges.
- B. **Liens.** The amount of any unpaid abatement costs and/or administrative charges may be made a lien on the real property on which the violation occurred. The lien shall attach when the supervisor or his or her designee records a lien listing unpaid abatement costs and/or administrative charges with the county recorder's office. The lien shall specify the amount of the lien, the street address, legal description, and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the record owner of the parcel. In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified above shall be recorded by the director or his or her designee. The lien may be foreclosed by an action brought by the city for a money judgment.
- C. **Special Assessments.**

1. The code enforcement supervisor may initiate proceedings to, make abatement costs and/or administrative charges a special assessment against the property where the violation occurred. The supervisor shall transmit a report of delinquent abatement costs and/or administrative charges to the code enforcement appeals board. Upon receipt of the report, the board shall fix a schedule for hearing the report and any protests or objections thereto and to confirm the amount of the abatement costs and/or administrative charges contained in the report.
 2. The supervisor shall send notice of the hearing schedule before the board to the property owner by first class mail and certified mail, return receipt requested, at least fifteen days prior to the date of the hearing. The notice shall be mailed to the property owner's address shown on the last Solano county equalized property tax assessment roll or to any other address known for the property owner. The effective date of the notice is the date of the first class mailing. The notice shall set the date and time by which objections or protests shall be filed with the supervisor. No objection or protest received after that date shall be considered by the board.
 3. At the time fixed for consideration of the report, the board shall hear it together with any objections or protests of any property owner. The board shall limit its scope of review to the supervisor's report detailing the abatement costs and/or administrative charges together with any objections to its accuracy. The board shall not consider evidence regarding the merit of any previous administrative hearings or the validity of the abatement action. The board may modify the report as it may deem just. After hearing all objections and making any modifications to the report, the board shall confirm the report. The supervisor shall notify any property owner who filed an objection or protest of the board's decision regarding their objection within ten days of the date of the hearing. The decision of the board is final.
 4. Upon confirmation of the report by the board, the abatement costs and/or administrative charges shall constitute a special assessment against the property where the violation occurred. The supervisor shall file a certified copy of the confirmed report with the Solano county auditor/controller's office and the amount of the special assessment shall be entered on the assessment roll against the parcels listed in the report. Thereafter, such assessments may be collected at the same time and in the same manner as ordinary secured property taxes are collected and shall be subject to the same penalties and same procedures of sale as provided for delinquent ordinary secured property taxes. The assessments shall be subordinate to all existing special assessment liens previously imposed upon the property and paramount to all other liens except those for state, county and municipal taxes with which they shall be upon parity. All laws applicable to the levy, collection and enforcement of secured property taxes shall be applicable to such special assessments. The maximum assessment shall be \$10,000.
- D. Recovered abatement costs and administrative charges shall be deposited in the city's general fund to support code enforcement activities.

(Ord. 1456 N.C. (2d) § 1 (part), 2001.)

7.54.160 Abatement on recurrence.

When a violation previously abated in accordance with this chapter recurs within twelve months of such abatement, no warning notice of violation is required. The code enforcement supervisor shall send a notice of violation to the property owner pursuant to Section 7.54.060 B,

with the exception that the time limit for abating the violation shall not exceed ten days from the effective date of the notice of violation. Such notice shall be served on the property owner in accordance with the provisions of Section 7.54.070.

(Ord. 1456 N.C. (2d) § 1 (part), 2001.)

7.54.170 Additional violations.

- A. Any property owner who maintains any public nuisance pursuant to this chapter or who violates any order of abatement pursuant to this chapter is guilty of an infraction.
- B. Any person who removes or defaces any notice as required by this chapter is guilty of an infraction.
- C. Any person who obstructs, impedes or interferes, or causes another to do so, with any abatement actions performed pursuant to this chapter is guilty of an infraction.

(Ord. 1456 N.C. (2d) § (part), 2001.)

SECTION 2. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

SECTION 3. EFFECTIVE DATE

This Ordinance shall take effect and be in full force thirty (30) days from and after its final passage.

FIRST READ at a regular meeting of the Council of the City of Vallejo held on the 23rd day of June, 2015 and finally passed and adopted a regular meeting of the Council held on the 14th day of July, 2015 by the following vote:

AYES:	Mayor Davis, Vice Mayor Malgapo, Councilmembers Dew-Costa, McConnell, Miessner, Sampayan and Verder-Aliga
NOES:	None
ABSTAIN:	None
ABSENT:	None



OSBY DAVIS, MAYOR

ATTEST:



DAWN G. ABRAHAMSON, CITY CLERK