

**ORDINANCE NO. 26-08 N.S.**

**Chapter 6.38 MAINTENANCE AND MONITORING OF VACANT DWELLINGS OR BUILDINGS**

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**6.38.010 Title.**

This chapter shall be known as the "Maintenance and Regulation of Vacant Dwellings and Buildings," may be cited as such, and will be referred to in this chapter as "this chapter."

**6.38.020 Findings and purpose.**

- (a) The City Council finds, determines and declares that buildings which remain vacant and unoccupied for any appreciable period of time become an attractive nuisance to children, a harborage for rodents, an invitation to derelicts, vagrants and criminals as a temporary abode and as a place to engage in illegal conduct, frequently including illegal drug-related activity, and an increased fire hazard; that unkempt and unsecured grounds surrounding such buildings invite the dumping of garbage and trash thereon and the congregation of unauthorized persons who use the property for illegal activity; that such buildings contribute to the growth of blight within the City, depress market values of surrounding properties, thereby reducing tax revenues, necessitate additional governmental services, significantly interfere with the use and enjoyment of neighboring properties, create an unhealthy and unsafe condition affecting the public and constitutes an unreasonable use of property and a public nuisance.
- (b) It is a responsibility of property ownership to prevent owned property from becoming a burden to the neighborhood and community.
- (c) Protection of the public health, safety and welfare requires the establishment and enforcement of the means by which such nuisance conditions may be prevented and abated.

- (d) Many vacant abandoned real properties are the responsibility of out-of-area owners, banks, lenders and/or trustees.
- (e) Even one vacant property that is not actively and well maintained, monitored and managed can be the core and cause of spreading blight and crime.
- (f) It is in the interest of the welfare of neighborhoods that owners who fail to maintain property and correct vacant and blighted buildings property, fail to correct substandard structures and blighted conditions or who otherwise allow the structures to remain in violation of this Code be subject to imposition of higher “Second Tier” administrative fines, as set forth in section 2.62.040, in order to encourage these owners to correct violations of this chapter in a prompt manner.

### **6.38.030 Definitions.**

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

**“Accessible Property”** means real property that is accessible to the public, either in general, or through an open and unsecured door, window, gate, fence, wall or any other breach.

**“Accessible Structure”** means a building or structure that is not secured or is open in such a way as to allow public or unauthorized access to the interior.

**“Boarded”** means the covering of all entry points, including doors and windows as described in 6.38.110 to prevent entry into the building or structure by persons or animals.

**“Enforcement Official”** means the City Manager, the Building Official, the Chief of Police, and/or their designees.

**“Evidence of Vacancy”** means any real property condition that independently, or in the context of the totality of the circumstances relevant to that real property would lead a reasonable enforcement official to believe that a property is vacant or occupied by a person without a light right of occupancy. Such conditions include but are not limited to: overgrown or dead vegetation; accumulation of newspapers, circulars, flyers or mail; past due utility notices or disconnected utilities; accumulation of trash, junk, garbage or debris; the absence of window coverings such as curtains, blinds, drapes or shutters; the absence of furnishings or personal items consistent with residential habitation; and/or statements by neighbors, delivery agents, letter carriers, government employees or passersby that the property is vacant.

**“Hearing Officer”** means the person or body defined and created by Section 2.62.080 of this Code.

**“Owner”** means the person identified and listed as having title to the property by the latest property tax assessment rolls maintained by the Contra Costa County Assessor.

**“Property”** means any real property interest or estate which may be granted or devised by deed. The word “property” includes tracts, lots, easements, or parcels of land and any and all improvements thereon.

**“Securing”** means such measures as may be directed by the Enforcement Official that assist in rendering real property inaccessible to unauthorized persons in addition to boarding door and windows, including but not limited to repairing fences and walls, chaining/padlocking gates and erecting barrier fences.

**“Vacant and unoccupied building”** means any building or other structure which is neither occupied nor used by persons authorized by the owner of the property on which such building or structure is located. It shall also include any vacant and unoccupied building or structure that is subject to a current Notice of Default, Notice of Trustee’s Sale, pending Tax Assessors Lien or any real property conveyed via a foreclosure sale resulting in the acquisition of title by an interested beneficiary of a deed or trust or any property conveyed via a grant deed in lieu of foreclosure/sale.

### **6.38.040 Application.**

(a) The provisions of this chapter shall apply generally to all real property throughout the City of Richmond wherein any of the conditions, specified in this chapter, are found to exist.

(b) Provisions of this chapter are to be supplementary and complementary to all of the provisions of the Richmond Municipal Code, state law, and any law cognizable at common law or in equity, and nothing in this chapter shall be read, interpreted or

construed in any manner so as to limit any existing right or power of the City of Richmond to abate or prosecute any and all violations and nuisances.

#### **6.38.050 Authority—Enforcement Official.**

The Enforcement Official is authorized and directed to use the provisions of this chapter for the purpose of abating those conditions defined by this chapter as a public nuisance or abating the unlawful conditions defined herein.

#### **6.38.060 Responsibility for Property Maintenance**

Every owner of real property within the City is required to maintain such property in a manner so as not to violate the provisions of this chapter or this Code and such owner remains liable for violations thereof regardless of any contract or agreement with any third party regarding such property.

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#### **6.38.070 Violations--Enforcement.**

- (a) Administrative Citations. Administrative citation fines for violations of this Chapter shall be imposed at the Tier Two level as provided in section 2.62.040 of this Code.
- (b) In addition to all other remedies and penalties available under this chapter, under other sections of this Code or under other laws, any person, firm or corporation who violates the provisions of this Code is guilty of a misdemeanor for each day, or portion thereof, such violation continues.
- (c) In addition to all other remedies and penalties available under this chapter, under other sections of this Code or under other laws, any violation of this chapter may be enforced by injunction issued by the Superior Court upon a suit brought by the City. In any such action, civil penalties may also be sought by the City, as specified in Section 1.04.150 of this Code.

#### **6.38.080 Violations Specified.**

- (a) It shall be unlawful and a public nuisance for any owner of property in this City to maintain, permit, suffer or allow such vacant property to be maintained in such a manner that any one or more of the following conditions are found to exist:
  - (1) Any vacant building whose doors, windows or other openings are broken or missing, so as to allow access to the interior, or is boarded or secured in a manner not in compliance with Section 6.38.110 of this chapter;
  - (2) Any vacant building whose doors, windows or other openings are secured by boarding in compliance with Section 6.38.110 of this chapter or by any other method permitted by Section 6.38.110 of this chapter, at any time at which there is no current and valid boarding permit as required by Section 6.38.100 of this chapter.
  - (3) Any vacant building and premises in violation of any of the provisions of section 9.22.020 of this Code or any provisions of this chapter.
- (b) It shall be unlawful and a public nuisance for any owner to allow a building designed for human use or occupancy to be a vacant building for more than thirty (30) days, unless one of the following applies:
  - 1. The building is the subject of an active building permit for repair, rehabilitation or demolition and the owner is progressing diligently to complete the repair, rehabilitation or demolition.
  - 2. The building meets all codes, including section 17920.3 of the Health and Safety Code, does not contribute to blight, is ready for occupancy, and
  - 3. Is actively being offered for sale, lease or rent; or
  - 4. Is actively being maintained and monitored by the owner or the owner's authorized representative and is being maintained in compliance with section 9.22.090 and all other sections of this Code.
- (c) Any violation of this chapter shall be deemed a strict liability offense; regardless of a violator's intent or knowledge.

### **6.38.090 Permit required for Boarding.**

(a) No person, firm, association or corporation shall erect, install, place or maintain boards over the doors, windows or other openings of any building or structure or otherwise secure such openings by a means other than the conventional method used in the original construction and design of the building or structure without first applying for and, within 10 days of application, completing all steps necessary to the issuance of a boarding permit and thereafter having a valid and current boarding permit therefore from the Enforcement Official.

(b) The Enforcement Official shall issue a boarding permit required by subsection (a) upon the submission of a written application by the owner of the property or his/her authorized representative or contractor, upon the payment of the required fee and upon the confirmation through inspection by the Enforcement Official that the boarding or other method of securing the building or structure has been done in compliance with Section 6.38.110 of this chapter.

(c) The boarding permit issued pursuant to this section shall authorize the boarding or other securing of a commercial or residential building or structure for a period no greater than 30 days unless the boarding has been done in full compliance with this chapter, the owner or his or her authorized representative has submitted a one-time extension request in writing within 10-days of the expiration of the original permit with the required fee, the owner has complied with all prior orders and notices regarding the property; and the owner simultaneously submits a detailed plan and timeline for correction, repair or rehabilitation of the property or a detailed plan for the sale of the property to another person, with a provision in the sale for the correction, repair or rehabilitation of the property.

(d) A boarding permit for a building or structure may not be extended beyond a six (6) month period nor may a new application for the same property be accepted by the Enforcement Official within one year of the date of expiration of the prior permit, except upon the submission of a written application by the owner of the property or his/her authorized representative or contractor, upon the payment of the required fee, upon the confirmation through inspection by the Enforcement Official that the boarding or other method of securing the building or structure has been done in compliance with Section 6.38.110 of this chapter and upon demonstration that "good cause" for the renewal exists.

1. "Good cause" shall require a factual showing by the owner that the permit renewal is made necessary by conditions or events beyond the owner's control, such as inability to obtain financing for repair or rehabilitation, inability to locate a suitable buyer, unanticipated delays in construction or rehabilitation, or unanticipated damage to the property; and

2. In addition, where appropriate, "good cause" shall also require a factual showing by the owner that he/she has exercised reasonable and due diligence in attempting to complete the needed repair, rehabilitation or correction or in attempting to sell, rent or lease the property. In the event that the Enforcement Official determines that there exists good cause to renew the permit and that all other conditions are met, the permit may be renewed by the Enforcement Official for a period of up to, but not more than, an additional three (3) months, subject to all of the same conditions imposed on the original permit.

(e) The fees for the initial boarding permit and extension/renewal permit shall be set and governed by the provisions of Chapter 2.34 of this Code.

### **6.38.100 Standards for securing building.**

(a) The boarding of the doors, windows or other openings of any building or structure or any means of securing such openings, other than by the conventional method used in the original construction and design of the building or structure, shall comply with the following minimum standards:

(1) Securing by Boarding. Windows: Windows and similar openings shall be boarded with exterior grade plywood of a minimum thickness of 3/4 inch or its equivalent. Vent holes may be required, as deemed necessary by the Enforcement Official. The plywood shall be secured in place by 2"x4" or 4"x 4" crossmembers, secured to the plywood by 3/8 inch plated carriage bolts with large washers at each end and with the crossmember

turned so that the carriage bolt goes through the larger dimension. Bolts used to secure the crossmember shall be threaded to the correct length. A minimum of two crossmembers shall be used on each window and, depending on the size of the opening, additional crossmembers may be required. Each crossmember shall be a continuous piece of lumber, and each must extend at least one foot past the window opening in each direction. Bolts and nuts used to secure the crossmembers to the plywood must be tightened enough to slightly deflect the wood. Bolt heads must fit tightly against the wood and not give a purchase for pliers or pry bars.

**Exterior doors:** Exterior doors shall be boarded with exterior grade plywood of a minimum thickness of 3/4 inch or its equivalent fitted to the entry door jamb with maximum 1/8 inch clearance each edge. The existing door should be removed and stored inside the building. The plywood shall be attached to 3 horizontal 2"x4" wooden crossbars with two each 3/8 inch carriage bolts and matching hardware. The plywood shall be attached to the door entry with three case hardened strap hinges of the type specified by the Enforcement Official and the plywood shall be secured by a case hardened steel hasp and minimum two-inch case hardened padlock also of the type specified by the Enforcement Official.

**Painting of boarded openings:** All boarded openings shall be painted with a minimum of one coat of exterior paint which is of a dark gray or similar earthy color or a color compatible with the exterior color of the building or structure.

(2) **Alternative Methods of Securing a Building.** Upon application for a boarding permit, the Enforcement Official may approve alternative methods of securing a vacant and unoccupied building or structure. In making the determination to approve any alternative method, the Enforcement Official shall consider the aesthetic and other impacts of such method on the immediate neighborhood and the extent to which such method provides adequate and long-term security against the unauthorized entry to the property.

(b) **Additional Requirements.** In connection with the boarding of the doors, windows or other openings of any building or structure or any means of securing such openings, other than by the conventional method used in the original construction and design of the building or structure, the owner shall also comply with all of the following requirements:

(1) All utility service to the building or structure shall be terminated by removal of the meters and termination of electric power at the pole. Compliance with this subsection may be waived in writing by the Enforcement Official as to the electric utility service, in the event that electricity is needed to power exterior security lighting, an alarm system or equipment to be used in connection with rehabilitation of the building or structure for which there is an active and current building permit;

(2) The sewer shall be capped in a manner approved by the Enforcement Official so as to prevent the accumulation of methane gas in the building or structure;

(3) The interior of the building or structure shall be cleaned of all trash, junk, garbage, debris, and solid wastes, and personal possessions shall be removed from the interior of the building or structure, so as to eliminate any fire or health hazard and prevent hindrance to firefighting equipment or personnel in the event of a fire.

### **6.38.110 Maintenance and Monitoring of Vacant Buildings**

(a) Owners, trustees, or beneficiaries who hold a deed of trust on any vacant commercial or residential building or structure, and premises thereon, shall maintain and monitor the subject property as follows:

(1) Within ten (10) days of obtaining the vacant property, or the property becoming vacant, the owner shall post of a Notice in a conspicuous place on the front of the building stating the name, address and telephone number of the owner and, if applicable, the owner's agent in control of the building. The Notice shall have black lettering not less than two (2) inches high and readable from at least thirty (30) feet away.

(2) Within ten (10) days of obtaining the vacant property, or the property becoming vacant, the owner or the owner's agent shall conduct an inspection of the interior and exterior of the building and the premises for any violation of this chapter or applicable state law and immediately correct all violations.

(3) Thereafter, an inspection of the property must be conducted no less than once every seven (7) days to ensure the property is properly maintained. Proper maintenance includes, but is not limited to, regular removal of trash, rubbish and debris, maintenance of landscaping and plants in good healthy condition, maintenance of the exterior of the

building, including paint and finishes in good condition, removal of dead, dying or overgrown vegetation and preventing the use of the property by unauthorized persons.

(4) The property shall be maintained free of graffiti, tagging or similar marking. Any removal of graffiti shall be with an exterior grade paint that matches to color of the exterior of the structure.

(5) Any vacant building and premise thereon that constitutes a public nuisance as defined in section 9.22.090 or this chapter or by any other local or state law shall be subject to monthly monitoring fees and enforcement response fees, to cover the city's regulatory costs to monitor and respond to the vacant property. The separate monthly monitoring fee and enforcement response fees shall be set by resolution of the City Council.

(A) The monitoring fee shall be applicable even in the absence of any action, administrative or otherwise.

(B) The monitoring fee shall be imposed in each thirty (30) day period following the imposition of the initial monitoring fee.

(C) The monitoring fees shall be imposed as long as the vacant building and premises remain a public nuisance as defined in this Code and will not be prorated.

(D) Any monitoring fee may be appealed and collected in the same manner as administrative citations and special assessment liens.

#### **6.38.120 Abatement procedure.**

(a) Whenever the Enforcement Official has inspected or caused to be inspected any property and determined that such property is in violation of this chapter, the Enforcement Official shall commence proceedings to cause abatement of the nuisance as provided in this Code.

(b) Upon determining that property located in the City of Richmond is not secured or boarded, or is improperly secured or boarded, or secured or boarded without a boarding permit in violation of this chapter, or is not being maintained or monitored, the Enforcement Official shall issue a notice of violation and demand to abate directed to the owner of the property. The notice shall contain:

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

(2) A statement which specifies the conditions which constitute the violation;

(3) An order that the owner obtain a boarding permit and properly board the property or, as appropriate, secure the openings in the building or structure by the conventional method used in the original construction and design of the building or structure within a specified time period, not to exceed ten (10) days;

(4) A statement that, if the conditions which constitute the violation are not abated by the owner within the time specified, the City may obtain a warrant and/or take all necessary legal or administrative action, including abating such conditions by properly securing the property and issuing a boarding permit in the owner's name, or other actions as required to abate the nuisances, with the cost of the boarding, permit fee and other abatement actions to be assessed against the owner or the property; and

(a) The written notice shall be served upon the owner of the property at least five (5) days before the abatement deadline date specified in the notice, provided the conditions do not constitute an immediate threat to public safety. The written notice shall be served either by personal delivery upon the record owner or by mailing a copy to the record owner by first class mail at the owner's last known address as it appears on the latest equalized assessment roll of Contra Costa County.

(b) After the written notice has been served, it shall be the duty of the owner to abate such violation within the time specified by the notice.

#### **6.38.130 Abatement by City.**

(a) In the event the violation is not abated within the time specified in the notice, the City may take all necessary actions to compel compliance to abate such violation, including but not limited to, the proper boarding of the property and the issuance of a boarding permit in the name of the owner. In addition to incurring penalties as provided in this chapter, the owner shall become personally indebted to the City of Richmond for the costs of the boarding, the boarding permit fee, and the reasonable administrative costs of abatement and enforcement incurred by the City by reason of the existence of the violation. These costs may alternatively be assessed as a special assessment lien against the property on which the violation existed.

(b) After the City has boarded the property and issued a boarding permit in the name of the owner, pursuant to the terms of subsection (a) of this section, the Enforcement Official shall cause a notice to be sent to the owner of the subject property advising the owner of the abatement action by the City. The notice shall also inform the owner that it is his/her responsibility to maintain the boarding in a condition which complies with this chapter and section 9.22.090 of this Code. The notice shall be sent to the owner by first class mail at the owner's last known address as it appears on the latest equalized assessment roll of Contra Costa County.

**6.38.140 Assessment of costs of abatement by City against owner or property.**

(a) The Enforcement Official shall keep an itemized account of the expense incurred by the City in abating violations under this chapter. After the completion of the work of abatement, the Enforcement Official shall cause an itemized bill of the expenses to be mailed to the owner.

(b) Assessment of all costs of abatement shall be done in the same time and manner as the assessment procedures specified in section 9.22.110 of this Code.

**6.38.150 Appeal procedure.**

(a) The owner of property may request an appeal of a determination by the Enforcement Official to deny an application for a boarding permit, to revoke a permit or to deny an application to renew a permit. Appeals shall be made in writing, stating specific factual basis for appeal, and shall be made in the same manner and time as required by section 2.62.060.

**6.38.160 Summary abatement.**

(a) If, in the opinion of the Enforcement Official, there exists a condition on any property which is of such a nature as to be imminently dangerous to the public health, safety or welfare, which, if not abated, would, during the pendency of the abatement procedures set forth in this chapter, subject the public to potential harm of a serious nature, the same may be abated by the City forthwith without compliance with the provisions of this chapter in the manner provided in section 9.22.120 of this Code.

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First read at a meeting of the City Council of the City of Richmond held on October 21, 2008, and finally passed and adopted at a regular meeting thereof held November 18, 2008, by the following vote:

AYES: Councilmembers Bates, Butt, Lopez, Rogers, Sandhu, Thurmond, Viramontes, and Mayor McLaughlin

NOES: None

ABSTENTIONS: None

ABSENT: Councilmember Marquez

DIANE HOLMES  
Clerk of the City of Richmond

[SEAL]

APPROVED:

GAYLE McLAUGHLIN  
MAYOR

APPROVED AS TO FORM:

RANDY RIDDLE  
CITY ATTORNEY

State of California            }  
County of Contra Costa       : ss.  
City of Richmond             }

I certify that the foregoing is a true copy of Ordinance No. 26-08, finally passed and adopted by the Council of the City of Richmond at a meeting held on November 18, 2008, and published in accordance with law.