



CITY OF MARTINEZ

**CITY COUNCIL AGENDA
October 3, 2007**

TO: Mayor and City Council
FROM: David Scola, Public Works Director
SUBJECT: Amend Municipal Code 8.38, Regulation of Vacant Structures
DATE: September 20, 2007

RECOMMENDATION:

Conduct public hearing and introduce an ordinance amending Sections 8.38.020, 8.38.030, 8.38.070, and 8.38.090 of Chapter 8.38, *Regulation of Vacant Structures*, of Title 8, Health and Safety of the Martinez Municipal Code .

BACKGROUND:

During recent Neighborhood Council meetings, several citizens expressed concerns about homes in Martinez that have been uninhabited for extended periods of time. The City Council directed staff to consider the feasibility of amending the Martinez Municipal Code regulations regarding Vacant Structures. These amendments will apply boarding permits to more categories of structures that are left vacant for extended periods of time and will increase the City's ability to monitor and control permitted vacant structures within the City.

The current regulations are contained within Chapter 8.38, Regulation of Vacant Structures. Within this Chapter vacant structure is defined as: "any building, dwelling or other structure (1) that is lacking habitual presence of persons who have a legal right to be on the premises or at which substantially all lawful business operations or residential occupancy has ceased, AND (2) whose doors, windows or other openings are broken or missing, so as to allow uncontrolled access to the interior or exposure to the elements." Under this definition of vacant structure buildings may remain vacant indefinitely as long as the doors or windows are not broken or boarded-up. The proposed amendments would require those buildings that no longer have utility service as well as those that are boarded up or have openings to be issued boarding permits. Additionally, the proposed amendments would establish the specific time period of 6 months for a structure to be vacant in order to be considered a vacant structure, which provides better clarity than under the current definition. Finally, the proposed amendments enhance the ability of the Building Official to place conditions on boarding permits that will help achieve the purposes of the Chapter.

FISCAL IMPACT:

None.

ACTION:

Adopt proposed amendments to Martinez Municipal Code Chapter 8.38.

Attachments:

Draft Ordinance
Ordinance 1306 C.S.

APPROVED BY: 
City Manager

APPROVED BY: 
Public Works Director

ORDINANCE NO. C.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARTINEZ AMENDING SECTIONS 8.38.020, 8.38.030, 8.38.070, AND 8.38.090 OF CHAPTER 8.38, REGULATION OF VACANT STRUCTURES, OF TITLE 8, HEALTH AND SAFETY OF THE MARTINEZ MUNICIPAL CODE

WHEREAS, the City finds that the proliferation of structures that are left vacant for extended periods of time within the City creates conditions of blight, deterioration, instability, and is conducive to criminal activities, such as vagrancy, trespassing, arson, and unlawful dumping, as well as poses serious threats to the public health and safety when left unregulated, uncontrolled, and unmonitored; and

WHEREAS, Chapter 8.38 of the Martinez Municipal Code permits vacant structures to exist when the Building Official issues boarding permits in accordance with those standards contained within Chapter 8.38; and

WHEREAS, the City of Martinez desires to enhance its boarding permit regulations in Chapter 8.38 by requiring permits for more structures that are left vacant an extended period of time and allowing more monitoring and control over those structures issued boarding permits by the City.

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

SECTION I. Section 8.38.020 of Chapter 8.30 of Title 8 of the City of Martinez Municipal Code is amended to read as follows:

8.38.020 Purpose.

The purpose of this Chapter is to require that, pursuant to a permit, vacant dwellings and buildings in the City of Martinez are properly secured and boarded during temporary periods of vacancy, and that dwellings and buildings do not remain vacant and unoccupied for extended periods of time *without proper regulation*.

SECTION II. Section 8.38.030 of Chapter 8.30 of Title 8 of the City of Martinez Municipal Code is amended to read as follows:

8.38.030 Definitions.

For purposes of this Chapter, the following words and phrases shall have the following meanings:

A. **"Building Official"** means the Director of the Building Department or his or her designated representative who is authorized and directed to enforce this Chapter.

B. **"Owner"** means a person, persons, corporation, partnership, limited liability company, or any other entity holding fee title to the subject real property. If more than one person or entity owns the subject real property, "owner" refers to each entity holding any portion of the fee interest in the property, and the owners' obligations in this Chapter are joint and several as to each owner.

C. **"Property"** includes tracts, lots, easements, or parcels of land and any and all improvements thereon.

D. **"Vacant structure"** means any building, dwelling, or other structure ~~(1) that is lacking habitual presence of persons who have a legal right to be on the premises or at which substantially all lawful business operations or residential occupancy has ceased, and (2) whose doors, windows or other openings are broken or missing, so as to allow uncontrolled access to the interior or exposure to the elements.~~ **that has remained for a period of at least six months unoccupied by any person, firm, or entity having a legal right to possess or occupy the structure and that is described by any of the following:**

1. **Service from one or more of the following utilities has been discontinued: electrical, gas, water, or sewer;**
2. **Has doors, windows, or other openings that are broken or missing, so as to allow uncontrolled access to the interior or exposure to the elements; or**
3. **Has doors, windows, or other openings that have been secured by boarding.**

As used in this definition, "unoccupied" shall mean not having human habitation in reference to any residential building and shall mean not utilizing the building for any commercially-related purpose in reference to any nonresidential building.

Vacant structure shall not include any building, dwelling, or other structure that is the subject of a valid and unexpired work permit issued by the City.

SECTION III. Section 8.38.070 of Chapter 8.38 of Title 8 of the City of Martinez Municipal Code is amended to read as follows:

8.38.070 Standards for Securing a Building.

Except as provided in Section 8.38.070 (L), the owner shall secure a vacant structure according to all of the following specifications and requirements:

- A. Remove all waste, rubbish or debris from the interior of the structure.
- B. Remove all waste, rubbish, debris or dead, dying or overgrown vegetation from the premises surrounding the vacant structure.
- C. Barricade all unsecured doorways, windows, or exterior openings with minimum ½ inch thickness exterior grade plywood which shall extend to the molding stops or studs.
- D. Mount at least 2 wood stocks of minimum 2x4 inch thickness to the reverse face of the plywood with minimum 3/8 inch carriage bolts mated with nuts and 2 flat washers.
- E. Extend the stock a minimum of 8 inches on each side of the interior wall.
- F. Cause all hardware to be galvanized or cadmium plated.
- G. Paint all exterior barricade material the predominant color of the structure.
- H. ~~Terminate all utility service to the dwelling or building by removal of the meters and termination of electric power at the pole. Compliance with this subsection may be waived in writing by the Building Official as to the electric utility service if electricity is needed to power exterior security lighting, an alarm system, or equipment to be used in connection with rehabilitation of the dwelling or building for which there is an active and current building permit. **In compliance with all conditions of a boarding permit issued to the owner under Section 8.38.090.**~~
- I. If applicable, cap the sewer in a manner approved by the Building Official to prevent the accumulation of methane gas in the dwelling or building.
- J. Post the premises. One or more metal signs must be posted at or near each entrance to the structure and on fences or walls as appropriate. The signs must remain posted until the structure is either lawfully occupied or demolished. Signs must contain the following information:

DO NOT ENTER. It is illegal to enter or occupy this building or premises or to remove or deface this notice. Trespassers will be prosecuted. (California Penal Code.)

- K. The Building Official may require the owner to erect a fence that meets the specifications of the Building Inspection Department on the property where the vacant structure is located. Any fence erected in accordance with this Section shall be maintained in a safe condition without tears, breaks, rust, or dangerous protuberances.
- L. In lieu of requiring the owner to board a vacant structure as set forth in Sections 8.38.070 (A) through (K), the Building Official may allow the owner to board the vacant structure in a manner that the Building Official determines adequately prevents unauthorized entry or vandalism. In any event, an owner shall post the premises as set forth in this Section.

SECTION IV. Section 8.38.090 of Chapter 8.30 of Title 8 of the City of Martinez Municipal Code is amended to read as follows:

8.38.090 Permit Required for Securing a Dwelling or Building.

- A. No owner of a vacant structure shall install, place or maintain boards over the doors, windows or other openings of any vacant structure or otherwise secure such openings by a means other than the conventional method used in the original construction and design of the dwelling or building without having first applied for and received a boarding permit from the Building Official.
- B. An owner of a vacant structure must apply to the Building Official for a boarding permit within 30 days **of the date that a ~~after~~ the structure becomes a vacant structure as defined by this Chapter.**
- C. The application for a boarding permit shall include all of the following information:
 - 1. The expected period of vacancy;
 - 2. A plan for regular maintenance during the period of vacancy;
 - 3. A plan and time-line for the lawful occupancy, rehabilitation or demolition of the vacant structure, or alternatively, a plan and timeline for sale of the property to another person or entity with provision in the sale for the lawful occupancy, rehabilitation or demolition of the structure.
- D. The Building Official will issue a boarding permit required by subsection (A) upon the submission of a complete and accurate boarding permit application by the owner of the structure and upon payment of the required fee.

- E. The owner of a vacant structure must board or otherwise secure the vacant structure in compliance with Section 8.38.070 within 10 days of receiving a boarding permit. The Building Official will confirm through inspection that the boarding or other method of securing the structure has been completed in compliance with Section 8.38.070.
- F. ***Except as may be renewed or extended pursuant to Subsection (G) or (H), the boarding permit issued pursuant to this Section shall authorize the boarding or other securing of a structure for a period of no greater than 6 months from the date of issuance. The Building Official may establish reasonable conditions for issuance of the boarding permit as may be warranted by the facts and circumstances of each individual case to achieve the purposes of this Chapter, including but not limited to the termination or continuation of electrical, gas, water, or sewer service to the vacant structure, and conditions that guarantee the permittee's compliance with the standards set forth in Section 8.38.070 or with any other section in this Chapter.***
- G. The boarding permit may be renewed after the initial period for up to an additional 6 months, upon the submission of a written application by the owner of the structure. The submission of the application must occur no later than 10 business days before the original permit expires, upon the payment of the required fee and upon the confirmation through inspection by the Building Official that the boarding or other method of securing the structure has been completed in accordance with Section 8.38.070. The application shall include the information required by subsection (C).
- H. A boarding permit may not be extended beyond the renewal period nor may a new application for the same structure be accepted by the Building Official within 1 year of the expiration date of the prior permit, unless all of the following occur:
1. The owner of the structure submits a written application for extension that includes the information required by subsection (C).
 2. The owner of the structure pays the required fee.
 3. The Building Official confirms through inspection that the boarding or other method of securing the structure has been done in compliance with Section 8.38.070.
 4. Good cause for the renewal exists. "Good cause" shall require a 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. In addition, where appropriate, "good cause" shall also require a showing by the owner that he or she has exercised reasonable and due diligence in attempting to complete the needed repair, rehabilitation or correction or in attempting to sell the property. If the Building Official determines that good cause exists to renew the permit and that all other conditions are met, the permit may be renewed by the Building Official for a period of up to, but not more than, an additional 6 months, subject to all of the same conditions imposed on the original renewal permit.

SECTION V. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

SECTION VI. Effective date. This ordinance shall become effective 30 days after the date of adoption.

SECTION VII. Posting. The City Clerk shall cause this ordinance to be published within fifteen days after its adoption, at least once, with the names of those city council members voting for or against the ordinance, in a newspaper of general circulation published and circulated in the City of Martinez.

APPROVED: _____
Rob Schroder, Mayor

ATTEST: _____
Deputy City Clerk

* * * * *

I HEREBY CERTIFY that the foregoing ordinance was duly and regularly introduced at a Regular Meeting of the City Council of the City of Martinez, held on the day of , 2007, and duly passed and adopted at a Regular Meeting of said City Council held on the day of , 2007, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ

ORDINANCE NO. 1306 C.S.

AN ORDINANCE OF THE CITY OF MARTINEZ ADDING CHAPTERS 8.36, 8.38, AND 8.40 OF THE MARTINEZ MUNICIPAL CODE RELATING TO COMMUNITY PRESERVATION (RESIDENTIAL PROPERTY NUISANCES, REGULATION OF VACANT STRUCTURES AND REGULATION OF VACANT PROPERTY)

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

SECTION I. Adoption. Chapter 8.36 Residential Property Nuisances, Chapter 8.38 Regulation of Vacant Structures, and Chapter 8.40 Regulation of Vacant Property are hereby added to the Martinez Municipal Code to read as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

SECTION II. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

SECTION 3. Effective date. This ordinance shall become effective 30 days after the date of adoption.

SECTION 4. Posting. The City Clerk shall cause this ordinance to be published within fifteen days after its adoption, at least once, with the names of those city council members voting for or against the ordinance, in a newspaper of general circulation published and circulated in the City of Martinez.

APPROVED: _____


Rob Schroder, Mayor

ATTEST: _____


Deputy City Clerk

* * * * *

I HEREBY CERTIFY that the foregoing ordinance was duly and regularly introduced at a Regular Meeting of the City Council of the City of Martinez, held on the 3rd day of September, 2003, and duly passed and adopted at a Regular Meeting of said City Council held on the 17th day of September, 2003, by the following vote:

AYES: Councilmembers DeLaney, Kennedy, Wainwright, Vice Mayor Ross, and Mayor Schroder

NOES: None

ABSENT: None

ABSTAIN: None

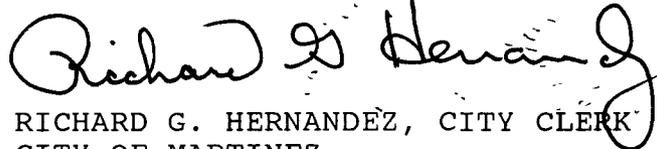

RICHARD G. HERNANDEZ, CITY CLERK
CITY OF MARTINEZ

EXHIBIT A

CHAPTER 8.36 RESIDENTIAL PROPERTY NUISANCES

8.36.010 Findings.

The City Council finds and declares that it is in the public interest and necessary to protect public health and safety, promote civic pride, and preserve property values, to establish minimum standards for the maintenance of residential real property by prohibiting specified activities and declaring these activities to be public nuisances subject to abatement or enforcement by any lawful means.

8.36.020 Definitions.

As used in this chapter, the following terms shall have the following meanings:

- A. "Attractive nuisance" means any condition, machine or instrumentality which is unsafe or unprotected and thereby dangerous to young children, and which may reasonably be expected to attract young children to the property and to risk injury by playing with, in or on it.
- B. "Building Official" means the Director of the Building Department or his or her designated representative who is authorized and directed to enforce this chapter.
- C. "Dwelling" shall have the same meaning as set forth in section 22.04.150.
- D. "Dwelling Unit" shall have the same meaning as set forth in section 22.04.160.
- E. "Residential real property" means a lot located in any zoning district upon which is located a dwelling or dwelling unit.

8.36.030 Residential Property Nuisance.

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

- A. Peeling paint, cracked or broken stucco, or other deteriorating exterior covering or finish, in excess of four square feet of any single facade (i.e., any exterior side) of a structure;
- B. Broken, cracked, or missing windows or doors;
- C. Roofs missing shingles, tile, or other material used as roof composition or the material is loose or unstable or roofs covered with material not manufactured as a roofing product;
- D. Improperly maintained (torn, tattered, shredded, broken, rusted) awnings;
- E. Fences, walls, and gates with peeling paint, broken bricks, broken mortar, cracked or broken stucco, or which are not constructed of uniform materials or in a uniform manner;
- F. The storing or allowing the storage of any abandoned or broken appliances and equipment or neglected machinery;
- G. Accumulating any human or animal waste material or substances, stagnant water, or any combustible or hazardous materials or substances, fluid or solid on any part of or in any structure on real property;
- H. A pond, spa, swimming pool, fountain, or other body of water which is abandoned, unattended, unfiltered, or not otherwise properly maintained, resulting in polluted or stagnant water;
- I. Maintaining or allowing the maintenance of any paved areas for vehicle parking and access, porches, steps, or walkways in a hazardous condition due to cracked, raised, or missing surface material;
- J. Overgrown, dead, decayed or diseased vegetation on private property. There shall be a conclusive presumption that vegetation is overgrown or dead if it has not been cut and trimmed, not responded to adequate watering and maintenance, or not replaced within 15 days after notification by the Building Official that the vegetation is overgrown or dead;
- K. Refuse and waste material which by reason of its location or character may constitute a fire hazard or threat to the health, safety, and general welfare, including aesthetic impacts, of the surrounding residential area. Compost piles are not considered refuse and waste;

- L. Land, the topography, geology, or configuration of which, whether in a natural state or as a result of grading operations, modifications or excavation, causes erosion, subsidence, or surface water drainage problems that may be potentially injurious to the public health, safety and welfare or to adjacent properties. Allowing obstructions to water flow to occur or develop within a natural drainage whether from a natural state, vegetative growth, placement of fill or any structures, or an object from an upstream location;
- M. Shopping carts, broken or discarded appliances and furniture, or furniture not intended and manufactured for outdoor use;
- N. Garbage or trash cans in violation of sections 8.16.190 or 8.16.200;
- O. Boats, trailers, vehicle parts or other articles of personal property that are abandoned or left in a state of partial construction or repair;
- P. Construction and wood debris, vegetation cuttings or clippings, not contained within a waste containers meeting the requirements of chapter 8.16;
- Q. Weeds and rubbish in violation of chapter 8.28;
- R. An attractive nuisance dangerous to children, including, but not limited to open excavations, unsecured refrigerators or freezers or unsecured storage containers.

8.36.040 Nuisance Declaration, Abatement.

Any residential real property maintained in a condition that violates Section 8.36.030 is declared to be a public nuisance. The condition may be abated pursuant to Chapters 1.12 or 1.13 or by any other remedy provided by law.

**CHAPTER 8.38
REGULATION OF VACANT STRUCTURES**

8.38.010 Findings.

The City Council finds and declares that vacant structures attract vagrants, gang members and criminals as prime locations to conduct illegal activities; that vacant and improperly secured structures are vulnerable to being set on fire by unauthorized persons; that vacant structures are a blight and cause

deterioration and instability in neighborhoods; that vacant structures invite the dumping of garbage and trash; and that vacant structures pose serious threats to the public's health and safety and therefore constitute public nuisances.

8.38.020 Purpose.

The purpose of this chapter is to require that, pursuant to a permit, vacant dwellings and buildings in the City of Martinez are properly secured and boarded during temporary periods of vacancy, and that dwellings and buildings do not remain vacant and unoccupied for extended periods of time.

8.38.030 Definitions.

For purposes of this chapter, the following words and phrases shall have the following meanings:

- A. "Building Official" means the Director of the Building Department or his or her designated representative who is authorized and directed to enforce this chapter.
- B. "Owner" means a person, persons, corporation, partnership, limited liability company, or any other entity holding fee title to the subject real property. If more than one person or entity owns the subject real property, "owner" refers to each entity holding any portion of the fee interest in the property, and the owners' obligations in this chapter are joint and several as to each owner.
- C. "Property" includes tracts, lots, easements, or parcels of land and any and all improvements thereon.
- D. "Vacant Structure" means any building, dwelling, or other structure: (1) that is lacking habitual presence of persons who have a legal right to be on the premises or at which substantially all lawful business operations or residential occupancy has ceased; and (2) whose doors, windows or other openings are broken or missing, so as to allow uncontrolled access to the interior or exposure to the elements.

8.38.040 Application.

This chapter applies to all property in the City of Martinez where any of the conditions specified in this chapter exist.

8.38.050 Duty of Property Owner.

Every owner shall maintain property in accordance with the provisions of this chapter and correct all violations of the standards listed in this chapter, and is liable for violations of this chapter regardless of any contract or agreement with any third party concerning the property.

8.38.060 Duty to Maintain Property.

It is unlawful for an owner to maintain property or to permit property to be maintained in such a manner that any one or more of the conditions described in the following subsections are found to exist:

- A. Any Vacant Structure that is not secured by boarding in compliance with Section 8.38.070.
- B. Any Vacant Structure whose interior contains waste, rubbish, or debris of such quantity or stored in such a manner as to cause a health concern or harborage for vectors.
- C. Any Vacant Structure whose doors, windows or other openings are secured by boarding in compliance with Section 8.38.070 or by any other method permitted by Section 8.38.070, at any time at which there is no current and valid boarding permit as required by Section 8.38.090.

8.38.070 Standards for Securing a Building.

Except as provided in Section 8.38.070 (L), the owner shall secure a Vacant Structure according to all of the following specifications and requirements:

- A. Remove all waste, rubbish or debris from the interior of the structure.
- B. Remove all waste, rubbish, debris or dead, dying or overgrown vegetation from the premises surrounding the vacant structure.
- C. Barricade all unsecured doorways, windows, or exterior openings with minimum $\frac{1}{2}$ inch thickness exterior grade plywood which shall extend to the molding stops or studs.
- D. Mount at least two wood stocks of minimum 2x4 inch thickness to the reverse face of the plywood with minimum $\frac{3}{8}$ inch carriage bolts mated with nuts and two flat washers.
- E. Extend the stock a minimum of 8 inches on each side of the interior wall.
- F. Cause all hardware to be galvanized or cadmium plated.
- G. Paint all exterior barricade material the predominant color of the structure.

- H. Terminate all utility service to the dwelling or building by removal of the meters and termination of electric power at the pole. Compliance with this subsection may be waived in writing by the Building Official as to the electric utility service if electricity is needed to power exterior security lighting, an alarm system, or equipment to be used in connection with rehabilitation of the dwelling or building for which there is an active and current building permit.
- I. If applicable, cap the sewer in a manner approved by the Building Official to prevent the accumulation of methane gas in the dwelling or building.
- J. Post the premises. One or more metal signs must be posted at or near each entrance to the structure and on fences or walls as appropriate. The signs must remain posted until the structure is either lawfully occupied or demolished. Signs must contain the following information:

DO NOT ENTER. It is illegal to enter or occupy this building or premises or to remove or deface this notice. Trespassers will be prosecuted. (California Penal Code.)
- K. The Building Official may require the owner to erect a fence that meets the specifications of the Building Inspection Department on the property where the Vacant Structure is located. Any fence erected in accordance with this section shall be maintained in a safe condition without tears, breaks, rust, or dangerous protuberances.
- L. In lieu of requiring the owner to board a Vacant Structure as set forth in Sections 8.38.070 (A) through (K), the Building Official may allow the owner to board the Vacant Structure in a manner that the Building Official determines adequately prevents unauthorized entry or vandalism. In any event, an owner shall post the premises as set forth in this section.

8.38.080 Prohibited Acts.

- A. Entry Prohibited. It is unlawful for any person, other than the owner, to enter or occupy any structure or premises that has been posted pursuant to Section 8.38.070 (J.), except to repair or demolish the structure under proper permit or for a purpose authorized by the owner.
- B. Interference with Notice Prohibited. It is unlawful for any person to remove or deface any notice posted pursuant to Section 8.38.070 (J.) until the required repairs or demolition have been completed or a Certificate of Occupancy has been issued.

8.38.090 Permit Required for Securing a Dwelling or Building.

- A. No owner of a Vacant Structure shall install, place or maintain boards over the doors, windows or other openings of any Vacant Structure or otherwise secure such openings by a means other than the conventional method used in the original construction and design of the dwelling or building without having first applied for and received a boarding permit from the Building Official.
- B. An owner of a Vacant Structure must apply to the Building Official for a boarding permit within 30 days after the structure becomes vacant.
- C. The application for a boarding permit shall include all of the following information:
 - (1) The expected period of vacancy.
 - (2) A plan for regular maintenance during the period of vacancy.
 - (3) A plan and time-line for the lawful occupancy, rehabilitation or demolition of the vacant structure, or alternatively, a plan and time-line for sale of the property to another person or entity with provision in the sale for the lawful occupancy, rehabilitation or demolition of the structure.
- D. The Building Official will issue a boarding permit required by subsection (A) upon the submission of a complete and accurate boarding permit application by the owner of the structure and upon payment of the required fee.
- E. The owner of a Vacant Structure must board or otherwise secure the vacant structure in compliance with Section 8.38.070 within 10 days of receiving a boarding permit. The Building Official will confirm through inspection that the boarding or other method of securing the structure has been completed in compliance with Section 8.38.070.
- F. The boarding permit issued pursuant to this section shall authorize the boarding or other securing of a structure for a period of no greater than 6 months from the date of issuance.
- G. The boarding permit may be renewed after the initial period for up to an additional 6 months, upon the submission of a written application by the owner of the structure. The submission of the application must occur no later than 10 business days before the original permit expires, upon the payment of the required fee and upon the confirmation

through inspection by the Building Official that the boarding or other method of securing the structure has been completed in accordance with Section 8.38.070. The application shall include the information required by subsection (C).

H. A boarding permit may not be extended beyond the renewal period nor may a new application for the same structure be accepted by the Building Official within one year of the expiration date of the prior permit, unless all of the following occur:

- (1) The owner of the structure submits a written application for extension that includes the information required by subsection (C).
- (2) The owner of the structure pays the required fee.
- (3) The Building Official confirms through inspection that the boarding or other method of securing the structure has been done in compliance with Section 8.38.070.
- (4) Good cause for the renewal exists. "Good cause" shall require a 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. In addition, where appropriate, "good cause" shall also require a showing by the owner that he or she has exercised reasonable and due diligence in attempting to complete the needed repair, rehabilitation or correction or in attempting to sell the property. If the Building Official determines that good cause exists to renew the permit and that all other conditions are met, the permit may be renewed by the Building Official for a period of up to, but not more than, an additional 6 months, subject to all of the same conditions imposed on the original renewal permit.

8.38.100 Authority.

The Building Official is authorized to administer and enforce this chapter. The Building Official may promulgate rules and procedures implementing this chapter.

8.38.110 Entry on Premises.

To the extent allowed by law and as outlined in section 1.08.010, whenever necessary to enforce any provision of this chapter or, whenever the Building Official has reasonable cause to believe that a violation of this chapter exists, the Building Official, or his or her designated representative, may inspect any Vacant Structure and its associated premises to determine whether the structure or its premises complies with applicable provisions and requirements of this code or of statutes or regulations enforced by the Building Official.

8.38.120 Notice to Comply.

- A. If the Building Official determines that a violation of this chapter exists, the Building Official may transmit a Notice to Comply to the owner by first class mail or by personal service by an authorized representative of the Building Official.
- B. The Notice to Comply will contain the following information:
 - (1) The date and street address and such other description as is required to identify the property.
 - (2) A statement of the conditions constituting the violation.
 - (3) An order that the owner obtain a boarding permit within 30 days of the date of the Notice to Comply, and board or otherwise secure the Vacant Structure in compliance with Section 8.38.070 within 10 days of receiving the boarding permit. The order may require the owner to erect a fence in accordance with Section 8.38.070 (K).
 - (4) A statement that, if the Vacant Structure is not boarded or otherwise secured within the time specified, the City of Martinez may seek compliance with any remedy allowed by this code and any other remedy allowed by law, including the securing, repair, rehabilitation, demolition, or removal of the Vacant Structure.
 - (5) A statement that the owner has the right to submit in writing, any information relating to a determination of the existence of a violation and his or her right to appeal as provided in Chapter 1.13.

- C. If the Building Official determines that an effort is being made to correct the violation, he or she may grant an additional period of time for correction in excess of that set forth in the Notice to Comply. Any such additional period of time shall be in writing delivered in the same Manner as the Notice to Comply.

8.38.130 Remedies.

- A. If, after a Notice to Comply, a property owner fails to correct the violation within the time allowed, the City of Martinez may seek compliance by any remedy allowed under this code, including, but not limited to, securing of the Vacant Structure pursuant to Section 8.38.140, enforcement pursuant to section 1.12 and nuisance abatement pursuant to section 1.13.
- B. Nothing in this chapter shall be construed as requiring the securing of a substandard Vacant Structure prior to an abatement of the building under other sections of the Martinez Municipal Code.
- C. If a substandard building becomes a Vacant Structure before or during abatement, the notice and order to abate may require the securing of the building in accordance with the standards set forth in Section 8.38.070.

8.38.140 Securing by City of Martinez.

- A. If, after a Notice to Comply, an owner fails to correct the violation within the time allowed, the Building Official may secure the property, issue a boarding permit in the name of the owner, erect a fence, and recover costs.
- B. After securing the Vacant Structure, the Building Official will transmit a notice to the owner of the subject property. The notice will be transmitted to the owner by certified mail and be posted at the site or by personal service by an authorized representative of the Building Official. The notice will inform the owner of all of the following:
 - (1) The boarding permit is effective for 6 months.
 - (2) Prior to the expiration of the 6-month period, the structure must be lawfully occupied, rehabilitated or demolished, or alternatively be sold to another person or entity with provision in the sale for the lawful occupancy, rehabilitation or demolition of the sale within the 6-month period.

- (3) The owner must maintain the boarding in a condition that complies with this chapter.
 - (4) If the Building Official erects a fence, the notice will inform the owner that the owner must maintain the fence in a condition that complies with this chapter.
- C. If a Vacant Structure previously secured by the owner or Building Official in accordance with a Notice to Comply again becomes unsecured and open to unauthorized entry, the Building Official may seek compliance by any remedy allowed under this code, including, but not limited to, securing of the Vacant Structure pursuant to Section 8.38.140.
- D. If the premises surrounding a Vacant Structure again contain debris, rubbish, waste or excessive vegetation, the Building Official may, without further notice to the owner, proceed to remove the debris, rubbish, waste or excessive vegetation and recover costs as provided for in this chapter or by any other remedy provided by law.

8.38.150 Receipt of Notice.

The failure of a person to receive a properly addressed notice shall not affect the validity of the proceedings.

8.38.160 Reinspections.

The Building Official may periodically reinspect Vacant Structures to ensure compliance with this chapter and all applicable court and administrative orders.

8.38.170 Summary Abatement.

Nothing in this chapter prohibits the summary abatement of a nuisance.

8.38.180 Appeals.

The property owner may appeal any determination of the Building Official made pursuant to this chapter as provided in Chapter 1.13.

8.38.190 Costs and Fees.

Abatement costs and Summary Abatement costs may be recovered by way of civil action against the owner or may be assessed against the subject property as a lien. Abatement costs include the cost to perform the actual work, the cost of materials, and all administrative costs.

8.38.200 Permit Fees and Reinspection fees.

The fee for an initial boarding permit and any renewal boarding permit or any reinspection fee shall be an amount established by the City of Martinez in the Building Department's fee schedule as adopted by the City Council.

**CHAPTER 8.40
REGULATION OF VACANT PROPERTY**

8.40.010 Title.

This chapter shall be known as the Vacant Property Ordinance of the City of Martinez.

8.40.020 Findings.

The City of Martinez finds and declares that vacant property can attract vagrants, gang members and criminals and can be a prime location to conduct illegal activities; that vacant property can be a blight and cause deterioration and have a negative effect of property values; that vacant property can invite the accumulation of garbage, trash, discarded vehicles or boats, weeds, and other nuisance conditions; and that vacant property can pose a serious threat to the public's health, safety and welfare and therefore constitute a public nuisance.

8.40.030 Purpose.

The purpose of this ordinance is to identify vacant properties where nuisance conditions frequently occur and to require the proper securing of those properties to prevent additional nuisance conditions from occurring on the property.

8.40.040 Definitions.

For purposes of this chapter, the following words and phrases have the following meanings:

- A. "Building Official" means the Director of the Building Department or his or her designated representative who is authorized and directed to enforce this chapter.
- B. "Nuisance condition" is one or more of the following conditions occurring on a Vacant Property:
 - (1) Accumulation of substantial amounts of trash, debris, rubbish, or garbage.

- (2) Presence of discarded vehicles or boats, discarded trailers, vehicle or boat parts, vehicle or boat hulks, or other articles of personal property that are abandoned or left in a state of partial construction or repair.
- (3) Presence of an attractive nuisance dangerous to children, such as abandoned, broken or neglected equipment, machinery, refrigerators or freezers, or unsafe pools, ponds or excavations.
- (4) Shopping carts, discarded household equipment, or broken or discarded furniture.
- (5) Weeds and rubbish in violation of section 8.28.010.
- (6) Any nuisance condition included in 8.36.030.

C. "Owner" means a person, persons, corporation, partnership, limited liability company, or any other entity holding fee title to the subject real property. If more than one person or entity owns the subject real property, "owner" refers to each entity holding any portion of the fee interest in the property, and the owners' obligations in this chapter are joint and several as to each owner.

D. "Vacant Property" means any property that is unimproved and includes unimproved tracts, lots, easements, or parcels of land.

8.40.050 Application.

This chapter applies to all property in the City of Martinez where any of the nuisance conditions specified in this chapter exist.

8.40.060 Duty of Property Owner.

Every owner shall maintain property in accordance with the provisions of this chapter and correct all violations of the standards listed in this chapter, and is liable for violations of this chapter regardless of any contract or agreement with any third party concerning the property.

8.40.070 Duty to Maintain Property.

A No owner shall maintain or allow the maintenance of Vacant Property in such a manner that any nuisance condition exists on the Vacant Property.

- B If a Notice and Order to Abate has been transmitted to an owner, the Vacant Property must remain secured in accordance with this chapter.

8.40.080 Standards for Securing Vacant Property.

Any Vacant Property that must be secured pursuant to the chapter shall be secured according to the following specifications and requirements:

- A. A fence that meets the specifications of the Building Department shall be erected on the Vacant Property.
- B. One or more signs must be posted on the fence and must contain the following information:

DO NOT ENTER. It is illegal to enter or occupy this property or to remove or deface this notice. Trespassers will be prosecuted.

- C. Any fence erected in accordance with this section shall be maintained in a safe condition without tears, breaks, rust, or dangerous projections.

8.40.090 Prohibited Acts.

- A. Entry Prohibited. It is unlawful for any person other than the owner, the Building Official, or a designated representative of the Building Official, to enter or occupy any Vacant Property that has been posted pursuant to Section 8.40.080 (B), except for a lawful purpose authorized by the owner.
- C. Interference with Notice Prohibited. It is unlawful for any person to remove or deface any notice posted pursuant to Section 8.40.080 (B).

8.40.100 Enforcement Authority.

The Building Official is authorized to administer and enforce this chapter. The Building Official may promulgate rules and procedures implementing this chapter.

8.40.110 Entry on Premises.

To the extent allowed by law and as outlined in section 1.08.010, whenever necessary to enforce any provision of this chapter, the Building Official, or his or her designated representative, may inspect any Vacant Property to determine whether it complies with applicable provisions and requirements of this code or of statutes or regulations enforced by the Building Official or to enter for the purpose of abatement.

8.40.120 Notice to Comply.

- A. If the Building Official determines that any nuisance condition exists on a Vacant Property, the Building Official may transmit a Notice to Comply to the owner by first class mail or by personal service by an authorized representative of the Building Official.
- B The owner must remove or remedy the nuisance condition specified on the Notice to Comply within the time specified in the Notice to Comply.
- C. The Notice to Comply will contain the following information:
 - (1) The street address and such other description as is required to identify the property.
 - (2) A statement of the nuisance condition existing on the Vacant Property.
 - (3) An order that the owner remove or remedy the nuisance condition within 10 days of the date of the Notice to Comply.
 - (4) A statement that if the nuisance condition is not removed within the time specified, the City of Martinez may issue a Notice and Order to Abate ordering the securing of the Vacant Property.
 - (5) A statement that the owner has the right to submit in writing, any information relating to a determination of the existence of a violation and his or her right to appeal as provided in Chapter 1.13.
- D. If the Building Official determines that an effort is being made to correct the violation, he or she may grant an additional period of time for correction in excess of that set forth in the Notice to Comply. Any such additional period of time shall be in writing delivered in the same manner as the Notice to Comply.

8.40.130 Notice and Order to Abate.

- A. The Building Official may transmit a Notice and Order to Abate to the owner by certified mail and posting at site, or by personal service by an authorized representative of the Building Official, if either of the following occur:
 - (1) The nuisance condition specified in the Notice to Comply has not been removed or remedied within the time specified.

(2) Any nuisance condition occurs or reoccurs on the Vacant Property within 12 months of the date of the Notice to Comply.

B The owner must remove or remedy the nuisance condition specified in the Notice and Order to Abate and secure the Vacant Property in accordance with the standards listed in Section 8.40.080 within 10 days of the transmittal date of the Notice and Order to Abate or within a reasonable time specified by the Building Official.

C. The Notice and Order to Abate will contain the following information:

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

(2) A statement that the nuisance condition specified in the Notice to Comply has not been removed or remedied within the time specified, or that a nuisance condition has occurred or reoccurred on the Vacant Property within 12 months of the date of the Notice to Comply.

(3) An order that the owner remove or remedy the nuisance condition and secure the Vacant Property within the time specified in the Notice and Order to Abate.

(4) A statement that, if the Vacant Property is not secured in accordance with the standards listed in Section 8.40.080 within the time specified, the City of Martinez may seek compliance with any remedy allowed by this code and any other remedy allowed by law. The statement will inform the owner that the City of Martinez may secure the Vacant Property and recover all costs, including the cost of the fence, from the owner.

(5) A statement that the owner has the right to appeal as provided in Chapter 1.13.

D. If more than 12 months have passed from the date of the first Notice to Comply and no Notice and Order to Abate has been issued, no Notice and Order to Abate will be issued until after another Notice to Comply has been issued in accordance with Section 8.40.120.

8.40.140 Remedies.

- A. If, after a Notice and Order to Abate, a property owner fails to correct the violation in the manner and within the time specified in the Notice and Order to Abate, the City of Martinez may seek compliance by any remedy allowed under this code, including, but not limited to, securing of the Vacant Property (Section 8.40.150) and any other remedy allowed by law.
- B. If a nuisance condition occurs on a secured Vacant Property, the City of Martinez may seek compliance by any remedy allowed under this code, and any other remedy allowed by law.

8.40.150 Securing by City of Martinez.

- A. After issuing a Notice and Order to Abate, the Building Official may secure the Vacant Property and recover costs as provided for in section 8.40.200 if the owner does any of the following:
 - (1) Fails to erect a fence in the manner and within the time specified in the Notice and Order to Abate.
 - (2) Fails to erect a fence that meets the specifications of Section 8.40.080.
 - (3) Fails to maintain a fence in accordance with the provisions of section 8.40.080.
- B. If a Notice and Order to Abate a substandard building includes an order to secure the property with a fence that meets the specifications of the Building Department, the Building Official may secure the Vacant Property and recover costs as provided for in section 8.40.200 after abating the substandard building.
- C. If a Vacant Property previously secured by the owner or Building Official again becomes unsecured within 24 months of any previous securing, the Building Official may re-secure the Vacant Property and recover costs as provided for in section 8.40.200. When re-securing a Vacant Property within 24 months of any previous securing, the Building Official is not required to transmit a Notice and Order to Abate before re-securing the Vacant Property.
- D. After securing or re-securing a Vacant Property, the Building Official will transmit a notice to the owner of the Vacant Property. The notice will be transmitted to the owner by certified mail and posted at the site or by personal service by an authorized representative of the Building Official. The notice will inform the owner that

the Vacant Property must be maintained in a condition that complies with this chapter.

- E. If more than 24 months have passed from the date of a previous securing of a Vacant Property by the owner or Building Official, the Building Official will not secure or re-secure the Vacant Property until after a Notice to Comply and Notice and Order to Abate have been issued in accordance with this chapter.

8.40.160 Receipt of Notice.

The failure of a person to receive a properly addressed notice shall not affect the validity of the proceedings.

8.40.170 Reinspections.

The Building Official may periodically reinspect Vacant Properties to ensure compliance with this chapter and all applicable court and administrative orders.

8.40.180 Summary Abatement.

Nothing in this chapter prohibits the summary abatement of a nuisance.

8.40.190 Appeals.

The property owner may appeal any determination of the Building Official made pursuant to this chapter as provided in Chapter 1.13.

8.40.200 Costs and Fees.

- A. Abatement costs may be recovered by way of civil action against the owner or may be assessed against the subject property as a lien. Abatement costs include the cost of materials including the fence, the cost to perform the actual work, and all administrative costs.
- B. Summary abatement costs may be recovered by way of civil action against the owner or may be assessed against the subject property as a lien. Summary abatement costs include the cost of materials including the fence, the cost to perform the actual work, and all administrative costs.

8.40.210 Reinspection Fee.

The fee for any reinspection shall be an amount established by the City of Martinez in the Building Department's fee schedule adopted by the City Council.