

CITY OF VALDEZ, ALASKA

ORDINANCE #25-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VALDEZ,
ALASKA AMENDING CHAPTER 8.20 OF THE VALDEZ MUNICIPAL
CODE TITLED NUISANCES

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY
OF VALDEZ, ALASKA that:

Section 1: Chapter 8.20 of the Valdez Municipal Code is hereby amended to
read as follows:

CHAPTER 8.20
NUISANCES

Sections:

- 8.20.010 Definitions.
- 8.20.015 Inspections.
- 8.20.020 Nuisances designated—Acts prohibited.
- 8.20.030 Enumerated—Acts prohibited in all zones.
- 8.20.040 ~~Enumerated—Acts prohibited in all zones except heavy and special-~~
industrial.
- 8.20.040 Junk vehicles.
- 8.20.050 Noise.
- 8.20.060 Emission of smoke.
- 8.20.070 Escape of soot, cinders, etc.
- 8.20.080 Voluntary compliance agreements.
- 8.20.090 Abatement—Commencement of proceedings.
- 8.20.100 Abatement—Standards to be followed.
- 8.20.110 Abatement—Notice and order.
- 8.20.120 Abatement—Notice and order—Recordation.
- 8.20.130 Abatement—Notice and order—Extension of time limit.
- 8.20.140 Abatement—Notice and order—Posting.
- 8.20.150 Abatement—Enforcement of order—Generally.
- 8.20.170 ~~Abatement—Enforcement of order—Procedure—Costs.~~
- 8.20.160 Abatement—Enforcement of order—Interference prohibited.
- 8.20.190 ~~Abatement—Recovery of costs.~~
- 8.20.170 Abatement—Appeal.
- 8.20.180 Appeal to the city council acting as the board of appeals.
- 8.20.190 Appeal to superior court.
- 8.20.200 Summary abatement.
- 8.20.210 Abatement – Recovery of costs.
- 8.20.220 Remedies.
- 8.20.230 Minor offense fine schedule.
- 8.20.240 Civil fines.

§ 8.20.010. Definitions. (Ord. 19-02 § 1 (part))

- A. "Abandoned vehicle" — means a motor vehicle left unattended, standing, parked upon or within ten feet of the traveled portion of a public roadway, or a public right-of-way, for a period in excess of forty-eight hours, upon private property without the consent of the owner in excess of twenty-four hours, or upon other public property for more than thirty days without the consent of the owner or person in charge of the property.
- B. "Abatement official" — shall mean the city manager, ~~planning and zoning~~ community development department director, fire chief, police chief, code enforcement officer or their designated representatives ~~are~~ authorized to enforce the provisions of this chapter.
- C. "Attractive nuisance" — shall mean a dangerous thing or condition that may foreseeably attract someone to come onto land, thereby causing a risk to their safety.
- D. "Board of appeals" — shall mean the Valdez city council.
- E. "Cinders," "dust," "fly ash," "noxious acids," "fumes" and "gases" — as used in this chapter shall mean all matter other than dense smoke, including smoke, cinders, dust and soot formed as the result of the combustion of fuels, which is carried in the gas streams so as to reach the external air and which has not been completely consumed by the combustion process.
- F. "dB(A)" — shall mean a measure of sound pressure level in decibels on the A-weighted scale.
- G. "Decibel meter" — shall mean an instrument to measure decibels which meets or exceeds American National Standards Institute (ANSI) Section 1.4 or the latest approved revision thereof.
- H. "Device" — shall mean any mechanism which is intended to produce or which actually produces sound when operated or handled.
- I. "Incidental expenses" — shall mean expenses associated with nuisance abatement, including, but not limited to, the actual expenses and costs of the city in the preparation of notices, specifications, contracts, overhead and inspection of the work and the cost of printing and mailing required hereunder.
- J. "Junk vehicle" — means a motor vehicle that:
 - 1. Is in a condition which exhibits two of the following elements: broken glass; missing wheels or tires; missing body panels or parts; missing drive train parts; or
 - 2. Is stripped, wrecked or otherwise inoperable due to mechanical failure.
- K. "Noise" — shall mean any sound which exceeds the prescribed decibel levels at a time and location described in this section.
- L. "Nuisance" — shall mean any violation of the city code, including the specific

prohibitions set forth in this chapter.

- M. "Responsible party" — shall mean any person, persons, corporation, or other legal entity, tenant, or lessee using or occupying a premises that causes, allows, maintains, or permits a nuisance to exist on any property within the city of Valdez.
- N. "Sound-amplifying equipment" — shall mean any machine or device for the amplification of the human voice, music or any other sound or noise.

§ 8.20.015. Inspections. (Ord. 19-02 § 1 (part))

- A. An abatement official may, upon presentation of credentials identifying the abatement official as a city employee, enter upon any affected property at any reasonable time to inspect the same or to perform any act or acts related to the performance of his or her enforcement duties, subject to the procedures below.
- B. Inspections may include or involve the taking of photographs, samples, measurements, surveys, or obtaining other physical evidence, and/or conferring with any person(s) present at the affected property or location, as permitted by law and consistent with legally recognized privacy rights.
- C. If an abatement official has reasonable cause to believe that a condition exists that poses an imminent or immediate threat of harm to persons or property, or to public health, welfare or safety, the abatement official may enter the affected property or location without prior notification to the owner or occupant, subject to privacy and personal property rights and any other applicable provisions of law, including the state and federal constitutions.
- D. In cases where the responsible party or owner of the property refuses to consent to an inspection and where the Constitution of the United States or of the state so requires, the abatement officer shall obtain an administrative search warrant authorizing an inspection and exhibit the warrant to the person in charge of the premises before conducting the inspection. The abatement officers shall apply to the trial courts of the state to obtain an administrative search warrant. The application for an administrative search warrant shall state the name and address of the premises to be inspected, the authority to conduct the inspection, the nature and extent of the inspection, and the facts and circumstances justifying the inspection.

§ 8.20.020. Nuisances designated—Acts prohibited. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1(part); Ord. 05-05 § 1; prior code § 16-1; Formerly 8.20.010)

- A. Nuisances shall include any violation of the city code, including whatever is forbidden by any provision of this chapter. Abatement of nuisances in accordance with the provisions of this chapter is in addition to any other administrative, civil, or criminal remedy permitted by law.
- B. It is unlawful or a civil violation ~~and a minor offense punishable by a fine as set forth in the fine schedule provided in Section 8.20.300~~ to cause, allow, maintain, or permit any nuisance enumerated in this chapter.

- C. Violations of sections 8.20.050, 8.20.060 and 8.20.070 constitute a minor offense punishable by a fine as set forth in the fine schedule in section 8.20.230. All other violations of this chapter are punishable by imposition of civil fines as set forth in section 8.20.240. ~~this chapter that require mandatory appearance are punishable by a fine of up to the maximum fine amount set out in Section 1.08.010.~~ Each day that a violation of this chapter continues shall constitute a separate offense.

§ 8.20.030. Enumerated—Acts prohibited in all zones. (Ord. 19-02 § 1 (part); Ord. 14-07§ 1; Ord. 11-02 § 1 (part); Ord. 05-05 § 2; prior code § 16-2; Formerly 8.20.020)

The following acts and conditions shall constitute a nuisance in all zones:

- A. Whatever injures or endangers the safety, health, comfort or repose of the public, offends public decency, interferes with, obstructs or renders dangerous any street, highway, navigable lake or stream, interferes with the provision of public services, or in any way renders the public insecure in life or property;
- B. Noise exceeding the prescribed levels set forth in Section 8.20.~~060~~050;
- C. Disposing of any refuse, garbage, manure, waste or other materials except at refuse disposal sites which have been approved and are supervised by the state health officer, or city manager, and which are clearly marked for such purpose;
- D. Dumping, abandoning, throwing, scattering or transporting anything in such manner as to cause the littering of any street, alley or public place, or of any private property not his/her own, or as to cause the obstruction of any ditch, drain or gutter, except as permitted in refuse disposal sites under subsection C of this section;
- ~~E. Any well, swimming pool or other dangerous excavation in the earth not completely covered, or guarded by a fence at least eight feet high of either solid panel or heavy woven wire construction or by other means of protection, including use of watchmen, which shall be fully effective at all times, including night hours;~~
- ~~F.~~ E. Buildings which are unoccupied and open to ingress and egress and which should be locked up, boarded up or otherwise secured from ingress or egress;
- ~~G.~~ F. Unoccupied buildings in a rotten or warped condition;
- ~~H.~~ G. Broken windows constituting hazardous conditions and inviting trespassers and malicious mischief;
- ~~I.~~ H. Overgrown vegetation causing detriment to neighboring properties or property values;
- ~~J.~~ I. Dead trees, ~~weeds~~ or debris:
 - ~~1. Constituting unsightly appearance; or~~
 - 1. Dangerous to public safety and welfare; or

2. Detrimental to nearby property or property values.

~~K.~~ J. Attractive nuisances including but not limited to attractive nuisances in the form of:

1. Abandoned and broken equipment; or
2. Hazardous pools, ponds and excavations not sufficiently protected from access by fencing or other means; or
3. Neglected machinery; or
4. Abandoned refrigerators; or
5. Abandoned automobiles or cabinets; or
6. Unsafe structures or buildings as defined in Title 15. ~~Section 15.04.070(G);~~

~~L. Broken or discarded furniture and equipment in yard areas for unreasonable periods, seven days being prima facie evidence of an unreasonable period;~~

M. K. Property, including but not limited to building exteriors, which is maintained in such conditions as to become so defective, unsightly or in such condition of deterioration or disrepair that such property causes appreciable diminution of the use, enjoyment, aesthetic or property values of surrounding property or is materially detrimental to nearby properties and improvements. This includes but is not limited to the keeping or disposing of or scattering over the property or premises of any of the following:

1. Lumber, junk, trash or debris; or
2. Abandoned, discarded or unused objects of equipment such as automobiles, trailers, vehicles, furniture, stoves, refrigerators, freezers, cans or containers; or
3. Stagnant water or excavations;

N. L. Dumping, pumping, placing, throwing or discharging any oil, bilge waters, refuse, garbage, or debris in the waters of Port Valdez.

~~§ 8.20.040. Enumerated—Acts prohibited in all zones except heavy and special industrial. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); Ord. 05-05 § 3; prior code § 16-3; Formerly 8.20.030)~~

~~The following acts and conditions shall constitute a nuisance in all zoning districts unless expressly permitted therein:~~

~~A. Packing boxes and other debris stored in yards and visible from public streets for unreasonable periods, seven days being prima facie evidence of an unreasonable period.~~

§ 8.20.050-040. Junk vehicles. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); prior code § 16-4; Formerly 8.20.040)

- A. It is unlawful for any person to place any wrecked, junked or abandoned vehicle upon public property not set aside by law as a refuse disposal, or upon any private property, except licensed junk yards.
- B. It is unlawful for any owner, lessee, agent, tenant or occupant to allow or permit any wrecked, junked or abandoned vehicle to remain on any property owned or controlled by ~~them~~ **him**, except licensed junk yards.
- C. Any violation of subsection A or B of this section shall constitute a nuisance. The costs of abatement may be charged or assessed ~~by the city council~~ as provided by Section 8.20.~~210~~**190** against any or all of the following:
 - 1. The vehicle;
 - 2. The registered owner of the vehicle;
 - 3. Any person who has acquired the right to possession of the vehicle from or through the registered owner;
 - 4. Any person in violation of subsection A or B of this section;
 - 5. The owner, lessee, agent, tenant or person in control of the property where the vehicle was situated at the time of the notice to abate.
- D. As used in this section:
 - 1. "Abandoned vehicle" — means a motor vehicle left unattended, standing, parked upon or within ten feet of the traveled portion of a public roadway, or a public right-of-way, for a period in excess of forty-eight hours, upon private property without the consent of the owner in excess of twenty-four hours, or upon other public property for more than thirty days without the consent of the owner or person in charge of the property.
 - 2. "Junk vehicle" — means a motor vehicle that:
 - a. Is in a condition which exhibits two of the following elements: broken glass; missing wheels or tires; missing body panels or parts; missing drive train parts; or
 - b. Is stripped, wrecked or otherwise inoperable due to mechanical failure.
- E. A person having upon his premises an abandoned or junk vehicle which is in need only of reasonable repairs and is without available funds to obtain the required license or to make such repairs may apply to the city manager for a permit to keep the vehicle upon the premises.

§ 8.20.060-050. Noise. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); Ord. 09-06 § 1; Ord. 05-05 § 4; prior code § 16-5; Formerly 8.20.050)

- A.Intent. It is the intent of this section to endeavor to provide citizens with an

environment free from such excess sounds or noise as may jeopardize their health, welfare and safety, or degrade the quality of life.

B. Noise in Residential Districts.

1. General Restriction. It shall be unlawful for any person to use, operate, or emit or permit to be used, operated or emitted any source of sound which produces or reproduces sound either stationary or mobile in such a manner so as to create any sound or noise which exceeds sixty dB(A) during the hours of seven a.m. until ten p.m. or which exceeds fifty dB(A) from ten p.m. until seven a.m. when measured at or within the boundary of the property on which the sound is received.
2. Responsibility for Creation of Noise. Any person creating any such sound or noise as described in this section and/or anyone permitting such a sound or noise to be created in, or emanate from, any premises under his care, custody and control shall be presumed responsible for any such sound or noise.

C. Exceptions.

1. Emergency and Public Work. Noise or sound created in the performance of public service by governmental agencies or their contractors while performing snow removal services; or emergency work engaged in by persons for the public safety, health or welfare; or to restore property to a safe condition following a public emergency; or work to restore essential public services, including construction activities directly related to the abatement of any emergency, shall not be subject to the provisions of this section.
2. Noises from Authorized Activities. The prohibitions of this section shall not apply to air traffic, parades, cultural events, athletic games, fairs, or functions approved by the city.
3. Sirens, Horns and Whistles. The provisions of this section shall not apply to any siren, whistle, horn or bell used by emergency vehicles or civil defense or used by motor vehicles as warning devices to avoid collisions.
4. Bells or Chimes. The provisions of this section shall not apply to any bell or chimes, or any device for the production or reproduction of the sound thereof, which is associated with a clock or timekeeping device, church or school.
5. Burglar Alarms. The provisions of this section shall not apply to any burglar alarm or security device; provided, however, no burglar alarm or security device shall sound for more than fifteen minutes after being activated.
6. Construction Activity or Equipment. The provisions of this section shall not apply to any construction activity or equipment operated between the hours of seven a.m. and ten p.m.
7. Residential Power Tools and Equipment. The provisions of this section shall not apply to any residential power tools and equipment operated between the hours of seven a.m. and ten p.m.

8. Vessels. The provisions of this section shall not apply to the operation of any boat or vessel.
 9. Motor Vehicles. The provisions of this section shall not apply to the normal and usual operation of motor vehicles unless prohibited by state law.
 10. Residential/Commercial Snow Removal Activity or Equipment. Noise or sound created in the performance of residential/commercial snow removal by property owners or their contractors.
- D. Noise on Public Streets Generally. It shall be unlawful for any person to use, operate, or permit to be used or operated in or on a parked or moving motor vehicle any sound- amplifying equipment producing sound that is clearly audible at twenty-five feet or more from the motor vehicle on any public street or right-of-way within city limits.
- E. Temporary Waiver Permits. If the applicant can show to the city manager or his designee that a diligent investigation of available noise abatement techniques indicates that immediate compliance with the requirements of this chapter would be impractical or unreasonable, a permit to allow exception from the provisions contained in all or a portion of this chapter may be issued, with appropriate conditions to minimize the public detriment caused by such exceptions. Any such permit shall be of as short duration as possible, up to six months, but renewable upon a showing of good cause, and shall be conditioned by a schedule for compliance and details of methods therefor in appropriate cases.

§ 8.20.070060. Emission of smoke. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); prior code § 16-6; Formerly 8.20.060)

- A. Prohibited. It is unlawful for any person to permit the emission of any smoke from any source that constitutes a nuisance by exposing the public to health risks or interfering with the reasonable enjoyment of private or public property. The emission of any such smoke is declared to be a nuisance.
- B. Exceptions.

This section shall not apply to:

1. The emission of smoke during temporary maintenance activities for a reasonable amount of time so long as the responsible party has taken all reasonable efforts to minimize the emission of such smoke.
2. Smoke from fires set by or permitted by any official if such fire is set or permission given in the performance of the official duties of such officer, and such fire in the opinion of such officer is necessary:
 - a. For the purpose of the prevention of a fire hazard which cannot be abated by any other means;
 - b. For the instruction of public employees in the methods of firefighting.

§ 8.20.080-070. Escape of soot, cinders, etc. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); prior code § 16-7; Formerly 8.20.060)

A. Dangers to Public Health.

1. It is unlawful for any person to permit or cause the escape of such quantities of soot, cinders, noxious acids, fumes and gases in such place or manner as to:
 - a. Be detrimental to any person or the public;
 - b. Endanger the health, comfort and safety of any such person or of the public;
 - c. Cause or have a tendency to cause injury or damage to property or business.
2. The escape of such matter is declared to be a nuisance and may be summarily abated by the abatement official.

§ 8.20.090-080. Voluntary compliance agreements. (Ord. 19-02 § 1 (part))

The abatement official may enter into a voluntary compliance agreement with a responsible party. The voluntary compliance agreement is a written, signed commitment by the responsible party to abate existing nuisances or code violations. The voluntary compliance agreement shall include the following:

- A. The name and address of the responsible party;
- B. The address or other identification of the location of the violation;
- C. A description of the violation and a reference to the applicable code provisions;
- D. A description of required abatement or corrective action and the date and time within by which compliance must be completed;
- E. An acknowledgment that if the city determines that the terms of the voluntary compliance agreement are not met, the city may impose any remedy authorized by this chapter or other applicable code section(s); and
- F. An acknowledgment that by entering into the voluntary compliance agreement, the responsible party forfeits the right to appeal and admits that the conditions described in the voluntary compliance agreement existed and constituted a code violation.

§ 8.20.400090. Abatement—Commencement of proceedings. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); Ord. 05-05 § 5; prior code § 16-8; Formerly 8.20.080)

Whenever the abatement official has inspected any activity, condition or property and has found and determined that such activity, condition or property constitutes a nuisance, the abatement official may commence proceedings to have the nuisance abated by rehabilitation, repair or other appropriate action. The procedures set forth in this chapter shall not in any manner limit or restrict the city from enforcing city ordinances or abating nuisances in any other manner provided by law or by the common law, including by citing the responsible party and imposing a fine as provided in Section 8.20.020.

§ 8.20.110. Abatement—Standards to be followed. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); prior code § 16-9; Formerly 8.20.090)

The abatement official, and the board of appeals, if an appeal is taken, shall order the means best abatement in the manner calculated to entirely abate ~~wholly~~ the nuisance with the least costs of abatement, and Demolition shall not be ordered if repair or removal may accomplish the abatement.

§ 8.20.110. Abatement—Notice and order. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); prior code § 16-10; Formerly 8.20.100)

A. Issuance—Contents. The abatement official shall issue a notice and order directly to the record owners of the affected property, or the person committing, creating or maintaining the nuisance. The notice and order shall be approved as to form by the city attorney and shall contain:

1. The street address and legal description sufficient for identification of the affected property;
2. A statement that the abatement official has found the property affected with a nuisance,
with a brief and concise description of the nuisance as defined in this chapter;
3. A statement of the action required to be taken as determined by the abatement official to abate the nuisance by rehabilitation, repair, demolition or other action sufficient to cause the nuisance to be wholly abated;
4. A statement advising that if any required abatement is not commenced or completed within the time specified, the abatement official may ~~either~~:
 - a. Proceed to cause the necessary work to be done and charge the cost thereof against the property or its owner; ~~or~~ and
 - b. Seek other relief as provided by AS 29.25.070 and this code. ~~submit to the court an application for action to enjoin the violation. On application for injunctive relief and a finding of a violation or a threatened violation, the superior court shall grant the injunction.~~
5. Statements advising:
 - a. That any person having record title or legal interests in the property may appeal from the notice and order by filing with the city clerk within fifteen days unless such abatement will materially affect a building or structure permanently attached to real property, in which case thirty days shall be allowed from the date of service of such notice and order an appeal in writing in accordance with the appeal procedure as provided in Sections 8.20.180~~200~~, 8.20.190~~220~~ and 8.20.200~~230~~; and
 - b. Failure to appeal will constitute a waiver of all right to administrative hearing and determination of the order and will result in the abatement official proceeding with the remedies provided in subsections (A)(4)(a) and (b) of

this section.

6. No notice is required for abatement of a nuisance occurring on the public streets and rights-of-way, city properties and parks, or for summary abatement when permitted.

B. Service of Notice and Order.

1. The notice and order and any amended or supplemental notice and order shall be served upon the ~~record owner~~ responsible party by personal service, email with confirmation of receipt and acceptance, or by certified mail and posted on the property affected by the nuisance, and one copy thereof shall be served on the record owner of the property, ~~each of the following if known to the abatement official:~~
 - a. ~~The holder of any mortgage or deed of trust or other lien or encumbrance of record;~~
 - b. ~~The owner or holder of any lease of record;~~
 - c. ~~The owner of any other estate or legal interest of record in or to the property affected by the nuisance.~~
2. The failure of the abatement official to serve any person required to be served shall not invalidate any proceedings herein as to any other person duly served or relieve any such person from any duty or obligation imposed on him them by the provisions of this section. ~~No notice is required for abatement of a nuisance occurring on the public streets and rights-of-way, city properties and parks, or for summary abatement when permitted.~~

C. Method of Service. Service of the notice and order shall be made upon all persons entitled thereto either personally, ~~or~~ by mailing a copy of such notice and order by registered or certified mail, postage prepaid, return receipt requested, or by email with confirmation of receipt of delivery and acceptance, to each such person at his address as it appears on the last equalized assessment roll of the city or as known to the abatement official. If no address of any such person so appears or is known to the abatement official, any copies of notice or order shall be so mailed, addressed to such person, at the address of the property involved in these proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Service by certified or registered mail or by email in the manner provided in this section shall be effective on the date of mailing.

D. Proof of Service. Proof of service of the notice and order shall be certified at the time of the service by written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned as acknowledgment of receipt by certified or registered mail, or confirmation of receipt and acceptance by email, shall be affixed to the copy of the notice and order retained by the abatement official.

§ 8.20.430~~120~~. Abatement—Notice and order—Recordation. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); prior code § 16-11; Formerly 8.20.100)

- A. If compliance is not had with the order within the time specified therein, and no appeals are properly and timely filed, the ~~abatement official~~ city clerk may have filed in the office of the Valdez recording district a certificate describing the property and certifying:
1. That the property is affected by a nuisance;
 2. That the owner and responsible party have been so notified.
- B. Whenever the public nuisance has been abated on a property described in the certificate, the abatement official shall file a new certificate with the office of the Valdez recording district certifying that the nuisance has been abated.

§ 8.20.440~~130~~. Abatement—Notice and order—Extension of time limit. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); prior code § 16-12; Formerly 8.20.120)

Upon receipt of an application from the person required to conform to the order and agreement in writing by such person that he will comply with the order if allowed additional time, the abatement official may, at his discretion, grant an extension of time within which to abate the nuisance, if the abatement official determines that such an extension of time will not create or perpetuate a situation dangerous to life or property. The abatement official's authority to extend time is limited to the abatement of the nuisance and will not in any way affect or extend the time to appeal his notice and order.

§ 8.20.450~~140~~. Abatement—Notice and order—Posting. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); prior code § 16-13; Formerly 8.20.130)

- A. Required. Every notice and order shall, in addition to being served as provided in Section 8.20.120(B), be posted in a conspicuous place upon the affected property.
- B. Compliance. No person shall remove or deface any such notice after it is posted until the required abatement has been completed. ~~Any person violating this subsection shall be guilty of a minor offense.~~

§ 8.20.460~~150~~. Abatement—Enforcement of order—Generally. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); prior code § 16-14; Formerly 8.20.140)

- A. Violation. After any order of the abatement official or the board of appeals shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order. ~~Any such person who fails to comply with any such order shall be guilty of a minor offense. Each day that a violation of this section continues shall constitute a separate offense punishable by a fine of up to the maximum fine set forth in Section 1.08.010.~~
- B. Failure to Obey Order. If, after any order of the abatement official or the board of appeals has become final, any person to whom such order is directed shall fail,

neglect or refuse to obey such order, the abatement official may:

1. ~~Cause such person to be prosecuted under subsection A of this section~~ Impose fines as provided in Section 8.20.250; and
 2. Institute any appropriate action to abate such nuisance under Section 8.20.~~110~~120(A)(4)(a) and (b);
- C. Failure to Commence Work. Whenever the required abatement is not commenced within fifteen days unless such abatement will materially affect a building or structure permanently attached to real property, in which case thirty days shall be allowed after the notice and order issued under this code becomes effective, the abatement official may, in addition to any other remedy herein provided, cause the nuisance to be abated with the cost of such abatement to be paid and recovered in the manner and method provided in Section 8.20.~~190~~ 210.
- D. Procedure. When any abatement of a nuisance under Section 8.20.150 (C) is ordered, the abatement official shall provide the order to the director of public works or the director of capital facilities, and such work shall be accomplished by city personnel or by private contract under the direction of such director.

~~§ 8.20.170. Abatement—Enforcement of order—Procedure—Costs. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); prior code § 16-15; Formerly 8.20.150)~~

~~A. Procedure. When any abatement of a nuisance is to be done pursuant to Section 8.20.160(C), the abatement official shall issue his order therefor to the director of public works or the director of capital facilities and the work shall be accomplished by city personnel or by private contract under the direction of such director.~~

~~§ 8.20.180~~160. Abatement—Enforcement of order—Interference prohibited. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); prior code § 16-16; Formerly 8.20.160)

No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city or with any persons who own or hold any estate or interest in the premises affected by the nuisance which has been ordered abated, whenever such officer, employee, contractor or authorized representative of the city, or person having any interest or estate in the affected premises, is performing the necessary acts preliminary or incidental to such work authorized or directed pursuant to Section 8.20.~~160~~150.

~~§ 8.20.190. Abatement—Recovery of costs. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); Ord. 96-22 § 1; prior code § 16-17; Formerly 8.20.170)~~

~~A. The abatement official shall keep an account of the costs, including incidental expenses, of~~
~~abating each nuisance, including each separate lot or parcel of land where the abatement is done, and shall render an itemized report in writing to the city council showing the costs of abatement and manner of abatement of each nuisance, including any salvage value relating thereto.~~

~~B. Upon the completion of the abatement work, the abatement official shall prepare and file with the city clerk a report specifying the work done, itemizing the total cost of the work, the description of the property affected by the public nuisance and the names and addresses of the persons entitled to notice pursuant to Section 8.20.120(B). Before the report is submitted to the city council, a copy of a report shall be posted for at least five days upon the affected premises, together with a notice of the time when the report shall be heard by the city council.~~

~~C. The costs, including incidental expenses of abatement of such nuisance, shall be a lien against the property involved or may be made a personal obligation to the property owner, whichever the city shall determine is appropriate.~~

§ 8.20.200~~170~~. Abatement—Appeal. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); Ord. 96-22 § 2; prior code § 16-18; Formerly 8.20.180)

~~Any person entitled to service under Section 8.20.120(B)~~ The responsible party or property owner of record may appeal from the notice and order or any action of the abatement official concerning abatement of a nuisance in writing within the time limits set forth in Section 8.20.220 excluding the imposition of civil fines, which may be set forth in Section 8.20.240.

§ 8.20.220~~180~~. Appeal to the city council acting as the board of appeals. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); Formerly 8.20.200)

The city council shall act as the board of appeals for an appeal of any action of decision of the abatement official, excluding the imposition of civil fines, which may be appealed as set forth in Section 8.20.240.

A. Filing Limit. An appeal from any action or decision of the abatement official may be taken by any person or persons entitled to service under Section 8.20.~~110~~120(B). The appeal shall be in the form of a written statement, and state how the appellant will be affected or aggrieved by the action. The appeal must be filed within ~~fifteen~~ thirty days of the date of the action or decision by the abatement official. ~~(unless such abatement will materially affect a building or structure permanently attached to real property, in which case thirty days shall be allowed).~~ The notice of appeal must be filed with the city clerk.

B. Stay of Proceedings. The filing of an appeal shall stay all proceedings in the matter until a determination is made by the board of appeals, unless the board of appeals or a court issues an emergency enforcement order based on a certificate of imminent peril to life or property or otherwise.

~~B.~~C. Appeals Hearing. Upon a determination by the city clerk that an appeal is timely filed by a person entitled to service under Section 8.20.~~120~~110 (B) and the appeal pertains to the subject matter of the underlying action, the city clerk shall schedule an appeals hearing before the board of appeals no sooner than twenty days from the date of the appeal request. The appeals hearing may be scheduled during a regular or special city council meeting as deemed appropriate by the city clerk.

~~C.~~ D. Notice of Hearing..

1. Form of Notice. A notice of the date, time, and place of the appeals hearing before the board of appeals shall be served on the appellant and shall be titled "NOTICE OF HEARING," and shall set forth the reasons why a nuisance was declared, the specific city code provisions violated, and the methods of abatement available
2. Posting and Service. The abatement officer, as designated by the city manager, shall cause the notice of hearing to be served upon the owner(s) of the affected premises, and shall cause a copy of the notice to be conspicuously posted on the premises. The notice shall be posted and served at least ten days before the time set for the hearing. Proof of posting shall be made by declaration under penalty of perjury. The method of service of the notice shall be the same as specified in Section 8.20. ~~110~~ 120(B).

~~D.~~ E. Report. A report concerning each case appealed to the board of appeals shall be prepared by the abatement official and filed with the city clerk. Such report shall state the decision and recommendations of the abatement official together with reasons for the decision and recommendations for abating the nuisance. All data and evidence pertaining to the case shall accompany the report.

~~E.~~ F. Procedure for Hearing by Board of Appeals. An appeal before the board of appeals shall be conducted in accordance with the following procedures:

1. Failure of Appellant to Appear. If an appellant fails to appear in person, the board of appeals may proceed with the hearing.
2. Oath to Be Administered. Anyone testifying before the board of appeals shall be administered an oath prior to giving testimony.
3. Record. The city clerk shall be ex officio clerk of the board of appeals and shall keep verbatim stenographic records or electronic recordings of the board's proceedings, showing the vote of each member on every question and all of the evidence presented.
4. Burden of Proof. The burden of proof rests with the appellant. The city shall make available to the appellant all reasonably pertinent documents requested for presentation of the appeal.
5. Rules of Evidence. The hearing of an appeal shall be conducted informally. The board of appeals shall not be restricted by the formal rules of evidence; however, the chair may exclude evidence irrelevant to the issues appealed. ~~Hearsay evidence may be considered, provided there are adequate guarantees of its trustworthiness and that it is more probative on the point for which it is offered than any other evidence which the proponent can procure by reasonable efforts.~~
6. General Procedure. Each side shall have a total of no more than thirty minutes to present their case. Each side shall be responsible for dividing their thirty minutes between oral presentation, argument, testimony ~~(including witness testimony),~~

and rebuttal. The board may expand or limit the length of the hearing depending on its complexity or take other action to expedite the proceedings.

7. Order of Presentation. The appellant shall present argument first. Following the appellant, the abatement officer shall present the city's argument. The appellant may, at the discretion of the chair, make rebuttal presentations directed solely to the issues raised by the abatement officer. The members of the board of appeals may ask questions through the chair of either the appellant or the abatement officer at any time during the hearing.
8. Witnesses and Exhibits. The appellant and the abatement officer may offer oral testimony of witnesses and documentary evidence during the hearing. All testimony before the board of appeals shall be under oath.
9. Decision of Board of Appeals. At the conclusion of the hearing, the board of appeals shall, based on the information received at the hearing, determine whether the premises, or any part thereof, constitutes a nuisance as defined in the city code. If a majority of the entire board of appeals finds by a preponderance of the evidence that a nuisance does exist and that there is sufficient cause to rehabilitate, demolish or repair the property constituting the nuisance, the board of appeals shall issue a written decision setting forth its findings and, if a nuisance is found, ordering the owner or responsible party to abate the nuisance. The decision shall set forth the methods by which abatement may be achieved and deadlines by which the nuisance shall be abated by the owner or person having control or possession of the premises. A written decision of the board of appeals shall constitute a final determination on behalf of the city of Valdez, subject to appeal to the superior court.

~~F. Stay of Proceedings. The filing of an appeal shall stay all proceedings in the matter until a determination is made by the board of appeals, unless the board of appeals or a court issues an emergency enforcement order based on a certificate of imminent peril to life or property or otherwise.~~

§ 8.20. ~~230~~¹⁹⁰. Appeal to superior court. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); Formerly 8.20.210)

An appeal from any action, decision, ruling, judgment or order of the board of appeals may be ~~taken by any person or persons entitled to service under Section 8.20.120(B), or any officer or board of the city, to~~ made by the responsible party or record owner of the property. Any appeal shall be made by filing a notice of appeal with the superior court ~~by filing with the court,~~ with a copy to the city clerk, within thirty days from the date of the action appealed. ~~from, a notice of appeal which shall specify the grounds of such appeal.~~ Failure to file the notice of appeal in the manner and time specified shall forfeit any right to appeal. The filing of an appeal shall stay all proceedings in the matter until a determination is made by the court, unless the court issues an enforcement order based on a certificate of imminent peril to life or property.

§ 8.20. ~~240~~²⁰⁰. Summary abatement. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); prior code § 16-19; Formerly 8.20.220)

A. General Procedure. The abatement official may proceed with a summary abatement

of a nuisance without notice where the abatement official determines that a nuisance is imminently dangerous to the health or safety of the occupants of the property or to the public. The abatement official may only pursue the level of abatement necessary to eliminate the immediacy of the hazard to the health and safety of the occupants or public.

- B. Summary Abatement Powers. After taking reasonable measures to contact the responsible party regarding the existence of a nuisance that immediately threatens health or safety and attempting to secure immediate abatement action from the responsible party, the abatement official may exercise the following powers upon finding that summary abatement is appropriate to the extent necessary to protect the health and safety of the occupants or the public:
1. Order the immediate vacation of any tenants and prohibit occupancy until all repairs are completed; or
 2. Post the premises as unsafe, substandard or dangerous; or
 3. Board, fence or secure the building or site; or
 4. Raze and grade that portion of the building or site to prevent further collapse and remove any hazard to the general public; or
 5. Make any minimal emergency repairs as necessary to eliminate any imminent life safety hazard; or
 6. Take any other action as appropriate under the circumstances.
- C. Post-Abatement Notice. After the summary abatement is completed, the city shall serve the responsible parties with a notice that states:
1. The actions taken by the city and the reasons for the actions;
 2. The right to contest the abatement by appealing within ten days of receiving the notice; and
 3. A statement of the costs of the abatement and notice of the city's intent to collect.
- D. Post-Summary Abatement Appeals. If a summary abatement occurs in a manner that causes costs to accrue to the responsible party or materially impacts the responsible party's property rights, the responsible party may appeal the decision for a determination by the board of appeals regarding whether the summary abatement was required. The appeals procedures set forth in this chapter shall apply to a post-summary abatement appeal. The city shall bear the burden to show the summary abatement was required by a preponderance of the evidence.

§ 8.20.210. Abatement—Recovery of costs. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); Ord. 96-22 § 1; prior code § 16-17; Formerly 8.20.170)

- A. Upon the completion of the abatement work, the abatement official shall prepare a report specifying the work done, itemizing the total cost of the work, the description**

of the property affected by the public nuisance and the names and addresses of the responsible party and record owner of the property. The abatement official shall serve the report with a demand for payment on the responsible party and record owner of the property and post the report on the property.

- B. Failure to pay for abatement costs within thirty days of the date of posting set forth in subsection A. above, or such other date as may be agreed upon between the city manager or their designee and the responsible party may result in the imposition of fines as provided in Section 8.20.240.
- C. If not paid in accordance with subsection B above, the costs, including incidental expenses of abatement of such nuisance, shall be a lien against the property involved or may be made a personal obligation to the property owner, whichever the city shall determine is appropriate.

§ 8.20.~~220~~250. Remedies. (Ord. 19-02 § 1 (part); Ord. 11-02 § 1 (part); prior code § 16-20;Formerly 8.20.230)

The remedies provided for in this chapter shall be cumulative and in addition to other remedies or procedures provided elsewhere in this code or by common law. In addition, a nuisance may be abated by the city in a civil action. When a lien has been placed upon a property, the city may bring an action of foreclosure as provided in AS 9.45.170.

§ 8.20.~~230~~300. Minor offense fine schedule.

The penalty for violations of Sections 8.20.050, 8.20.060 and 8.20.070 of this chapter shall be as reflected in the fine schedule set forth in this section. Court appearance is optional upon citation for a violation of those sections of this chapter that appear in the fine schedule set out in Section 1.08.030 and as reflected in the fine schedule set forth in this section.

Code Section	OFFENSE DESCRIPTION	Court Appearance	Penalty/Fine
8.20.020	Nuisances designated—Acts prohibited—first offense	Optional	\$100.00
8.20.020	Nuisances designated—Acts prohibited—second offense	Optional	\$250.00
8.20.020	Nuisances designated—Acts prohibited—third and subsequent	Optional	\$500.00
8.20.030	Enumerated—Acts prohibited in all zones—first offense	Optional	\$100.00
8.20.030	Enumerated—Acts prohibited in all zones—second offense	Optional	\$250.00
8.20.030	Enumerated—Acts prohibited in all zones—third and subsequent	Optional	\$500.00
8.20.040	Enumerated—Acts prohibited in all zones except heavy and special industrial—first offense	Optional	\$100.00
8.20.040	Enumerated—Acts prohibited in all zones except heavy and special industrial—second offense	Optional	\$250.00
8.20.040	Enumerated—Acts prohibited in all zones except heavy and special industrial—third and subsequent	Optional	\$500.00
8.20.050	Junk vehicles—first and subsequent	Optional	\$500.00
8.20. <u>050</u> 060	Noise—first offense	Optional	\$100.00
8.20. <u>050</u> 060	Noise—second offense	Optional	\$250.00
8.20. <u>050</u> 060	Noise—third and subsequent	Optional	\$500.00
8.20. <u>060</u> 070	Emission of smoke—first offense	Optional	\$100.00
8.20. <u>060</u> 070	Emission of smoke—second offense	Optional	\$250.00
8.20. <u>060</u> 070	Emission of smoke—third and subsequent	Optional	\$500.00
8.20. <u>070</u> 080	Escape of soot, cinders, etc.—first offense	Optional	\$100.00
8.20. <u>070</u> 080	Escape of soot, cinders, etc.—second offense	Optional	\$250.00
8.20. <u>070</u> 080	Escape of soot, cinders, etc.—third and subsequent	Optional	\$500.00

§ 8.20.240 Civil fines.

In addition to other remedies provided, violation of this Chapter may result in the imposition of civil fines as provided herein. Unless another penalty is expressly provided for any particular violation, each violation of this chapter is a noncriminal infraction, punishable by a civil fine of \$250. Each day that a violation punishable by a civil fine continues shall constitute

a separate violation. Appeal of a notice of violation for civil fines may be taken as provided in Section 1.08.050.

Section 2: This ordinance shall take effect immediately following final approval and adoption by the Valdez City Council.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF VALDEZ, ALASKA this _____ day of _____, 2025.

CITY OF VALDEZ, ALASKA

Dennis Fleming, Mayor

ATTEST:

Sheri L. Pierce, MMC, City Clerk

APPROVED AS TO FORM:

Jake Staser, City Attorney
Brena, Bell, & Walker, P.C.

First Reading:
Second Reading:
Adoption:
Yeas:
Noes:
Absent:
Abstaining: