

City of Valdez

*212 Chenega Ave.
Valdez, AK 99686*



Meeting Agenda - Final

Tuesday, March 19, 2019

6:00 PM

Work Session (Code Enforcement)

Council Chambers

City Council

WORK SESSION AGENDA - 6:00 pm

1. [Work Session: Code Enforcement Municipal Code Revisions & Implementation Plan](#)



Legislation Text

File #: 19-0121, **Version:** 1

ITEM TITLE:

Work Session: Code Enforcement Municipal Code Revisions & Implementation Plan

SUBMITTED BY: Sheri Pierce, MMC, City Clerk

FISCAL NOTES:

Expenditure Required: N/A

Unencumbered Balance: N/A

Funding Source: N/A

RECOMMENDATION:

Receive and file

SUMMARY STATEMENT:

Work session topics will include:

- Discussion regarding proposed revisions to Valdez Municipal code Title 8 - Nuisances (draft attached). *Planning department, police department, city clerk, and city legal all provided input during the revision process.*
- Discussion regarding code enforcement program implementation plan.

Chapter 8.20

NUISANCES

Definitions.
Inspection.
Nuisances designated—Acts prohibited.
Enumerated—Acts prohibited in all zones.
Enumerated—Acts prohibited in all zones except heavy and special industrial.
Junk vehicles.
Noise.
Emission of dense smoke.
Escape of soot, cinders, etc.
Voluntary compliance agreements.
Abatement—Commencement of proceedings.
Abatement—Standards to be followed.
Abatement—Notice and order.
Abatement—Notice and order—Recordation.
Abatement—Notice and order—Extension of time limit.
Abatement—Notice and order—Posting.
Abatement—Enforcement of order—Generally.
Abatement—Enforcement of order—Procedure—Costs.
Abatement—Enforcement of order—Interference prohibited.
Abatement—Recovery of costs.
Abatement—Appeal.
Appeal to the board of appeals..
Appeal to superior court.
Summary abatement in emergency.
Remedies.
Fine Schedule/

Definitions

“Abandoned vehicle” means a motor vehicle left unattended, standing, parked upon or within ten (10) feet of traveled portion of a public roadway, or a public right-of-way, for a period in excess of forty-eight (48) hours, or upon private property without the consent of the owner in excess of twenty-four (24) hours, or upon public property for more than thirty (30) days without the consent of the owner or person in charge of the property.

“Abatement official” shall mean the city manager, planning and zoning department director, fire chief, police chief, code enforcement officer or their designated representatives are authorized to enforce the provisions of this chapter.

“Attractive nuisance” shall mean a dangerous thing or condition that may foreseeably attract someone to the property, thereby causing a risk to their safety.

“Board of appeals” shall mean the Valdez City Council.

“Cinders,” “dust,” “fly ash,” “noxious acids,” “fumes” and “gases” as used shall mean all matter other than smoke, including smoke, cinders, dust and soot formed as the result of the combustion of fuels which

carried in the gas streams so as to reach the external air and which have not been completely consumed by combustion process.

A)” shall mean a measure of sound pressure level in decibels on the A-weighted scale.

bel 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.

ce” shall mean any mechanism which is intended to produce or which actually produces sound when used or handled.

mental expenses” shall mean expenses associated with nuisance abatement including, but not be limited to, actual expenses and costs of the city in the preparation of notices, specifications, contracts, overhead and portion of the work and the cost of printing and mailing required hereunder.

vehicle” means a motor vehicle that:

condition which exhibits two (2) of the following elements: broken glass; missing wheels or tires; missing body panels or parts; missing drive train parts; or

opped, wrecked or otherwise inoperable due to mechanical failure.

e” shall mean any sound which exceeds the prescribed decibel levels at a time and location described in section.

ance” shall mean any violation of the city code including the specific prohibitions set forth in this section.

onsible 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.

nd-amplifying equipment” shall mean any machine or device for the amplification of the human voice, or any other sound or noise.

Inspections

atement 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 in the performance of his or her enforcement duties, subject to the procedures below.

ctions may include or involve the taking of photographs, samples, measurements, surveys, or obtaining physical evidence, and/or conferring with any person(s) present at the affected property or location, as long as such actions are in compliance with applicable law and consistent with legally recognized privacy rights.

abatement official has reasonable cause to believe that a condition exists that poses an imminent or substantial threat of harm to persons or property, or to public health, welfare or safety, the abatement official may enter upon any affected property or location without prior notification to the owner or occupant, subject to privacy and property rights and any other applicable provisions of law, including the state and federal constitutions.

es 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 warrant authorizing an inspection and exhibit the warrant to the person in charge of the premises before the inspection. The abatement offices shall apply to the trial courts of the state to obtain an

ive search warrant. The application for an administrative search warrant shall state the name and address
ises to be inspected, the authority to conduct the inspection, the nature and extent of the inspection, and
d circumstances justifying the inspection.

Nuisances designated—Acts prohibited.

ances shall include any violation of the city code including whatever is forbidden by any provision of this
atement of nuisances in accordance with the provisions of this chapter is in addition to any other
ive, civil, or criminal remedy permitted by law.

nlawful and a minor offense punishable by a fine as set forth in the fine schedule provided in Section
cause, allow, maintain, or permit any nuisance enumerated in this chapter. Violations of this chapter that
adatory appearance are punishable by a fine of up to the maximum fine amount set out in section
ach day that a violation of this chapter continues shall constitute a separate offense. (Ord. 11-02 § 1
05-05 § 1: prior code § 16-1)

Enumerated—Acts prohibited in all zones.

ng acts and conditions shall constitute a nuisance in all zones:

ever injures or endangers the safety, health, comfort or repose of the public, offends public decency,
ith, obstructs or renders dangerous any street, highway, navigable lake or stream, or in any way renders
nsecure in life or property;

e exceeding the prescribed levels set forth in Section 8.20.050;

osing of any refuse, garbage, manure, waste or other materials except at refuse disposal sites which have
ved and are supervised by the state health officer, or city manager, and which are clearly marked for such

ping, abandoning, throwing, scattering or transporting anything in such manner as to cause the littering
t, alley or public place, or of any private property not his/her own, or as to cause the obstruction of any
or gutter, except as permitted in refuse disposal sites under subsection C of this section;

well, swimming pool or other dangerous excavation in the earth not completely covered, or guarded by a
st eight feet high of either solid panel or heavy woven-wire construction or by other means of protection,
se of watchmen which shall be fully effective at all times, including night hours;

ings which are unoccupied and open to ingress and egress and which should be locked up, boarded up or
ecured from ingress or egress:

upied buildings in a rotten or warped condition;

n windows constituting hazardous conditions and inviting trespassers and malicious mischief;

rown vegetation causing detriment to neighboring properties or property values;

trees, weeds or debris:

ituting unsightly appearance, or

erous to public safety and welfare, or

mental to nearby property or property values;

ective nuisances including but not limited to attractive nuisances in the form of:

doned and broken equipment, or

ardous pools, ponds and excavations, or

ected machinery, or

doned refrigerators, or

doned automobiles or cabinets; or

re structures or buildings as defined in Section 15.04.070(G).

en or discarded furniture and equipment in yard areas for unreasonable periods, seven days being prima
ce of an unreasonable period;

erty including but not limited to building exteriors which is maintained in such condition as to become so
nsightly or in such condition of deterioration or disrepair that such property causes appreciable
of the the use, enjoyment, aesthetic or property values of surrounding property or is materially
to nearby properties and improvements. This includes but is not limited to the keeping or disposing of or
ver the property or premises of any of the following:

er, junk, trash or debris, or

doned, discarded or unused objects of equipment such as automobiles, trailers, vehicles, furniture, stoves,
s, freezers, cans or containers, or

ant water or excavations, or

ping, pumping, placing, throwing or discharging any oil, bilge waters, refuse, garbage, or debris
at the waters of the Port of Valdez.

Enumerated—Acts prohibited in all zones except heavy and special industrial.

ng acts and conditions shall constitute a nuisance in all zoning districts unless expressly permitted

ing boxes and other debris stored in yards and visible from public streets for unreasonable periods, seven
prima facie evidence of an unreasonable period. (Ord. 11-02 § 1 (part): Ord. 05-05 § 3: prior code § 16-

Junk vehicles.

unlawful for any person to place any wrecked, junked or abandoned vehicle upon public property not set
v as a refuse disposal, or upon any private property, except licensed junk yards,.

unlawful for any owner, lessee, agent, tenant or occupant to allow or permit any wrecked, junked or
vehicle to remain on any property owned or controlled by him, except licensed junk yards,.

violation of subsection A or B of this section shall constitute a nuisance. The costs of abatement may be
assessed by the city council as provided by Section 8.20.150(B) against any or all of the following:

ehicle;

egistered owner of the vehicle;

erson who has acquired the right to possession of the vehicle from or through the registered owner;

erson in violation of subsection A or B of this section;

owner, lessee, agent, tenant or person in control of the property where the vehicle was situated at the time
e to abate.

sed in this section:

andoned vehicle” means a motor vehicle left unattended, standing, parked upon or within ten (10) feet of portion of a public roadway, or a public right-of-way, for a period in excess of forty-eight (48) hours, the property without the consent of the owner in excess of twenty-four (24) hours, or upon other public for more than thirty (30) days without the consent of the owner or person in charge of the property.

vehicle” means a motor vehicle that:

condition which exhibits two (2) of the following elements: broken glass; missing wheels or tires; body panels or parts; missing drive train parts; or

opped, wrecked or otherwise inoperable due to mechanical failure.

erson having upon his premises an abandoned or junk vehicle which is in need only of reasonable repairs but available funds to obtain the required license or to make such repairs may apply to the city manager to keep the vehicle upon the premises. (Ord. 11-02 § 1 (part); prior code § 16-4)

Noise.

t. It is the intent of this section to endeavor to provide citizens with an environment free from such ds or noise as may jeopardize their health, welfare and safety, or degrade the quality of life.

e in Residential Districts.

al Restriction. It shall be unlawful for any person to use, operate, or emit or permit to be used, operated any source of sound which produces or reproduces sound either stationary or mobile in such a manner so any sound or noise which exceeds sixty dB(A) during the hours of seven a.m. until ten p.m. or which y dB(A) from ten p.m. until seven a.m. when measured at or within the boundary of the property on ound is received.

nsibility for Creation of Noise. Any person creating any such sound or noise as described in this section ne permitting such a sound or noise to be created in, or emanate from, any premises under his care, l control shall be presumed responsible for any such sound or noise.

ptions.

gency and Public Work. Noise or sound created in the performance of public service by governmental their contractors while performing snow removal services; or emergency work engaged in by persons for afety, health or welfare; or to restore property to a safe condition following a public emergency; or work ssential public services, including construction activities directly related to the abatement of any shall not be subject to the provisions of this section.

s from Authorized Activities. The prohibitions of this section shall not apply to air traffic, parades, nts, athletic games, fairs, or functions approved by the city.

s, Horns and Whistles. The provisions of this section shall not apply to any siren, whistle, horn or bell emergency vehicles or civil defense or used by motor vehicles as warning devices to avoid collisions.

or Chimes. The provisions of this section shall not apply to any bell or chimes, or any device for the or reproduction of the sound thereof, which are associated with a clock or time-keeping device, church or

ar Alarms. The provisions of this section shall not apply to any burglar alarm or security device; owever, no burglar alarm or security device shall sound for more than fifteen minutes after being

struction Activity or Equipment. The provisions of this section shall not apply to any construction activity nt operated between the hours of seven a.m. and ten p.m.

ential Power Tools and Equipment. The provisions of this section shall not apply to any residential and equipment operated between the hours of seven a.m. and ten p.m.

ls. The provisions of this section shall not apply to the operation of any boat or vessel.

r Vehicles. The provisions of this section shall not apply to the normal and usual operation of motor less prohibited by state law.

idential/Commercial Snow Removal Activity or Equipment. Noise or sound created in the performance of commercial snow removal by property owners or their contractors.

e on Public Streets Generally. It shall be unlawful for any person to use, operate, or permit to be used or or on a parked or moving motor vehicle any sound-amplifying equipment producing sound that is clearly twenty-five feet or more from the motor vehicle on any public street or right-of-way within city limits.

orary Waiver Permits. If the applicant can show to the city manager or his designee that a diligent n of available noise abatement techniques indicates that immediate compliance with the requirements of would be impractical or unreasonable, a permit to allow exception from the provisions contained in all of this chapter may be issued, with appropriate conditions to minimize the public detriment caused by ions. Any such permit shall be of as short duration as possible, up to six months, but renewable upon a good cause, and shall be conditioned by a schedule for compliance and details of methods therefor in cases. (Ord. 11-02 § 1 (part); Ord. 09-06 § 1; Ord. 05-05 § 4; prior code § 16-5)

Emission of smoke.

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

ceptions. This section shall not apply to:

emission of smoke which would constitute a nuisance shall be permitted during temporary maintenance r a reasonable amount of time so long as the responsible party has taken all reasonable efforts to e emission of such smoke. ;

e from fires set by or permitted by any official if such fire is set or permission given in the performance al duties of such officer, and such fire in the opinion of such officer is necessary:

e purpose of the prevention of a fire hazard which cannot be abated by any other means,

e instruction of public employees in the methods of firefighting.

Escape of soot, cinders, etc.

ers to Public Health.

nlawful for any person to permit or cause the escape of such quantities of soot, cinders, noxious acids, gases in such place or manner as to:

trimental to any person or the public;

nger the health, comfort and safety of any such person or of the public;

e or have a tendency to cause injury or damage to property or business.

escape of such matter is declared to be a nuisance and may be summarily abated by the abatement official.

Voluntary Compliance Agreements

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

the name and address of the responsible party;

the address or other identification of the location of the violation;

a description of the violation and a reference to the applicable code provisions.

a description of required abatement or corrective action and the date and time within by which compliance must be completed.

a 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

a acknowledgment that by entering into the voluntary compliance agreement, the responsible party admits that the conditions described in the voluntary compliance agreement existed and constituted a code violation.

Abatement—Commencement of proceedings.

If the abatement official has inspected any activity, condition or property and has found and determined that any activity, condition or property constitutes a nuisance, the abatement official may commence proceedings to abate the nuisance 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 AS 8.20.010. (Ord. 11-02 § 1 (part); Ord. 05-05 § 5: prior code § 16-8)

Abatement—Standards to be followed.

The abatement official, and the board of appeals if an appeal is taken, shall order the means best calculated to abate the nuisance with the least costs of abatement, and demolition shall not be ordered if repair or removal may accomplish the abatement. (Ord. 11-02 § 1 (part); prior code § 16-9)

Abatement—Notice and order.

Notice—Contents. The abatement official shall issue a notice and order directly to the record owners of the property, or the person committing, creating or maintaining the nuisance. The notice and order shall be in writing and to be in form by the City Attorney and shall contain:

the street address and legal description sufficient for identification of the affected property;

a statement that the abatement official has found the property affected with a nuisance with a brief and description of the nuisance as defined in this chapter;

a statement of the action required to be taken as determined by the abatement official to abate the nuisance by repair, demolition or other action sufficient to cause the nuisance to be wholly abated;

a statement advising that if any required abatement is not commenced or completed within the time specified, the abatement official may either:

1. cause the necessary work to be done and charge the cost thereof against the property or its owner;

2. if provided by AS 29.25.070, 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.

ments advising:

any person having record title or legal interests in the property may appeal from the notice and order by the city clerk within fifteen days (unless such abatement will materially affect a building or structure attached to real property, in which case thirty days shall be allowed) from the date of service of such order an appeal in writing in accordance with the appeal procedure as provided in Sections 8.20.180 0.210; and

re to appeal will constitute a waiver of all right to administrative hearing and determination of the order, ult in the abatement official proceeding with the remedies provided in subsections (A)(4)(a) and (b) of

ce of Notice and Order.

notice and order and any amended or supplemental notice and order shall be served upon the record owner on the property affected by the nuisance, and one copy thereof shall be served on each of the following if the abatement official:

holder of any mortgage or deed of trust or other lien or encumbrance of record;

owner or holder of any lease of record;

owner of any other estate or legal interest of record in or to the property affected by the nuisance.

ailure of the abatement official to serve any person required to be served shall not invalidate any s herein as to any other person duly served or relieve any such person from any duty or obligation him by the provisions of this section. No notice is required for abatement of a nuisance occurring on the ts and rights-of-way, city properties and parks, or for summary abatement when permitted.

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

f of Service. Proof of service of the notice and order shall be certified to at the time of the service by aration under penalty of perjury executed by the person effecting service, declaring the time, date and hich service was made. The declaration, together with any receipt card returned as acknowledgement of ertified or registered mail, shall be affixed to the copy of the notice and order retained by the abatement d. 11-02 § 1 (part); prior code § 16-10)

Abatement—Notice and order—Recordation.

mpliance is not had with the order within the time specified therein, and no appeals are properly and , the abatement official may file in the office of the Valdez recording district a certificate describing the d certifying:

he property is affected by a nuisance;

he owner and responsible party has been so notified.

enever the nuisance has been abated on a property described in the certificate, the abatement official shall ertificate with the office of the Valdez recording district certifying that the nuisance has been abated.

§ 1 (part); prior code § 16-11)

Abatement—Notice and order—Extension of time limit.

Not of an application from the person required to conform to the order and agreement in writing by such person. If the person fails to comply with the order, the abatement official may, at his discretion, extend the 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 extension of time is limited to the abatement of the nuisance and will not in any way affect or extend the time for compliance with the notice and order. (Ord. 11-02 § 1 (part); prior code § 16-12)

Abatement—Notice and order—Posting.

Required. Every notice and order shall, in addition to being served as provided in Section 8.20.100(B), be posted in a conspicuous place upon the affected property.

Compliance. No person shall remove or deface any such notice after it is posted until the required abatement is completed. Any person violating this subsection shall be guilty of a minor offense. (Ord. 11-02 § 1 (part); prior code § 16-13)

Abatement—Enforcement of order—Generally.

Enforcement. After any order of the abatement official or the board of appeals shall have become final, no person shall fail to comply with such order. 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.

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 cause such person to be prosecuted under subsection A of this section; and

may cause any appropriate action to abate such nuisance under Section 8.20.100(A)(4)(a) and (b);

Failure to Commence Work. Whenever the required abatement is not commenced within fifteen or thirty days, as specified in Section 8.20.100(A)(5)(a), 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 the abatement to be paid and recovered in the manner and method provided in Section 8.20.170. (Ord. 11-02 § 1 (part); prior code § 16-14)

Abatement—Enforcement of order—Procedure—Costs.

Procedure. When any abatement of a nuisance is to be done pursuant to Section 8.20.140(C) of this chapter, the abatement official shall issue his order therefor to the director of public works or the director of capital facilities. The work shall be accomplished by city personnel or by private contract under the direction of such director.

Abatement—Enforcement of order—Interference prohibited.

Prohibition. 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 is to be abated, whenever such officer, employee, contractor or authorized representative of the city, or any 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 8.20.140. (Ord. 11-02 § 1 (part); prior code § 16-15)

Abatement—Recovery of costs.

Recovery. 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 bill to the city council showing the costs of abatement and manner of abatement of each nuisance, and the salvage value relating thereto.

Reporting. At the completion of the abatement work, the abatement official shall prepare and file with the city clerk a report itemizing the work done, itemizing the total cost of the work, the description of the property affected by the

and the names and addresses of the persons entitled to notice pursuant to Section 8.20.100(B). Before the matter 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.

The costs, including incidental expenses of abatement of such nuisance, shall be a lien against the property. No lien may be made a personal obligation to the property owner, whichever the city shall determine is appropriate. All monies recovered for the costs of the abatement shall be paid into the general fund. (Ord. 11-02 § 1; Ord. 96-22 § 1; prior code § 16-17)

Abatement—Appeal.

A person entitled to service under Section 8.20.100(B) 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 8.20.200. (Ord. 96-22 § 1 (part); Ord. 96-22 § 2; prior code § 16-18)

Appeal to the city council acting as a board of appeals. . The city council shall act as a board of appeals to hear an appeal from any action or decision of the abatement official.

Appeal Limit. An appeal from any action or decision of the abatement official may be taken by any person or entity entitled to service under Section 8.20.100(B). The appeal shall be in the form of a written statement, and the appellant will be affected or aggrieved by the action. The appeal must be filed within fifteen days 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 shall be filed with the city clerk.

Appeals Hearing. Upon a determination by the city clerk that an appeal is timely filed by a person entitled to service under 8.20.100(B) and the appeal pertains to the subject matter of the underlying action, the city clerk shall schedule the appeals hearing before the board of appeals no sooner than twenty days from the date of the appeal. The appeals hearing may be scheduled during a regular or special city council meeting as deemed appropriate by the city clerk.

Notice of Hearing

Notice 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 has been declared, the specific city code provisions violated, and the methods of abatement available.

Posting and service. The abatement officer, as designated by the city manager, shall cause the notice of appeal 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 (10) 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 8.20.100(B).

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 supporting the case shall accompany the report.

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

Failure of Appellant to Appear. If an appellant fails to appear in person, the board of appeals may proceed with the hearing.

Oath to Be Administered. Anyone testifying before the board of appeals shall be administered an oath prior to testifying.

Ord. The city clerk shall be ex officio clerk of the board of appeals and shall keep verbatim stenographic or electronic recordings of the board's proceedings, showing the vote of each member on every question and evidence presented.

en of Proof. The burden of proof rests with the appellant. The city shall make available to the appellant any pertinent documents requested for presentation of the appeal.

s of Evidence. The hearing of an appeal shall be conducted informally. The board of appeals shall not be bound by the formal rules of evidence; however, the chair may exclude evidence irrelevant to the issues appealed. Evidence may be considered, provided there are adequate guarantees of its trustworthiness and that it is more persuasive on the point for which it is offered than any other evidence which the proponent can procure by reasonable efforts.

eral 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 cross-examination), and rebuttal. The board may expand or limit the length of the hearing depending on its needs and may take other action to expedite the proceedings.

er 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 argument 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.

esses and Exhibits. The appellant and the abatement officer may offer oral testimony of witnesses and submit evidence during the hearing. All testimony before the board of appeals shall be under oath.

Decision of board of appeals. At the conclusion of the hearing, the board of appeals shall, based on the evidence 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 responsible party to abate the nuisance. The decision shall set forth the methods by which abatement shall 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.. 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 issues an emergency enforcement order based on a certificate of imminent peril to life or property or Ord. 11-02 § 1 (part))

Appeal to superior court.

From any action, decision, ruling, judgment or order of the board of appeals may be taken by any person entitled to service under Section 8.20.100(B), or any officer, or board of the city, to the superior court by filing a notice of appeal 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 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. (Ord. 11-02 § 1 (part))

Summary abatement.

eral Procedure. The abatement official may proceed with a summary abatement nuisance without notice if 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.

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 from the responsible party, the abatement official may exercise the following powers upon finding that

Abatement is appropriate to the extent necessary to protect the health and safety of the occupants or the

or the immediate vacation of any tenants and prohibit occupancy until all repairs are completed; or

the premises as unsafe, substandard or dangerous; or

d, fence or secure the building or site; or

and grade that portion of the building or site to prevent further collapse and remove any hazard to the public; or

any minimal emergency repairs as necessary to eliminate any imminent life safety hazard; or

any other action as appropriate under the circumstances.

Abatement Notice. After the summary abatement is completed, the city shall serve the responsible party a notice that states:

actions taken by the city and the reasons for the actions;

right to contest the abatement by appealing within ten days of receiving the notice; and

payment of the costs of the abatement and notice of the city's intent to collect.

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 for a determination by the board of appeals regarding whether the summary abatement was required. The 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.

Remedies.

Remedies provided for in this chapter shall be cumulative and in addition to other remedies or procedures elsewhere in this code or by common law. In addition, a nuisance may be abated by the city in a civil action. (Ord. 11-02 § 1 (part); prior code § 16-20. Formerly 8.20.200)

Fine Schedule.

Penalties for violations of Chapter 8.20 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 Chapter 8.20 that appear in the fine schedule set forth in section 1.08.030 and as reflected in the fine schedule set forth in this section.

MUNICIPAL CODE SECTION	OFFENSE DESCRIPTION	COURT APPEARANCE	PENALTY/ FINE
	Nuisances designated—Acts prohibited —first offense	Optional	\$ 100.00
	Nuisances designated—Acts prohibited —second offense	Optional	\$ 250.00
	Nuisances designated—Acts prohibited—third and subsequent	Optional	\$ 500.00
	Enumerated—Acts Prohibited in all Zones—first offense	Optional	\$ 100.00
	Enumerated—Acts Prohibited in all Zones—second offense	Optional	\$ 250.00
	Enumerated—Acts Prohibited in all Zones—third and subsequent	Optional	\$ 500.00
	Enumerated—Acts prohibited in all zones except heavy and special industrial—first offense	Optional	\$ 100.00

	Enumerated—Acts prohibited in all zones except heavy and special industrial—second offense	Optional	\$ 250.00
	Enumerated—Acts prohibited in all zones except heavy and special industrial—third and subsequent	Optional	\$ 500.00
	Junk vehicles—first and subsequent	Optional	\$ 500.00
	Noise—first offense	Optional	\$ 100.00
	Noise—second offense	Optional	\$ 250.00
	Noise—third and subsequent	Optional	\$ 500.00
	Emission of dense smoke—first offense	Optional	\$ 100.00
	Emission of dense smoke—second offense	Optional	\$ 250.00
	Emission of dense smoke—third and subsequent	Optional	\$ 500.00
	Escape of soot, cinders, etc.—first offense	Optional	\$ 100.00
	Escape of soot, cinders, etc.—second offense	Optional	\$ 250.00
	Escape of soot, cinders, etc.—third and subsequent	Optional	\$ 500.00