

City of Barre

Chapter 26 – NUISANCE PROPERTIES (Chapter amended Ordinance No. 2025-03)

Section 26-1. Authority.

This ordinance is enacted pursuant to authority set forth in Chapters 59 and 61 of Title 24 of the Vermont Statutes Annotated, including specifically 24 V.S.A. 2291 (13), (14), and (15) and §104(a) of the City Charter.

Section 26-2. Purpose.

(a) Properties where the police are repeatedly called for offenses, including but not limited to, disorderly conduct, assault, larceny investigations, robbery investigations, prostitution, sex trafficking, illicit drug use, noise, and disturbance of the peace are public nuisances that threaten the public health, safety, and/or welfare.

(b) Vermont law authorizes the City to define what constitutes a public nuisance and to provide procedures and take actions for its abatement or removal as the public health, safety, or welfare may require.

(c) The City Council therefore finds that public nuisance properties as herein defined threaten the public health, safety, and/or welfare and has developed this ordinance to take actions for the abatement and removal of the nuisance.

(d) Nothing in this ordinance shall be interpreted in a manner that violates the Fair Housing Act, the Vermont Fair Housing and Public Accommodations Act, the Violence Against Women Act, or the Americans With Disabilities Act.

Section 26-3. Definitions.

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

(a) “Public Nuisance Property” means:

(i) A property on which occurred activities serving as the factual basis for three (3) or more criminal citations within a ninety (90) day period;

(ii) A property on which, or within 200 feet of which, any person associated with the property has engaged in activities serving as the factual basis for three (3) or more criminal citations or civil ordinance violation citations (collectively) within a ninety (90) day period; or

(iii) A property on which occurred activities serving as the factual basis for three (3) or more civil violations under the Code of Ordinances.

(iv) For a building with more than four (4) dwelling units, citations associated with an individual dwelling unit within such building shall be used as the basis for the number of citations prescribed by this Section.

(b) “Criminal citation” and “civil ordinance citation” as used in subsection (a) of section 26-3 shall not include citations or calls for service related to the following:

(i) Acts that are related to domestic violence or sexual assault against a tenant or occupant;

(ii) Medical emergencies;

(iii) Acts involving potential child neglect; or

(iv) Acts involving stalking of an owner or tenant of the property.

(c) “Nuisance Activity” means activities described in section 26-3(a) of this ordinance.

(d) “Property Owner” means the person(s) in whom is vested title to the property.

(e) “Person” means any natural person, corporation, municipality, non-profit, the State of Vermont or any department of subdivision of the State, unincorporated association, or other legal entity.

(f) “Person associated with” means any person who, on the occasion of the activities that formed the factual basis of a citation (whether criminal or civil), entered, patronized, visited a property or person present on a Public Nuisance Property. “Person associated with” includes, without limitation, any officer, director, customer, agent, employee, or any independent contractor of a property owner or tenant, and any occupant, invitee, tenant, resident, or owner of a property.

(g) “Adjoiners” means an adjoining property owner(s) without regard for divisions based on a public or private right-of-way.

(h) “Nuisance Property Enforcement Team” shall mean the City Manager, Police Chief, and Fire & Emergency Medical Services Chief, and/or their designees.

(i) “Officer” means any member of the Nuisance Property Enforcement Team appointed by the City Council and authorized to enforce this ordinance.

Section 26-4. Procedure for Addressing Public Nuisance Properties.

(a) The Nuisance Property Enforcement Team shall serve as the enforcement officer(s) for Public Nuisance Properties.

(b) If the Nuisance Property Enforcement Team believes nuisance activities are occurring that could qualify the property as a Public Nuisance Property, the officer shall notify the property owner in writing.

(c) If the Nuisance Property Enforcement Team has a reasonable basis to believe a property has become a Public Nuisance Property, the officer shall notify the property owner to request a meeting to address the conditions that led to the determination of a Public Nuisance Property. At the discretion of the officer, property tenants may be requested to attend such meeting. Such notification shall be in writing and shall delineate the specific conditions that the City seeks to be remediated. The meeting shall occur within ten (10) calendar days of the notice unless such timeframe is extended in the officer’s sole discretion.

(d) The property owner may appeal the Nuisance Property Enforcement Team’s determination that the property is a Public Nuisance Property to the City Council within fifteen (15) days of the date of the written notification described in this paragraph.

(e) At the meeting, the officer and the property owner shall develop a written Nuisance Abatement Plan.

(i) If a mutually agreeable plan is agreed to, the performance of the Plan shall become part of the enforcement record for the property. Nuisance Abatement Plans shall be reasonable under the circumstances and structured to be fully implemented within forty-five (45) days. If the Nuisance Property Enforcement Team determines that the owner has complied with the Nuisance Abatement Plan, an officer shall notify the owner in writing that the public nuisance has been abated and the property is no longer a Public Nuisance Property.

(ii) If a mutually agreeable Nuisance Abatement Plan is not agreed to, or if the property owner does not respond to the request for a meeting, or if the property owner fails to follow the Nuisance Abatement Plan the property owner agreed to, the Nuisance Property Enforcement Team shall refer the matter to the City Council for a Public Nuisance Property Hearing stating its allegations of fact that support a determination that the property is a Public Nuisance Property.

Section 26-5. Public Nuisance Property Hearing.

- (a) The City Council shall hold a Public Nuisance Property Hearing within thirty (30) days upon referral by the Nuisance Property Enforcement Team or appeal by the property owner.
- (b) The property owner, property tenants, and adjoining owners shall receive at least fourteen (14) days' prior written notice of the hearing. Such notice shall delineate the specific nuisance activity in detail. Notice shall be sent by one or more of the following means:
- (i) Email;
 - (ii) United States Postal Service (USPS) Certified Mail Return Receipt Requested; or
 - (iii) Hand delivery.
- (c) The hearing shall be a quasi-judicial hearing. The Nuisance Property Enforcement Team, property owner, tenants, and adjoining owners shall have an opportunity to be heard, may be represented by counsel, and provide testimony and evidence from witnesses and experts, as necessary. The City shall have the burden of proving the allegations stated in the Nuisance Property Enforcement Team's referral to the Council by a preponderance of evidence.
- (d) At the discretion of the City Council, the hearing may be held in executive session, in accordance with the requirements of the Vermont Open Meetings Law.
- (d) Within fourteen (14) days following the conclusion of the hearing, the City Council shall issue a written decision with findings of fact based on the testimony and evidence presented in the hearing and make a determination based on those findings of fact as to whether the property at issue is a "Public Nuisance Property."
- (e) If the City Council determines that the property at issue is a "Public Nuisance Property" it may order any of the following remedies:
- (i) If the property is a rental unit or commercial property:
 - (1) Order the property owner to cause the property to cease being a Public Nuisance Property and to that end order the property owner to perform necessary building or property repairs, maintenance, and/or upgrades responsive to the nuisance activity, to be completed by the owner by a date certain to be set by the City Council in their decision which shall be reasonable given the amount of work required; and/or
 - (2) Declare the unit and/or property a Public Nuisance Property and recommend that the Chief Inspector (as identified in Ch. 4, Art. III, Sec. 4-20 of the City Code of Ordinances) revoke the certificate of occupancy for the unit and/or property pursuant to the Chief Inspector's authority to revoke certificates of occupancy in Ch. 4, Art. III, Sec. 4-20(g)(3); and/or
 - (3) Direct the Nuisance Property Enforcement Team to issue a Municipal Complaint in the Judicial Bureau or a Civil Complaint in the Superior Court seeking penalties and an injunction ordering compliance with the City Council's decision in the event the property owner fails to comply with the City Council's decision.
 - (ii) If the property is an owner-occupied property:
 - (1) Order the property owner to cause the property to cease being a Public Nuisance Property and to that end require the property owner to take specific actions responsive to the nuisance activity, including but not limited to ordering the property owner to perform necessary building or property repairs, maintenance, and/or upgrades all to be completed by the property owner by a date certain to be set by the City Council in their decision which shall be reasonable given the amount of work required; and/or
 - (2) Direct the Code Enforcement Team to issue a Municipal Complaint in the Judicial Bureau or a Civil Complaint in the Superior Court seeking penalties and an injunction ordering compliance with the City Council's decision in the event the property owner fails to comply with the City Council's decision.

(f) When considering a matter brought forward under this Section, the City Council may consider, among other factors whether the property owner attempted to take reasonable corrective action.

(g) A City Council decision may be enforced pursuant to 24 V.S.A. § 1974a.

(h) The property owner, or any person aggrieved by a City Council decision finding a property to be a Nuisance Property may appeal that decision within thirty (30) days of the date of the decision pursuant to the Vermont Rules of Civil Procedure.

Section 26-6 Penalties.

(a) Each day that a property owner fails to comply with a City Council decision shall constitute a separate violation.

(b) The penalty for a first violation shall be \$250.00 with a waiver penalty of \$165.00.

(c) The penalty for a second violation and subsequent violations shall be \$500.00 with a waiver penalty of \$325.00.

Section 26-7 Cumulative Remedies.

Prosecution under this Section 26 of the Code of Ordinances is a remedy cumulative to any and all other remedies at law and equity, and in no way preempts, supersedes, or prohibits the City from seeking other remedies available to the City. The City's or Nuisance Property Enforcement Team's selection of one remedy does not act as a waiver as to other remedies available under the Code of Ordinances, or at law, or in equity.

Section 26-8 Effective Date.

This ordinance shall take effect 90 days upon passage.

Section 26-9. Severability.

If any portion of this ordinance is found to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected and shall remain in full force and effect. If any statute referred to in this ordinance is amended, this ordinance shall be deemed to refer to such amended statute.