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# ORDINANCE NO. 1355

## AN ORDINANCE OF THE CITY OF FOLSOM ADDING CHAPTER 8.39, "UNLAWFUL BEHAVIORAL NUISANCES", TO THE FOLSOM MUNICIPAL CODE TO PREVENT, REMOVE, AND ABATE BEHAVIORAL NUISANCES THAT NEGATIVELY AFFECT PEOPLE, PROPERTIES, AND BUSINESSES IN THE COMMUNITY

The City Council of the City of Folsom does hereby ordain as follows:

## SECTION 1 PURPOSE

The purpose of this ordinance is to add Chapter 8.39, "Unlawful Behavioral Nuisances", to the Folsom Municipal Code to prevent and allow Code Enforcement and/or Law Enforcement to remove and abate harmful behaviors that typically associate with crimes and create blight and decay in the community.

## SECTION 2 ADDITION TO CODE

Chapter 8.39, "Unlawful Behavioral Nuisances", is hereby added to the Folsom Municipal Code to read as follows:

### Chapter 8.39
### UNLAWFUL BEHAVIORAL NUISANCES

**Sections:**

**8.39.010 Finding and purpose.**
**8.39.020 Definitions.**
**8.39.030 Unlawful behavioral nuisances.**
**8.39.040 Declaration of public nuisance.**
**8.39.050 Notification of nuisance.**
**8.39.060 Authority to issue administrative citation.**
**8.39.070 Authority to initiate administrative remedies.**
**8.39.080 Abatement by city.**
**8.39.090 Assessment lien.**
**8.39.100 Alternative actions available.**
**8.39.110 Violations.**

### 8.39.010 Finding and purpose

A. Certain behaviors of persons on property within the City are injurious to residents, property owners, and businesses in the community, and as such constitute a public nuisance. Such public nuisances can create conditions that negatively affect one's health, or be indecent or offensive to the senses, or contribute to visual blight, so as to interfere with the safety and enjoyment of life or property by people in the community or neighborhood. The abatement of such behavioral nuisances is important to the City in its fight against blight, decay, deterioration and crime.

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B. The owners of real properties within the City are responsible for monitoring their properties and for taking appropriate action if a nuisance exists thereon, whether that nuisance is created by existing physical conditions or by nuisance creating behaviors, or the combination of conditions. Many nuisances can be avoided with active property management. Lack of proper management of real property can create an environment conducive to behaviors that can become a nuisance with repetition and lack of abatement and corrective measures. If a property owner does not fulfill his or her responsibilities, it is necessary for the safety, health and welfare of the neighborhoods, and the City as a whole, that the City be able to undertake abatement action.

C. Because of the profound impact and affect behavioral nuisances have on the community, individuals and crime, the City Council, in adopting this Chapter finds the civil penalties imposed for a violation of this Chapter are justified and necessary to protect the health, property, and integrity of this community.

D. Nothing in this Chapter exempts property owners from compliance with state, federal, or local laws, including, but not limited to, laws on housing, eviction, retaliatory conduct, discriminatory conduct, or invasion of privacy.

E. The purpose of this Chapter is:

1. To set forth and enforce minimum standards relating to the management of activities conducted or conditions on real property to protect the public health, safety and welfare, and;

2. To put in place remedies which will permit the City to take timely, effective, efficient administrative or other legal action against property owners who permit or suffer nuisance creating behaviors or conditions to occur on their properties on a continuing basis, in order to compel such owners to abate the nuisance creating behaviors or conditions and control the environment, both physical and behavioral, on such real properties.

F. The provisions of this Chapter are complimentary, cumulative, supplementary, and additional to any other legal remedies available, whether found in this Code, state or federal laws, regulations, or case law.

G. It is not the intent nor purpose of this Chapter to subject owners or managers to any legal liability resulting from a tenant's actions away from the owner's or manager's own property unless it can be shown that the problem tenant is also creating a nuisance or committing a crime on the owner's or manager's property.

**8.39.020 Definitions.**

“Public nuisance” means the creation or maintenance of any behavior or condition upon public or private property which is injurious to health, or indecent or offensive to the senses, or an obstruction to the free use of property, or a detriment to property values, or contributes to visual blight, so as to interfere with the comfortable enjoyment of life or property of an entire community or neighborhood, or by any considerable number of persons.

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“Building” means any structure used or intended for supporting or sheltering any use or occupancy and includes any house, garage, duplex, apartment, condominium, stock cooperative or other residential structure, and includes all retail, commercial and industrial structures.

“City Manager” means the City Manager or his/her designees.

"Frequent" means such response is occurring more than one and one-half times than the average number of such responses for property of a similar size in character.

“Owner” means any person owning property, as shown on the last equalized assessment roll for property taxes, or other person having control or possession of the property.

“Person” means any individual, partnership, corporation, business, association or other organization, however formed.

“Property” means all property within the City and includes any building located on such property.

“Tenant or occupant” means any person or group of persons occupying the whole or part of a building or land, whether or not pursuant to a written or oral lease, tenancy at will, tenancy at sufferance or otherwise.

**8.39.030 Unlawful behavioral nuisances.**

It is hereby declared a public nuisance and a violation of this Chapter for the owner, whether through the owner or owner's agent, lessee, sublessor, sublessee, or occupant of any property in the City to permit, with actual or constructive knowledge, any of the following activities or behavior to occur on the property of the owner:

A. The illegal sale, use, possession, distribution, or transport of controlled substances or other illegal drugs and substances;

B. The gathering, or coming and going, of people who have an intent to purchase, use, distribute, sell, or transport controlled substances on or from the property;

C. The occurrence of prostitution;

D. Unlawful activities of a criminal street gang as defined in the California Penal Code;

E. The making or continuing, or causing to be made and continued, or any loud unnecessary or unusual noise which disturbs the peace and quiet of the neighborhood, or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing on the property or in the area;

F. The unlawful discharging of a firearm or brandishing of a weapon by any person;

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G. Unlawful fireworks displays;

H. The frequent response by the Folsom Police Department to the real property or the adjacent area (but not the real property of another) as a result of any person or persons causing any combination of the following calls as indicated in the Folsom Police Department incident report:

1. Animal disturbances, including but not limited to competitive fighting between animals.

2. Violent criminal acts, charged or not, including, but not limited to, rape, assault, battery, homicide, or shooting.

3. Making hostile or aggressive gestures or threats that disturb the peaceful enjoyment of another person.

4. Illegal consumption of intoxicants in public view.

5. Gaming activities.

6. Juvenile disturbances.

**8.39.040 Declaration of public nuisance.**

Any behavior on property in violation of the foregoing Section 8.39.030 is declared to be a public nuisance and shall be abated pursuant to the procedures set forth in this Chapter or elsewhere in the Municipal Code. The procedures for abatement set forth in this Chapter shall not be exclusive and shall not in any manner limit or restrict the City from enforcing other City ordinances or abating public nuisances in any other manner provided by law.

**8.39.050 Notification of nuisance.**

Whenever the City Manager or his or her designee determines that any behavior described in Section 8.39.030 exists on any property within the City, the City Manager shall give notice to the owner of the property, and if known the person responsible for causing the violation if that is not the owner, stating the section(s) being violated. Such notice shall set forth a reasonable time limit, in no event less than ten calendar days, for correcting the violation(s) and may set forth suggested methods of correcting them. Such notice shall be served upon the owner in person or by certified mail.

**8.39.060 Authority to issue administrative citation.**

In the event the owner or person responsible for the violation shall fail, neglect or refuse to comply with the notice of order to abate, the City Manager designee shall have the authority to

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issue an administrative citation in accordance with the provisions of Chapters 1.08 and 1.09 of this Code.

**8.39.070 Authority to initiate administrative remedies.**

In the event the owner or person responsible for the violation(s) shall fail, neglect or refuse to comply with notice of order to abate, or to respond to the issuance of an administrative citation, the City Manager shall have the authority to initiate administrative remedies in accordance with the provisions of Chapter 1.09 of this Code, in addition to all other legal remedies, criminal or civil, which may be pursued by the City to address any violation of this Code.

**8.39.80 Abatement by city.**

A. If the nuisance is not abated within the specified abatement period, the City Manager shall abate, or cause to be abated, the nuisance utilizing City employees or private contractor. The cost of abatement and administration for same shall be billed to the owner, and be due and payable within thirty days thereafter. Administrative costs shall include personnel costs, costs incurred in documenting the nuisance, costs of notices, specifications and contracts, inspections, and costs of printing and mailing required by this Chapter.

B. In the event the property owner disputes the cost of abatement and administration, the owner shall give notice to the City Clerk of such objection and the clerk shall set the matter for hearing before the City Council within thirty days after receipt of said notice, at which time the Council will hear evidence presented by the owner and staff and determine whether or not the cost of abatement and administration are reasonable. The determination of the City Council shall be final and not appealable.

**8.39.090 Assessment lien.**

In the event the costs to abate the nuisance are not paid by the owner, the City shall prepare a special assessment against the subject property requiring the abatement of nuisance. Assessment will be implemented upon recordation in the office of the county recorder of a notice of lien on the property for the amount of the assessment; or to cause the amounts of the respective assessments to be added to the next regular tax bills levied against the affected properties.

**8.39.100 Alternative actions available.**

Nothing in this Chapter shall be deemed to prevent the City from commencing a civil or criminal proceeding to abate a public nuisance or from pursuing other means available under provisions of applicable ordinances or state laws, to correct and abate health and safety hazards created by the behavioral nuisance in addition to or as alternatives to the proceedings set forth in this Chapter.

**8.39.110 Violations.**

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A. The owner or other person having charge or control of any such building, structure or property who maintains any public nuisance defined in this Chapter, or who violates any order of abatement made pursuant to this Chapter is guilty of an infraction.

B. Any person who removes or defaces any notice or order posted as required by this Chapter is guilty of an infraction.

C. No person shall obstruct, impede or interfere with any representative of the City or City contractor engaged in mitigating, removing, or abating a nuisance pursuant to the provisions of this Chapter, or in performing any necessary act preliminary or incidental to such work as authorized or directed pursuant to the provisions of this Chapter.

**SECTION 3 SCOPE**

Except as set forth in this ordinance, all other provisions of the Folsom Municipal Code shall remain in full force and effect.

**SECTION 4 SEVERABILITY**

If any section, subsection, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council declares that it would have passed each section irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared unconstitutional, invalid, or ineffective.

**SECTION 5 NO MANDATORY DUTY**

This Ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

**SECTION 6 EFFECTIVE DATE**

This ordinance shall become effective thirty (30) days from and after its passage and adoption, provided it is published in full or in summary within twenty (20) days after its adoption in a newspaper of general circulation in the City.

This ordinance was introduced and the title thereof read at the regular meeting of the City Council on August 12, 2025 and the second reading occurred at the regular meeting of the City Council on August 26, 2025.

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On a motion by Councilmember Kozlowski seconded by Councilmember Leary, the foregoing ordinance was passed and adopted by the City Council of the City of Folsom, State of California, this 26th day of August, 2025, by the following roll-call vote:

**AYES:** Councilmember(s): Raithel, Rohrbough, Kozlowski, Leary, Aquino
**NOES:** Councilmember(s): None
**ABSENT:** Councilmember(s): None
**ABSTAIN:** Councilmember(s): None

Sarah Aquino
Sarah Aquino, MAYOR

ATTEST:

Christa Freemantle
Christa Freemantle, CITY CLERK