

ARTICLE I - GENERAL PROVISIONS

CHAPTER 1 - ADOPTION OF CODE

Sec. 1100. Short Title, Reference to Code. This code shall be known as the "Grover City Municipal Code," and it shall be sufficient to refer to said code as the "Grover City Municipal Code" in any prosecution for the violation of any provisions thereof. It shall also be sufficient to designate any ordinance adding to, amending, or repealing, said code, or portions thereof, as an addition or amendment to, or repeal of, the "Grover City Municipal Code," or a portion thereof. (Ord. 1)

Sec. 1101. Codification Authority. This code consists of all of the ordinances of the City of Grover City. (Ord. 1)

Sec. 1102. Validity of Portions of Code. If any section, subsection, sentence, clause, phrase, or portion of this code is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this code. The City Council hereby declares that it would have adopted this code and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional. (Ord. 1)

Sec. 1103. Distribution of Code. Not less than three (3) copies of this code shall be filed for use and examination by the public in the office of the City Clerk. At least three (3) copies duly certified to by the City Clerk shall be maintained on file in his office. Additional copies shall be prepared in looseleaf form and mounted to withstand heavy usage in such binders as the City Clerk may prescribe. Copies thereof shall be distributed as determined by the City Clerk. (Ord. 1)

Sec. 1104. Notation of Amendments. Upon the adoption of any amendment or addition to said code, or upon the repeal of any of its provisions, the City Clerk shall certify thereto and shall make an appropriate notation in the volumes of said code of the taking of such action, noting thereon the number of the ordinances pursuant to which such action is taken. Duly certified copies of every ordinance making changes in such code shall be filed in the office of the City Clerk in books for such purpose, duly indexed for ready reference. (Ord. 1)

Sec. 1105. Amendments. The City Clerk shall prepare copies of such changes in the code for insertion in the looseleaf copies thereof. Every section of the code so changed shall have printed thereon a notation of the ordinance number pursuant to which such change is adopted. (Ord. 1)

Sec. 1106. Adoption of Uniform Code Amendments. Whenever any uniform code is adopted by reference by any portion of this code, subsequent editions of, and revisions to, such uniform code may be adopted by resolution of the Council in accordance with Government Code Section 50022.7. (Ord. 75-11)

CHAPTER 2 - PENAL PROVISIONS

Sec. 1200. Declaration of Purpose. The City Council finds that the enforcement of the Municipal Code and applicable state codes throughout the City is an important public service. Code enforcement is vital to protection of the public's health, safety, and quality of life. The City Council recognizes that enforcement starts with the drafting of precise regulations that can be effectively applied in administrative enforcement hearings and judicial proceedings. The City Council further finds that a comprehensive code enforcement system that uses a combination of judicial and administrative remedies is critical to gain compliance with code regulations. Failure to comply with an administrative code enforcement action may require the City Attorney to file a judicial action to gain compliance. (Ord. 06-10)

Sec. 1201. General Enforcement Authority. The City Manager or any of his/her designated Enforcement Officials as set forth in this Code have the authority and powers necessary to gain compliance with the provisions of the Municipal Code and applicable state codes. These powers include the power to inspect public and private property and use whatever judicial and administrative remedies are available under the Municipal Code or applicable state codes. (Ord. 06-10)

Sec. 1202. Code Violations. (A) No person shall violate any provision or fail to comply with any of the requirements of this Code. Any person violating any of the provisions or failing to comply with any of the requirements of this Code shall be guilty of an infraction unless otherwise designated as follows:

(1) Such Code provision makes violation thereof a misdemeanor.

(2) The City, at its discretion, may issue an administrative citation and civil penalty as provided in Chapter 4 herein, in lieu of charging any violation of the Code as a misdemeanor or an infraction. The enforcement of those civil penalties shall be governed by the civil administrative citation procedures set forth in this article.

(B) Each violation of this Code shall be a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by such person and shall be charged accordingly.

(C) In all cases where the same violation is made actionable or is created by different clauses or sections of this Code, the City Attorney or Enforcement Officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same violation.

(D) The City Attorney has discretion to institute the appropriate civil action to ensure compliance with the Grover Beach Municipal Code, including an action for a temporary restraining order, a preliminary or permanent injunction or an action to recover any damages incurred as a result of any Code violation. (Ord. 06-10)

Sec. 1203. Citation of Violators. The provisions of Part 2, Title 3, Chapter 5 of the Penal Code, or its successor, shall govern the procedures required for criminal enforcement of the Grover Beach Municipal Code. (Ord. 06-10)

Sec. 1203.1. Failure to Appear as Misdemeanor. Any person willfully violating his written promise to appear in court is guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested. (Ord. 06-10)

Sec. 1203.2. Enforcing Officers Generally. The Police Chief and the Fire Chief and all peace officers employed by the Police Department and all the firefighters employed by the Fire Department are hereby empowered to enforce, and are charged with the duty of enforcing, any and all provisions of this Code or of any other ordinance of the City, including the power to arrest for such violations in accordance with the laws of the State of California, together with such other powers as are conferred upon them by the City. The Police Chief may authorize employees of the Police Department, and the Fire Chief may authorize employees of the Fire Department, excepting clerks, stenographers and others whose duties do not fall within the scope of law enforcement services, to enforce any and all provisions of the statutes of the State of California, of this Code, or of any other ordinance of the City where the violation of such provision or provisions would constitute a misdemeanor or an infraction, including the power to cite for such violations in accordance with the laws of the State of California. (Ord. 06-10)

Sec. 1203.3. Enforcement Officers. (A) Training Requirements. Before any such officer or employee may exercise criminal citation authority pursuant to this section, that officer or employee must complete an enforcement-training program established at the discretion of the Chief of the Grover Beach Police Department. The training program shall be designed to instruct officers and employees regarding:

- (1) The provisions of this Code to be enforced;
- (2) The evidentiary prerequisites to proper prosecution for violations thereof;
- (3) The procedural requirements of citations, including completion of the forms, processing and amendment of citation forms; and
- (4) The limitations attendant thereto.

(B) Citation Authority. The City Manager may appoint employees of the City of Grover Beach from Departments other than the Police Department and Fire Department of the City as Enforcement Officers who shall have the same powers to enforce and duty to enforce the provisions of the Grover Beach Municipal Code as people designated in Section 1203.3.

(C) Delegation. An officer or employee designated in subsection (B) has the authority to appoint employees to assist in the enforcement responsibilities. Such employees shall likewise have the authority to issue criminal citations following the written confirmation by the City Manager of the appointment of such employees by the officers and employees designated in subsection (B) and completion of the training required by subsection (A).

(D) Notice to Appear. Citation officers vested with criminal citation authority pursuant to this section, may, pursuant to Sections 836.5, 853.5 and 853.6 of the California Penal Code, issue a citation in the form of a NOTICE TO APPEAR to a person where any such citation officer has probable cause to believe that the person to be issued the citation has violated a provision of this Code in the citation officer's presence, which the citation officer had the discretionary duty to enforce, and therefore, has committed a misdemeanor or infraction.

(E) Release on Written Promise to Appear. A citation officer exercising the authority pursuant to this section may release the person to be issued a citation on his or her written promise to appear in court. The citation officer shall under no circumstances take the person to be issued a citation into custody.

(F) Refusal to Sign. In the event that the person to be issued a citation refuses to provide his or her written promise to appear in court, a citation officer may summon a Grover Beach Police Officer and request that such police officer take the person into custody. If the person demands to be taken before a magistrate, the citation officer may summon a Grover Beach Police Officer and request that such Police

Officer take the person into custody, or seek assistance of the City Attorney and request that a complaint be prepared and filed against that person.

(G) Filing and Maintenance Files. Citation officers having a duty to enforce the provisions of this Code, and who exercise the authority to issue a citation pursuant to this section, shall maintain a file of executed citations issued under subsection (D) any citations for misdemeanors shall be forwarded to the City Attorney's office for issuance of a complaint and filing with the appropriate magistrate.

(H) Additional Authority. Nothing in this section shall be considered to limit any authority otherwise vested in the named officers and employees, provided elsewhere in this Code, or by State law. (Ord. 06-10)

Sec. 1203.5. Enforcement Officers Powers. Whenever a duty, right, power, privilege, immunity is granted to, or imposed upon, a City officer or employee, the duty may be performed, or the right, power, privilege, or immunity exercised by, any subordinate or aide to the officer or employee who has been so charged by the officer or employee, or when the obligations of the position of the subordinate or aide charge him with performing the duty or charge him with exercising or entitle him to exercise the right, power, privilege, or immunity. (Ord. 06-10)

Sec. 1204. Infractions. Any person violating any of the provisions or failing to comply with any of the requirements of this Code shall be guilty of an infraction if the Code provision under which the person is charged makes violation thereof an infraction or if the Code designates a violation as a misdemeanor and the City Attorney elects to treat such violation as an infraction in accordance with subsection 1202 (A)(2) above. Any person convicted of an infraction under the provisions of this Code herein shall be punishable by (1) a fine not exceeding one hundred dollars (\$100.00) for a first violation; (2) a fine not exceeding two hundred dollars (\$200.00) for a second violation of the same provision within one year of the date of the first violation; (3) a fine not exceeding five hundred dollars (\$500.00) for a third violation of the same provision within one year of the date of the first violation; (4) a fourth or subsequent violation of the same provision within one year of the date of the first violation may be charged as a misdemeanor. Except as otherwise provided by law, all provisions of law or ordinance relating to misdemeanors shall apply to infractions. (Ord. 06-10)

Sec. 1204.1 Misdemeanors. Except as otherwise provided in this Code, any person convicted of a misdemeanor under the provisions of this Code shall be punishable by a fine of not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the City or County of San Luis Obispo jail for a period of not more than one year, or by both such fine and imprisonment. (Ord. 06-10)

CHAPTER 3 - RULES OF CONSTRUCTION

Sec. 1300. Construction, Provisions Governing. Unless the provisions or the context otherwise require, these general provisions, rules of construction, and definitions shall govern the construction of this code. The provisions of this code and all proceedings under it are to be construed with a view to effect its objects and to promote justice. (Ord. 1)

Sec. 1301. Headings, Effect of. Article and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of any article or section hereof. (Ord. 1)

Sec. 1302. Reference to Acts or Omissions Within this City. This code shall refer only to the omission or commission of acts within the territorial limits of the City and to that territory outside of the City over which the City has jurisdiction or control by virtue of the Constitution, or any law, or by reason of the ownership or control of property. (Ord. 1)

Sec. 1303. Prohibited Acts, Including Causing, Permitting, or Suffering. Whenever in this code any act or omission is made unlawful, it shall include causing, permitting, aiding, abetting, suffering, or concealing such act or omission. (Ord. 1)

Sec. 1304. Acts by Deputy. Whenever a power is granted to or duty is imposed upon a public officer or employee, the power may be exercised or the duty may be performed by a deputy of such officer or employee, or by a person otherwise duly authorized pursuant to law or ordinance, or by an officer of the County of San Luis Obispo, or by a deputy or employee of such officer when by contract with the City of Grover City such officer is obligated and has agreed to perform certain duties on behalf of the City, unless this code expressly provides otherwise. (Ord. 1)

Sec. 1305. Writing, Includes What. Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement, or record is required or authorized by this code, it shall be made in writing in the English language unless it is expressly provided otherwise. (Ord. 1)

Sec. 1306. Reference Applies to Amendments. Whenever a reference is made to any portion of this code, or to any ordinances of this City, the reference applies to all amendments and additions now or hereafter made. (Ord. 1)

Sec. 1307. Notices, Service of. Whenever a notice is required to be given under this code, unless different provisions herein are otherwise specifically made, such notice may be given either by personal delivery thereof to the person to be notified or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to such person to be notified at his last known business or residence address as the same appears in the public records of the City or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in the post office. (Ord. 1)

Sec. 1308. Proof of Notice. Proof of giving any notice may be made by the certificate of any officer or employee of the City, or by affidavit of any person over the age of eighteen (18) years, which shows service in conformity with this code, or other provisions of law applicable to the subject matter concerned. (Ord. 1)

Sec. 1309. Tenses. The present tense includes the past and future tenses, and the future, the present. (Ord. 1)

Sec. 1310. Gender. The masculine gender includes the feminine and neuter. (Ord. 1)

Sec. 1311. Number. The singular number includes the plural, and the plural, the singular. (Ord. 1)

Sec. 1312. Shall and May. Shall is mandatory and may is permissive. (Ord. 1)

Sec. 1313. Oath. Oath includes affirmation. (Ord. 1)

Sec. 1314. Person. Person as used in this code, or in any ordinance or code adopted hereby, includes any person, firm, association, organization, partnership, business trust, company or corporation, and any municipal, political or governmental corporation, district, body or agency, other than the City of Grover City. (Ord. 1)

Sec. 1315. State. State is the State of California. (Ord. 1)

Sec. 1316. County. County is the County of San Luis Obispo. (Ord. 1)

Sec. 1317. City. City is the City of Grover City. (Ord. 1)

Sec. 1318. Office. The use of the title of any officer, employee, office, or ordinance shall mean such officer, employee, office, or ordinance of the City of Grover City. (Ord.1)

Sec. 1319. Council. Council is the City Council of the City of Grover City. (Ord. 1)

Sec. 1320. Street. Street includes all streets, highways, avenues, lanes, alleys, courts, places, squares, sidewalks, parkways, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property as designated in any law of this State. (Ord. 1)

Sec. 1321. Owner. Owner applied to a building or land shall include any part owner, joint owner, tenant, tenant-in-common, joint tenant, of the whole or a part of such building or land. (Ord.1)

Sec. 1322. Tenant or Occupant. Tenant or occupant applied to a building or land shall include any person who occupies the whole or part of such building or land, whether alone or with others. (Ord. 1)

Sec. 1323. Sale. Sale includes any sale, exchange, barter, or offer for sale. (Ord. 1)

Sec. 1324. Goods. Goods include wares or merchandise. (Ord. 1)

Sec. 1325. Operate. Operate includes carry on, keep, conduct, or maintain. (Ord. 1)

CHAPTER 4 - ADMINISTRATIVE CITATIONS FOR VIOLATION OF CODE

Sec. 1400. Administrative Citations and Penalties. The City Council finds that there is a need for an alternative method of enforcement of violations of the Municipal Code. The City Council further finds and declares that an appropriate method for enforcement for violations of the Code is the following administrative citation and civil penalty program.

(A) Administrative Citation. Any person violating any provision of the Code may be issued an administrative citation by a citation officer as provided in this article. A separate civil penalty for each violation of the Code may be assessed by means of one administrative citation.

(B) Contents. Upon discovering or observing any violation of the Municipal Code, a citation officer may issue an administrative citation, in a form approved by the City Manager, to a violator or property owner, with the following contents:

- (1) Date and location of the violation(s), including the street address, if any, and the approximate time the violation(s) were observed;
- (2) The citation shall include a statement specifying the behaviors which constitute the nuisance;
- (3) Description of the action required to correct the violation(s), if applicable; and if applicable, the date by which the violation must be corrected;
- (4) Statement explaining the consequences of failure to correct the violation(s);
- (5) Amount of penalty imposed for the violation(s);
- (6) Explanation of how the penalty shall be paid and the time period by which it shall be paid, and the consequences of failure to pay the penalty;
- (7) Right to contest the contents of the administrative citation and right of appeal, including the name and address of the City Manager for purposes of filing any notice of appeal; and
- (8) Signature of the enforcement officer and the signature of the violator if he can be located, as outlined herein.

(C) Issuance. The citation officer shall attempt to locate the responsible party for any violation of this Code. For purposes of issuance of a citation to a business, the citation may be issued to the person in immediate control of the business on site at the time of the issuance of the administrative citation and penalty. The citation officer shall attempt to obtain the signature of the person upon whom the citation was issued. However, the lack of signature shall in no way affect the validity of the citation and subsequent proceedings.

(D) Issuance When Unable to Locate Violator. If the citation officer is unable to locate the violator(s) then the administrative citation shall be mailed to the responsible party and property owner, if different than the responsible party. The administrative citation shall be mailed to the violator(s) or property owner(s) by certified and first class mail. The failure of any person with an interest in the property to receive such notice shall not affect the validity of any proceedings taken under this chapter. Notice by certified and first class mail in the manner described above shall become effective on the date of mailing.

(E) Imposition of Penalty. A citation issued for a continuing violation of a building, plumbing, electrical or other structural or zoning regulation, that does not create an immediate danger to public health or safety, may not be issued until the responsible party has been given a reasonable period of time by the City to correct the violation through a notice of violation, notice and order or other type of corrective notice.

(F) Appeal. Any person issued an administrative citation may contest the contents of the administrative citation by filing an appeal under Section 1408 below. If no appeal is filed within the time prescribed, the penalty shall be final and immediately payable.

(G) Penalty. Except as otherwise set forth in this Code, or by the Master Fee Resolution, the City Council establishes the following base schedule for determining the amount of the civil penalty to be assessed for each code violation specified in the administrative citation.

(1) First violation within a rolling twelve-month period, in the amount designated in the Master Fee Schedule;

(2) Second occurrence of the same violation within a rolling twelve-month period, two and one-half (2 ½) times the amount designated in the Master Fee Schedule for a first violation;

(3) Third or subsequent occurrence of the same violation within a rolling twelve-month period, five times the amount designated in the Master Fee Schedule for a first violation;

(H) Failure to Correct. If the violator or property owner fails to correct the violation, subsequent administrative citations and penalties may be issued for the same violation(s) or the City may institute any other applicable action permissible under this Code to gain compliance. The amount of the penalty for each subsequent violation of the same Code provision shall increase at a rate specified in this article.

(I) Each violation of this Code shall be a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by such person and shall be charged accordingly.

(J) Payment of Fine Without Correction of Violation. Payment of any penalty shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the City. The failure of any person to pay any penalty assessed by administrative citation within the time specified on the administrative citation shall result in the assessment of an additional late fee to be charged. The amount of the late fee shall be ten percent of the total amount of the civil penalty due and owing.

(K) Collection of Penalty. The City shall collect delinquent or unpaid penalties as follows: costs or penalties subject to collection under this article may be recovered as a personal obligation against the responsible party and may be referred to a collection agency or the City Attorney's Office for collection. Upon referral of these costs and obligations, the collection agency and the City Attorney's Office may seek collection through any legal means provided to them, including judicial action. Nothing in this section shall be affected by or affect the City's use of any other procedure provided in this article or by law to collect unpaid costs and penalties. In a judicial action to recover abatement costs, the City Attorney's Office may elect to recover attorney's fees.

(L) Authority to Issue Administrative Citation. The following officers and employees have the authority to issue administrative citations and civil penalties: City Manager, Fire Chief, Police Chief, Director of Administrative Services, Community Development Director, any of their agents or representatives, and any other City employee designated or appointed by the City Manager.

(M) Payment of Penalty and Use of Proceeds. Except as otherwise provided, all civil penalties assessed shall be payable to the City. (Ord. 06-10)

Sec. 1400.1. Authority to Inspect. Any person with authority under this article to issue administrative citations shall also have authority to enter upon any property or premises to ascertain whether provisions of the Grover Beach Municipal Code or applicable state codes, regulations, or ordinances are being obeyed,

and to make examinations and surveys as may be necessary in the performance of their duties. These may include taking photographs, video, samples, or other physical evidence. All inspections, entries, examinations, and surveys shall be done in a reasonable manner and with the consent of the owner, agent or occupant. If an owner, occupant, or agent refuses permission to enter or inspect, said person authorized to conduct the inspection may seek an inspection warrant pursuant to the procedures provided for in Code of Civil Procedure Sections 1822.50 through 1822.59 or their successors to perform duties imposed upon said person. (Ord. 06-10)

Sec. 1401. Issuance of Permits; Violations of Law. When in this Code, or in any other ordinance of the City, an officer or employee of the City is empowered and has the duty to issue a regulatory permit, and the officer or employee has reason to believe that the applicant is engaged in, or has on his premises a violation of law, ordinance, or City regulation, and exercise of the permit will propagate, encourage, or perpetuate the violation, then the officer or employee, with the approval of the City Attorney, may refuse to issue the permit until such time that it is established that the violation has been abated or does not exist, provided that the officer or employee may, with the permission of the City Attorney, issue the permit upon conditions reasonably calculated to eliminate the violation and in such case the permit may be revoked upon failure to perform or conform to the condition. (Ord. 06-10)

Sec. 1402. Adjudicatory Decisions. Except as otherwise provided, the provisions of Section 1094.6 of the California Code of Civil Procedure shall be applicable to all adjudicatory decisions of the City Council and any board or commission established pursuant to the Charter or this Code. (Ord. 06-10)

Sec. 1403. Savings Clause. It is not the intent of City Council, in adopting this article to affect any code enforcement activities, whether administrative, civil or criminal in process at the time of the adoption of this article. (Ord. 06-10)

Sec. 1404. Findings. (A) The Grover Beach City Council finds that there is a need to establish uniform procedures for administrative hearings conducted pursuant to the Code.

(B) It is the purpose and intent of the City Council to ensure that the administrative hearing procedures provided for the City's administrative decisions afford due process of law as required under federal and state law.

(C) Due process of law includes adequate notice, an opportunity to be heard by an impartial fact-finder and an adequate explanation of the reasons justifying the administrative action.

(D) The City Council finds that it is important to establish procedures to efficiently, expeditiously and fairly resolve issues raised in any administrative enforcement actions. (Ord. 06-10)

Sec. 1404.1. Applicability. Except where specifically provided otherwise in this Code, this article shall provide the procedures, rules and standards for all administrative hearings provided under this Code or administrative hearings provided under rules or regulations promulgated pursuant to this Code. (Ord. 06-10)

Sec. 1405. Rules and Regulations. The City Manager may adopt rules, regulations, policies and procedures that are not inconsistent with the intent or provisions of this article, as may be necessary or desirable to aid in the administration or enforcement of the provisions of this article. (Ord. 06-10)

Sec. 1406. Hearing Officer. The City Manager shall appoint persons to serve as hearing officers under the following rules:

(A) **Permanent Hearing Officer.** The City Manager may appoint a person or persons to serve as permanent hearing officers. Permanent hearing officers shall be appointed under a contract with a minimum one-year term and a provision that the hearing officer may not be terminated without cause unrelated to the outcomes of hearings. A permanent hearing officer may be appointed to hear all types of administrative hearings or may be appointed to hear a select category of hearings or a select number of hearings. A person may not be appointed to serve as a permanent hearing officer if they have served as a temporary hearing officer within a one-year period.

(B) **Temporary Hearing Officer.** The City Manager may appoint a person or persons to serve as temporary hearing officer on an as needed basis for those hearings in which the City does not have a permanent hearing officer or where the permanent hearing officer(s) is/are unable to serve because of the existence of a personal conflict or for practical reasons or where the Code otherwise requires appointment of a person to hear a particular class of hearings. The following persons may serve as temporary hearing officers:

(1) Any person willing to serve without compensation or valuable consideration or promise of future compensation or valuable consideration;

(2) Any person serving for compensation so long as they have not previously served as a temporary hearing officer for the City within a one-year period;

(3) A person serving for compensation who has previously served as a temporary hearing officer within the past year may serve as a temporary hearing officer upon written consent of the appellant or the person whose property or interest is the subject of the hearing after disclosure by the City of the person's prior service for the City, including, if requested, disclosure of the final determination of any prior decision(s) by the hearing officer;

(4) A person serving for compensation who has served as a temporary hearing officer within a year may serve without the written consent of the appellant where the person is randomly selected from a list or panel of at least four persons who have all agreed to serve as temporary hearing officers under such a random selection process;

(5) A salaried City staff member who regularly supervises at least five people and who does not, and has not within the previous twelve months, directly supervised the division or unit of the staff member responsible for representing the City in the appeal and who has not participated in the order, citation, decision or determination being appealed may serve as a temporary hearing officer; or

(6) A State Administrative Law Judge under a contract with the Office of Administrative Hearings or an arbitrator employed by a private independent arbitration service, such as JAMS or the American Arbitration Association.

(C) **Multiple Hearing Officers.** Where more than one hearing officer, whether temporary or permanent, is available to hear the same administrative hearing, selection of the hearing officer shall be determined either by the terms of the hearing officer's contract or by random process. (Ord. 06-10)

Sec. 1407. Service of Process. Service of any notice, hearing packet, or order under this article shall be by personal service or first class mail. The date of service shall be considered the date the notice, hearing packet or order was personally served or three (3) days after the date of mailing. (Ord. 06-10)

Sec. 1408. Informal Review. (A) A person who has been issued an administrative citation may within ten (10) days of the date of the citation request an informal review of the violation with the Department Head of the department under whose jurisdiction the cited violation falls.

(B) The Department Head shall set a meeting with the cited person within ten (10) days of receiving the request.

(C) The purpose of the review is to try to resolve the citation informally at an early stage of the proceedings.

(D) If the matter is not resolved to the satisfaction of the cited person, he/she may file and appeal pursuant to Section 1408 (A)

(E) No appeal may be filed without having followed the procedures set forth in this section. (Ord. 06-10)

Sec. 1408 (A). Filing a Notice of Appeal. (A) Standing. A person who does not have a legal existing interest in the property, right or entitlement subject to the City order, citation, decision or determination sought to be appealed from does not have standing and does not have a right to appeal under this article. A notice of appeal that fails to allege standing may be rejected as defective.

(B) Notice of Appeal. A notice of appeal shall be filed in writing in duplicate with the City Manager within five (5) calendar days after the decision of the Department Head in the Informal Review. The appeal shall be addressed to the City Manager and shall contain the following:

(1) A caption reading "Appeal of _____" giving the name and address of the appellant;

(2) A statement describing the appellant's legal existing interest in the property, right or entitlement subject to the City order, citation, decision or determination sought to be appealed from;

(3) A brief description of the specific order, citation, decision, or determination being appealed;

(4) A statement of the relief sought;

(5) The reasons why such relief should be granted; and

(6) The affidavit of the appellant, or his/her declaration "under penalty of perjury," that the facts stated in the appeal are true of the appellant's own knowledge, except as to matters which are not within the appellant's knowledge and are not of public record, and as to those matters that the appellant believes the facts stated to be true.

(7) The appellant must deposit the amount of the fine as stated on the citation plus the Administrative Hearing Fee as established in the Master Fee Schedule with their Notice of Appeal. No appeal will be heard without the payment of the fees or the granting of an Advance Deposit Waiver.

(8) All advanced fees deposited shall be refunded to the cited person if they prevail on appeal.

(9) If the Appellant meets the low income requirements specified by the Department of Housing and Urban Development (HUD) the advanced deposit requirement of Section 1408(A)(7) will be waived.

(10) In order to determine if the cited person is eligible for a waiver of the advance deposit requirement of Section 1408(A)(7) the cited person must submit an Advance Deposit of Hardship Waiver Application form as outlined in Section 1408 (C).

(C) Advance Deposit Hardship Waiver.

(1) Any person who intends to request a hearing to contest that there was a violation of the code or that he or she is the responsible party and who is financially unable to make the advance deposit of the fine as required in Section 1408 (B)(7) may file a request for an Advance Deposit Hardship Waiver, which shall include the sworn affidavit as described in subsection (3) below.

(2) The request shall be filed, along with the request for hearing form, with the City Manager's Office on an Advance Deposit Hardship Waiver Application form, available from the City Manager's Office, within fifteen (15) days of the date of the administrative citation.

(3) The City may waive the requirement of an advance deposit and issue the advance deposit hardship waiver only if the cited party submits to the City a sworn affidavit, together with any supporting documents or materials, demonstrating to the satisfaction of the City the person's actual financial inability to deposit with the City the full amount of the fine in advance of the hearing.

(4) The requirement of depositing the full amount of the fine as described in Section 1408 (B)(7) shall be stayed unless or until the City makes a determination not to issue the advance deposit hardship waiver.

(5) If the City makes a determination to deny the advance deposit hardship waiver application, a written determination listing the reasons for said denial shall be issued. The written determination to deny the waiver shall be final.

(6) The written determination of the City's denial of the advance deposit hardship waiver shall be served by mail upon the person who applied for the waiver.

(D) Late Appeals. Upon a showing of good cause, the City Manager may, in his/her discretion, permit the filing of an appeal, or an amended appeal, after fifteen (15) calendar days, in which case the appeal shall be considered in the same manner as if it had been timely filed.

(E) Defective Notice of Appeals. If, in the opinion of the City Manager, the appeal or an amended appeal fails to comply substantially with the requirements of this section, the hearing officer may give written notice of such insufficiency to the appellant at any time within fifteen (15) calendar days after the appeal is presented, stating with particularity the defects or omissions therein. Failure of the appellant to file an amended appeal within fifteen (15) calendar days of the date of service of such notice of insufficiency shall constitute a waiver of the appeal. Failure of the hearing officer to give notice of any insufficiency within fifteen (15) calendar days shall result in the appeal being heard on its merits, without regard to any insufficiency.

(F) Notice of Hearing. Upon receipt of an appeal, or if notice of insufficiency is given in accordance with this section, upon receipt of an amended appeal within the time specified, the hearing officer shall cause one copy to be stamped indicating the date of receipt thereof, and shall immediately forward the other copy to the officer or employee whose order, citation, decision, or determination is being appealed. The hearing officer shall set the appeal for hearing and shall give to the appellant and to the officer or employee whose order, citation, decision, or determination is being appealed not less than fifteen calendar (15) days written notice of the date, time, and place of hearing. The appellant, or his/her authorized representative, may waive the fifteen (15) calendar days written notice, so long as said waiver is in writing and received by the hearing officer. The notice of the hearing to the appellant shall include a statement as to the appellants' rights as provided in subsection 1409 (C).

(G) Stay of Proceedings. Unless otherwise provided by this Code, the filing of an appeal shall stay all proceedings in furtherance of the order, citation, decision, or determination appealed from until the determination of the appeal as provided herein.

(H) Hearing Packet. Upon receipt of the copy of the notice of appeal from the hearing officer, the employee or officer who issued the order, citation, decision or determination shall prepare a hearing packet that forms the basis of the citation, order, decision or determination. The hearing packet shall be served either within seven (7) calendar days (if service is by mail) or five (5) calendar days (if personally served on the appellant) of the date set for the hearing. (Ord. 06-10)

Sec. 1409. Hearing. (A) Continuance. At the hearing officer's discretion or upon good cause shown, the hearing officer may continue the hearing by written notice before the scheduled hearing or orally at or during the hearing.

(B) Hearing. At the hearing, the officer or employee who issued the order, citation, decision, or determination or his or her designee shall present evidence in support of the findings or reasons upon which the order, citation, decision, or determination, was based. The appellant, or any individual authorized in writing to represent the appellant, may then present evidence in support of the contentions made in the notice of appeal. The hearing shall be informally conducted.

(C) Rights of Parties. The parties and anyone who participates in a hearing may be represented by an attorney or other person of the parties' choice. The parties have a right to appear, testify, present evidence, examine and cross-examine witnesses, and present written or oral arguments. Additionally, the parties may request and the hearing officer may allow the parties to submit written briefs, either before, during or after the hearing.

(D) Evidence. The rules of evidence provided by State statute in civil and criminal actions shall not apply, except that irrelevant and unduly repetitious evidence may be excluded in the hearing officer's discretion.

(E) Scope. The scope of the hearing shall be limited to the order, citation, decision, or determination being appealed, the grounds for relief raised in the notice of appeal and any specific requirements of this Code. The hearing officer may expand the scope of the hearing on a finding that it is necessary to ensure a fair process as intended by this Chapter.

(F) Burden of Proof; Burden of Evidence. Except where otherwise provided in this Code, the burden of proof and production of evidence shall be with the City. Except where otherwise provided in the Code, the burden of proof shall be preponderance of the evidence.

(G) Open to the Public. All hearings under this article shall be open to the public. Any interested person shall have the right to speak at the hearing subject to the hearing officer's right to exclude irrelevant and unduly repetitious evidence. Notwithstanding the above, the parties have the right to petition the hearing officer and the hearing officer may in his or her discretion accept submission of evidence outside the presence of the public, if such evidence would not be disclosable under the Public Records Act, California Government Code §§ 6250, *et seq.*

(H) Waiver of Rights. The failure of the appellant or any interested party to raise an objection to the hearing officer either before or during the hearing of any defect in notice or procedure provided under the Code or at law or in equity shall be deemed a waiver of the defect. For purposes of a waiver of objection in this subsection, defect in procedure shall include a claim that the hearing officer is biased when the claimed bias is known or readily discoverable by the appellant or interested party or has been published to the appellant or interested party by the City. An objection of bias of the hearing officer shall be raised to the City Manager.

(I) Failure of Appellant to Appear. Unless otherwise provided in the Code, if the appellant fails to appear for the hearing at the time and place noticed, the hearing officer in his or her discretion may conduct the hearing to a conclusion or may dismiss the appeal. If the appeal is dismissed, the order, citation, decision, determination appealed from shall become final and effective on the date of the hearing. Upon a showing of good cause, the hearing officer may set aside his or her decision or dismissal upon the appellant's failure to appear and may reschedule the appeal for hearing.

(J) Recording. The proceedings at the hearing shall be recorded to a cassette tape, a CD-ROM, a videotape, a DVD or similar media. In addition to any one of the above, the proceedings may also be recorded by a certified shorthand reporter. If an appellant requests a certified shorthand reporter the costs of the reporter shall be borne by the appellant.

(K) Ex Parte Communication. Other than at the hearing, there shall be no direct oral communication between the parties and the hearing officer on any matter related to the hearing without both parties being present. Any written communication to the hearing officer by a party shall be copied and served to the other party. (Ord. 06-10)

Sec. 1410. Violation of Administrative Provisions by Staff. The violation of any administrative provisions of this Code by any officer or employee of the City may be deemed a failure to perform the duties under, or to observe the rules and regulations of the department, office, or board within the meaning of the rules and regulations of the City. (Ord. 06-10)

Sec. 1411. Hearing Officer Authority. (A) Order of Attendance or Production. At the request of either the City or the appellant, the hearing officer or the City Clerk shall, on behalf of the City, issue orders for attendance of witnesses at the hearing, or production of documents on a date certain. In no event shall the date for the production of documents be less than ten (10) days after the date the order was issued. Failure by a party to comply with an order of attendance or production may be considered a violation of this Code and, at the petition of a party, the hearing officer may impose a civil fine of up to one hundred dollars (\$100) at the time of the hearing and may take such failure into consideration in making his or her determination of the hearing.

(B) Subpoenas. At the request of either the City or the appellant, the hearing officer or the City Clerk shall, on behalf of the City, issue subpoenas for attendance of witnesses at the hearing or production of documents on a date certain. In no event shall the date for production of documents be less than ten (10) days from the date the subpoena was issued. Disobedience of such subpoena or the refusal to testify, upon other than constitutional grounds, shall constitute a misdemeanor.

(C) Inspection of Premises. The hearing officer may inspect the premises involved in the hearing at any time prior to a decision, to investigate or confirm the existence of the violation(s) or conditions which are on appeal, provided that:

- (1) Consent is granted by a person with the lawful right to grant consent or an inspection warrant is obtained;
- (2) Reasonable notice of such inspection is given to the owner before the inspection is made;
- (3) The parties are given an opportunity to be present during the inspection;
- (4) The hearing officer shall place in the record the material facts and the conclusions drawn from the inspection either orally at the time of the hearing or in writing after the hearing; and

(5) Each party then shall have a right to rebut or explain the matters so stated by the hearing officer for the record either at the hearing or by filing a written statement within ten (10) calendar days after the hearing.

(D) Oaths. The hearing officer shall have the power to administer oaths and affirmations.

(E) Procedures. The hearing officer shall have the authority to establish procedures before or during a hearing consistent with this article and the Code for purposes of efficiency and order.

(F) Review Authority. The hearing officer shall sit as the trier of fact and shall rule on questions of law and admissibility of evidence. The hearing officer may affirm, reverse, modify, or set aside the order, citation, decision, or determination appealed from or may delete or impose conditions as the facts and law warrant. The hearing officer may not increase a penalty or impose a harsher remedy beyond the penalty or remedy imposed under the order, citation, decision or determination being appealed.

(G) Limitations. The hearing officer shall not have authority to waive any requirements of the Code or law.

(H) Record Keeper. The hearing officer shall maintain the administrative record of the hearing and make it available upon request by either party. The record shall be maintained for two years from the date the case is closed and no further appeals are available under the Code or at law. (Ord. 06-10)

Sec. 1412. Decision. (A) Decision. Unless otherwise agreed by the parties, within twenty-one (21) days of the conclusion of the hearing, after the hearing officer has considered all evidence presented and the relevant standard of review, the hearing officer shall issue his or her decision of the appeal. The decision shall include a statement of the issues, findings of fact, a summary of the relevant evidence, a resolution of the credibility of witnesses where there is conflicting testimony and the final determination and order. The decision may be issued orally at the conclusion of the hearing or in writing, except, if one of the parties requests, the decision shall be in writing.

(B) Notice of Code of Civil Procedure Section 1094.6. All final decisions shall include a notice that the appellant has ninety (90) days to pursue a petition for a writ of administrative mandamus of the decision under Code of Civil Procedure Section 1094.6.

(C) Effective. Unless otherwise provided in the Code or the hearing officer's decision, the decision shall be effective upon issuance.

(D) Finality. Unless otherwise provided in the Code or the hearing officer's decision, the hearing officer's decision shall be a final agency action for purposes of writ review.

(E) Continuing Jurisdiction to Enforce Orders. The hearing officer may maintain continuing jurisdiction to enforce his or her decisions and impose additional conditions or penalties as provided in Section 1412 or to take action upon direction of the court.

(F) Right to Judicial Review. Any person aggrieved by an administrative decision of a hearing officer on an administrative citation may obtain review of the administrative decision by filing a petition for review with the court in San Luis Obispo County in accordance with the timelines and provisions set forth in California Government Code Section 53069.4. (Ord. 06-10)

Sec. 1413. Enforcement of Orders. Upon finding a violation of an order, the hearing officer may modify the decision or order in his or her discretion or impose a sanction of up to one thousand dollars (\$1,000.00) per violation. Any sanction imposed by the hearing officer under this section is collectable under the provisions of Section 1400 (J). Alternatively, upon City staff or the hearing officer finding a violation of

a hearing officer's order, the City Attorney may seek a modified decision from the hearing officer, pursue a civil action to enforce the order, or prosecute a criminal action under Section 1203. Any decision modified as provided herein shall be treated as a new final decision for purposes of the requirements of Section 1411. (Ord. 06-10)

CHAPTER 5 - ABATEMENT OF NUISANCES

Sec. 1500. Intent and Purpose. This Chapter is adopted to declare what constitutes a public nuisance and to establish procedures to abate nuisances and to recover costs of such abatement. It is declared to be in the public interest to promote the health, safety and welfare of the residents of the City by providing a summary procedure for the abatement of nuisances, which abatement procedures shall be in addition to all other proceedings by this Code or otherwise by law. (Ord. 19-08)

Sec. 1501. Definitions. Unless specifically defined in this section, words and phrases used in this Chapter shall be interpreted to give them the meaning in common usage and to give this Chapter its most reasonable application.

"Abandoned" (building, structure or property) means any property that is vacant and/or under a current notice of default, notice of trustee's sale or that has been the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure, or that is transferred under a deed in lieu of foreclosure or sale.

"Abatement" means the demolition, removal, repair, maintenance, construction, reconstruction, replacement or reconditioning of structures, appliances or equipment; or the removal, transportation, disposal and treatment of waste and abandoned materials and equipment capable of harboring, breeding, or attracting rodents or insects or producing odors or blight.

"Attractive nuisance" means any building, condition, instrumentality or machine which is unsafe and unprotected and thereby dangerous to young children by reason of their inability to appreciate the peril which exists, and which may reasonably be expected to attract young children to the premises and risk injury by playing with, in, or on it. Attractive nuisances may include, but shall not be limited to: (1) abandoned and/or broken equipment or vehicles; (2) hazardous pools, ponds, culverts, excavations; (3) neglected machinery and (4) abandoned buildings.

"Building" means any structure, including, but not limited to, any house, garage, duplex, apartment, condominium, stock cooperative, mobilehome, or other residential, commercial or industrial structure or any portion thereof, which is designed, built, rented or leased to be occupied or otherwise is intended for supporting or sheltering any use or occupancy, and any commercial, industrial or other establishment, warehouse, kiosk, shed or other structures affixed to or upon real property, used for the purpose of conducting a business, storage or other activity.

"Construction material" means any discarded material from the building or destruction of structures, roads and bridges, including concrete, rocks, asphalt, plasterboard, wood and other related material.

"Enforcement officer" means the individuals designated within Article I of Chapter 2 of this Code, Sections 1203.2 and 1203.3, as amended.

"Garbage" means any putrescible animal, fish, fowl, food, fruit or vegetable matter resulting from the cultivation, preparation, storage, handling, decay or consumption of the substance.

"Hazardous substance" means any chemical compound, mixture, substance or article which is identified or listed by the United States Environmental Protection Agency or appropriate agency of the state of California as a "hazardous waste," as defined in 40 C.F.R. Section 261.33, except that for the purposes of this Chapter, hazardous waste also shall include "household waste," as defined in 40 C.F.R. 261.4(B)(1).

"Hearing officer" means the person appointed by the City Manager consistent with Section 1406 of this Chapter.

"Improved surface" means a ground surface covered or paved with concrete, asphalt, brick and mortar, stone and mortar, concrete pavers and mortar and/or such other material as has been approved for parking of vehicles in such a manner as is designed to properly support the gross weight of the class of vehicle parked, support all wheels of the vehicle and permanently prohibit both weed growth around and under the vehicle and leakage of oil, fuel and other fluids into the ground.

"Infestation" means the presence, within or contiguous to, a structure or premises of termites, insects, vermin rodents or other pests. If the actual presence of pests cannot be confirmed, the presence of fresh droppings, larvae, eggs, recent rodent holes or other such evidence may be used to identify a current infestation.

"Inoperable vehicle" means, but is not limited to, any vehicle, trailer, boat or recreational vehicle which cannot be legally operated on a public street because the vehicle lacks an engine, transmission, wheels, tires, doors, windshield or any other part or equipment necessary to operate the vehicle safely, or is not currently registered with the California Department of Motor Vehicles.

"Junk" means any cast-off, damaged, discarded, obsolete, salvaged, scrapped, unusable, worn-out or wrecked object, thing or material including, but not limited to, those composed in whole or in part of asphalt, brick, carbon, cement, plastic or other synthetic substance, fiber, glass, plaster, rubber, terra cotta, wool, cotton, cloth, canvas, wood, metal, sand, organic matter or other substance, crates, cartons, containers, boxes, machinery or parts thereof, scrap metal, furniture or parts thereof, trimmings from plants or trees, cans, bottles and barrels.

"Odor" means any smell, scent or fragrance.

"Owner" means any person, agent, firm or corporation having legal or equitable interest in the property.

"Person" means an individual, partnership, corporation, association or organization, or agent of any of the foregoing.

"Premises" means any lot or parcel of land upon which a building is situated, including any portion thereof improved or unimproved, and adjacent streets, sidewalks, parkways and parking areas.

"Property" means any lot or parcel of land, including any alley, sidewalk, parkway or unimproved public easement.

"Refuse" means any putrescible and nonputrescible solid waste, except sewerage, whether combustible or noncombustible and includes garbage and rubbish.

"Responsible person" means the owner of record of real property, any occupant, agent, custodian, lessee, manager, user or interested holder in property or premises, including, but not limited to, a trustee or beneficiary who holds a deed of trust to abandoned property; or any other person determined to have caused, committed, or permitted a violation of this Code, or any other law, statute, regulation or rule regulating public nuisances.

"Right-of-way" means any area or parcel of property granted, deeded, dedicated to, or otherwise acquired by the City or the public at large for any public purpose including, but not limited to, roadways, alleys, streets, parkways, pedestrian ways, and sidewalks.

"Vacant" or "vacated" means real property not lawfully occupied by or with the consent of the owner or leaseholder of the property.

"Vehicle" means any device by which any person or property may be propelled, moved, or drawn upon a highway or upon water or through the air, excepting a device moved exclusively by human power.

"Weeds" is defined consistent with California Health and Safety Code Section 14875, as amended. (Ord. 19-08)

Sec. 1502. General Provisions. (A) The provisions of this Chapter are applicable to all property located within the City wherein any of the conditions, uses or activities hereafter specified are found to exist.

(B) This Chapter shall not apply to any condition expressly allowed or authorized by federal or state law or any other provision of this Code.

(C) The list of conditions, uses and activities declared to be public nuisances is not intended to be exclusive and additional conditions, uses or activities may be declared by the City Council by amendment of this Chapter or any other means authorized by law.

(D) Violations of this Chapter shall be treated as strict liability offenses regardless of intent. (Ord. 19-08)

Sec. 1503. Declaration of Nuisances. It is unlawful and is declared a nuisance for any responsible person in the City to maintain or allow another to maintain, or fail to maintain any of the following conditions:

(A) Buildings, structures, facilities, equipment, devices or improvements:

(1) Construct, maintained or occupy in violation of any provision of any comprehensive or uniform building, plumbing, electrical, housing, mechanical or fire code as adopted by the City or enacted by the state of California and codified in the California State Codes or within the California Code of Regulations;

(2) Construct, maintained or occupy in violation of any provision of any Article of this Code, including, but not limited to, prohibited uses, setback violations, development standards and sign regulations;

(3) Which have been abandoned, vacated, boarded up, partially destroyed, or left in a state of partial construction or repair for a period exceeding one hundred and eighty (180) days, or and have become accessible to unauthorized persons including, but not limited to, juveniles, vagrants or persons engaged in illegal, hazardous, drug or gang activity;

(4) Which have become defective, unsightly, or in such a condition of deterioration or disrepair as the same may cause depreciation of the property values to surrounding properties;

(5) Upon which the condition of the exterior coating has become so deteriorated as to permit decay, excessive checking, cracking, dry rot, termite infestation, broken windows or warping;

(6) With graffiti or other words, lettering or drawings not otherwise permitted by the provisions of this Code, state or federal law on visible or exterior surfaces;

(7) Without a connection to a sewer disposal system or sanitary sewer if occupied or with any leaking seeping sewage;

(8) Without a connection to a permanent electrical service if occupied and such service is available within three hundred (300) feet of the occupied building or structure;

(9) Without hot water, running water, adequate heating, and electricity if occupied;

(10) Constructed in violation of any state or local law or regulation relating to the condition, use, occupancy or maintenance of buildings.

(B) Outdoor storage or maintenance of the following:

(1) Abandoned, damaged or broken equipment, instrumentality, machinery, household items or appliances;

(2) Refuse, rubbish, scrap metal, appliances, shopping carts, wood, plant cuttings, broken or discarded furniture or household equipment, junk, trash or debris, parts, cans, boxes or containers;

(3) Any hazardous substance or waste product, including, but not limited to, biological material, oil, gasoline, automotive fluids, and household chemicals not lawfully stored or which has been discharged, released, placed or deposited upon any premises or onto any public property;

(4) Construction materials, equipment or machinery that is visible from a public or private right-of-way in a residential zone;

(5) Any materials that are stored or stacked in a manner in which the materials could be discharged into a storm drain system.

(C) Landscaping, vegetation, or improved or unimproved property in any of the following conditions:

(1) Property, including any sidewalks and parkways adjacent thereto, containing weeds, dry grasses, dead trees, dead shrubs, or any other material which bears seeds of a wingy or downy nature or which by reason of their size, manner of growth or location, constitute a fire hazard or a threat to public health, or containing weeds, vegetation, grasses, trees or shrubs, including, but not limited to sagebrush, chaparral, and Russian Thistle (tumbleweed) which, when dry, will in reasonable probability constitute a fire hazard or be blown onto adjoining property by prevailing winds;

(2) Containing stagnant or standing water, refuse, rubbish, offal, excrement or other waste materials which emit an odor;

(3) Trees and shrubs containing dead or fallen limbs or branches which present a safety hazard;

(4) Trees or shrubs which are overgrown or contain limbs or branches that restrict, impede or obstruct the use of or obscure the visibility of pedestrians or drivers using the public rights-of-way, easements, sidewalks or roadways;

(5) Overgrown vegetation likely to harbor vermin, insects or rodents of any kind;

(6) Not conforming to any requirement set forth in any zoning or land use approval, permit, entitlement, contract or environmental document relating to the property.

(D) Vehicles stored, parked, used or maintained in any of the following manners:

(1) To allow or perform the maintenance, repair, restoration, painting, body work or dismantling of any vehicle, equipment or parts thereof on the exterior portion of any residential property. This prohibition shall not apply to work specifically authorized by state or local law or regulation, and shall not apply to minor repair or maintenance of vehicles which are registered to the person residing on the property and such repairs or maintenance are not conducted outside for longer than seventy-two (72) consecutive hours;

- (2) With accumulations of debris, leaves, weeds or other materials in the areas around and under the vehicle;
 - (3) As residential living space or occupancy, including, but not limited to, sleeping, cooking, dining, or bathing;
 - (4) Inoperable, abandoned, wrecked, or dismantled vehicles or parts thereof not stored entirely within an enclosed building.
- (E) Property containing any of the following:
- (1) Wells, swimming pools, spas, ponds or excavations containing water or any other liquid in excess of twenty-four (24) inches in depth at any point and exceeding five thousand (5,000) gallons in capacity which are unfenced or otherwise unprotected with a barrier at least five (5) feet in height;
 - (2) Any device, equipment, instrument, vehicle, machinery or animal which creates a loud or unusual noise in violation of Chapter 1.01 of Article III of this Code;
 - (3) Walkways, driveways, parking lots and other improved surfaces in a deteriorated or unsafe condition or with fading required striping or markings;
 - (4) An infestation of termites, insects, vermin, rodents or other pests;
 - (5) The display or placement upon any fence, wall, tree, bush or any other structure, or portion thereof, of any linens, rugs, fabrics, nylon, or any other item of clothing or similar items except upon a recognized clothes line facility that is visible from a public or private right-of-way;
 - (6) Any alteration to the alignment of a natural or developed drainage course, culvert, device, facility, improvement or system designed to convey stormwater runoff ("drainage system") or any drainage system which contains:
 - (a) Any blockage or damming which prevents the continuous and unimpeded flow of stormwater,
 - (b) Any vegetation not approved as part of the original design of the drainage system,
 - (c) An accumulation of sediment which alters the elevation of the natural, designated or approved flow of stormwater,
 - (d) Any junk, trash, debris, items or materials not approved as part of the original design of the drainage system, or
 - (e) Any modification to the original approved design of a drainage system that restricts, impedes or reduces the natural or designed flow of the drainage system;
 - (7) Any attractive nuisance;
 - (8) Any condition which creates a detriment or hazard to the public health, safety or general welfare as to constitute a public nuisance as defined by California Civil Code Section 3480, California Health and Safety Code Section 11570, California Penal Code Section 11225, or California Government Code Section 39561.
 - (9) Any violation of the Grover Beach Municipal Code. (Ord. 19-08)

Sec. 1504. Abatement.

All or any part of any real property, or building or structure located thereon, found to constitute a public nuisance as provided in this Chapter, shall be abated by rehabilitation, repair, removal or demolition pursuant to the procedures set forth in this Chapter. (Ord. 19-08)

Sec. 1505. Authorization for City Manager. The City Manager is authorized to administer and enforce the provisions of this Chapter. The City Manager may appoint and authorize one or more members of the City staff to act as his or her designee to administer or enforce this Chapter. In the context of this Chapter, the phrase "City Manager" includes each and all persons designated by the City Manager to assist in the administration and enforcement of this Chapter, as limited by the terms of the delegation. (Ord. 19-08)

Sec. 1506. Authority to Inspect. (A) Consistent with this Section, Enforcement officers are authorized to enter upon any property or premises within the City to ascertain whether or not a nuisance as defined in this Chapter exists, and to make any examination and surveys as may be necessary in the performance of their enforcement duties.

(B) Inspections may include the taking of measurements, photographs, samples or other physical evidence.

(C) All inspections will be made only after having been given consent to inspect from a responsible person or after having obtained an administrative inspection warrant pursuant to California Code of Civil Procedure Section 1822.50 et seq.

(D) Inspections of exterior conditions of property may be made from public property or from the private property of another with consent without obtaining a warrant or the consent of the occupant of the observed property. (Ord. 19-08)

Sec. 1507. Notification of Nuisance. (A) When the City Manager or authorized representative thereof determines that any condition on property within the City constitutes a nuisance as declared in Section 1503 such person shall give written notice to abate to responsible person(s), as identified on public records or tax assessment rolls, ordering the abatement of said nuisance.

(B) The notice to abate shall contain the following information:

- (1) The name of the record owner of the property;
- (2) The date of the inspection;
- (3) The date of the violation(s);
- (4) The street address, assessor's parcel number or other definite description of the location where the violation(s) exist;
- (5) The code sections violated;
- (6) A description of the condition of the property creating the nuisance;
- (7) A reasonable time limit for correction based upon the nature of the nuisance;
- (8) A reference to the potential consequences for failure to abate the nuisance by the specified time period;
- (9) An order prohibiting the continuation or repeated occurrence of the nuisance;
- (10) The name and signature of the enforcement officer; and
- (11) Notice of the right to appeal.

(C) Notice required by this Chapter may be served in any of the following manners:

- (1) Personal service on the responsible person;
- (2) Regular mail addressed to the responsible person, at the address shown on the last available tax assessment roll, or as otherwise known or posting in a conspicuous place on the premises or abutting the right-of-way;

(3) Insertion of a legal advertisement at least once a week for a period of two weeks in a newspaper of general circulation in the City. The newspaper advertisement shall be a general notice that property in the City has been posted and contain a general statement of the effect of such postings.

(D) Failure of any person to receive a copy of any notice issued pursuant to this Chapter shall not affect the validity of any proceedings or actions taken under this Chapter.

(E) Nothing in this Chapter shall be construed or interpreted to require the issuance of a notice to abate as a prerequisite to the issuance of an administrative citation or the filing of any civil action or criminal complaint. (Ord. 19-08)

Sec. 1508. Appeals. Any person to whom a notice of abatement was given may file an appeal of the nuisance finding with the City Manager consistent with the procedures and regulations contained within Sections 1408 through 1413 of this Chapter. (Ord. 19-08)

Sec. 1509. Abatement by City. If the nuisance is not completely abated by the owner, as directed, within the time set forth above, the City Manager may cause the same to be abated by City personnel or private contract, and entry upon the premises is expressly authorized for such persons. Consent must be obtained from a responsible person(s) prior to entering private property to perform an abatement, or an administrative inspection or abatement warrant must be obtained as required by law. (Ord. 19-08)

Sec. 1510. Emergency Abatement. Notwithstanding any other provision of this Chapter, whenever the City Manager determines that any real property or any building, structure or condition thereon is dangerous or constitutes an immediate threat to public health or safety, the City Manager may, without being required to observe the provisions of this Chapter with reference to abatement procedures and notice, immediately and forthwith abate such public nuisance. Where such condition and the abatement are immediately required, the City Manager shall prepare a statement of costs in respect thereto, and the provisions of Sections 1511 and 1512 shall apply. (Ord. 19-08)

Sec. 1511. Abatement Costs. (A) Whenever any person creating, causing, committing or maintaining a public nuisance, as referred to in this Chapter or defined as a nuisance elsewhere in this Code, or other public nuisance, as defined under state law or other ordinance or regulation, has been given notice, by or on behalf of the City Attorney, enforcement officer, or by any other City officer, employee or policing agent authorized to give such notice, to abate such nuisance or cease and desist from continuing such nuisance or violation of law, and such person who was given notice fails, refuses or neglects to comply with the notice within the time specified therein, or if such a time is not specified, then within a time reasonably sufficient to enable such compliance, such noncomplying person shall be liable to the City for any and all costs and expenses to the City involved in thereafter abating the nuisance and in obtaining compliance with or enforcing the law as referred to or encompassed in the notice.

(B) Costs and expenses, as referred to in subsection (A) of this section may include, but are not limited to, any and all direct costs and expenses related to such things as personnel salaries and benefits, operational overhead, rent, interest, fees for experts or consultants, research fees, legal costs or expenses, including, but not limited to, procedures associated with collecting moneys due hereunder.

(C) In any judicial action, administrative proceeding, or special proceeding or action of any kind to abate a nuisance, the prevailing party shall be entitled to recovery of attorney's fees. The recovery of attorney's fees is limited solely to causes of action directly associated with the abatement of a public nuisance. In no action, administrative hearing, or special proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the City in the action or proceeding. Such attorney's fees shall be recoverable as costs of abatement.

(D) Upon the completion of any abatement pursuant to this Chapter, the City Manager shall cause a statement of the costs thereof to be prepared for submission to the City Council. The City manager shall set a time and place for the City Council to receive and consider the statement of costs, and shall serve upon the responsible person(s) a copy of the statement of costs and a notice of the time and place at which the City Council will receive and consider the statement of costs. Service shall be in the same manner as set forth in Section 1507.

(E) The costs of abatement of a nuisance, as confirmed by resolution of the City Council, shall constitute a special assessment against the property to which it relates, and after its recording, as thus made and confirmed, the same shall constitute a lien on the property in the amount of such assessment. After the confirmation of the statement, a copy thereof shall be recorded in the official records of San Luis Obispo County and shall be transmitted to the assessor and tax collector of the County of San Luis Obispo by the City Clerk. Whereupon it shall be the duty of the assessor and tax collector to add the amount of such assessment, or assessments, to the next regular bills of taxes levied against the respective lot or parcel of land, and thereafter the amount shall be collected at the same time and in the same manner as ordinary real property taxes are collected, and shall be subject to the same penalties and the same procedure for foreclosure and sale in the case of delinquency as provided for ordinary real property taxes.

(F) At the time and place set for receiving and considering the statement of costs, the City Council shall hear and pass upon the statement together with any objections or protests raised by any of the persons liable to be assessed for the cost of abating the nuisance. Thereupon, the City Council may make any such revision, correction or modification to the statement of costs as it may deem appropriate, after which the statement as submitted, or as revised, corrected or modified, shall be confirmed by resolution. Such hearing may be continued from time to time. The decision of the City Council shall be final.

(G) The provisions of this section shall also apply to any responsible person who received a notice, as specified therein, and thereafter the nuisance or violation was abated, but such person subsequently allowed or was responsible for recurrence of the nuisance or violation.

(H) In any action or proceeding involving a violation of any provision of this Chapter, the City Attorney, in his or her sole discretion and as part of settlement negotiations, may reduce, eliminate or waive any fines, fees, penalties or interest incurred pursuant to this Chapter. Any determination or decision of the City Attorney in this regard shall be final and conclusive and shall not be subject to appeal.

(I) Moneys due to the City pursuant to this section may be recovered in an appropriate civil action. Alternatively, such liability may be enforced by special assessment proceedings against the parcel of land upon which the nuisance existed, which proceedings may be conducted in a manner substantively similar to proceedings described in Sections 39574, et seq. of the California Government Code relating to weed abatement assessments. (Ord. 19-08)

Sec. 1512. Alternatives. Nothing in this Chapter shall be deemed to prevent the City from commencing a criminal action, civil action or other judicial or administrative proceeding to abate the alleged nuisance or to obtain any other appropriate remedy in addition to, as an alternative to, or in conjunction with the procedures authorized by this Chapter. (Ord. 19-08)