

ARTICLE I - GENERAL PROVISIONS

CHAPTER 1 - ADOPTION OF CODE

Sec. 1100. Adoption. This Code shall be known as the Grover Beach Municipal Code, as compiled, edited and published, a copy of which is on file in the office of the City Clerk, for public inspection. (Ord. 22-03)

Sec. 1101. Title - Citation and Reference. This Code is and shall be known as the City of Grover Beach Municipal Code, and it shall be sufficient to refer to such Code as the City of Grover Beach Municipal Code or (GBMC) in any prosecution for the violation of any provision thereof or in any proceeding at law or equity. It shall be sufficient to designate any ordinance adding to, amending, correcting, or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the City of Grover Beach Municipal Code. References may be made to the titles, chapters, sections, and subsections of the City of Grover Beach Municipal Code, and such references shall apply to those titles, chapters, sections, subsections, divisions or subdivisions as they appear in the Code. (Ord. 22-03)

Sec. 1102. Maintenance of Code. At least three (3) copies of this Code, duly certified by the City Clerk, shall be maintained on file in the office of the City Clerk as official copies of this Code.

Duly certified copies of each ordinance making a change in this Code shall be filed in the office of the City Clerk in books for such purpose, duly indexed for ready reference. (Ord. 22-03)

Sec. 1103. Interpretation of Code and Other Ordinances. The provisions of this Code and all proceedings under it are to be construed to affect its objects and to promote justice. All the provisions of this Code and all other City ordinances shall be interpreted to refer to the appropriate or designated officer or office of the City, and whether an ordinance, uniform code, statute or other matter which is adopted by reference refers to any department, officer, employee, inspection, police or other function, unless the context requires otherwise, all references shall be to the appropriate or designated office, officer, department, agency, employee or function of the City, or to the person or agency performing the function for the City. (Ord. 22-03)

Sec. 1104. Effect of Code on Past Actions and Obligations. Neither the adoption of this Code nor the repeal or amendment by this Code of any ordinance or part or portion of any ordinance previously in effect in the City or within the territory currently comprising the City, shall in any manner affect the prosecution for the violation of any ordinance, which violation was committed prior to the effective date of this Code, nor be construed as a waiver of any license, fee or penalty on such effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty or the penal provisions applicable to any violation of such ordinances, nor to affect the validity of any bond or cash deposit required to be posted, filed or deposited pursuant to any ordinance, and all vested rights and obligations pertaining to such ordinances shall continue in full force and effect. The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby. (Ord. 22-03)

Sec. 1105. Constitutionality. If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, 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. 22-03)

Sec. 1106. Territorial Limitation. This Code shall refer only to the omission or commission of acts within the territorial limits of the City of Grover Beach and 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 ownership or proprietary control of property. (Ord. 22-03)

Sec. 1107. Local Signification. All references in this Code to places, acts, persons or things and all else in relation to this Code shall be construed to mean that the same are applicable to this City, whether the City is mentioned in each particular section or not. (Ord. 22-03)

Sec. 1108. Section and Subsection Defined. "Section" means a section of this Code dividing a Chapter, unless some other source is specifically set forth. "Subsection" means a subsection dividing a section, unless some other source is expressly set forth. (Ord. 22-03)

Sec. 1109. References to Prior Code. References in City forms, documents and regulations to the Chapters and Sections of any former City Codes shall be construed to apply to the corresponding provisions within this Code. (Ord. 22-03)

Sec. 1110. Definitions. As used in this Code, unless a different meaning is apparent from the context or is specified elsewhere in the Code:

- (A) "Calendar year" means from January 1 through December 31 of any given year.
- (B) "City" means the City of Grover Beach.
- (C) "City Attorney" means the official of the City appointed by Council who occupies the position of the attorney representing the City on all legal matters consistent with California Government Code Sections 36505 and 41801.
- (D) "City Manager" means the appointed official of the City who occupies the position as chief administrative officer of the City.
- (E) "Council" means the City Council of the City of Grover Beach.
- (F) "Councilmember" means a person duly elected to the Council.
- (G) "County" means the County of San Luis Obispo, California, or the area within the limits of San Luis Obispo County, and such territory outside of San Luis Obispo County over which the County has jurisdiction or control by virtue of any constitutional or statutory provisions.
- (H) "Fiscal year" means from July 1 of any given year through June 30 of the following year.
- (I) "Gender" the masculine gender shall include the feminine and neuter genders.
- (J) "Goods" include wares and merchandise.
- (K) "May" shall be permissive.
- (L) "Month" means a calendar month, unless otherwise expressed.
- (M) "Number" the singular number shall include the plural, and the plural number shall include the singular.

- (N) "Oath" includes affirmation.
- (O) "Official Time Standard" wherever certain hours are named in this Code, they mean standard time or daylight-saving time as may be in current use in the City.
- (P) "Operate" means and includes carrying on, keeping, conducting or maintaining.
- (Q) "Owner" applied to a building or land, includes any part owner, joint owner, tenant, tenant in common, or joint tenant of the whole or a part of such building or land.
- (R) "Person" includes any natural person, firm, company, corporation, club, trust or similar organization, partnership, association, public corporation, political subdivision, City (except the City of Grover Beach), the County of San Luis Obispo, any district in the County of San Luis Obispo, the State of California, or the United States of America, or any department or agency or any employee, manager, officer, agent, lessee or servant of any thereof, unless this Code expressly provides otherwise.
- (S) "Personal property" includes money, goods, chattels, things in action, and evidence of debt.
- (T) "Police," "police chief" or "chief of police" means the agency which performs the appropriate law enforcement function for the City, and the head of the agency or division thereof which at the time involved has responsibility for performing the police function for, or within, the City.
- (U) "Property" includes real and personal property.
- (V) "Real property" includes land, tenements, and hereditaments.
- (W) "Sale" includes any sale, exchange, barter or offer for sale.
- (X) "Shall and must" means mandatory.
- (Y) "State" means the state of California.
- (Z) "Street" includes all streets, highways, avenues, boulevards, alleys, courts, places, squares, sidewalks and curbs or other public ways in the City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of the state.
- (AA) "Tenant or occupant" applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
- (BB) "Tense" the present tense shall include the past and future tense, and the future tense shall include the present tense.

Words and phrases not defined in this Code are construed according to the approved usage of the language, or, when appropriate, by reference to definitions contained in State or Federal law. (Ord. 22-03)

Sec. 1111. General Enforcement Authority. The City Manager or any of his/her designated Enforcement Officers 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. 22-03)

Sec. 1112. 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 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 I. A misdemeanor may also at the discretion of the City Attorney be prosecuted as an infraction.

(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 Officers 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 because of any Code violation. (Ord. 22-03)

CHAPTER 2 - PENAL PROVISIONS

Sec. 1201. Citation of Violators. The pertinent provisions of Part 2, Title 3, of the Penal Code, or its successor, shall govern the procedures required for criminal enforcement of the Grover Beach Municipal Code. (Ord. 22-03)

Sec. 1202. 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. 22-03)

Sec. 1203. Enforcing Officers Generally. The Police Chief and all peace officers employed by the Police 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, 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. 22-03)

Sec. 1204. 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 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.

(C) Delegation. An officer or employee designated in subsection (B) of this section 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. 22-03)

Sec. 1205. 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, is silent as to whether it is an infraction or misdemeanor 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 1112(A)(2). Any person convicted of an infraction under the provisions of this Code herein shall be punishable by a fine or fines consistent with Government Code Section 36900, or its successor. Except as otherwise provided by law, all provisions of law or ordinance relating to misdemeanors shall apply to infractions. (Ord. 22-03)

Sec. 1206. 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 or imprisonment consistent with Government Code Section 36901, or its successor. (Ord. 22-03)

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 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. (Repealed by Ord. 22-03)

Sec. 1310. Gender. (Repealed by Ord. 22-03)

Sec. 1311. Number. (Repealed by Ord. 22-03)

Sec. 1312. Shall and May. (Repealed by Ord. 22-03)

Sec. 1313. Oath. (Repealed by Ord. 22-03)

Sec. 1314. Person. (Repealed by Ord. 22-03)

Sec. 1315. State. (Repealed by Ord. 22-03)

Sec. 1316. County. (Repealed by Ord. 22-03)

Sec. 1317. City. (Repealed by Ord. 22-03)

Sec. 1318. Office. (Repealed by Ord. 22-03)

Sec. 1319. Council. (Repealed by Ord. 22-03)

Sec. 1320. Street. (Repealed by Ord. 22-03)

Sec. 1321. Owner. (Repealed by Ord. 22-03)

Sec. 1322. Tenant or Occupant. (Repealed by Ord. 22-03)

Sec. 1323. Sale. (Repealed by Ord. 22-03)

Sec. 1324. Goods. (Repealed by Ord. 22-03)

Sec. 1325. Operate. (Repealed by Ord. 22-03)

Sec. 1400. Findings and Purpose. The City Council finds and declares as follows:

(A) There is a need for an alternative method of enforcement for minor violations of this Code and applicable State Codes. The City Council further finds that an appropriate method of enforcement for minor violations is through a civil citation and administrative hearing program.

(B) This Chapter makes any violation of the provisions of this Code and applicable State Codes subject to civil citation and civil fines.

(C) This Chapter establishes the administrative procedures for the imposition, enforcement, collection, review, and appeal of civil citations and civil fines pursuant to Government Code Section 53069.4 and the City's general police power.

(D) The issuance of a civil citation under this Chapter is solely at the City's discretion and is one option the City has to address violations of this Code and applicable State Codes. By adopting this Chapter, the City does not intend to limit its discretion to utilize any other remedy, civil or criminal, for such violations that the city may select in a particular case. The procedures established in this Chapter shall be in addition to criminal, civil or any other legal remedies established by law that may be pursued to address violations of this Code and applicable State Codes.

(E) Because of the serious blighting conditions that can occur affecting health and safety, this Chapter is intended to impose strict civil liability for all public nuisance that occur upon the subject premises.

(F) The City adopts this civil citation and administrative hearing program in order to achieve the following goals:

(1) To protect the public health, safety and welfare of the citizens of the City of Grover Beach.

(2) To gain compliance with this Code and applicable State Codes, as well as other ordinances and regulations in a timely and efficient manner.

(3) To encourage voluntary and complete compliance with the provisions of this Code and applicable State Codes and to eliminate public nuisances for the protection and benefit of the entire community.

(4) To provide for an administrative hearing process to appeal the imposition of civil citations and civil fines.

(5) To provide a method to hold persons responsible when they fail or refuse to comply with the provisions of the Grover Beach Municipal Code or applicable provisions of State Codes, other ordinances or regulations, or terms and conditions imposed on licenses, permits, or entitlements issued or approved by the City of Grover Beach; and

(6) To minimize the expense and delay where the sole remedy is to pursue responsible parties in the civil or criminal justice system. (Ord. 22-03)

Sec. 1401. Violations. (A) Any person violating any provision of this Code or applicable State Codes may be issued a civil citation by an Enforcement Officer as provided in this Chapter. A violation of this Code includes, but is not limited to, all violations of the Municipal Code and the Uniform Codes adopted by the City Council or failing to comply with any condition imposed on any license, permit, or entitlement issued or approved under the provisions of this Code.

(B) An enforcement officer may issue a citation for a violation not committed in his or her presence if it is determined through investigation that the responsible person cited did commit the violation. (Ord. 22-03)

Sec. 1402. Definitions. The following definitions apply to the use of these terms for the purposes of this Chapter:

(A) "Administrative hearing" means an oral proceeding before a hearing officer regarding the civil citation(s).

(B) "Building violation" means any violation of this Code pertaining to building, housing, plumbing, electrical, mechanical or other similar structural or zoning regulations, including regulations set forth in Article VIII or Article IX of this Code, that does not create an immediate danger to health or safety.

(C) "City" means the City of Grover Beach.

(D) "Civil citation" means any citation issued pursuant to this Chapter stating there has been a violation of this Code.

(E) "Code" means the City of Grover Beach Municipal Code or any law, rule, regulation, or Code that is adopted by reference.

(F) "Correction period" means the period of time allowed for a responsible person cited to correct a violation shown on a civil citation.

(G) "Director" means the community development director of the City, or his or her designee.

(H) "Enforcement officer" means any person duly authorized to enforce the provisions of this Code.

(I) "Hearing officer" means any person appointed by the City Manager to serve as the hearing officer for the administrative hearing of civil citations. Prior to conducting any hearings the hearing officer must first be approved by the City Attorney as qualified to provide a fair and impartial hearing based on appropriate education, training and experience.

(J) "Issue" or "issued" means service of a citation to the responsible person.

(K) "Notice of violation" means any notice advising there has been a violation of the Grover Beach Municipal Code or Building Codes or notice of a failure to correct a prior noticed violation.

(L) "Reinspection fee" means a fee charged pursuant to this Chapter against a responsible person who has become the subject of City enforcement of State or local law, and for which there is a need to recover the City's actual cost of a second or any subsequent inspection of the property caused by the responsible party's failure to comply with a lawful order from an enforcement officer. The amount of this fee shall be set by resolution of the City Council and shall become collectible in the same manner as civil fines.

(M) "Responsible person" means any of the following:

(1) A person who causes a Code violation to occur or continue.

(2) A person who maintains or allows a Code violation to occur or continue by his or her action or failure to act.

(3) A person whose agent, employee, or independent contractor causes a Code violation to occur or continue by his or her action or failure to act.

(4) A person who is the owner, lessee, sublessee, or current possessor of real property where a property-related Code violation occurs or continues.

(5) A person who is the on-site manager of a business where a Code violation occurs or continues.

(6) A person who is the beneficiary under a deed of trust for the property where a property-related violation occurs or continues, and that person has not corrected the violation within thirty (30) calendar days after being notified by the director in writing of the violation and the fact that the trustee under the deed of trust is no longer living on the property and his or her whereabouts is unknown. (Ord. 22-03)

Sec. 1403. Civil Citation - General. (A) Each and every day a violation exists shall be a separate and distinct violation and is subject to a separate and distinct civil fine.

(B) A civil citation may charge a violation for one (1) or more days on which a violation exists, and for violation of one or more Code sections.

(C) Every person who applies for and receives a license or permit, or any type of land use approval (e.g., subdivision maps, use permits, variances, etc.) or other entitlement, shall comply with all conditions imposed upon the issuance of the license or permit, or any type of land use approval or other entitlement. If a person violates any condition of such license or permit, or land use approval or other entitlement, he or she may be issued a civil citation and be liable for civil fines under the provisions of this Chapter.

(D) The City may take into consideration the fact that a person has been issued civil citations when the City is determining whether to grant, modify, suspend, revoke, or deny any license or permit, or any type of land use approval or other entitlement regarding that person or property, and such civil citations are evidence that the person has committed acts that are not compatible with the health, safety and general welfare of other persons or businesses in the vicinity. (Ord. 22-03)

Sec. 1404. Civil Citation - Building Violations. (A) When a Notice of Violation is issued for a building violation, a thirty (30) calendar day correction period shall be allowed for the correction of the violation and the responsible person shall correct the violation within that period. Notwithstanding the provisions of Section 1403 of this Chapter, no responsible person for a building violation shall be liable for a civil fine unless the violation continues after the thirty (30) calendar days allowed for its correction, plus any extension, and a civil citation is issued containing a notice of failure to correct. The thirty (30) calendar day correction period shall not apply to a building Code violation if the violation exists as a result of, or to facilitate, the illegal cultivation of cannabis.

(B) The responsible person receives a Notice of Violation for a building violation may request an extension of the correction period, provided that a request is filed with the director before the thirty (30) calendar day correction period ends. The director may, in his or her discretion, grant a reasonable extension of the time period to correct the violation if the responsible person has supplied substantial evidence showing that the correction cannot reasonably be made within the thirty (30) calendar day period. The filing for such an extension does not, unless granted, extend the thirty (30) calendar day correction period or any other time periods set by this Chapter.

(C) If a building violation has not been corrected by the end of the correction period, the enforcement officer has authority to issue to the responsible person a civil citation containing a notice of failure to correct. The responsible person to whom the notice of failure to correct is issued shall be liable for and shall pay to the City the civil fine or fines described in the civil citation, which civil fine or fines shall be due on the date of issuance of the civil citation. Additional civil citations may be issued and additional civil fines imposed for every day the violation continues uncorrected from the date of issuance of the civil citation. (Ord. 22-03)

Sec. 1405. Civil Citation - Contents. (A) Each civil citation issued shall contain the following information:

- (1) Name of the responsible person cited for the violation of this Code.
- (2) The date and approximate time when the violation(s) occurred.
- (3) The address or definite description of the location where the violation(s) occurred.
- (4) The date on which the citation was issued.
- (5) The Code section(s) or condition(s) violated and a description of the violation(s).
- (6) The amount of the civil fine for each violation cited.
- (7) A description of the civil fine payment process, including a statement advising that the civil fine shall be received by the City with in thirty (30) calendar days from the date of issuance of the civil citation, the procedure for payment of the civil fine, and the consequences for failing to timely pay the civil fine.
- (8) If a building violation, the civil citation shall also contain the date the thirty (30) calendar day correction period expires. The civil citation shall also state the amount of the civil fine(s) and a description of the civil fine payment process.
- (9) A notice that each day thereafter that a violation(s) remains uncorrected shall be a separate violation(s) subject to separate civil fine(s) until corrected.
- (10) An order prohibiting the continuation or repeated occurrence of each violation described in the civil citation.
- (11) A notice that the responsible person cited has the right to appeal the issuance of the civil citation by requesting an administrative hearing, including the time period within which the administrative hearing must be requested, and a description of the procedure to be used in requesting an administrative hearing.
- (12) A description of the procedure for requesting a waiver of the civil fine deposit.
- (13) An assignment of a hearing date, time and location if the responsible person cited files a request for administrative hearing and/or a waiver of the civil fine deposit.
- (14) A notice that the Code violation is deemed to be a public nuisance.
- (15) A notice of the process for the collection of unpaid civil fines and/or nuisance abatement costs as provided for in this Chapter.
- (16) The name and signature of the enforcement officer issuing the civil citation; and
- (17) Any other information deemed necessary by the director for enforcement or collection purposes.

(B) Each civil citation issued shall include a self-addressed envelope in which the responsible person can send the civil fine or request for administrative hearing or civil fine deposit waiver to the City.

(C) Failure of the civil citation to contain all of the information required in subsection (A) above shall not be a defense to the civil citation and shall not constitute grounds for dismissal of the civil citation. (Ord. 22-03)

Sec. 1406. Civil Citation - Service. A civil citation may be served by any one of the following methods:

(A) Personal Service. An enforcement officer shall attempt to locate and personally serve the responsible person and obtain the signature of the responsible person on the civil citation. If the responsible person served refuses or fails to sign the civil citation, the failure or refusal to sign shall not affect the validity of the civil citation or of the subsequent proceedings.

(B) Service by Mail. If the enforcement officer is unable to locate or personally serve the responsible person, the civil citation shall be served by first-class mail, postage prepaid, with a declaration under penalty of perjury of service by mail executed by the person mailing the civil citation. The civil citation shall be addressed to the responsible person at the address shown on the last equalized property tax assessment rolls for San Luis Obispo County for a building or property related violation, or to any address known for the responsible person for all other violations. Service by mail shall be deemed to be effective service on the date it is mailed and shall not affect the validity of the civil citation or of the subsequent proceedings.

(C) Service by Posting. If the Enforcement Officer is unsuccessful in either personal service or service by mail, the civil citation shall be posted in a conspicuous place on the real property where the violation occurs for a building or property related violation. Such posting shall be deemed to be effective service on the date of posting and shall not affect the validity of the civil citation or of the subsequent proceedings. (Ord. 22-03)

Sec. 1407. Civil Fines - Amount and Penalties. (A) The maximum amount of a civil fine for violating particular provisions of this Code shall be set forth in a schedule of civil fines in the City's Master Fee Schedule adopted by resolution of the City Council. The schedule may include escalating civil fine amounts for repeat Code violations occurring within specified periods of time. A fine amount, not to exceed those set forth by resolution, may be imposed or reduced at the discretion of the citing officer or the City Attorney.

(B) Where no civil fine amount is specified by resolution of the City Council, civil fines shall be in accordance with those specified in Government Code 36900.

(C) A late payment penalty shall be imposed for civil fines not paid within thirty (30) calendar days of their due date. The amount of the late payment penalty shall be one hundred (100) percent of the total amount of the civil fine owed.

(D) In addition to any civil fine and/or late payment penalty, a hearing officer shall also assess administrative costs against the responsible person when it finds that a violation has occurred or that compliance has not been achieved within the time specified in the civil citation and any granted extensions thereof. Administrative costs may include any and all costs incurred by the City in connection with the matter including, but not limited to, costs of investigation, staffing costs incurred in preparation for an administrative hearing and for the administrative hearing itself, and costs for all reinspection's of the property related to the violation(s).

(E) Unless otherwise prohibited by law or regulation, all civil fines and administrative costs imposed pursuant to the provisions of this Chapter shall accrue simple interest at the rate of eight (8) percent annually until the civil fine or administrative costs, including interest thereon, is paid in full. Interest shall begin to accrue thirty (30) calendar days after the due date for the civil fine or administrative costs and continue until the civil fine or administrative costs, including interest thereon, is paid in full. (Ord. 22-03)

Sec. 1408. Civil Fines - Due Date. (A) Civil fines are due on the date the civil citation is issued, except civil fines for building violations shall be due on the date the second civil citation is issued containing the notice of failure to correct.

(B) A civil fine shall be late if not received by the City within thirty (30) calendar days of the date the civil citation was issued.

(C) If a responsible person requests an administrative hearing and has received a waiver of civil fine deposit and the hearing officer upholds the civil citation, the civil fine shall be due on the date the notice of decision is personally delivered or mailed to the responsible person. (Ord. 22-03)

Sec. 1409. Civil Fines - Payment. (A) A civil fine shall be received by the City Administrative Services department within thirty (30) calendar days of its due date.

(B) Payment of a civil fine shall not excuse the responsible person from correcting the Code violation(s). The issuance of a civil citation and/or payment of a civil fine does not bar the City from taking any other enforcement action regarding a Code violation that is not corrected, including issuing additional civil citations, and/or filing civil or criminal complaints. (Ord. 22-03)

Sec. 1410. Civil Fines - Collection. (A) Civil fines, interest, penalties, reinspection fees, and/or administrative costs shall become a debt owing to the City and a personal obligation of the responsible person cited.

(B) The City, at its discretion, may pursue any and all legal and equitable remedies for the collection of unpaid civil fines, administrative charges, interest and penalties. Pursuit of one remedy does not preclude the pursuit of any other remedies until the total amount of the civil fines, interest and penalties owed by a person under this Chapter have been collected.

(C) The City may refuse to issue, extend, or renew any City permit, license, or other City approval to any person, who has unpaid delinquent civil fines, interest, penalties, liens or assessments due under this Chapter related to the permit, license, or approval.

(D) The City may suspend any permit, license, or land use approval issued to a person who has unpaid civil fines related to the permit, license, or approval totaling five hundred dollars (\$500.00) or more that have been delinquent for over thirty (30) calendar days. The suspension shall become effective twenty (20) calendar days after notice of the suspension is placed by the director in the U.S. mail, postage prepaid, addressed to the person and shall continue until the delinquency is paid in full. The person may request an administrative hearing pursuant to the provisions of this Chapter on the issue of civil fine delinquency only if the request is filed with the director before the twenty (20) calendar day period ends. Continuing to operate under a suspended permit, license or land use approval shall be grounds for revocation of the permit, license or land use approval. Revocation may be made by the same City department, or commission issuing or granting the permit, license or land use approval upon the same notice and hearing requirements for the initial issue or grant, or upon such other procedures and notice requirements if controlled by another provision of this Code. In no event shall revocation occur upon less than ten (10) calendar days' written notice.

(E) It shall be unlawful for a responsible person to fail to pay any civil fine, interest, penalty, reinspection fee, or administrative charges imposed pursuant to this Chapter. The City Attorney, at his or her discretion, may issue a criminal citation or complaint for an infraction to any responsible person who fails to make such a payment. The criminal fine for this violation shall be a mandatory minimum of one hundred dollars (\$100.00).

(F) Any violation of this Code shall constitute a public nuisance. To compel compliance, the City may seek to abate the nuisance and collect the costs incurred by means of a nuisance abatement lien and/or special assessment against the property where a property-related violation occurred. Any unpaid delinquent civil fines, interest, penalties, reinspection fees, or administrative charges may be recovered as part of any such lien or special assessment against the property of the responsible person who is the owner of the property where the violation occurred pursuant to California Government Code Sections 38773.1

and 38773.5. 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 and court costs. 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.

(G) To recover any delinquent civil fines, interest, penalties, reinspection fees, or administrative charges as a nuisance abatement lien and/or special assessment against the property where a property-related violation occurred, the City's Administrative Service Director of, at his or her discretion, take the following steps:

(1) Submit to and receive from the City Council a resolution certifying the amounts of the liens and special assessments sought to be collected from each property owner;

(2) Request the San Luis Obispo County recorder to record a notice of any liens, or special assessments, and send the recorder the resolution certifying the amounts;

(3) Request the San Luis Obispo County tax collector to collect any special assessments certified by the City Council; and

(4) Take all other necessary action to enforce collection of any liens or special assessments provided for in this Chapter.

(H) The Administrative Service Director may pursue the lien and special assessment remedies whether or not the City is pursuing any other action to terminate an ongoing Code violation that was the basis for the civil fine.

(I) All civil citations shall contain a notice that unpaid civil fines, interest, penalties, reinspection fees, and administrative charges are subject to the assessment and lien collection procedures of this section. The lien or assessment shall be imposed on the date the civil citation for the Code violation is issued to the responsible person and becomes effective upon the recording of a notice of lien or assessment by the San Luis Obispo County recorder. This notice shall satisfy the notice requirements of California Government Code Sections 38773.1 and 38773.5, when a civil citation is personally served on the responsible person. In addition, the City Administrative Service Director shall send notice by first class mail stating the date, time and location of the meeting to each property owner listed in the proposed resolution at least ten (10) calendar days before the City Council considers the resolution and certifies the amounts of the liens and special assessments.

(J) A responsible person may contest the amount and/or validity of any lien or assessment for a civil fine at the public hearing to certify the amount of the lien or assessment by the City Council pursuant to the provisions of this Chapter. Such contests shall be limited to the issue of the amount and/or validity of the lien or assessment and may not consider whether the underlying Code violation occurred. Pursuit of such a contest by a responsible person is necessary to exhaust the administrative remedies concerning a legal challenge to the validity of any such lien or assessment.

(K) The parent or legal guardian of a responsible person who is a minor shall be liable for any civil fines imposed upon the minor pursuant to the provisions of this Chapter. Any such civil fines may be collected from the minor, parent or guardian. (Ord. 22-03)

Sec. 1411. Preliminary Civil Citation Review. (A) A responsible person may request a preliminary civil citation review. The request for a preliminary civil citation review shall be actually received by the Community Development Department within ten (10) calendar days of the date of issuance of the civil citation.

(B) To obtain a preliminary civil citation review, the responsible person shall submit to the Community Development Department a copy of the civil citation along with a signed written request for a preliminary civil citation review stating the reasons why no violation occurred or why the responsible person cited is not a responsible person for the violation. Attached to the signed written request for a preliminary civil citation review shall be copies of any evidence that the responsible person would like considered during the preliminary civil citation review. All requests for a preliminary civil citation review shall be date stamped upon receipt by the City.

(C) A City employee designated by the director shall conduct the preliminary civil citation review. The reviewer shall not be the enforcement officer who issued the civil citation. The purpose of the preliminary civil citation review is to uncover and cancel any mistakenly issued civil citations due to errors that are easily verifiable, and not to resolve factual disputes concerning the violation that is the subject of the civil citation.

(D) The preliminary civil citation review shall consist of a review of the citation, the written statement and any other evidence submitted at the time of the request by the responsible person and, at the discretion of the reviewer, any other related information. The review shall be decided within three (3) business days of receipt of the request.

(E) The responsible person shall be notified of the results of the preliminary civil citation review by a written notice of decision. The notice of decision shall be forwarded to the responsible person by mail, email, or in person.

(F) A request for preliminary civil citation review does not extend any time periods for compliance, including the civil fine due date, the time any correction period ends, or the time to request an administrative hearing.

(G) If the conclusion of the preliminary civil citation review is that the civil citation was mistakenly issued or that the responsible person was not responsible for the violation, the citation shall be canceled. (Ord. 22-03)

Sec. 1412. Waiver of Civil Fine Payment. (A) A responsible person requesting an administrative hearing may also request at the same time a hardship waiver of the civil fine payment. To seek such a waiver and obtain an administrative hearing on the request, the responsible person shall file with the City the signed written request form contained on the reverse side of the civil citation, check the box indicating this request, and attach a statement of the grounds for the request. The procedure governing the filing of such requests shall be the same, as provided in Section 1413(B) of this Chapter.

(B) The person requesting the waiver bears the burden of establishing by substantial evidence that he or she does not have the financial ability to pay the deposit of the civil fine. The responsible person shall personally appear at the administrative hearing on the request and a nonappearance shall constitute an abandonment of the request.

(C) The request shall be heard at the administrative hearing on the contest of the civil citation. At the conclusion of the administrative hearing on the waiver request, the hearing officer shall issue a notice of decision that the fine deposit is or is not waived. The hearing officer shall then proceed with the hearing on the contest of the civil citation. If the civil citation is upheld by the hearing officer, the fine payment shall be paid within thirty (30) days after the decision is made by the hearing officer.

(D) A hearing officer decision on the waiver request is final and not subject to an appeal pursuant to Section 1416 of this Chapter. (Ord. 22-03)

Sec. 1413. Administrative Hearing - Request. (A) A responsible person may contest a civil citation by filing a request for an administrative hearing, except that an administrative hearing of a building violation may not be requested unless and until a second civil citation is issued containing a notice of failure to correct. To obtain an administrative hearing, the responsible person shall fill out and file a signed written request form obtained from the City's Department of Community Development and indicate the grounds for contesting the civil citation and/or civil fine. A responsible person may contest the civil citation by denying that a violation occurred, by denying that it was not corrected within the correction period, if applicable, or by denying that the responsible person cited is a responsible person for the violation.

(B) To be effective and complete, the City must actually receive the request within thirty (30) calendar days of the date the citation was issued. Where the responsible person mails a request, the request shall be deemed filed on the date actually received by the City.

(C) The responsible person shall appear at the administrative hearing on the date and at the time and place specified in writing by the City by the Director of Community Development. Failure to personally attend the administrative hearing shall be considered a nonappearance. Nonappearance by the responsible person shall constitute an abandonment of the request unless the administrative hearing was continued pursuant to the provisions of this Chapter. (Ord. 22-03)

Sec. 1414. Administrative Hearing - Procedure. (A) A hearing officer shall conduct administrative hearings in accordance with the provisions of this Chapter.

(B) Hearings shall be conducted by a hearing officer either:

(1) On the date and at the time and place specified in writing by the City;

(2) On the date designated as a continued hearing date, as specified hereinbelow; or

(3) On a date set by the director at least ten (10) calendar days, but not more than thirty (30) calendar days, after the responsible person requests an administrative hearing pursuant to Section 1412 of this Chapter. At least ten (10) calendar days written notice thereof shall be given to the responsible person .

(C) The Director shall ensure that the pertinent civil citation records are delivered to the hearing officer, including information showing all civil fine deposits or waivers granted.

(D) At the administrative hearing, the director shall make available to the responsible person copies of any additional reports concerning the civil citation that are provided to the hearing officer.

(E) The responsible person shall be given the opportunity to testify and to present evidence relevant to financial hardship, the Code violation specified in the citation, or the fact that all fines have been paid. A parent or legal guardian of a responsible person who is a juvenile under eighteen (18) years of age shall accompany the responsible person at the administrative hearing or the contest of the civil citation or request for waiver of the civil fine deposit shall be deemed abandoned.

(F) The civil citation, and any other reports prepared by the enforcement officer, or prepared at his or her request concerning the Code violation, any attempted correction of the Code violation, or civil fine payments that are provided to the hearing officer shall be accepted by the hearing officer as prima facie evidence of the Code violation and the facts stated in such documents.

(G) The hearing officer, Director, or City Attorney may continue an administrative hearing if a request is made by the responsible person, or the responsible person's representative, or the representative of the City, upon a showing of good cause. All continuance requests shall either be made in person at the

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administrative hearing or by written request received by the department at least twenty-four (24) hours before the administrative hearing date. If the continuance is granted, a new administrative hearing date shall be set within forty-five (45) calendar days and noted on the notice of decision. If the continuance is denied, the administrative hearing shall proceed as scheduled, and, if the responsible person is not present, the contest of the civil citation or request for civil fine payment waiver shall be deemed abandoned in accordance with the provisions of this Chapter. The decision on the continuance request is final and the notice of decision shall either be delivered personally to the responsible person or the representative if present or be mailed or emailed to the responsible person by the department.

(H) The administrative hearing shall be conducted informally, and the legal rules of evidence need not be followed. The hearing officer does not have the authority to issue a subpoena.

(I) The failure of the responsible person to appear at the administrative hearing, unless continued in accordance with the provisions of this Chapter, shall constitute an abandonment of the request for waiver of the civil fine payment and/or contest of the civil citation, and a failure to exhaust administrative remedies concerning the Code violation(s) as set forth in the civil citation. The responsible person's failure to appear shall be noted on the notice of decision by the hearing officer and delivered to the responsible person either in person or by mail. (Ord. 22-03)

Sec. 1415. Administrative Hearing - Decision. (A) After consideration of all the evidence and testimony submitted at the administrative hearing, the hearing officer shall issue a written decision to either waive the civil fine payment, not waive the civil fine payment, uphold the civil citation, or cancel the civil citation. The hearing officer has no discretion or authority to reduce or modify a civil fine. The decision will be made on a notice of decision form and designate the reasons and evidence considered for the decision. The decision of the hearing officer shall be made within ten (10) business days of the hearing and shall be final. The notice of decision shall be mailed or emailed to the responsible person by the department. (Ord. 22-03)

Sec. 1416. Right to Judicial Review. (A) Any person aggrieved by an administrative decision of a hearing officer may seek judicial review of the administrative hearing decision by filing an appeal with the superior court of San Luis Obispo County in accordance with the timelines and provisions set forth in California Government Code Section 53069.4. The aggrieved person filing the appeal shall be responsible for paying the statutory filing fee to the superior court when the appeal is filed.

(B) No appeal is permitted from an administrative decision regarding:

- (1) A request for preliminary civil citation review.
- (2) An extension of the thirty (30) calendar day correction period for building

violations.

- (3) A request for waiver of the civil fine payment; or
- (4) A decision that the responsible person is deemed to have abandoned the contest

of the civil citation or civil fine due to her or his failure to appear at the administrative hearing or failure to deposit the civil fine. (Ord. 22-03)

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 best 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 not replace but be supplemental and in addition to all other proceedings by this Code or otherwise by law. (Ord. 19-08; Am. Ord. 22-03)

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.

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"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)

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