

Chapter 18 BUILT AND NATURAL ENVIRONMENT¹

ARTICLE I. IN GENERAL

Secs. 18-1—18-30. Reserved.

Sec. 18-1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning:

Abandoned property means any unimproved or improved real property, or portion thereof including buildings or structures, that is vacant or shows evidence of vacancy or: (1) the subject of a current notice of default, notice of trustee's sale, or pending tax assessor lien sale; (2) the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure, (3) has been transferred to the current owner under a deed in lieu of foreclosure, or (4) has been surrendered or deserted in contemplation or threat of foreclosure.

Abandoned shopping cart prevention plan means a document submitted by the responsible business owner pursuant to Section 18-357.

Abandoned shopping carts means any cart taken from the business site without the written consent of the owner to either public or private property.

Abatement Costs means all costs, fees, and expenses, incidental or otherwise, including labor, materials, legal fees and administrative costs associated with the process of investigating and abating a nuisance or public nuisance.

Accessible means any real property or structure that is unsecured in such a way as to allow access to unauthorized persons.

Agent means the person or persons designated in the owner's abandoned cart prevention plan authorized to perform or provide retrieval services on behalf of the owner of the business. The agent may be the owner if so designated in the approved abandoned cart prevention plan.

Agreement for sale means any agreement or written instrument that transfers or conveys title to real property from one person to another person.

Agricultural property means a parcel of real property which is undeveloped for any use other than agricultural purposes.

Ambient noise level means the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources excluding alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

¹Charter reference(s)—Powers of city, § 301 et seq.

Cross reference(s)—Animals, Ch. 6; parks and recreation, Ch. 38; streets, sidewalks and other public places, Ch. 46; utilities, Ch. 62; sand and grease traps, § 62-471 et seq.; industrial wastes, § 62-501 et seq.; disposal of hazardous materials prohibited, § 62-652; buildings and building regulations, Ch. 74; unsafe buildings and structures, § 74-171 et seq.; subdivisions and zoning, Ch. 78.

Assignment of rents means a written instrument that transfers the beneficial interest under a deed of trust from one person to another person.

A-weighted sound level means the total level meter in decibels of all sounds as measured with a sound level meter with a reference pressure of 20 micropascals using the A-weighted network (scale) at slow response. The unit of measurement shall be defined as dB(A).

Beneficiary means the beneficiary (either original beneficiary or the assignee) under a note secured by a deed of trust.

Building means any structure built for the support, shelter, or enclosure of persons, animals, chattels or property of any kind, including all commercial, industrial and residential buildings, including single-family homes, duplexes, and apartment houses. If a housing unit in a multiple-family building is a nuisance as defined, the procedure in this article may be applicable to one or more housing units in the multiple-family structure. If a rental unit in a commercial or industrial building is a nuisance as defined, the procedure in this article may be applicable to one or more rental units in the commercial or industrial building.

Buyer means any person who agrees to transfer anything of value in consideration for property described in an agreement for sale, as defined in this section.

Cart means both shopping carts and laundry carts.

Code compliance manager or *code compliance supervisor* shall mean the individual responsible for the day-to-day management of the code compliance division or their designee.

Code Enforcement Costs means fees imposed by the city to defray its costs of code enforcement actions including, but not limited to, the time and other resources of public officials expended by them in identifying, inspecting, investigating, seeking or causing the abatement of a violation at a residential structure or property. These include, but are not limited to, site inspections, drafting reports, taking photographs, procuring other evidence, engaging in meetings, conferences and communications with responsible persons, their agents or representatives, concerning a violation, as well as with attorneys for the city at any time, and appearances before judicial officers or reviewing authorities during the pendency of a judicial proceeding and other appearances at such judicial or administrative hearings.

Commercial property means a parcel of real property that is developed and used either in part or in whole for a commercial purpose.

Cumulative period means an additive period of time composed of individual time segments, which may be continuous or interrupted.

Dangerous building means any building or structure that is in violation of any condition referenced in the Uniform Code for Abatement of Dangerous Buildings, as adopted by City Code, Chapter 74, International Property Maintenance Code, or California Health and Safety Code Section 17920.3.

Day means calendar day.

Decibel (dB) means a unit which denotes the ratio between two quantities which are proportional to power: The number of decibels corresponding to the ratio of two amounts of power is ten times the logarithm of the base ten of this ratio.

Deed in lieu of foreclosure means a document that transfers legal title to a property from the trustor to the trustee, upon consent of the beneficiary of the deed of trust.

Deed of trust means any instrument, including any deed of trust or mortgage, by which legal title to real property, or any interest therein, is transferred to a trustee as security for a real estate loan, including, without limitation, any and all subsequent deeds of trust, i.e.: 2nd trust deed, 3rd trust deed, etc.

Default means the material breach of or failure to fulfill a legal or contractual obligation, whether monetary or otherwise.

Development services director means the head of the development services department or their designee.

Distressed property means any unimproved or improved real property, or portion thereof including buildings or structures, that is under a current notice of default or notice of trustee's sale, or pending tax assessor's lien sale, or has been foreclosed upon by the trustee or has been conveyed to the beneficiary or trustee by way of a deed in lieu of foreclosure, but which is lawfully occupied.

Dwelling unit means a single unit providing complete independent living facilities for one or more persons including permanent provision for living, sleeping, eating, cooking, and sanitation.

Emergency machinery, vehicle, work, or alarm means machinery, vehicle, work, or an alarm used, employed, performed, or operated in an effort to protect, provide, or restore safety conditions in the community or for the citizenry or work performed by private or public utilities when restoring utility service.

Etching substance means any type of liquid or paste product used to permanently etch glass. Ingredients of such etching liquids, etching pastes or etching baths may include but are not limited to ammonia/sodium bifluorides and sulfuric acid.

Evidence of vacancy means any condition that, on its own, or combined with other conditions present, would lead a reasonable person to believe that a subject property is vacant. Such conditions include, but are not limited to, overgrown or dead vegetation, accumulation of newspapers, circulars, flyers or mail, past due utility notices or disconnected utilities, accumulation of trash, junk or debris, the absence of window coverings such as curtains, blinds or shutters, the absence of furnishings or personal items consistent with residential habitation, and/or statements by neighbors, passersby, delivery agents, or government employees that the property is vacant.

Fixed noise source means a stationary device that creates sounds while fixed or motionless, including but not limited to residential, agricultural, industrial, and commercial machinery and equipment, pumps, fans, compressors, or air conditioner and refrigeration equipment.

Foreclosure means the process by which a property, placed as security for a loan, is sold to satisfy the debt if the trustor defaults.

Grading means any excavating or filling of earth material or any combination thereof conducted at a site.

Graffiti implement means any writing instrument that has a porous point, tip or nib that measures in excess of 1/16 of an inch in width at its widest point, commonly known as markers, marking pens or sign pens, or any glass etching tools or substances. For purposes of this division, a graffiti implement shall not include an aerosol container of paint unless expressly stated otherwise.

Graffiti means any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, inscribed or painted on any public or private real or personal property without the consent or permission of the owner thereof.

Health care institution means any hospital, convalescent home or other similar facility which provides health care, medical treatment, room, board or other services for the ill, retarded, or convalescent.

Hearing officer means a private person, or a public official, or duly constituted reviewing authority or commission that the City Manager designates or appoints to consider all timely requests for an administrative hearing upon issuance of a citation. The term "Hearing Officer" may also include a person with experience, qualifications and training reasonably satisfactory to the city who are employed by, or otherwise contracted by, an entity which is itself under contract with the city to provide services relating to the processing, review and disposition of administrative citations, which services also include provision of personnel to serve as hearing officers.

Hertz (Hz) means the unit that describes the frequency of a function periodic in time, which is the reciprocal of the period.

Highway means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. The term "highway" includes a street.

Impulsive noise level means a noise of short duration, usually less than one second, and of high intensity, with an abrupt onset and rapid decay.

Industrial property means a parcel of real property that is developed and used either in part or in whole for manufacturing purposes.

Inoperative vehicle and *abandoned vehicle* mean any vehicle as defined in Section 58-231.

Intruding noise level means the total sound level, in decibels, created, caused, maintained, or originated from an alleged offensive source at a specified location while the alleged offensive source is in operation.

Junk means and includes in addition to junk as defined by Section 746 of the Streets and Highways Code, any cast-off, damaged, discarded, junked, obsolete, salvaged, scrapped, unusable, worn-out or wrecked object, thing or material composed in whole or in part of asphalt, brick, carbon, cement, cotton, dirt, fiber, glass, metal, paper, plaster, plaster of paris, plastic, rubber, terra cotta, wool, wood or other substance, including, but not being limited to, used, discarded or obsolete batteries, rope, rugs, trash, vegetation, vehicles or waste, or any accumulation of objects of any kind, of such size, quantity or nature that the same cannot be lawfully used within a reasonable time upon the property upon which the same is located.

Junkyard means and includes any building, equipment, land, lot, place, premises or structures where, at upon which, to which or from which is abandoned, baled, bartered, bought, brought, bundled, disassembled, disposed of, exchanged, handled, packed, processed, shipped, sold, stored or transported any junk as defined by Section 746 of the Streets and Highways Code, or any cast-off, damaged, discarded, junked, obsolete, salvaged, scrapped, unusable, worn-out or wrecked object, thing or material composed in whole or in part of asphalt, brick, carbon, cement, cotton, dirt, fiber, glass, metal, paper, plaster, plaster of paris, plastic, rubber, terra cotta, wool, wood or other substance, including, but not being limited to, used, discarded or obsolete batteries, clothing debris, equipment, floor coverings, garbage, logs, lumber, rags, rope, rugs, trash, vegetation, vehicles or waste. Exception: Junkyard does not include any business engaged in the buying or selling of new or used furniture or useable household equipment conducted within a zone permitting such business and conducted in accordance with all regulations applicable to such business, nor to the business of buying and selling used automobiles in operable condition when conducted within a zone permitting such business and conducted in accordance with all regulations applicable thereto, nor to the storage or use of used or salvaged materials in connection with a manufacturing operation conducted in accordance with all regulations applicable thereto.

Laundry cart means a basket which is mounted on wheels and used in a coin-operated laundry or dry-cleaning retail establishment by a customer or an attendant for the purpose of transporting fabrics and/or clothing, and the supplies necessary to process them.

Licensed means the issuance of a formal license or permit by the appropriate jurisdictional authority or, where no permits or licenses are issued, the sanctioning of the activity by the jurisdiction as noted in the public record.

Local means the area within 40 miles of the subject property.

Minor means any unemancipated person who is less than 18 years of age.

Mobile noise source means any noise other than a fixed noise source.

Neighborhood standard means those conditions that are present on a simple majority of other occupied properties within a 300-foot radius of the subject property. A property that is the subject of a neighborhood

standard comparison, or any other abandoned property, within the 300-foot radius, shall not be counted toward the simple majority.

Notice of default or notice of trustee's sale means a notice that a default has occurred under a deed of trust and that the beneficiary intends to proceed with a trustee's sale or other similar remedies authorized by law.

Nuisance means a violation of any city or county ordinance, rule, regulation and/or code adopted by reference by this Code, or any violation of a state or federal law or regulation.

Out of area means the area in excess of 40 miles from the subject.

Owner means any person having a legal title in any real property. For purposes of abandoned shopping carts, it also means any person or entity, or their designated agent, who in connection with the conduct of a business, possesses, leases or makes carts available to customers or the public for the purpose of transporting merchandise on the business premises.

Owner of record means the person or entity having recorded title to the property as shown in the Los Angeles County registrar-recorder's office.

Owner of the land means the owner of the land on which the vehicle or part thereof is located, as shown on the last equalized assessment roll.

Owner of the vehicle means the last registered owner and legal owner of record.

Person means and includes any natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

Plainly audible means clearly heard by a person using his unaided hearing faculties.

Premises means and includes whenever applicable or appropriate any building, structure, lot, parcel, land or portion thereof, improved or unimproved, including adjacent streets, alleys, sidewalks, parkways, and parking areas. *Property* means any unimproved or improved real property, or portion thereof, situated in the city and includes the buildings or structures located on the property.

Public Nuisance means anything which is, or likely to become, injurious or detrimental to health, safety or welfare, or is offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any sidewalk, public park, square, street or highway. All conditions hereafter enumerated in this article, or that otherwise violate or are contrary to any provision of this code, are public nuisances by definition and declaration, and said enumerated conditions shall not, in any manner, be construed to be exclusive or exhaustive. A public nuisance shall also exist when a person fails to comply with any condition of a city approval, entitlement, license or permit or when an activity on, or use of, real property violates, or is contrary to, any provision or requirement of this code.

Public property means and includes property owned by the city and property in, on, upon or across which the city has an easement for public street, road, highway, alley, sidewalk, parkway, planting, access, ingress, egress or other purposes.

Residential property means a parcel of real property that is developed and used either in part or in whole for residential purposes, other than transient uses such as hotels and motels.

Responsible adult means a parent, legal guardian or person having legal responsibility for an unemancipated individual under the age of 18.

Responsible party means the person having actual control of the property at any given time, including the owner of record, the beneficiary, the trustee, the servicing company, or real estate agent acting, or any other party, acting on behalf of the owner of record, beneficiary, or trustee.

Securing means such measures as may be directed by the code compliance manager or their designee that assist in rendering the property inaccessible to unauthorized persons, including, but not limited to, the repairing of fences and walls, chaining or padlocking of gates, and the repair or boarding of door, window or other openings to a minimum of the current HUD securing standards at the time the boarding is completed or required.

Shopping cart means a basket mounted on wheels or a similar device intended for the use of customers in a retail or commercial business establishment for the purpose of transporting goods of any kind within the confines of the business establishment, including the parking lot.

Simple tone noise means a noise characterized by a predominant frequency so that other frequencies cannot be readily distinguished. If measured, simple tone noise shall exist if the one-third octave band sound pressure levels in the band with the tone exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands as follows: by five dB for frequencies of 500 hertz (Hz) and above or by 15 dB for frequencies less than or equal to 125 hertz.

Sound level meter means an instrument meeting American Standard Institute's Standard S1.4-1971 or most recent revision thereof for type 1 or type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

Sound pressure level of a sound, in decibels, means 20 times the logarithm to the base 20 of the ratio of the pressure of the sound to a reference pressure, which reference pressure shall be explicitly stated.

Structure means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, except temporary structures used in connection with construction.

Transfer means any sale, exchange, gift or loan.

Trustee means the person holding a deed of trust on a property.

Trustor means a borrower under a deed of trust, who deeds the legal title to a property over to a trustee as security for the payment of a debt.

Unattended donation/collection boxes means unstaffed drop-off boxes, containers, receptacles, or similar facility that accept textiles, shoes, books and/or other salvageable personal property items to be used by the operator for distribution, resale, or recycling. Excludes lending library boxes for mutual aid and public library collection boxes.

Vacant means any unimproved or improved real property, or portion thereof including buildings or structures that is not legally occupied or legally developed.

Vegetation means any trees, shrubs, flowers, bushes, vines, grass, plants, roots, leaves, tree needles, and weeds.

Vehicle means a device by which any person or property may be propelled, moved, or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks.

Vibration means any movement of the earth, ground, or other similar surface created by temporal and special oscillation of displacement, velocity, or acceleration in any mechanical device or equipment located upon, attached to, affixed to, or in conjunction with that surface.

Yard area means any open space between a lot line and the nearest building.

Secs. 18-185—18-220. Reserved.

ARTICLE II. PROPERTY MAINTENANCE

Sec. 18-221. Purpose and intent.

- A. In order to further the stated goals of the city and to protect its citizens and their property from conditions which are detrimental to property values and aesthetics, or hazardous or injurious to the health, safety, or welfare of the general public, the City Council has determined that this chapter pertaining to property maintenance and nuisance abatement is necessary to effectively abate or prevent the development of such conditions in the city.
- B. It is the intention of the City Council, in adopting the ordinance codified in this chapter, to set forth guidelines for determining what conditions constitute a public nuisance; to establish a method for giving notice of the conditions and an opportunity to correct; and finally in the event the public nuisance is not abated or corrected, to provide a procedure for a hearing and determination of the facts and manner in which the conditions shall be corrected or removed.
- C. It is the purpose of this chapter to provide a just, equitable, and practical method, in addition to any other remedy available at law or equity, whereby lands or buildings which are dilapidated, unsafe, dangerous, unsanitary, cluttered with weeds and/or debris, abandoned vehicles, machinery or equipment, or are a menace, or hazard to life, limb, safety, health, aesthetic standards, or the general welfare of the city, may be required to be repaired, renovated, vacated, demolished, made safe, or cleaned up by removal of offensive conditions.
- D. In addition to the abatement procedures provided herein, this chapter declares certain conditions to be public nuisances, and that maintenance of such conditions shall be a misdemeanor.
- E. This chapter is not intended to enforce Conditions, Covenants, and Restrictions (CC&R's) on property, nor to supersede them. This chapter will be enforced uniformly within the city regardless of CC&R's. Therefore, this chapter does not abrogate the right of any homeowner's association or private citizen to take action, legal or as otherwise provided in the CC&R's, to force compliance with the CC&R's applicable to their tract or association even though the CC&R provisions may be the same, more restrictive, or may not be covered by this chapter.

Sec. 18-222. Public nuisances designated.

It is unlawful and it is declared to be a public nuisance for any person owning, leasing, occupying, or having charge or possession of any residential, agricultural, commercial, industrial, business park, office, educational, religious assembly, vacant, or other premises within the city, to maintain such premises in such a manner that any of the following conditions are found to exist thereon:

- A. A violation of any city or county ordinance, rule, regulation and/or code adopted by reference by this Code, or any violation of a state or federal law or regulation.

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- B. Any land, the topography, geology, or configuration of which, whether in a natural state or as a result of grading operations, excavations, fill, or other alteration, interferes with the established drainage pattern over the property or from adjoining or other properties which does or may result in erosion, subsidence, or surface water drainage problems of such magnitude as to be injurious to public health, safety and welfare or to neighboring properties.
- C. Any building or structure which is partially destroyed, damaged, abandoned, boarded up, dilapidated, or permitted to remain in a state of partial construction.
- D. The failure to secure and maintain against public access through any doorways, windows, and other openings into vacant or abandoned buildings or structures, and the failure to provide fencing to secure and prevent access to any vacant or abandoned building, structure or lot.
- E. Buildings and walls, retaining walls, fences or structures that require repainting, or buildings, walls, fences, or structures upon which the condition of the paint has become so deteriorated as to permit decay, excessive checking, cracking, peeling, chalking, dry rot, warping or termite infestation.
- F. Any building or structure, wall, fence, pavement, window, vehicle, or walkway upon which any graffiti, including paint, ink, chalk, dye, etchings, or other similar marking substances, is allowed to remain for more than twenty-four (24) consecutive hours.
- G. Any wall, fence, gate, or portion thereof, that is damaged, broken, dilapidated or a hazard or is maintained in violation of this code.
- H. Broken windows, missing windows, windows boarded up in an occupied structure missing or damaged window screens where required in structures used for residential purposes.
- I. All weeds and all rubbish and refuse upon the sidewalks, parkways and alleys within the city are public nuisances which shall be abated by the property owner abutting the sidewalk, parkway or alley.
- J. Any overgrown, unmaintained, under-maintained, dead, decayed, diseased or hazardous tree, weeds, grass, vegetation, which:
 - a. May harbor rats, vermin, excessive amounts of insects, or other disease carriers;
 - b. Is maintained so as to cause an obstruction to the vision of motorists or a hazardous condition to pedestrians or vehicle traffic;
 - c. Constitutes or promotes blight;
 - d. Creates a danger or attractive nuisance to the public;
 - e. Constitutes or promotes a fire hazard.
- K. Building exteriors, roofs, landscaping, grounds, walls, retaining and crib walls, fences, driveways, parking lots, easements, planters, sidewalks, or walkways, which are maintained in such condition so as to become defective, unsightly, cracked or no longer viable.
- L. The accumulation of dirt, litter, trash, junk, feces, or debris in doorways, adjoining sidewalks, walkways, courtyards, patios, parking lots, planters, yard areas, landscaped or other areas.
- M. Lumber, building materials, rubble, broken asphalt or concrete, containers, shipping containers, truck trailers, or other similar materials, except where: a) construction is occurring under a valid permit and/or b) the container or shipping containers are being utilized on an approved temporary basis for residential

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storage or as part of an approved urban agricultural use and/or c) the truck trailers are parked at an approved dock-high or at-grade door or otherwise allowed on other locations on site through an approved active entitlement.

- N. Junk, solid waste, vegetation, salvage materials, scrap metals, hazardous waste, broken or neglected machinery, dirt or fill material deposited or stored contrary to any law, automobile parts, except within a commercial business lawfully engaged in retail sales.
- O. Sinks, fixtures or equipment, appliances or furniture stored so as to be visible from a public street or alley, or adjoining property, except lawn furniture in residential yards.
- P. Inoperative vehicles, except where permitted by the zoning code; and such conditions are causing damage or detriment to any neighboring property or are lowering the property values of any neighboring property or are visible from a public right-of-way, alley, or any neighboring property, or constitute a fire hazard.
- Q. Trash, garbage or refuse cans, bins, boxes or other such containers stored for more than twenty-four (24) hours within the required front yard or any yards visible from the public right-of-way or alley.
- R. Clothing, lines, towels, laundry, rugs, and other similar materials may not be hung on lines, ropes, trees, bushes, fences, buildings, railings or walls in the front or side yards or be visible from the public right-of-way or alley.
- S. Fences and walls partially or wholly constructed of, or assembled from, or covered by junk material, debris, tarps or other types of fabric (except for mesh fabric specifically designed as windscreens to be used for tennis courts), rolled plaster, sheet metal, plywood, or other waste materials (unless such waste materials have been reprocessed into building materials marketed to the general public as fencing and/or wall materials and resembling new building materials).
- T. Damaged, dilapidated, inadequately or improperly maintained signs or other identification or advertising devices.
- U. Business activities, including sales, storage of merchandise, equipment, machinery, vehicles, truck trailers, or materials, and manufacturing not conducted entirely within a totally enclosed building, except as specifically permitted by other provisions of this Code.
- V. Vehicles, including automobiles, trucks, trailers of any type, boats, camper shells, recreational vehicles, motor homes, mobile homes and construction equipment, regardless of condition or capability of self-powered movement, occupied or unoccupied, parked or stored on vacant private property, except as specifically permitted by other provisions of this Code, or of the Uniform Building Code as adopted by and amended by the City;
- W. Deteriorated privately maintained sidewalks, driveways, walkways, and parking lots, including those containing potholes, or cracks.
- X. Abandoned, broken, unused, neglected or unprotected equipment and machinery, ponds, reservoirs and pools, whether or not the same contains any water or liquid, excavations, abandoned wells, shafts, basements, foundations, or other holes, abandoned refrigerators or other appliances, abandoned motor vehicles, any unsound structure, skateboard ramps, or accumulated lumber, solid waste, junk, or vegetation, which may reasonably attract children to such abandoned or neglected conditions.

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- Y. Construction equipment, buses, tow trucks, taxicabs and vehicles-for-hire, dump trucks, flatbed trucks, grading equipment, tractors, tractor trailers, truck trailers, or any commercial vehicle over twenty-five (25) feet long or eight (8) feet in height or eighty (80) inches wide, supplies, materials, or machinery of any type or description, parked or stored upon any street or property within a residential zone, except where permitted by this code or state law; "Commercial vehicle," for the purposes of this section, means any motorized or non-motorized vehicle used or maintained to transport property or goods for profit, or persons for hire or compensation;
- Z. Temporary service bins, dumpsters, or storage containers, shipping containers or construction debris storage bins stored on a public street or on private property, except where permitted by this code.
- AA. Any property with accumulations of grease, oil, or other hazardous material on paved or unpaved surfaces, driveways, buildings, walls, or fences, or from which any such material flows or seeps on to any public street or other public or private property, or which is likely to seep or migrate into the underground water table.
- BB. Any front yard, street side yard, parkway, or landscaped setback area, planted material, decorative rock, bark, or planted ground cover or covering, dirt mounds, so as to cause a disproportionate amount of dust, or which constitutes an unsightly appearance, or which has allowed the accumulation of debris.
- CC. Any condition of vegetation overgrowth (including without limitation, involving trees, hedges, and shrubs), which encroaches into, over, or upon any public right-of-way, including, but not limited to, streets, alleys, or sidewalks, so as to constitute either a danger to the public safety or property or an impediment or obstruction of any degree to pedestrian or motorist travel.
- DD. Any premises, building or structure which has been constructed or which now exists or is maintained or occupied in violation of the California Building Code, Uniform Building Code, Uniform Fire Code, Uniform Plumbing Code, Uniform Mechanical Code or National Electrical Code as adopted by this code, or any other law or ordinance of this state or city.
- EE. Except where construction is occurring under a valid permit, the dumping or deposit of any solid waste or junk in or upon any public or private highway or road, including any portion of the right-of-way thereof, or in or upon any private property into or upon which the public is admitted by easement or license, or upon any private property without the consent of the owner, or in or upon any public park or any public property other than property designated or set aside for that purpose by the governing board or body having charge of that property;
 - a. Except where construction is occurring under a valid permit, any placing, depositing, or dumping of any rocks or dirt in or upon any private highway or road, including any portion of the right-of-way thereof, or any private property, without the consent of the owner, or in or upon any public work or public property, without the consent of the state or local agency having jurisdiction over the highway, road, or property.
- FF. Storage of personal property (except items that are authorized by the Building and Safety Division pursuant to issued permits) on rooftops of all buildings and structures.
- GG. Repair and/or dismantling of any vehicle or boat on a residentially zoned or residentially used property where such activity can be seen from the public right-of-way, except where such repair and/or dismantling is completed and any evidence of repair, including tools, equipment, motor oils and other

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fluids, rags, spills, parts, and debris is removed within one day after the repair or dismantling was begun. All major vehicle repairs must be conducted within an enclosed garage. No repair or dismantling of a vehicle or boat on a residentially zoned or residentially used property shall be done except on a vehicle or boat that is owned or leased by, and registered to, a person that permanently resides at the premises at which the repair or dismantling is occurring. No vehicle repair or dismantling work of any kind shall be conducted or allowed to occur at any time in any outdoor area of non-residentially zoned real property, except in full conformance with the Zoning and Development Code and other provisions of the Code.

- a. "Minor repair," for the purposes of this section, means those repairs that can be started and completed in less than six (6) consecutive hours, and are not defined as "major repairs";
- b. "Major repair," for the purposes of this section, means those repairs that cannot be started and completed in less than six (6) consecutive hours, or any body and fender work, or any painting or primer work.

HH. Any building, use or structure wherein one or more person engage, or have engaged, in acts which are prohibited pursuant to the laws of the state, the provisions of this code or any other ordinance of this city, including, but not limited to, the following acts:

1. Unlawful possession or use of controlled substances;
2. Unpermitted cannabis related activity;
3. Prostitution;
4. Gambling;
5. Solicitation for any unlawful conduct.

II. Any real property, or any building or structure thereon, that is used by person to cause, allow, contribute to, permit, or suffer any of the following acts:

1. Disturbances of the peace;
2. Excessive and/or loud noise disturbances;
3. Consumption of alcohol in public and/or public intoxication;
4. Urination in public;
5. Harassment of passersby;
6. Theft, assault, battery, or vandalism;
7. Storage or sale of stolen goods;
8. Excessive littering;
9. Illegal parking or traffic violations;
10. Curfew violations;
11. School attendance violations;
12. Lewd and/or lascivious conduct; and/or
13. Excessive responses by the Police Department or other law enforcement personnel.

JJ. Any premises upon which a tarpaulin, whether natural or manmade, is visible from the public right-of-way or any neighboring property, except during emergency weather conditions as determined by the Code Compliance Manager.

KK. Any premises upon which a defective, broken, dilapidated, unsightly mailbox is visible.

- LL. Any building or structure in a state of deterioration, including, but not limited to, peeling paint on a facade, broken windows, roof in disrepair, damaged porch, broken steps or other deterioration or disrepair, that is visible from the public right-of-way or from neighboring properties.
- MM. Unattended donation/collection boxes, unless otherwise permitted under a zoning permit.
- NN. Any “unsafe building”, unsafe structure”, “substandard building”, or “substandard property” as defined by the California Building Code as adopted and amended by this Code.
- OO. Any building or structure, or portion thereof, or the premises on which the same is located, in which there exists any of the conditions listed in Section 17920.3 of the California Health and Safety Code, and any future amendments thereto.
- PP. Any condition, use, or activity that constitutes a public nuisance as defined by sections 3479 or 3480 of the California Civil Code, any federal, state, county, or city statute, code, ordinance, or regulation.
- QQ. Any condition, use, or occupancy that does not comply with Chapter 4 of the International Property Maintenance Code as adopted by Sec. 74-31 of the Code, or any other provision of the Code.
- RR. Any building, structure, or use of real property that violates or fails to comply with: 1) any applicable conditions of approval for any discretionary, permit, license, or entitlement; 2) any ordinance of the City, including, but not limited to, any provision of this Code, the Pomona Zoning and Development Code; or 3) any applicable local, County, State, or Federal law or regulation.

Administrative procedures for Abatement of Nuisances.

Sec. 18-223 ABATEMENT OF PUBLIC NUISANCES:

All conditions or uses that constitute a "public nuisance" as defined in this article, or that are contrary to, or in violation of, any other provision or requirement of this Code, or of any applicable County or State law, or regulation thereof, which shall also constitute a public nuisance, shall be abated by repair, rehabilitation, demolition, removal or termination.

The procedures for abatement in this part shall not be exclusive and shall not, in any manner, limit or restrict the City from pursuing any other remedies available at law, whether civil, equitable or criminal, or from enforcing City codes and adopted ordinances, or from abating or causing abatement of public nuisances, in any other manner provided by law.

Sec. 18-224 CONTINUING OBLIGATION OF RESPONSIBLE PERSONS TO ABATE A PUBLIC NUISANCE:

A. No person shall allow, cause, create, permit, suffer or maintain a public nuisance to exist on their premises. If public nuisances do arise or occur, responsible persons shall promptly abate them by repair, rehabilitation, demolition, repair, removal or termination with all required City approvals, permits and inspections, when applicable.

B. The City may exercise its administrative, civil/injunctive and criminal remedies, or any one or combination of these remedies, to compel responsible persons to abate a public nuisance when, in its judgment, such persons

have not completed nuisance abatement actions in a timely or proper manner, or when responsible persons have failed to prevent an occurrence or recurrence of a public nuisance.

Sec. 18-225 NOTICE OF PUBLIC NUISANCE AND ORDER TO ABATE:

A. Whenever a code compliance officer or other public official determines that a public nuisance shall be abated, he or she shall serve a written "notice of public nuisance and order to abate " (hereafter in this section and in subsequent sections of this article, the "notice of abatement") on the responsible person(s) that contains the following provisions:

1. The address of the real property on which the nuisance condition(s) exists.
2. A description of the nuisance condition(s).
3. A reference to the law describing or prohibiting the nuisance condition(s).
4. A brief description of the required corrective action(s); and
5. A compliance period in which to complete the nuisance abatement actions (with all required city approvals, permits and inspections, when applicable).

6. The period and manner in which a responsible person may contest the notice of abatement as set forth in this article. No such right shall exist when the city is not seeking to establish the right to abate a public nuisance with city forces or contract agents.

7. A statement that the city may record a declaration of substandard property with the Los Angeles County recorder's office against the premises if the public nuisance is not fully abated or corrected (with all required approvals, permits and inspections), as determined by the city, with the compliance period specified in the notice of abatement, provided that a timely appeal therefrom has not been made.

B. The procedure in subsection A of this section shall not apply to public nuisances constituting an imminent hazard. In such instances, the provisions in section 18-235, "Emergency Action To Abate An Imminent Hazard", of this article shall be followed.

C. The city's election to issue a notice of abatement pursuant to this section shall not excuse responsible persons from their continuing obligation to abate a public nuisance in accordance with all applicable laws, regulations and legal requirements. Furthermore, the issuance of a notice of abatement shall not obligate the city to abate a public nuisance.

D. Sample Notice of Abatement - The Notice of Abatement shall be written in a form that is substantially consistent with the following:

Notice of Public Nuisance(s) and Intention to Abate ("Notice of Abatement")

[Date]

____ ***[Responsible Person(s)]***

____ ***[Mailing Address]***

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____ [City, State and Zip Code]

Re: Real Property at _____, Pomona, CA

L.A. County A.P.N.: _____

Legal description [Optional]: _____

Notice is hereby given that the following public nuisance conditions or activities exist on the premises described above:

(1) [Describe condition or activities] _____ in violation of Pomona City Code [as well as County and State laws, if applicable] Section(s) _____.

(a) Required Corrective Action(s): _____ (with all required permits, approvals and inspections).

(b) Required Completion Date: _____ [Repeat (1 a-b) for each additional public nuisance to be included in this notice]

The foregoing public nuisance conditions are subject to abatement by repair, rehabilitation, demolition, removal or termination.

Please Take Further Notice that you may appeal this Notice of Abatement by filing an appeal on a City approved form with the City Clerk's office within ten (10) calendar days of service of this notice. No fee shall be due for the filing of an appeal. Failure of the City Clerk to receive a timely appeal constitutes a waiver of your right to any further administrative appeal and renders the Notice of Abatement final and binding. A written request for an appeal shall contain the following information, as well as any other information deemed necessary for the processing of the appeal by the City Manager or designee:

1. Name, address, and telephone number of each responsible party who is appealing the Notice of Abatement (hereinafter, "appellant"), as well as relationship of appellant to the public nuisance described in the Notice of Abatement.
2. Address and description of real property upon which the City intends to enter and abate a public nuisance.
3. Date of Notice of Abatement being appealed.
4. Specific action or decision being appealed.
5. Grounds for appeal in sufficient detail to enable the Hearing Officer to understand the nature of the controversy.
6. The signature of at least one appellant.

Following appeal, in the case of a final decision by the City, judicial review of this decision is subject to the provisions and time limits set forth in California Code of Civil Procedure sections 1094.6 et seq.

Please Take Further Notice that, if the public nuisance violations are not abated within the time specified in this Notice and a timely appeal is not made, such nuisance may be abated by the City, representatives or contract agents (hereafter "City Personnel"), in the manner stated in this Notice of Abatement. On such occasions, all costs of the abatement shall be assessed against the responsible person(s) and/or the subject property, as a lien, or as a special assessment, or as otherwise allowed by law.

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Please Take Further Notice that the City may record a Declaration of Substandard Property with the Los Angeles County Recorder's Office against the premises if the public nuisance is not fully abated or corrected (with all required approvals, permits and inspections), as determined by the City, in the manner and time set forth in this Notice of Abatement and provided that a timely appeal therefrom has not been made.

Please Take Further Notice that, in the event of abatement by City Personnel, all buildings, structures, and/or personal property constituting a public nuisance may be removed from the subject premises or from public property and destroyed or disposed of, without regard to its actual or salvage value.

Dated: This _____ day of _____, 20_____.

Public Official [**Name and Title**]

A notice of abatement shall be deemed in substantial compliance with this subsection regardless of form if all substantive information is contained in such notice of abatement.

Sec. 18-226 ADDITIONAL REQUIREMENTS FOR DEMOLITION OF BUILDINGS OR STRUCTURES:

A. The city shall provide responsible persons with a reasonable period to elect between options of repair, rehabilitation, or demolition, as well as a reasonable period of time to complete any of these options, before city takes action to abate a public nuisance by demolishing a building or structure pursuant to this part.

B. The city shall serve a notice of abatement on all secured lienholders of record with the Los Angeles County Recorder's office in the event abatement actions include demolition of a building or structure.

C. Notwithstanding the provisions of section 18-230 of this article, entry onto any real property to abate a public nuisance by demolition of a building or structure, excepting in cases involving an imminent hazard, shall be pursuant to a warrant issued by a court of competent jurisdiction.

D. The provisions of this section shall not apply if demolition is required to address an imminent hazard. In such situation, the provisions of section 18-235, "Emergency Action To Abate An Imminent Hazard", of this article shall apply.

Sec. 18-227 NOTICE AND ORDER TO VACATE BUILDINGS OR STRUCTURES:

A. If the building official, fire chief, and/or health official (or designees thereof) determine that a public nuisance exists at real property (or any buildings or structures thereon) to such an extent that said property (or any building or structure thereon) is immediately dangerous to the life, limb, property, or safety of the occupants of the property or the general public, the building or structure shall be ordered to be vacated.

B. If any building or structure is ordered vacated pursuant to this section, the notice of abatement issued pursuant to section 18-227 of this article, in addition to the information required pursuant to section 18-227 of this article, shall include:

1. A determination that the building official, fire chief, and/or health official (or designees thereof) has

determined that the property (and/or any building or structure thereon) constitutes an immediate danger to the life, limb, property, or safety of the occupants of the property or the general public;

2. A reference to the specific building(s) and/or structure(s) which is/are being ordered vacated;
3. The date and/or time when the order to vacate becomes effective; and
4. Language that substantially states that:

No person shall remain in or enter any building or structure that has been ordered vacated until authorized to do so by the Building Official, Fire Chief, and/or Health Official. No person shall remove, alter, or deface this Notice after it has been posted at the property referenced herein until all required repairs, demolition, or removal have been completed in accordance with this Notice and until such time as the removal of this Notice has been authorized by the Building Official, Fire Chief, and/or Health Official. Any person violating this Order to Vacate shall be guilty of a misdemeanor.

Sec. 18-228 SERVICE OF NOTICE:

A. Except as otherwise expressly required by a provision of this article, any notice required by this article may be served by personal delivery to any responsible person or by first class mail. The date of service shall be the date it is personally delivered or placed in a U.S. postal service receptacle. Failure of any responsible person to receive a properly addressed notice of abatement by mail shall not invalidate any action or proceeding pursuant to this article.

1. Any notice of abatement that includes an order to vacate shall, in addition to being served upon a responsible party in accordance with this subsection A, shall also be posted at or upon each exit of the building or structure being ordered vacated.

B. Except as otherwise expressly required by a provision of this article, any notice issued to an owner of real property shall be sent to the mailing address on the last equalized assessment roll of the Los Angeles County assessor's office. Failure of any owner to receive a properly addressed notice by mail shall not invalidate any action or proceeding pursuant to this article.

Sec. 18-229 RIGHT OF APPEAL FROM A NOTICE OF ABATEMENT:

A. A responsible person may contest a notice of abatement by filing a written request for an appeal with the City Clerk's office (located at 505 S. Garey Avenue, Pomona) within ten (10) calendar days of service of the notice of abatement. No fee shall be due for the filing of an appeal.

1. The filing of a request for an appeal shall not stay an order to vacate any building or structure issued in accordance with the provisions of this article by the building official and/or fire chief to vacate.

B. A written request for an appeal shall contain the following information:

1. Name, address, and telephone number of each responsible party who is appealing the notice

of abatement (hereinafter, "appellant").

2. Address and description of real property upon which the City intends to enter and abate a public nuisance.
3. Date of notice of abatement being appealed.
4. Specific action or decision being appealed.
5. Grounds for appeal in sufficient detail to enable the hearing officer to understand the nature of the controversy.
6. The signature of at least one appellant.

C. Failure of the city clerk to receive a timely appeal constitutes a waiver of the right to contest a notice of abatement. In this event, the notice of abatement is final and binding.

D. The provisions of this section only apply to instances where the city has elected to establish the right, but not the obligation, to abate public nuisances with city personnel. In no event does this article limit the right of City officials to issue alternative written or oral notices of code violations to responsible persons or to cause the abatement of public nuisances in a different manner, including, without limitation, by court orders arising from the city's exercise of its criminal or civil remedies. In such instances, a responsible person shall receive a right to hearing and other due process rights through the court process.

Sec. 18-230 CONSEQUENCES OF AN UNTIMELY APPEAL:

A. If a timely appeal is not received by the city clerk, the right to appeal is waived and the notice of abatement is final and binding. In such instances, the city may, without any administrative hearing, cause the abatement by the city of any or all of the nuisance conditions or activities stated in the notice of abatement. Entry onto private real property that is both improved and occupied shall, excepting instances of an imminent hazard, be pursuant to a warrant from a court of competent jurisdiction. The city shall follow the procedures stated in this article for recovery of all abatement costs, fees and expenses (incidental or otherwise).

B. Nothing contained in this article shall obligate the city to undertake abatement actions pursuant to a notice of abatement, whether or not there is a timely appeal.

Sec. 18-231 ABATEMENT BY RESPONSIBLE PERSON PRIOR TO HEARING:

A. Any responsible person shall have the right to abate a nuisance in accordance with the notice of abatement at his or her own expense, provided all corrective actions are completed with all required city permits, approvals and inspections, prior to the date the matter is set for a hearing.

B. A hearing shall be canceled if all nuisance conditions or activities are, as determined by the city, fully and lawfully abated prior thereto.

Sec. 18-232 REVIEW BY HEARING OFFICER:

A. Any responsible person who contests a notice of abatement shall, subject to filing a timely appeal, obtain review thereof before a hearing officer. The administrative appeal shall be scheduled no later than sixty (60) calendar days, and no sooner than ten (10) calendar days, after receipt of a timely filed request for appeal. The appellants listed on the written request for an appeal shall be notified in writing of the date, time, and location of the hearing at least ten (10) calendar days prior to the date of the hearing.

B. Any request by an appellant to continue a hearing must be submitted to the city clerk in writing no later than two (2) business days before the date scheduled for the hearing. The hearing officer may continue a hearing for good cause or on his/her own motion; however, in no event may the hearing be continued for more than thirty (30) calendar days without stipulation by all parties.

C. At the place and time set forth in the notification of appeal hearing, the hearing officer shall hear and consider the testimony of the appealing person(s), the issuing officer, and/or their witnesses, as well as any documentary evidence presented by these persons concerning the alleged public nuisance(s).

D. Appeal hearings are informal, and formal rules of evidence and discovery do not apply. The city bears the burden of proof to establish a nuisance exists by a preponderance of evidence. The issuance of a notice of abatement shall constitute prima facie evidence of the violation and the code enforcement officer who issued the notice of abatement is not required to participate in the appeal hearing. The appellant, and the enforcement officer issuing the notice, as well as all other responsible persons, shall have the opportunity to present evidence and to present and cross examine witnesses. The appellant and the enforcement officer issuing the notice of abatement, or other responsible persons, may represent himself/herself/themselves or be represented by anyone of his/her/their choice. The appellant, or other interested persons, may bring an interpreter to the hearing at his/her/their sole expense. The city may, at its discretion, record the hearing by stenographer or court reporter, audio recording, or video recording.

E. If the appellant fails, or other responsible persons fail, to appear, or to otherwise submit any admissible evidence demonstrating the nonexistence of the alleged nuisance(s), the hearing officer shall cancel the hearing and send a notice thereof to the responsible person(s) by first class mail to the address(es) stated on the appeal form. A cancellation of a hearing due to nonappearance of the appellant shall constitute the appellant's waiver of the right to appeal. In such instances, the notice of abatement is final and binding.

Sec. 18-233 DECISION OF HEARING OFFICER; ORDER OF ABATEMENT:

A. Not later than fifteen (15) calendar days following conclusion of the hearing, the hearing officer shall determine if any nuisance condition exists at the subject property. If the hearing officer determines that each nuisance condition described in the notice of abatement is nonexistent, the notice of abatement shall be deemed canceled. If the hearing officer determines that one or more of the nuisance conditions described in the notice of abatement exists, he/she shall issue a written order of abatement which shall contain the following:

1. A finding and description of each nuisance condition existing at the subject property.
2. The name of each person responsible for a nuisance condition or conditions at the subject property, as well as the name of any person who is not responsible therefor.

3. The required corrective action and a compliance period for each unabated nuisance condition.
4. Any other finding, determination or requirement that is relevant or related to the subject matter of the appeal.
5. The following statement:

The decision of the Hearing Officer is final and binding. Judicial review of this decision is subject to the provisions and time limits set forth in California Code of Civil Procedure Sections 1094.6 et seq.

- B. Notwithstanding any provision of the code to the contrary, the decision of the hearing officer is final and conclusive.
- C. A copy of the decision shall be served by first class mail on each responsible person to whom the notice of abatement was issued. If the owner is not an appellant, a copy of the order of abatement shall also be served on the owner by first class mail to the address shown on the last equalized assessment roll. Failure of a person to receive a properly addressed decision shall not invalidate any action or proceeding by the city pursuant to this article.

Sec. 18-234 ABATEMENT OF NUISANCE BY RESPONSIBLE PERSONS PRIOR TO CITY ABATEMENT ACTIONS:

- A. Any responsible person shall have the right to fully abate a nuisance in accordance with the hearing officer's decision prior to the date of entry of the city upon the subject real property, provided that all corrective actions are completed with all required city permits, approvals and inspections, prior to said entry date. In such instances, all administrative proceedings shall be canceled, with the exception of the city's right to seek recovery of its incurred incidental expenses, code enforcement fees, and attorney fees as provided by and pursuant to the provisions of this article.
- B. Once the city enters a subject real property to abate a public nuisance, it shall have the right to complete this action.
- C. It is unlawful and a misdemeanor for any person to obstruct, impede, or interfere with city personnel in the performance of any act that is carried out to abate a public nuisance.
- D. All buildings, structures, and/or personal property that are removed by the city from premises in the abatement of a nuisance shall be lawfully disposed of or destroyed without regard to its actual or salvage value, if any.

Sec. 18-235 EMERGENCY ACTION TO ABATE AN IMMINENT HAZARD:

- A. Notwithstanding any provision of this code to the contrary, the police chief, the fire chief, or the building official, or any of their designees, may cause a public nuisance to be summarily abated if it is determined that the nuisance creates an imminent hazard to a person or persons, or to other real or personal property.
- B. Prior to abating a nuisance that creates an imminent hazard, the city shall attempt to notify a responsible person by telephone or in writing of the imminent hazard and request its abatement by said person; provided however, that the city may dispense with any attempt at prior notification of a responsible person if, in the sole discretion of the city, the nature or severity of the hazard justifies such inaction. If notice has been so given, but, in the sole discretion of the city, the responsible person(s) fail(s) to take immediate and meaningful steps to abate the

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imminent hazard, the city may abate the nuisance with city personnel or third-party without further notice, and charge the costs and fees thereof to the responsible person(s).

C. Within ten (10) business days following emergency action of the city to abate an imminent hazard, the city shall serve any responsible person with a notice of emergency abatement by city of an imminent hazard by first class mail. Notice to a property owner shall be mailed to the mailing address set forth in the last equalized assessment roll of the Los Angeles County assessor's office. Failure of any responsible person to receive a properly addressed notice of emergency abatement by the city of an imminent hazard by mail shall not invalidate any action or proceeding pursuant to this article.

D. A notice of emergency abatement by the city of an imminent hazard shall contain the following provisions:

1. The name of all known responsible persons who are being served with the notice of emergency abatement by the city of an imminent hazard and the address of the real property on which the imminent hazard was present.

2. A brief description of the condition(s) and reasons why it constituted an imminent hazard.

3. A brief description of the law prohibiting or pertaining to the imminent hazard.

4. A brief description of the actions the city took to abate the imminent hazard.

E. Omission of any of the foregoing provisions in a notice of emergency abatement by city personnel of an imminent hazard, whether in whole or in part, or the failure of a responsible person to receive said notice, or the failure of the city to issue said notice in a timely fashion, shall not render it defective or render any proceeding or action pursuant to this article invalid.

F. Emergency abatement of an imminent hazard by the city shall not preclude the city from recording a declaration of substandard property in accordance with the provisions of section 18-242 of this article, if conditions thereafter remain at the premises that constitute a violation of law or a public nuisance.

G. The city shall be entitled to recover its fees and costs (incidental or otherwise) for the abatement of an imminent hazard. In such instances, the city shall follow the procedures set forth in this article.

Sec. 18-236 COMBINATION OF NOTICES:

The notices that are authorized by this article may be combined in the discretion of the city.

Sec. 18-237 ESTABLISHMENT OF COSTS OF ABATEMENT:

A. The city shall keep an accounting of the abatement costs.

B. The city shall serve a statement of abatement costs on the responsible persons within ninety (90) calendar days of the city's completion of nuisance abatement actions. Service of this statement may be made in the manner provided for in section 18-231 of this article.

C. Unless a timely contest of the statement of abatement costs is filed, a responsible person shall tender the abatement costs in U.S. currency to the city within thirty (30) calendar days of the date of service of the statement of abatement costs.

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D. A responsible person has the right to contest a statement of abatement costs by filing a written request for contest with the city clerk's office (located at 505 S. Garey Avenue, Pomona) within ten (10) calendar days of service of the statement of abatement costs.

1. A written request for contest shall contain the following information:

a. Name, address, telephone number, and signature of each responsible person who is contesting the statement of abatement costs.

b. Address and description of the real property upon which the city abated a public nuisance.

c. Date of the statement of abatement costs being appealed.

d. Description of the specific abatement cost(s) being contested, and a statement of the grounds for contest in sufficient detail to enable the city council to understand the nature of the controversy.

E. Failure of the city clerk to receive a timely appeal request for contest constitutes a waiver of the right to contest a statement of abatement costs. In this event, the statement of abatement costs is final and binding, and the city may proceed to collect its abatement costs as contained in a final statement of abatement costs in any manner allowed by law.

F. If a timely request for contest is received by the city clerk, a hearing shall be set before the hearing officer no later than sixty (60) calendar days, and no sooner than ten (10) calendar days, of receipt of the request for contest. A notice of the date, time and location of the hearing shall be served on all responsible persons who contested the statement of abatement costs by first class mail to the address(es) stated on the request form at least ten (10) calendar days prior to the hearing. Failure of a person requesting a contest to receive a properly addressed notice shall not invalidate any action or proceeding by the city pursuant to this article.

G. Any request by an appellant to continue a hearing must be submitted to the city clerk in writing no later than five (5) business days before the date scheduled for the hearing. The city may continue a hearing for good cause or on its own motion; however, in no event may the hearing be continued for more than sixty (60) calendar days without stipulation by all parties.

H. At the time and place fixed for receiving and considering the request to contest the statement of abatement costs, the hearing officer shall hear and pass upon the evidence submitted by city personnel, together with any objections or protests raised by responsible persons liable for said costs. Testimony and evidence shall be limited to issues related to the abatement costs, and no person shall be permitted to present evidence or testimony challenging the existence of a public nuisance or the manner of abatement as described in the notice of abatement. Thereupon, the hearing officer may make such revision, correction or modification to the statement as it may deem just, after which the statement, as it is submitted, or as revised, corrected or modified, shall be confirmed. The hearing may be continued from time to time.

I. Notwithstanding any provisions of the code to the contrary, the decision of the hearing officer is final and binding.

J. The city clerk shall cause a confirmed statement of abatement costs to be served upon all persons who contested the original statement by first class mail to the address(es) stated on the request form. The city clerk shall cause a confirmed statement of abatement costs to be served on the owner of the property on which the city abated a public nuisance by first class mail to the address shown on the last equalized assessment roll (irrespective of whether the owner contested the statement of abatement costs). This document shall also contain the following statement:

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The determination of the Hearing Officer is final and binding. Judicial review of the decision is subject to the provisions and time limits set forth in California Code of Civil Procedure Sections 1094.6 et seq.

K. Failure of a person to receive a properly addressed confirmed statement shall not invalidate any action or proceeding by the city pursuant to this article.

L. A responsible person shall tender the abatement costs in U.S. currency to the city within thirty (30) calendar days of the date of service of the confirmed statement of abatement costs. The city may thereafter proceed to collect its abatement costs as contained in the confirmed statement of abatement costs in any manner allowed by law.

Sec. 18-238 COLLECTION OF COSTS OF ABATEMENT BY NUISANCE ABATEMENT LIEN:

A. The City Manager, or designee, may cause a nuisance abatement lien to be recorded upon real property upon which a public nuisance was abated pursuant to California Government Code section 38773.1, and future amendments thereto, in the event a statement of abatement costs or a confirmed statement of abatement costs is not paid in a timely manner.

B. A lien shall not be recorded prior to serving the owner of record of the parcel of land on which the public nuisance is maintained, with a notice. This document shall be served in the same manner as a summons in a civil action in accordance with article 3 (commencing with section 415.10) of chapter 4 of title 5 of part 2 of the Code of Civil Procedure. If the owner of record, after diligent search cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten (10) days and publication thereof in a newspaper of general circulation published in Los Angeles County pursuant to section 6062 of the California Government Code.

C. The nuisance abatement lien shall be recorded in the Los Angeles County recorder's office in the county in which the parcel of land is located and from the date of recording shall have the force, effect, and priority of a judgment lien.

D. A nuisance abatement lien authorized by this section shall specify the amount of the lien for the city of Pomona, the name of the city department or division on whose behalf the lien is imposed, the date of the abatement actions, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the parcel.

E. In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in subsection D of this section shall be recorded by the city. A nuisance abatement lien and the release of the lien shall be indexed in the grantor- grantee index.

F. A nuisance abatement lien may be foreclosed by an action brought by the city for a money judgment.

G. The city may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.

H. The amount of a nuisance abatement lien shall also constitute a personal obligation of the property owners of land upon which the nuisance was abated.

Sec. 18-239 COLLECTION OF ABATEMENT COSTS BY SPECIAL ASSESSMENT:

A. The City Manager, or designee, may cause a special assessment to be made upon real property upon which a public nuisance was abated pursuant to California Government Code section 38773.5, and future amendments thereto, in the event a statement of abatement costs or a confirmed statement of abatement costs is not paid in a timely manner.

B. A notice of special assessment shall be sent to the owner(s) of the subject real property by certified mail at the time the assessment is imposed which shall contain the following recitals:

The property may be sold after three years by the tax collector for unpaid delinquent assessments. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

C. The city attorney or city prosecutor shall establish the notice of special assessment form for use, or consideration by, the tax collector in collecting a special assessment.

D. The notice of special assessment shall be entitled to recordation with the Los Angeles County recorder's office.

E. The amount of a special assessment shall also constitute a personal obligation of the property owners of land upon which the nuisance was abated.

Sec. 18-240 TREBLE THE COSTS OF ABATEMENT:

Pursuant to California Government Code section 38773.7 (or any subsequent amendment thereto), upon entry of a second or subsequent civil or criminal judgment within a two (2) year period finding that an owner of property is responsible for a public nuisance except for public nuisance conditions abated pursuant to California Health And Safety Code section 17980 ("state housing law"), the court may order that person to pay treble the costs of the abatement.

Sec. 18-241 VIOLATIONS AND PENALTIES:

A. Any person who remains in or enters any building or structure that has been ordered to be vacated pursuant to the provisions of this article is guilty of a misdemeanor offense punishable in accordance with this code.

B. Any responsible person who fails to comply with an order of abatement by completing each of the requisite corrective actions in the manner and time set forth in the order of abatement is guilty of a misdemeanor offense punishable in accordance this code.

C. Any person who obstructs, impedes, or interferes with any representative of the city engaged in vacating, repairing, rehabilitating, or demolishing and removing any property pursuant to the provisions of this article is guilty of a misdemeanor offense punishable in accordance with this code.

D. Any person who defaces, alters, or removes any notice or order posted as required in this article is guilty of a misdemeanor offense punishable in accordance with this code.

E. Each person shall be guilty of a separate offense for each and every day, or part thereof, during which a violation of this article, or of any law or regulation referenced herein, is allowed, committed, continued, maintained or permitted by such person, and shall be punishable accordingly.

Sec. 18-242 RECORDATION OF SUBSTANDARD NOTICE:

A. Notwithstanding any provision of this code to the contrary, if the city determines that any property, building or structure, or any part thereof, is in violation of any provision of this code and said violation has not been fully abated or corrected, as determined by the city, in the manner and time provided in any written notice to a responsible person, then the city, in its sole discretion, may record a declaration of substandard property with the Los Angeles County recorder's office against said premises. As used herein, "fully abated or corrected" includes the procurement of all required city approvals, permits, licenses and the passage of all city required inspections.

B. A declaration of substandard property shall not be recorded unless the city has first issued a written notice (in any form) to the owner of real property: 1) identifying and requiring correction of a public nuisance condition; and 2) disclosing that a declaration of substandard property may be recorded against the real property if the public nuisance condition(s) is/are not fully abated or corrected in the manner and time delineated in said notice, as determined by the city.

1. If the notice required pursuant to this subsection B was comprised of a "notice of abatement" as defined in this article or of an administrative citation issued pursuant to title 1, chapter 4 of this code, a declaration of substandard property shall not be recorded unless the notice of abatement and/or administrative citation is deemed a final and binding city decision.

C. The form that constitutes a declaration of substandard property shall be approved by the city attorney or the city prosecutor.

D. The city shall record a notice of rescission of declaration of substandard property with the Los Angeles County recorder's office within ten (10) business days of its determination that a violation or a public nuisance has been fully abated or corrected.

E. The city shall cause copies of recorded declarations of substandard property and notices of rescission of declaration of substandard property to be served on all persons having an ownership interest in the subject real property as shown in the last equalized assessment roll of the Los Angeles County assessor's office. Service thereof shall be by first class mail.

F. Failure of any person to receive such notices shall not invalidate any action or proceeding pursuant to this article.

Sec. 18-243 CODE ENFORCEMENT FEES:

A. Pursuant to California Health and Safety Code section 17951, and any successor statute thereto, responsible persons, who cause, allow, permit, suffer, or maintain a violation, shall be charged fees (hereafter "code enforcement fees") by the city to defray its costs of code enforcement actions. Such fees shall not exceed the amount reasonably required to achieve this objective and are chargeable whether the city's code enforcement actions occur in the absence of formal administrative or judicial proceedings, as well as prior to, during, or subsequent to, the initiation of such proceedings.

1. Nothing in this section shall be construed to inhibit or prevent the city from assessing code enforcement fees against and/or collecting code enforcement fees from those responsible persons who cause, allow, permit, suffer, or maintain a public nuisance or other violation of this code in or upon any commercial, industrial, or other real property, in order to defray its costs of code enforcement actions.

B. The amount(s) or rate(s) of code enforcement fees for city personnel time and other resources that are used for code enforcement actions shall be established, and may thereafter be amended, by resolution by the city council.

C. The city is authorized to adopt regulations for the uniform imposition of code enforcement fees, and for related administrative actions pertaining to such fees.

D. The fees imposed pursuant to this section shall be in addition to any other fees or charges that responsible persons may owe in accordance with any other provision of this code, or which are imposed pursuant to county, state or federal laws or regulations.

E. Code enforcement fees shall be recoverable in conjunction with any civil, administrative or criminal action to abate, cause the abatement or cessation of, or otherwise remove a violation or a public nuisance, and is not limited to those proceedings whereby city personnel perform the necessary abatement actions.

F. Failure to pay code enforcement fees shall constitute a debt that is collectible in any manner allowed by law.

Sec. 18-244 RECOVERY OF ATTORNEY FEES:

A. A prevailing party in any administrative, civil or equitable judicial action to abate, or cause the abatement of a "public nuisance" as defined in this article, or in any appeal or other judicial action arising therefrom, may recover reasonable attorney fees in accordance with the following subsections:

1. Attorney fees are not recoverable by any person as a prevailing party unless the City Manager, or a designee thereof, or an attorney for, and on behalf of, the city, elects in writing to seek recovery of the city's attorney fees at the initiation of that individual action or proceeding. Failure to make such an election precludes any entitlement to, or award of, attorney fees in favor of any person or the city.

2. The city is the prevailing party when an administrative or judicial determination is made or affirmed by which a person is found to be responsible for one or more conditions or activities that constitute a public nuisance. A person is the prevailing party only when a final administrative or judicial determination completely absolves that person of responsibility for all conditions or activities that were alleged, in that action or proceeding, to constitute a public nuisance. An administrative or judicial determination that results in findings of responsibility and nonresponsibility on the part of a person for conditions or activities that were alleged in that

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action or proceeding to constitute a public nuisance, shall nevertheless result in the city being the prevailing party.

B. Provided that the city has made an election to seek attorney fees, an award of attorney fees to a person shall not exceed the amount of reasonable attorney fees incurred by the city in that action or proceeding.

Sec. 18-245 APPLICABILITY OF OTHER LAWS:

A. This article does not exclusively regulate the conditions and use of property within the city. This article shall supplement other provisions of this code and other statutes, ordinances or regulations now existing or subsequently enacted by the city, the state or any other entity or agency having jurisdiction.

B. The procedures for abatement set forth in this article are not exclusive and are in addition to any other provisions set forth in this code or by state law for the abatement of public nuisances.

ARTICLE III. GRAFFITI ELIMINATION²

**NOTE: THIS ARTICLE HAS NOT BEEN AMENDED WITH THE EXCEPTION
OF DEFINITIONS THAT HAVE BEEN MOVED TO Sec. 18-1. Definitions.**

²State law reference(s)—Graffiti abatement, Government Code §§ 38772, 38773.2, 53069.3.

ARTICLE IV. NOISE AND VIBRATION CONTROL

**NOTE: THIS ARTICLE HAS NOT BEEN AMENDED WITH THE EXCEPTION
OF DEFINITIONS THAT HAVE BEEN MOVED TO Sec. 18-1. Definitions.**

ARTICLE V. SHOPPING CARTS AND LAUNDRY CARTS³

**NOTE: THIS ARTICLE HAS NOT BEEN AMENDED WITH THE EXCEPTION
OF DEFINITIONS THAT HAVE BEEN MOVED TO Sec. 18-1. Definitions.**

³State law reference(s)—Shopping carts and laundry carts, Business and Professions Code § 22435 et seq.; local ordinances regulating shopping carts or laundry carts, Business and Professions Code § 22435.8.

ARTICLE VII. PRIVATE WELLS AND RESERVOIRS

NOTE: THIS ARTICLE HAS NOT BEEN AMENDED

ARTICLE VIII. STORMWATER MANAGEMENT⁴

NOTE: THIS ARTICLE HAS NOT BEEN AMENDED

⁴Cross reference(s)—Utilities, ch. 62.

ARTICLE IX. FLOOD PLAIN MANAGEMENT

NOTE: THIS ARTICLE HAS NOT BEEN AMENDED

***ARTICLE VI. ABANDONED, VACANT, DISTRESSED PROPERTIES OR LAND,
INSPECTION, REGISTRATION AND MAINTENANCE***

**NOTE: THIS ARTICLE HAS NOT BEEN AMENDED WITH THE EXCEPTION
OF DEFINITIONS THAT HAVE BEEN MOVED TO Sec. 18-1. Definitions.**