

ORDINANCE NO. 35-2006

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF ELK GROVE
RELATING TO PUBLIC NUISANCES AND ABATEMENT,
APPEALS, PENALTIES, AND OTHER REMEDIES**

THE CITY COUNCIL OF THE CITY OF ELK GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1. Purpose. The purposes of this chapter are to provide a just, equitable and practicable method for preventing, discouraging and/or abating certain conditions which endanger the life, limb, health, property, safety or welfare of the general public and to provide City staff with enforcement regulations that can be effectively applied and administered in a fair, expedient, and cost efficient manner.

SECTION 2. Findings. The City Council of the City of Elk Grove finds as follows:

- A. Article XI, Section 7 of the California Constitution provides authorization for the City to enact and enforce ordinances regulating conditions which constitute public nuisances or health hazards.
- B. California Government Code section 38771, et. seq. authorizes the City Council to declare public nuisances and to establish procedures for the abatement of such nuisances, and to recover the costs associated with nuisance abatement proceedings.
- C. It is in the public interest to enact public nuisance abatement procedures to provide notice and due process to property owners and other persons who cause or maintain public nuisances on private property within the City.
- D. This ordinance has been greatly informed by the City's Community Enhancement and Code Compliance Department and the Police Department. The staff and officers of these departments have worked together to identify public nuisance problems faced by the City and are seeking effective legal and policy tools to address such problems. The City Council seeks to provide these departments with legal and policy tools which will help them to achieve their goals of maintaining and improving the health, safety and welfare of the City.

SECTION 3. The existing Chapter 16.18 of Title 16 is repealed and a new Chapter 16.18 is hereby added to Title 16 of the Municipal Code to read in its entirety as follows:

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NUISANCE CODE**

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**ARTICLE I.
Intent/Purpose**

16.18.100 Intent/Purpose. The purposes of this chapter are to provide a just, equitable and practicable method for preventing, discouraging and/or abating certain conditions which endanger the life, limb, health, property, safety or welfare of the general public and to provide City staff with enforcement regulations that can be effectively applied and administered in a fair, expedient, and cost efficient manner.

**ARTICLE II.
Definitions**

16.18.200 General definitions. The following words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings ascribed to them in this Chapter.

“Abatement” means the removal of a certain condition or conditions which are detrimental to, or endanger the life, limb, health, property, safety or welfare of the general public.

“Abandoned” applied to a building means a building that is unoccupied and is in such a state of neglect that a reasonable person would believe that the building has not been used for its intended, lawful purpose and/or has not been lawfully occupied for an extended period of time.

“Abandoned” applied to real property means real property that is vacant and undeveloped, and/or real property that has not been lawfully developed and/or improved and which is more than two years delinquent in payment of the assessed real property taxes owing upon such property.

“Abandoned” applied to a vehicle means the status of a vehicle or part thereof when the vehicle owner has ceased to assert or exercise any interest, right or title therein without intent to resume or reassert such interest, right or title.

“Administrative appeals decision” means a written decision rendered by an Appeals Hearing Officer following an administrative appeal hearing conducted pursuant to Chapter 1.11 of this Code.

“Administrative appeals officer” or “Appeals Hearing Officer” means the individual who shall conduct administrative appeal hearings and render decisions pursuant to the administrative appeal procedures set forth in Chapter 1.11 of this Code. “Administrative Appeal Decision” means a written decision rendered by an Appeals Hearing officer following an administrative appeal hearing calendar pursuant to Chapter 1.11 of this Code.

“Administrative Citation” means a formal notice that is issued by a Community Enhancement Inspector, police officer, or other authorized enforcement officer to a person who has committed an infraction or misdemeanor violation in lieu of issuing a criminal Field Citation or filing a criminal complaint.

“Assessment” means the special assessment which may be assessed against a parcel of land as authorized by Government Code section 38773.5 to recover the City’s cost of abatement of a public nuisance.

“Building Official” means the individual designated by the City Manager as the person authorized to serve as the City’s Building Official for the purposes of administering various uniform codes, including, but not limited to, the building, administrative, plumbing, mechanical, electrical, abatement of dangerous buildings, sign and swimming pool, spa and hot tub codes.

“Building permit” means the permit granted by a ministerial process which permits the construction or modification of a building or structure in accordance with the Municipal Code and applicable statutes, codes, rules and regulations.

“Certificate of occupancy” means the certificate required by the Uniform Building Code and administered by the Building Official or his/her designee as may be authorized by law indicating that work has been completed in compliance with building and Zoning Codes.

“City Manager” means the City Manager or his or her designee.

“Community Enhancement Manager” means the individual designated by the City Manager to cause inspections and to take such actions as may be required by the provisions of this chapter for the purpose of enforcing certain prescribed provisions of the Municipal Code, and all applicable statutes, rules, codes and regulations.

“Community Enhancement Inspector” means those individuals employed by the City and/or designated by the Community Enhancement Manager or his or her designee to conduct inspections and to take such actions as may be required by the provisions of this chapter for the purpose of enforcing certain prescribed provisions of the Municipal Code and all applicable statutes, rules, codes and regulations.

“Declaration” means the formal document written by an individual under penalty of perjury describing the individual’s observations, actions, and/or investigation.

“Enforcement officer” means City Department heads and their designees, police officers, and any person within the City authorized by this Code or by the City Manager or his designee in writing to enforce compliance with the requirements of this Code.

“Field Citation” means a document that is issued by an police officer or other authorized enforcement officer to a person who has been arrested for committing an infraction or misdemeanor violation, which may be signed by the violator as a promise to appear in court at a designated date and time, which, together with sufficient evidence of the violator’s identity, shall permit the violator to avoid being taken into custody.

“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.

“Junk” means any cast-off, damaged, discarded, junked, 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, plaster of paris, 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 and other pieces of metal, ferrous or nonferrous, furniture or parts thereof, trimmings from plants or trees, cans, bottles and barrels.

“Legal or equitable interest” means possessing a legal or equitable interest in real property, including but not limited to a leasehold interest.

“Lien” means the legal document generally recorded against real property to secure the payment of a debt.

“Lien Holder” means possessing a legal or equitable interest in a vehicle owned by a person registered with State Department of Motor Vehicles as the owner of the vehicle.

“Litter” means an accumulation of garbage, rubbish and junk and all other waste material dangerous, injurious, blighted, or unsightly to neighboring property or to the health and safety of the general public.

“Municipal Code” or “Code” means the Municipal Code of the City and all applicable statutes, rules, codes and regulations adopted and incorporated therein by reference through a duly adopted ordinance or resolution of the City Council.

“Notice and Order” means a formal notice informing a party about the existence of a certain condition or situation which constitutes an infraction or misdemeanor violation of the Municipal Code, a public nuisance, or a violation of any applicable statute, rule, code or regulation.

“Owner” means any person having a legal or equitable interest in property. “Owner” applied to a building or land, shall include any part owner, joint owner, tenant, tenant in common, joint tenant, of the whole or a part of such building or land. “Owner” applied to a vehicle means the person registered with the State Department of Motor Vehicles as the owner of the vehicle.

“Planning Commission” means the planning commission of the City.

“Permit” means a document issued by the City which allows a use, activity, event, or structure in accordance with the Municipal Code and applicable statutes, codes, rules and regulations.

“Person” means and includes any person, firm, association, organization, partnership, business trust, company or corporation.

“Polluted water” means that which includes and is not limited to such things as bacterial growth, algae, remains of insects, remains of deceased animals, reptiles, rubbish, refuse, debris, papers, and any other foreign matter or material, which because of its nature or location constitutes an unhealthy, unsafe or unsightly condition.

“Property owner” means an owner of record of a parcel of land identified on the last equalized assessment roll of the County or as otherwise known to a Community Enhancement Inspector, police officer, or other authorized enforcement officer.

“Public 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, alleys, roadways, parkways, pedestrian ways, sidewalks and public streets.

“Refuse” means any putrescible and nonputrescible solid waste, except sewage, whether combustible or noncombustible and includes garbage and/or rubbish.

“Remedies” means the enforcement options available to the City to gain compliance with a law or regulation.

“Responsible person” means the owner of record of the subject real property and/or vehicle(s) and any occupant, lessee, or interested lienholder in same.

“Secured” as applied to a building means that reasonable actions have been taken to prohibit unlawful entry into the building, including, at a minimum, the locking of windows and doors.

“Statute” means any law or regulation enacted by the California State Legislature.

“Stop work order” means the order issued by the Building Official or authorized agent as authorized by the Uniform Building Code requiring that construction cease due to apparent code violations.

“Tenant” or “occupant” applied to a building or land means and includes any person who lawfully occupies the whole or part of such building or land, whether alone or with others.

“Temporary use permit” means the permit granted by a ministerial process wherein a specific use is approved and allowed for uses of a temporary nature that shall be subject to specific conditions in accordance with the Municipal Code or Zoning Code and applicable statutes, codes, rules and regulations.

“Vacant Building” or “Vacant Structure” means any building, dwelling, or other structure: (1) that is lacking habitual presence of persons who have a legal right to be on the premises or at which substantially all lawful business operations or residential occupancy has ceased; and (2) whose doors, windows or other openings are broken or missing, so as to allow uncontrolled access to the interior or exposure to the elements.

“Unoccupied” applied to a building, dwelling or structure means a building, dwelling or structure that is not occupied or otherwise utilized by any person with a legal right to hold possession or to exercise dominion or control over such building, dwelling or structure such that a reasonable person would believe that such building, dwelling or structure has not been lawfully occupied or utilized for an extended period of time.

ARTICLE III. General Provisions

16.18.300 Computation of time. The time in which any act provided by this chapter is to be done is computed by including the first and the last day. If the last day for the performance of any act set forth in this chapter is a holiday, then the time in which to perform the act is extended to and includes the next day which is not a holiday. If the last day for the

performance of any act provided by this chapter is Saturday or Sunday, then the time in which to perform the act is extended to and including the next Monday.

16.18.301 Recovery of costs pursuant to Code of Civil Procedure. Nothing in this chapter is intended to prohibit or preclude the City from seeking and recovering any costs pursuant to Code of Civil Procedure sections 1032 through 1033.5.

16.18.302 Collection of debts by the City. The amount of any fine or fee imposed by this chapter shall be deemed a civil debt owing to the City. An action may be commenced in the name of the City in any court of competent jurisdiction for the collection of the amount of any such delinquent or unpaid fine or fee, with any penalties applicable thereto as prescribed by this chapter or other enactment. The remedy prescribed by this section shall be cumulative, and the use of an action to collect such an amount as a debt by civil action shall not bar the use of any other remedy provided by this chapter or as otherwise provided by law.

16.18.303 Confidentiality in connection with service requests. The City shall take all reasonable steps to ensure that the identity of any person making a service request to the City concerning a violation of the ordinance or other applicable laws shall remain confidential. However, no enforcement action shall be taken beyond issuance of a Notice of Violation unless: (1) the complaining witness agrees to be identified upon request of the Responsible Party, or (2) the Community Enhancement Manager, Police Chief and any other enforcement officer has developed sufficient evidence to take further action.

ARTICLE IV. Enforcement Authority

16.18.400 Concurrent enforcement authority with Police Department. The Community Enhancement Manager shall have concurrent enforcement authority with the Police Chief regarding any violation of the Municipal Code resulting in a misdemeanor, an infraction or a public nuisance, unless otherwise provided by this chapter, the Municipal Code, applicable statutes, rules, codes and regulations, resolution of the City Council, or written agreement by and between the Community Enhancement Manager and the Police Chief. Nothing in this chapter shall be construed or interpreted as providing the Community Enhancement Manager with the authority to enforce any provision or any statute that is specifically required to be enforced solely by the City's local law enforcement agency under the authority of the Police Chief.

16.18.401 Animal regulations. The Community Enhancement Manager shall have concurrent enforcement authority with the City's Animal Services division regarding any violation of the Municipal Code pertaining to animals unless otherwise provided in the Municipal Code, any applicable statute, rule, code or regulation, resolution of the City Council, or written agreement by and between any independent contractor who may be employed to provide such animal control services to the City or any of its departments or divisions. The City Manager shall have the authority to delegate, in writing, exclusive enforcement authority to the City's Animal Services division of this Code and applicable statutes, rules, codes and regulations pertaining to animals provided that the authority delegated is within the scope of services provided by any independent contractor who may be providing such animal control services to the City pursuant to an agreement with the City or any of its departments its or divisions.

16.18.402 Tobacco sales regulations. "Tobacco retailer" means any person who sells, offers for sale, exchanges, or offers to exchange for any form of consideration, tobacco,

tobacco products, or tobacco paraphernalia without regard to the quantity sold, offered for sale, exchanged or offered for exchange. The Police Department shall have primary enforcement authority regarding any violation of the Tobacco Retailers Ordinance, Chapter 4.27.

16.18.403 Uniform Building Code violations. The Building Official or his/her designee as may be authorized by law shall have concurrent enforcement authority with any other City official regarding violations of the Uniform Building Code as adopted pursuant to Chapter 16.04 unless such concurrent authority is prohibited by the Uniform Building Code or any other applicable statutes, codes, rules and/or regulations.

16.18.404 Uniform Administrative Code violations. The Building Official or his/her designee as may be authorized by law shall have concurrent enforcement authority with any other City official regarding violations of the Uniform Administrative Code as adopted pursuant to Chapter 16.02 unless such concurrent authority is prohibited by the Uniform Administrative Code or any other applicable statutes, codes, rules and/or regulations.

16.18.405 Uniform Code of the Abatement of Dangerous Buildings violations. The Building Official or his/her designee as may be authorized by law shall have concurrent enforcement authority with any other City official regarding violations of the Uniform Code for the Abatement of Dangerous Buildings as adopted pursuant to Chapter 16.22 unless such concurrent authority is prohibited by the Uniform Code for the Abatement of Dangerous Buildings or any other applicable statutes, codes, rules and/or regulations.

16.18.406 Uniform Fire Code violations. The Fire Chief shall have exclusive enforcement authority regarding any violation of the Uniform Fire Code as adopted pursuant to Chapter 17.04 unless otherwise provided in writing by the Fire Chief pursuant to the Uniform Fire Code or any other applicable statutes, codes, rules and/or regulations.

16.18.407 California Fire Code violations. The Fire Chief shall have exclusive enforcement authority regarding any violation of the California Fire Code as adopted pursuant to Chapter 17.04 unless otherwise provided in writing by the Fire Chief pursuant to the California Fire Code or any other applicable statutes, codes, rules and/or regulations.

16.18.408 Uniform Plumbing Code violations. The Building Official or his/her designee shall have concurrent enforcement authority with any other City official regarding violations of the Uniform Plumbing Code as adopted pursuant to Chapter 16.24 unless such concurrent authority is prohibited by the Uniform Plumbing Code or any other applicable statutes, codes, rules and/or regulations.

16.18.409 Uniform Mechanical Code violations. The Building Official or his/her designee shall have concurrent enforcement authority with any other City official regarding violations of the Uniform Mechanical Code as adopted pursuant to Chapter 16.32 unless such concurrent authority is prohibited by the Uniform Mechanical Code or any other applicable statutes, codes, rules and/or regulations.

16.18.410 National Electrical Code. The Building Official or his/her designee shall have concurrent enforcement authority with any other City official regarding violations of the National Electrical Code as adopted pursuant to Chapter 16.28 unless such authority is prohibited by the National Electrical Code or any other applicable statutes, codes, rules and/or regulations.

16.18.411 Sign Code. The Community Enhancement Manager or his/her designee shall have concurrent enforcement authority with any other City official regarding violations of the Uniform Sign Code as adopted pursuant to Chapter 16.38 unless such concurrent authority is prohibited by the Uniform Sign Code or any other applicable statutes, codes, rules and/or regulations.

16.18.412 Uniform Swimming Pool, Spa, and Hot Tub Code violations. The Building Official or his/her designee shall have concurrent enforcement authority with any other City official regarding violations of the Uniform Swimming Pool, Spa and Hot Tub Code as adopted pursuant to Chapter 16.36 with concurrent enforcement authority with Sacramento County Environmental Management Department unless such concurrent authority is prohibited by the Uniform Swimming Pool, Spa and Hot Tub Code or any other applicable statutes, codes, rules and/or regulations.

16.18.413 Zoning regulations. The City Planning Director or his/her designee shall have concurrent enforcement authority with Community Enhancement Division and/or other City official regarding violations of the City's zoning ordinance and regulations as adopted pursuant to the Zoning Code unless such concurrent authority is prohibited by any other applicable statutes, codes, rules and/or regulations.

16.18.414 California Red Light Abatement Law. The Police Chief or his/her designee shall have concurrent enforcement authority with any other City official regarding any violation of the California Red Light Abatement Law as set forth in California Penal Code sections 11225 through 11235 unless such concurrent authority is prohibited by the Red Light Abatement Law.

16.18.415 State Housing Law. The Building Division, the Fire Department and Community Enhancement Division shall have concurrent enforcement authority regarding the State Housing Law as prescribed in California Health and Safety Code sections 17910 through 17995.

16.18.416 Weeds and rubbish. The Community Enhancement Manager or his/her designee shall have concurrent enforcement authority with any other City official regarding any violation of the Municipal Code, and/or any applicable statute, rule, code, or regulation relating to overgrown weeds or the accumulation of rubbish, refuse or dirt.

16.18.417 Persons to retain exclusive authority. Nothing in this Chapter shall limit or otherwise restrict any employee, agent or official of the City from exercising any exclusive authority to enforce any law or regulation as provided by any applicable statute, rule, code, regulation, or policy.

ARTICLE V. Inspection

16.18.500 Authority to inspect. A Community Enhancement Inspector, police officer, or other authorized enforcement officer shall have the authority to enter upon any real property or premises to ascertain whether the provisions of the Municipal Code and/or applicable statutes, rules, codes and regulations are being obeyed and to make any examinations and surveys as may be necessary in the performance of his/her community enhancement duties. Inspections may include and/or involve the taking of photographs, samples, or other physical evidence and conferring with persons present.

16.18.501 Right to enter occupied property with consent of landlord, occupant or tenant. When it is necessary to conduct an inspection of occupied property to enforce the provisions of the Municipal Code and/or applicable statutes, rules, codes and regulations, or when a Community Enhancement Inspector, police officer, or other authorized enforcement officer has reasonable cause to believe that there exists in an occupied building or upon occupied premises a condition that is contrary to or in violation of the Municipal Code and/or applicable statutes, rules, codes or regulations. The Community Enhancement Inspector, police officer, or other authorized enforcement officer may enter the building or premises at reasonable times to inspect or to perform duties imposed by this chapter provided that, if such building or premises are occupied, credentials are presented to the occupant or tenant and consent to enter for the purpose of inspection is requested and granted by the occupant or tenant, or the landlord consents to entry for inspection purposes.

16.18.502 Limitation on scope of consent by occupant or tenant. A Community Enhancement Inspector, police officer, or other authorized enforcement officer shall be permitted to inspect only those areas of the subject premises that are within the consenting occupant's or tenant's control or which are subject to the common authority of all occupants and tenants unless otherwise provided by a court-issued inspection warrant.

16.18.503 Limitation on scope of consent by landlord. A Community Enhancement Inspector, police officer, or other authorized enforcement officer shall be permitted to inspect only those areas of the subject premises that the consenting landlord has authority to access and inspect him or herself, unless otherwise provided by a court-issued inspection warrant.

16.18.504 Right to enter secured unoccupied premises with consent. When it is necessary to conduct an inspection of secured unoccupied property to enforce the provisions of the Municipal Code and/or applicable statutes, rules, codes or regulations and/or when the Community Enhancement Inspector, police officer, or other authorized enforcement officer has reasonable cause to believe that there exists in an unoccupied building or upon unoccupied premises a condition that is contrary to or in violation of the Municipal Code and/or applicable statutes, rules, codes or regulations. The Community Enhancement Inspector, police officer, or other authorized enforcement officer shall make a reasonable effort to locate the property owner or other person having charge or control of the building or premises and request and obtain that person's consent to enter for the purpose of inspection.

16.18.505 Remedy for refused entry or inability to obtain consent. If a property owner, occupant or agent having charge or control of a property refuses to consent to an inspection of the subject premises by a Community Enhancement Inspector, police officer, or other authorized enforcement officer and/or if the property owner or occupant, or agent having charge or control of a property cannot be located after a reasonable attempt has been made. The Community Enhancement Inspector, police officer, or other authorized enforcement officer must obtain an administrative inspection warrant pursuant to the procedures provided in California Code of Civil Procedure section 1822.50 to conduct an inspection of said premises, unless otherwise provided in this chapter or any other applicable law.

16.18.506 Inspection of exterior violations from public property. To enforce the provisions of the Municipal Code and/or applicable statutes, rules, codes or regulations, a Community Enhancement Inspector or other authorized enforcement officer may inspect exterior code violations from a public street, sidewalk, park, or alley without the consent of the property owner or occupant and without an inspection warrant.

16.18.507 Inspection of exterior violations from neighbor's yard. To enforce the provisions of the Municipal Code and/or applicable statutes, rules, codes or regulations, a Community Enhancement Inspector, police officer, or other authorized enforcement officer may inspect exterior code violations from a neighbor's yard without the consent of the property owner, occupant, or agent having charge or control of the premises upon which the violation exists and without an inspection warrant provided that lawful access to the neighbor's yard can be obtained.

16.18.508 Inspection of abandoned buildings and property. To enforce the provisions of the Municipal Code, and/or applicable statutes, rules, codes or regulations, a Community Enhancement Inspector, police officer, or other authorized enforcement officer may inspect abandoned buildings and property without the consent of the property owner or agent having charge or control of the premises and without an inspection warrant provided that the subject property and/or building or buildings are unoccupied and have not been secured against unlawful entry.

16.18.509 Inspection of common areas of multi-housing complexes. To enforce the provisions of the Municipal Code and/or applicable statutes, rules, codes or regulations, a Community Enhancement Inspector, police officer, or other authorized enforcement officer may inspect the common areas of multi-housing complexes without the consent of the property owner, occupant or agent having charge or control of the premises and without an inspection warrant provided that such common areas are accessible to members of the general public.

16.18.510 Inspection of open undeveloped areas. To enforce the provisions of the Municipal Code and/or applicable statutes, rules, codes or regulations, a Community Enhancement Inspector, police officer, or other authorized enforcement officer may inspect open undeveloped areas without the consent of the property owner or agent having charge or control of the premises and without an inspection warrant provided that the subject area is accessible to members of the general public and open to public view.

16.18.511 Use of optical aids. Use of optical aids such as flashlights and binoculars may be used to conduct inspections of exterior code violations if such violations could otherwise be seen during normal daylight hours or at close range without such optical aids from a location the observing individual is legally justified to be located upon.

16.18.512 Use of aerial surveillance. To enforce the provisions of the Municipal Code and/or applicable statutes, rules, codes or regulations, a Community Enhancement Inspector, police officer, or other authorized enforcement officer may use aerial surveillance to inspect an enclosed yard that is visible from the air space above without the consent of the property owner, occupant or agent having charge or control of the premises and without an inspection warrant provided that such surveillance does not cause unnecessary noise, dust or threaten injury.

16.18.513 Inspections of adult related establishments. To enforce the provisions of Title 4, section 4.31 of the Municipal Code and/or other applicable statutes, rules, codes or regulations, a Community Enhancement Inspector, police officer, or other authorized enforcement officer may inspect an adult related establishment.

16.18.514 Inspections of tattooing establishments. To enforce the provisions of the Municipal Code and/or other applicable statutes, rules, codes or regulations, the

Sacramento County Environmental Management Department or other authorized enforcement officer may inspect tattooing establishments pursuant to adoption of the Municipal Code.

16.18.515 Inspections pertaining to storm water management and discharge. To enforce the provisions of the Municipal Code and/or other applicable statutes, rules or regulations, a public works inspector or other authorized enforcement officer may inspect and/or manage any discharges to the storm water drainage system in the City.

16.18.516 Inspections pursuant to Uniform Building Code. Nothing in this chapter shall prohibit or preclude inspections conducted pursuant to the Uniform Building Code as adopted pursuant to Chapter 16.04.

16.18.517 Inspections pursuant to Uniform Plumbing Code. Nothing in this chapter shall prohibit or preclude inspections conducted pursuant to the Uniform Plumbing Code as adopted pursuant to Chapter 16.24.

16.18.518 Inspections pursuant to Uniform Mechanical Code. Nothing in this chapter shall prohibit or preclude inspections conducted pursuant to the Uniform Mechanical Code as adopted pursuant to Chapter 16.32.

16.18.519 Inspections pursuant to National Electrical Code. Nothing in this chapter shall prohibit or preclude inspections conducted pursuant to the National Electrical Code as adopted pursuant to Chapter 16.28.

16.18.520 Inspections pursuant to the Uniform Code for the Abatement of Dangerous Buildings. Nothing in this chapter shall prohibit or preclude inspections conducted pursuant to the Uniform Code for the Abatement of Dangerous Buildings as adopted pursuant to Chapter 16.22.

16.18.521 Inspections pursuant to the Sign Code. To enforce the provisions of Chapter 16.38, the Zoning Code and/or Municipal Code and other applicable statutes, rules or regulations, a Community Enhancement Inspector, police officer, or other authorized enforcement officer may inspect any violation(s) pertaining to signs in the City.

16.18.522 Inspections pursuant to Uniform Fire Code. Nothing in this chapter shall prohibit or preclude inspections conducted pursuant to the Uniform Fire Code as adopted pursuant to Chapter 17.04.

16.18.523 Inspections pursuant to California Fire Code. Nothing in this chapter shall prohibit or preclude inspections conducted pursuant to the California Fire Code as adopted pursuant to Chapter 17.04.

16.18.524 Inspections pursuant to Uniform Swimming Pool, Spa, and Hot Tub Code. Nothing in this chapter shall prohibit or preclude inspections conducted pursuant to the Uniform Swimming Pool, Spa and Hot Tub Code as adopted pursuant to Chapter 16.36 Swimming Pools.

16.18.525 Inspections pursuant to applicable statutes, rules, codes, regulations or inspection warrants. Nothing in this chapter shall prohibit or preclude inspections conducted pursuant to any applicable statute, rule, code, regulation or inspection

warrant for purposes of inspections related to the respective statute, rule, code, regulation or inspection warrant.

16.18.526 Refusal to permit inspection pursuant to court issued inspection warrants. Any occupant or tenant who refuses to permit an inspection pursuant to any court issued inspection warrant may be subject to arrest by the Community Enhancement Inspector, police officer, or other authorized enforcement officer. Forcible execution of said inspection under such circumstance shall be permitted only if the warrant expressly grants permission for such forcible entry.

ARTICLE VI. Notice of Violation

16.18.600 Issuance of Notice of Violation. A Community Enhancement Inspector, police officer, or other authorized enforcement officer may issue a Notice of Violation in lieu of issuing a Field Citation, an Administrative Citation, a Notice of Public Nuisance, or filing a criminal complaint as set forth in this chapter, provided that grounds exist to issue a Field Citation, an Administrative Citation, a Notice of Public Nuisance, or to file a criminal complaint. Nothing in this chapter shall be construed or interpreted to require the issuance of a Notice of Violation as a prerequisite to the issuance of a Field Citation, an Administrative Citation, a Notice of Public Nuisance, or the filing of a criminal complaint.

16.18.610 Contents of Notice of Violation – related to real property. If the violator is being charged for violations occurring upon real property, the Notice of Violation should include all of the following information:

- (a) The name of the property's record owner, the occupant, if any, and/or the agent, if any, having charge or control of the property;
- (b) The date of inspection;
- (c) The date of the violation(s);
- (d) The street address or a definite description of the location where the violation(s) occurred;
- (e) The code section(s) violated;
- (f) A description of the property's condition which violated the applicable codes;
- (g) A list of violation(s) that must be corrected to bring the property into compliance;
- (h) The deadline or specific date by which to correct the violation(s) listed in the Notice of Violation;
- (i) A reference to the potential consequences should the property remain in violation after the expiration of the compliance deadline;
- (j) The amount of the potential fine for the code violation(s); and

(k) The name and signature of the Community Enhancement Inspector, police officer, or other authorized enforcement officer who issued the Notice of Violation (“citing officer”).

16.18.620 Contents of Notice of Violation – unrelated to real property. If the violator is being charged for violations not occurring upon real property, the Notice of Violation shall include all of the following information:

- (a) The name of the person(s) responsible for committing the violation(s);
- (b) The date of the violation(s);
- (c) The street address or a definite description of the location where the violation occurred;
- (d) The code section(s) violated;
- (e) A description of the violation(s);
- (f) An order prohibiting the continuation or repeated occurrence of the described violation(s);
- (g) The amount of the potential fine for the code violation(s); and
- (h) The name and signature of the citing officer.

16.18.630 Form of Notice of Violation. The Notice of Violation may be in letter form or any other form which adequately conveys the information set forth in Section 16.18.620.

16.18.640 Persons entitled to service of Notice of Violation. The Notice of Violation, and any amended or supplemental Notice of Violation, should be served upon the person(s) responsible, responsible party, property owner, and/or person responsible for the violation(s).

16.18.650 Service of Notice of Violation – related to real property. A Notice of Violation that is related to real property may be served by personal delivery to the violator or, if the violator is the owner or occupant of, or has charge or control of the property, the notice may be served by causing a copy of said Notice of Violation to be sent by certified mail, postage prepaid, return receipt requested, to the address shown on the last available assessment roll. The failure of any such person to receive a copy of the Notice of Violation shall not affect the validity of any proceedings or actions taken under this chapter. Service by certified mail in the manner herein provided shall be affixed to the copy of the Notice of Violation and retained by the citing officer.

16.18.660 Service of Notice of Violation – unrelated to real property. A Notice of Violation that is not related to the property may be served in any of the following ways: (a) by personal delivery to the violator; (b) if the violator is being charged for violations occurring at a business operating within the City, and the violator is the owner or an employee of the business, the Notice of Violation may be served by causing a copy of said notice to be sent by certified mail, postage prepaid, return receipt requested to the address shown on any permit or license issued by the City to said business; or (c) by causing a copy of said notice to be sent by certified

mail, postage prepaid, return receipt requested, to an address otherwise known to the issuing inspector or authorized agent. The failure of any such person to receive a copy of the Notice of Violation shall not affect the validity of any proceedings or actions taken under this chapter. Service by certified mail in the manner herein provided shall be affixed to the copy of the Notice of Violation retained by the citing officer.

16.18.670 Completion of service of Notice of Violation. Service of a Notice of Violation which is personally served shall be deemed completed at the time of such delivery. Service of a Notice of Violation which is served by mail is deemed completed on the date said Notice of Violation is deposited in the mail.

16.18.680 Failure to comply with Notice of Violation. Failure to comply with a Notice of Violation may result in the issuance of a Field Citation, an Administrative Citation, or a Notice of Public Nuisance, or such other action or proceeding pursuant to this chapter or permitted by law.

ARTICLE VII. Administrative Citations

16.18.700 Issuance of Administrative Citations. Authorized enforcement officers may issue administrative citations to enforce the provisions of this chapter pursuant to the existing administrative citation procedure contained in Chapter 1.12 of this Code.

ARTICLE VIII. Administrative Citation Appeals Procedures

16.18.800 Appeals procedures. Persons who are issued an administrative citation for violations of this chapter may appeal the administrative citation pursuant to the appeals procedure set forth in Chapter 1.11 of this Code.

ARTICLE IX. Infraction Violations

16.18.900 Infraction violations. Any violation of the Municipal Code by a member of the public which is designated as an infraction violation under an applicable Municipal Code provision shall be deemed an infraction violation for purposes of this chapter.

16.18.910 Authority to arrest. Any Community Enhancement Inspector or other authorized agent who has a duty to enforce any provision of this chapter and who has reasonable cause to believe that a person has committed an infraction violation in the presence of said officer or agent, may arrest the alleged violator without a warrant pursuant to Penal Code section 836.5.

16.18.920 Field Citation – release procedures – evidence of identity. Any Community Enhancement Inspector, police officer, or other authorized enforcement officer who arrests a person for an infraction violation pursuant to Section 16.18.910 may, in lieu of taking the arrested person into custody, prepare, or cause to be prepared, in duplicate, an infraction Field Citation which shall provide a written notice to appear in court, and which shall contain the name and address of the arrested person, the offense charged, and the time when, and the place where, the arrested person shall appear in court. The arresting officer or agent shall

release the arrested person and issue an infraction Field Citation provided that: (a) the arrested person presents his or her driver's license or other satisfactory evidence of his or her identity to the officer or agent; and (b) the arrested person signs a written promise to appear at court at a later date and time which shall be specified on the Field Citation. The arresting officer or agent shall deliver one duplicate copy of the Field Citation to the arrested person and shall retain the original signed citation. If the arrested person does not have a driver's license or other satisfactory evidence of identity in his or her possession, the arresting officer or agent may require the arrested person to place a right thumbprint, or a left thumbprint or fingerprint if the person has a missing or disfigured right thumb, on the Field Citation.

16.18.930 Custody. Any person who is placed under arrest in accordance with Section 16.18.910 who refuses to sign the Field Citation, or who is unable or unwilling to produce satisfactory identification, or is unable or unwilling to provide a thumbprint or fingerprint may be taken into custody by the arresting Community Enhancement Inspector, police officer, or other authorized enforcement officer pursuant to Penal Code section 853.5.

16.18.940 Criminal infraction complaint. Whenever a Community Enhancement Inspector or other authorized agent has reasonable cause to believe that an infraction violation has been committed in the presence of the officer or agent and the alleged violator cannot be served with a Field Citation for any reason, the City attorney may file a criminal infraction complaint against the alleged violator at the request of the Community Enhancement Manager or other enforcement authority.

16.18.950 Continuing violations. A separate offense occurs for each day an infraction violation is continued and/or maintained.

16.18.960 Infraction penalties. Infraction penalties may be provided by Resolution of the City Council.

16.18.970 Payment of civil fines. Upon conviction of any infraction violation, the convicted violator shall be required to pay all applicable civil fines in addition to the infraction penalties set forth in this chapter.

16.18.980 Restitution. Nothing in this chapter is intended to prohibit or preclude the City from seeking and recovering restitution in any infraction violation proceeding.

16.18.990 Attorney's fees. The prevailing party in any infraction violation proceeding associated with the abatement of a public nuisance shall be entitled to recovery of attorneys' fees incurred in any such proceeding.

ARTICLE X. Misdemeanor Violations

16.18.1000 Misdemeanor violations. Any violation of the Municipal Code by a member of the public that is not exclusively deemed an infraction violation may be deemed a misdemeanor violation and may be prosecuted as such for purposes of this chapter.

16.18.1001 Fourth and subsequent infraction violations. The fourth and each subsequent violation of a Municipal Code provision by a member of the public that would otherwise be an infraction violation within a 12-month period commencing upon the date of the first violation shall be deemed a misdemeanor violation.

16.18.1002 Continuing violations. A separate offense occurs for each day a misdemeanor violation is continued and/or maintained.

16.18.1003 Discretion of the City Attorney. The City Attorney shall have the discretion to reduce any misdemeanor violation to an infraction violation.

16.18.1004 Authority to arrest without warrant. Any Community Enhancement Inspector, police officer or other authorized enforcement officer who has a duty to enforce any provision of this chapter and who has reasonable cause to believe that a person has committed a misdemeanor violation in the presence of said officer or agent, may arrest the alleged violator without a warrant pursuant to Penal Code section 836.5.

16.18.1005 Field Citation – release procedure – evidence of identity. Any Community Enhancement Inspector, police officer or other authorized enforcement officer who arrests a person for a misdemeanor violation pursuant to Section 16.18.1004 may, in lieu of taking the arrested person into custody, prepare, or cause to be prepared, in duplicate, a Field Citation which shall provide a written notice to appear in court, and which shall contain the name and address of the arrested person, the offense charged, and the time when, and the place where, the arrested person shall appear in court. The arresting officer or agent may release the arrested person and issue a misdemeanor Field Citation provided that: (a) the arrested person presents his or her driver's license or other satisfactory evidence of his or her identity to the officer or agent; and (b) the arrested person signs a written promise to appear at court at a later date and time which shall be specified on the Field Citation. The arresting officer or agent will deliver one duplicate copy of the Field Citation to the arrested person and retain the original signed citation. If the arrested person does not have a driver's license or other satisfactory evidence of identity in his or her possession, the arresting officer or agent may require the arrested person to place a right thumbprint, or a left thumbprint or fingerprint if the person has a missing or disfigured right thumb, on the Field Citation.

16.18.1006 Custody. Any person who is placed under arrest in accordance with Section 16.18.1004 who refuses to sign the Field Citation, or who is unable or unwilling to produce satisfactory identification, or is unable or unwilling to provide a thumbprint or fingerprint may be taken into custody by the arresting Community Enhancement Inspector, police officer, or other authorized enforcement officer pursuant to Penal Code section 853.6.

16.18.1007 Criminal misdemeanor complaint. Whenever a Community Enhancement Inspector or authorized agent has reasonable cause to believe that a misdemeanor violation is being committed and the alleged violator cannot be served with a Field Citation for any reason, the City Attorney may file a criminal misdemeanor complaint against the alleged violator at the request of the Community Enhancement Manager or any other enforcement authority. The City Attorney may, in his or her discretion, reduce any misdemeanor violation to an infraction violation.

16.18.1008 Notice of pending action. Upon the filing of a criminal complaint for zoning or other land use related violations, the Community Enhancement Manager or his or her designee, or any other authorized enforcement authority, may file a Certificate of Nuisance in the County Recorder's office to prevent the owner from transferring the subject property or premises to another person or entity without first correcting the outstanding violation and reimbursing the City for any and all costs incurred by the City in its attempt to remedy the violation. Once the action is completed and the City is reimbursed for any costs incurred by the

City in its attempt to remedy the subject violation, the Community Enhancement Manager, or his or her designee, shall file a Certificate of Abatement with the County Recorder's office.

16.18.1009 Misdemeanor penalties. Every Municipal Code violation determined to be a misdemeanor violation is punishable by a fine not exceeding one thousand dollars and/or imprisonment for a period not to exceed 6 months as set forth in Penal Code section 19.

16.18.1010 Payment of civil penalties. Upon conviction of any misdemeanor violation, the convicted violator shall be required to pay all applicable civil fines in addition to any misdemeanor penalties set forth in Section 16.18.1009.

16.18.1011 Restitution. Nothing in this chapter is intended to prohibit or preclude the City from seeking and recovering restitution in any misdemeanor violation proceeding.

16.18.1012 Community service. Pursuant to California Government Code section 36904, persons imprisoned for a misdemeanor violation under this chapter may be required to labor on public property or public works projects within the City.

16.18.1013 Attorney's fees. The prevailing party in any misdemeanor violation proceeding associated with the abatement of a public nuisance shall be entitled to recovery of attorneys' fees incurred in any such proceeding.

ARTICLE XI. Public Nuisances

16.18.1100 Abandoned and/or vacant buildings or structures. It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to abandon or permanently vacate or cause to be abandoned or permanently vacated, any building or structure, so that it becomes accessible to unauthorized persons including, but not limited to, juveniles and vagrants, for unlawful or hazardous use, or to allow the same to become infested with vermin or rodents, or to become a menace to the health or safety of the public.

The following requirements must be completed to secure an abandoned and/or vacant building or structure:

1. Duty to maintain property.

It is unlawful for an owner to maintain property or to permit property to be maintained in such a manner that any one or more of the conditions described in the following subsections are found to exist:

- (a) Any vacant structure that is open and accessible and/or not secured by boarding in compliance with Section 16.18.1100(2);
- (b) Any vacant structure whose interior contains any waste, rubbish, debris or graffiti;
- (c) Any vacant structure whose premises contain any waste, rubbish, debris, excessive vegetation or graffiti;

(d) Any vacant structure whose doors, windows or other openings are secured by boarding in compliance with Section 16.18.1100(2) or by any other method permitted by Section 16.18.1100(2) at any time at which there is no current and valid boarding permit as required by Section 16.18.1100(3);

(e) Any vacant structure that promotes a criminal activity on the property, to include but not limited to use and sale of controlled substances, prostitution and criminal gang activity.

2. Standards of securing.

Except as provided in Section 16.18.1100(l), the owner shall secure a vacant structure according to all of the following specifications and requirements:

- (a) Remove all waste, rubbish or debris from the interior of the structure;
- (b) Remove all waste, rubbish, debris or excessive vegetation from the premises surrounding the vacant structure;
- (c) Barricade all unsecured doorways, windows, or exterior openings with minimum one-half inch thickness exterior grade plywood which shall extend to the molding stops or studs;
- (d) Mount at least two wood stocks of minimum 2 by 4 inch thickness to the reverse face of the plywood with minimum 3/8 inch carriage bolts mated with nuts and 2 flat washers;
- (e) Extend the stock a minimum of 8 inches on each side of the interior wall;
- (f) Cause all hardware to be galvanized or cadmium plated;
- (g) Paint all exterior barricade material the predominant color of the structure;
- (h) Terminate all utility service to the dwelling or building by removal of the meters and termination of electric power at the pole. Compliance with this subsection may be waived in writing by the Building Official as to the electric utility service if electricity is needed to power exterior security lighting, an alarm system, or equipment to be used in connection with rehabilitation of the dwelling or building for which there is an active and current building permit;
- (i) If applicable, cap the sewer in a manner approved by the Building Official to prevent the accumulation of methane gas in the dwelling or building;
- (j) Post the premises. One or more metal signs must be posted at or near each entrance to the structure and on fences or walls as appropriate. The signs must remain posted until the structure is either lawfully occupied or demolished. Signs must contain the following information:

DO NOT ENTER. It is illegal to enter or occupy this building or premises or to remove or deface this notice. Trespassers will be prosecuted. (Municipal Code, California Penal Code).

(k) The Building Official may require the owner to erect a fence that meets the specifications of the building inspection department on the property where the vacant structure is located. Any fence erected in accordance with this section shall be maintained in a safe condition without tears, breaks, rust, or dangerous protuberances;

(l) In lieu of requiring the owner to board a vacant structure as set forth in Section 16.18.1100(2)(a) through (k), the Building Official may allow the owner to board the vacant structure in a manner that the Building Official determines adequately prevents unauthorized entry or vandalism. In any event, an owner shall post the premises as set forth in this section.

3. Permit required for securing an abandoned or vacant dwelling or building.

(a) No owner of a vacant structure shall install, place or maintain boards over the doors, windows or other openings of any vacant structure or otherwise secure such openings by a means other than the conventional method used in the original construction and design of the dwelling or building without having first applied for and received a boarding permit from the Building Official.

(b) An owner of a vacant structure must apply to the Building Official for a boarding permit within 30 days after the structure becomes vacant.

(c) The application for a boarding permit shall include all of the following information:

(1) The expected period of vacancy;

(2) A plan for regular maintenance during the period of vacancy;

(3) A plan and timeline for the lawful occupancy, rehabilitation or demolition of the vacant structure, or alternatively, a plan and timeline for sale of the property to another person or entity with provision in the sale for the lawful occupancy, rehabilitation or demolition of the structure.

(d) The Building Official will issue a boarding permit required by subsection (a) upon the submission of a complete and accurate boarding permit application by the owner of the structure and upon payment of the required fee.

(e) The owner of a vacant structure must board or otherwise secure the vacant structure in compliance with Sections 16.18.1100(1) and (2) within 10 days of receiving a boarding permit. The Building Official will confirm through inspection that the boarding or other method of securing the structure has been completed in compliance with Sections 16.18.1100(1) and (2).

(f) The boarding permit issued pursuant to this section shall authorize the boarding or other securing of a structure for a period of no greater than 6 months from the date of issuance.

(g) The boarding permit may be renewed after the initial period for up to an additional 6 months, upon the submission of a written application by the owner of the structure. The submission of the application must occur no later than 10 business days before the original permit expires, upon the payment of the required fee and upon the

confirmation through inspection by the Building Official that the boarding or other method of securing the structure has been completed in accordance with Sections 16.18.1100(1) and (2). The application shall include the information required by subsection (c).

(h) A boarding permit may not be extended beyond the renewal period nor may a new application for the same structure be accepted by the Building Official within 1 year of the expiration date of the prior permit, unless all of the following occur:

(1) The owner of the structure submits a written application for extension that includes the information required by subsection (c);

(2) The owner of the structure pays the required fee;

(3) The Building Official confirms through inspection that the boarding or other method of securing the structure has been done in compliance with Sections 16.18.1100(1) and (2);

(4) Good cause for the renewal exists. "Good cause" shall require a showing by the owner that the permit renewal is made necessary by conditions or events beyond the owner's control, such as inability to obtain financing for repair or rehabilitation, inability to locate a suitable buyer, unanticipated delays in construction or rehabilitation, or unanticipated damage to the property. In addition, where appropriate, "good cause" shall also require a showing by the owner that he or she has exercised reasonable and due diligence in attempting to complete the needed repair, rehabilitation or correction or in attempting to sell the property. If the Building Official determines that good cause exists to renew the permit and that all other conditions are met, the permit may be renewed by the Building Official for a period of up to, but not more than, an additional 6 months, subject to all of the same conditions imposed on the original renewal permit.

16.18.1101 Animals. It is unlawful and it shall be a public nuisance for any person to: (a) keep on any premises or property within the City any animal which by any sound, cry or behavior causes a repeated annoyance or discomfort to a reasonable person of normal sensitivity or any animal in unsanitary conditions; (b) keep on any premises or property within the City more animals than permitted under this Code or any applicable state or federal law; or (c) keep on any premises or property within the City any animal deemed to be illegal under this Code or any applicable state or federal laws.

16.18.1102 Attractive nuisances. It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to maintain on any such premises or property any condition that constitutes an attractive nuisance including, but not limited to, the following: (a) abandoned, damaged or broken equipment, vehicles, machinery or household items, (b) unprotected hazardous, filled pools without required fencing or unfilled pools or ponds; and (c) unfenced or otherwise unprotected wells or excavations.

16.18.1103 California Civil Code. The City may declare that a public nuisance exists whenever any member of the public creates, causes, commits, permits or maintains any condition or performs or causes to be performed any activity that falls within the scope of the definition of "public nuisance" as set forth in California Civil Code sections 3479 and 3480.

16.18.1104 California Drug Abatement Act. The City may: (a) declare that a public nuisance exists whenever any member of the public creates, causes, commits, permits or maintains any condition or performs or causes to be performed any activity that falls within the scope of the definition of "public nuisance" as set forth in California Health and Safety Code section 11570; and (b) commence any action or proceeding pursuant to the California Drug Abatement Act to abate the public nuisance, to pursue all other remedies against the violator, to seek the imposition of all penalties against the violator and to recover any and all costs from the violator.

16.18.1105 California Red Light Abatement Act. The City may: (a) declare that a public nuisance exists whenever any member of the public creates, causes, commits, permits or maintains any condition or performs or causes to be performed any activity that falls within the scope of the definition of "public nuisance" as set forth in California Penal Code section 11225; and (b) commence any action or proceeding pursuant to the California Red Light Abatement Act to abate the public nuisance, to pursue all other remedies against the violator, to seek the imposition of all penalties against the violator and to recover any and all costs from the violator.

16.18.1106 Code violations of applicable law. It shall be deemed a public nuisance for any member of the public to create, cause, commit, permit or maintain any condition or to perform or cause to be performed any activity specifically identified as a public nuisance by this Code and/or applicable statute, rule, code or regulation.

16.18.1107 Discharge of sewage. It is unlawful and it shall be a public nuisance for any person to permit on any premises or property within the City any matter or substance from a private vault, cesspool, septic tank, water closet, privy vault, urinal, pipe, sewer line or any sewage, effluent, slop water, polluted water or any other filthy water, matter or substance to flow or discharge upon the ground or upon any public sidewalk, street or other public place.

16.18.1108 Disruptive activities. It is unlawful and it shall be a public nuisance for any person to operate or maintain any premises or property within the City in a manner that has resulted in repeated disruptive activities including, but not limited to, disturbances of the peace and quiet of the neighborhood of which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area, public drunkenness, drinking in public, harassment of passersby, sale of stolen goods, public urination, theft, assaults, battery, acts of vandalism, excessive littering, illegal parking, loud noises, traffic violations, curfew violations, or police detentions and arrests.

16.18.1109 Fire Hazard. It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to maintain such premises or property in such a manner that has resulted in the accumulation of dry or dead plant matter, combustible refuse and waste or any other matter which by reason of its size, manner of growth and location, constitutes a fire hazard to any building, improvement, crop or other property.

16.18.1110 Hazardous substances or wastes. It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to permit any hazardous substances which, because of their quantity, concentration or physical, chemical or infectious characteristics may either cause or substantially contribute to an increase in mortality or serious illness or pose a significant present or potential hazard to human health or the environment if improperly managed, or if hazardous

waste to be unlawfully released, discharged, placed or deposited upon any premises or onto any City property.

16.18.1111 Illegal non-conforming buildings or structures. It is unlawful and it shall be declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to maintain upon any such premises or property any building or structure, or any part thereof, which has been constructed or is maintained in violation of any applicable state or local law or regulation relating to the condition, use or maintenance of such building or structure.

16.18.1112 Gang activities. It is unlawful and shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to have any unlawful activities of a criminal gang, as defined in Penal Code sections 186.22, 186.22a, and 186.25, and Health and Safety Code section 11570.

16.18.1113 Garbage cans. It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to maintain such premises or property with garbage or trash containers stored in the public right-of-way, except on scheduled waste collection days.

16.18.1114 Graffiti. It is unlawful and it shall be a public nuisance for any person, owning, leasing, occupying or having charge or possession of any premises or property in the City to maintain such premises or property in such a manner that has any inscription, word, figure, picture, design or other graphic representation prohibited by law or unauthorized by the owner or person in possession of the subject property, which is marked, etched, scratched, drawn, painted or otherwise applied on any building or other public or private facility, and can be seen by any person using any public right-of-way. "Graffiti" includes, but is not limited to: (a) any authored inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on any real or personal property; (b) representations of any gang-type group; (c) projection of threats; (d) insults to any race, creed or religion; or (e) expressions of profanity.

16.18.1115 Landscaping. It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to maintain any front and visible side yards without acceptable landscaping, except for improved surfaces such as walks and driveways. Acceptable landscaping shall include any ground cover, decorative rock, redwood bark, lawn and/or other material as determined to be acceptable or required by the Community Enhancement Manager or his or her designee. For single and two family residential zoning districts, a minimum of 25 percent of the net lot area and 40 percent of the front yard area shall comprise a pervious surface.

16.18.1116 Maintenance, repair, restoration, or dismantling vehicle or large equipment or machinery. It is unlawful and it shall be declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to allow or perform on such premises or property the maintenance, repair, restoration or dismantling of any vehicle, large machinery, or large equipment upon any residential property, walkway, or easement visible from a public street or sidewalk or from an adjoining property. This prohibition shall not apply to work which is specifically authorized by state or local law or regulation and shall not apply to minor repair and maintenance of vehicles as defined in the Zoning Code, machinery or equipment which belong to the person residing at the property, and which is either performed inside an enclosed structure such as a garage or performed outside but is not visible for longer than 24 consecutive hours.

16.18.1117 Mosquito breeding places. It is unlawful and it shall be a public nuisance for any person to maintain any premises or property within the City upon which there is stagnant or still water or a marshy condition which harbors and breeds mosquitoes or other poisonous or objectionable insects.

16.18.1118 Nuisance vehicles.

(a) Any vehicle used to solicit an act of prostitution or to acquire or attempt to acquire any controlled substance is declared to be a nuisance, and the vehicle may be enjoined and abated as provided in this chapter.

(b) Any person or his or her servant, agent or employee who owns, leases, conducts or maintains any vehicle used for any of the purposes or acts set forth in this section is guilty of creating a public nuisance.

16.18.1119 Occupied vehicles. It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to permit on such premises or property any parked operable vehicle, recreational vehicle, motor home, trailer, camper, camper shell and boat to be used for a residential occupancy except on property zoned for mobile home parks or camping.

16.18.1120 Portable recreational and sporting equipment. It is unlawful and it shall be a public nuisance for any person to erect a portable basketball hoop, skateboard ramp, tetherball pole, or other portable recreational or sporting equipment on a public right-of-way, street, easement, sidewalk or roadway.

16.18.1121 Parking lot striping and handicapped markings. It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to fail to maintain in good condition any parking lot striping and handicapped markings on such premises or property.

16.18.1122 Public burning. It is unlawful and it shall be a public nuisance for any person to engage in the intentional burning of any material, structure, matter or thing on any premises or property within the City without a validly issued permit that allows such burning.

16.18.1123 Rubbish, refuse and dirt. The City Council may: (a) declare by resolution pursuant to California Government Code section 39561 et seq. that a public nuisance exists with respect to a specific parcel whenever that parcel is being maintained in a manner that has resulted in an accumulation of rubbish, refuse and dirt upon parkways, sidewalks or private property in the City; and (b) commence any action or proceeding pursuant to California Government Code section 39561 et seq. to abate the public nuisance, to pursue all other remedies against the violator, to seek the imposition of all penalties against the violator and to recover any and all costs from the violator.

16.18.1124 Safety hazards. It is unlawful and it shall be a public nuisance for any person to maintain any premises or property within the City in a manner that presents an imminent safety hazard and/or which creates a present and immediate danger to life, property, health or public safety, including, but not limited to, clandestine drug labs, fire damaged, and vacant open and accessible structures.

16.18.1125 Sewage. It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to fail to properly connect any inhabited improvements on such premises or property to a sewage disposal system or sanitary sewer and/or to permit sewage seepage.

16.18.1126 State Housing Law. The City may: (a) declare that a public nuisance exists whenever any member of the public creates, causes, commits, permits or maintains any condition or performs or causes to be performed any activity that falls within the scope of the definition of "public nuisance" as set forth in California Health and Safety Code sections 17910 through 17995.5; and (b) commence any action or proceeding set forth therein to abate the public nuisance, to pursue all other remedies against the violator, to seek the imposition of all penalties against the violator and to recover any and all costs from the violator.

16.18.1127 Storage bins or cargo/shipping containers. It is unlawful and it shall be a public nuisance for any person, owning, leasing, occupying or having charge or possession of any premises or property in the City to maintain upon any such premises or property the exterior storage or maintenance in a residential, agricultural residential, or agricultural zone of storage bins or cargo/shipping containers without a temporary use permit, excepting that such bins or containers may be located on-site for a maximum of 24 hours as part of the active loading and unloading of the container without a temporary use permit. Any such bins or containers shall be located a minimum of 10 feet from any front or side-street property line, a minimum of 5 feet from any other structure or container. At no time shall the container obstruct the clear vision triangle as required by the Zoning Code. For residential uses, containers may not be placed within the required front or side yard area.

16.18.1128 Swimming pools, ponds or other bodies of water. It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to maintain upon any such premises or property any swimming pool, pond, or other body of water which is abandoned, unattended, unfiltered, or not otherwise maintained resulting in the water becoming polluted and/or providing for mosquito breeding.

16.18.1129 Termites, insects, vermin and rodents. It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to maintain such premises or property that results in creating a habitat for termites, insects, vermin or rodents that presents a threat to the health and safety of the public and/or a threat to property and adjacent properties.

16.18.1130 Trees and shrubs. It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to maintain such premises or property in such a manner that has resulted in: (a) trees and shrubs with dead or fallen limbs or branches to present a safety hazard or restrict, impede or obstruct the use of a public right-of-way, easement, sidewalk or roadway; or (b) branches from any tree or shrub shall be trimmed to the height of 7 feet (7') over the public sidewalk and to the height of 14 feet (14') over the public street, easement, sidewalk or roadway where such growth restricts, impedes or obstructs pedestrian or vehicular use of said public right-of-way, easement, sidewalk or roadway.

16.18.1131 Vehicle parking. It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to permit on such premises or property any operable vehicle, recreational vehicle,

motor home, trailer, camper, camper shell and boat to be parked or stored outside of a garage or carport on an unimproved surface.

16.18.1132 Visibility hazards. It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises, vehicle or property in the City to maintain such premises or property in such a manner as to cause a hazard to the public by obscuring the visibility of any public right-of-way, road intersection or pedestrian walkway.

16.18.1133 Visual blight. It is unlawful and it shall be declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to maintain any such premises or property or improvement thereon in such a manner as to cause or to allow the premises, property or improvement to become defective, unsightly, or in such other condition of deterioration or disrepair as the same may cause substantial depreciation of the property values or similar detriment to surrounding properties, as well as an adverse effect on the health, safety, and welfare of the citizens of the City. Visual blight conditions include, but are not limited to, any of the following conditions: (a) the presence of any improvement (including, but not limited to, buildings, garages, carports, wooden fences, block walls, roofs or gutters) in which the condition of the patio, stucco, siding or other exterior coating has become so deteriorated as to permit decay, excessive checking, cracking or warping so as to render the improvement or property unsightly and in a state of disrepair; (b) the presence of any improvement with cracked or broken windows, roofs in disrepair, damaged porches or broken steps; (c) the presence of any improvement which is abandoned, boarded up, partially destroyed or left in a state of partial construction or repair for more than ninety days; (d) the presence of abandoned, damaged or broken equipment, vehicles or machinery which is visible from a public street or sidewalk or from an adjoining property; or (e) the presence of excessive junk, refuse and garbage which is visible from a public street or sidewalk or from an adjoining property.

16.18.1134 Weeds. It is unlawful and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the City to maintain such premises or property in a manner that has resulted in weeds at a height of over 12 inches which when mature bear wingy or downy seeds, which will attain such a large growth as to become a fire hazard when dry, or which are otherwise noxious or dangerous to be present on any front and visible side yards.

16.18.1135 Weed abatement. The City Council may: (a) declare by resolution pursuant to California Government Code section 39561 et seq. that a public nuisance exists with respect to a specific parcel whenever that parcel is being maintained in a manner that has resulted in weeds, as that term is defined in California Government Code section 39561.5, being grown upon the streets, sidewalks or private property in the City; and (b) commence any action or proceeding pursuant to California Government Code section 39561 et seq. to abate the public nuisance, to pursue all other remedies against the violator, to seek the imposition of all penalties against the violator and to recover any and all costs from the violator.

ARTICLE XII.

Notice of Public Nuisance and Order to Abate

16.18.1200 Notice of Public Nuisance and order to abate. When a Community Enhancement Inspector, police officer or other enforcement officer has inspected any real property or premises and has found and determined that conditions at or upon such property or

premises constitutes a public nuisance pursuant to any provision of the Municipal Code and/or applicable statute, rule, code and regulation and the City has not commenced an alternative public nuisance abatement procedure prescribed by statute regarding said public nuisance, the Community Enhancement Inspector, police officer or enforcement officer may issue or cause the issuance of a notice of public nuisance and order to abate ("Notice and Order").

16.18.1201 Public nuisance administrative fines. Administrative fines are set forth in the schedule of fines adopted by Resolution of the City Council.

16.18.1202 Contents of Notice and Order. The Notice and Order shall include all of the following information:

- (a) The name of the property's record owner, the occupant, if any, and/or the agent, if any, having charge or control of the property;
- (b) The date of inspection;
- (c) The date of the violation;
- (d) The street address or a definite description of the location where the violation occurred;
- (e) The code section(s) violated;
- (f) A description of the property's condition which violated the applicable codes;
- (g) The actions necessary to correct the subject violations;
- (h) The deadline or specific date by which to correct the violations;
- (i) A reference to the potential consequences should the property remain in violation after the expiration of the compliance deadline;
- (j) The number of times the violation has been cited by the City within the previous thirty-six months;
- (k) The amount of any public nuisance administrative fine for the code violation;
- (l) A description of the fine payment process, including a description of the time within which the fine must be paid and the place where the fine must be paid;
- (m) A description of the process by which the City may collect any unpaid fines;
- (n) An order prohibiting the continuation or repeated occurrence of the code violation described in the Notice and Order;
- (o) A description of the administrative appeal process for a person's appeal of the Community Enhancement Inspector's determination of violation, including the time within which the administrative appeal must be filed and the place from which a "request for hearing" form may be obtained; and

(p) The name and signature of the citing Community Enhancement Inspector or other authorized agent.

16.18.1203 Form of Notice and Order. The heading of the notice shall be "Notice and Order".

16.18.1204 Posting of Notice and Order. The Notice and Order, and any amended or supplemental Notice and Order, shall be posted on the property on which a violation occurs.

16.18.1205 Method of service. Service of a copy of the Notice and Order shall be made upon such persons that are entitled thereto either personally or by certified mail, postage prepaid, return receipt requested, at their address as it appears on the last equalized assessment roll of the county or as otherwise known to the issuing community enhancement inspector or enforcement officer. If an address of any such person does not appear on the last equalized assessment roll or is not otherwise known to the issuing inspector or enforcement officer then a copy of the Notice and Order shall be addressed to such person(s) and mailed to the address of the subject premises. The failure of any such person to receive a copy of the Notice and Order shall not affect the validity of any proceedings or actions taken under this chapter. Service by certified mail in the manner herein provided shall be affixed to the copy of the Notice and Order and retained by the inspector or enforcement officer.

16.18.1206 Proof of service. Proof of service of the Notice and Order shall be certified at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to a copy of the Notice and Order and retained by the Community Enhancement Inspector or enforcement officer.

16.18.1207 Appeal of Notice and Order. Any party possessing a legal or equitable interest including but not limited to a leasehold interest in the property that is the subject of a Notice and Order may appeal the Notice and Order.

16.18.1208 Form for filing of appeal. All appeals from any Notice and Order shall be in writing and shall contain the following information: (a) name(s) of each appellant, (b) a brief statement setting forth the legal or equitable interest of each appellant, (c) a brief statement in ordinary and concise language of the specific items protested, together with any material facts claimed to support the contentions of the appellant, (d) a brief statement in ordinary and concise language of the relief sought and the reasons why the Notice and Order should be reversed, modified or otherwise set aside, (e) the signature of all parties named as appellants and their official mailing addresses. Any appeal form that fails to provide all of the information required by this section shall be deemed incomplete.

16.18.1209 Time in which to file appeal. A complete and proper appeal of Notice and Order as described in Section 16.18.1207 shall be filed with the City Clerk within 10 business days from the date service of the Notice and Order is completed pursuant to Sections 16.18.1205 and 16.18.1206. Any appeal not timely filed shall be rejected.

16.18.1210 Processing appeal selection and compensation of administrative appeals officer. The City Clerk or his or her designee shall present any appeal filed pursuant to this chapter to the City Manager or his/her designee who shall appoint an administrative appeals officer to adjudicate the appeal. The employment, performance, evaluation,

compensation and/or benefits of the administrative appeals officer shall not be directly or indirectly conditioned upon any particular rulings issued.

16.18.1211 Stay pending appeal. Enforcement of any Notice and Order shall be stayed during the pendency of an appeal therefrom which is properly and timely filed pursuant to this chapter.

16.18.1212 Failure to file appeal. Failure to timely and properly file an appeal from a Notice and Order shall constitute a waiver of all rights to an administrative appeal hearing and adjudication of the Notice and Order or any portion thereof. The determination that the violation occurred and that the violator was responsible for the violation shall be deemed final on the date that service of the Notice and Order is deemed completed pursuant to Sections 16.18.1205 and 16.18.1206.

16.18.1213 Recordation of Certificate of Nuisance. After a Notice and Order becomes final upon failure to file a timely appeal, or upon service of an Administrative Appeal Decision as set forth in Section 1.11.130, the City Clerk, or his or her designee, may file a Certificate of Nuisance in the Office of the County Recorder to certify that: (a) the subject property is being maintained in violation of the Municipal Code and/or applicable statute, rule, code and regulation and (b) the property owner has been so notified.

16.18.1214 Recordation of Certificate of Abatement. Whenever it is determined by the Community Enhancement Manager, Police Chief, or other enforcement officer that the corrections ordered by the Certificate of Nuisance have been completed so that the premises no longer exists in a condition that is in violation of the Municipal Code and/or applicable statute, rule, code, and all outstanding fees/fines have been paid, a Certificate of Abatement may be recorded in the Office of the County Recorder certifying that all required corrections have been made and that the subject premises is no longer being maintained as a public nuisance.

16.18.1215 Demand for payment of public nuisance administrative fines after failure to comply with order to abate. After a Notice and Order becomes final upon to the failure to file a timely and proper appeal or upon service of an Administrative Appeal Decision pursuant to Section 1.11.130, the Community Enhancement Manager, Police Chief or other enforcement officer shall prepare a demand for payment of all applicable public nuisance administrative fines if the City determines that the person to whom the order to abate is directed failed, neglected or refused to obey any orders or adhere to the terms and conditions set forth in said order.

16.18.1216 Contents of demand for payment. The demand for payment shall include all of the following, which shall be consistent with the information contained in the final Notice and Order:

- (a) The name of the responsible person(s) for payment of the public nuisance administrative fines;
- (b) The street address or a definite description of the location where the violation occurred;
- (c) The deadline or specific date by which the violations were to have been corrected;

- (d) The date of the follow up inspection where continuing violation conditions were discovered;
- (e) The code violation(s) noted at the follow up inspection;
- (f) The amount of the public nuisance administrative fine which shall be immediately due and payable;
- (g) The place where the fine must be paid; and
- (h) A description of the process by which the City may collect any unpaid fines.

16.18.1217 Form of demand for payment. The demand for payment may be in letter form or any other form which conveys the information set forth in Section 16.18.1216.

16.18.1218 Service of demand of payment. The demand for payment shall be served upon the responsible person(s) for payment of the public nuisance administrative fines either personally or by certified mail, postage prepaid, return receipt requested, at their address as it appears on the last equalized assessment roll of the County or as otherwise known to the issuing Community Enhancement Inspector or other enforcement officer. If an address of any such person does not appear on the last equalized assessment roll or is not otherwise known to the issuing inspector or authorized agent, then a copy of the Notice and Order shall be addressed to such person(s) and mailed to the address of the subject premises. The failure of any such person to receive a copy of the demand for payment shall not affect the validity of any proceedings or actions taken under this chapter. Service by certified mail in the manner herein provided shall be affixed to the copy of the demand for payment and retained by the Community Enhancement Inspector or other enforcement officer.

16.18.1219 Completion of service. Service of the demand for payment which is personally served shall be deemed completed at the time of such delivery. Service of a Notice of Public Nuisance which is served by mail is deemed completed on the date said Notice of Public Nuisance is deposited in the mail.

16.18.1220 Proof of service. Proof of service of the demand for payment shall be certified at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to a copy of demand for payment and retained by the Community Enhancement Inspector or other enforcement officer.

16.18.1221 Attorney's fee. The prevailing party in any proceeding conducted pursuant to this chapter and associated with the abatement of a public nuisance shall be entitled to recovery of attorneys' fees incurred in any such proceeding.

ARTICLE XIII. Public Nuisance Appeals Procedures

16.18.1300 Appeals procedures. Such persons who seek to appeal a Notice and Order issued pursuant to Article XII of this Code shall utilize the administrative appeals procedure set forth in Chapter 1.11 of this Code.

16.18.1310 Office conference; informal meeting.

- (a) In lieu of filing an administrative appeal of the Notice and Order as provided in this chapter, the recipient(s) of said Notice and Order may, within 24 hours of the issuance date stated on the Notice and Order, contact the City at the number provided on the Notice and Order to schedule a meeting with city staff for a department level resolution of the alleged violation(s). The meeting must be held within seven (7) days of the date of issuance noted on the Notice and Order, and must be held between the hours of 8:00 a.m. and 5:00 p.m. at the City of Elk Grove, City Hall. The City will provide staff available or one (1) meeting for this purpose within the seven day time period.
- (b) At the conclusion of the meeting, the City may issue an extension of time to cure the violation only if the extension contains an agreement, signed by an authorized city representative and recipient(s) stating the following: (1) the specific means, schedule and completion dates for each step of the abatement process for each violation; (2) the date(s) for City re-inspection to confirm abatement of each violation to the City's satisfaction; (3) the fees that shall accrue upon failure to meet each of those new deadlines; and (4) a statement that the Notice and Order recipient(s) acknowledges forfeiture of the right to appeal the underlying Notice and Order and does not contest the alleged violations. The signed extension to the Notice and Order shall contain all information set forth of an Administrative Citation as required under Section 1.12.050 in Chapter 1.12 of the Municipal Code.
- (c) The Notice and Order recipient(s) may reschedule the meeting once. Upon the second absence, the original Notice and Order deadline shall again be effective, and compliance is required.
- (d) If the Notice and Order recipient(s) does not comply with the terms of the extension, the City may enforce compliance by using applicable criminal and civil remedies provided in any applicable law.

16.18.1320 Recordation of Certificate of Nuisance. Following an Administrative Appeal Decision issued by the Appeals Hearing Officer pursuant to Chapter 1.11, a Certificate of Nuisance may be filed and recorded in the Office of the County Recorder to certify that:

(a) the subject property is being maintained as a public nuisance in violation of the Municipal code and/or applicable statute, rule, code and regulation and (b) the property owner has been so notified.

16.18.1330 Recordation of Certificate of Abatement. Whenever it is determined that the violations set forth in the Certificate of Nuisance have been corrected so that the premises no longer exists in a condition that is a public nuisance in violation of the Municipal Code and/or applicable statute, rule, code and regulation, a Certificate of Abatement may be recorded in the Office of the County Recorder certifying that all required corrections have been made and that the subject premises is no longer being maintained as a public nuisance.

ARTICLE XIV.
Summary Abatement of Public Nuisance Procedures

16.18.1400 Summary abatement of public nuisances that pose an immediate threat to public health and safety. If upon the determination of a Community Enhancement Inspector, police officer, or other authorized enforcement officer, a particular public nuisance as described in this chapter or any other applicable statute, rule, code or regulation poses an immediate threat to public health and safety, the authorized enforcement officer who made the public nuisance determination may dispense with the notice and hearing requirements of the public nuisance appeals procedures set forth in this chapter and cause City crews or private contractors to take such reasonable actions that are necessary to immediately abate the activity or activities and/or condition or conditions causing the public nuisance.

16.18.1401 Inventory discarded items. Prior to the City performing any abatement work pursuant to Section 16.18.1400, the authorized enforcement officer who caused the summary abatement shall, if feasible, cause an inventory to be taken which lists those items which are proposed to be removed from the property and discarded.

16.18.1402 Preparation of summary abatement report. Prior to ordering summary abatement pursuant to this chapter, the authorized enforcement officer who caused the summary abatement shall prepare a written report which sets forth in writing the facts and circumstances establishing: (a) why advance notice of the abatement to the property owner, occupant and/or agent having charge or control is not reasonable or feasible or why prior advance notice was not effective; (b) why the subject property constitutes a public nuisance; and (c) why immediate abatement of the public nuisance is necessary.

16.18.1403 Filing of original summary abatement report. The original of the summary abatement report shall be filed with the City Clerk.

16.18.1404 Method and manner of service of summary abatement report. A copy of the summary abatement report shall be served as soon as possible to the owner(s) of record of the parcel of land on which the public nuisance exists by certified mail, postage prepaid, return receipt requested, to each such person at their address as it appears on the last equalized assessment roll of the county or as known to any City officer or other enforcement officer. If no address of any such person so appears or is not otherwise known, then a copy of the summary abatement report shall be so mailed, addressed to such person(s), at the address of the subject premises. The failure of any such person(s) to receive a copy of the summary abatement report shall not affect the validity of any proceedings or actions taken under this chapter.

16.18.1405 Proof of service of summary abatement report. Proof of service of the summary abatement report shall be certified at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to a copy of the summary abatement report and retained by the officer or agent who prepared the summary abatement report.

16.18.1406 Attorney's fees. The prevailing party in any proceeding conducted pursuant to this chapter and associated with the abatement of a public nuisance shall be entitled to recovery of attorneys' fees incurred in any such proceeding.

16.18.1407 Responsibility for public nuisance abatement costs. If the City elects to perform public nuisance abatement work pursuant to this chapter, the owner of record of the property shall be liable for all costs of abatement incurred by the City.

**ARTICLE XV.
Public Nuisance Abatement Costs**

16.18.1500 Responsibility for public nuisance abatement costs. If the City elects to perform public nuisance abatement work pursuant to this chapter, the owner of record of the property shall be liable for all costs of abatement incurred by the City, including, but not limited to, administrative costs.

16.18.1501 Recovery of attorney's fees. The prevailing party in any proceeding conducted pursuant to this chapter and associated with the abatement of a public nuisance shall be entitled to recovery of attorneys' fees incurred in any such proceeding.

16.18.1502 Recovery of other costs associated with abatement. Recovery of costs pursuant to this chapter shall be in addition to and shall not limit any prevailing party's right to recover any cost that a prevailing party is entitled to recover by law.

16.18.1503 Preparation of abatement cost report. Upon completion of any abatement work performed by or under the direction of the City, the issuing Community Enhancement Inspector or other enforcement officer shall prepare an abatement cost report in the form proscribed by Section 16.18.1504 which provides an accounting of the cost, including incidental expenses, incurred as a result of abating any public nuisance on each separate lot or parcel of land where the work is performed by the City.

16.18.1504 Contents of abatement cost report. The abatement cost report shall itemize all costs associated with the rehabilitation, demolition or repair of said property, buildings or structures, including any salvage value relating thereto and a total of all such costs. The abatement cost report shall also include the following information:

- (a) A description of the subject real property,
- (b) The names and addresses of the persons entitled to receive notice,
- (c) A description of the work completed,
- (d) A determination that the amount of the costs set forth in the abatement cost report are accurate and reasonable,
- (e) Notice of the opportunity to appeal the amount and the reasonableness of the abatement costs, and
- (f) Notice of the City's intention to make the final and approved abatement costs a special assessment against the property.

16.18.1505 Filing and recordation of abatement cost report. The issuing Community Enhancement Inspector or other enforcement officer shall file the original abatement cost report with the City Clerk who shall cause the abatement cost report to be filed in the office of the county recorder.

16.18.1506 Persons entitled to service. The abatement cost report and any amended or supplemental report, shall be served upon the record owner and/or any agent having charge or control of the property. The failure of the Community Enhancement Inspector or other enforcement officer to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this chapter.

16.18.1507 Method of service of abatement cost report. Service of a copy of the abatement cost report shall be made upon all persons entitled thereto pursuant to Section 16.18.1506 either personally or by certified mail, postage prepaid, return receipt requested, at their address as it appears on the last equalized assessment roll of the county or as otherwise known to the issuing inspector or authorized agent. If an address of any such person does not appear on the last equalized assessment roll or is not otherwise known to the issuing Community Enhancement Inspector or other enforcement officer, then a copy of the abatement cost report shall be addressed to such person(s) and mailed to the address of the subject premises. The failure of any such person to receive a copy of the abatement cost report shall not affect the validity of any proceedings or actions taken under this chapter.

16.18.1508 Proof of service of abatement cost report. Proof of service of the abatement cost report shall be certified at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to a copy of the abatement cost report and retained by the issuing inspector or authorized agent.

16.18.1509 Completion of service of abatement cost report. Service of an abatement cost report which is personally served shall be deemed completed at the time of such delivery. Service of an abatement cost report which is served by mail is deemed completed on the date said abatement cost report is deposited in the mail.

16.18.1510 Appeal of abatement cost report. Any party possessing a legal or equitable interest including but not limited to a leasehold interest in the property that is the subject of an abatement cost report may appeal from the abatement cost report to an administrative appeals officer. Such appeal shall be limited to the following issues: (a) the amount of the abatement costs, and (b) the reasonableness of the abatement performed.

16.18.1511 Form for filing appeal of abatement cost report. All appeals from any abatement cost report shall be in writing and shall contain the following information:

- (a) Name(s) of each appellant,
- (b) A brief statement setting forth the legal or equitable interest of each appellant,
- (c) A brief statement in ordinary and concise language of the specific cost items protested, together with any material facts claimed to support the contentions of the appellant,
- (d) Brief statement in ordinary and concise language of the relief sought and the reasons why the abatement costs should be modified or otherwise set aside,

(e) The signatures of all parties named as appellants and their official mailing addresses. Any appeal filed that fails to provide all of the information required by this section shall be deemed incomplete as provided by Section 16.18.1514.

16.18.1512 Time in which to file appeal of abatement cost report. A complete and proper appeal of abatement cost report as described in Section 16.18.1511 shall be filed with the City Clerk within 10 calendar days from the date service of the abatement cost report is completed pursuant to Section 16.18.1509. Any appeal not timely filed shall be rejected.

16.18.1513 Fee for filing of appeal of abatement cost report. A filing fee as established by City Council resolution or any amendments thereto for an appeal of abatement cost report must be paid to the City at or prior to the time of the filing of such appeal. Any appeal of the abatement cost report filed without payment of the filing fee shall be deemed incomplete.

16.18.1514 Incomplete filing of appeal of abatement cost report. Not later than 5 calendar days from the date the appeal is filed, the City Clerk or his or her designee shall determine whether the appeal is complete. If the appeal is determined to be incomplete, the City Clerk or his or her designee shall immediately mail to the appellant a notice of incomplete filing which shall provide a written explanation of the reasons why the appeal has been determined to be incomplete. If service of the notice of incomplete filing is completed within 5 calendar days from the date the appeal is filed, the 10 calendar day time period within which to file a completed appeal of abatement cost report shall not be extended.

16.18.1515 Processing of appeal. The City Clerk or his or her designee shall present any appeal filed pursuant to this chapter to the administrative appeals officer upon receipt of such appeal.

16.18.1516 Stay pending appeal. Enforcement of the abatement cost report shall be stayed during the pendency of an appeal therefrom which is properly and timely filed pursuant to this chapter.

16.18.1517 Failure to file appeal of abatement cost report – final determination. Failure to timely and properly file an appeal from an abatement cost report shall constitute a waiver of all rights to an appeal of the abatement cost report or any portion thereof. The determination that the amount of the costs set forth in the abatement cost report are accurate and reasonable shall be deemed final on the day that service of the abatement cost report is deemed completed.

16.18.1518 Time in which to pay abatement costs. The owner of record of the subject property shall pay all costs of abatement no later than 30 calendar days from the date the abatement cost report becomes final pursuant to Section 16.18.1509. The amount of the abatement costs for which the owner of record shall be responsible shall be as set forth in the final abatement cost report.

16.18.1519 Special assessment against parcel for failure to timely pay abatement costs. If the abatement costs are not paid within 30 calendar days from the date the abatement cost report becomes due pursuant to Section 16.18.1509 the abatement costs may become a special assessment against that parcel.

16.18.1520 Notice of impositions of special assessment. Notice of the imposition of a special assessment may be sent by certified mail return receipt requested to the property

owner, if the property owner's identity can be determined from the records of the office of the county assessor or the office of the county recorder. The notice shall be given at the time of imposing the assessment and shall specify that the property may be sold after 3 years by the tax collector for unpaid delinquent assessments.

16.18.1521 Recordation of notice of special assessment. The notice of special assessment shall be filed and recorded in the office of the county recorder.

16.18.1522 Sale of vacant residential developed property. Subject to the requirements applicable to the sale of property pursuant to Section 3691 of the Revenue and Taxation Code, the City may conduct a sale of vacant residential developed property for which the payment of an assessment is delinquent.

16.18.1523 Treble costs abatement costs. Upon entry of a second or subsequent civil or criminal judgment within a 2 year period finding that an owner of property is responsible for a condition that may be abated pursuant to this chapter, excepting any conditions abated pursuant to California Health and Safety Code section 17980, the City is entitled to recover treble the costs of abatement from said owner.

ARTICLE XVI. Abatement Cost Appeals Procedures

16.18.1600 Scheduling of appeal of abatement cost report. As soon as practicable after determining that a proper and complete appeal has been filed, the City Clerk or his or her designee shall schedule an appeal hearing before the administrative appeals officer. Such date shall be not less than 10 calendar days from the date the appeal was filed with the City Clerk.

16.18.1601 Preparation and form of notice of administrative appeals hearing. As soon as practicable after scheduling the abatement costs report appeal hearing, the City Clerk shall prepare a notice of appeals hearing ("hearing notice") which shall be in substantially the same form as follows:

"You are hereby notified that a hearing will be held before an Administrative Appeals Officer at _____ on the ___ day of _____, _____, at the hour of _____, upon the Abatement Cost Report served upon you. You may be present at the hearing. You may be, but need not be, represented by an attorney. You may present any evidence at the hearing which pertains to the costs of abatement and/or the reasonableness of the abatement performed.

16.18.1602 Time for and method of service of hearing notice. The City Clerk or his or her designee who shall, at least 10 calendar days prior to the date scheduled for the appeal hearing, cause a copy of the hearing notice to be provided to each appellant either by copy of said notice to be delivered to each appellant personally or by causing a copy of said notice to be delivered by certified mail, postage prepaid, return receipt requested, and addressed to each appellant at the address shown on the appeal. The City Clerk or his or her designee shall also provide a copy of said notice to the issuing inspector or authorized agent.

16.18.1603 Report and recommendation. The issuing inspector or other enforcement officer shall prepare an abatement costs hearing packet for the administrative community enhancement appeals officer to review prior to the hearing. The packet shall include

a copy of the Notice and Order, a staff report and any evidence of the violation(s). The staff report should include a written case history, a summary of the different inspections, the status of pending permit applications, a record of conversations or correspondence with the property owner or person otherwise responsible for the violation(s), and recommended corrections and repairs.

16.18.1604 Administrative appeals officer to conduct appeal hearing. The administrative appeals officer shall conduct an administrative appeal hearing pursuant to the appeal procedures set forth in this chapter. The administrative appeals officer shall review all evidence, documents, and written testimony submitted at or before the scheduled appeal hearing and shall hear all oral testimony offered at said hearing.

16.18.1605 Rights of parties at appeals hearing. Each party appearing at the hearing shall have the following rights:

- A. To call and examine witnesses;
- B. To introduce documentary and physical evidence;
- C. To cross-examine opposing witnesses;
- D. To impeach any witness regardless of which party first called the witness to testify;
- E. To rebut evidence; and
- F. To be represented by anyone who is lawfully permitted to do so.

16.18.1606 Failure to attend administrative appeals hearing. If an appellant fails to attend the scheduled abatement costs appeals hearing, the hearing will proceed without the appellant and he or she will be deemed to have waived his or her rights to be orally heard at the appeals hearing.

16.18.1607 Administrative appeals officer to decide appeal. At the conclusion of the hearing, the administrative appeals officer shall render its decisions and findings, which may include a decision to ratify the abatement cost report in its entirety, and/or modify the amount of the abatement costs to be recovered and/or modify the terms of payment of the abatement costs. If the appellant is present at the hearing, the decision(s) of the administrative appeals officer shall be final at the conclusion of the hearing. If the appellant is not present at the hearing, the City Clerk shall mail notice to the appellant of the administrative appeals officer decision(s); and said decision(s) shall become final at the time said notice is deposited in the mail.

16.18.1608 Time in which to pay abatement costs. The owner of record of the subject property shall pay all costs of abatement no later than 30 days from the date the abatement cost report becomes final pursuant to Section 16.18.1509. The amount of the abatement costs for which the owner of record shall be responsible shall be as set forth in the final abatement cost report.

16.18.1609 Special assessment against parcel for failure to time pay abatement costs. If the abatement costs are not paid within 30 calendar days from the date the abatement

cost report becomes due pursuant to Section 16.18.1608, the abatement costs shall become a special assessment against that parcel.

16.18.1610 Attorney's fees. The prevailing party in any proceeding conducted pursuant to this chapter and associated with the abatement of a public nuisance shall be entitled to recovery of attorney's fees incurred in any such proceeding.

ARTICLE XVII. Other Remedies

16.18.1700 California Unfair Business Practices Act. The City may seek and obtain any remedies which may also be available to the City pursuant to the California Unfair Business Practices Act as set forth in California Business and Professions Code sections 17000 through 17208.

16.18.1701 California Drug Abatement Act. The City may seek and obtain any remedies which may also be available to the City pursuant to the California Drug Abatement Act as set forth in California Health and Safety Code sections 11570 through 11587.

16.18.1702 California Housing Law. The City may seek and obtain any remedies which may also be available to the City pursuant to the California Housing Law as set forth in California Health and Safety Code sections 17910 through 17995.5.

16.18.1703 California Red Light Abatement Act. The City may seek and obtain any remedies which may also be available to the City pursuant to the California Red Light Abatement Act as set forth in California Penal Code sections 11225 through 11235.

16.18.1704 Recovery of civil penalties. The Community Enhancement Manager may seek such civil penalties and other relief as may be awarded under the provisions under the unfair competition laws commencing at Section 17200 of the Business and Professions Code.

16.18.1705 Certificates of occupancy suspension and/or revocation. The Building Official may seek and order suspension and/or revocation pursuant to the Uniform Building Code and/or any applicable statute, rule, code or regulation, of any certificate of occupancy for any property which is being maintained in violation of the Municipal Code, and/or any applicable statute, rule, code or regulation.

16.18.1706 Fines; assessments.

- (a) If the fines imposed under this chapter are not paid within the time specified, such fines shall be assessed against the parcel of land pursuant to Government Code section 38773.5, and shall be transmitted to the tax collector for collection and shall be subject to the same penalties and the same procedures and sale in case of delinquency as provided for ad valorem taxes.
- (b) If subsequent to service of the Notice and Order prior to transmittal of the notice of unpaid costs to the tax collector for collection as set forth in subsection (a) of this Section, the property subject to the Notice and Order is sold, or title otherwise transferred to a bona fide purchaser, said costs shall be responsibility

of the owner of record as the date said Notice and Order was placed in the United States postal system or posted on the property.

- (c) In addition to assessing the unpaid costs as provided in subsection (a) herein, the tax collector or his designated representative may pursue any remedy provide by law for collection of the unpaid costs.

16.18.1707 Franchise Tax Board deduction denial. The Community Enhancement Manager may seek a court order that the owner not claim any deduction with respect to state taxes for interest, taxes, expenses, depreciation or amortization paid in association with the cited dwelling in accordance with provision of Health and Safety Code section 17980.7(b) and Revenue and Taxation Code section 17274 and 24436.5.

16.18.1708 Injunctive relief. The City may seek and obtain injunctive relief to enjoin any violation or continuing violation of the Municipal Code and/or any applicable statute, rule, code or regulation.

16.18.1709 Penalties for maintaining substandard housing. Penalties for violations of the State Housing Law, Health & Safety Code sections 17910 et seq. are set forth in Health and Safety Code sections 17995 through 17995.5.

16.18.1710 Performance bonds. As part of any court action, the City is authorized to require any person responsible for causing or maintaining conditions which constitute a public nuisance to post a performance bond to ensure compliance with the Municipal Code and/or any applicable statute, rule, code or regulation.

16.18.1711 Private nuisance action. The City may initiate and maintain a private nuisance action against any person or entity responsible for causing or maintaining conditions which constitute a nuisance as against any property of the City.

16.18.1712 Receivership. The City may seek and obtain any remedies for an appointment of a receiver which may also be available to the City pursuant to California Health and Safety Code sections 17980 through 17992.

16.18.1713 Reinspection Fees. The fee for any reinspection shall be established by resolution of the City Council.

16.18.1714 Treble costs. Pursuant to Government Code §38773.7 upon entry of a second or subsequent civil or criminal judgment within 2-year period finding that an owner or person described in Government Code section 38772(d)(3) is responsible for a condition that may be abated pursuant to Government Code section 38773.7, a court may order that person to pay treble the costs of abatement

16.18.1715 Stop work orders. The Building Official and any other authorized agent may seek and order stop work orders pursuant to the Uniform Building Code and/or any applicable statute, rule, code or regulation, whenever any work is being done contrary to the provisions of the Municipal Code and/or any applicable statute, rule, code or regulation.

16.18.1716 Warrants for abatement and inspection. Nothing in this chapter shall preclude the City from seeking abatement and/or an inspection warrant at any time and

independent from any other remedy provided by the Municipal Code and/or any applicable statute, rule, code or regulation.

16.18.1717 Cumulative remedies. The remedies set forth in this chapter shall be cumulative and in addition to any and all other remedies, civil, equitable or criminal, afforded to the City under the law.

**ARTICLE XVIII.
Permit and License Suspension, Modification
and Revocation Procedures**

Refer to Title 4 Business regulation of the Municipal Code.

**ARTICLE XIX
Temporary Roadside Memorials on Public Property
and Right-of-Ways**

16.18.1810 Declaration of policy. The purpose of this policy is to establish the City's policy regarding the acceptable duration of ad hoc memorials on public property and right-of-ways (hereinafter "roadside memorials") and to provide standards for City staff in maintaining City property and the public right-of-way when any such roadside memorials are present.

16.18.1815 Findings. The City Council Hereby Finds as Follows:

- (a) Persons who leave roadside memorials do so to express their respect and sympathy for victims of tragic incidents and intend for such memorials be left in place for a short period of time.
- (b) Roadside memorials generally consist of items, which either expire, such as flowers or plants, or which are composed of material, such as cardboard or cotton which are perishable. Memorials also consist of items which are not adequately secured and which may shift from their place of placement. Roadside memorials create safety hazards and distractions for the motoring public and pedestrians. Roadside memorials hinder proper maintenance of the public right-of-way.
- (c) Because of the temporary nature of the memorials, it is expressly found that after a reasonable short period of time, the person or persons who leave roadside memorials have intentionally abandoned the items.

16.18.1820 Duration of roadside memorials. All items that comprise a roadside memorial and which remain in the City right-of-way or other City owned property for a period longer than 30 days shall be removed and stored for a period of time. Items that pose a safety hazard and/or a distraction for the motoring public may be removed immediately at the discretion of the City Manager, or the Manager's designee.

16.18.1830 Removal, storage and disposal of roadside memorial items.

A. Upon removal of items that comprised a roadside memorial, all non-perishable items will be placed in clean containers appropriate for storage. Perishable items, including, but not limited to, food and flowers, will be discarded.

B. Contents of roadside memorials will be stored at the City's Corporation Yard under the direction and supervision of the Traffic Management Department. Items collected by City will be released to family member(s) of the roadside memorial honoree upon written request. Collected materials will be discarded by the City if not claimed within 6 months of storage.

C. Prior to the removal of any roadside memorial items from the City's right-of-way, except items that pose a safety hazard and/or a distraction for the motoring public, City staff will notify via telephone or electronic communication the following persons or departments:

1. Receptionists for Administration, Police Department, Development Services, and the Corporation Yard,
2. Assistant City Manager – Development Services, or designee,
3. Chief of Police, or designee,
4. Executive Administrative Assistant to the City Manager, and
5. Community Enhancement Department.

For those items that have been immediately removed because it has been determined that they pose a safety hazard and/or a distraction for the motoring public, City staff will notify via telephone or electronic communication the above persons or departments as soon after removal of the items as reasonable practicable.

16.18.1850 Administrative Policies.

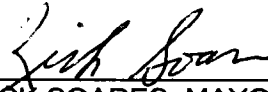
The City Manager may adopt administrative policies to facilitate the implementation of this Article.

SECTION 4. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 5. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

SECTION 6. Effective Date and Publication. This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within 15 days after its passage, a summary of the ordinance may be published at least five days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).

PASSED AND ADOPTED by the City Council of the City of Elk Grove this 9th day of August, 2006. Effective Date September 8, 2006.




RICK SOARES, MAYOR of the
CITY OF ELK GROVE

ATTEST:



PEGGY E. JACKSON, CITY CLERK

APPROVED AS TO FORM:



ANTHONY B. MANZANETTI,
CITY ATTORNEY

CERTIFICATION
ELK GROVE CITY COUNCIL ORDINANCE NO. 35-2006

STATE OF CALIFORNIA)
COUNTY OF SACRAMENTO) ss
CITY OF ELK GROVE)

I, Peggy E. Jackson, City Clerk of the City of Elk Grove, California, do hereby certify that the foregoing ordinance was duly introduced on July 26, 2006 and approved, and adopted by the City Council of the City of Elk Grove at a regular meeting of said Council held on August 9, 2006 by the following vote:

AYES : COUNCILMEMBERS: Soares, Scherman, Briggs, Leary

NOES : COUNCILMEMBERS: None

ABSTAIN : COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: Cooper

A summary of the ordinance was published pursuant to GC 36933(c) (1).



Peggy E. Jackson, City Clerk
City of Elk Grove, California