

Attachment 14

Chapter 8.16 Public Nuisances

8.16.010. Findings.

- A. In order to further the stated goals of the city, and, more particularly, for the stabilization of the economic and social aspects of a neighborhood, and the promotion of aesthetic considerations and to protect its citizens and their property, the city council has determined that an ordinance is necessary to effectively abate conditions or activities in this city which constitute a public nuisance. The purpose of this chapter is to require the maintenance of property on commercial, industrial and residentially zoned property. The city council recognizes that the use of property for residential use includes those customary activities which make the home more comfortable and enjoyable, such as gardening, certain recreational activities, and the enjoyment of certain hobbies. The scope of such activity is circumscribed only insofar as it may not assume a commercial or public character, or constitutes a health hazard or safety hazard, or is detrimental to other properties in the neighborhood.
- B. It is the intention of the city council, in adopting the ordinance codified in this chapter, to set forth general guidelines for determining what conditions/activities constitute a nuisance; to establish a method for giving notice of the conditions and an opportunity to correct them; and finally, in the event the nuisance is not corrected, to provide a procedure which allows the city to abate the nuisance.
- C. It is the purpose of the provisions of this chapter to provide a just, equitable and practical method, to be cumulative with, and in addition to, any other legal remedy, criminal or civil, established by law which may be pursued to address violations of this municipal code. Nothing in this chapter shall be deemed to prevent the city from at any time commencing a civil or criminal proceeding to abate a public nuisance or from pursuing any other means available to it under provisions of applicable ordinances or state law to correct hazards or deficiencies in real property in addition to or as alternatives to the proceedings herein set forth.
- D. This chapter does not affect or alter nuisance abatement procedures established or which may be established in other chapters of this municipal code. This chapter is not the exclusive regulation of property maintenance. It shall be supplemental and in addition to the other regulatory codes, statutes, and ordinances heretofore or hereinafter enacted by the city, state of California, or any other legal entity or agency having jurisdiction.
- E. In addition to the abatement procedures provided herein, this chapter defines what conditions or activities constitute a public nuisance. The city council declares that any condition or activity caused, maintained or permitted to exist in violation of any provisions of this code is a public nuisance and may be abated consistent with the procedures provided for in this chapter.

8.16.020. Definitions.

The following definitions are applicable to this chapter:

"Abandoned," in addition to such other definitions that may be provided in law, means and refers to any item of property which has been given up absolutely, without reference to any particular person; or some overt act or failure to act which carries an implication that the owner neither claims nor retains any interest. In determining whether one has abandoned his/her property, the following factors shall be considered:

1. Present operability and functional utility, although mere nonuse is not necessarily an abandonment;
2. The date of last effective use accompanied by acts manifesting an intent to abandon;
3. The physical condition of disrepair or damage;
4. The last time an effort was made to repair or rehabilitate the item;
5. The status of registration or licensing of the item;
6. The age of the item and degree of obsolescence;
7. The cost of rehabilitation or repair of the item versus its market value;
8. The nature of the area and location of the item;
9. The physical location of the owner.

"Director" means the director of community and economic development for the City of La Habra and his/her authorized agents, assistants, deputies or representatives.

"Hearing officer" means a person appointed by the city manager to conduct hearings pursuant to this chapter.

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

"Manager" or "city manager" means the city manager of the city of La Habra or designee.

"Nuisance" means any activity or condition which poses a danger and serious threat to health or safety, or may be injurious to the public health, if not suppressed or regulated, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any public park, square, street or highway.

"Occupant" means any person or entity having possessory rights, who can control what goes on premises, whether as a tenant or owner.

"Owner" means any person or entity owning, leasing, occupying or having charge or possession of any real or personal property in the city. Owner as applied to real property is the legal owner, one in whom that legal title of real estate is vested.

"Polluted water" means water contained in a swimming pool, pond or other body of water which is abandoned, unattended, unfiltered or not otherwise maintained resulting in the water becoming polluted which includes but is not limited to 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, amount or location constitutes an unhealthy, unsafe or unsightly condition.

"Premises" means an estate, including land and buildings thereon, encompassing a definite and distinct locality, such as a room, shop, building, structure or other definite area, or a distinct portion of real estate.

"Private nuisance" means every nuisance other than a public nuisance.

"Public nuisance" means any nuisance which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

"Recreational vehicle" means a vehicle, boat, vessel or other type of portable structure, with or without a mode of power, and without permanent foundation, which can be towed, hauled, sailed, flown or driven, and is designed, used, or maintained primarily for recreational purposes, such as, but not limited to, travel trailers, tent trailers, camping trailers, motor homes, buses converted to recreational or other noncommercial uses, vans, trucks with or without camper shells, campers, motorcycles, off-road vehicles, aircraft, boats or other vessels.

"Refuse and waste" means unused or discarded matter and material having no substantial market value and which consists of such matter and material as: rubbish, refuse, debris and matter of any kind including but not limited to rubble, asphalt, concrete, plaster, tile, rocks, bricks, soil, boxes, appliances, furniture, inoperative vehicles and parts thereof, trimmings from plants and items which are offensive or odorous. Refuse and waste matter, which by reason of its location and character is unsightly and interferes with the reasonable enjoyment of property by neighbors, or which would materially hamper or interfere with the prevention or suppression of fire upon the premises.

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

8.16.030. Substandard Property Conditions Designated.

It is unlawful and hereby declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any property in the city to maintain thereon

any substandard property condition as defined by this code. Substandard property conditions shall include, but not be limited to:

- A. Any substandard building as defined by the Uniform Housing Code.
- B. Any property or building being maintained in violation of any provision of the International Property Maintenance Code or Health and Safety Code.
- C. Unpainted structures or structures where the paint or other exterior finish has deteriorated so as to permit decay, excessive checking, cracking, peeling, chalking, dry rot, warping and termite infestation, rendering the building unsightly and a detriment to surrounding properties.
- D. Broken or missing windows or doors.
- E. Maintenance of Uncompacted Fill. To maintain on the property or premises any accumulation of uncompacted fill over three feet in height over predominant grade and contrary to adjacent contour for any period when such accumulation would seriously endanger public health or safety.
- F. Maintenance of Excavations and Piles of Dirt. To maintain excavations and piles of dirt such that they constitute a hazard to unwary passersby or to minor children, and are detrimental to the public health, safety or general welfare.
- G. Maintenance of Underground or Aboveground Storage Tanks. To fail to remove underground or aboveground storage vessels or tanks within six months after the use of such tanks or vessels ceases pursuant to the Uniform Fire Code Section 79.115 or to maintain underground tanks contrary to the provisions of the California State Health and Safety Code Sections 25280 through 26299.6 inclusive.
- H. Maintenance of Dilapidated Structures. To maintain buildings or structures, or portions thereof, which are damaged, dilapidated, or inadequately or improperly maintained such that they are structurally unsafe, or do not provide adequate egress, or which constitute a fire hazard, or which are otherwise dangerous to human life or which in relation to existing use constitute a serious threat to the public's health, safety and general welfare. This includes any building, structure or property which has been constructed or is maintained in violation of any specific regulation applicable to a building, structure or property contained in the building codes of this city, or any law of the city or state relating to the condition, location, maintenance or construction of buildings or property. Such buildings or structures shall include those which are abandoned, hazardously or inadequately boarded up, partially destroyed, or in an unreasonable state of partial construction. An unreasonable state of partial construction is defined as any unfinished building or structure which has been in the course of construction six months or more, and where the appearance and other conditions of the unfinished building or structure substantially detracts from the appearance of the immediate neighborhood or reduces the property values in the immediate neighborhood.

- I. Maintenance of Hazardous Conditions. To maintain some activity or condition that would seriously endanger public health or safety and which is related to buildings, structures or appendages, walls, fences or landscaping which requires immediate correction, repair or adequate and proper maintenance, including but not limited to the existence of broken glass in doors or windows which are located in an area of public access; surfaces showing evidence of excessive dry rot, warping or termite infestation; absence of paint, stain, varnish or similar coating intended to protect the weatherability of any structural member; doors, aisles, passageways, stairways or other means of exit which do not provide a safe and adequate means of exit; any wall or other vertical structural member which lists, leans or is buckled to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base; or any other condition which because of a lack of proper sanitation or soundness, or as a result of dilapidation, decay, damage or faulty construction or arrangement, may be injurious to the public health and safety if not suppressed or regulated.
- J. Maintenance of substandard artificial turf including but not limited to fading; unnatural appearance; stains; rips; tears; weeds; debris; impressions; has improper water drainage forming small ponds that could be attractive to vectors; lumps or rolls causing an unsecure or unsafe surface; or graffiti.
- K. Overgrown, dead, or dying vegetation, trees, or weeds and debris that:
 - 1. Constitutes unsightly appearance;
 - 2. Is potentially dangerous to public safety and welfare;
 - 3. Is likely to harbor rats or vermin;
 - 4. Constitutes a fire hazard;
 - 5. Which encroaches into, over or upon any public right-of-way including, but not limited to, streets, alleys, or sidewalks, so as to constitute either a danger to the public safety or property or an impediment to persons using such public ways; or
 - 6. Is detrimental to nearby property or property values.
- L. Attractive nuisances dangerous to children, such as abandoned and broken equipment, appliances or machinery, hazardous pools, ponds, and excavations; abandoned wells, shafts or basements; abandoned refrigerators or motor vehicles; any structurally unsound fence or structure; or any other lumber, trash, garbage, rubbish, refuse, fence, debris, or vegetation which may constitute a hazard for children.
- M. Broken, discarded, abandoned or unused furniture, household furnishings such as stoves, refrigerators, freezers, cans or containers, lumber, junk, trash, salvaged materials, packing boxes, sinks, toilets, cabinets, or other household appliances or fixtures or equipment or other debris stored in yard areas so as to be visible at ground level from public streets, alleys or adjoining properties.

- N. Use of clotheslines, balconies, open windows, fences, trees or shrubs for the drying of clothing or fabrics in front yard areas or in side yard areas of properties that abut a public street.
- O. Ponds, pools, polluted water, unenclosed or empty swimming pools constituting a hazard to unwary passersby or to children, or which are detrimental to the public health, safety or general welfare and the maintenance of excavations, ponds, pools, or unenclosed or empty swimming pools contrary to the provisions of Chapter 15.32 of the La Habra Municipal Code.
- P. Any fence or wall maintained in such condition of deterioration or disrepair as to constitute a hazard to persons or property or to cause depreciation in the value of any adjacent or nearby property and any building, fence or structure that is erected or maintained in violation of this code.
- Q. Buildings which are abandoned, partially destroyed, or unsafe as defined in this Code or left in an unreasonable state of partial construction. An unreasonable state of partial construction is defined as any partially constructed building or structure which has not requested or had conducted an inspection under a valid building permit within the prior six months, and where their appearance or value and other conditions substantially detract from the appearance of the surrounding property.
- R. Building exteriors, walls, fences, driveways, sidewalks, walkways, and other property which are maintained in such condition as to become defective, potentially injurious, unsightly, or in such condition of deterioration or disrepair that they are significantly detrimental to or have caused depreciation of the values of surrounding property.
- S. Unpermitted Structure. For purposes of this code, "unpermitted structure" shall be defined as any structure, or portion thereof, that was erected, constructed, enlarged, altered, repaired, moved, improved, removed, connected, converted, demolished or equipped, at any point in time, without the required permit(s) having first been obtained from the building official, as required by the California Building Code.
- T. Maintenance of property so out of harmony or conformity with the maintenance standards of adjacent properties, or containing improvements or personal property allowed to become so defective, unsightly, or in such condition of deterioration or disrepair, as to cause substantial diminution of the enjoyment, use, or property values of such adjacent properties, including anything dangerous to human life or detrimental to human health, or any habitation that is overcrowded with occupants or that lacks adequate ventilation, sanitation or plumbing facilities, or that constitute a fire hazard.

8.16.040. Nuisances Designated.

It is unlawful for any person owning, leasing, occupying or having charge or possession of any property in the city to maintain thereon any public nuisance. Conditions which qualify as a public nuisance include, but are not limited to, the following:

- A. Any condition constituting substandard property as defined by this code.
- B. Any land, the topography or configuration of which, whether the natural state or as a result of grading operations, causes or will cause erosion, subsidence, surface water runoff problems, or other conditions which will, or may, be injurious to the public health, safety and welfare or to adjacent properties.
- C. Any building or structure which has been constructed or is maintained in violation of any specific requirement or provision applicable to such building or structure, contained in the building or zoning regulations of this city, or any other law or ordinance of the city, county or state relating to the condition, location or use of any building or structure.
- D. An abandoned building or structure so that it becomes readily available to unauthorized persons.
- E. To construct, erect, alter, move or maintain any building or structure contrary to any provision of Title 15 or 18, or fail to comply with any condition attached to the granting of a conditional use permit, variance, or site plan; or to conduct or operate an activity in any zone in direct violation of zoning, licensing and building codes regarding location, compatibility and occupancy.
- F. Operating a business without a license as required by Chapter 5.04 of Title 5 of this Code.
- G. Maintaining any condition that violates Chapter 9.32 ("Noise Control") of Title 9 of this Code.
- H. Poor maintenance of any exterior sign, including any violation of the city's sign ordinance set forth in Chapter 18.23 and including the maintenance of signs relating to uses or products no longer conducted or sold on the premises.
- I. The coverage of more than forty percent of the front yard of residential properties by pavement or other hardscape (impervious) material which may be used for the temporary parking of vehicles. When practical difficulties exist that require a greater front yard coverage than allowed by this section, approval of a zone variance is required in order to obtain permission to increase the percentage of front yard coverage.
- J. Storage of Construction Material/Equipment in Residential Zone. To park or store on any street or property within a residential zone construction equipment, buses, limousines, tow trucks, flatbed trucks, grading equipment, tractors trailers, truck

tractors, any other commercial vehicle over twenty-two feet long or eight feet in height or ninety inches wide and any related supplies, materials or machinery. This section shall not apply to lawfully placed construction vehicles, machinery, equipment, supplies or materials during the period in which a valid building permit exists for the on-site construction, rehabilitation, remodel, or refurbishment of a residential property on which or in front of which the construction vehicles, machinery, equipment, materials and supplies are parked or stored; provided, that said work is progressing normally and diligently and the vehicles, machinery, equipment, materials and supplies are just those needed for the particular work being performed.

- K. Storage of Discarded Materials. To store refuse and waste in such a manner or in such condition as to be detrimental to the public health, safety, or general welfare or which is detrimental to nearby property values or community appearance.
- L. Storage of Trash/Garbage Containers. To store trash or garbage cans, bins, boxes or other such containers in any residential yard area, parking area, front or side yard, such that they are visible from a public area on other than regularly scheduled pick up days and which are detrimental to nearby property values, improvements or the public health, safety or general welfare. Refuse containers may be placed at the collection location in public view between four p.m. on the day preceding collection until ten p.m. on the day of collection. Dumpsters or storage bins may be located in front yard areas with an active building permit that covers excavation, construction or demolition operations, or for a period not to exceed seventy-two hours for general cleanup of the subject property.
- M. To improperly store, discharge, hold, handle, maintain, use or otherwise deal with hazardous or extremely hazardous wastes as defined by the California Health and Safety Code, including the discharge or deposit of any source of hazardous, infectious or extremely hazardous waste into any sewer, storm drain or similar facility which will or may cause or result in the pollution of any underground or surface water. Examples include but are not limited to grease, oil, petroleum products, laboratory wastes, specimens (pathological or surgical) or equipment. Furthermore, any violation of federal, state, or local laws or regulations, including but not limited to California Health and Code Sections 25100 through 25185 and Title 4-3 of the Orange County Code of Ordinances, and all their respective amendments, shall constitute a public nuisance.
- N. To keep any animal, reptile or insect in such a manner as to pose a threat, disturbance or menace to persons or property of another or in a public right-of-way.
- O. To keep, operate or maintain any machinery which by reason of its dust, exhaust, noise or fumes creates a health or safety hazard.
- P. Any landscaped setback areas which lack appropriate turf or plant material so as to cause excessive dust, allow the accumulation of debris, or to cause significant depreciated values of adjacent or neighborhood properties.

- Q. Exterior lighting that is not focused, directed, and arranged to avoid glare and direct illumination on streets or adjacent properties. Exterior lighting on all properties within, and adjacent to, residentially zoned properties must not exceed zero foot-candles at the property line.
- R. Storage pods placed on properties that are not undergoing construction under an active building permit.
- S. Canopies placed within the front yard setback of residential properties.
- T. Portable restrooms and temporary sanitary facilities, except when screened from view from all public rights of way and maintained in compliance with Chapter 13.20 of this code.

8.16.050. Vehicles.

The following conditions shall constitute a public nuisance:

- A. Living in Recreational Vehicle. To use a parked or stored recreational vehicle as temporary or permanent living space.
- B. Vehicles parked in the required front setbacks unless such vehicles are operative, have current licensing and are parked on a paved driveway;
- C. Operating a food vending vehicle in violation of any provision of Chapter 10.58 of this code.
- D. Storage. Maintaining, storing, keeping or permitting or allowing to be maintained, stored or kept any trailer, boat, recreational vehicle, motor vehicle, or mobile equipment of any type in violation of Title 18 of this code.
- E. Vehicles – Inoperative. Vehicles or parts thereof which are in an abandoned, wrecked, dismantled or inoperative condition upon any private property or public property not including highways within the city for a period in excess of three days.
- F. Abandoned Vehicles. The following procedures are adopted from California Vehicle Code Section 22660 et seq. and are established as the procedures for the abatement and removal as public nuisances of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof from private or public property, not including highways, and for the recovery of costs of such abatement and removal. The following procedures are to be used compatibly and in conjunction with the provisions of this chapter, but shall take precedence wherever a conflict occurs.
 - 1. In addition to any other notice provided in this chapter, at least 10 days' notice shall be sent from the City to the last registered and legal owner of record, by registered or certified mail, unless the vehicle is in such condition that ownership cannot be ascertained.

2. The notice shall include a description of the vehicle, identification number and license number of the vehicle if available. The notice of determination and ruling shall be served on both the owner of the premises and the registered and legal owners of the vehicle, if known.
3. The owner of the land on which the vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing and deny responsibility for the presence of the vehicle on the land along with his or her reasons for such denial. If it is determined at the hearing that the vehicle was placed on the land without the consent of the land owner and that he has not subsequently acquiesced in its presence, then the City shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from the owner. Vehicles or parts thereof may be disposed of by removal to a scrap yard, automobile dismantler's yard or any suitable site operated by the City for processing scrap or by any other final disposition consistent with these provisions.
4. Any person authorized by the City Manager to administer this chapter may enter upon private property for the purposes specified in this chapter to examine vehicles or parts thereof, obtain information as to the identity of the vehicle and to remove or cause the removal of any vehicle or part thereof declared to be a nuisance pursuant to this chapter. Warrants shall be obtained when required by law.
5. A certified copy of the order of disposition of the vehicle or parts thereof shall be given to and retained by any person or commercial organization making a final disposition of the vehicle or parts thereof and said order shall be retained by them in their business records.
6. This chapter shall not apply to a vehicle or other personal property mentioned herein which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property, or a vehicle or other personal property which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer or a junk yard; provided, however, that this exception shall not authorize the maintenance of a public or private nuisance as defined under the provisions of this chapter or any other law.
7. Within five days after removal of any motor vehicle under this chapter, the City shall provide notice to the Department of Motor Vehicles of the date of removal, disposition thereof and identity of the vehicle or parts. In addition, all evidence of registration available including registration certificate, license plates and certificates of title shall be forwarded to the Department of Motor Vehicles as soon as possible.

8.16.060. Vacant Lots.

For the purpose of this section, a vacant lot shall mean any property which is either undeveloped or has an existing on-site building/structure that is either abandoned, vacant and/or is un-leased by the property owner for more than sixty days. All vacant lots within the city shall be maintained in accordance with the following provisions within sixty days of becoming vacant:

- A. **Unsafe Conditions.** No person, whether the same be the owner, agent or person in control of any vacant lot, shall maintain such premises or allow the same to be maintained in shall not permit any condition set forth in section 8.20.040 of this code.
- B. **Fencing.** The Director, in his/her discretion, may require that any lot covered by this section be secured with a fence, to preclude illegal dumping on the property, or to otherwise protect the health, safety or welfare of the public. The director of community development must approve any such fence prior to installation. The fence shall be a wrought iron fence and shall allow clear visibility of all portions of the lot, unless written permission is obtained to the contrary from the Director. An alternate type of fence material may be allowed if the condition of the property and surrounding developments warrant such a change. The fence shall not exceed a height limit of six feet and may not encroach into the public right-of-way.
- C. **View Obscuring Barriers and Fencing on Vacant Lots.** There shall be no on-site fencing or view obscuring perimeter barriers that screen any vacant lot in any manner that obstructs vehicular and/or pedestrian visibility of the public right-of-way, or interferes with the public's use of the public right-of-way, as determined by the director of public works. The Director shall approve the location and design of all vacant lot fencing and perimeter barriers prior to the construction of any such fencing or barriers on a vacant lot.
- D. **Lots Improved with Vacant Structures.** Lots improved with structures that become vacant shall be maintained as follows:
 - 1. All existing landscaping shall be maintained in good condition at all times, including parkways.
 - 2. All structures shall be maintained in good condition at all times in accordance with requirements of this code.
- E. **Noncompliance.** Failure to comply with the requirements of this section shall constitute a nuisance and may be abated as permitted in this chapter.

8.16.070. Owner's responsibility for property maintenance.

- A. Every owner of real property within the city, whether commercial, industrial or residential, is required to maintain such property in a manner so as not to violate the provisions of this code and such owner remains liable for violations thereof regardless of any contract or agreement with any third party regarding such property.
- B. California Civil Code Section 1941 requires the lessor of a building intended for human occupancy to maintain the building in a condition which is fit for such occupation and to repair all dilapidation which render it untenable. Accordingly, this section is intended to and shall be interpreted in a manner which is consistent with California Civil Code Section 1941 and any amendments thereto.
- C. An occupant of property who is not the legal owner shall not be liable for any nuisance which the occupant did not create, and which the occupant did not knowingly maintain or permit to continue.

8.16.080. Notices and citations

When a property is found to be in violation, a notice of violation may be issued to the property owner, tenant or violator indicating the nature of the violation and a time period in which the violation may be cured. If the violation is not cured within the specified period, a notice of administrative citation may be issued to the property owner, tenant or violator that indicates an additional time period within which the violation may be cured. If the violation is not cured within that period, a criminal or administrative citation may be issued to the property owner, tenant or violator.

8.16.090. Abatement methods.

All or any part of any real property, or any building or structure located thereon, found, as provided in this chapter, to constitute a public nuisance may be abated by rehabilitation, demolition or repair pursuant to the procedures set forth in this chapter.

8.16.100. Declaration of nuisance.

Whenever any real property, or any building or structure located thereon within the city, is being maintained contrary to the conditions of this chapter, the City may set the matter for public hearing before a hearing officer, who shall be designated as such by the city manager. The city manager may, with the concurrence of the city attorney, record an appropriate lis pendens, giving notice of the pendency of the proceeding.

8.16.110. Abatement hearing - Notice.

- A. The City shall give ten days' written notice to the owner of the affected property of the time and place of the hearing, by United States Postal Service, postage prepaid, addressed to the owner at his/her last known address. The notice shall describe the premises involved by street address, referring to the street by the

name under which it is officially or commonly known, and shall further describe the property by giving the lot and block number thereof, shall give a brief description of the conditions which are, or may be, contrary to the provisions of this chapter.

- B. In addition, at least ten days prior to the date set for hearing, the City shall cause to be conspicuously posted on the affected premises a copy of the notice and shall cause to be served upon the person in possession of the affected property if applicable, a copy of the notice; and a copy of the notice shall be posted on the outside bulletin boards of the south entrance of City Hall and Council Chambers.
- C. "Owner," as used in this section, includes any person in possession of the affected premises, and any person having or claiming to have, any legal or equitable interest in the premises, as disclosed by a title search from any accredited title company. The failure of any person to receive the notice shall not affect the validity of any proceedings under this chapter.

8.16.120. Abatement hearing - Procedure.

- A. At the time and place set for the hearing, the hearing officer shall hear and consider all relevant evidence, including but not limited to, applicable staff reports, objections or protests relative to the existence of the alleged public nuisance and/or the manner proposed for abatement of them. The hearing may be continued from time to time, without further written notice.
- B. Upon the conclusion of the hearing, the hearing officer shall, based upon the evidence presented at the hearing, determine whether the premises, or any part thereof, as maintained, constitutes a public nuisance, as defined in this chapter. If the hearing officer finds that a public nuisance exists, the hearing officer shall issue an order of abatement, which shall direct and order the nuisance abated within the time, and in the manner, set forth in the order. The hearing officer shall give notice of his/her determination by serving a copy of the order upon the owner of the property affected thereby, and from any person requesting a copy of the order. If the hearing officer finds a nuisance does not exist, he/she shall dismiss the proceedings. The determination of the hearing officer shall be final and conclusive in the absence of an appeal, perfected in the time and manner set forth in Section 8.16.120.

8.16.130. Appeal.

- A. The owner, or any person in possession or claiming any legal or equitable interest therein, of any real property which is the subject of a proceeding pursuant to this chapter, may timely appeal the hearing officer's determination to the city council. Such an appeal shall be timely only if filed within fifteen calendar days from and after the giving of notice by the hearing officer of his/her determination.
- B. The appeal shall be in writing and shall set forth the grounds for the appeal. The appeal shall be filed with the city clerk within the time permitted pursuant to this

chapter. A filing and processing fee, if required by resolutions of the city council, shall be paid contemporaneously by the appealing party with the filing of the appeal with the city clerk. Upon the receipt by the city clerk of such an appeal, and the filing and processing fee, the Director shall prepare an administrative record which shall consist of a transcript of the proceedings before the hearing officer, copies of the written material submitted in the hearing, if any, and a copy of the hearing officer's determination. The administrative record, as certified by the city clerk, shall be transmitted to each member of the city council by the clerk, who also shall set a time and a place for the council's hearing upon the appeal.

- C. At the time of the public hearing on the appeal, which shall be noticed by the clerk in the manner set forth in Section 8.16.100, the city council shall permit any interested person to present written or oral arguments relating to the appeal, but shall not permit the introduction of any additional evidence, unless a showing is made by the offering party that the evidence could not reasonably have been presented to the hearing officer at the time and place of that hearing. Additionally, the city council may permit the presentation of additional evidence if the evidence is reasonably calculated to show that there has been a substantial change in the condition of the property since the time of the hearing held by the hearing officer. Thereafter, based upon the administrative record, the evidence as may be presented pursuant to the provisions of this chapter, and the written or oral arguments of interested persons, the city council shall determine whether the property, in its then-existing condition, constitutes a public nuisance within the meaning of this chapter. If it finds a public nuisance exists, it shall issue an order of abatement requiring the abatement thereof, in the time and manner set forth in the order; if it finds the nuisance does not exist, it shall dismiss the proceeding. The decision of the city council shall be final.

8.16.140. Abatement order service.

The Director shall serve a copy of the final order of abatement of the nuisance upon the owners of the property in accordance with the provisions of Section 8.16.100, together with a detailed list of needed corrections and/or abatement methods. Any owner shall have the right to have any such premises rehabilitated or to have the buildings or structures demolished or repaired in accordance with the abatement order, at the owner's expense; provided, it is done prior to the expiration of the time set for the abatement in the order. Upon compliance with the order of abatement by the owner, the proceedings under this chapter shall be deemed terminated.

8.16.150. City abatement.

If the nuisance is not completely abated by the owner in the time and manner set forth in the order of abatement, the city manager may cause the nuisance to be abated by city forces or private contract.

8.16.160. Abatement cost—Report.

The Director shall keep an accounting of the cost, including incidental expenses, of abatement of the nuisance for each separate lot, or parcel of land, where any abatement work has been done pursuant to Section 8.16.140, and shall prepare an itemized report thereof, showing the cost of abatement, including salvage value, if applicable, for each separate lot or parcel of land. The Director shall post a copy of the report for at least five days prior to the hearing thereon, referred to in Section 8.16.160, upon the affected property. The posting shall also include a notice of the time and place when the report shall be considered by the city council for confirmation. The Director shall serve a copy of the report and notice upon the owner of the property, in accordance with the provisions of Section 8.16.100, at least ten days prior to the hearing thereon. The Director shall file a declaration with the city clerk, providing proof of the posting and service. The term "incidental expenses" shall include, but not be limited to, the actual expenses and costs of the city in the conduct of proceedings under this chapter, preparation of notices, specifications and contracts, inspection of the work, the costs of printing and mailings required under this chapter, and administrative staff costs.

8.16.170. Abatement cost—Hearing.

At the time and place fixed and noticed in the manner set forth in Section 8.16.100 for receiving and considering the report referred to in Section 8.16.150, the city council shall hear and act upon the report, together with any written or oral objections or protests, which must be presented at the hearing, by any of the persons liable to be assessed for the cost of abating the nuisance. Thereupon, the city council may make such revision, correction or modification to the report as is appropriate, after which the report as submitted, or as revised, corrected or modified, may be confirmed by order of the city council. The city council may continue the hearing from time to time without further written notice. The decision of the city council on the report shall be final and conclusive.

8.16.180. Abatement cost—Collection.

The cost of abatement of a nuisance upon any lot or parcel of land shall, after its final confirmation by the city council, constitute a special assessment against the property to which it relates, and, after the Director records the order of confirmation in the official records of the county recorder's office as thus made and confirmed, it shall constitute a lien on the property in the amount of the assessment. The Director shall transmit a copy of the order and report to the assessor and tax collector for the city, whereupon it shall be the duty of the assessor and tax collector to add the amounts of the assessment, or assessments, to the next regular bills of ad valorem taxes levied against the respective lot and parcels of land, and thereafter collect the amounts at the same time and in the same manner as ordinary ad valorem property taxes are collected.

8.16.190. Violation – Penalty.

Any violation of the provisions of this chapter shall be deemed to be an infraction, and punishable as such, notwithstanding the fact that at the discretion of the city prosecutor, the violation of any section of this chapter may be filed as a misdemeanor. The complaint charging such violation shall specify whether the violation is a misdemeanor or an

infraction. Each day a violation of any provision of this chapter shall continue shall constitute a new and separate violation.

8.16.200. Violation – Civil proceedings.

The abatement procedures set forth in this chapter shall not be the exclusive method of abating a public nuisance. The City may avail itself of any and all legal proceedings, including civil proceedings, to abate a public nuisance in addition to, or as an alternative to, the procedures set forth in this chapter.

8.16.210. Emergency Abatement.

- A. Notwithstanding any other provisions of this chapter with reference to the abatement of public nuisances, whenever the city manager determines that a property, a building or structure is structurally unsafe, or constitutes a fire hazard, or is otherwise dangerous to human life, and such condition constitutes an immediate hazard or danger, the city manager may, without observing the provisions of this chapter with reference to abatement procedures, immediately and forthwith abate the existing public nuisance.
- B. Any abatement pursuant to this section shall be limited to the actions necessary to neutralize the immediate danger only. A post-abatement hearing shall be provided to the responsible person.

8.16.220. Unlawful interference.

It is unlawful for any person to obstruct, impede or interfere with any officer, agent or employee of the city or with any person who owns or holds any estate or interest in any premises, or any portion thereof, upon which there is a nuisance which has been ordered to be abated, or with any person to whom such premises have been lawfully sold pursuant to the provisions of this chapter, when any such officer, agency employee, purchaser or person having an interest or estate in such premises is engaged in abating a nuisance or immediate hazard thereon, or in performing any necessary act preliminary to or incidental to such work, or authorized or directed pursuant thereto.

8.16.230. Code Enforcement Fees.

- A. There is imposed upon each person who receives a notice of violation, notice of correction, notice and order, demand letter, or letter of correction of any provision or ordinance codified in this code, adopted building codes, or state law, a reinspection fee, in such amounts as set forth from time to time by resolution of the city council, which may be assessed for each inspection or reinspection conducted when the particular violation for which an inspection or reinspection is scheduled is not fully abated or corrected as directed by, and within the time and manner as directed by, and within the time and manner specified in the notice or letter.

- B. The fee shall not apply to the original inspection to document the violations and shall not apply to the first or second scheduled compliance inspection made after the issuance of a notice or letter, whether or not the correction has been made. If a notice or letter has been previously issued for the same violation and the property has been in compliance with the law for less than six months, then the violation shall be deemed a continuation of the original case and all inspections or reinspection including the first inspection for the repeated offense shall be charged a reinspection fee.

- C. This fee is intended to compensate for administrative costs for unnecessary inspections, and not for enforcement of the law. Any reinspection fees imposed shall be separate and apart from any fines or penalties imposed for violation of the law, or costs incurred by the city for the abatement of a public nuisance. As used herein the term "administrative costs" is intended to include staff time involved in conducting inspections.