

ORDINANCE NO. 2718

AN ORDINANCE OF THE CITY OF CHULA VISTA AMENDING,  
ADDING AND REPEALING VARIOUS CHAPTERS OF THE CHULA  
VISTA MUNICIPAL CODE TO IMPROVING CITYWIDE CODE  
ENFORCEMENT EFFECTIVENESS

The City Council of the City of Chula Vista does ordain as follows:

SECTION I: That the following Chapters of the Chula Vista Municipal Code are amended to read as follows:

Chapter 1.04 - General Provisions

1.04.010 Definitions and rules of construction.

In the construction of this code and of all ordinances of the city, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the city council or the context clearly requires otherwise:

"Abatement" means an act or combination of actions designed to correct a nuisance. Abatement includes, but is not limited to: removal, demolition or repair of structures; removal of weeds, rubbish and debris; reconstruction of structures to code; restoration of drainage ways or courses, grading or regrading and filling of illegally graded or developed land; revegetation; vacating of illegal or non-conforming structures; removing barriers improperly blocking off public access; removal of encroaching structures onto public property; and other action which is reasonably related to the correction or mitigation of nuisances under this code or state law.

"City" or "this city" means and shall be construed as if followed by the words "of Chula Vista";

"City Manager" means an officer appointed by the City Council as the City Manager, and includes those officers and employees he or she designates to perform certain functions. The term "City Manager" includes a director, as defined herein, except in those proceedings where an appeal to the City Manager is taken from the order of a director.

"Code" or "this code" means the Municipal Code of the City of Chula Vista, California;

"Code Enforcement Officer" means a person, other than a police officer, designated by the City Manager or a Director, to enforce violations of the Municipal Code. A Code Enforcement Officer is authorized to issue notices of violation and administrative citations pursuant to Chapter 1.41. A Code Enforcement Officer is authorized to issue misdemeanor citations or to arrest a person without a warrant for a misdemeanor committed in his or her presence which is a violation of state law or an ordinance which the Code Enforcement Officer has a duty to enforce. A Code Enforcement Officer may exercise all powers of arrest pursuant to California Penal Code §836.5.

A Code Enforcement Officer is not a peace officer within the definition of Penal Code Sections 830 through 832.8.

"Computation of time." The time in which any act provided by law is to be done is computed by excluding the first day and including the last, unless the last day is a legal holiday and then it is also excluded;

"Council" whenever used in this code means the city council of the city;

"County" or "this county" means the county of San Diego;

"Day" means the period of time between any midnight and the midnight following;

"Daytime" and "nighttime." "Daytime" means the period of time between sunrise and sunset. "Nighttime" means the period of time between sunset and sunrise;

"Director" means the Chief of Police, Fire Chief, City Engineer, Planning Director, Director of Building and Housing, Director of Finance, Director of Parks and Recreation, Director of Public Works, Director of Community Development and the employees designated by them, or assigned by job function to perform code enforcement functions and duties. It also includes the County Health Officer or Director of Public Health for public health and sanitation.

"Gender." The masculine gender includes the feminine and neuter;

"In the city" means and includes all territory over which the city now has, or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers;

"Joint authority." All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers;

"Month" means a calendar month;

"Notice" means a written document which informs a person of the time, date and place for a hearing, the nature of a penalty or corrective action required of that person, and the Municipal Code section(s) applicable to the proceeding. Service of notice is covered in Section 1.40.030.

"Nuisance" is as defined under California Civil Code §3480, and includes a condition upon or use of real property within Chula Vista that violates the Municipal Code or state law. It may also include dilapidation or disrepair of structures; the maintenance of a structure in which illegal drug, gambling or prostitution activity occurs; or, a structure on private property which encroaches into public property.

"Number." The singular number includes the plural and the plural the singular;

"Oath" means and includes an affirmation;

"Officers, departments, etc." Officers, departments, boards, commissions and employees referred to in this code shall mean officers, departments, boards, commissions and employees of the city, unless the context clearly indicates otherwise;

"Official time." Whenever certain hours are named in this code, they shall mean Pacific Standard Time or Daylight Saving Time, as may be in current use in the city;

"Or," "and." "Or" may be read "and," and "and" may be read "or," if the sense requires it;

"Owner," applied to a building or land, means and includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of such building or land;

"Person" means and includes any person, firm, association, organization, partnership, business trust, corporation or company;

"Personal property" means and includes every species of property, except real property, as defined in this section;

"Preceding" and "following." The words "preceding" and "following" mean next before and next after, respectively;

"Process" means and includes a writ or summons issued in the course of judicial proceedings of either a civil or criminal nature;

"Property" means and includes real and personal property;

"Real property" means and includes land, improvements and structures on land, tenements and hereditaments;

"Responsible Party" means individually and collectively: the owner(s) of real property upon which a violation of this code or state law exists; or, a tenant or occupant in possession, licensee or any other person who has caused, created, or continues to allow a condition to occur or exist upon real property constituting a violation of this code or state law. A "Responsible Party" can be a natural person or a corporation.

"Shall" and "may." "Shall" is mandatory and "may" is permissive;

"Signature or subscription by mark." "Signature" or "subscription" includes a mark when the signer or subscriber cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto;

"State" or "this state" shall be construed to mean the state of California;

"Tenant or occupant," applied to a building or land, includes any person holding a written or an oral lease of, or who occupies the whole or a part of, such building or land, either alone or with others;

"Tenses." The present tense includes the past and future tenses, and the future includes the present;

"Week." A week consists of seven consecutive days;

"Writing" means and includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this code, it shall be made in writing in the English language, unless it is expressly provided otherwise;

"Year" means a calendar year, except where otherwise provided. (Prior code §1.2).

1.04.060 Time limit for seeking review of administrative decisions.

Pursuant to the California Code of Civil Procedure Section 1094.6, judicial review of any administrative decision of the city may be had pursuant to Code of Civil Procedure Section 1094.5 only if a petition for writ of mandate is filed not later than the ninetieth day following the date on which the decision becomes final; except that if the action imposes an administrative fine or penalty, the petition for review must be filed within twenty days after the order is final pursuant to Government code Section 53069. (Ord 1870 §1, 1979).

Chapter 1.16 - Right of Entry for Inspection

1.16.010 Applicability-Procedure required.

Whenever necessary to make an inspection to enforce any State or Municipal Code provision, or whenever there is reasonable cause to believe there exists a State or Municipal Code violation in any building or upon any premises within the jurisdiction of the city, any authorized official of the city may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him or her by ordinance; provided, that except in emergency situations or when consent of the owner and/or occupant to the inspection has been otherwise obtained, he or she shall give the owner and/or occupant, if they can be located after reasonable effort, at least twenty-four hours' written notice of the authorized official's intention to inspect. The notice transmitted to the owner and/or occupant shall state that the property owner and/or occupant has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of an inspection warrant by a duly authorized magistrate pursuant to Code of Civil Procedure Section 1822.50. In the event the owner and/or occupant refuses entry after such request has been made, the official is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining an inspection warrant for such entry. It is a misdemeanor to wilfully refuse access after an inspection warrant has been duly issued. (California Code of Civil Procedure Section 1822.57). The above 24 hour notice requirement shall not apply to any inspection where the authorized official conducts the observations and inspection while within the public right-of-way or within the unobstructed walkway between such right-of-way and the front entry of any residence, nor shall it apply to abandoned or inoperative motor vehicles inspected on site in accordance with applicable state law. (Ord 1550 §1, 1974; prior code §1.7).

Chapter 1.20 - General Penalty

1.20.010 Designated-Applicability.

- A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the ordinances of the city shall be guilty of a misdemeanor, unless, at the sole option of the City, the violation is cited and prosecuted as an infraction.

- B. An infraction is punishable by:
  - A fine not exceeding one hundred dollars for a first violation;
- C. An infraction is not punishable by imprisonment. A person charged with an infraction shall not be entitled to a trial by jury. A person charged with an infraction shall not be entitled to have the public defender or other counsel appointed at public expense to represent him unless he is arrested and not released on his written promise to appear, on his own recognizance, or upon a deposit of bail.
- D. A misdemeanor is punishable by:
  - Imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars (\$1,000), or by both.
- E. Each such person described in A above shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of the city is committed, continued or permitted by any such person, and he shall be punished accordingly.
- F. Payment of a fine shall not excuse payment of any fee required by the Municipal Code.
- G. In addition to the foregoing, any violation of the provisions of the ordinances of the city is deemed to be a public nuisance. Such violations may be abated by civil action or pursuant to applicable administrative abatement procedures.

(Ord 2474 §1, 1991; Ord 2284 §1, 1988; Ord 2213 §1, 1987; Ord 2077 §1, 1984; Ord 1765 §1, 1977; Ord 1551 §1, 1974; prior code §1.7A).

1.20.020      Infractions: Prosecutor's Discretion Defendant's Election to have Infraction Treated as Misdemeanor.

- A. A violation of any Chula Vista Municipal Code Section may, at the discretion of the prosecutor, if the violation is initially charged as a misdemeanor rather than an infraction, be prosecuted as an infraction, subject to the procedures described in Sections 1.20.010(C) and 1.20.030 when:
  - 1. The prosecutor files a complaint charging the offense as an infraction unless the defendant, at the time he is arraigned, after being informed of his rights, elects to have the case proceed as a misdemeanor or;
  - 2. The court, with the consent of the defendant, determines that the offense is an infraction in which event the case shall proceed as if the defendant had been arraigned on a infraction complaint.

(Ord 2284 §1, 1988; Ord 2265 §1, 1988; Ord 2253 §2, 1988; Ord 2213 §2, 1987).

Chapter 1.24 - Arrest Procedures

1.24.010      Notice required-Contents-Bail.

- A. If any person is arrested for a misdemeanor, and is not immediately taken before a magistrate as is more fully set forth in the Penal Code of the state, the arresting officer shall prepare in duplicate a written notice to appear in court, containing the name and

address of such person, the offense charged, and the time and place where and when such person shall appear in court.

- B. The time specified in the notice to appear must be at least ten days after such arrest, unless waived.
- C. The place specified in the notice to appear shall be as prescribed by Penal Code Section 853.6:
- D. The officer shall deliver one copy of the notice to appear to the arrested person and the arrested person in order to secure release must give his written promise so to appear in court by signing the duplicate notice which shall be retained by the officer. Thereupon the arresting officer shall forthwith release the person arrested from custody.
- E. The officer shall, as soon as practicable, file the duplicate notice with the magistrate as specified therein. Thereupon the magistrate shall fix the amount of bail which in his judgment, in accordance with the provisions of Section 1275 of the Penal Code of the state, will be reasonable and sufficient for the appearance of the defendant and shall endorse upon the notice a statement signed by him in the form set forth in Section 815A of the Penal Code of the state. The defendant may, prior to the date upon which he promised to appear in court, deposit with the magistrate the amount of bail thus set. Thereafter, at the time when the case is called for arraignment before the magistrate, if the defendant shall not appear, either in person or by counsel, the magistrate may declare the bail forfeited, and may in his discretion order that no further proceedings shall be had in such case.

Upon the making of such order that no further proceedings be had, all sums deposited as bail shall forthwith be paid into the county treasury for distribution pursuant to Section 1463 of the Penal Code of the State.

- F. No warrant shall issue on such charge for the arrest of a person who has given such written promise to appear in court, unless and until he has violated such promise or has failed to deposit bail, to appear for arraignment, trial or judgment, or to comply with the terms and provisions of the judgment, as required by law. (Prior code §1.8).

#### Chapter 1.30 - Abatement Procedures

##### 1.30.010 Purpose.

This chapter is enacted pursuant to Civil Code Section 3491 et seq. and Government Code Section 38771 et seq., and is intended to be an alternative procedure for the abatement of any public nuisance declared to be a violation of any statute, regulation or ordinance enforced by the city. It is intended to provide a uniform procedure for notification, right of appeal and assessment of costs and collection thereof for the abatement of public nuisances. This chapter may be used in conjunction with procedures established in Chapters 1.40 and 1.41. The procedure herein is supplemental to the general penalty provision found in Chapter 1.20, and is intended to provide due process for all those required to abate a public nuisance. Ord 2187 §2 (part), 1987; Ord 1655 §1 (part), 1975).

##### 1.30.030 Summary abatement power.

Whenever this code or any other provision of law authorizes the city manager or any other city officer to declare a public nuisance, the nuisance may be summarily abated by any

reasonable means and without notice or hearing when immediate action is necessary to preserve or protect the public health or safety because of the existence of a dangerous condition or imminent threat to life, safety on public or private property. Summary abatement actions shall not be subject to the notice and hearing requirements of this chapter and a city code enforcement officer shall not be prohibited from summary abatement actions after initiation of proceedings pursuant to this chapter if immediate action at any time becomes necessary to preserve or protect the public health or safety. Summary abatement is to be limited to those actions which are reasonably necessary to immediately remove the threat.

In the event a public nuisance is summarily abated, the city abatement officer may nevertheless keep an account of the cost of abatement and bill the property owner therefor. If the bill is not paid within fifteen (15) days from the date of mailing, the Abatement Officer may proceed to obtain a special assessment and lien against the owner's property in accordance with the procedures set forth in Sections 1.30.130 through 1.30.170 of this chapter. (Ord 2187 §2 (part), 1987; Ord 1655 §1 (part), 1975).

1.30.050 Nuisance declared.

A city code enforcement officer may declare a public nuisance for any reason specified in any city ordinance. Upon a public nuisance being declared, the city code enforcement officer may issue a Notice and Order to Abate substantially in the following form:

NOTICE AND ORDER TO ABATE

NOTICE IS HEREBY GIVEN THAT (specify the condition constituting the nuisance)

\_\_\_\_\_  
is in violation of Section \_\_\_\_\_ of the Chula Vista Municipal Code (or other applicable code or ordinance). The violation has been declared a public nuisance by the city code enforcement officer and must be abated immediately. The public nuisance is on property located at (insert address or other legal property description)

YOU ARE HEREBY ORDERED TO ABATE SAID PUBLIC NUISANCE within (insert a reasonable number of days) ( ) [not less than ten] consecutive calendar days from the issuance of this order. The issuance date is specified below. You may abate the nuisance by (insert desired action which, if taken, will adequately remedy the situation)

If you fail to abate the public nuisance within the number of days specified, the city may order its abatement by public employees, private contractor, or other means, and the cost of said abatement may be levied and assessed against the property as a special assessment lien or billed directly to the property owner.

YOU MAY APPEAL FROM THIS ORDER OF ABATEMENT but any such appeal must be brought prior to the expiration of the number of days specified above for completion of abatement. The appeal must be in writing; specify the reasons for the appeal; contain your name, address and telephone number; be accompanied by an appeal fee of \_\_\_\_\_ dollars (\$ \_\_\_\_\_); and be submitted to the city manager at the following address:

City Manager  
276 Fourth Avenue  
Chula Vista, California 92010  
Tel. No. (619) 691-5031

One who is legally indigent, as determined by guidelines prepared by the city manager and after consultation with the city attorney, may obtain a waiver of the appeal fee. Upon timely

receipt of the appeal and accompanying fee, or waiver, the city manager will cause the matter to be set for hearing and notify you of the date and location of the hearing.

If you have any questions regarding this matter, you may direct them to the city officer issuing this notice at the address or telephone number listed below.

ISSUANCE DATE: \_\_\_\_\_  
Name, title, address and telephone number  
of the city abatement office issuing this  
notice)

(Ord 2187 §2 (part), 1987; Ord 1655 §1 (part), 1975).

1.30.060 Service of notice and order to abate.

The Notice and Order to Abate shall be served in the following manner.

- A. By personal service; or,
- B. By certified mail, addressed to the owner, or his or her agent, at the address shown on the last equalized assessment roll or as otherwise known, and addressed to anyone known to the city abatement officer to be in possession of the property at the street address of the property being possessed. Service shall be deemed to have been completed upon the deposit of said Notice and Order, postage pre-paid, in the United States mail; and,

By posting such Notice and Order to Abate conspicuously in front of the property on which, or in front of which, the nuisance exists, or if the property has no frontage, upon any street, highway, or road then upon the portion of the property nearest to a street, highway, or road, or most likely to give actual notice to the owner and any person known by the city abatement officer to be in possession of the property.

(Ord 2187 §2 (part), 1987; Ord 1655 §1 (part), 1975).

1.30.070 Appeal procedure.

Any owner or other person in possession of the property may appeal any Notice and Order to abate issued pursuant to his chapter to the city manager or designee within ten days as allowed in the Notice and Order to Abate. The appeal shall be submitted in writing, specify the grounds upon which the appeal is taken, contain the name, address, and telephone number of the appellant, be accompanied by the payment of an appeal fee as set forth in the Master Fee Schedule and be filed with the city manager. Timely appeal shall stay any further abatement action until the hearing is concluded. The city manager or designee shall set the matter for hearing before a hearing examiner and notify the parties in writing of the date and location of the hearing, at least ten (10) days prior to said date.

1.30.080 Appeal fee: Determination of amount/waiver of payment/refund.

At the time of filing an appeal, the appellant shall pay the Required Fee(s) as set forth in the City's Master Fee Schedule.



If the appellant claims an economic hardship in paying the appeal fee, he or she may submit an application for waiver of the appeal fee on forms provided by the city manager for that purpose. The forms shall be substantially similar to those required of litigants initiating court proceedings in forma pauperis pursuant to Section 68511.3 of the Government Code. The forms shall be executed under penalty of perjury and contain a declaration as to the truthfulness and correctness of the information contained therein. Upon submittal of the completed forms, the appeal fee shall be waived, if justification is demonstrated.

Failure to submit the waiver forms or pay the appeal fee in a timely manner shall cause the appeal request to be automatically denied. Enforcement of the Order to Abate may then proceed as if no appeal request had been submitted.

If the appeal fee is paid and the hearing examiner finds there is no public nuisance, the appeal fee shall be refunded to the appellant without the payment of any interest which could have accrued. (Ord 2506 §1 (part), 1992; Ord 2187 §2 (part), 1987; Ord 1655 §1 (part), 1975).

#### 1.30.090 Hearing procedure.

Hearings before a hearing examiner appointed from a list of qualified persons approved in writing by the city manager shall be conducted in accordance with the following procedures:

- A. Oral evidence shall be taken only on oath or affirmation. The hearing examiner is authorized to issue subpoenas, administer oaths, and conduct the hearing.
- B. Each party shall have these rights: to be represented by legal counsel; to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though the matter was not covered in the direct examination; to impeach any witness regardless of which party first called the witness; to testify in his or her own behalf. He or she may be called and examined as if under cross-examination.
- C. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions and irrelevant and unduly repetitious evidence shall be excluded.
- D. The hearing shall be conducted in the English language. The proponent of any testimony to be offered by a witness who does not proficiently speak the English language shall provide an interpreter, approved by the hearing examiner conducting the proceeding as proficient in the English language and the language in which the witness will testify. The cost of the interpreter shall be paid by the party providing the interpreter.
- E. The hearing may be continued from time to time upon request of a party to the hearing and upon a showing of good cause therefor.
- F. The administrative procedures of Chapter 1.40 may be utilized to supplement the above. (Ord 2187 §2 (part), 1987; Ord 1655 §1 (part), 1975).

1.30.100 Determination of the Hearing Examiner.

The city hearing examiner shall allow or overrule any or all objections, and reverse, modify or affirm the determinations of the city code enforcement officer and may direct the city code enforcement officer to proceed and perform the work of abatement if not performed by the owner or the person in possession of the property within the prescribed time. The decision of the hearing examiner shall be in writing, contain findings of fact and conclusions of law, and be filed with the city clerk within five (5) working days of the conclusion of the hearing. A copy of the decision shall be sent to each party appearing at the hearing, and if no appearance was made by the appellant, to him or her by mail, at the address specified in the appeal. The decision of the hearing examiner shall be final when filed with the city clerk and constitutes the exhaustion of administrative remedy. (Ord 2187 §2 (part), 1987).

1.30.110 Time for compliance.

If the hearing examiner decides that the Order to Abate should be enforced, the owner, his or her agent or person in possession of the property shall comply with the order within such period of time as may be therein prescribed, and in the absence of any prescribed time, within three (3) days from the date of final determination. (Ord 2187 §2 (part), 1987).

1.30.120 Noncompliance with order to abate.

Upon the failure, neglect or refusal to properly comply with the Order to Abate within the prescribed time period, the city abatement officer may cause to be done whatever work is necessary to abate the public nuisance. An account of the cost of abatement shall be kept for each separate assessor's parcel involved in the abatement.

When the city has completed the work of abatement, or has paid for such work, the owner of the property shall pay the costs of abatement (See also Section 1.41.140). To this amount shall be added the appeal fee, if it was previously waived. The combined amounts shall be included in a bill and sent by mail to the owner, or his or her agent for payment, if not paid prior thereto. The bill shall apprise the owner that failure to pay the bill within fifteen (15) days from the date of mailing may result in a lien or assessment being placed upon the property. (Ord 2506 §1 (part), 1992; Ord 2187 §2 (part), 1987).

1.30.130 Report and notice of hearing.

If the bill is not paid within fifteen (15) days from the date of mailing, the city code enforcement officer shall render an itemized report in writing to the city manager for hearing and confirmation. To the report shall be attached the names and addresses of all persons having any record interest in the property. At least ten (10) days prior to said hearing, the city manager or designee shall give notice, by certified mail, of said hearing to the record owner of each assessor's parcel involved in the abatement, the holder of any mortgage or deed of trust of record, and any other person known to have a legal interest in the property. Said notice shall describe the property by street number, legal description and tax assessor's parcel number sufficient to enable identification of the property and contain a statement of the amount of the proposed assessment. (Ord 2187 §2 (part), 1987).

1.30.140 Hearing on report.

At the time fixed for receiving and considering the report, the city manager shall hear the report or cause it to be heard by a hearing examiner for the purpose of considering any

objections of any of the owners liable to be assessed for the work of abatement or any other persons who may have a legal interest in the property. The city manager or hearing examiner shall add to the proposed assessment an amount equal to the cost of conducting the assessment confirmation hearing. The city manager, or designee, may also make such other modifications in the report as are deemed necessary, after which the report shall be confirmed, and be final and conclusive. (Ord 2187 §2 (part), 1987).

1.30.150 Cost as special assessment and lien.

A certified copy of the assessment shall be recorded by the city clerk in the Office of the County Recorder. The amounts and the costs of abatement mentioned in the report as confirmed shall constitute a special assessment against such property and are a lien on the property for the amount of the respective assessment.

In addition to its rights to impose said special assessment, the city shall retain the alternative right to recover its costs by way of civil action against the owner and person in possession or control jointly and severally. (Ord 2187 §2 (part), 1987).

1.30.170 Manner of collection-law applicable.

- A. Thereafter, the amounts of the assessment shall be collected at the same time and in the same manner as city taxes are collected, and are subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary city taxes. All laws applicable to the levy, collection and enforcement of city taxes are applicable to such assessments.
- B. As an alternative, the city manager or hearing examiner may impose an abatement lien upon the property in accordance with Section 1.41.160. (Ord 2187 §2 (part), 1987).

1.30.180 Violations.

It is unlawful for any person to interfere with the performance of the duties herein specified for the city code enforcement officer or any authorized officer or employee thereof, or to refuse to allow any such officer or employee or approved private contractor, to enter upon any premises for the purpose of abating the public nuisance or to interfere in any manner whatever with said officers or employees in the work of abatement.

Paying a fine or serving a jail sentence shall not relieve any person from responsibility for correcting any condition which violates any provision of a code being enforced pursuant to this chapter. (Ord 2187 §2 (part), 1987).

Chapter 2.26 - Board of Appeals and Advisors

2.26.030 Functions and Duties.

The function and duties of the Board of Appeals and Advisors shall be as follows:

- A. Create a forum for city-wide discussions, research, and analysis of critical issues of building construction, including plumbing, mechanical and electrical installations.

- B. Where authorized by a Uniform Code adopted by the city to do so, investigate and advise as to the suitability of alternate materials, types of construction, and interpretation of said adopted Uniform Code.
- C. Conduct public hearings and recommend to the city council, the passage of new legislation pertaining to the design and construction of buildings,
- D. Act as an alternative administrative appellate body, at the option of the city manager, to hear appeals relating to determinations by the city manager, code enforcement officer, fire chief or director of building and housing, pursuant to city-adopted Uniform Codes, that conditions or circumstances are public nuisances and should be abated. Such codes include, but are not limited to the Uniform Building, Uniform Mechanical, Uniform Fire, Uniform Housing, Uniform Plumbing and National Electrical Codes as adopted from time to time by the city council. Hearings of the Board shall be conducted in accordance with the procedures set forth in such Uniform Codes and particularly the Uniform Code for the Abatement of Dangerous Buildings or the provisions of Chapters 1.30 and 1.40. The decision of the Board shall be final. (Ord 2439 §2 (part), 1991; Ord 1235 §1 (part), 1969; Ord 1002 §1 (part), 1966; prior code §2.91(b)).

#### Chapter 5.02 - Business Licenses Generally

##### 5.02.050 Issuance-Prerequisites and procedure generally.

Upon application therefor as provided in this chapter, it shall be the duty of the director of finance to prepare and issue a license pursuant to this chapter; provided however, that the director of finance shall not issue any such license until it has been noted on the application therefor that the location of the proposed business has been reviewed by both the fire department and the planning department and any other department deemed appropriate by the finance director, and has been approved in accordance with the provisions of the building code, the zoning ordinance and any other applicable code.

The "duty" of the director of finance and other City officers, as specified above, shall not create a legal obligation, but merely means the City officer shall use reasonable efforts to ascertain that the issuance of the requested license will not result in a business operation which violates applicable local laws. The applicant for the license shall have the sole and continuing responsibility for assuring that the business operation complies with the applicable laws, including the provisions of the building and zoning ordinances. By approving and issuing a business license, the City is not certifying that the proposed business operation will in fact comply with applicable laws.

(Ord 2652A §1, 1996; Ord 2652 §1 (part), 1995; Ord 2537 §1 (part), 1992; Ord 2191 §1 (part), 1987; Ord 1293 §1 (part), 1970; prior code §18.5).

##### 5.02.060 Issuance-Compliance with state and local regulations required.

No license issued under the provisions of this chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business operated in contravention of any of the laws of the city or the state. An applicant for a business license shall have the responsibility for obtaining any required state license, and the issuance of a license by the City shall not relieve an applicant from obtaining any and all other permits or licenses required by state or local laws.

(Ord 2652A §1, 1996; Ord 2652 §1 (part), 1995; Ord 2537 §1 (part), 1992; Ord 2191 §1 (part), 1987; Ord 1293 §1 (part), 1970; prior code §18.5).

5.02.080 Issuance-Void when.

If any City license has been issued through error, the same shall be void and of no force and effect. (Prior code §18.8).

5.02.090 Issuance-Approval of police chief required.

Licenses applied for under Section 5.02.040E shall be issued only upon written approval of the chief of police. (Ord 1801 §1 (part), 1978; prior code §18.9).

5.02.100 Denial of license-Criteria-Notice required.

The chief of police may deny the issuance of any license referred to in the preceding section to any applicant who in his reasonable discretion is not a fit and proper person to manage or conduct such business or occupation and/or if such business would be detrimental to the health, welfare or interest of the city. The director of finance shall notify the applicant of the denial of the license by delivering a notice of such denial to the applicant. Delivery of such notice may be made personally or by placing such notice in an envelope, properly addressed to such applicant, with postage prepaid, sealed and deposited in the United States mail. (Prior code §18.10).

5.02.110 Denial of license-Appeal-Hearing-Notice required.

In cases where a business license or zoning permit is denied, the applicant shall have the right to appeal such denial of a license to the City Manager. Such appeal shall be in writing and shall be delivered to the office of the City Manager within ten days of the notice of disqualification. The City Manager or official designee, shall hear and determine the appeal within sixty days after it is filed. The hearing shall be conducted in accordance with the provisions of Chapter 1.40. The determination of the City Manager or official designee shall be final. A fee as set forth in the Master Fee Schedule shall be imposed by the City Manager as a condition to filing any appeal. The fee shall not be greater than the anticipated cost of processing and conducting the appeal, and if the appeal results in issuance of the license, the appeal fee shall be reimbursed to the applicant in accordance with the provisions of Chapter 1.40. (Prior code §18.11).

5.02.180 Revocation-Criteria.

Every license issued under and by virtue of the provisions of this title and Section 8.20.020 shall be subject to revocation by the director of finance, and such revocation shall be based upon a failure to comply with any term or terms of this code. Such revocation shall be subject to a right to appeal to the City Manager or designee, using the process set forth in Section 5.02.110 above. Following such revocation, no new license shall be issued for one year from the effective date of revocation. If, subsequent to revocation, the director of finance finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the effective date of the revocation.

5.02.230 Enforcement and inspection.

All police officers, firefighters, fire marshals, business license enforcement officers, code enforcement officers, and designees of the director of finance of the city shall have and exercise the power to enter free of charge for inspection of licenses, at any time during regular business hours, any place of business for which a license is required by this chapter, and to demand the exhibition of such license for the current term by any person engaged or employed in the transaction of such business, all in accord with the right-of-entry provisions at Section 1.16.010 of this code and if such person shall then and there fail to exhibit such license, such person shall then be liable to the penalty provided for a violation of this chapter.

All police officers, firefighters, and fire marshals shall have and exercise the power to cause complaints to be filed in a court of competent jurisdiction against all persons violating any of the licensing provisions of this chapter.

(Ord 2537 §1 (part), 1992; Ord 2408 §1 (part), 1990; prior code §18.38).

Chapter 5.04 - License Taxes Generally

5.04.065 Revocation of license-Notice required-Hearing.

The director of finance shall deliver a notice in writing either personally or by mail to the person or business holding such license, stating that he or she is proposing the revocation of the license, and a brief summary of the reasons therefor. Such notice shall conform to Chapter 1.40 regarding the right to a hearing before the revocation may be made final. (Ord 2537 §1 (part), 1992; Ord 2408 §1 (part), 1990; prior code §18.38).

Chapter 5.14 - Art Figures Studios

5.14.030 Permit-Required for operation-Fees-Taxes-Renewal.

- A. Each application for operating a studio shall be accompanied by the Required Fee(s) to defray the cost of an investigation. The fee is not refundable whether a permit is granted or denied. No person shall operate a studio without first paying a business license tax.
- B. No person shall operate a studio without paying a renewal permit tax.

5.14.040 Permit-Issuance prerequisites.

- A. No studio permit shall be issued except upon a finding by the chief of police, based upon information provided by the applicant, that the studio is proposed to be operated for the purpose of providing facilities for use by persons pursuing a course of study, including the artistic photographic portrayal of the nude human form, and by persons who engage in artistic photographic portrayal as a means of livelihood.
- B. No studio permit shall be issued to any person under eighteen years of age, nor to a corporation, any of whose officers are under eighteen years of age.

- C. A studio permit shall be denied upon a finding that the applicant is not of good moral character. Anyone convicted of a morals offense shall be deemed not to be of good moral character for the purposes of this section.

(Ord 1402 §1 (part), 1972; prior code §5.604).

#### 5.14.090 Permit-Grounds for suspension or revocation.

The chief of police shall suspend or revoke a studio permit upon a finding of any one of the following causes:

- A. That the studio is not being operated exclusively for the purpose of providing facilities for use by persons pursuing a course of study, including the artistic portrayal of the nude human form, and by persons who engage in artistic portrayal as a means of livelihood;
- B. That the permittee is not of good moral character. Anyone convicted of a morals offense shall be deemed not to be of good moral character for the purposes of this section;
- C. That payment is made by or charges or fees collected from any spectators or observers, who may be in attendance during modeling sessions, except that such payment or charges or fees shall not be deemed to include payments made by legitimate students of the operator of an art figure studio;
- D. That alcoholic beverages have been sold, consumed or permitted upon the premises of a studio with the knowledge of the permittee;
- E. That the permittee has employed a model or permitted a model to be employed in or about such studio, either with or without salary, without requiring such model to obtain a permit from the chief of police authorizing such employment.

(Ord 1402 §1 (part), 1972; prior code §5.609).

#### 5.14.100 Permit-Appeal following suspension, revocation or denial.

All denials, suspensions or revocations of studio permits and studio employee permits shall be subject to review by the city manager, or the manager's official designee, who shall conduct a hearing and render a decision based upon specific findings within 60 days after a written request for such hearing is received. (Ord 1402 §1 (part), 1972; prior code §5.610).

### Chapter 5.18 -Billiards and Pool Halls

#### 5.18.020 Pool and billiard halls-License required-Tax.

Every person conducting, managing, or carrying on the business of a pool hall or billiard hall, or maintaining any premises wherein pool or billiard tables or pinball machines are maintained for the amusement of the public, shall pay a license tax as presently designated, or as may in the future be amended, in the Master Fee Schedule. Coin operated machines available for use in such business establishment shall be licensed in accordance with Sections 5.60.010 and 5.61.010. (Ord 2408 §1 (part), 1990; Ord 1433 §1, 1972; prior code §18.66).

5.18.090 Pool and billiard halls-License required.

It is unlawful for any person to manage, operate or conduct any poolroom or billiard room in the city without first obtaining a license from the city manager or designee authorizing such person to keep, maintain and conduct a poolroom or billiard room. (Prior code §24.8).

5.18.100 Pool and billiard halls-Petition for license required-Contents.

Every applicant for a billiard room or poolroom license shall file a petition with the city manager or designee setting forth his name and place of residence, how long he has resided in the city, the building wherein he desires to conduct such billiard room or poolroom, and the number of pool or billiard tables, or both, which he desires to operate. (Prior code §24.9).

Chapter 5.26 - Public Dances

5.26.060 License-Fire hazard investigation required.

The fire chief shall conduct or cause to be conducted an investigation of the premises identified in the application for compliance with applicable fire code provisions, and report findings to the chief of police. (Ord 1170 §1 (part), 1969; prior code §11.6).

5.26.070 License-Issuance-Appeal and public hearing of disallowed license.

The director of finance shall, after receipt of the recommendation of the chief of police, allow or disallow the license applied for, and if said recommendation is favorable, the director of finance shall forthwith issue the license upon the payment of the license fee hereinafter provided. In the event that the chief of police shall present an adverse recommendation for consideration by the director of finance, and said license shall be disallowed, the applicant may appeal said recommendation to the city manager or designee within ten days of receipt of written notice by the director of finance that the application for said license has been disallowed. Upon receipt of said appeal and payment of fee as set forth in the Master Fee Schedule, the city manager or designee shall set the appeal for public hearing. At the hearing, the city manager or the manager's official designee shall take testimony and determine whether the applicant meets all the requirements of this Chapter, and grant or deny the license on that basis. The decision shall be final. (Ord 1170 §1 (part), 1969; prior code §11.7).

5.26.120 License-Suspension or revocation authorized when-Procedure.

The chief of police of the city is hereby authorized temporarily to suspend any license issued under this chapter, in the event that any public dance licensed thereby is being conducted in violation of any law, or if there is such conduct being permitted therein which is offensive to morals or decency or which has a tendency to provoke a breach of the peace. Within five days of such temporary suspension the chief of police shall file written charges with the city manager. Within twenty days of the filing of such charges, the city manager shall cause an investigation to be made thereof and shall thereupon have power to either revoke the suspension order or to suspend the license for such further period of time as it may deem proper, or to revoke and annul such license.

For any violation of any of the provisions of this chapter or for any cause based on public health, safety, morals, or general welfare, the city manager may at any time suspend or revoke any license issued under the terms of this chapter. (Prior code §11.13).



5.26.230 Density requirement of premises location.

In the interests of protecting the public and preserving the peace of the community, no permit shall be issued under the provisions of this chapter for any premises located within three hundred feet or less of premises for which a permit has been previously secured according to the provisions of this chapter; provided however, the city manager may, upon application and for good cause, waive said restriction. (Ord 1105 §2, 1968; prior code §11.27)

5.26.290 Youth dances-Taxes for permits-Refunds.

The taxes for permits issued under this chapter shall be payable to the police department in advance, and for the several classes of permits provided in this chapter, the taxes shall be as presently designated, or as may in the future be amended.

In the event that the application is denied or the permit is revoked, no part of the applicable tax shall be refunded. (Ord 2408 §1 (part), 1990; Ord 1672 §2 (part), 1976).

5.26.300 Youth dances-Grounds for suspension or revocation of permit.

Any permit may be revoked or suspended by the chief of police upon any of the following grounds:

- A. The misrepresentation of a material fact in the application for a permit by an applicant or by the holder of a permit;
- B. The violation of any provision of this chapter by the holder of a permit;
- C. When the continuance of a permit would, based upon facts and evidence presented to, or gathered by, the chief of police be, contrary to the public health, safety, welfare, peace or morals.

(Ord 1672 §2 (part), 1976).

Chapter 5.32 - Garage Sales

5.32.060 Penalty for Violations.

Any violation of this chapter shall constitute an infraction, and the administrative citation provisions contained in chapter 1.41 of this code shall be applicable.

Chapter 5.35 - Bathhouses

5.35.123 Denial, Suspension or Revocation of License.

Any license issued pursuant to this chapter may be suspended or revoked by the police chief on proof of violation by the permittee of any provisions of state law, this chapter, city ordinances or any rule or regulation adopted and approved pursuant to Section 5.35.121, or in any case where the police chief, on the advice of the health officer, determines the bathhouse is being managed, conducted, or maintained without regard for the public health, or the health of patrons or customers, or without due regard to proper sanitation or hygiene. Where a license is denied or a license renewal is denied, or where a license is suspended or revoked by the police chief, such denial, suspension, or revocation may be appealed by the

license applicant or licensee in accordance with the provisions of Chapter 1.40. (Ord 2408 §1 (part), 1990; Ord 2256 §1 (part), 1988).

Chapter 5.36 - Massage Parlors

5.36.130 License or permit-Issuance prerequisites-Appeal of denial- Transferability.

- A. Any applicant for a permit pursuant to these provisions shall present to the police department the application containing the aforementioned and described information. The chief of police shall have a reasonable time in which to investigate the application and the background of the applicant. Based on such investigation, the chief of police, or his representative, shall render a recommendation as to the approval or denial of the permit to the city manager or designee.
- B. The department of building and housing, the fire department and the county health officer shall inspect the premises proposed to be devoted to the massage establishment and shall make separate recommendations to the city manager or designee concerning compliance with the foregoing provisions.
- C. The city manager, or his designee, after receiving the aforementioned and described recommendations, shall grant a permit to the establishment if all requirements for a massage establishment described herein are met, and shall issue a permit to all persons who have applied to perform massage services unless it appears that any such person has deliberately falsified the application or unless it appears that the record of any such person reveals a conviction of a felony or a crime of moral turpitude. The city manager or designee may recommend to the city council that an individual business establishment shall be subject to a public hearing and council approval, when in his judgment any such business establishment has an effect upon the public health, safety or welfare of the community.
- D. Any person denied a permit by the city manager or his designee pursuant to these provisions shall be notified pursuant to Chapter 1.40 regarding an appeal why the permit should be granted. The decision pursuant to Chapter 1.40 shall be final upon the applicant. Also, the city council may elect on its own motion to review any determination of the city manager granting or denying a permit, in which case, that decision shall then constitute the exhaustion of administrative remedy.
- E. All permits issued hereunder are nontransferable; provided however, a change of location of a massage establishment may be permitted pursuant to the provisions herein.

5.36.240 License or permit-Suspension, revocation or denial-Public hearing.

Before denying, suspending or revoking a license or permit issued pursuant to this chapter, the city manager shall offer the applicant or permittee a hearing as provided in Chapter 1.40. (Ord 1312 §2 (part), 1970; prior code §9.53).

Chapter 5.38 - Pawnbrokers, Secondhand and Junk Store Dealers

5.38.210 License-Revocation or suspension when.

In the event that any person holding a license authorizing him to engage in, conduct, manage or carry on the business of a pawnbroker or secondhand dealer, or any agent or employee of any such person violates or causes or permits to be violated any of the provisions of this chapter, or has been convicted of any crime involving stolen property, the chief of police shall, in addition to the other penalties provided by this chapter, forthwith suspend the business license or licenses and cause said business to be immediately closed. The chief of police shall notify the license holder of the suspension of said license by delivering a notice of such suspension to the license holder or his agent or employee. Delivery of such notice may be made personally or by placing such notice in an envelope properly addressed to such license holder with postage prepaid, sealed and deposited in the United States mail. A licensee, upon suspension of such license, shall have the right to appeal to the city manager from such order of suspension by the chief of police by the filing of a notice of appeal, paying appropriate appeal fees as set forth in the Master Fee Schedule and stating the grounds therefor. Such appeal shall be filed with the city manager within ten days after notification of suspension. The city manager shall utilize the provisions of Chapter 1.40 regarding notice, appeal and hearing governing the exhaustion of administrative remedy for the revocation or suspension of permits. (Ord 1931 §1 (part), 1981; Ord 1761 §1 (part), 1977; Ord 1008 §2 (part), 1966; prior code §17.18(A)).

#### 5.38.220 License-Public hearing on suspension/revocation.

The city manager shall refer the notice of appeal for hearing in accordance with Chapter 1.40, and the licensee shall be notified in writing of the time, place and date of hearing, which shall be not less than ten days from the filing of the notice of appeal. If the license or licenses of any person licensed by this chapter is so revoked, no license shall be granted to such person to conduct or carry on such business within six months after such revocation. During the period of suspension or revocation, the chief of police shall sequester any pledged or pawned goods and hold said goods at the police station in the city or other secured location, and shall post an appropriate notice at the place of business that such goods may be reclaimed at the police station. (Ord 1761 §1 (part), 1977; Ord 1008 §2 (part), 1966; prior code §17.18(B)).

### Chapter 5.44 - Race Tracks

#### 5.44.020 Operation deemed nuisance-Abatement.

Any violation of the provisions of Section 5.44.010 is declared to be a public nuisance, and upon order of the city manager or official designee, the city attorney may immediately initiate proceedings necessary for the abatement or enjoinder of such violation in the manner provided by law. (Prior code §20.42).

Amend Chapter 5.54 - Taxicabs - as follows:

#### 5.54.120 Certificate-Grounds for suspension or revocation.

- A. Certificates may be suspended or revoked by the police chief:
1. The owner fails to operate the taxicab or taxicabs in accordance with the provisions of this chapter;
  2. The taxicab or taxicabs are operated at a rate of fare other than that which the Certified Operator shall have on file with the police chief.

- B. The city manager or police chief may suspend or revoke a certificate where the owner's past record involved violations of city, state or federal law or endangered the public safety.

(Ord 2408 §1 (part), 1990; Ord 2003 §2 (part), 1982)

#### 5.54.290 Appeals.

Any actions taken by the police chief under this chapter are appealable to the city manager pursuant to Chapter 1.40. An appeal to the City Manager must be filed with the city manager and appropriate appeal fees paid within ten days of the action of the police chief. (Ord 2408 §1 (part), 1990; Ord 2003 §2 (part), 1982).

#### Chapter 5.58 -Tow Trucks

##### 5.58.090 License suspension-Notice required-Appeal-Public hearing.

In the event that a licensee under this section shall violate or cause or permit to be violated any of the provisions of this chapter, the police chief may suspend such license and shall notify the licensee of such suspension by written notice stating the cause and reason for such suspension. Appeal may be made to the City Manager pursuant to Chapter 1.40. (Ord 2408 §1 (part), 1990; Ord 2003 §3 (part), 1982; Ord 1416 §1 (part), 1972; prior code §18.304(F))

#### Chapter 8.04 - Food Handling Generally

##### 8.04.040 Violation deemed nuisance-Abatement authority.

Any establishment or activity which is found by the health officer to be unsanitary or a menace to the public health or which is in violation of this chapter or of the California Restaurant Act is declared to be a public nuisance. The health officer is authorized and empowered to take such action as is necessary to preserve or protect the public health or safety; the health officer is authorized and empowered to summarily abate such nuisance; otherwise, the health officer shall request the city attorney to seek a court order abating the nuisance, or request the city manager to abate pursuant to Chapter 1.30. Nothing contained in this code shall be deemed to limit the right and duty of the health officer to take immediate action in the interests of the public health, safety and welfare.

The remedies authorized by this section are not exclusive, but are cumulative to other remedies provided by law. (Ord 855 §2 (part), 1963; prior code §15.4).

#### Chapter 8.08 - Food Handlers' Permits

##### 8.08.040 Appeal from denial or revocation.

A person aggrieved by the denial to him of a permit or by the revocation of a permit pursuant to Section 8.08.050 may appeal from such denial to the city manager in the manner set forth in Chapter 1.40. (Ord 855 §2 (part), 1963; prior code §15.9).

#### Chapter 8.32 - Weed Abatement

##### 8.32.020 Weeds or rubbish-Serving of notice to remove-Contents.

The notice required by the preceding section shall be given by posting in a conspicuous place upon the property, land or lot located in the city upon which, or upon the street, parkway or sidewalk in front of which such weeds, rubbish or other material may be, a notice headed: "Notice to Clean Premises" in letters not less than one inch in height, and which shall be in legible characters, and which directs the removal of the weeds, rubbish or other material, as the case may be, and refers to this chapter for further particulars. Personal service of a notice similar in substance upon the owner, occupant or agent in charge of such property, land or lot, shall dispense with the posting of the notice herein provided for.

8.32.030 Weeds or rubbish-Notice to remove-Appeal procedure.

Within ten days from the date of posting of such notice, or in case of personal service of notice, within ten days from the date of such personal service thereof, the owner of or any person interested in such property, land or lot affected by such notice may appeal to the city manager pursuant to Chapter 1.40 from the requirements thereof. (Prior code §14.40).

8.32.040 Weeds or rubbish-Owner or occupant duty to remove-Time limit.

It shall be the duty of the owner, the agent of the owner or the person in possession of any lot in the city within ten days from the date of posting of the notice provided for in Section 8.32.010 or in case a personal notice is given, within ten days from the date of such personal service thereof, or in case of an appeal to the city manager within ten days from the determination thereof, unless the same is sustained, to clean and remove therefrom and from the street, sidewalk or parkway in front of such property, all noxious weeds or vegetation, except such as are cultivated and grown by such owner, agent or person in possession of such property for ornamental purposes, or for food for man or beast, or for fuel, and all dead trees, tin cans, refuse and waste material of all kinds which may endanger or injure neighboring property, or be detrimental to the health and welfare of the residents of the vicinity, or such rubbish, weeds, noxious vegetation or any other material as may be deemed a fire hazard, and as such endanger the city, and the removal of all such weeds and vegetation, or other materials of all kinds hereinabove specified shall be completed within ten days after receiving such notice, as hereinabove provided for in this chapter, or in case of appeal to the city manager, within ten days after the determination thereof, unless the same shall be sustained. (Prior code §14.41).

8.32.070 Assessment of charges-Appeal of determination.

The determination of such charges by the fire chief as to the amount so assessed may be appealed to the city manager pursuant to Chapter 1.40. If, upon appeal, the requirements of the original notice are modified or the amount so assessed by the fire chief is modified, the fire chief, in removing, or causing to be removed such articles, rubbish, weeds, vegetation or other materials, or in making such assessment as hereinabove provided for, shall be governed by the determination so made. (Ord 1588 §1 (part), 1974; Ord 1509 §1 (part)).

Chapter 9.12 - Gambling

9.12.210 Bingo-Application denial, license suspension and/or revocation.

- A. The chief of police may deny an application for a bingo license, or suspend or revoke a license, if he finds the applicant or licensee or any agent or representative thereof has:

1. Knowingly made any false, misleading or fraudulent statement of a material fact in the application or in any record or report required to be filed under this chapter, or
  2. Violated any of the provisions of this chapter.
- B. If after investigation the chief of police determines that a bingo license should be suspended or revoked, or an application for such license denied, he shall prepare a notice of suspension, revocation or denial of application, setting forth the reasons for such suspension, revocation or denial of application. Such notice shall be sent by certified mail to the applicant's last address provided in the application or shall be personally delivered. Any person who has had an application for a bingo license denied by the chief of police, or who has had a bingo license suspended or revoked by the chief of police, may appeal the chief of police's decision in the manner provided in chapter 1.40 to the city manager. (Ord 1695 §2 (part), 1976).

9.12.300 Casino Parties-Denial or Revocation of License.

If the license is denied or revoked, the chief of police shall prepare a notice setting forth the reasons for such denial or revocation. Such notice shall be sent by certified mail to the applicant's address provided in the application or be personally delivered. Any person who has had an application for a casino party license denied or revoked by the chief of police may appeal the decision of the chief of police to the city manager pursuant to Chapter 1.40. (Ord 2253 §1 (part), 1988).

Chapter 9.13 - Live Entertainment Licensing and Regulations

9.13.090 Allowance or denial of application and appeal.

- A. The chief of police shall issue, conditionally issue, or deny the license for which application is made. The chief of police shall have the power to deny any application if it shall appear that the applicant, or the person to have direct management of the premises, is not a suitable or proper person to carry on the business for which the license is sought, or if the premises proposed to be used in the conduct of the business to be licensed shall be deemed not to be a suitable or proper place therefor, or if the health, welfare or public morals of the community warrant such denial. The chief of police may issue the license upon such conditions as he determines would eliminate the situations which would otherwise result in denial of the license. Otherwise, the chief of police shall issue the license. The applicant may appeal from the denial of license, or from the issuance of a license upon conditions, in the manner provided for herein.
- B. Any person aggrieved by the denial of a license or by the issuance of a license upon conditions may appeal to the city manager pursuant to Chapter 1.40. Any interested person may appear and present evidence at the public hearing. If the appeal is from the denial of a license or from the issuance of a license upon conditions, the city manager or designee may deny the issuance of the license, issue the license, or issue the license subject to specified conditions if it determines that by the imposition of such conditions reasonable objections of the chief of police would be eliminated. The action of the city manager or designee on such appeal shall be final. (Ord 2253 §1 (part), 1988).

#### 9.13.120 Suspension or revocation.

In addition to the causes for denial of a license as set forth herein, any license issued under this chapter may be revoked or suspended at any time after a hearing, notice of which has been given to the licensee more than ten days prior to said hearing, when the city manager or designee finds:

- A. The conduct of the establishment is contrary to the public interest, or does not comport with the public welfare; or
- B. The establishment has been operated in an illegal, improper or disorderly manner; or
- C. Any person listed in the license application has violated, or permitted any violation, or has been convicted of a violation of law in the course, conduct or operation of such business. A conviction in any court of competent jurisdiction shall be sufficient to justify a finding under this section, excepting convictions for misdemeanor traffic violations. (Ord 1833 §1 (part), 1978).

#### 9.13.130 Convictions.

Upon receipt of a certified copy of a judgment of conviction of a licensee under this chapter of any violation of any provision of this chapter, the chief of police may immediately suspend the license or licenses of such convicted licensee, remove such license or licenses from the premises and deliver the suspended license or licenses to the city manager for safekeeping pending a hearing pursuant to Chapter 1.40. If a hearing is requested, the city manager or designee shall immediately thereafter set a date for a hearing no later than ten days after the date of suspension. At said hearing it shall be determined whether the license or licenses should be suspended further, modified, conditioned or revoked. The city manager or designee shall notify the licensee in writing of the decision, which will then constitute the exhaustion of administrative remedy. (Ord 1833 §1 (part), 1978).

#### 9.13.140 Noise abatement.

Whenever after a hearing, notice of which must be given ten days prior thereto, it shall be determined that noise from any establishment licensed under this chapter interferes with the right of persons dwelling in the vicinity of such establishment to the peaceful and quiet use and enjoyment of their property, the city manager may require that the premises be soundproofed in a manner that will eliminate the noise or reduce it to a reasonable level. In taking any action under this section, the city manager must balance all of the interests of the respective parties, as well as the hardship which will result from any order. If the city manager finds that the noise complained of is of a minimum or inconsequential degree, no action shall be taken under this section. If a licensee fails within a reasonable time, and after having been ordered to do so pursuant to this section, to take such steps as were ordered to abate any noise, his license shall be suspended after a second hearing, ten days' notice of which must be given, until such time as he complies with the order. The provisions of Chapter 1.40 shall be utilized for the appeal. (Ord 1833 §1 (part), 1978).

### Chapter 9.18 -Rental of Housing for Drug Activity

#### 9.18.050 Declaration of Public Nuisance.

In addition to any other enforcement action, the city manager, or city attorney may declare an alleged violation of Section 9.18.020 or the activities described therein to constitute a

public nuisance and may commence abatement of the conditions giving rise thereto in accordance with Health and Safety Code Section 11570 or Chapter 1.30 of this Code. (Ord 2337 §1 (part), 1989).

#### Chapter 10.80- Abandoned Vehicles

##### 10.80.010 Purpose and intent of provisions-Vehicle declared nuisance when.

The purpose and intent of the Council in adopting sections 10.80.010 through 10.80.120 is to establish procedures pursuant to Sections 22660 to 22664 of the California Vehicle Code for the abatement, removal and disposal, as public nuisances, of abandoned, wrecked, dismantled or inoperative vehicles or vehicle parts from private or public property, not including highways, and the recovery of the cost of administration and removal thereof pursuant to the provisions of section 38773.5 of the Government Code of the state of California. (Ord 2668 §1 (part), 1996; Ord 1338 §1 (part), 1971; prior code §19.2301).

##### 10.80.030 Exemptions from applicability-Scope.

The provisions of sections 10.80.010 through 10.80.120 shall not apply to:

- A. A vehicle, or parts thereof, which is completely enclosed within a building in a lawful manner, or otherwise stored in a lawful manner behind a solid fence, gate or wall not less than six feet in height, and where it is not readily visible from the street or other public or private property; or
- B. A vehicle, or parts thereof, which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junkyard when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise. This exception shall not, however, authorize the maintenance of a public or private nuisance as defined under the provisions of law and elsewhere in the Code. (Ord 2668 §1 (part), 1996; Ord 1338 §1 (part), 1971; prior code §19.2303).

##### 10.80.050 Enforcement authority-Right of entry.

Provisions of this chapter shall be administered by regularly salaried full-time employees of the City except that the removal of vehicles from property may be by any other duly authorized person. Any such authorized person may enter upon private property for the purposes specified in this section to examine a vehicle, and remove or cause to be removed the vehicle declared to be a nuisance pursuant to this chapter. (Ord 2668 §1, 1996; Ord 1338 §1 (part), 1971; prior code §19.2305).

##### 10.80.060 Abatement-Costs-Procedure generally - Notices required -

Any vehicle located on property other than a highway may be removed as a public nuisance and disposed of in accordance with the following procedures:

- A. Not less than ten (10) days prior to any removal or disposal of a vehicle, a notice of intention to abate and remove the vehicle as a public nuisance shall be issued unless the property owner and the owner of the vehicle have signed releases authorizing removal and waiving further interest in the vehicle. The notice shall contain a statement of the hearing rights of the owner of the vehicle and of the owner of the



property on which the vehicle is located. The statement shall include notice to the property owner that he may appear in person at a hearing or may submit a sworn statement denying responsibility for the presence of the vehicle on the land, with his reason for such denial, in lieu of appearing. The notice of intention to abate shall be mailed, by registered or certified mail, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owners of record unless the vehicle is in such condition that identification numbers are not available to determine ownership.

- B. The cost of removal and disposal of any vehicle and the administrative cost thereof may be charged against the person who is determined to be responsible for the maintenance of the vehicle as a public nuisance.
- C. Vehicle may be disposed of by removal to a scrapyard, automobile dismantler's yard or any suitable site for processing as scrap.

(Ord 2668 §1 (part), 1996; Ord 1338 §1 (part), 1971; prior code §19.2306).

10.80.070 Abatement-Public hearing required when-Notice-Manager or his or her designee authority.

- A. Upon request by the owner of the vehicle or owner of the land on which the vehicle is located, a public hearing shall be held before the city manager or designee. This request shall be made to the manager or his designee within ten (10) days after the mailing of the notice of intention to abate and remove the vehicle.
- B. The owner of the land on which the vehicle is located may appear in person at the hearing. Instead of making an appearance, he may present a sworn written statement, in time for consideration at the hearing, denying responsibility for the presence of the vehicle on the land, with his reasons for his denial. This statement shall be construed as a request for a hearing which does not require the presence of the owner submitting the request. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he has not subsequently acquiesced in its presence, then the costs of administration or removal of the vehicle shall not be assessed against the property upon which the vehicle is located or collected from the landowner.

10.80.090 Disposal of vehicle-Time requirements.

Five days after adoption of the order declaring the vehicle or parts thereof to be a public nuisance, five days from the date of mailing of notice of the decision if such notice is required by sections 10.80.010 through 10.80.120, or fifteen days after such action of the manager or designee authorizing removal following appeal, the vehicle or parts thereof may be disposed of by removal to a scrapyard or automobile dismantler's yard. After a vehicle has been removed it shall not thereafter be reconstructed or made operable. (Ord 2668 §1 (part), 1996; Ord 1338 §1 (part), 1971; prior code §19.2307(B)(2)).

10.80.100 Notification and transfer of evidence required when.

Within five days after the date of removal of the vehicle or parts thereof, notice shall be given to the Department of Motor Vehicles identifying the vehicle or parts thereof removed. At the

same time there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including registration certificates, certificates of title and license plates. Any licensed dismantler or commercial enterprise acquiring vehicles removed pursuant to this section shall be excused from the reporting requirements of Section 11520 of the California Vehicle Code; and any fees and penalties which would otherwise be due the Department of Motor Vehicles, are hereby waived, provided that a copy of the resolution or order authorizing disposition of the vehicle is retained in the dismantler's or commercial enterprise's business records. (Ord 1338 §1 (part), 1971; prior code §19.2307(B)(3)).

#### 10.80.110 Costs-Assessment and collection procedures.

If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to section 38771 et seq. of the government code and chapter 1.30 of this code are not paid within thirty days of the date of the order, or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to section 38773.5 of the government code and shall be transmitted to the tax collector for collection. Said assessment shall have the same priority as other city taxes. (Ord 1676 §1, 1976; Ord 1338 §1 (part), 1971; prior code §19.2307(B)(4)).

#### 10.80.120 Removal of vehicles from streets authorized when.

Any regularly employed and salaried officer of the police department may remove or cause to be removed:

- A. Any vehicle which is parked or left standing upon a street or highway for seventy-two or more consecutive hours;
- B. Any vehicle which is parked on a highway in violation of any provision of this title, the Vehicle Code or other law or ordinance forbidding standing or parking, when the use of such highway or a portion thereof is necessary for the cleaning, repair or construction of the highway or for the installation of underground utilities, and signs giving notice that such vehicle may be removed are erected and placed at least twenty-four hours prior to the removal;
- C. Any vehicle parked upon a highway which has been authorized by the council or other competent authority for a purpose other than the normal flow of traffic, or for the movement of equipment, articles or structures of unusual size, and the parking of said vehicle would prohibit or interfere with such use or movement, providing that signs giving notice that such vehicle may be removed are erected or placed at least twenty-four hours prior to the removal of such vehicle;
- D. Any vehicle parked or left standing, when the city council by resolution or ordinance has prohibited such parking and has authorized the removal by ordinance. No vehicle may be removed unless signs are posted giving notice of the removal.

(Ord 973 §1 (part), 1966; prior code §19.3.5).

### Chapter 10.84 -Parking Restricted on Private Property

#### 10.84.010 Purpose and intent of provisions-Parked vehicles declared nuisance-When.

The purpose and intent of the council in adopting sections 10.84.010 through 10.84.030 is to establish procedures for the notification, citation and removal of vehicles from private

property in the front yard, unfenced exterior and parkway areas of the city. (Ord 1676 §2 (part), 1976).

#### Chapter 15.04 - Excavation Grading and Fills

##### 15.04.305 Fees-Effect of imposition.

In the event that land development work is commenced without a land development permit, the city engineer shall cause such work to be stopped until a permit is obtained. The permit fee, in such instance, shall then be the normally required permit fee, plus \$500. The payment of the increased permit fees shall not relieve any person from fully complying with the requirements of this chapter in the performance of the work. Such fee shall defray the expense of enforcement of the provisions of this chapter in such cases. The payment of such fee shall not prevent the imposition of any penalty prescribed or imposed by this chapter or Chapter 1.41. (Ord. 1797 §1 (part), 1978).

##### 15.04.310 Violations-Declared unlawful and public nuisance-Abatement authority.

Any land development commenced, done, maintained or allowed contrary to the provisions of this chapter, shall be, and the same is hereby declared to be, unlawful and a public nuisance. Upon order of the city council, or upon the determination of the city manager or the city attorney, necessary proceedings for the abatement, removal and/or enjoinder of any such public nuisance shall be commenced in the manner provided by law. Alternatively the procedures to abate under Chapter 1.30 may be used. Any failure, refusal, or neglect by a responsible party to obtain a permit as required by this chapter shall be prima facie evidence of the fact that a public nuisance has been committed in connection with any land development commenced or done contrary to the provisions of this chapter. (Ord. 1797 §1 (part), 1978).

##### 15.04.325 Costs of abatement-Special assessment procedure-Statutory authority.

The costs of abating a dangerous condition within the meaning of this chapter shall be imposed as a special assessment against the land on which such abatement was done. Costs and assessment procedures will be in accordance with Chapters 1.40 and 1.41. The property owner may raise and the city manager shall consider, as a complete or partial defense to the imposition of the assessment, questions as to the necessity of the abatement and the means in which it was accomplished. Pursuant to Government Code §38773.5 abatement costs shall be transmitted to the tax collector for collection. This assessment shall have the same priority as other city taxes. (Ord. 1877 §3 (part), 1979).

#### Chapter 15.44 - Moving, Relocating and Demolishing Buildings

##### 15.44.070 Appeals.

The applicant may appeal the findings and recommendations of the building and housing department to the city manager. The appeal shall be in writing. The city manager shall use the procedures in Chapter 1.40 to govern the appeal. (Ord. 2506 §1 (part), 1992; Ord. 1851 §1 (part), 1979).

## Chapter 17.28 - Unnecessary Lights

### 17.28.050 Complaints-Investigation-Notice-Hearing.

Upon the written complaint setting forth the particulars concerning any offending lighting situation by the adjoining or neighboring residential property dwellers, it shall be the responsibility of the city to investigate the basis of the complaint, and if there is found to be sufficient cause for said complaint which constitutes a nuisance to the adjoining or neighboring property owners, a written notice shall be sent, to the owner or person controlling such lighting, directing that the lighting be modified, discontinued or abated within fifteen days of receipt of the notice. If the lighting situation has not been discontinued or abated as required in this section, the city manager shall issue a notice to the property owner pursuant to Chapter 1.40 to appear and show cause as to why the lighting should not be declared a public nuisance and abated pursuant to Chapter 1.30. (Ord 1324 §1 (part), 1971; prior code §20.35.4(D)).

## Chapter 19.08 - Zoning Enforcement

### 19.08.020 Violations-Declared public nuisance-Actions for abatement authorized.

It is unlawful to cause or allow to occur the set up, erection, construction, alteration, enlargement, conversion, movement or maintenance of any building or structure contrary to the provisions of this title, and any use of any land, building or premises established, conducted, operated or maintained contrary to the provisions of this title shall be, and the same is declared to be unlawful and a public nuisance; and the city attorney and city manager, respectively, shall commence action or proceedings for the abatement and removal and enjoinder therein in the manner provided by law or Title 1 of this Code, and shall take such other steps and shall apply to such courts as may have jurisdiction to grant such relief as will abate and remove such building or structure, and restrain and enjoin any person, firm or corporation from setting up, erecting, building, maintaining or using any such building or structure or using property contrary to the provisions of this title. The remedies provided for herein shall be cumulative and not exclusive.

Any person who violates any provision of the certified Local Coastal Program adopted pursuant to Division 20 of the California Public Resources Code shall be subject to the penalties contained therein. (Res. 11903, 1985; Ord 1212 §1 (part), 1969; prior code §33.1502).

### 19.08.030 Violations-Penalties.

Any person, firm or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any of the provisions of this title shall be punishable pursuant to the provisions of Chapters 1.2 through 1.41. (Ord 2483 §2, 1991; Ord 1212 §1 (part), 1969; prior code §33.1503).

## Chapter 19.62.200 - Off-Street Parking and Loading

### 19.62.200 Enforcement of this chapter.

The building and housing director, code enforcement officers and other employees designated by the building and housing director shall have the authority to enforce this chapter in accordance with the procedures as set forth in chapters 1.40 and 1.41. Any violation of this

chapter shall constitute an infraction, and the administrative citation provisions contained in chapter 1.41 of this code shall be applicable. (Ord. 2176 §7 (part), 1986)

SECTION II: That the following Sections of the Chula Vista Municipal Code are repealed in their entirety:

- 5.02.070 Issuance Effect of prior licensing by state.
- 5.36.250 Hearing-Notice required.
- 5.36.260 Hearing-Procedure generally.
- 5.36.270 Hearing-Rules of evidence.
- 5.36.290 Effect of decision stayed when.
- 5.36.300 Hearing-Not required when-Effect.
- 5.36.310 Appeal-Petition required.
- 5.36.320 Appeal-Public hearing-Notice-Effect of decision.
- 5.48.010 Exemptions to applicability.
- 5.48.020 Closing-out sale defined.
- 5.48.030 License-Required.
- 5.48.040 License-Application-Contents required.
- 5.48.050 Business license-Surrender required when.
- 5.48.060 License-Investigation of applicant-Issuance-Fees and Taxes-Agreement required.
- 5.48.070 License-Conditions for issuance-Period of validity-Renewal.
- 5.48.080 License-Scope of validity.
- 5.48.090 Records to be kept.
- 5.48.100 Business license-Restoration procedure.
- 5.48.110 Business license-Notice of disapproval of issuance-Hearing.
- 5.48.120 Business license-Hearing procedure.
- 8.08.140 Suspension or revocation-Public hearing required.
- 8.08.150 Public hearing-Notice required-Form.
- 8.08.160 Public hearing-Rules and procedure generally.
- 8.08.170 Public hearing-Hearing officer-Grounds for disqualification.
- 8.08.180 Public hearing-Time.
- 8.08.190 Public hearing-Continuance.
- 8.08.200 Public hearing-Transcripts.
- 8.08.210 Public hearing-Waiver of irregularities-Exception.
- 8.08.220 Public hearing-Findings.
- 8.08.230 Public hearing-Decision and order.
- 8.08.240 Public hearing-Petition for modification or rescission of order.
- 8.08.250 Public hearing-Probation procedure.
- 8.08.260 Appeal-Procedure generally.
- 8.08.270 Appeal-Rules and regulations generally.
- 8.08.280 Appeal-Effect of filing.
- 8.08.290 Appeal-Hearing by council.
- 8.08.300 Appeal-Applicable Procedures
- 9.12.220 Bingo-Appeal procedure.
- 10.84.036 Notice of violation.
- 10.80.020 Definitions.
- 10.80.040 Regulations not exclusive.
- 10.80.080 Appeal of decision-Public hearing-Notice-Board of appeals and advisors authority.

SECTION III: That Chapters 1.40 and 1.41 are added to the Chula Vista Municipal Code to read as follows:

CHAPTER 1.40

ADMINISTRATIVE PROCEDURE AND PROCESS.

Sections:

- 1.40.010 Purpose and Intent.
- 1.40.020 Administrative Process.
- 1.40.030 Service of Notices.
- 1.40.035 Proof of Service of Notices.
- 1.40.040 Reserved.
- 1.40.050 Administrative Hearing Procedure.
- 1.40.060 Immediate Action Excusing Prior Notice for Purposes of Abating Dangerous Conditions or Imminent Threat to Life -Safety.
- 1.40.070 Consolidation of Proceedings

1.40.010 Purpose and Intent.

It is the purpose and intent of the City Council to establish rules and procedures for the conduct of administrative hearings required by statute, this Municipal Code, or administrative regulation, in order to insure administrative due process is accorded to affected parties. The requirements and procedures of this Chapter shall be applicable to administrative procedures and hearings regarding the denial, suspension or revocation of a permit, license or entitlement, and may be used to supplement or substitute for any administrative hearing or administrative procedure prescribed elsewhere in this Municipal Code. The procedures under Chapter 1.40 may also be used in those situations where the Municipal Code authorizes a hearing as a precondition to the abatement of a nuisance, the imposition of an administrative fine or penalty, or, as an administrative appeals procedure.

Sec. 1.40.020 Administrative Process.

- A. Subject to the provisions of Section 1.40.060, the City Manager or designee shall serve notice pursuant to Section 1.40.030 upon a party whose permit, license or entitlement has been denied, or is to be suspended or revoked, or against whom administrative enforcement action is proposed, that they shall be allowed ten calendar days (thirty days for out-of-state residents per Code of Civil Procedures Section 415.40) to request an administrative hearing to appeal or contest that proposed action before it will become final. The request for hearing must be made no later than ten calendar days from the date of notification of the proposed action. The proposed action by the City Manager shall become final and conclusive if not appealed or contested. Except as provided in Section 1.40.060, the proposed action shall be stayed if properly appealed, and be made final following the issuance of a decision by a hearing officer pursuant to Section 1.40.020G.
- B. Upon the filing of a request for a hearing or an appeal and payment of the required fee, the City Manager shall appoint a hearing examiner who shall be neutral and unbiased as to the specific factual matter in contention and experienced in the general subject matter. The hearing examiner may be appointed either from within the City staff or outside sources. The City Manager may provide compensation to outside sourced hearing examiners.

- C. The fee to request a hearing or an appeal of an administrative citation or civil penalty shall be equal to the amount of the fine identified on the administrative citation or the amount of the civil penalty, but not more than \$1,000. If the hearing officer determines that the issuance of the administrative citation or assessment of the civil penalty was not appropriate based on the evidence provided then the appeal fee will be refunded to the party that requested the appeal. If the appeal is denied, the fee shall be applied as payment of, or toward, the administrative citation or civil penalty. The fee to request a hearing or an appeal of all other types of administrative orders, unless specified otherwise in the municipal code, shall be in the form of a deposit, the amount to be determined by the city manager based on the anticipated staff cost to conduct the hearing. If the cost of the hearing or appeal exceeds the deposited amount, the requesting party shall be responsible for payment of the additional costs incurred. If the hearing officer determines that the administrative order is not supported by the evidence, the entire deposited amount will be returned to the party that requested the appeal.
- D. The hearing examiner shall notify the appellant of the time and place for the hearing in accordance with Section 1.40.030, allowing a minimum of ten calendar days from the date the notice is mailed before the hearing is to be held.
- E. The hearing examiner shall conduct the administrative hearing in accordance with Section 1.40.050 and issue a written decision promptly to all parties upon the conclusion of the hearing, unless the appeal or request for hearing is withdrawn by the requesting party. The hearing examiner may impose conditions and deadlines for corrective action and reduce, waive or conditionally suspend any fines or penalties proposed, when the hearing examiner concludes, based upon the evidence, that such action is equitable and more likely to bring about compliance with the proposed order.
- F. The hearing examiner's decision shall be based upon findings supported by evidence. The standard of proof required to render the decision shall be that of a preponderance of the evidence. A preponderance of the evidence is established when the weight of the evidence supporting the existence of a fact in contention has the more convincing force, when balanced against that evidence refuting the existence or applicability of the same fact in contention.
- G. The hearing may not be used as a substitute for discovery pursuant to the Code of Civil Procedure, and any inquiry or discovery in violation of this Section 1.40.020F is not competent or admissible against the party against whom it is to be used upon appropriate motion or objection of that party.
- H. A final decision shall be issued by the hearing examiner. The date of mailing of the final decision by the hearing examiner to the party by first class mail, with certificate of service attached, shall constitute the date of the exhaustion of administrative remedy. A party shall be advised by the hearing examiner that it has ninety days pursuant to the California Code of Civil Procedure Section 1094.6 from that date in which to file for a writ of mandamus or other applicable judicial review, except that if the determination is made as to a decision imposing an administrative penalty, fine or charge under Section 1.41.100, the time to appeal to the Municipal Court is limited to twenty days pursuant to California Government Code Section 53069.4. Failure to file for judicial review within the applicable time limit makes the final decision non-appealable and confirmed. Until a timely request for judicial review is filed, enforcement of the final decision may proceed in due course.
- I. The city will use its best effort to tape record the hearing, but is not legally obligated to do so. Any recording will be retained for not to exceed 2 years. The private party

may also record the proceedings. A party may request a transcript of the proceedings, if prepared, or be provided a copy of any recording, if made, upon payment of the costs of preparation or duplication.

Sec. 1.40.030 Service of Notices.

A. Except as provided in Section 1.40.030D, whenever a notice is required to be given under the Municipal Code for the enforcement of a proposed order or for hearing or appeals purposes, the notice shall be served by any of the following methods, unless different provisions are otherwise specifically stated to apply:

- (1) Personal service upon the responsible party; or
- (2) Certified mail, postage prepaid, return receipt requested. Simultaneously, a duplicate notice may be sent by regular mail, postage prepaid. If a notice that is sent by certified mail is returned unsigned, service shall be deemed effective pursuant to service of the duplicate notice by regular mail, provided that the duplicate notice sent by regular mail is not returned as undeliverable. Notice shall be mailed to the last address shown on the County Tax Assessor's records if the notice concerns real property, and to the last known address of any other party to the proceeding shown in official records of the City of Chula Vista;
- (3) Posting the notice conspicuously on or in front of the property.

B. Posting a notice or duplicate service by regular mail in the manner described above shall be deemed effective on the third day after mailing or posting, service by certified mail shall be effective as of the date of signed receipt.

C. The service of an initial Notice of Violation may also be sent by regular mail. Service of a Notice of Violation by regular mail is effective on the third day after mailing.

D. Service of Notice through which a lien will be placed upon real property will be in accordance with Code of Civil Procedure Sections 415.10, 415.20, 415.30, or Section 415.40 if the responsible party resides out of state.

E. The failure of any party or person with an interest in the property or the proceeding to receive any notice which has been duly sent or posted in accordance with this section 1.40.030 shall not affect the validity of any proceedings taken under this Code.

Sec. 1.40.035 Proof of Service of Notices.

Proof of service of any notice required by this Code may be made by certificate or affidavit of an officer or employee of this City or by affidavit of any person over the age of eighteen years. The proof of service shall show that service was done in conformity with this Code and any other provisions of law applicable to the subject matter concerned.

Sec. 1.40.040 Reserved.

Sec. 1.40.050 Administrative Hearing Procedure.

The hearing before a hearing examiner shall be conducted in accordance with the following procedures:



- A. A hearing examiner is authorized to issue subpoenas, administer oaths or affirmations, and conduct the hearing. Subpoenas shall be signed by the City Clerk. Oral evidence shall be taken only on oath or affirmation.
- B. Each party shall have the following rights: to be represented by legal counsel; to call and examine witnesses; to introduce evidence; to cross-examine opposing witnesses on any matter relevant to the issues even though the matter was not covered in the direct examination; to impeach any witness regardless of which party first called the witness; to testify in his or her own behalf. A party may be called as a witness by the other party and be examined as if under cross-examination.
- C. Appeals of quantities of work performed in connection with a violation of land grading permits as estimated by the Director shall include a report by a licensed civil engineer qualified to perform land surveys or a licensed land surveyor. The report shall be prepared at the sole cost of the appellant. Such reports shall include sufficient survey work to determine the actual amount of land grading work done without a permit.
- D. The hearing need not and should not be conducted according to the technical rules of procedure and the California Evidence Code relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient by itself to support a finding unless it would also be admissible over objection in civil actions. Irrelevant and unduly repetitious evidence shall be excluded.
- E. The proponent of any testimony to be offered by a witness who does not proficiently speak the English language shall provide an interpreter. The interpreter shall be approved by the hearing examiner conducting the proceeding as proficient in the English language and the language in which the witness will testify. The cost of the interpreter is to be paid by the party providing the interpreter.
- F. The proponent for the Director may introduce into evidence and rely upon an administrative record which clearly demonstrates:
  - a) The condition(s), act(s) or omission(s) upon which the proposed action is based; b) the regulatory authority for the proposed action; c) technical or factual data supporting the proposed action; and, d) any other information or data relevant to the proposed action. An administrative record certified by the Director which meets the above criteria shall constitute prima facie evidence in support of the proposed action. The burden of going forward may then shift to the opposing party, who may then cross-examine on the basis of the administrative record and call witnesses appropriate to aid in its examination of the administrative record. The opposing party may call additional witnesses and introduce additional evidence appropriate for opposition, defense, excusal or mitigation of the proposed action.
- G. The hearing may, at the discretion of the hearing examiner, be continued from time to time upon request of a party to the hearing and upon a showing of good cause therefor.

1.40.060 Immediate Action Excusing Prior Notice for Purposes of Abating Dangerous Conditions or Imminent Threat to Life or Safety.

The provisions for prior notice and hearing may be dispensed with when, in the opinion of the Director with the concurrence of the City Manager, immediate action is necessary to summarily abate a dangerous condition on public or private property or an imminent threat to life or

safety on public or private property. The Director shall take only such action as is reasonably necessary to summarily abate the danger, and shall thereafter expeditiously comply with Sections 1.40.020 through 1.40.050 regarding notice and hearing, if requested, to the responsible party(ies) regarding the action taken by the Director to summarily abate the condition. The purpose of the hearing will be to afford the responsible party(ies) the opportunity to contest their responsibility for the costs or scope of abatement. If further corrective action is necessary, the Director will comply with this Chapter 1.40, and such other sections of the Code as may be applicable regarding further corrective action.

1.40.070 Consolidation of Proceedings.

A Director or the Hearing Examiner may consolidate one or more administrative processes and orders proposed under this chapter and Chapters 1.30 or 1.41, or both, into a single hearing, if consolidation would be more efficient and cost-effective.

Chapter 1.41

ADMINISTRATIVE COMPLIANCE AND ENFORCEMENT PROCEDURES.

Sections

1.41.010	Purpose and Intent.
1.41.020	Overview of Process.
1.41.030	Notice of Violation.
1.41.040	Recordation of Notice of Violation.
1.41.050	Non-Issuance of Permits.
1.41.060	Reinspection Fees.
1.41.070	Cease and Desist Orders.
1.41.080	Reserved.
1.41.090	Reserved.
1.41.100	Administrative Citations.
1.41.110	Civil Penalties.
1.41.120	Abatement Action.
1.41.130	Reserved.
1.41.140	Cost Recovery.
1.41.150	Confirmation of Costs.
1.41.160	Enforcement.
1.41.170	Satisfaction of Lien or Obligation.
1.41.180	Revolving Abatement Fund.

Sec. 1.41.010 Purpose and Intent.

- A. It is the purpose and intent of the City Council to establish administrative procedures for obtaining prompt compliance in the correction of both major and minor violations of the Chula Vista Municipal Code and state law. Conditions in violation of the Municipal Code or state law which affect conditions upon or uses of real property within the City of Chula Vista are hereby designated nuisances. The procedures authorized or identified by this Chapter 1.41 are the following: notices of violation; administrative citations; administrative fines and penalties; cease and desist orders; abatement of nuisances; recordation of notices of violation; authorization to charge reinspection fees; cost recovery for costs of enforcement; confirmation of costs; and recordation of liens and assessments for cost recovery.

- B. The procedures established in and through Chapter 1.41 may cross reference, consolidate or incorporate by reference, as applicable, enforcement methods established elsewhere in this code, in order to create a uniform process for prompt code compliance, administrative due process and effective enforcement.
- C. The City Manager, any cognizant Director and the City Attorney are each authorized to utilize and initiate the procedures established in this chapter and Chapters 1.30 and 1.40.
- D. The procedures in Title 1 may be used as a supplement to criminal or judicial enforcement action, or both, or in lieu thereof. Selection of one method shall not preclude the use of any other method or combination of methods when appropriate.
- E. The terms "Abatement", "City Manager", "Code Enforcement Officer", "Director", "Nuisance", and "Responsible Party" are as defined in Section 1.04.010.

Sec. 1.41.020 Overview of Process.

- A. Violations of the Municipal Code affecting uses of or conditions upon real property may be corrected through the issuance of a notice of violation pursuant to Section 1.41.030 to the Responsible Party requiring certain actions to be taken to bring the property or structure into compliance. The responsible party will be allowed a reasonable period of time in which to correct the violation, normally not less than ten calendar days. Failure to comply within the time prescribed can then result in the issuance of an administrative citation in accordance with Section 1.41.100 or any other method or combination of methods deemed appropriate.
- B. An administrative citation is a notice to the responsible party which mandates the corrective action and establishes a fine as a penalty for the prior non-compliance of the notice of violation. Subsequent administrative citations may be issued with increased penalty. Corrective action that may be required of a responsible party includes, but is not limited to, the removal of encroachments into public property, the mitigation or restoration of land or adjoining property for illegal grading or development, the removal or modification of blockages of drainage ways and the removal of structures to rectify any code violation or cure any hazardous condition. It includes any other process necessary for abatement. In addition, through the notice and hearing procedures of Chapters 1.30 and 1.40, the responsible party can be made subject to an order of abatement through which the corrective work will be undertaken by the City and the cost will be imposed as a lien against the property if the responsible party fails to respond.
- C. Each day a violation exists on real property is a continuing and additional violation, and all remedies, penalties and assessments are cumulative.
- D. In addition to a notice of violation, a cease and desist order can be issued pursuant to Section 1.41.070 to one or more responsible parties or other persons who perform work in violation of a permit or without a required permit. Violation of the cease and desist order is a separate misdemeanor. A responsible party or any person on scene actively conducting the violation under the direction of a responsible party is subject to arrest without a warrant for continuing work in violation of the cease and desist order, as well as for the actions constituting the violation of this code. A responsible party can be required to obtain necessary permits, restore or revegetate the property, or both, and correct or mitigate the consequences of the violation. Administrative citations can also be issued assessing administrative fines for both the creation of and the continuance of the violation.

- E. If the responsible party fails or refuses to correct the violation, proceedings may be undertaken to abate any existing or resulting nuisance pursuant to Chapter 1.30. Abatement orders authorize a Director to enter upon property and correct the violation or condition or the removal of encroachment upon public property. Enforcement costs may be imposed against the responsible party and non-complying property.
- F. During the pendency of the violation and the enforcement process, a notice of violation may be recorded against the property pursuant to Section 1.41.040 describing the particulars of the violation, to insure that the property is properly abated prior to or upon transfer. The recorded notice of violation will be released upon issuance of a notice of compliance which shall be recorded by the Director in due course within 15 days after request for such release by the property owner.
- G. During the inspection and enforcement process, cost recovery can be imposed for the cost of reinspection (Section 1.41.060) and the costs of City services to abate (Chapter 1.30. and 1.41.140). These costs may be recorded as a lien against the property following the procedures under Chapter 1.41 or the waiver thereof by the responsible party.
- H. Various steps or procedures under Chapter 1.41 may require notice and a hearing pursuant to Chapter 1.40. When appropriate, notice and hearing requirements for separate administrative actions may be consolidated.

Sec. 1.41.030 Notice of Violation.

- A. A Code Enforcement Officer is authorized to serve a notice of violation upon a responsible party for any violation of the Municipal Code. The notice of violation will describe the violation, the dates and location of the violation, the applicable code section(s), the corrective action required and a date for compliance reinspection. The responsible party will be advised that a reinspection fee (Section 1.41.060) will be imposed for a second and all subsequent reinspection if compliance is not voluntarily obtained, and that an administrative citation may also be issued along with civil penalties pursuant to Sections 1.41.100 and 1.41.110 until the property is brought into compliance. The responsible party will be allowed a minimum of ten calendar days to correct minor violations and no less than thirty calendar days for major violations. A Code Enforcement Officer may extend the time for a reasonable period beyond those limits if circumstances dictate. The notice of violation will inform the responsible party of the potential costs and consequences that may ensue under this Chapter 1.41 if voluntarily compliance is not obtained within the time prescribed. If the violation is corrected in accordance with the terms of the notice of violation, no costs or charges will be imposed.
- B. Service of a notice of violation is effective upon delivery or mailing pursuant to Section 1.40.030. Failure or refusal to sign does not invalidate the notice of violation and subsequent proceedings.
- C. The property will be reinspected once for compliance. If the responsible party refuses to allow inspection, after a reasonable demand, the Code Enforcement Officer may obtain an inspection warrant pursuant to Code of Civil Procedure Section 1822.50. Failure of the responsible party to allow inspection or remedy the violation shall result in the issuance of an administrative citation, the charging of reinspection fees and may result in a separate criminal violation for the failure to allow inspection. (CCP Section 1822.57)

- D. If the violation also constitutes the performance of work without a required permit or in violation of an issued permit, the Code Enforcement Officer may issue a cease and desist order pursuant to Section 1.41.070 to temporarily and immediately enjoin the work and to take any other action appropriate at that time. If the violation creates a hazardous condition which affects public safety or an imminent threat to life, safety, summary abatement may be initiated pursuant to Section 1.30.030.

Sec. 1.41.040 Recordation of Notice of Violation.

- A. Whenever a violation on real property remains uncorrected after a notice of violation has been issued, a copy of the notice of violation may be recorded by the Director in the real property records of San Diego County if the following prerequisites are met:
  - 1. A violation has remained uncorrected on the property for at least 30 calendar days following service of the notice of violation;
  - 2. The owner, if not the responsible party, has been notified of the prospective recordation and been offered the opportunity to correct the violation;
  - 3. The property owner and all of the responsible parties shall be notified that development permits shall be withheld during the time the property remains in violation pursuant to Section 1.41.040, except for those permits that are necessary to bring the property into compliance.
  - 4. The responsible party and the property owner have been noticed and offered a hearing pursuant to Chapter 1.40 to contest the proposed corrective action and the proposed recordation.
- B. The Director is authorized to record the notice of violation pursuant to this section upon issuance of the final order.
- C. Cancellation of Recordation. The Director shall issue to the property owner and other responsible parties a signed notice of compliance which states on its face that it cancels the notice of violation once all violations have been corrected and any administrative penalties, costs and fines involved in the enforcement process have been paid. The notice of compliance shall be recorded by the Director if the notice of violation was recorded.

Sec. 1.41.050 Non-Issuance of Permits.

After a notice of violation has been recorded against the property pursuant to Section 1.41.050, the City Manager shall withhold the issuance of any permits for development as allowed by law upon that property save for those permits necessary to correct the violation(s). A party whose permits are to be withheld shall be noticed as part of the recordation process pursuant to Section 1.41.040 and offered a hearing pursuant to Chapter 1.40 in which to contest this decision.

Sec. 1.41.060 Reinspection Fees.

- A. Reinspection fees are authorized to recover City costs when excessive time and effort becomes necessary to obtain code compliance. Reinspection fees are an appropriate method to recover costs that are disproportionately attributable to recalcitrant responsible parties.

- B. After a notice of violation or an administrative citation is issued or an order is issued by or under the authority of a Director which requires corrective action by a responsible party, that party will be notified that it will be liable for any reinspection fees necessary if the condition remains uncorrected. The first inspection following the issuance of the notice of violation, citation or order is considered part of the normal cost of enforcement and will not be charged if the condition is then promptly corrected. Otherwise, it will be included as part of the costs of enforcement.
- C. Reinspection fees may be collected and enforced as part of the enforcement process or in combination with other administrative proceedings under this Chapter 1.41, provided the responsible party was notified in advance of its liability for reinspection fees under Section 1.41.060(B). Appeals, service of notice and hearing procedures are established in Chapter 1.40.
- D. Reinspection fees will be charged on the basis of actual staff time utilized for the inspection(s), based upon the Master Fee Schedule on file in the office of the City Clerk.

Sec. 1.41.070 Cease and Desist Orders.

- A. A Director or Code Enforcement Officer is authorized to issue personally or to serve in accordance with Section 1.40.030 a written cease and desist order upon any person violating a provision of the Municipal Code through which work is being performed without a permit, if required, or in violation of an issued permit. Cease and desist orders are particularly appropriate for violations of land grading, watercourse and water and sewer regulations and related work which alters the condition of real property or through which environmental degradation or pollution will continue to occur if not stopped immediately.
- B. It is unlawful for any person to whom a cease and desist order has been personally issued or served to continue to perform work in violation of the terms of that order.
- C. It is unlawful for any responsible party to whom a cease and desist order has been served to continue to perform work or to allow or permit another to continue to perform work in violation of the terms of that order.
- D. Prosecution under Sections 1.41.070B or 1.41.070C does not bar prosecution or administrative enforcement, or both, of the previous underlying violations for any or all days the violation had been in existence, or for the continuance of the underlying violation.
- E. Any Director or Code Enforcement Officer in whose presence a violation of Section 1.41.070B or 1.41.070C occurs may arrest the violator without a warrant, and a police officer may accept custody of that arrestee for criminal enforcement processing.
- F. The Director may initiate other administrative enforcement and compliance methods in accordance with this Chapter 1.41 and Chapters 1.30 and 1.40, as appropriate.

Sec. 1.41.080 Reserved.

Sec. 1.41.090 Reserved.

Sec. 1.41.100 Administrative Citations.

- A. The Council finds that there is a need for an alternative method of enforcement for minor violations of the Municipal Code and applicable state codes. The Council further finds that an appropriate method of enforcement for minor violations is an administrative citation program. The procedure established in this section shall be in addition to criminal, civil or any other legal remedy established by law which may be pursued to address violations of the Municipal Code or applicable state code.
- B. An administrative citation can be issued to a responsible party for violation of a regulatory provision of this code or state law, and the responsible party be required to pay an administrative fine. Administrative citations and penalties are particularly appropriate in cases of structural, building and zoning violations that do not create an immediate danger to health or safety if the responsible party has failed to correct the violation after the issuance of a notice of violation pursuant to Section 1.41.030.
- C. An administrative citation may be issued in lieu of the initiation of a criminal action for the same violation. However, in particularly egregious cases, criminal enforcement may be appropriate for continuing violations if the administrative citation is ignored by the responsible party.
- D. The amount of administrative fine that may be imposed for each separate violation of the same code section is as follows:
  - 1. \$100 for a first violation; \$200 for a second violation within the twelve calendar months of the first violation; \$500 for each additional violation occurring after the second violation and within 12 months of any prior violation.
  - 2. Issuance of an administrative citation and payment of the administrative fine does not excuse compliance and corrective action regarding the violations. Although continuing violations of the Municipal Code are separate offenses, the responsible party shall be allowed a reasonable time of not more than thirty days in which to correct the violation before a second or subsequent administrative citation may be issued.
  - 3. A responsible party may request administrative review of an administrative citation pursuant to Chapter 1.40.
- E. The administrative citation shall contain the following information:
  - 1. Date of the violation.
  - 2. Address and location of violation.
  - 3. Description of violation.
  - 4. Applicable codes and statutory sections violated.
  - 5. Corrective action required.
  - 6. An order to bring the violation into compliance.
  - 7. Notice of the fines to be imposed.
  - 8. A date, not less than twenty days, by which payment of the fine must be made.

- 9. Location for payment.
- 10. Notification that payment does not excuse correction of the violation.
- 11. Notice of right to request review pursuant to Chapter 1.40 of the Municipal Code.

F. A party filing a timely request for review pursuant to Chapter 1.40 shall post a deposit with the Director. Enforcement of the administrative fine shall be stayed pending the decision of a hearing examiner if a hearing is requested. Procedures for review shall be in accordance with Chapter 1.40. The deposit will be returned if the appeal is granted. A final order is not subject to judicial review after twenty days have elapsed from the date of its issuance, unless the party complies with Government Code Section 53069.4. See Section 1.40.020(G). A final order may be enforced pursuant to Section 1.41.160.

Sec. 1.41.110 Civil Penalties.

- A. The Council finds that there is a need for alternative methods of enforcement of the Chula Vista Municipal Code and applicable state codes. The Council further finds that the assessment of civil penalties through an administrative hearing procedure for code violations is a necessary alternative method of code enforcement. The administrative assessment of civil penalties established in this section is in addition to any other administrative or judicial remedy established by law which may be pursued to address violations of the Municipal Code or applicable codes.
- B. Civil penalties may be assessed against a responsible party for continued violations of the Municipal Code or applicable state codes, whether of the same section or any combination, that reflect a continuing disregard for the requirements of such laws. The Director may issue a notice and order to the responsible party assessing a civil penalty pursuant to Section 1.41.110. The civil penalty may be enforced against the responsible party as a lien pursuant to Section 1.41.140.
- C. Except for violations of land grading ordinances contained in Chapter 15.04; civil penalties may be assessed at a daily rate not to exceed \$1,000 per violation per day, and not to exceed a total of \$100,000 per tax assessor's parcel number in the case of unimproved real property, or \$100,000 per each structure against which violations have existed on a single tax assessor's parcel number for any related series of violations.
- D. The civil penalty for violations of land grading permits or land grading work done without the issuance of a permit shall be based on an estimate by the Director of grading work performed. The rate of civil penalties shall be as follows:
  - 1. Less than 250 cubic yards, but not meeting the requirements for an exemption from grading permit under 15.04.150: \$1,000 per violation
  - 2. 251 to 500 cubic yards: \$5,000 per violation
  - 3. 501 to 1,000 cubic yards: \$10,000 per violation
  - 4. Over 1,001 cubic yards: \$25,000 per violation
  - 5. In the event any individual, firm, company, developer or property owner causes a second violation of the land grading permit ordinance, either on the same property or different property, and whether or not part of the same development, the rate of civil penalties shall be doubled. For third and subsequent violations the rate of civil penalties shall be multiplied by a factor of four.



- E. Civil penalties under this Section 1.41.110 may be accrued retroactive to the date the violations were first discovered as evidenced by the issuance of a notice of violation pursuant to Section 1.41.030, or any later date determined by the Director. In determining the amount to be imposed on a daily rate, the Director shall consider the following factors:
1. Duration of the violation;
  2. Frequency or occurrence of the violation;
  3. Frequency or occurrence of other violations during the period of accrual;
  4. Seriousness of the violation in relation to its threat or impact upon public health, welfare or safety;
  5. History of the violations;
  6. Activity taken by the responsible party to obstruct or interfere with correction of the problem;
  7. Good faith or bad faith efforts by the responsible party to comply;
  8. The impact of the violation on the surrounding property and community;
  9. The financial ability of the responsible party to have corrected the violation in a timely fashion.
- F. The Director shall comply with Chapter 1.40 concerning notice of the proposed civil penalties and the right to a hearing to contest or confirm. Unless contested, the notice and order shall be final and be enforced pursuant to Section 1.41.160. If contested, the hearing examiner shall limit the hearing to the following issues:
1. Whether the responsible party maintained a use or condition on real property that violated the Municipal Code or state law on the dates specified; and
  2. Whether the civil penalty assessed is consistent with the criteria expressed in Section 1.41.110E. The hearing examiner may, however, exercise discretion pursuant to Section 1.40.020E and increase or decrease the penalties assessed to a level determined to be supported by the evidence meeting the criteria under Section 1.41.110E.
- G. The Director shall issue a final order based on the proceedings under Section 1.41.110E, and establish a date for payment, following which date an enforcement lien shall be imposed upon the property. The imposition of an enforcement lien may be made a part of the proceedings and notice and order under the preceding Section 1.41.100 or this Section 1.41.110.

Sec. 1.41.120 Abatement Action.

Procedures for the abatement of nuisances, when required for corrective action, are contained in Chapter 1.30.

Sec. 1.41.130 Reserved.

Sec. 1.41.140 Cost Recovery.

Pursuant to Government Code Section 38773, costs and penalties may be recovered and enforced against responsible parties under this Chapter 1.41 include, but are not limited to, the following:

- A. City's direct cost for abatement of nuisances, together with applicable overhead;
- B. Costs of salary and applicable overhead of those city employees and contract personnel involved in the investigation, enforcement and remediation or abatement of a nuisance;
- C. City costs for equipment use or rental;
- D. Attorney's fees;
- E. Court costs and witness fees;
- F. Costs of geotechnical, engineering and other technical services and studies;
- G. Administrative fines and civil penalties imposed pursuant to this Chapter 1.41;
- H. Reinspection fees pursuant to Section 1.41.060;
- I. Costs of monitoring programs necessary for correcting, monitoring, abating or mitigating nuisances and violations;
- J. Any other fee, cost, or expense reasonably and rationally related to the City's enforcement efforts to abate a nuisance or correct a violation of this code or applicable state law;
- K. Treble damages recoverable pursuant to Government Code Section 38773.7. (See Section 1.41.160(C)).

Sec. 1.41.150 Confirmation of Costs.

Following the conclusion of the City's remediation, abatement or corrective actions, the Director shall notify the property owner and appropriate responsible parties of a proposed assessment of costs against each individually and as a lien or assessment against the real property that was the subject of abatement or corrective action. Notice and an opportunity to be heard and contest the basis for the assessment of costs or lien shall be provided to those parties in accordance with Chapter 1.40. Following any hearing or waiver thereof, the City Manager may then issue a final order of confirmation of costs against the respective responsible parties.

Sec. 1.41.160 Enforcement.

- A. In accordance with Government Code Section 38773, the City Manager or a Director, or both as appropriate, may enforce the confirmation of costs as follows:
  - 1. As a personal obligation against a responsible party; and,

- 2. Either: As a recorded lien with the priority of a judgement lien in the real property records of the County against any real property which was the subject of abatement or corrective action; or,

As an assessment against the property which was subject to abatement or corrective action, to be collected in the same manner as municipal taxes.

- B. The City Manager, City Attorney or Director is authorized to obtain judicial enforcement for the foreclosure of the lien, where appropriate. In addition, pursuant to Government Code Section 38773.7, the City Manager may seek treble damages for the abatement costs where the corrective action arose out of or constituted a second or subsequent civil or criminal judgment within a two year period, as provided for in that section. Enactment of this Section 1.41.160B constitutes the enactment of an ordinance authorizing the recovery of treble damages in accordance with Government Code Section 38773.7.

Sec. 1.41.170 Satisfaction of Lien or Obligation.

Upon payment in full by one or more responsible parties for all costs of enforcement and the satisfactory completion of all corrective action required, the City Manager or Director shall promptly issue to all responsible parties a notice of compliance. The notice of compliance will be signed and identify the affected real property by address, legal description and tax assessor's parcel number, and be recorded in the real property records of the County by the Director if a lien was recorded.

Sec. 1.41.180 Abatement Fund.

The City Manager shall budget for estimated expenses for abatement and code enforcement purposes in the annual budget process. Revenue received shall be deposited in a designated account in the general fund. All penalties and fines collected under Section 1.41.140 shall be deposited to the General Fund.

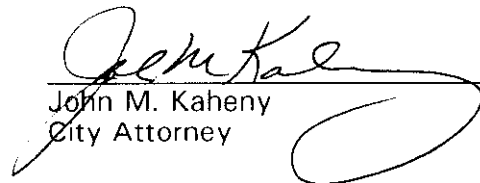
SECTION IV: This Ordinance shall take effect and be in full force and effect on the thirtieth day from and after its adoption.

Presented by

Approved as to form by



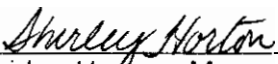
Kenneth Larsen  
Building and Housing Director




John M. Kaheny  
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 10th day of February, 1998, by the following vote:

AYES:	Councilmembers:	Moot, Padilla, Rindone, Salas, and Horton
NAYS:	Councilmembers:	None
ABSENT:	Councilmembers:	None
ABSTAIN:	Councilmembers:	None

  
\_\_\_\_\_  
Shirley Horton, Mayor

ATTEST:

  
\_\_\_\_\_  
Beverly A. Authelet, City Clerk

STATE OF CALIFORNIA     )  
COUNTY OF SAN DIEGO   ) ss.  
CITY OF CHULA VISTA     )

I, Beverly A. Authelet, City Clerk of the City of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 2718 had its first reading at a regular meeting held on the 20th day of January, 1998 and its second reading and adoption at a regular meeting of said City Council held on the 10th day of February, 1998.

Executed this 10th day of February, 1998.

  
\_\_\_\_\_  
Beverly A. Authelet, City Clerk