

**CITY OF OROVILLE
ORDINANCE # 1719**

**CHAPTER 14
ARTICLE II. NUISANCE CODE.
DIVISION 1. IN GENERAL.**

14-22.101 Title.

This title shall be known as the “Nuisance Code,” may be cited as such, and will be referred to herein as “this code.”

14-22.102 Purpose.

(a) It is the intent of the city council of the City of Oroville in adopting this code to provide a comprehensive method for the identification and abatement of certain public nuisances within the City of Oroville.

(b) Provisions of this code are to be supplementary and complementary to all of the provisions of the city code, state law, and any law cognizable at common law or in equity, and nothing herein shall be read, interpreted or construed in any manner so as to limit any existing right or power of the City of Oroville to abate any and all nuisances.

14-22.103 Application.

The provisions of this code shall apply generally to all property throughout the City of Oroville wherein any of the conditions, hereinafter specified, are found to exist; provided, however, that any condition which would constitute a violation of this code, but which is duly authorized under any city, state or federal law, shall not be deemed to be a violation of this code.

Division 2. Enforcement.

14-22.201 Authority; “Department Head” Construed.

The director of community development and public works, hereinafter referred to as “department head,” is hereby authorized and directed to use the provisions of this code for the purpose of abating those nuisances which exist as the result of violation of those ordinances for which his or her department has primary enforcement responsibility. The term “department head” shall include the authorized representatives of such department head, as well as the police chief, fire chief, and city administrator, and their authorized representatives as concerns matters for which their departments have primary enforcement responsibilities.

14-22.202 Right of Entry.

To the extent authorized by law, the department head may enter property at reasonable times to make inspections.

14-22.203 Responsibility for Proper Property Maintenance.

(a) Every owner of real property within the city is required to maintain such property in a manner so as not to violate the provisions of this code and such owner remains liable for violations thereof regardless of any contract or agreement with any third party regarding such property.

(b) Every occupant, lessee or holder of any interest in property, other than as owner thereof, is required to maintain such property in the same manner as is required of the owner thereof, and the duty imposed by this section on the owner thereof shall in no instance relieve those persons herein referred to from the similar duty.

14-22.204 Administrative Hearing Officer.

Cases brought by the department head under the provisions of this Nuisance Code, shall be heard by the administrative hearing officer appointed by the city council.

14-22.205 Violations.

Any person, firm or corporation, whether owner, lessee, sublessor, sublessee or occupant of any premises who violates the provisions of this code shall be guilty of a separate infraction for each day such violation continues.

Any person who removes or defaces any notice or order posted as required by this article shall be guilty of an infraction.

A violation of this code shall be punishable by:

1. A fine not exceeding one hundred dollars (\$100.00) for the first violation;
2. A fine not exceeding two hundred dollars (\$200.00) for a second violation of the same section of this code within one year;
3. A fine not exceeding five hundred dollars (\$500.00) for the third violation of the same section of this code within one year.

Any person, who violates the same section of this code more than three (3) times in one year, shall be guilty of an infraction with a fine not exceeding one thousand dollars (\$1,000).

Division 3. Definitions.

14-22.301 Definitions.

For purposes of this code, the following words shall have the following specified meanings:

- A. "Junk" means any cast-off, damaged, discarded, junked, obsolete, salvage, scrapped, unusable, worn-out or wrecked object, thing or material composed in whole or in part of asphalt, brick, carbon, cement, plastic or other synthetic substance, fiber, glass, metal, paper, plaster, plaster of paris, rubber, terra cotta, wool, cotton, cloth, canvas, organic matter or other substance, having no substantial market value or requiring reconditioning in order to be used for its original purpose.

- B. "Junk yard" means any premises from or on which any junk is abandoned, bailed, bartered, bought, brought, bundled, deposited, disassembled, disposed of, exchanged, handled, kept, packed, processed, scattered, shipped, sold, stored or transported, regardless of whether or not such activity is done for profit.
- C. "Owner" means the owner of record of real property, or the occupant, lessee, or interested holder, as the case may be.
- D. "Premises" means any real property or improvements thereon, as the case may be.
- E. "Property" means premises.
- F. "Inoperative vehicle" means any motor vehicle which cannot be moved under its own power, or cannot be operated lawfully on a public street or highway within this state, due to removal of, damage to, or deterioration of, or inoperative condition of any component part or the lack of an engine, transmission, wheels, tires, doors, windshield or any other component part necessary for such movement or lawful operation or which cannot be operated on a public street or highway because it is not currently registered with or fees paid to the California Department of Motor Vehicles.
- G. "Cost of abatement" means the total cost incurred by the city in connection with enforcement of this code including, but not limited to:
 - (1) Any cost incurred in removing or remedying a public nuisance;
 - (2) A service fee for administrative services rendered by the city in connection with the inspection, notification, prosecution and abatement procedures authorized by this code.
 - (A) The service fee shall be in such amounts as are determined by resolution of the city council.
 - (B) The service fee shall be calculated based on all services rendered by the city from the time of the initial inspection of the premises made for the purpose of documenting a violation of this code until the violation is corrected.
 - (C) The service fee is not intended to be a penalty imposed for violation of this code of other laws;
 - (3) Any cost incurred by the city in collecting the cost enumerated in section 14-22.301.
- H. Landscaping" shall mean lawns, trees, plants or other decorative features such as ponds, fountains, walls, park strips, planter area's and rocks.
- I. "Unreasonable state of partial construction" means any unfinished building or structure, where construction has ceased for more than forty-five (45) days.

Division 4. Nuisances Specified.

14-22.401 Generally.

It is unlawful, and hereby declared a public nuisance for any person owning, leasing, renting, occupying or having charge or possession of any premises in the city to maintain or to allow such premises to be maintained in such manner that any of the following conditions are found to exist thereon;

- A. Broken or discarded furniture, appliances, household equipment and furnishings or shopping carts stored on the premises so as to be visible from any public or adjacent parcel of property;
- B. Overgrown vegetation visible from any public or adjacent parcel of property that is likely to harbor rats, vermin or other nuisances or which obstructs the view of drivers on public streets or private driveways, or which impedes, obstructs or denies pedestrian or other lawful travel on sidewalks, walkways, or other public rights of way;
- C. Dead, decayed, diseased or hazardous trees, weeds that have grown more than twelve (12) inches in height or other vegetation constituting unsightly appearance, dangerous to public safety and welfare and visible from any public or adjacent parcel of property;
- D. Junk, packing boxes, cardboard boxes, lumber, trash, barrels, drums, salvage materials, or other debris kept on the property visible from any public or adjacent parcel of property;
- E. Attractive nuisances dangerous to children and other persons, including abandoned, broken or neglected equipment, inoperable vehicles, machinery, appliances, refrigerators and freezers, hazardous pools, ponds and excavations;
- F. Mosquito breeding environment caused by keeping, collecting or storing large bodies of water, standing water or areas of collected standing water such as; a swimming pool, fountain(s), miniature pond(s), ponds, planter(s), holes, ditch and or any other such containment of water;
- G. Personal property, such as vehicles, boats, trailers, inoperable vehicles or vehicle parts which are abandoned or left in a state of partial repair for ten (10) calendar days in front yards, side yards, driveways, sidewalks or walkways and visible from any public or adjacent parcel of property;
- H. Vehicles parked or stored in residential zoning districts on property, other than on driveways, and visible from any public or adjacent parcel of property;
- I. Buildings which are abandoned, partially destroyed, left in an unreasonable state of partial construction or have been declared substandard or dangerous by the Building Official;
- J. Unpainted buildings or those having dry rot, warping or termite infestation. Any building on which the condition of the paint has become so deteriorated as to permit decay, excessive checking, cracking, peeling, or chalking as to render the building blighted and unsightly, and or, in a state of disrepair;

- K. Buildings with windows containing broken glass or no glass at all, where the window is of a type which normally contains glass, which constitutes a safety hazard and/or invites trespassers and malicious mischief. Plywood or other material used to cover such window space, if permitted under the city building regulations, shall be painted in a color or colors compatible with the remainder of the building;
- L. Building exteriors, walls, fences, driveways, sidewalks or walkways which are not maintained in good condition as to become materially detrimental to nearby properties and improvements;
- M. Trash containers of a multi-family residential, commercial or industrial building, which are not within a required enclosure unit for such building;
- N. The operation of a junk yard or automobile dismantling yard, except in an industrial zone pursuant to the requirements of Chapter 26 of the Oroville Municipal Code;
- O. Commercial and industrial equipment that is visible from any public or adjacent parcel of property;
- P. Construction equipment, automotive equipment, farm machinery, or machinery of any type or description parked or stored on the owner's property when it is visible from any public or adjacent parcel of property, except:
 - a. During excavation, construction or demolition operations covered by an active building permit which are continuously in progress on the subject property or an adjoining property,
 - b. During active farming operations, or
 - c. When such machinery in an agricultural or industrial zoning district is appropriately stored;
- Q. Property which lacks appropriate landscaping, turf or plant material so as to cause excessive dust;
- R. The keeping, storing, depositing or accumulation for ten (10) calendar days of dirt, sand, gravel, concrete, and other similar materials;
- S. The Owners of properties within the city who allow the following:
 - a. Behavior that results in criminal activity, which deteriorates the appearance and property value of the neighborhood.
 - b. Invites, encourages, or harbors criminal activity, or is unaware of criminal activity on his or her property, due to property neglect, resulting in

- repeated criminal prosecution or booking in the Oroville Police Department is a nuisance;
- c. The illegal sale of controlled substances and other illegal drugs and substances which creates a public nuisance as defined in Civil Code sections 3479 and 3480;
 - d. The frequent gathering, or coming and going, of people who have an intent to purchase or use controlled substances on the premises;
 - e. The occurrence of prostitution, or unlawful activities of a criminal street gang (as defined in Penal Code section 186.22);
 - f. The making or continuing, or causing to be made and continued, of any loud, unnecessary or unusual noise which disturbs the peace and quiet of the neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area;
 - g. The firing of gunshots or brandishing of weapons by a resident of the premises, or by a guest of a resident.
- T. Any condition in violation of Chapter 4 of the Oroville Municipal Code (pertaining to animals and fowl);
- U. Any condition in violation of Chapter 6 of the Oroville Municipal Code (pertaining to building regulations);
- V. Any condition in violation of Chapter 10 of the Oroville Municipal Code (pertaining to fire protection);
- W. Any condition in violating of Chapter 11 of the Oroville Municipal Code (pertaining to garbage, rubbish and weeds);
- X. Any condition in violating of Sections 22-1 through 22-8 of the Oroville Municipal Code (pertaining to Streets and Sidewalks);
- Y. Any condition in violation of Chapter 26 of the Oroville Municipal Code (pertaining to zoning).

Division 5. Abatement Generally.

14-22.501 Commencement of Proceedings.

Whenever the department head has inspected or caused to be inspected any premises and has found and determined that such premises are in violation of this code, the department head shall issue a courtesy letter to inform the owner of the violation that has occurred and a time of no more than fifteen (15) calendar days to voluntarily abate the

nuisance, or which is otherwise specified within this article. In the event that the owner does not comply with the courtesy letter the department head shall commence proceedings to cause abatement of the nuisance as provided herein.

14-22.502 Hearing Notice

(a) The department head shall issue a notice directed to the record owner of the premises. The notice shall contain:

- (1) The street address and such other description as is required to identify the premises;
- (2) A statement specifying the conditions which constitute the nuisance;
- (3) An order to the owner to appear before the administrative hearing officer at a stated time, but in no event less than twenty calendar days, after having mailed such notice, to show cause why the premises should not be declared a public nuisance and the same abated in accordance with this code;
- (4) A statement advising the owner that the owner has the option of voluntarily abating the nuisance prior to the date set for hearing. If the owner chooses voluntary abatement, such abatement must be completed prior to the hearing date. The owner must advise the department head in writing that the owner will abate the nuisance, and the date of completion. The department head will inspect the premises on the completion date, and if the nuisance has been abated, the hearing will be taken off calendar. The owner may request a continuance of the hearing pursuant to section 14-22.505.

(b) The hearing notice, and any amended or supplemental notice, shall be served either by personal delivery or by certified return receipt mailing upon the record owner at the owner's address as it appears on the latest equalized assessment roll of Butte County, or as known to the department head. A copy of the notice and any amended or supplemental notice shall also be posted on the premises.

- (1) In lieu of personally serving the owner or service by certified mail, service of the notice and any amended or supplemental notice may be made as follows:
 - (A) In the event that the owner refuses to accept certified return receipt mail or cannot be personally served, service may be made by substituted service. In lieu of personal delivery of a copy of the notice, a notice or any amended or supplemental notice may be served by leaving a copy during usual office hours in his/her office with the person who is apparently in charge, and by thereafter mailing by first-class mail a copy of the notice to the owner at the address where the copy of the notice was left. In the alternative, a notice or any amended or supplemental notice may be served by leaving a copy at the owner's dwelling, usual place of abode, or usual place of business in the presence of a competent member of the household or a person apparently in charge of his/her office or place of business, at least eighteen years of age, and thereafter mailing by first-class mail a copy of the notice to the owner at

the address where the copy was left.

(B) In the event the owner refuses to accept certified return receipt mail or cannot be personally served and has a property manager, or rental agency overseeing the premises, substituted service may be made upon the property manager or rental agency as set forth in subsection (b)(1)(A) above.

(C) If the owner lives out of state and will not accept certified return receipt mail, then service may be made by first-class mail.

(D) If the owner of the property cannot be located after a diligent search, service may be made by publication in a City of Oroville newspaper of general circulation which is most likely to give actual notice to the owner.

(c) Proof of service of the hearing notice shall be certified by written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The written declaration need not be served on the owner.

14-22.503 Hearings Generally.

At the time set for hearing, the administrative hearing officer shall proceed to hear the testimony of the department head, the owner, and other competent persons respecting the condition of the premises, and other relevant facts concerning the matter.

14-22.504 Record of Oral Evidence at Hearing.

(a) The proceedings at the hearing shall be reported by a tape recorder. Either party may provide a certified shorthand reporter to maintain a record of the proceedings at the party's own expense.

(b) Preparation of a record of the proceeding shall be governed by California Code of Civil Procedure section 1094.6, as presently written or hereinafter amended.

14-22.505 Continuances.

The Administrative Hearing Officer may, upon request of the owner of the premises or upon request of the department head, grant continuances from time to time for good cause shown, or upon the administrative hearing officers own motion.

14-22.506 Oaths; Certification.

All testimony before the administrative hearing officer shall be upon oath. The administrative hearing officer or appointed clerk shall administer the oath.

14-22.507 Evidence Rules.

California Government Code section 11513, subsections (a), (b) and (c), as presently written or hereinafter amended, shall apply to all hearings under this code.

14-22.508 Rights of Parties.

(a) Each party may represent himself or herself, or be represented by any one of his or

her choice.

(b) If a party does not proficiently speak or understand the English language, that party may provide an interpreter, at that party's own cost, to translate for the party. Any person selected as an interpreter shall not have had any involvement in the issues of the case prior to the hearing.

14-22.509 Official Notice.

Official notice may be taken at the request of any party, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or which may appear in any of the official records of the city or any of its departments.

14-22.510 Inspection of Premises.

(a) The administrative hearing officer may inspect the premises involved in the hearing prior to, during or after the hearing, provided that:

(1) Notice of such inspection shall be given to the parties before the inspection is made;

(2) The parties are given an opportunity to be present during any inspection; and

(3) Upon completion of the inspection, the administrative hearing officer shall state for the record during the hearing, or file a written statement after the hearing for inclusion in the hearing record, the material facts observed and the conclusions drawn therefrom.

(b) Each party shall have a right to rebut or explain the matters stated by the administrative hearing officer either for the record during the hearing or by filing a written statement after the hearing for inclusion in the hearing record.

14-22.511 Form and Contents of Decision; Finality.

(a) The decision of the administrative hearing officer shall be in writing and shall contain findings of fact and a determination of the issues presented.

(b) If it is shown by a preponderance of the evidence that the condition of the premises constitutes a public nuisance, the decision shall also require the owner to commence abatement of the nuisance not later than twenty days (20) after the issuance of the decision, plus five days if the decision is mailed to the owner, and that the abatement be completed within such time as specified by the administrative hearing officer, or in the alternative, within the time designated by the department head. The decision shall contain a statement that if the nuisance is not abated within the time specified, the nuisance may be abated by the city in such manner as may be ordered by the department head and the expense thereof made a lien on the property involved.

(c) The decision shall also inform the applicant that the time for judicial review is governed by California Code of Civil Procedure section 1094.6. A copy of the decision shall be forthwith delivered to each party personally or sent by first-class mail. The decision shall be final when signed by the administrative hearing officer and served as herein provided.

(d) Upon receipt of any decision that the condition of the premises constitutes a public nuisance, the department head shall post a copy thereof conspicuously on the premises involved and shall serve a copy on the record owner, in the same manner as set forth in section 14-22.502(b), and one copy shall be served on each of the following, if known to the

department head or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other estate or legal interest of record in the premises.

Division 6. Enforcement of Order of Administrative Hearing Officer

14-22.601 Generally.

After any order of the administrative hearing officer made pursuant to this code shall have become final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order.

14-22.602 Failure to Obey Order.

If, after any order of the administrative hearing officer made pursuant to this code has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the department head may institute any appropriate action to abate such conditions on the subject premises which constitute the public nuisance.

14-22.603 Failure to Complete Work.

(a) Whenever the required abatement is not completed within the time so specified in the order, the department head may, in addition to any other remedy herein provided, cause the nuisance to be abated, so as to put the premises in such a condition that no violation of this code exists thereon.

(b) The cost of such abatement shall be assessed against the property as a lien or made a personal obligation of the owner thereof as provided in this code.

(c) Payment of the penalty will not excuse a failure to correct the violation nor will it bar further enforcement action by the city.

14-22.604 Extension of Date for Completion.

(a) Upon receipt of an application from the person required to conform to the order by a date fixed in the order, and an agreement by such person that he or she will comply with the order if allowed additional time, the department head may, in the department head's discretion, grant an extension of time, not to exceed an additional one hundred twenty days, within which to complete such abatement, if the department head determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property.

(b) The authority of the department head to extend time is limited to the physical abatement of the nuisance or for such other purposes as may be reasonably required by the circumstances of the case, but such extension shall not in any way affect nor extend the time to appeal the order.

14-22.605 Interference With Work Prohibited.

It shall be unlawful for any person to obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city, or with any person who owns or holds any interest or estate in any premises on which a nuisance exists and which must be abated under the provisions of this code, whenever such officer, employee, contractor or authorized representative of the city, or person having an estate or interest in such premises is engaged in the work of abating any nuisance as required by the provisions of this code, or in performing any necessary act preliminary to or incidental to such work

authorized or directed pursuant to this code.

14-22.606 Lien Or Personal Obligation.

The cost of abatement, including all administrative costs of any action taken hereunder shall be assessed against the subject premises as a lien or made a personal obligation to the owner; except, that in the event a court shall decide the action taken under this division was improper, no lien shall be assessed.

14-22.607 Property Owners Liability for Cost of Abatement.

Every owner of property within the city is liable to the city for the cost of abatement of a public nuisance located on his or her premises conducted pursuant to this article.

14-22.608 Account of Expense; Filing of Report; Contents.

(a) The department head shall keep an itemized account of the expense incurred by the city in abating nuisances under the provisions of this code including all administrative costs. Upon the completion of the work of abatement, such department head shall prepare and file with the city clerk a report specifying the work done, the itemized and total cost of the work, a description of the real property at which the work was performed, and the names and addresses of the persons entitled to notice pursuant to section 14-22.502.

14-22.609 Report Transmitted to City Council.

Upon receipt of the report, the city clerk shall present it to the city council for consideration. The city council shall fix a time, date and place for hearing the report, and any protests or objections thereto. The department head shall cause notice of the hearing to be served by certified mail, postage prepaid, addressed to the persons entitled to notice as specified by the department head pursuant to section 14-22.608. Such notices shall be given at least ten days prior to the date set for hearing and shall specify the day, hour and place when the council will hear and pass upon the report of the department head containing the proposed charge for abatement, together with any protests or objections which may be filed as hereinafter provided by any person interested in or affected thereby.

14-22.610 Making of Protests and Objections.

Any person interested in or affected by the report of the proposed charge may file written protests or objections with the city clerk at any time prior to the time set for the hearing on the report or may make an oral protest at the meeting. Each written protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objections. The city clerk shall endorse on every such protest or objection the date it was received by the city clerk. The city clerk shall present such protests or objections to the city council at the time set for the hearing.

14-22.611 Hearing of Protests.

Upon the day and hour fixed for the hearing the city council shall hear and pass upon the report of the department head together with any such protests or objections. The city council may make such revision, correction or modification of the report or the charge as it may deem just; and in the event the city council is satisfied with the correctness of the charge, the department head's report (as submitted or as revised, corrected or modified)

together with the charge, shall be confirmed or rejected. The decision of the city council on the report and the charge and on all objections or protests shall be final and conclusive.

14-22.612 Nature of Protests to be Heard.

Protests heard by the city council pursuant to section 14-22.611 shall relate only to the charge to be made for abatement, and no protest concerning the action of the department head or the administrative hearing officer, in ordering the abatement of the nuisance shall be heard at this time.

14-22.613 Personal Obligation or Special Assessment.

(a) The city council may order that the charge be made a personal obligation of the property owner or assess the charge against the property involved as a lien.

(b) If the city council orders that a charge shall be a personal obligation of the property owner, it shall direct the city attorney and the finance department to collect the charge.

(c) If the city council orders that the charge be assessed against the property, it shall confirm the assessment and thereafter said assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes.

(d) The assessments shall be subordinate to all existing special assessment liens previously imposed upon the same property and paramount to all other liens except state, county, and municipal taxes with which it shall be upon parity. The lien shall continue until the assessment and all interest and penalties due and payable thereon will be paid. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such assessment.

14-22.614 Time for Contest of Assessment.

The validity of any assessment made under the provisions of this title shall not be contested in any action or proceeding unless the same is commenced within thirty days after the assessment is placed upon the assessment roll as provided herein.

14-22.615 Filing Copy of Report with County Auditor.

A certified copy of the assessment shall be filed with the county auditor on or before the first day of August. The descriptions of the parcels reported shall be those used for the same parcels on the map books of the county assessor for the current year.

Division 7. Procedure for Abatement of Certain Vehicles.

14-22.701 Purpose of Division.

(a) The provisions of this division are intended to provide a procedure for the abatement of abandoned, wrecked, dismantled or inoperative vehicles, and are enacted under the authority granted by Vehicle Code section 22660.

(b) It is the intent of the city council to provide that the abatement of public nuisances consisting of abandoned, wrecked, dismantled and inoperative vehicles may be carried on either concurrently with or separately from the abatement of other conditions, if any, constituting a public nuisance on any premises within the city, as deemed appropriate

under the circumstances.

14-22.702 Procedure.

The procedure specified in this division shall be used in the case of a nuisance which consists solely of abandoned, wrecked, dismantled or inoperative vehicle(s) or parts thereof, which is in accordance with Vehicle Code section 22661.

14-22.703 Notice.

When the department head determines pursuant to an inspection conducted according to the provisions of this code, that the conditions existing on the premises constituting a violation of the provisions of this code are the result of the existence on said premises of any abandoned, wrecked, dismantled or inoperative vehicle(s), the department head may do the following:

(a) Issue a notice of intention to abate and remove the vehicle(s) or parts thereof as a public nuisance, directed to the owner of the premises on which the vehicle(s) or parts thereof is located and the owner of the vehicle(s) or parts thereof.

(1) The street address and such other description as is required to identify the premises on which the vehicle(s) or parts thereof is located;

(2) The identity of the vehicle(s) or parts thereof to be abated;

(3) A statement that the department head has found the vehicle(s) or parts thereof to be a public nuisance as specified in this code with a special citation to the applicable section of this code, and to other sections of the city code if applicable, including sufficient detail to provide the owner with information as to the conditions constituting the alleged nuisance;

(4) A statement of the action required to be taken as determined by the department head, and that such action is to be completed within ten days after the mailing of the notice;

(5) A statement providing for a hearing by the administrative hearing officer, upon written request to the department head by the owner of the premises on which the vehicle(s) or parts thereof is located or by the owner of the vehicle(s) or parts thereof within ten days after the mailing of the notice;

(6) A statement that failure either to take the action required or to request a hearing within the applicable ten-day period shall be deemed a waiver of such rights, and that the department head may proceed to abate the nuisance.

(7) An estimated cost of all fines, fees, and penalties associated with the abatement of the vehicle.

(b) The notice of intention shall be sent certified mail, postage prepaid, to the owner of the premises as shown on the latest equalized assessment roll of the county of Butte using such address as may be shown by said assessment roll or such other address as may be known to the department head and also to the last registered and legal owner(s) of record of the vehicle(s), unless the vehicle(s) or parts thereof is in such condition that identification numbers are not available to determine ownership.

(c) The copy of the notice of intention sent to the owner of the premises shall also include the following statement:

“As to any vehicle(s) or parts thereof listed herein, you may file with the administrative hearing officer, a sworn written statement denying responsibility for the presence on your property of the vehicle(s) or parts thereof listed, together with your reasons for

such denial.

“This statement shall be construed as a request for a hearing by you which you need not attend. At the hearing, your statement will be considered by the administrative hearing officer, in determining whether the cost of removing said vehicle(s) or parts thereof will be assessed against your property as a lien in the event that removal of the vehicle(s) or parts thereof is undertaken by the City.

“You need not file a sworn statement if you intend to attend the hearing, but you may do so if you wish. Such sworn statement will be considered only as to vehicle(s) or parts thereof, and will not be considered as to the existence of any other condition on your property which may be found to constitute a nuisance in this or any other proceeding.”

(d) Upon issuance of the notice, the department head may provide additional notice by posting a copy thereof conspicuously on the vehicle(s) or parts to be abated.

14-22.704 Reserved.

14-22.705 Hearing Notice.

Whenever the owner of the premises on which the vehicle(s) or parts thereof is located or the owner of the vehicle(s) or parts thereof requests a hearing (hereinafter called “requesting party”), the department head shall issue a hearing notice to the requesting party allowing that party to appear before the administrative hearing officer to show cause why the vehicle(s) or parts thereof is not a public nuisance and should not be abated by the city. The hearing notice shall be served upon the requesting party either personally or by mailing a copy of such notice by certified mail, postage prepaid, return receipt requested, not less than five calendar days prior to the hearing date.

14-22.706 Hearing by Administrative Hearing Officer.

At the time fixed in the notice of intention required by the preceding section, the administrative hearing officer shall proceed to hear the testimony of the department head, requesting party, and other competent persons regarding the condition of the vehicle(s) or parts thereof and other relevant evidence concerning the matter.

14-22.707 Form and Contents of Decision; Finality.

(a) If it is shown by a preponderance of all the evidence that the condition of the vehicle(s) or parts thereof constitute a violation of this code, the decision of the administrative hearing officer shall be in writing and shall contain findings of fact and a determination of the issues presented. The administrative hearing officer shall issue an order that the vehicle(s) or parts thereof are a public nuisance and direct the owner to abate the nuisance, and that if the nuisance is not abated, it may be abated by the city in such manner as may be ordered by the department head and the expense thereof may be made a lien on the property involved, unless the administrative hearing officer has found that the owner of the premises is not responsible for the presence of the vehicle(s) or parts thereof on the premises. The order shall identify the abandoned, wrecked, dismantled or inoperative vehicle(s) or parts thereof to be abated. The order shall require that abatement of the nuisance be physically completed five days after issuance of the order or, in the alternative, within such greater time as the department head shall determine to be reasonable under all of the circumstances.

(b) The decision shall also inform the requesting party that the time for judicial review is

governed by California Code of Civil Procedure section 1094.6. Copies of the decision shall be forthwith delivered to the parties personally or sent them by certified mail. The decision shall be final when signed by the administrative hearing officer and served as herein provided.

14-22.708 Preventing Rotation of Abandoned, Wrecked, Dismantled and Inoperative Vehicles.

In the event the department head shall determine that the owner or person in possession of premises which have been declared a nuisance and ordered abated according to the provisions of this code, in whole or in part because of the existence thereon of any abandoned, wrecked, dismantled, or inoperative vehicle, has removed from said premises the vehicle or vehicles specifically identified and ordered abated by the department head in his notice issued pursuant to this code and has caused or permitted another vehicle or other vehicles subject to abatement under this code to replace those removed or ordered removed, the department head shall:

- (a) Notify the owner of the premises that said act is in violation of the notice of the department head, and order the owner to remove such vehicle(s) or parts thereof; and
- (b) Notify the city attorney of the violation. The city attorney shall have recourse to every remedy provided by law to prevent the owner of the premises from placing or causing to be placed upon the premises any abandoned, wrecked, dismantled vehicle, or parts thereof.

14-22.709 Inapplicability to Certain Vehicles.

The provisions of this chapter shall not apply to any vehicle(s) or parts thereof which:

- (a) Is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or
- (b) Is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer or a junkyard, provided such business is not unsightly or otherwise detrimental to the public health, safety or welfare.
- (c) This exception shall not, however, authorize the maintenance of a public or private nuisance as defined under this provision.

14-22.710 Abandonment of Vehicles Prohibited.

No person shall park a vehicle upon private property without the express or implied consent of the owner or person in lawful possession or control of the property. Violation of this section shall be an infraction and is governed by section 14-22.205 of the Code of the City of Oroville.

14-22.711 Costs of Abating Abandoned Vehicles.

(a) The costs of abating any inoperative, dismantled or abandoned vehicle, or parts thereof, including the actual tow costs, plus an administrative fee covering direct and indirect overhead, which fee shall be set by resolution of the city council, is the joint and several personal obligation of the property owner and the last registered owner; provided, however, that a property owner who establishes lack or responsibility for the presence of the vehicle or parts on the property as permitted by this code shall not be personally liable for the costs; and provided, further, that a last registered owner who can satisfy the

requirements of Vehicle Code section 22524(b) shall not be personally liable for the costs. The Director of Finance shall take the appropriate steps to collect the costs from those who are liable for same.

(b) In the event the administrative hearing officer finds, pursuant to sworn statement of the owner of any premises or otherwise, that a vehicle which is ordered abated was placed on the premises without the consent of the owner, who did not later acquiesce to its presence on such premises, then the administrative hearing officer shall certify the finding to the department head, who shall not allocate the cost of the removal of such vehicle to the owner of the premises in the report filed with the city clerk.

Division 8. Removal of Motor Vehicles and Transfer of Title.

14-22.801 Generally.

(a) In the event the department head must cause to be removed a vehicle ordered abated pursuant to division 6 of this article, the department head may cause the vehicle, or parts thereof, to be taken to a licensed scrapyard or automobile dismantler's yard.

(b) Thereafter the licensed dismantler or owner of the commercial enterprise who receives possession of the vehicle from the city shall be deemed to be the sole owner of the vehicle by reason of involuntary transfer made pursuant to law. After a vehicle has been removed it shall not thereafter be reconstructed or made operable, unless it is a vehicle which qualifies for either horseless carriage license plates or historical vehicle license plates, pursuant to Vehicle Code section 5004. Licensed dismantlers or commercial enterprises acquiring vehicles removed pursuant to this division shall be excused from the reporting requirements of Vehicle Code section 11520 and any fees and penalties which would otherwise be due the Department of Motor Vehicles are waived pursuant to Vehicle Code section 22660; provided, that a copy of the order made pursuant to section 14-22.606, is retained in the business records of the dismantler or commercial enterprise.

14-22.802 Notice to Department of Motor Vehicles.

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 part thereof removed. There shall also be transmitted to the Department of Motor Vehicles any evidence of registration available, including, but not limited to, the registration card, certificates of ownership, or license plates.

Division 9. Securing of Unimproved Real Property.

14-22.900 Securing of Unimproved Real Property.

Whenever the department head has found that any unimproved real property within the city has reoccurring dumping problems as defined in section 14-22.401(d), the department head may order the property owner(s) to secure the property to prevent further dumping on the property by requiring the owner to:

- (a) Erect a fence with gate(s) to city specifications;
- (b) Erect a lockable gate at specified access points; or
- (c) Install barricading to city specifications to reduce or eliminate accessibility to the property.

14-22.901 Notice to Owner.

(a) The owner(s) of any unimproved property which has been found by the department head to require securing shall be notified in writing by either certified mail, postage prepaid, return receipt, or personal service. If the owner, after diligent effort, cannot be served by certified mail or personal service, then the department head, upon approval of the city attorney, may make service by publication in an Oroville newspaper of general circulation.

(b) Upon receipt of the notice to secure, or upon ten days following publication of the notice, the owner(s) shall have thirty days within which to secure the property.

14-22.902 Failure to Obey Order to Secure.

Upon expiration of the time period as set forth in section 14-22.901, and upon failure of the owner(s) to secure, the department head may issue a hearing notice pursuant to the procedures set forth in section 14-22.502. Abatement and securement procedures of divisions 5 and 7 of this code shall apply.

14-22.903 Summary Abatement of Graffiti.

(a) The city council finds that the defacement of property of another by graffiti or any other inscribed material is a public nuisance. The city council further finds that the proliferation of graffiti, especially gang-related graffiti, presents an imminent danger to the public safety and welfare. Law enforcement officials and other experts agree that immediate removal of gang-related graffiti is necessary to reduce the risk of violent and other criminal activities associated with gangs and gang territories. The presence of graffiti which is not abated immediately encourages the creation of additional graffiti, resulting in neighborhood blight and increased costs of abatement.

(b) The department head is hereby authorized to summarily abate graffiti in accordance with the provisions of section 38771, et seq., of the California Government Code. The abatement may be undertaken by city staff or by outside contractors.

14-22.904 Expense of Abatement of Graffiti a Lien.

(a) The expense of abatement of graffiti shall become a lien against any property owned by any minor creating, causing, or committing the nuisance and shall be a personal obligation of such minor. The parent or guardian having custody and control of such minor shall be jointly and severally liable with the minor and the expense of abatement of such graffiti shall be a personal obligation and become a lien on the property of such parent or guardian, pursuant to section 38772 of the California Government Code.

(b) The provisions of section 14-22.606 pertaining to costs of abatement may be assessed against the subject property as a lien or made a personal obligation of the owner as provided in section 38773.5 of the California Government Code.

PASSED AND ADOPTED
AT A REGULAR MEETING ON AUGUST 2, 2005