

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF CATHEDRAL CITY AMENDING VARIOUS PROVISIONS
OF THE CATHEDRAL CITY MUNICIPAL CODE RELATING
TO CODE COMPLIANCE**

WHEREAS, Cathedral City Municipal Code ("Municipal Code") Title 13 was initially enacted in 1999 to provide a just, equitable and practicable method for preventing, discouraging and/or abating certain conditions which endanger the life, limb, health, property, safety or welfare of the general public and to provide city staff with precise enforcement regulations that can be effectively applied and administered in a fair, expedient, and cost efficient manner; and

WHEREAS, the Cathedral City Code Enforcement Division has since changed its name to the Code Compliance Division; and

WHEREAS, the City Council wishes to update the Municipal Code to provide for this new name and to update all references to the Code Compliance Division throughout the entire Municipal Code; and

WHEREAS, the City Council also wishes to update various other technical provisions of the Municipal Code in order to improve operations and to better implement the intent of Title 13.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CATHEDRAL CITY DOES ORDAIN AS FOLLOWS:

Section 1. RECITALS

The Recitals set forth above are true and correct and incorporated herein by reference.

**Section 2. AMENDMENT OF SECTION 3.48.030, "PAYMENT
OBLIGATION" TO THE MUNICIPAL CODE**

Municipal Code Section 3.48.030 shall be amended to read as follows:

3.48.030 Payment obligation.

All taxpayers subject to this chapter must pay the full tax imposed by this chapter regardless of any rebate, exemption, incentive, or other reduction set forth elsewhere in this code, except as required by California or federal law. Failure to pay the tax shall be subject to penalties, interest charges, and

assessments as the city council may establish and the city may use any or all other code ~~enforcement~~ **compliance** remedies provided in the Charter and this code. No provision in this code can lower the tax rate set forth in this section or otherwise reduce the amount of taxes paid hereunder unless the provision specifically states that the reduction applies.

Section 3. **AMENDMENT OF SECTION 5.35.040, "APPLICATION/
FEE" TO THE MUNICIPAL CODE**

Municipal Code Section 5.35.040 shall be amended to read as follows:

5.35.040 Application/Fee

Application for approval of a garage sale permit shall be made to the code ~~enforcement~~ **compliance** division of the city fire department on forms provided by the division. An application fee shall be paid to the city in an amount to be established by the city council.

Section 4. **AMENDMENT OF SECTION 5.56.040, "APPLICATION"
TO THE MUNICIPAL CODE**

Municipal Code Section 5.56.040 shall be amended to read as follows:

5.56.040 Application.

Any person desiring to obtain a permit to operate or engage in any fortune-telling business shall make application to the city code ~~enforcement~~ **compliance** officer. A nonrefundable fee shall be paid to the city to defray, in part, the cost of investigation and report required by this chapter.

B. The application for permit does not authorize operation or engagement in the fortune-telling business.

Section 5. **AMENDMENT OF SECTION 5.56.050, "APPLICATION
CONTENTS" TO THE MUNICIPAL CODE**

Municipal Code Section 5.56.050 shall be amended to read as follows:

5.56.050 Application Contents.

Each application for a fortune-telling permit shall contain the following information:

A. The full, true name and any other names used by the applicant.

B. The present residential address and telephone number of the applicant.

C. The address of the location at which the business is to be conducted.

D. The previous business and residential addresses and telephone numbers of the applicant, if any, for a period of five years immediately prior to the date of the application and the dates at each.

E. The applicant's height, weight, color of eyes and hair, date and place of birth, and sex.

F. Two photographs of the applicant at least 2" x 2" taken within the last six months and fingerprints of the applicant on a form provided by the police department.

G. Business, occupation or employment history of the applicant for the five years immediately preceding the date of application.

H. If the applicant, in this or any other city, state, or territory has ever had a license or permit of any kind revoked or suspended, or the applicant has ever been subject to disciplinary action by the issuer of such license or permit, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.

I. All convictions within the last five years of any crime involving dishonesty, fraud, deceit, or moral turpitude.

J. Such other identification and information as the code ~~enforcement~~ **compliance** officer may reasonably require in order to discover the truth of the matters required to be set forth in the application.

K. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation, together with the place and date of incorporation, and the names and addresses of each of its current officers and directors, and each stockholder holding more than five percent of the stock in the corporation. If the applicant is a partnership, the applicant shall set forth the name, residence address and dates of birth of the partners, including limited partners. If the applicant is a limited partnership, it shall furnish a copy of its certificate of limited partnership filed with the county clerk. If

one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply. The applicant corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer. Such designated persons shall complete and sign all application forms required of an individual applicant under this chapter, but only one application fee shall be charged.

L. Any individual who will perform fortune-telling for an applicant's business, as an employee, independent contractor, or volunteer, shall complete and sign all application forms in the same manner as an applicant, and a separate fee shall be charged for each individual.

**Section 6. AMENDMENT OF SECTION 5.56.060,
"INVESTIGATION" TO THE MUNICIPAL CODE**

Municipal Code Section 5.56.060 shall be amended to read as follows:

5.56.060 Investigation.

Upon the filing of the application, it shall be referred to the police department for investigation, report and recommendation. The investigation shall be conducted to verify the facts contained in the application and any supporting data. The investigation shall be completed and a report and recommendation made in writing to the code ~~enforcement~~ **compliance** officer within thirty (30) days after the filing of the application, unless the applicant requests or consents to an extension of the time period. If the report recommends denial of the permit to the applicant, the grounds for the recommended denial shall be set forth therein. At the time of the filing of the report and recommendation with the code ~~enforcement~~ **compliance** officer, a copy thereof shall be mailed to the applicant, accompanied by a notice that the applicant may request to be heard when the code ~~enforcement~~ **compliance** officer considers the application and report. Said notice shall state the date, time and place where applicant may appear before the code ~~enforcement~~ **compliance** officer.

**Section 7. AMENDMENT OF SECTION 5.56.070, "HEARING AND
DECISION BY CODE ~~ENFORCEMENT~~ COMPLIANCE
OFFICER" TO THE MUNICIPAL CODE**

Municipal Code Section 5.56.070 shall be amended to read as follows:

5.56.070 Hearing and Decision by Code ~~Enforcement~~
Compliance Officer.

The code ~~enforcement~~ **compliance** officer shall consider the application and the report and recommendation at a hearing held on or before the seventh day after the filing of the report and recommendation. Notice of the time and place of the hearing shall be given to all parties by the code ~~enforcement~~ **compliance** officer at least three days prior to the hearing. The applicant for the permit may attend the hearing. Any interested party shall be heard upon a reasonable request. The decision of the code ~~enforcement~~ **compliance** officer to grant or deny the permit to the applicant shall contain findings of fact and a determination of the issues presented. Unless the applicant agrees in writing to an extension of time, the code ~~enforcement~~ **compliance** officer shall make his order denying or granting or conditionally granting the permit within twenty-four hours after completion of the hearing on the application for a permit and shall notify the applicant of his action by personal service or certified mail.

Section 8. **AMENDMENT OF SECTION 5.56.080, "GRANTING OF PERMIT" TO THE MUNICIPAL CODE**

Municipal Code Section 5.56.080 shall be amended to read as follows:

5.56.080 Granting of Permit.

The code ~~enforcement~~ **compliance** officer shall grant the permit if all the requirements for the permit have been met and it has been found that:

A. All the information contained in the application and supporting data is true;

B. The applicant has not, within the previous two (2) years, been convicted of any violation of this chapter or any law relating to fraud or moral turpitude; and

C. The applicant agrees to abide by and comply with all conditions of the permit and applicable laws.

Section 9. **AMENDMENT OF SECTION 5.56.090, "APPEAL" TO THE MUNICIPAL CODE**

Municipal Code Section 5.56.090 shall be amended to read as follows:

5.56.090 Appeal.

Any applicant who is dissatisfied with the decision of the code ~~enforcement~~ **compliance** officer may appeal that decision to the city council pursuant to the provisions of Chapter 2.04 of this code.

Section 10. AMENDMENT OF SECTION 5.56.100, "ISSUANCE OF THE PERMIT" TO THE MUNICIPAL CODE

Municipal Code Section 5.56.100 shall be amended to read as follows:

5.56.100 Issuance of the Permit.

If the code ~~enforcement~~ **compliance** officer grants the permit, he shall thereafter issue said permit only after the applicant has paid the permit fee and has posted with the city clerk a good and sufficient surety bond in the principal amount of \$15,000 executed as surety by a corporate surety in the State of California and as a principal by the applicant. The form of the bond shall have been approved by the city attorney and shall have been given to insure good faith and fair dealing on the part of the applicant and as a guarantee of indemnity for any and all loss, damage, theft, or other unfair dealings suffered by any patron or customer of the applicant within the city during the term of the permit. The permit fee and term of bond shall be prorated between date of issuance and date of expiration.

Section 11. AMENDMENT OF SECTION 5.56.130, "EXCEPTION-RELIGIOUS PRACTICE" TO THE MUNICIPAL CODE

Municipal Code Section 5.56.130 shall be amended to read as follows:

5.56.130 Exception-Religious Practice.

No person shall be required to pay any fee or take out any permit for conducting or participating in any religious ceremony or service when such person holds a certificate of ordination as a minister, missionary, medium, healer, or clairvoyant (hereinafter collectively referred to as minister) from any bona fide church or religious association maintaining a church and holding regular services and having a creed or set of religious principles that is recognized by all churches of like faith; provided that:

A. Except as provided in C. hereof, the fees, gratuities, emoluments, and profits thereof shall be regularly accounted for

and paid solely to or for the benefit of the bona fide church or religious association, as herein defined.

B. The minister holding a certificate of ordination from such bona fide church or religious association, shall file with the code ~~enforcement~~ **compliance** officer a declaration under penalty of perjury which states the minister's name, age, street address, and telephone number in this city where the activity set forth herein is to be conducted.

Section 12. AMENDMENT OF SECTION 6.18.090, "PERSONS ENTITLED TO SERVICE" TO THE MUNICIPAL CODE

Municipal Code Section 6.18.090 shall be amended to read as follows:

6.18.090 Persons entitled to service.

The abatement cost report and any amended or supplemental reports shall be served upon the record owner and/or any agent having charge or control of the subject premises and any persons determined to be a responsible person within the meaning of this chapter. The failure of any such person(s) to receive a copy of the cost report shall not affect the validity of any proceedings or actions taken under this chapter nor shall the failure of the code ~~enforcement~~ **compliance** officer or authorized agent to serve any person required herein to be served invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this chapter.

Section 13. AMENDMENT OF SECTION 6.18.290, "ATTORNEY'S FEES" TO THE MUNICIPAL CODE

Municipal Code Section 6.18.290 shall be amended to read as follows:

6.18.290 Attorney's fees.

The prevailing party in any proceeding conducted pursuant to this chapter and associated with the abatement of a public nuisance shall be entitled to recovery of attorneys' fees incurred in any such proceeding. **In no action, administrative proceeding, or special proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the city in the action or proceeding.**

**Section 14. AMENDMENT OF SECTION 8.24.020, "DEFINITIONS"
TO THE MUNICIPAL CODE**

Municipal Code Section 8.24.020 shall be amended to read as follows:

8.24.020 Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"A zone." See "Special flood hazard area."

"Accessory structure" means a structure that is either:

1. Solely for the parking of no more than two cars; or
2. A small, low cost shed for limited storage, less than one hundred fifty square feet and one thousand five hundred dollars in value.

"Accessory use" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

"Alluvial fan" means a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

"Apex" means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

"Appeal" means a request for a review of the floodplain administrator's interpretation of any provision of this chapter.

"Area of shallow flooding" means a designated AO or AH zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard." See "Special flood hazard area."

"Base flood" means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "one-hundred-year flood"). Base flood is the term used throughout this chapter.

"Base flood elevation (BFE)" means the elevation shown on the Flood Insurance Rate Map for zones AE, AH, A1-30, VE and V1-V30 that indicates the water surface elevation resulting from a flood that has a one percent or greater chance of being equaled or exceeded in any given year.

"Basement" means any area of the building having its floor subgrade, i.e., below ground level, on all sides.

"Building." See "Structure."

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"Encroachment" means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before December 4, 1991.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood, flooding, or flood water" means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and

2. The condition resulting from flood-related erosion.

"Flood Boundary and Floodway Map (FBFM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

"Flood Insurance Rate Map (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

"Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source. See "Flood, flooding, or flood water."

"Floodplain administrator" is the community official designated by title to administer and enforce the floodplain management regulations.

"Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

"Floodplain management regulations" means this chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins TB 1-08, TB 3-93, and TB 7-93.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "regulatory floodway."

"Floodway fringe" is that area of the floodplain on either side of the "regulatory floodway" where encroachment may be permitted.

"Fraud and victimization," as related to Section 8.24.060 of this chapter, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the city council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

"Governing body" is the local governing unit, i.e., county or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

"Hardship" as related to Section 8.24.060 of this chapter means the exceptional hardship that would result from a failure to grant the requested variance. The city council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

"Levee" means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

"Lowest floor" means the lowest floor of the lowest enclosed area, including basement. See "Basement."

1. An unfinished or flood-resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:

- a. The flood openings standard in Section 8.24.050(A)(3)(c);
- b. The anchoring standards in Section 8.24.050(A)(1);
- c. The construction materials and methods standards in Section 8.24.050(A)(2); and
- d. The standards for utilities in Section 8.24.050(B).

2. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see

"Basement). This prohibition includes below-grade garages and storage areas.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Market value" is defined in the city of Cathedral City substantial damage/improvement procedures. See Section 8.24.040(B)(2)(a).

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"New construction," for floodplain management purposes, means structures for which the "start of construction" commenced on or after December 4, 1991, and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after December 4, 1991.

"Obstruction" includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

"One-hundred-year flood" or "100-year flood." See "Base flood."

"Program deficiency" means a defect in a community's floodplain management regulations or administrative procedures that

impairs effective implementation of those floodplain management regulations.

"Public safety and nuisance" as related to Section 8.24.060 of this chapter, means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Recreational vehicle" means a vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Remedy a violation" means to bring the structure or other development into compliance with state or local floodplain management regulations, or if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing state or federal financial exposure with regard to the structure or other development.

"Riverine" means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

"Sheet flow area." See "Area of shallow flooding."

"Special flood hazard area (SFHA)" means an area in the floodplain subject to a one percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as zone A, AO, A1-A30, AE, A99, or AH.

"Start of construction" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction,

repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

"Substantial damage" means:

1. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred; or

2. Flood-related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each event, on the average, equals or exceeds twenty-five percent of the market value of the structure before the damage occurred. This is also known as "repetitive loss."

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement compliance official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

"Violation" means the failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

"Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

"Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Section 15. AMENDMENT OF SECTION 8.34.137, "VIOLATION-PENALTY" TO THE MUNICIPAL CODE

Municipal Code Section 8.34.137 shall be amended to read as follows:

8.34.137 Violation-Penalty.

A. It is unlawful for any person, firm or corporation to erect, construct, enlarge, alter, move, improve, convert, or equip, use, occupy or maintain any building or structure in the city, or cause same to be done contrary to or in violation of any of the provisions of this chapter.

B. It shall be unlawful and a public nuisance for any person to occupy any structure that has been deemed uninhabitable by the City and posted with a notice prohibiting such occupancy.

C. Any person, firm or corporation violating any of the provisions of this chapter is guilty of a misdemeanor and shall be punishable for each offense, by a fine of not more than five

hundred dollars, or by confinement in jail for not more than six months, or by both fine and confinement in jail.

Section 16. AMENDMENT OF SECTION 9.62.060, "TEMPORARY SIGNS PROVISIONS" TO THE MUNICIPAL CODE

Municipal Code Section 9.62.060 shall be amended to read as follows:

9.62.060 Temporary sign provisions.

A. Except as otherwise provided in this chapter, no temporary sign displaying a commercial message shall be allowed unless the applicant shall have first filed a temporary sign program; paid the requisite filing fee as provided by resolution of the city council; and the city planner or designee has approved the proposed temporary sign program. The proposed temporary sign program shall include a statement of compliance with this chapter and certify the person responsible for removing the sign and, in the event the sign is not timely removed consistent with the provisions of this chapter, the person responsible for reimbursing the city for any cost incurred to remove and dispose of the sign. A proposed temporary sign program shall be approved by the city planner or designee immediately upon submission if the requisite fee has been paid and the proposal demonstrates that each proposed sign meets all the conditions applicable to a temporary sign as set out in this chapter.

B. A temporary sign displaying a noncommercial message shall not require prior approval of the city planner and may be displayed consistent with the temporary sign program immediately upon the filing of same with the planning department. However, if it shall subsequently be determined that the actual sign displayed is inconsistent with the temporary sign program on file, or that the temporary sign program on file does not demonstrate that each proposed sign meets all the conditions applicable to a temporary sign as set out in this chapter, then the temporary sign may be removed by city staff after notice to the responsible person as provided in this chapter. No fee is required for the filing of the proposed temporary sign program for a noncommercial sign.

C. No temporary sign shall be placed or erected on any property within the city without the consent of the owner or tenant of such property.

D. Temporary signs in a commercial or industrial zone with a commercial message shall be allowed only where permanent signs are allowed.

E. Temporary signs shall not be illuminated.

F. No temporary sign shall be placed, attached or erected on public property, or in the street right-of-way, including but not limited to utility poles, sign poles, trees, fences, walls and public buildings, except as otherwise expressly provided in this chapter.

G. No temporary sign shall be placed so as to pose a visibility hazard to pedestrian or motor vehicle traffic, and no sign shall be located within a sight triangle.

H. The temporary signage shall be limited to a maximum of sixteen square feet per sign, a maximum height of five feet, with a cumulative maximum area of eighty square feet, per lot, and no illumination is allowed; except, however, that on nonresidential lots improved with a multi-unit structure, the maximum sign face area per sign shall be increased to thirty-two square feet. In addition, on nonresidential lots improved with a multiunit structure, each unit shall be allowed one additional temporary sign, mounted on the wall, below the eave line and above the doors and windows, subject to the following:

1. For each unit with fifteen thousand or less square feet of finished interior space, the sign face area shall not exceed twenty-four square feet; and

2. For each unit in excess of fifteen thousand square feet of finished interior space, the sign face area shall not exceed fifty square feet.

I. Temporary signs placed in violation of this chapter may be removed at the direction of the code ~~enforcement~~ **compliance** chief or designee, subject to the following notice requirements:

1. If a temporary sign is found in the public right-of-way or on public property and constitutes a threat to public safety, it may be removed immediately. Additionally, a temporary sign remaining on public property or within the public right-of-way more than ten days after the event that is identified on the sign face may be removed immediately. Said signs may thereafter be destroyed if the owner has been given at least fifteen days' notice but has not claimed the sign, or if the responsible party cannot be identified and/or located. If said sign is identified in a temporary sign program on file with the city or has an identification label attached, said notice shall be directed to the responsible person identified therein.

2. Any other temporary sign deemed to be in violation of this chapter, but which does not pose an immediate threat to the public safety, shall be removed after the owner or responsible party, if same can be identified and/or located, has been given at least twenty-four hours notice but has not removed the sign. If not claimed by the owner within seven days of removal, said sign may

then be destroyed. If said sign is identified in a temporary sign program on file with the city or has an identification label attached whereby the responsible person can be readily contacted, the following provisions shall apply:

a. The twenty-four hour notice to remove the sign shall be directed to the responsible person identified in the temporary sign program or on the identification label; and

b. If within four hours of a request by city staff to the responsible person that a sign be removed, the responsible person causes the sign to be removed, said sign shall not be deemed a violation of this chapter and no further enforcement action shall be taken, subject to the following:

i. The request to remove concerns no more than five temporary commercial signs advertising an event occurring on a specific date,

ii. The subject signs are not located on public property or within right-of-way, and

iii. The subject signs were first placed in service on the date of the event.

J. Any temporary sign used solely for the purpose of advertising or promoting an event occurring on a specific date, including but not limited to an election, shall not be maintained for a period in excess of ten days after the happening of the event; except, however, a sign used only on the day of the event shall be removed immediately upon the conclusion of the event.

K. All signage shall be maintained in good repair and condition.

L. One on-site portable sign may be allowed provided the sign meets all of the following requirements:

1. An approved temporary sign program is on file in the planning department;

2. If an aerial or ground-mounted inflatable device, the portable sign shall not exceed a height of twenty feet; any other type of portable sign shall not exceed four feet in height and twelve square feet in area;

3. Portable signs shall not be set within, or extend into, the public right-of-way or line of sight triangle;

4. Portable signs shall be secured to the ground to assure stability under all weather conditions; weighting the base with sand bags or similar objects does not meet this condition;

5. Portable signs shall be removed during non-business hours;

6. Portable signs shall not be illuminated;

7. Vehicular-oriented portable signs shall be spaced at least seventy-five feet from the nearest portable or temporary sign; pedestrian-oriented portable signs shall be placed within ten feet of the primary pedestrian entrance to a business, not to exceed one such sign per pedestrian entry per street frontage;

8. All portable signs and portable sign structures shall be professionally fabricated; and

9. Portable signs shall only be allowed on nonresidential lots; provided, however, that portable signs shall not be allowed on any vacant lot.

Section 17. AMENDMENT OF SECTION 9.62.120, "APPEALS" TO THE MUNICIPAL CODE

Municipal Code Section 9.62.120 shall be amended to read as follows:

9.62.120 Appeals.

A. Matters of Interpretation. Except as expressly reserved for determination by the city council or planning commission, and excluding code ~~enforcement~~ **compliance** conducted pursuant to other provisions of the Cathedral City Municipal Code, all questions of interpretation of the provisions of this chapter, including objection to actions by planning department staff, shall first be submitted to the city planner for decision as an administrative matter, with no public hearing required.

B. Right to Appeal. Any aggrieved party may appeal a decision of the city planner to the planning commission. Any decision by the planning commission made subject to the provisions of this chapter may be appealed by the aggrieved person to the city council for public hearing and decision pursuant to Chapter 2.04 of the Cathedral City Municipal Code. The city council's decision is final as to the city, but is subject to judicial review.

C. Perfecting Appeal—Time Limit for Appeal. An appeal pursuant to this section is effective when notice thereof is delivered to the city clerk within ten calendar days of when the appeal right arises, on a form provided by the planning department, accompanied by any applicable appeal fee in an amount set by resolution of the city council, signed by the appellant, identifying the matter or decision appealed from, and stating the grounds of appeal.

D. When appeal right arises. The right to appeal pursuant to this section arises at the earliest of: (1) when written notice of the city planner's administrative decision is personally delivered or mailed to the applicant, (2) when an appellate decision is made by vote of the appellate body in a duly noticed public hearing on the matter, (3) when written notice of the decision is delivered or mailed to the applicant or appellant, or (4) at the expiration of the time in which the city planner or appellate body is required to make a decision.

E. Timeliness of Decision—Waiver of Time. At each stage of review pursuant to this section, all decisions shall be made within thirty calendar days of when the permit application is complete, the request for interpretation has been received, or when the appeal has been timely and properly filed. When any such decision is not made within the required time, and the applicant or appellant does not waive time, then the application or appeal shall be deemed denied, and the applicant or appellant shall have the immediate right to appeal or, if no further administrative appeal is available, to seek judicial review. The timeliness requirement may be waived by the applicant or appellant.

F. Maintenance of Status Quo. While any decision pursuant to this section is pending, the status quo shall be maintained until the review or appeal has run its full course, unless the subject sign is in such physical condition that it presents a serious and immediate threat to the public health and safety, in which case it may be abated as a public nuisance pursuant to any other applicable provision of the Cathedral City Municipal Code.

G. Appeals, Hearing and Decision. When any decision is timely appealed to the planning commission or city council pursuant to this section, the appellate body shall hold a duly noticed public hearing on the matter, hear arguments and take evidence, and decide the matter within the required time period, unless the applicant or appellant waives time. The decision shall be in writing and shall state facts from the record which support any findings made.

H. Judicial Review. Following exhaustion of all available appellate procedures within the city, any applicant or appellant may seek judicial review of the city's final decision pursuant to California Code of Civil Procedure Section 1094.8 or other applicable provisions.

Section 18. AMENDMENT OF SECTION 9.86.040, "CLASS C" TO THE MUNICIPAL CODE

Municipal Code Section 9.9.86.040 shall be amended to read as follows:

9.86.040 Class C.

The economic welfare, residential attractiveness, and community character of the city are attributable to its unique aesthetic features and setting. The city finds that proper maintenance of properties is necessary to protect the welfare, attractiveness, and character of the community.

A standard of maintenance guards against unsafe and unhealthful conditions which can cause neighborhood deterioration. Changes to paint colors and all other aspects of a facade must be reviewed and approved by the planning division staff.

A. Maintenance of Buildings. Buildings, including accessory structures, trellises, awnings, and other similar features, shall be maintained in a condition free of the following abuses including, but not limited to: loose roofing and siding materials, unconcealed roof equipment, peeling paint or faded stain, broken or cracked windows, any unsafe structural element or other items which would degrade the appearance and/or safety of the structure.

B. Maintenance of Site Improvements. Site improvements shall be maintained in a condition to guarantee safety and quality appearance and shall include, but not be limited to: parking and walking areas free of weeds and excessive sand and dirt, visible parking lot striping, paving materials (including walkways) which provide a smooth, unbroken surface, unbroken curbs and gutters, litter-free trash and loading areas, walls and fences in a sturdy condition and free of graffiti or the like, fountains or other water uses which are free of potential health dangers, lighting, signs, bicycle racks, internal traffic control items such as speed bumps, and drainage control items which are maintained in safe repair.

C. Maintenance of Landscaping. Landscaping improvements shall be maintained in a healthy condition and complementary to neighboring buildings and properties. Such maintenance shall include, but not be limited to: lawns which are watered and trimmed to a uniform height **(subject to State law limitations on watering requirements)**, flowers and ground covers which are healthy and uniform in their appearance, and shrubs and trees which are trimmed and pruned to retain their health and adequate clearance over pedestrian and vehicular areas. Landscaping incorporating bare earth or gravel shall be kept free of weed growth. Plant materials designated on a landscape plan shall be retained in their natural shape unless otherwise denoted on the approved plan.

D. Maintenance of Irrigation Systems. Irrigation systems shall provide adequate irrigation to all plant materials to allow normal

growth, retain water within planted areas and be maintained in an operative condition—subject to State law limitations on watering requirements.

E. Special Requirements. Any other provisions established by the planning commission to ensure proper maintenance of properties including maintenance standards established through design review, conditional use permit, or variance.

F. Trash Removal. All properties, including vacant properties, shall be kept free of trash, building materials or the storage of other goods which are visible from the street or adjacent properties. Properties shall also be kept free of excessive vegetative undergrowth.

G. Trash Containers. All uses shall provide on-site location for storage of trash pending removal by a trash removal service. Within the trash storage area trash shall be placed in containers. At all times the trash storage area and containers shall be maintained in a clean, sanitary and safe manner. The trash storage area shall not be situated in any required front or street side yard setback area. The trash containers shall be shielded from view from public streets and adjacent property by solid fencing, walls or opaque plant material. The trash containers shall remain in the trash storage area except during the day of contracted trash removal.

H. Occupancy. The maximum occupancy in any dwelling unit shall not exceed the following number of adults (eighteen years or older), based on the number of bedrooms per dwelling:

Bedrooms per Dwelling Unit	Maximum Occupancy by Adults
5 or more	12
4	10
3	8
2	5
1	3
0	2

Section 19. AMENDMENT OF SECTION 9.108.130, "INSPECTION AND ENFORCEMENT" TO THE MUNICIPAL CODE

Municipal Code Section 9.108.130 shall be amended to read as follows:

9.108.130 Inspections and Enforcement.

A. Recordings made by security cameras at any dispensary shall be confidential and not subject to public inspection or disclosure; except that such recordings shall be made immediately available to the director, the city manager or the chief of police upon verbal request for law enforcement and criminal investigation purposes.

B. The director, the city manager or their designated code ~~enforcement~~ **compliance** officers shall have the right to enter all dispensaries from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter. Such inspections shall be limited to observing the premises of the dispensary for purposes of determining whether the dispensary is being operated or maintained in compliance with this code, state law, and other applicable laws and regulations.

C. The director or the city manager shall have the right to inspect membership records pursuant to Section 9.108.120 for the sole purpose of determining whether all members of the dispensary's related collective or cooperative are qualified. Such inspections of membership records shall not be used for any other purposes, nor shall the records be removed off-site by the city without a court order.

D. Operation of the dispensary in non-compliance with any conditions of approval or the provisions of this chapter or Chapter 9.72 shall constitute a violation of the municipal code and shall be enforced pursuant to the provisions of this chapter and this code.

E. The planning commission and/or the city council, in accordance with the provisions and procedures set forth in Section 9.72.130 of this code, may revoke a medical marijuana dispensary conditional use permit if any of the following, singularly or in combination, occur:

1. The planning commission and/or the city council determine that the dispensary has failed to comply with this chapter or any condition of approval or a circumstance or situation has been

created that would have permitted the planning commission to initially deny the dispensary conditional use permit under Section 9.108.100 or Chapter 9.72 of this code; or

2. Operations cease for more than ninety calendar days; or

3. The cooperative or collective fails to maintain one hundred twenty continuous hours of security recordings; or

4. The dispensary fails to allow inspection of the security recordings, membership records, the employee register, the point of sale transaction data or inspection of the premises, as provided for herein above, by authorized city officials; or

5. Any of the findings set forth in subsection C of this section are made.

F. Prior to any initiating revocation proceedings, the subject dispensary shall be given a compliance period of at least fourteen days, which may be extended by the director upon a finding that the subject dispensary is attempting in good faith to resolve the non-compliance issue.

Section 20. AMENDMENT OF SECTION 11.10.040, "ENFORCEMENT" TO THE MUNICIPAL CODE

Municipal Code Section 11.10.040 shall be amended to read as follows:

11.10.040 Enforcement.

The provisions of this chapter may be enforced by the fire marshal, any police officer, any code ~~enforcement~~ **compliance** officer, and any other city official authorized to enforce any provision of the municipal code.

Section 21. AMENDMENT OF SECTION 11.80.090, "TEN-DAY NOTICE OF INTENTION TO ABATE AND REMOVE REQUIRED" TO THE MUNICIPAL CODE

Municipal Code Section 11.80.090 shall be amended to read as follows:

11.80.090 Ten-day notice of intention to abate and remove required.

A. Not less than a ten-day notice of intention to abate and remove a vehicle, or parts thereof, as a public nuisance pursuant to this chapter shall be issued by the director of code ~~enforcement~~ **compliance** or his/her designee for those vehicles, or parts thereof, to be removed by the ~~code enforcement department~~ **Code Compliance Division** and by the police chief or his/her designee for those vehicles, or parts thereof, to be removed by the police department. The city or the contractor thereof shall be liable for damage caused to a vehicle, or parts thereof, by removal pursuant to this section.

The ten-day notice of intention to abate or remove shall not be required pursuant to this section as follows:

1. Where the property owner and the owner of the vehicle, or parts thereof, to be removed have signed releases authorizing the removal and waiving further interest in the vehicle or parts thereof; or

2. When the vehicle, or parts thereof, to be removed is inoperable due to the absence of a motor, transmission, or wheels and incapable of being towed, is valued at less than two hundred dollars by a person specified in California Vehicle Code Section 22855, and is determined to be a public nuisance presenting an immediate threat to public health or safety, provided that the property owner has signed a release authorizing removal and waiving further interest in the vehicle or parts thereof. Prior to final disposition under California Vehicle Section 22662 of such a low valued vehicle, or parts thereof, for which evidence of registration was recovered pursuant to Section 11.80.140 of this chapter, the director of code ~~enforcement~~ **compliance** or his/her designee, the police chief or his/her designee, or other agents of the city shall provide notice to the registered and legal owners of intent to dispose of the vehicle or parts thereof, and if the vehicle, or parts thereof, is not claimed and removed within twelve days after the notice is mailed, from a location specified in Section 22662, final disposition may proceed. This subsection applies only to inoperable vehicles, or parts thereof, located upon a parcel that is: (a) zoned for agricultural use; or (b) not improved with a residential structure containing one or more dwelling units.

B. The ten-day notice of intention to abate and remove 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 of the vehicle, or parts thereof, unless the vehicle is in such condition that identification numbers are not available to determine ownership.

C. The ten-day notice of intention to abate and remove, when required by this section, shall be provided in substantially the following forms:

- 1. To the owner of the land:

NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED, WRECKED, DISMANTLED, OR INOPERATIVE VEHICLE OR PARTS THEREOF AS A PUBLIC NUISANCE

(Name and address of owner of the land)

As owner shown on the last equalized assessment roll of the land located at (address), you are hereby notified that the undersigned, pursuant to Section 11.80.010 of the Cathedral City Municipal Code, has determined that there exists upon said land an (or parts of an) abandoned, wrecked, dismantled or inoperative vehicle registered to _____, with a license number _____, which constitutes a public nuisance pursuant to the provisions of Chapter 11.80 of the Cathedral City Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said parts of a vehicle) within 10 days from the date of mailing of this Notice, and upon your failure to do so, the same will be abated and removed by the City of Cathedral City and the costs thereof, together with administrative costs, will be assessed to you as owner of the land on which said vehicle (or parts thereof) is/are located.

As owner of the land on which said vehicle (or said parts of a vehicle) is located, you are hereby notified that you may, within 10 days after the mailing of this notice of intention to abate and remove, request a public hearing by submitting a written request for a public hearing to the Director of Code ~~Enforcement~~ **Compliance** or his/her designee, for those vehicles (or parts thereof) to be removed by the ~~Code Enforcement Department~~ **Code Compliance Division** or to the Police Chief or his/her designee for those vehicles (or parts thereof) to be removed by the Police Department. (The appropriate department should specify to whom the appeal requests must be submitted.)

If a request for a public hearing is not received by the City of Cathedral City, as described above in this Notice, within said 10 day period, the Director of Code ~~Enforcement~~ **Compliance** or his/her designee for those vehicles (or parts thereof) to be removed by the ~~Code Enforcement Department~~ **Code Compliance Division** or the Police Chief or his/her designee for those vehicles (or parts thereof) to be removed by the Police Department shall have the authority to cause the abatement and removal of said vehicle (or parts thereof) as a public nuisance and shall assess all costs thereof without a public hearing.

You may submit a sworn written statement within such 10 day period denying responsibility for the presence of said vehicle (or said parts thereof) on land owned by you, with your reasons for denial. Such a statement shall be construed as a request for a hearing at which your presence is not required. You may appear in person at any hearing requested by you or the owner of the vehicle (or parts thereof) or, in lieu thereof, may present a sworn written statement described herein in time for consideration at such hearing.

If it is determined at the hearing that the vehicle (or parts thereof) was placed on your land without your consent and that you have not subsequently acquiesced to its presence, then the costs of administration or removal of the vehicle (or parts thereof) will not be assessed against your property or otherwise attempted to be collected from you.

Notice Mailed _____ /s/ _____

2. To the last registered and/or legal owner of record:

NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED, WRECKED, DISMANTLED, OR INOPERATIVE VEHICLE OR PARTS THEREOF AS A PUBLIC NUISANCE

(Name and address of last registered and/or legal owner of record of vehicle or parts thereof - Notice should be provided to both if different)

As the last registered and/or legal owner of record of (description of vehicle including, but not limited to, make, model, license, etc.,) (or parts thereof), you are hereby notified that the undersigned, pursuant to Section 11.80.010 of the Cathedral City Municipal Code, has determined that said vehicle (or parts of a vehicle) exists as an abandoned, wrecked, dismantled or inoperative vehicle at (describe location on public or private property) and constitutes a public nuisance pursuant to the provisions of Chapter 11.80 of the Cathedral City Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle (or parts of a vehicle) within 10 days from the date of mailing of this notice, and upon your failure to do so, the same will be abated and removed by the City of Cathedral City.

As registered and/or legal owner of record of said vehicle (or said parts of a vehicle), you are hereby notified that you may, within 10 days after the mailing of this notice of intention to abate and remove, request a public hearing by submitting a written request for a public hearing to the Director of Code ~~Enforcement~~ **Compliance** or his/her designee for those vehicles (or parts thereof) to be removed by the ~~Code Enforcement Department~~ **Code Compliance Division** or to the Police Chief or his/her designee for

those vehicles (or parts thereof) to be removed by the Police Department (the appropriate Department should specify to whom the appeal requests must be submitted).

If a request for a public hearing is not received by the City of Cathedral City, as described above in this Notice, within said 10 day period, the Director of Code ~~Enforcement~~ Compliance or his/her designee for those vehicles or parts thereof to be removed by the ~~Code Enforcement Department~~ Code Compliance Division or the Police Chief or his/her designee for those vehicles or parts thereof to be removed by the Police Department shall have the authority to cause the abatement and removal of said vehicle (or parts thereof) as a public nuisance without a hearing.

Notice mailed _____ /s/ _____

D. In accordance with state law, administration of the provisions set forth in this chapter is by regularly salaried full-time employees of the city, except that the removal of vehicles or parts thereof, from property may be performed by any other duly authorized person. Any such authorized person may enter upon private property for the purposes specified in this chapter to examine a vehicle, or parts thereof, obtain information as to the identity of a vehicle, and remove or cause the removal of a vehicle, or part thereof, declared to be a nuisance pursuant to this chapter.

Section 22. AMENDMENT OF SECTION 11.80.100, "PUBLIC HEARING REQUIRED UPON REQUEST" TO THE MUNICIPAL CODE

Municipal Code Section 11.80.100 shall be amended to read as follows:

11.80.100 Public hearing required upon request.

A. Upon receipt, within ten days from the date of mailing of the notice of intention to abate and remove, of a request for a public hearing made by the owner of the vehicle, or parts thereof, or owner of the land, the director of code ~~enforcement~~ compliance or his/her designee for those vehicles, or parts thereof, to be removed by the ~~code enforcement department~~ Code Compliance Division and the police chief or his/her designee for those vehicles, or parts thereof, to be removed by the police department shall conduct a public hearing on the abatement and removal of the vehicle, or parts thereof, as an abandoned, wrecked, dismantled, or inoperative vehicle, or parts thereof, and, if applicable, on the assessment of

the administrative costs and the cost of removal of the vehicle, or parts thereof, against the property on which said vehicle, or parts thereof, is located.

B. If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his land within such ten-day period, said statement shall be construed as a request for a hearing which does not require his presence. Notice of the hearing shall be mailed, by registered mail, at least ten days before the hearing to the owner of the land and to the owner of the vehicle unless the vehicle is in such condition that identification numbers are not available to determine ownership. If such a request for hearing is not received within said ten days after mailing of the notice of intention to abate and remove, the city shall have the authority to abate and remove the vehicle or parts thereof as a public nuisance without holding a public hearing.

Section 23. AMENDMENT OF SECTION 11.80.110, "PUBLIC HEARING PROCEEDINGS" TO THE MUNICIPAL CODE

Municipal Code Section 11.80.110 shall be amended to read as follows:

11.80.110 Public Hearings Proceedings.

A. All hearings under this chapter shall be public hearings, with notice if required as determined by the director of ~~code enforcement~~ **compliance** and/or police chief, and shall be held as follows: (1) before the director of code ~~enforcement~~ **compliance** or his/her designee for those vehicles, or parts thereof, to be removed by the ~~code enforcement department~~ **Code Compliance Division**; and (2) before the police chief or his/her designee for those vehicles, or parts thereof, to be removed by the police department. The hearing officer shall hear all facts and testimony he or she deems pertinent. Said facts and testimony may include testimony on the condition of the vehicle, or parts thereof, and the circumstances concerning its location on the private property or public property. The director of code ~~enforcement~~ **compliance** or his/her designee for those vehicles, or parts thereof, to be removed by the ~~code enforcement department~~ **Code Compliance Division** or the police chief or his/her designee for those vehicles, or parts thereof, to be removed by the police department shall not be limited by the technical rules of evidence. The owner of the land on which the vehicle, or parts thereof, is located may appear in person at the hearing or present a written statement in time for consideration at the hearing and deny responsibility for the presence of the vehicle, or parts thereof, on the land, including his/her reasons for denial.

B. The director of code ~~enforcement~~ compliance or his/her designee for those vehicles, or parts thereof, to be removed by the code enforcement department or the police chief or his/her designee for those vehicles, or parts thereof, to be removed by the police department may impose such conditions and take such other action as he or she deems appropriate under the circumstances to carry out the purpose of this chapter. He or she may delay the time for removal of the vehicle, or part thereof, if, in his or her opinion, the circumstances justify it. At the conclusion of the hearing, the director of code ~~enforcement~~ compliance or his/her designee or the police chief or his/her designee may determine that a vehicle, or parts thereof, located on private or public property has been abandoned, wrecked, dismantled or inoperative and order the same to be removed from the property as a public nuisance and disposed of as hereinafter provided. Thereafter, the director of code ~~enforcement~~ compliance or his/her designee or the police chief or his/her designee may order the administrative costs and the cost of removal to be charged against the owner of the parcel of land on which the vehicle, or parts thereof, is located. The order requiring removal of the vehicle, or parts thereof, shall include a description of the vehicle, or parts thereof, and the correct identification number and license number of the vehicle if available at the site.

C. If it is determined at the hearing that the vehicle, or parts thereof, was placed on the land without the consent of the land owner and that he/she has not subsequently acquiesced to the vehicle's presence, the director of code ~~enforcement~~ compliance or his/her designee or the police chief or his/her designee shall not assess costs of administration or removal of the vehicle, or parts thereof, against the owner of the property upon which the vehicle is located or otherwise attempt to collect such costs from such land owner.

D. If the owner of the land submits a sworn statement denying responsibility for the presence of the vehicle, or parts thereof, on his or her land but does not appear at the hearing, or if an interested party makes a written presentation to the director of code ~~enforcement~~ compliance or his/her designee or to the police chief or his/her designee but does not appear at the hearing, he/she shall be notified in writing of the final decision.

**Section 24. AMENDMENT OF SECTION 11.96.020, "DEFINITIONS"
TO THE MUNICIPAL CODE**

Municipal Code Section 11.96.020 shall be amended to read as follows:

11.96.020 Definitions.

As used in this chapter, the following terms have the meanings given:

"Construction equipment" means tools, machinery or equipment used in connection with construction operations, including all types of "special construction" equipment as defined in the pertinent sections of California Vehicle Code when used in the construction process on any construction site, home improvement site or property maintenance site, regardless of whether such site be located on highway or off highway.

~~"Enforcement~~ **Compliance** officer" means a city code ~~enforcement~~ **compliance** officer or peace officer authorized to enforce the provisions and prohibitions of this chapter pursuant to Section 11.96.080.

"Plainly audible" means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the investigating ~~enforcement~~ **compliance** officer need not determine the title of a song, specific words, or the artist performing the song. The detection of the vibration from the rhythmic bass component of the music is sufficient to constitute a plainly audible sound.

"Public right-of-way" means any street, avenue, boulevard, highway, sidewalk, alley or similar place, owned or controlled by a government entity.

"Public space" means any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other recreation areas.

"Responsible person" means (1) any person who owns, leases or is lawfully in charge of the property or motor vehicle where the noise violation takes place or (2) any person who owns or controls the source of the noise or violation. If the responsible person is a minor, then the parent or guardian who has custody of the child at the time of the violation shall be the responsible person who is liable under this chapter.

Section 25. AMENDMENT OF SECTION 11.96.080,
"ADMINISTRATION" TO THE MUNICIPAL CODE

Municipal Code Section 11.96.080 shall be amended to read as follows:

11.96.080 Administration.

Except as otherwise provided, the provisions and prohibitions of this chapter shall be jointly administered by and the responsibility of the city's police and ~~code enforcement departments~~ Code Compliance Division.

Section 26. AMENDMENT OF SECTION 13.20.010, "GENERAL DEFINITIONS" TO THE MUNICIPAL CODE

Municipal Code Section 13.20.010 shall be amended to read as follows:

13.20.010 General definitions.

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

"Abatement" means the removal of a certain condition or conditions which endanger the life, limb, health, property, safety or welfare of the general public.

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

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

"Administrative appeals officer" means the individual who shall conduct administrative appeal hearings and render decisions pursuant to the administrative appeal procedures set forth in this title.

"Administrative citation" means a formal notice that is issued by a code ~~enforcement~~ compliance officer or other authorized enforcement agent to a person who has committed an infraction or misdemeanor violation in lieu of issuing a criminal field citation or filing a criminal complaint.

"Assessment" means the special assessment which may be assessed against a parcel of land as authorized by Government Code Section 38773.5 to recover the city's cost of abatement of a public nuisance.

"Building official" means the individual designated by the city manager as the person authorized to serve as the city's building official for the purposes of administering various uniform codes, including the building, administrative, plumbing, mechanical, electrical, abatement of dangerous buildings, sign and swimming pool, spa and hot tub codes. "Building official" also means the individual designated pursuant to Section 8.04.050 of the municipal code.

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

"Certificate of occupancy" means the certificate required by the Uniform Building Code and administered by the building official or his/her designee as may be authorized by law indicating that work has been completed in compliance with building and zoning codes.

"Code ~~enforcement~~ compliance chief" means the individual designated by the city manager to cause inspections and to take such actions as may be required by the provisions of this title for the purpose of enforcing certain prescribed provisions of the municipal code, and all applicable statutes, rules, codes and regulations.

"Code ~~enforcement~~ compliance officers" means those individuals employed by the city and/or designated by the code ~~enforcement~~ compliance chief or his or her designee to conduct inspections and to take such actions as may be required by the provisions of this title for the purpose of enforcing certain prescribed provisions of the municipal code and all applicable statutes, rules, codes and regulations.

"Conditional use permit" means the permit granted by a ministerial process wherein a specific use is approved subject to specific conditions in accordance with the municipal code and applicable statutes, codes, rules and regulations.

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

"Excavation" means any well, shaft, basement, cesspool, septic tank, fish pond, and other like or similar conditions more than six inches in diameter and twenty-four inches in depth.

"Field citation" means a document that is issued by a code ~~enforcement~~ compliance officer or other authorized enforcement agent to a person who has been arrested for committing an infraction or misdemeanor violation, which may be signed by the

violator as a promise to appear at court at a designated date and time, which, together with sufficient evidence of the violator's identity, shall permit the violator to avoid being taken into custody.

"Garbage" means any putrescible animal, fish, fowl, food, fruit or vegetable matter resulting from the cultivation, preparation, storage, handling, decay or consumption of the substance.

"Inoperative vehicle" means any vehicle which cannot be legally operated on the street because the vehicle: (a) lacks current registration, (b) lacks an engine, transmission, wheels, tires, doors, windshield or any other part or equipment necessary to operate the vehicle safely, or (c) cannot be operated under its own power.

"Issuing division or department" means the division or department of the city who issued a citation and/or notice pursuant to its authority set forth in this title. For purposes of this title, "division" shall include the city's code enforcement, planning, building, housing and animal control divisions; "department" shall include the city's fire and police departments.

"Issuing officer or authorized agent" means the code ~~enforcement~~ **compliance** officer or other authorized agent of the city who issued a citation or notice pursuant to this title.

"Junk" means any cast-off, damaged, discarded, junked, obsolete, salvaged, scrapped, unusable, worn-out or wrecked object, thing or material, including but not limited to those composed in whole or in part of asphalt, brick, carbon, cement, plastic or other synthetic substance, fiber, glass, plaster, plaster of Paris, rubber, terra cotta, wool, cotton, cloth, canvas, wood, metal, sand, organic matter or other substance, crates, cartons, containers, boxes, machinery or parts thereof, scrap metal and other pieces of metal, ferrous or nonferrous, furniture or parts thereof, trimmings from plants or trees, cans, bottles and barrels.

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

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

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

"Municipal code" means the municipal code of the city of Cathedral City and all applicable statutes, rules, codes and

regulations adopted and incorporated therein by reference through a duly adopted ordinance or resolution of the city council.

"Notice of public nuisance" means a formal notice informing an owner or user of real property about the existence of certain conditions which constitute a public nuisance.

"Notice of violation" means an informal notice informing a party about the existence of a certain condition or situation which constitutes an infraction or misdemeanor violation of the municipal code, a public nuisance, or a violation of any applicable statute, rule, code or regulation.

"Owner" means any person having a legal or equitable interest in property. "Owner" applied to a building or land, shall include any part owner, joint owner, tenant, tenant in common, joint tenant, of the whole or a part of such building or land.

"Plain view" means an unintrusive observation by or a sound heard by an individual's own natural senses from a location upon which the observing or listening individual is legally justified to be present.

"Planning commission" means the planning commission of the city of Cathedral City.

"Permit" means a document issued by the city which allows a use, activity, event, or structure in accordance with the municipal code and applicable statutes, codes, rules and regulations.

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

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

"Privies" means an outhouse or similar use.

"Property owner" means an owner of record of a parcel of land identified on the last equalized assessment roll of the county or as otherwise known to a code enforcement officer or other authorized enforcement agent.

"Public right-of-way" means any area or parcel of property granted, deeded, dedicated to, or otherwise acquired by the city or the public at large for any public purpose including, but not limited to, alleys, roadways, parkways, pedestrian ways, sidewalks and public streets.

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

"Remedies" means the enforcement options available to the city to gain compliance with a law or regulation.

"Responsible person" means the owner of record of the subject real property and any occupant, lessee, or interested holder in same.

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

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

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

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

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

Section 27. ADDITION OF SECTION 13.30.050, "ATTORNEY'S FEES" TO THE MUNICIPAL CODE

Municipal Code Section 13.30.050 shall be added to read as follows:

13.30.050 Attorney's Fees.

The prevailing party in any action, administrative proceeding, or special proceeding associated with the abatement of a public nuisance shall be entitled to recovery of attorney's fees incurred in such proceeding. In no action, administrative proceeding, or special proceeding shall an award of attorney's fees to a

prevailing party exceed the amount of reasonable attorney's fees incurred by the city in the action or proceeding.

Section 28. AMENDMENT OF SECTION 13.40.010, "CONCURRENT ENFORCEMENT AUTHORITY WITH POLICE DEPARTMENT" TO THE MUNICIPAL CODE

Municipal Code Section 13.40.010 shall be amended to read as follows:

13.40.010 Concurrent enforcement authority with police department.

The code ~~enforcement~~ **compliance** chief shall have concurrent enforcement authority with the police chief regarding any violation of the municipal code resulting in a misdemeanor, an infraction or a public nuisance, unless otherwise provided by this title, the municipal code, applicable statutes, rules, codes and regulations, resolution of the city council, or written agreement by and between the code ~~enforcement~~ **compliance** chief and the police chief. Nothing in this title shall be construed or interpreted as providing the code ~~enforcement~~ **compliance** chief with the authority to enforce any provision of the California Penal Code, the California Vehicle Code or any other statute that is specifically required to be enforced solely by the city's local law enforcement agency under the authority of the police chief.

Section 29. AMENDMENT OF SECTION 13.40.020, "ANIMAL REGULATIONS" TO THE MUNICIPAL CODE

Municipal Code Section 13.40.020 shall be amended to read as follows:

13.40.020 Animal Regulations.

The code ~~enforcement~~ **compliance** chief shall have concurrent enforcement authority with the city's animal control division regarding any violation of the municipal code pertaining to animals unless otherwise provided in the municipal code, any applicable statute, rule, code or regulation, resolution of the city council, or written agreement by and between any independent contractor who may be employed to provide such animal control services to the city or any of its departments or divisions. The city manager shall have the authority to delegate, in writing, exclusive enforcement authority to the city's animal control division of all municipal code and applicable statutes, rules, codes and regulations pertaining to animals provided that the authority delegated is within the scope of services provided by any independent contractor

who may be providing such animal control services to the city pursuant to an agreement with the city or any of its departments its or divisions.

Section 30. AMENDMENT OF SECTION 13.40.025, "NO SMOKING REGULATIONS" TO THE MUNICIPAL CODE

Municipal Code Section 13.40.025 shall be amended to read as follows:

13.40.025 No smoking regulations.

The Riverside County health department shall have primary enforcement authority regarding any violation of the no smoking regulations set forth in California Labor Code Section 6404.5. Nothing in this section, however, shall preclude or prohibit the police department or code ~~enforcement~~ **compliance** division from exercising any enforcement authority regarding said labor code provisions.

Section 31. AMENDMENT OF SECTION 13.40.140, "STATE HOUSING LAW" TO THE MUNICIPAL CODE

Municipal Code Section 13.40.140 shall be amended to read as follows:

13.40.140 State Housing Law.

The building division, housing division the fire department and code ~~enforcement~~ **compliance** division shall have concurrent enforcement authority regarding the State Housing Law as prescribed in California Health and Safety Code Sections 17910 through 17995.

Section 32. AMENDMENT OF SECTION 13.40.145, "WEEDS AND RUBBISH" TO THE MUNICIPAL CODE

Municipal Code Section 13.40.145 shall be amended to read as follows:

13.40.145 Weeds and rubbish.

The code ~~enforcement~~ **compliance** chief or his/her designee shall have concurrent enforcement authority with any other city official regarding any violation of the municipal code, and/or any applicable statute, rule, code, or regulation relating to overgrown weeds or the accumulation of rubbish, refuse or dirt.

Section 33. AMENDMENT OF SECTION 13.50.010, "AUTHORITY TO

INSPECT" TO THE MUNICIPAL CODE

Municipal Code Section 13.50.010 shall be amended to read as follows:

13.50.010 Authority to inspect.

A code ~~enforcement~~ **compliance** officer or other authorized enforcement agent shall have the authority to enter upon any real property or premises to ascertain whether the provisions of the municipal code and/or applicable statutes, rules, codes and regulations are being obeyed and to make any examinations and surveys as may be necessary in the performance of his/her code enforcement duties. Inspections may include and/or involve the taking of photographs, samples, or other physical evidence and conferring with persons present.

Section 34. AMENDMENT OF SECTION 13.50.020, "RIGHT TO ENTER OCCUPIED PROPERTY WITH CONSENT OF LANDLORD, OCCUPANT OR TENANT" TO THE MUNICIPAL CODE

Municipal Code Section 13.50.020 shall be amended to read as follows:

13.50.020 Right to enter occupied property with consent of landlord, occupant or tenant.

When it is necessary to conduct an inspection of occupied property to enforce the provisions of the municipal code and/or applicable statutes, rules, codes and regulations, or when the code ~~enforcement~~ **compliance** officer or other authorized enforcement agent has reasonable cause to believe that there exists in an occupied building or upon occupied premises a condition that is contrary to or in violation of the municipal code and/or applicable statutes, rules, codes or regulations, the code ~~enforcement~~ **compliance** officer or other authorized enforcement agent may enter the building or premises at reasonable times to inspect or to perform duties imposed by this title provided that, if such building or premises are occupied, credentials are presented to the occupant or tenant and consent to enter for the purpose of inspection is requested and granted by the occupant or tenant, or the landlord consents to entry for inspection purposes.

Section 35. AMENDMENT OF SECTION 13.50.030, "LIMITATION ON SCOPE OF CONSENT BY OCCUPANT OR TENANT" TO THE MUNICIPAL CODE

Municipal Code Section 13.50.030 shall be amended to read as follows:

13.50.030 Limitation on scope of consent by occupant or tenant.

A code ~~enforcement~~ **compliance** officer or other authorized enforcement agent shall be permitted to inspect only those areas of the subject premises that are within the consenting occupant's or tenant's control or which are subject to the common authority of all occupants and tenants unless otherwise provided by a court-issued inspection warrant.

Section 36. AMENDMENT OF SECTION 13.50.040, "LIMITATION ON SCOPE OF CONSENT BY LANDLORD" TO THE MUNICIPAL CODE

Municipal Code Section 13.50.040 shall be amended to read as follows:

13.50.040 Limitation on scope of consent by landlord.

A code ~~enforcement~~ **compliance** officer or other authorized enforcement agent shall be permitted to inspect only those areas of the subject premises that the consenting landlord has authority to access and inspect him or herself, unless otherwise provided by a court-issued inspection warrant.

Section 37. AMENDMENT OF SECTION 13.50.060, "REMEDY FOR REFUSED ENTRY OR INABILITY TO OBTAIN CONSENT" TO THE MUNICIPAL CODE

Municipal Code Section 13.50.060 shall be amended to read as follows:

13.50.060 Remedy for refused entry or inability to obtain consent.

If a property owner, occupant or agent having charge or control of a property refuses to consent to an inspection of the subject premises by a code ~~enforcement~~ **compliance** officer or other authorized enforcement agent or if the property owner or occupant, or agent having charge or control of a property cannot be located after a reasonable attempt has been made the code ~~enforcement~~ **compliance** officer or other authorized enforcement agent must

obtain an administrative inspection warrant pursuant to the procedures provided in California Code of Civil Procedure Section 1822.50 to conduct an inspection of said premises, unless otherwise provided in this title or any other applicable law.

Section 38. AMENDMENT OF SECTION 13.50.070, "INSPECTION OF EXTERIOR CODE VIOLATIONS FROM PUBLIC PROPERTY" TO THE MUNICIPAL CODE

Municipal Code Section 13.50.070 shall be amended to read as follows:

13.50.070 Inspection of exterior code violations from public property.

To enforce the provisions of the municipal code and/or applicable statutes, rules, codes or regulations, a code ~~enforcement~~ **compliance** officer or other authorized enforcement agent may inspect exterior code violations from a public street, sidewalk, park, or alley without the consent of the property owner or occupant and without an inspection warrant.

Section 39. AMENDMENT OF SECTION 13.50.080, "INSPECTION OF EXTERIOR CODE VIOLATIONS FROM NEIGHBOR'S YARD" TO THE MUNICIPAL CODE

Municipal Code Section 13.50.080 shall be amended to read as follows:

13.50.080 Inspection of exterior code violations from neighbor's yard.

To enforce the provisions of the municipal code and/or applicable statutes, rules, codes or regulations, a code ~~enforcement~~ **compliance** officer or other authorized enforcement agent may inspect exterior code violations from a neighbor's yard without the consent of the property owner, occupant, or agent having charge or control of the premises upon which the violation exists and without an inspection warrant provided that lawful access to the neighbor's yard can be obtained and the exterior code violations are in plain view from the neighbor's yard.

Section 40. AMENDMENT OF SECTION 13.50.090, "INSPECTION OF ABANDONED BUILDINGS AND PROPERTY" TO THE MUNICIPAL CODE

Municipal Code Section 13.50.090 shall be amended to read as follows:

13.50.090 Inspection of abandoned buildings and property.

To enforce the provisions of the municipal code, and/or applicable statutes, rules, codes or regulations, a code ~~enforcement~~ **compliance** officer or other authorized enforcement agent may inspect abandoned buildings and property without the consent of the property owner or agent having charge or control of the premises and without an inspection warrant provided that the subject property and/or building or buildings are unoccupied and have not been secured against unlawful entry.

Section 41. AMENDMENT OF SECTION 13.50.100, "INSPECTION OF COMMON AREAS OF MULTI-HOUSING COMPLEXES" TO THE MUNICIPAL CODE

Municipal Code Section 13.50.100 shall be amended to read as follows:

13.50.100 Inspection of common areas of multi-housing complexes.

To enforce the provisions of the municipal code and/or applicable statutes, rules, codes or regulations, a code ~~enforcement~~ **compliance** officer or other authorized enforcement agent may inspect the common areas of multi-housing complexes without the consent of the property owner, occupant or agent having charge or control of the premises and without an inspection warrant provided that such common areas are accessible to members of the general public.

Section 42. AMENDMENT OF SECTION 13.50.110, "INSPECTION OF OPEN UNDEVELOPED AREAS" TO THE MUNICIPAL CODE

Municipal Code Section 13.50.110 shall be amended to read as follows:

13.50.110 Inspection of open undeveloped areas.

To enforce the provisions of the municipal code and/or applicable statutes, rules, codes or regulations, a code ~~enforcement~~ **compliance** officer or other authorized enforcement agent may inspect open undeveloped areas without the consent of the property owner or agent having charge or control of the premises and without an inspection warrant provided that the subject area is accessible to members of the general public and open to public view.

Section 43. AMENDMENT OF SECTION 13.50.130, "USE OF AERIAL SURVEILLANCE" TO THE MUNICIPAL CODE

Municipal Code Section 13.50.130 shall be amended to read as follows:

13.50.130 Use of aerial surveillance.

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

Section 44. AMENDMENT OF SECTION 13.50.140, "INSPECTIONS OF SEXUALLY ORIENTED BUSINESSES" TO THE MUNICIPAL CODE

Municipal Code Section 13.50.140 shall be amended to read as follows:

13.50.140 Inspections of sexually oriented businesses.

To enforce the provisions of Chapter 5.18 of the municipal code and/or other applicable statutes, rules, codes or regulations, a code ~~enforcement~~ **compliance** officer or other authorized enforcement agent may inspect a sexually oriented business pursuant to Chapter 5.18 of the municipal code.

Section 45. AMENDMENT OF SECTION 13.50.160, "INSPECTIONS OF TATTOOING ESTABLISHMENTS" TO THE MUNICIPAL CODE

Municipal Code Section 13.50.160 shall be amended to read as follows:

13.50.160 Inspections of tattooing establishments.

To enforce the provisions of Chapter 5.34 of the municipal code and/or other applicable statutes, rules, codes or regulations, a code ~~enforcement~~ **compliance** officer or other authorized enforcement agent may inspect tattooing establishments pursuant to Chapter 5.30 of the municipal code.

Section 46. AMENDMENT OF SECTION 13.50.170, "INSPECTIONS PERTAINING TO STORMWATER MANAGEMENT AND DISCHARGE CONTROLS PROVISIONS" TO THE MUNICIPAL CODE

Municipal Code Section 13.50.170 shall be amended to read as follows:

13.50.170 Inspections pertaining to stormwater management and discharge controls provisions.

To enforce the provisions of Chapter 15.10 of the municipal code, a code ~~enforcement~~ **compliance** officer or other authorized enforcement agent may conduct inspections regarding provisions pertaining to stormwater management and discharge controls pursuant to Chapter 15.10 of the municipal code.

Section 47. AMENDMENT OF SECTION 13.50.280, "REFUSAL TO PERMIT INSPECTION PURSUANT TO COURT ISSUED INSPECTION WARRANT" TO THE MUNICIPAL CODE

Municipal Code Section 13.50.280 shall be deleted as follows:

~~13.50.280 Refusal to permit inspection pursuant to court issued inspection warrant.~~

~~Any occupant or tenant who refuses to permit an inspection pursuant to any court issued inspection warrant shall be subject to arrest by the code enforcement officer or other authorized enforcement agent. Forcible execution of said inspection under such circumstance shall be permitted only if the warrant expressly~~

~~grants permission for such forcible entry. (Ord. 504 § 2, 1999)~~

Section 48. AMENDMENT OF SECTION 13.55.010, "ISSUANCE OF NOTICE OF VIOLATION" TO THE MUNICIPAL CODE

Municipal Code Section 13.55.010 shall be amended to read as follows:

13.55.010 Issuance of notice of violation.

A code ~~enforcement~~ **compliance** officer or other authorized enforcement agent may issue a notice of violation in lieu of issuing a field citation, an administrative citation or a notice of public nuisance, provided that grounds exist to issue a field citation, an administrative citation or a notice of public nuisance or to file a criminal complaint as set forth in this title. Nothing in this title shall be construed or interpreted to require the issuance of a notice of violation as a prerequisite to the issuance of a field citation, an administrative citation, or a notice of public nuisance or the filing of a criminal complaint.

Section 49. AMENDMENT OF SECTION 13.55.020, "CONTENTS OF NOTICE OF VIOLATION-RELATED TO REAL PROPERTY" TO THE MUNICIPAL CODE

Municipal Code Section 13.55.020 shall be amended to read as follows:

13.55.020 Contents of notice of violation-Related to real property.

If the violator is being charged for violations occurring upon real property, the notice of violation should include all of the following information:

- A. The name of the property's record owner, the occupant, if any, and/or the agent, if any, having charge or control of the property;
- B. The date of inspection;
- C. The date of the violation(s);
- D. The street address or a definite description of the location where the violation(s) occurred;
- E. The code section(s) violated;

F. A description of the property's condition which violated the applicable codes;

G. A list of necessary corrections to bring the property into compliance;

H. The deadline or specific date by which to correct the violation(s) listed in the notice of violation;

I. A reference to the potential consequences should the property remain in violation after the expiration of the compliance deadline;

~~J. The amount of the potential fine for the code violation(s); and~~

KJ. The name and signature of the code ~~enforcement~~ **compliance** officer or other authorized enforcement agent who issued the notice of violation ("citing officer").

Section 50. AMENDMENT OF SECTION 13.55.030, "CONTENTS OF NOTICE OF VIOLATION—UNRELATED TO REAL PROPERTY" TO THE MUNICIPAL CODE

Municipal Code Section 13.55.030 shall be amended to read as follows:

13.55.030 Contents of notice of violation—Unrelated to real property.

If the violator is being charged for violations not occurring upon real property, the notice of violation shall include all of the following information:

A. The name of the person(s) responsible for committing the violation(s);

B. The date of the violation(s);

C. The street address or a definite description of the location where the violation occurred;

D. The code section(s) violated;

E. A description of the violation(s);

F. ~~An order prohibiting the continuation or repeated occurrence of the described violation(s)~~ **The deadline or specific date by which to correct the violation(s) listed in the notice of violation;**

~~G. The amount of the potential fine for the code violation(s); and~~

~~#G.~~ The name and signature of the citing officer.

Section 51. AMENDMENT OF SECTION 13.58.010, "ISSUANCE OF ADMINISTRATIVE CITATION" TO THE MUNICIPAL CODE

Municipal Code Section 13.58.010 shall be amended to read as follows:

13.58.010 Issuance of administrative citation.

Whenever a code ~~enforcement~~ **compliance** officer or other authorized agent determines that an infraction or misdemeanor violation of the municipal code has occurred or that a violation exists which is deemed to constitute a public nuisance as set forth in the municipal code and/or applicable statute, rule, code or regulation, the officer or agent, in lieu of issuing a field citation or causing or requesting the city attorney to file a criminal complaint, may issue an administrative citation to any party responsible for the violation.

Section 52. AMENDMENT OF SECTION 13.58.030, "CONTENTS OF ADMINISTRATIVE CITATION" TO THE MUNICIPAL CODE

Municipal Code Section 13.58.030 shall be amended to read as follows:

13.58.030 Contents of administrative citation.

An administrative citation shall include all of the following information:

- A. The name of the person(s) responsible for committing the violation(s);
- B. The date of the violation(s);
- C. The street address or a definite description of the location where the violation occurred;
- D. The code section(s) violated;
- E. A description of the violation;
- F. An order prohibiting the continuation or repeated occurrence of the described violation(s);

G. The amount of the administrative fine for the violation(s);

H. A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;

I. A description of the administrative citation appeal process, including the time within which a notice of appeal must be filed;

J. A description of the process by which the city may collect any unpaid fines;

K. A description of the potential consequences should the violator continue or repeat the violation; and

L. The name and signature of the code ~~enforcement~~ compliance officer or other authorized person who issued the administrative citation.

Section 53. ADDITION OF SECTION 13.58.160, "ATTORNEY'S FEES" TO THE MUNICIPAL CODE

Municipal Code Section 13.58.160 shall be amended to read as follows:

13.58.160 Attorney's fees.

The prevailing party in any proceeding conducted pursuant to this chapter and associated with the abatement of a public nuisance shall be entitled to recovery of attorney's fees incurred in any such proceeding. Such fees are recoverable pursuant to the procedures in Chapter 13.120. In no action, administrative proceeding, or special proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the city in the action or proceeding.

Section 54. ADDITION OF SECTION 13.60.180, "ATTORNEY'S FEES" TO THE MUNICIPAL CODE

Municipal Code Section 13.60.180 shall be amended to read as follows:

13.60.180 Attorney's fees.

The prevailing party in any proceeding conducted pursuant to this chapter and associated with the abatement of a public nuisance shall be entitled to recovery of attorney's fees incurred in any such proceeding. Such fees are recoverable pursuant to the procedures in Chapter 13.120. In no action, administrative proceeding, or special proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the city in the action or proceeding.

Section 55. AMENDMENT OF SECTION 13.65.015, "AUTHORITY TO ARREST WITHOUT WARRANT" TO THE MUNICIPAL CODE

Municipal Code Section 13.65.015 shall be amended to read as follows:

13.65.015 Authority to arrest without warrant.

Any code ~~enforcement~~ **compliance** officer or other agent who has a duty to enforce any provision of this title and who has reasonable cause to believe that a person has committed an infraction violation in the presence of said officer or agent, may arrest the alleged violator without a warrant.

Section 56. AMENDMENT OF SECTION 13.65.020, "FIELD CITATION-RELEASE PROCEDURES-EVIDENCE OF IDENTITY" TO THE MUNICIPAL CODE

Municipal Code Section 13.65.020 shall be amended to read as follows:

13.65.020 Field citation-Release procedures-Evidence of identity.

Any code ~~enforcement~~ **compliance** officer or other authorized enforcement agent who arrests a person for an infraction violation pursuant to Section 13.65.015, shall, in lieu of taking the arrested person into custody, prepare, or cause to be prepared, in duplicate, an infraction field citation which shall provide a written notice to appear in court, and which shall contain the name and address of the arrested person, the offense charged, and the time when, and the place where, the arrested person shall appear in court. The arresting officer or agent shall release the arrested person and issue an infraction field citation provided that: (1) the arrested person presents his or her driver's license or other satisfactory evidence of his or her identity to the officer or agent; and (2) the arrested person signs a written promise to appear at court at a later date and time which shall be specified

on the field citation. The arresting officer or agent shall deliver one duplicate copy of the field citation to the arrested person and shall retain the original signed citation. If the arrested person does not have a driver's license or other satisfactory evidence of identity in his or her possession, the arresting officer or agent may require the arrested person to place a right thumbprint, or a left thumbprint or fingerprint if the person has a missing or disfigured right thumb, on the field citation.

Section 57. AMENDMENT OF SECTION 13.65.025, "CUSTODY" TO THE MUNICIPAL CODE

Municipal Code Section 13.65.025 shall be amended to read as follows:

13.65.025 Custody.

Any person who is placed under arrest in accordance with Section 13.65.020 who refuses to sign the field citation, or who is unable or unwilling to produce satisfactory identification, or is unable or unwilling to provide a thumbprint or fingerprint shall be taken into custody by the arresting code ~~enforcement~~ **compliance** officer or other authorized enforcement agent pursuant to Penal Code Section 853.5.

Section 58. AMENDMENT OF SECTION 13.65.030, "CRIMINAL INFRACTION COMPLAINT" TO THE MUNICIPAL CODE

Municipal Code Section 13.65.030 shall be amended to read as follows:

13.65.030 Criminal infraction complaint.

Whenever a code enforcement officer or other authorized agent has reasonable cause to believe that an infraction violation has been committed in the presence of the officer or agent and the alleged violator cannot be served with a field citation for any reason, the city attorney ~~shall~~ **may** file a criminal infraction complaint against the alleged violator at the request of the code enforcement chief or other enforcement authority.

Section 59. AMENDMENT OF SECTION 13.65.080, "ATTORNEYS' FEES" TO THE MUNICIPAL CODE

Municipal Code Section 13.65.080 shall be amended to read as follows:

13.65.080 Attorneys' fees.

The prevailing party in any infraction violation proceeding associated with the abatement of a public nuisance shall be entitled to recovery of attorneys' fees incurred in any such proceeding. *In no action, administrative proceeding, or special proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the city in the action or proceeding.*

Section 60. AMENDMENT OF SECTION 13.70.020, "~~FOURTH~~ SECOND AND SUBSEQUENT INFRACTION VIOLATIONS" TO THE MUNICIPAL CODE

Municipal Code Section 13.70.020 shall be amended to read as follows:

13.70.020 ~~Fourth~~ **Second** and subsequent infraction violations.

The ~~fourth~~ **second** and each subsequent violation of a municipal code provision by a member of the public that would otherwise be an infraction violation within a twelve-month period commencing upon the date of the first violation shall be deemed a misdemeanor violation.

Section 61. AMENDMENT OF SECTION 13.70.035, "AUTHORITY TO ARREST WITHOUT WARRANT" TO THE MUNICIPAL CODE

Municipal Code Section 13.70.035 shall be amended to read as follows:

13.70.035 Authority to arrest without warrant.

Any code ~~enforcement~~ **compliance** officer or other agent who has a duty to enforce any provision of this title and who has reasonable cause to believe that a person has committed a misdemeanor violation in the presence of said officer or agent, may arrest the alleged violator without a warrant.

Section 62. AMENDMENT OF SECTION 13.70.040, "FIELD CITATION-RELEASE PROCEDURES-EVIDENCE OF IDENTITY" TO THE MUNICIPAL CODE

Municipal Code Section 13.70.040 shall be amended to read as follows:

13.70.040 Field citation—Release procedures—Evidence of identity.

Any code ~~enforcement~~ **compliance** officer or other authorized enforcement agent who arrests a person for a misdemeanor violation pursuant to Section 13.70.035 shall, in lieu of taking the arrested person into custody, prepare, or cause to be prepared, in duplicate, an infraction field citation which shall provide a written notice to appear in court, and which shall contain the name and address of the arrested person, the offense charged, and the time when, and the place where, the arrested person shall appear in court. The arresting officer or agent shall release the arrested person and issue a misdemeanor field citation provided that: (1) the arrested person presents his or her driver's license or other satisfactory evidence of his or her identity to the officer or agent; and (2) the arrested person signs a written promise to appear at court at a later date and time which shall be specified on the field citation. The arresting officer or agent shall deliver one duplicate copy of the field citation to the arrested person and shall retain the original signed citation. If the arrested person does not have a driver's license or other satisfactory evidence of identity in his or her possession, the arresting officer or agent may require the arrested person to place a right thumbprint, or a left thumbprint or fingerprint if the person has a missing or disfigured right thumb, on the field citation.

Section 63. **AMENDMENT OF SECTION 13.70.050, "CUSTODY" TO THE MUNICIPAL CODE**

Municipal Code Section 13.70.050 shall be amended to read as follows:

13.70.050 Custody.

Any person who is placed under arrest in accordance with Section 13.70.040 who refuses to sign the field citation, or who is unable or unwilling to produce satisfactory identification, or is unable or unwilling to provide a thumbprint or fingerprint shall be taken into custody by the arresting code ~~enforcement~~ **compliance** officer or other authorized enforcement agent pursuant to Penal Code Section 853.5.

Section 64. **AMENDMENT OF SECTION 13.70.060, "CRIMINAL MISDEMEANOR COMPLAINT" TO THE MUNICIPAL CODE**

Municipal Code Section 13.70.060 shall be amended to read as follows:

13.70.060 Criminal misdemeanor complaint.

Whenever a code ~~enforcement~~ **compliance** officer or authorized agent has reasonable cause to believe that a misdemeanor violation is being committed and the alleged violator cannot be served with a field citation for any reason, the city attorney may file a criminal misdemeanor complaint against the alleged violator at the request of the code enforcement chief or any other enforcement authority ~~unless the city attorney in his or her discretion determines that the misdemeanor violation should be reduced to an infraction violation.~~

Section 65. AMENDMENT OF SECTION 13.70.070, "NOTICE OF PENDING ACTION" TO THE MUNICIPAL CODE

Municipal Code Section 13.70.070 shall be amended to read as follows:

13.70.070 Notice of pending action.

Upon the filing of a criminal complaint for zoning or other land use related violations, the code ~~enforcement~~ **compliance** chief or any other enforcement authority, or designee, may file a notice of pending action in the county recorder's office to prevent the owner from transferring the subject property or premises to another person or entity without first correcting the outstanding violation and reimbursing the city for any and all costs incurred by the city in its attempt to remedy the violation. Once the action is completed and the city is reimbursed for any costs incurred by the city in its attempt to remedy the subject violation, the code enforcement chief, or designee, shall file a withdrawal of the notice with the county recorder's office.

Section 66. AMENDMENT OF SECTION 13.70.120, "ATTORNEYS' FEES" TO THE MUNICIPAL CODE

Municipal Code Section 13.70.120 shall be amended to read as follows:

13.70.120 Attorneys' fees.

The prevailing party in any misdemeanor violation proceeding associated with the abatement of a public nuisance shall be entitled to recovery of attorneys' fees incurred in any such proceeding. **In no action, administrative proceeding, or special proceeding shall an award of attorney's fees to a prevailing party**

exceed the amount of reasonable attorney's fees incurred by the city in the action or proceeding.

Section 67. AMENDMENT OF SECTION 13.80.115, "VISUAL BLIGHT" TO THE MUNICIPAL CODE

Municipal Code Section 13.80.115 shall be amended to read as follows:

13.80.115 Visual blight.

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

Section 68. AMENDMENT OF SECTION 13.90.010, "NOTICE OF PUBLIC NUISANCE AND ORDER TO ABATE" TO THE MUNICIPAL CODE

Municipal Code Section 13.90.010 shall be amended to read as follows:

13.90.010 Notice of public nuisance and order to abate.

When a code ~~enforcement~~ compliance officer or other authorized agent has inspected any real property or premises and has found and determined that conditions at or upon such property or premises constitutes a public nuisance pursuant to any provision of the municipal code and/or applicable statute, rule, code and regulation and the city has not commenced an alternative public nuisance abatement procedure prescribed by statute regarding said public nuisance, the code enforcement officer or authorized agent may issue or cause the issuance of a notice of public nuisance and order to abate ("notice and order") pursuant to this chapter.

Section 69. AMENDMENT OF SECTION 13.90.020, "CONTENTS OF NOTICE AND ORDER" TO THE MUNICIPAL CODE

Municipal Code Section 13.90.020 shall be amended to read as follows:

13.90.020 Contents of notice and order.

The notice and order shall include all of the following information:

A. The name of the property's record owner, the occupant, if any, and/or the agent, if any, having charge or control of the property;

B. The date of inspection;

C. The date of the violation;

D. The street address or a definite description of the location where the violation occurred;

E. The code section(s) violated;

F. A description of the property's condition which violated the applicable codes;

G. The actions necessary to correct the subject violations;

H. The deadline or specific date by which to correct the violations;

I. A reference to the potential consequences should the property remain in violation after the expiration of the compliance deadline;

~~J. The number of times the violation has been cited by the city within the previous thirty six months;~~

~~K. The amount of the public nuisance administrative fine for the code violation;~~

~~L. A description of the fine payment process, including a description of the time within which the fine must be paid and the place where the fine must be paid;~~

~~M. A description of the process by which the city may collect any unpaid fines;~~

~~N~~J. An order prohibiting the continuation or repeated occurrence of the code violation described in the notice and order;

~~o~~K. A description of the administrative appeal process for a person's appeal of the code ~~enforcement~~ compliance officer's determination of violation, including the time within which the administrative appeal must be filed and the place from which a "request for hearing" form may be obtained; and

~~P~~L. The name and signature of the citing code ~~enforcement~~ compliance officer or other authorized agent.

Section 70. AMENDMENT OF SECTION 13.90.060, "PERSONS ENTITLED TO SERVICE" TO THE MUNICIPAL CODE

Municipal Code Section 13.90.060 shall be amended to read as follows:

13.90.060 Persons entitled to service.

The notice and order, and any amended or supplemental notice and order shall be served upon the record owner, tenant, occupant, if any, and/or agent, if any, having charge or control of the property. The failure of the code ~~enforcement~~ compliance officer or authorized agent to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this title.

Section 71. AMENDMENT OF SECTION 13.90.070, "METHOD OF SERVICE" TO THE MUNICIPAL CODE

Municipal Code Section 13.90.070 shall be amended to read as follows:

13.90.070 Method of service.

Service of a copy of the notice and order shall be made upon all persons entitled thereto either personally or by certified mail, postage prepaid, return receipt requested, at their address as it appears on the last equalized assessment roll of the county or as otherwise known to the issuing officer or authorized agent. If an address of any such person does not appear on the last equalized assessment roll or is not otherwise known to the issuing officer or authorized agent then a copy of the notice and order shall be addressed to such person(s) and mailed to the address of the subject premises. The failure of any such person to receive a copy of the notice and order shall not affect the validity of any proceedings or actions taken under this title. Service by certified mail in the manner herein provided shall be affixed to the copy of the notice and order and retained by the code ~~enforcement~~ compliance officer or authorized agent.

Section 72. AMENDMENT OF SECTION 13.90.090, "PROOF OF SERVICE" TO THE MUNICIPAL CODE

Municipal Code Section 13.90.090 shall be amended to read as follows:

13.90.090 Proof of service.

Proof of service of the notice and order shall be certified at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to a copy of the notice and order and retained by the code ~~enforcement~~ compliance officer or authorized agent.

Section 73. AMENDMENT OF SECTION 13.90.200, "FAILURE TO COMPLY WITH NOTICE AND ORDER" TO THE MUNICIPAL CODE

Municipal Code Section 13.90.200 shall be amended to read as follows:

13.90.200 Failure to comply with notice and order.

The failure to comply with a final notice and order shall be deemed a misdemeanor offense. If, after the notice and order becomes final, the person(s) to whom the order is directed shall

fail, neglect or refuse to obey such order, the code ~~enforcement~~ **compliance** chief or other authorized agent may: (a) cause such person to be prosecuted for a misdemeanor violation; and/or (b) institute any appropriate legal action or proceeding necessary to abate or enjoin the conditions causing the nuisance.

Section 74. **DELETION OF SECTION 13.90.210, "DEMAND FOR PAYMENT OF PUBLIC NUISANCE ADMINISTRATIVE FINES AFTER FAILURE TO COMPLY WITH ORDER TO ABATE" TO THE MUNICIPAL CODE**

Municipal Code Section 13.90.210 shall be deleted as follows:

~~13.90.210 Demand for payment of public nuisance administrative fines after failure to comply with order to abate.~~

~~After a notice and order becomes final due to the failure to file a timely and proper appeal, the code enforcement chief or other authorized agent shall prepare a demand for payment of all applicable public nuisance administrative fines if the city determines that the person to whom the order to abate is directed failed, neglected or refused to obey any orders or adhere to the terms and conditions set forth in said order. (Ord. 504 § 2, 1999)~~

Section 75. **DELETION OF SECTION 13.90.230, "FORM OF DEMAND FOR PAYMENT" TO THE MUNICIPAL CODE**

Municipal Code Section 13.90.230 shall be deleted as follows:

~~13.90.230 Form of demand for payment.~~

~~The demand for payment may be in letter form or any other form which conveys the information set forth in Section 13.90.220. (Ord. 504 § 2, 1999)~~

Section 76. **DELETION OF SECTION 13.90.240, "SERVICE OF DEMAND FOR PAYMENT" TO THE MUNICIPAL CODE**

Municipal Code Section 13.90.240 shall be deleted as follows:

~~13.90.240 Service of demand for payment.~~

~~The demand for payment shall be served upon the person(s) responsible for payment of the public nuisance administrative fines either personally or by certified mail, postage prepaid, return receipt requested, at their address as it appears on the last~~

~~equalized assessment roll of the county or as otherwise known to the issuing officer or authorized agent. If an address of any such person does not appear on the last equalized assessment roll or is not otherwise known to the issuing officer or authorized agent, then a copy of the notice and order shall be addressed to such person(s) and mailed to the address of the subject premises. The failure of any such person to receive a copy of the demand for payment shall not affect the validity of any proceedings or actions taken under this title. Service by certified mail in the manner herein provided shall be affixed to the copy of the demand for payment and retained by the code enforcement officer or authorized agent. (Ord. 504 § 2, 1999)~~

Section 77. DELETION OF SECTION 13.90.250, "COMPLETION OF SERVICE" TO THE MUNICIPAL CODE

Municipal Code Section 13.90.250 shall be deleted as follows:

~~13.90.250 Completion of service.~~

~~Service of the demand for payment which is personally served shall be deemed completed at the time of such delivery. Service of a notice and order which is served by mail is deemed completed on the date said notice and order is deposited in the mail. (Ord. 504 § 2, 1999)~~

Section 78. DELETION OF SECTION 13.90.260, "PROOF OF SERVICE" TO THE MUNICIPAL CODE

Municipal Code Section 13.90.260 shall be deleted as follows:

~~13.90.260 Proof of service.~~

~~Proof of service of the demand for payment shall be certified at the time of service by a written declaration under penalty of perjury executed by the persons effecting service, declaring the date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to a copy of demand for payment and retained by the code enforcement officer or authorized agent. (Ord. 504 § 2, 1999)~~

Section 79. AMENDMENT OF SECTION 13.90.270, "ATTORNEYS' FEES" TO THE MUNICIPAL CODE

Municipal Code Section 13.90.270 shall be amended to read as

follows:

13.90.270 Attorneys' fees.

The prevailing party in any proceeding conducted pursuant to this chapter and associated with the abatement of a public nuisance shall be entitled to recovery of attorneys' fees incurred in any such proceeding. ***In no action, administrative proceeding, or special proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the city in the action or proceeding.***

Section 80. AMENDMENT OF SECTION 13.100.010, "DUTIES OF ADMINISTRATIVE APPEALS OFFICER" TO THE MUNICIPAL CODE

Municipal Code Section 13.100.010 shall be amended to read as follows:

13.100.010 Duties of administrative appeals officer.

The administrative appeals officer (appeals officer) shall conduct all administrative appeal hearings of any timely and properly filed appeal from any notice of public nuisance and order to abate (notice and order) pursuant to the administrative appeal procedures set forth in this chapter. The appeals officer shall review all evidence, documents, and written testimony and hear all oral testimony submitted by the parties at or before the scheduled administrative appeals hearing and render all decisions and findings in writing to the appellant with a duplicate copy to the code ~~enforcement~~ **compliance** chief or other authorized agent. The appeals officer may decide to uphold the notice and order, establish a modified schedule for compliance, or overturn the findings and determinations set forth in the notice and order and not require that the property owner or party otherwise responsible for the violation(s) take any action otherwise required by the notice and order.

Section 81. AMENDMENT OF SECTION 13.100.260, "ATTORNEYS' FEES" TO THE MUNICIPAL CODE

Municipal Code Section 13.100.260 shall be amended to read as follows:

13.100.260 Attorneys' fees.

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

such proceeding. In no action, administrative proceeding, or special proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the city in the action or proceeding.

Section 82. AMENDMENT OF SECTION 13.110.070, "ATTORNEYS' FEES" TO THE MUNICIPAL CODE

Municipal Code Section 13.110.070 shall be amended to read as follows:

13.110.070 Attorneys' fees.

The prevailing party in any proceeding conducted pursuant to this chapter and associated with the abatement of a public nuisance shall be entitled to recovery of attorneys' fees incurred in any such proceeding. In no action, administrative proceeding, or special proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the city in the action or proceeding.

Section 83. AMENDMENT OF SECTION 13.120.010, "RESPONSIBILITY FOR PUBLIC NUISANCE ABATEMENT COSTS" TO THE MUNICIPAL CODE

Municipal Code Section 13.120.010 shall be amended to read as follows:

13.120.010 Responsibility for public nuisance abatement costs.

If the city elects to perform public nuisance abatement work or its enforcement actions cause such work to be performed pursuant to this title, the owner of record of the property shall be liable for all costs of abatement incurred by the city, including, but not limited to, administrative costs. Costs owing to the city under this provision also include costs incurred by the city in connection with its enforcement of the municipal code under this title regardless of whether the city performs the subject abatement work or whether the city's code ~~enforcement~~ **compliance** actions cause the person or persons with ownership and/or control over the property at issue to perform the abatement work or to otherwise bring the property into compliance with the applicable provisions of the municipal code.

Section 84. AMENDMENT OF SECTION 13.120.015, "ATTORNEYS' FEES" TO THE MUNICIPAL CODE

Municipal Code Section 13.120.015 shall be amended to read as follows:

13.120.015 Attorneys' fees.

The prevailing party in any proceeding conducted pursuant to this chapter and associated with the abatement of a public nuisance shall be entitled to recovery of attorneys' fees incurred inn any such proceeding. In no action, administrative proceeding, or special proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the city in the action or proceeding.

Section 85. AMENDMENT OF SECTION 13.120.030, "PREPARATION OF ABATEMENT COST REPORT" TO THE MUNICIPAL CODE

Municipal Code Section 13.120.030 shall be amended to read as follows:

13.120.030 Preparation of abatement cost report.

A. Upon completion of any abatement work performed by or under the direction of the city, or upon incursion by the city of any costs subject to recovery pursuant to this title, the issuing officer or authorized agent shall prepare an abatement cost report in the form prescribed by Section 13.120.040, which provides an accounting of the cost, including incidental expenses, incurred as a result of abating any public nuisance on each separate lot or parcel of land.

B. Notwithstanding subsection 13.120.030(A), any award, order, settlement, or grant of costs to the city, including any attorney's fees, which stems from any proceeding in a state or federal court involving the abatement of any public nuisance on each separate lot or parcel of land shall be not included in the abatement cost report, nor shall such awards, orders or grants be appealable under section 13.120.090 or Chapter 13.130.

Section 86. AMENDMENT OF SECTION 13.120.055, "PERSONS ENTITLED TO SERVICE" TO THE MUNICIPAL CODE

Municipal Code Section 13.120.055 shall be amended to read as follows:

13.120.055 Persons entitled to service.

The abatement cost report and any amended or supplemental report, shall be served upon the record owner and/or any agent having charge or control of the property. The failure of the code ~~enforcement~~ compliance officer or authorized agent to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed by the provisions of this title.

Section 87. AMENDMENT OF SECTION 13.120.180, "SPECIAL ASSESSMENT AGAINST PARCEL FOR FAILURE TO TIMELY PAY ABATEMENT COSTS" TO THE MUNICIPAL CODE

Municipal Code Section 13.120.180 shall be amended to read as follows:

13.120.180 Special assessment against parcel for failure to timely pay abatement costs.

A. If the abatement costs are not paid within thirty calendar days from the date the abatement cost report becomes due pursuant to Section 13.120.170, the abatement costs shall become a special assessment against that parcel.

B. *If costs owed pursuant to an award, order, settlement, or grant under section 13.120.030(B) are not paid within thirty calendar days from the date of the award, order, settlement, or grant, or within any other specified deadline, the costs may become a special assessment against the lot or parcel of land that was subject of the proceeding.*

Section 88. AMENDMENT OF SECTION 13.130.040, "REPORT AND RECOMMENDATION" TO THE MUNICIPAL CODE

Municipal Code Section 13.130.040 shall be amended to read as follows:

13.130.040 Report and recommendation.

The issuing officer or authorized agent, or his or her designee, shall prepare an administrative hearing packet for the administrative appeals officer to review prior to the hearing. The packet shall include a copy of the abatement cost report, a staff report and any evidence of the abatement costs. The staff report should include a summary of the code enforcement activities performed at the subject property.

Section 89. AMENDMENT OF SECTION 13.130.090, "ATTORNEYS' FEES" TO THE MUNICIPAL CODE

Municipal Code Section 13.130.090 shall be amended to read as follows:

13.130.090 Attorneys' fees.

The prevailing party in any proceeding conducted pursuant to this chapter and associated with the abatement of a public nuisance shall be entitled to recovery of attorneys' fees incurred incurred any such proceeding. **In no action, administrative proceeding, or special proceeding shall an award of attorney's fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the city in the action or proceeding.**

Section 90. AMENDMENT OF SECTION 13.135.060, "MAINTENANCE REQUIREMENTS" TO THE MUNICIPAL CODE

Municipal Code Section 13.135.060 shall be amended to read as follows:

13.135.060 Maintenance requirements.

A. All properties subject to the requirements of this chapter shall comply at all times with all applicable state and local laws, including without limitation, the provisions of Chapter 13.80, "Public Nuisances" of the Cathedral City Municipal Code; the California Building Code; and the California Fire Code. Any code violation at the property that results in a public nuisance shall be processed as a public nuisance under Title 13 of this code.

B. For purposes of code ~~enforcement~~ **compliance**, the person owning, leasing, occupying or having charge or possession of the property is the person required to register the property and the local property management company responsible for the inspection, maintenance and security of the property, if any.

Section 91. AMENDMENT OF SECTION 13.135.090, "ADMINISTRATION" TO THE MUNICIPAL CODE

Municipal Code Section 13.135.090 shall be amended to read as follows:

13.135.090 Administration.

Except as otherwise provided, the provisions and prohibitions of this chapter shall be jointly administered by and the responsibility of the city's building and code ~~enforcement~~ compliance departments.

Section 92. SEVERABILITY

The City Council declares that, should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 93. AMENDING OF BAIL SCHEDULE

The City Attorney's Office is hereby directed to determine whether this ordinance necessitates amendment of the City's Bail Schedule and to cause such necessary amendments to be made and filed with the local branches of the Superior Court of the County of Riverside.

Section 94. EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days after its second reading by the City Council.

Section 95. CITY ATTORNEY REVIEW

The City Attorney prepared and framed this ordinance pursuant to Section 1.04.010 of the Municipal Code and finds that the City Council has the authority to adopt this ordinance, that the ordinance is constitutionally valid and that the ordinance is consistent with the general powers and purposes of the City as set forth in Section 1.04.031 of the Municipal Code.

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Section 96. EXECUTION AND CERTIFICATION

The City Clerk shall certify to the passage of this Ordinance and shall cause the same to be published according to law.

The foregoing Ordinance was approved and adopted at a meeting of the City Council held on _____, 2016 by the following vote:

Ayes:
Noes:
Abstain:
Absent:

Stanley E. Henry, Mayor

ATTEST:

Gary F. Howell, City Clerk

APPROVED AS TO FORM:

Eric S. Vail, City Attorney