

URGENCY ORDINANCE NO. 1837
AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
OROVILLE, CALIFORNIA AMENDING CHAPTER 9.08 OF THE OROVILLE
MUNICIPAL CODE ENTITLED “NUISANCE CODE”

WHEREAS, pursuant to Article XI, Section 7 of the California Constitution, the City of Oroville may make and enforce all regulations and ordinances using its police powers; and

WHEREAS, Government Code sections 38771, 38773, 38773.1, and 38773.5 authorize the City to enact ordinances declaring what constitutes public nuisances, procedures for abating nuisance conditions, procedures for recovery of all costs and attorney fees related to abatement of nuisances, and procedures for collection of civil penalties; and,

WHEREAS, the City must not only have the power to declare what constitutes a nuisance and to establish procedures for abatement and cost recovery; it also has an immediate need to actively engage in abatement activities; and,

WHEREAS, the City’s abatement activities are in furtherance of an urgent need to eliminate existing hazardous conditions on numerous properties within the geographic boundaries of the City of Oroville that are in violation of current municipal codes, that pose a threat to public peace, health and safety, and that are detrimental to the community; and,

WHEREAS, Government Code §36937(b) allows an ordinance to take effect immediately for the preservation of public peace, health or safety and it contains a declaration of the facts constituting the urgency; and

WHEREAS, the proposed amendment is internally consistent with other applicable provisions of this Zoning Code, in that the amendment will implement the General Plan through standards for zoning districts already adopted into the Zoning Code; and

WHEREAS, adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, as it can be seen with certainty that there is no possibility that enactment of the Ordinance alone has the potential to cause a significant effect on the environment; and

WHEREAS, The City Council has been provided with information upon which the findings and actions set forth in this Ordinance are based, allowing the Council to adopt this urgency ordinance to be effective upon adoption; and

WHEREAS, for the reasons set forth above, this Ordinance is declared by the City Council to be necessary for preserving the public peace, welfare, health or safety and to avoid a current, immediate and direct threat to the peace, health, safety or welfare of the community. The recitals above, taken together, constitute the City Council’s statement of the reasons for adopting this Ordinance on an urgency basis.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF OROVILLE DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings.

The City Council of the City of Oroville adopts and finds as true and correct, the aforementioned recitals and incorporate them herein as findings.

SECTION 2. Amend Chapter 9.08 of the Oroville Municipal Code to read as follows:

Chapter 9.08 NUISANCE CODE

Article 1. In General

9.08.010 Title.

This chapter shall be known as the “Nuisance Code,” may be cited as such, and will be referred to herein as “this Code.” (Ord. 1719 § 2)

9.08.020 Purpose.

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

(b) Provisions of this Code are to be supplementary and complementary to all of the provisions of the City Code, state law, and any law cognizable at common law or in equity, and nothing herein shall be read, interpreted or construed in any manner so as to limit any existing right or power of the City of Oroville to abate any and all nuisances. (Ord. 1719 § 2)

9.08.030 Application.

The provisions of this Code shall apply generally to all property throughout the City of Oroville wherein any of the conditions, hereinafter specified, are found to exist; provided, however, that any condition which would constitute a violation of this Code, but which is duly authorized under any city, state or federal law, shall not be deemed to be a violation of this Code. (Ord. 1719 § 2)

Article 2. Enforcement

9.08.040 Definitions.

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

“**Cost of abatement**” means the total cost incurred by the city in connection with enforcement of this Code including, but not limited to:

1. Any cost incurred in removing or remedying a public nuisance;
2. A service fee for administrative services rendered by the city in connection with the inspection, notification, prosecution and abatement procedures authorized by this Code;
 - a. The service fee shall be in such amounts as are determined by resolution of the city council.
 - b. The service fee shall be calculated based on all services rendered by the city from the time of the initial inspection of the premises made for the purpose of documenting a violation of this Code until the violation is corrected.
 - c. The service fee is not intended to be a penalty imposed for violation of this Code or of other laws;
3. Any cost or fee incurred by the city in collecting the costs or fees enumerated in this section.

“Enforcement Officer” means any person duly authorized by the City of Oroville to enforce this code.

“Inoperative vehicle” means any motor vehicle which cannot be moved under its own power, or cannot be operated lawfully on a public street or highway within this state, due to removal of, damage to, or deterioration of, or inoperative condition of any component part or the lack of an engine, transmission, wheels, tires, doors, windshield or any other component part necessary for such movement or lawful operation or which cannot be operated on a public street or highway because it is not currently registered with or fees paid to the California Department of Motor Vehicles.

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

“Junk yard” means any premises from or on which any junk is abandoned, bailed, bartered, bought, brought, bundled, deposited, disassembled, disposed of, exchanged, handled, kept, packed, processed, scattered, shipped, sold, stored or transported, regardless of whether or not such activity is done for profit.

“Landscaping” means lawns, trees, plants or other decorative features such as ponds, fountains, walls, park strips, planter areas and rocks.

“Owner” means the owner of record of real property, or the occupant, lessee, or interested holder, as the case may be.

“Premises” means any real property or improvements thereon, as the case may be.

“Property” means premises.

“Unreasonable state of partial construction” means any unfinished building or structure, where construction has ceased for more than 45 days. (Ord. 1719 § 2)

9.08.050 Nuisances specified.

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

A. Broken or discarded furniture, appliances, household equipment and furnishings or shopping carts stored on the premises so as to be visible from any public or adjacent parcel of property;

B. Overgrown vegetation visible from any public or adjacent parcel of property that is likely to harbor rats, vermin or other nuisances or which obstructs the view of drivers on public streets or private driveways, or which impedes, obstructs or denies pedestrian or other lawful travel on sidewalks, walkways, or other public rights-of-way;

C. Dead, decayed, diseased or hazardous trees, weeds that have grown more than 12 inches in height or other vegetation constituting unsightly appearance, dangerous to public safety and welfare and visible from any public or adjacent parcel of property;

D. Junk, packing boxes, cardboard boxes, lumber, trash, barrels, drums, salvage materials, or other debris kept on the property visible from any public or adjacent parcel of property;

E. Attractive nuisances dangerous to children and other persons, including abandoned, broken or neglected equipment, inoperable vehicles, machinery, appliances, refrigerators and freezers, hazardous pools, ponds and excavations;

F. Mosquito breeding environment caused by keeping, collecting or storing large bodies of water, standing water or areas of collected standing water such as: a swimming pool, fountain(s), miniature pond(s), ponds, planter(s), holes, ditch and or any other such containment of water;

G. Personal property, such as vehicles, boats, trailers, inoperable vehicles or vehicle parts which are abandoned or left in a state of partial repair for 10 calendar days in front yards,

side yards, driveways, sidewalks or walkways and visible from any public or adjacent parcel of property;

H. Vehicles parked or stored in residential zoning districts on property, other than on driveways, and visible from any public or adjacent parcel of property;

I. Buildings which are abandoned, partially destroyed, left in an unreasonable state of partial construction or have been declared substandard or dangerous by the building official;

J. Unpainted buildings or those having dry rot, warping or termite infestation. Any building on which the condition of the paint has become so deteriorated as to permit decay, excessive checking, cracking, peeling, or chalking as to render the building blighted and unsightly, and/or in a state of disrepair;

K. Buildings with windows containing broken glass or no glass at all, where the window is of a type which normally contains glass, which constitutes a safety hazard and/or invites trespassers and malicious mischief. Plywood or other material used to cover such window space, if permitted under the city building regulations, shall be painted in a color or colors compatible with the remainder of the building;

L. Building exteriors, walls, fences, driveways, sidewalks or walkways which are not maintained in good condition as to become materially detrimental to nearby properties and improvements;

M. Trash containers of a multifamily residential, commercial or industrial building, which are not within a required enclosure unit for such building;

N. The operation of a junk yard or automobile dismantling yard, except in an industrial zone pursuant to the requirements of Title 17 of the Oroville Municipal Code;

O. Commercial and industrial equipment that is visible from any public or adjacent parcel of property;

P. Construction equipment, automotive equipment, farm machinery, or machinery of any type or description parked or stored on the owner's property when it is visible from any public or adjacent parcel of property, except:

1. During excavation, construction or demolition operations covered by an active building permit which are continuously in progress on the subject property or an adjoining property,

2. During active farming operations, or

3. When such machinery in an agricultural or industrial zoning district is appropriately stored;

Q. Property which lacks appropriate landscaping, turf or plant material so as to cause excessive dust;

R. The keeping, storing, depositing or accumulation for 10 calendar days of dirt, sand, gravel, concrete, and other similar materials;

S. The owners of properties within the city who allow the following:

1. Behavior that results in criminal activity, which deteriorates the appearance and property value of the neighborhood,

2. Invites, encourages, or harbors criminal activity, or is unaware of criminal activity on his or her property, due to property neglect, resulting in repeated criminal prosecution or booking in the Oroville police department is a nuisance,

3. The illegal sale of controlled substances and other illegal drugs and substances which creates a public nuisance as defined in Civil Code Sections 3479 and 3480,

4. The frequent gathering, or coming and going, of people who have an intent to purchase or use controlled substances on the premises,

5. The occurrence of prostitution, or unlawful activities of a criminal street gang (as defined in Penal Code Section 186.22),

6. The making or continuing, or causing to be made and continued, of any loud, unnecessary or unusual noise which disturbs the peace and quiet of the neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area,

7. The firing of gunshots or brandishing of weapons by a resident of the premises, or by a guest of a resident;

T. Any condition in violation of Title 6 of the Oroville Municipal Code (pertaining to animals and fowl);

U. Any condition in violation of Title 13 of the Oroville Municipal Code (pertaining to building regulations);

V. Any condition in violation of Chapter 15.60 of the Oroville Municipal Code (pertaining to fire protection);

W. Any condition in violation of Chapter 13.08 of the Oroville Municipal Code (pertaining to garbage, rubbish and weeds);

X. Any condition in violation of Chapter 12.04 of the Oroville Municipal Code (pertaining to streets and sidewalks);

Y. Any condition in violation of Title 17 of the Oroville Municipal Code (pertaining to zoning). (Ord. 1719 § 2)

9.08.060 "Department head" construed.

The director of community development and public works, hereinafter referred to as "department head," is hereby authorized and directed to use the provisions of this Code for the purpose of abating those nuisances which exist as the result of violation of those ordinances for which his or her department has primary enforcement responsibility. The term "department head" shall include the authorized representatives of such department head, as well as the police chief, fire chief, and city administrator, and their authorized representatives as concerns matters for which their departments have primary enforcement responsibilities. (Ord. 1719 § 2)

9.08.070 Right of entry.

(a) Whenever possible to make an inspection to enforce any provisions of this Chapter, or whenever the enforcement officer has reasonable cause to believe that there exists in any building or on any property any public nuisances, the enforcement officer may enter such building or property at all reasonable times to inspect the same and ascertain whether the provisions of this code or applicable state codes are being obeyed and to make any examinations and surveys as may be necessary in the performance of their enforcement duties. These may include taking of photographs, samples or other physical evidence. All inspections, entries, examinations and surveys shall be done in a reasonable manner. If such building or property is occupied, the enforcement officer shall first present proper credentials or identification and request entry. If the building or property is unoccupied, the enforcement officer shall make a reasonable effort to locate the owner or other persons having control or charge of the building or property and request entry. If entry is refused, the enforcement officer shall have the recourse to every remedy provided to secure entry, including, but not limited to, securing an administrative inspection warrant pursuant to the procedures provided in state law, including California Code of Civil Procedure Section 1822.50, et seq., as it may be amended from time to time.

(b) When the enforcement officer shall have first obtained a proper administrative inspection warrant or other remedy provided by law to secure entry, no owner or occupant of the building or property shall fail or neglect, after proper request is made as provided in this section, to promptly permit entry therein by the enforcement officer for the purpose of inspection and examination pursuant to this chapter.

9.08.080 Responsibility for proper property maintenance.

(a) Every owner of real property within the city is required to maintain such property in a manner so as not to violate the provisions of this Code and such owner remains liable for

violations thereof regardless of any contract or agreement with any third party regarding such property.

(b) Every occupant, lessee or holder of any interest in property, other than as owner thereof, is required to maintain such property in the same manner as is required of the owner thereof, and the duty imposed by this section on the owner thereof shall in no instance relieve those persons herein referred to from the similar duty. (Ord. 1719 § 2)

9.08.090 Assessment of administrative abatement or enforcement costs.

(a) This chapter is intended to provide the city with a mechanism by which it can abate existing municipal code violations or public nuisances and collect any administrative fees and costs incurred in the process.

(b) Pursuant to the procedures set forth herein, the expense of such enforcement or abatement activities shall be charged to the persons creating, causing, committing or maintaining the violation of the city's municipal code or the public nuisance at issue and, in addition to any other method authorized by law, shall be recovered from those persons as any account receivable or by way of a nuisance abatement lien or special assessment against the property at issue

9.08.100 Violations.

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

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

(c) A violation of this Code shall be punishable by:

1. A fine not exceeding \$ _____ * for the first violation;
2. A fine not exceeding \$ _____ * for a second violation of the same section of this Code within one year;
3. A fine not exceeding \$ _____ * for the third violation of the same section of this Code within one year.

(d) Any person who violates the same section of this Code more than 3 times in one year shall be guilty of an infraction with a fine not exceeding the amount outlined in the Master Fee Schedule. (Ord. 1719 § 2)

* See Master Fee Schedule for current amount.

Article 3. Abatement

9.08.110 Nuisance Abatement - Defined

As used within this chapter, “nuisance abatement” shall refer to any and all efforts by city officials to ensure compliance with the city’s municipal code by eliminating or remediating those conditions identified specifically as public nuisances within this chapter. Such efforts shall include, but are not limited to, securing compliance by the responsible party through inspections and directions to remediate or through judicial process or enforcing compliance by having city employees or contractors perform the work necessary to obtain code compliance. The director is authorized to commence nuisance abatement proceedings against any person responsible for creating or maintaining a public nuisance.

9.08.120 Abatement of dangerous or substandard buildings and structures.

Where any condition which would otherwise constitute a violation subject to abatement pursuant to the procedures authorized by this Chapter also constitutes a dangerous or substandard building pursuant to International Property Maintenance Code, or an “unsafe building” or “unsafe structure”, the Building Official may in his/her discretion abate such dangerous or substandard building or structure pursuant to this Code. Such abatement shall be cumulative to any action or enforcement activity deemed necessary and appropriate by the City, and recovery of administrative costs or fees related to said abatement may nonetheless be collected pursuant to the procedures authorized herein. In this regard, in addition to those items required to be included in any notice commencing proceedings pursuant to any uniform code adopted by the City, such notice shall include a statement substantially similar to that contained in Section 9.08.130(6). Nothing in this Section 9.08.120 shall be interpreted to limit the authority or discretion of the City Administrator pursuant to Section 9.08.210 of this Code.

9.08.130 Commencement of proceedings—Notice of violation.

In addition to any other method authorized by law, the director may commence nuisance abatement proceedings by issuing a notice of violation to the responsible party. This notice shall be titled: “NOTICE OF VIOLATION” in letters not less than one inch in height and shall, in legible characters, contain the following:

- (1) The street address and a legal description sufficient for identification of the property at issue;
- (2) A statement specifying the condition(s) constituting the violation with citation to the specific provision which has been violated and a statement that the property so maintained constitutes a public nuisance;
- (3) A directive that the condition or violation be abated, and a statement of the specific action required to do so;

(4) A statement specifying the applicable procedure for appeal of any determination made pursuant to the notice as appropriate pursuant to Section 9.08.160;

(5) A statement indicating that if the condition is not voluntarily corrected the violation may be abated by the city through judicial process or by entry upon the property by city employees or contractors for purposes of effecting those actions necessary to correct the violation;

(6) A statement specifying that, should the violation not be remedied within a time period specified in the notice, but not less than ten days from the date of giving notice of the violation, the party responsible for the violation will be charged a fee equal to the city's actual cost and expense of abatement which shall include all fees and costs incurred by the city in obtaining voluntary or involuntary compliance, including but not limited to subsequent inspection costs, staff time, overhead, and legal expenses including attorneys' fees. The notice of violation shall include a current schedule displaying fees for enforcement activities.

9.08.140 Service of notice of violation.

The notice required by this chapter shall be served upon the responsible party. Service shall be made by one of the following methods: (1) personal service; (2) mailing a copy by certified mail, return receipt requested to the party's address as it appears on the last equalized assessment roll or supplemental roll, whichever is more current or as known by the director; (3) any other method authorized for service of summons in a civil action in accordance with Article 3, commencing with Section 415.10, or Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. Where the responsible party cannot after diligent search be found, the notice may be served by posting a copy in a conspicuous place upon the property for a period of ten days. Where the city intends to assert any rights pursuant to this chapter against the holder of any mortgage, deed of trust, lien, encumbrance of record or any other party with an interest in the property at issue other than the responsible party, service of any applicable notice shall also be served pursuant to this section upon such interested parties.

9.08.150 Proof of service.

A proof of service of the notice shall be certified to at the time of service by written declaration under penalty of perjury executed by the persons effecting service, declaring the time, date and manner in which service was made. The declaration, together with the receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice and retained by the director.

9.08.160 Appeal and hearing.

(a) The City Administrator shall designate a hearing officer or hearing officers to conduct appeals under this chapter. Each hearing officer shall be an individual or appointed person or board, subject to the provisions of the Political Reform Act of 1974 and all other laws, ordinances, or regulations of the state or the city relating to conflicts of interest. All costs associated with the hearing officer shall be paid from the appeal hearing fees and fines collected pursuant to this chapter. The responsible party may request the City Administrator to excuse a hearing officer upon a showing of actual prejudice against the party's cause. The hearing officer

shall conduct an orderly fair hearing and accept evidence on which persons would commonly rely in the conduct of their ordinary business affairs.

(b) The hearing officer shall follow the notice requirements set forth below:

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

1. The street address and such other description as is required to identify the premises;
2. A statement specifying the conditions which constitute the nuisance;
3. An order to the owner to appear before the administrative hearing officer at a stated time, but in no event less than 20 calendar days, after having mailed such notice, to show cause why the premises should not be declared a public nuisance and the same abated in accordance with this Code;
4. A statement advising the owner that the owner has the option of voluntarily abating the nuisance prior to the date set for hearing. If the owner chooses voluntary abatement, such abatement must be completed prior to the hearing date. The owner must advise the department head in writing that the owner will abate the nuisance, and the date of completion. The department head will inspect the premises on the completion date, and if the nuisance has been abated, the hearing will be taken off calendar.

B. The hearing notice, and any amended or supplemental notice, shall be served either by personal delivery or by certified return receipt mailing upon the record owner at the owner's address as it appears on the latest equalized assessment roll of Butte County, or as known to the department head. A copy of the notice and any amended or supplemental notice shall also be posted on the premises. In lieu of personally serving the owner or service by certified mail, service of the notice and any amended or supplemental notice may be made as follows:

1. In the event that the owner refuses to accept certified return receipt mail or cannot be personally served, service may be made by substituted service. In lieu of personal delivery of a copy of the notice, a notice or any amended or supplemental notice may be served by leaving a copy during usual office hours in his or her office with the person who is apparently in charge, and by thereafter mailing by first-class mail a copy of the notice to the owner at the address where the copy of the notice was left. In the alternative, a notice or any amended or supplemental notice may be served by leaving a copy at the owner's dwelling, usual place of abode, or usual place of business in the presence of a competent member of the household or a person apparently in charge of his or her office or place of business, at least 18 years of age, and thereafter mailing by first-class mail a copy of the notice to the owner at the address where the copy was left.
2. In the event the owner refuses to accept certified return receipt mail or cannot be personally served and has a property manager, or rental agency overseeing the

premises, substituted service may be made upon the property manager or rental agency as set forth in subsection (B)(1) of this section.

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

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

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

(c) The hearing officer may modify any decision or action of an enforcement officer depending upon the circumstances of each case and the evidence presented and the hearing officer provides specific grounds for such modification in the written decision. The hearing officer has authority to reduce, conditionally reduce, or increase the amount of any penalties, subject to the guidelines or fine amounts or limits established by the city council by resolution. The hearing officer may impose conditions and deadlines for correction of violations or payment of outstanding penalties.

(d) The failure of the responsible party or duly authorized representative to appear at the hearing shall constitute a forfeiture of any fine paid and appeal fees and a failure to exhaust the responsible party/appellant's administrative remedies.

(e) The hearing officer shall make findings based on the record of the hearing and make a written decision based on the findings. The decision of the hearing officer is final and shall not be subject to appeal to the city council. The city shall preserve all exhibits submitted by the parties and shall serve the decision by first class mail on the appellant within ten calendar days after the hearing.

9.08.170 Judicial review.

Any decision and administrative order or supplemental decision and administrative order of a hearing officer shall be subject to judicial review in the County courts by filing with the court a petition for writ of mandate pursuant to the provisions and time limits set forth in Section 1094.6 of the Code of Civil Procedure.

9.08.180 Responsible party to abate.

If after an appeal and/or hearing pursuant to Section 9.08.160 the Hearing Officer concludes that a violation exists said violation shall be abated by the responsible party forthwith or within the period of time specified by the Hearing Officer.

9.08.190 Assessment of enforcement costs.

(a) Once the time period specified in the notice of violation expires, if the violation has not been completely corrected, the responsible party shall be charged a fee reflecting the

actual costs and expenses incurred by the city in obtaining compliance with its municipal code by abating any remaining code violation or public nuisance unless an appeal is successfully prosecuted pursuant to Section 9.08.160. The fee shall be established by city council resolution and shall reflect all actual costs and expenses incurred by the city incident to such enforcement activities, including but not limited to inspection costs, staff time, overhead and legal expenses, including attorney's fees. These costs shall be recoverable to the city, notwithstanding any subsequent correction of the violation by the responsible party.

(b) In any action, administrative proceeding, or special proceeding initiated by the City to abate a nuisance, the prevailing party may recover attorneys' fees. Recovery of attorneys' fees by the prevailing party is limited to those individual actions or proceedings in which the City elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. The award of attorneys' fees to the prevailing party shall in no circumstances exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding.

(c) Upon entry of a second or subsequent civil or criminal judgment within a two-year period finding that a property owner is responsible for a condition which may be abated as a nuisance, the court may order the property owner to pay treble (three times) the cost of abatement. This section shall not apply to conditions abated pursuant to section 17980 of the California Health and Safety Code.

9.08.200 City to abate.

If the responsible party fails or neglects to remove or otherwise take action to abate the code violation or nuisance, within the time specified in the notice of violation or within the time required by Section 9.08.180 subsequent to an appeal, the director may cause the nuisance to be abated. In addition to any other method authorized by law, such abatement may be performed through inspections and directives to remediate the violation or legal proceedings designed to secure enforcement of the city's municipal code or the city may commence the abatement work itself. The abatement work may be done by city crews or by private contractor. Where appropriate, no such abatement action shall occur without securing a warrant.

9.08.210 Summary abatement.

(a) Any public nuisance which is reasonably believed to be imminently dangerous to the life, limb, health, or safety of the occupants of the property, neighbors of the property, or to the public may be summarily abated by the City Administrator, or designee, without complying with the provisions of Sections 9.08.110 through 9.08.180 inclusive.

(b) Actions taken to abate imminently dangerous conditions may include, but are not limited to repair or removal of the condition creating the danger, demolition, and/or the restriction from use or occupancy of the property on which the dangerous condition exists or any other abatement action determined by the City Administrator, or designee, to be necessary.

(c) Whenever the City Administrator, or designee, reasonably believes property to be blighted or otherwise imminently dangerous to life, limb, health, or safety, the City Administrator, or designee, shall declare the same to be a public nuisance and give notice to the owners by posting a notice on the property stating therein that unless a written objection is filed with the city clerk or such dangerous condition be abated within twenty-four (24) hours, or such longer period for notice and opportunity to be heard as the City Administrator, or designee,

determines is reasonably possible under the circumstances, by the destruction or removal of such blighted condition, the work of abating such imminently dangerous condition shall be done by the city and the expense thereof assessed upon the lots and lands from which the blighted condition shall have been destroyed or removed. If the dangerous condition persists and there is no written objection timely filed with the city clerk within twenty-four (24) hours or such period of time provided on the notice, the City Administrator, city employees, contracting agents or other representatives are expressly authorized to enter upon private property to abate the dangerous condition. Costs for any summary abatement performed by or on behalf of the City shall be accounted and reported to the City Council by the City Administrator, assessed after public hearing, and collected pursuant to the provisions of this Chapter.

(d) The posted notice shall be substantially in the following form:

**NOTICE TO DESTROY OR REMOVE
DANGEROUS CONDITION OF PROPERTY**

NOTICE IS HEREBY GIVEN that on _____ the City Administrator declared that property located at _____ is a public nuisance, as provided in Chapter 9.08 of the Oroville Municipal Code, and is imminently dangerous to life, limb, health, or safety and must be immediately abated.

NOTICE IS FURTHER GIVEN that the property owners of this property shall immediately destroy or remove the dangerous condition caused by such condition of the property, or after ___ hours that condition may be abated by the city authorities, in which case the costs of such abatement will be assessed upon the lots and lands from which the dangerous condition shall have been destroyed or removed; and such costs will constitute a lien upon such lots or lands until paid and will be collected upon the next tax roll upon which general municipal taxes are collected. All persons having any objection on the proposed destruction or removal of such dangerous condition, or upon the assessment of such costs, are hereby directed to file such written objection with the City Clerk in the City Hall, _____ or via email to _____, by 5:00 p.m. on _____, 20_____, or thereafter all such objections shall be deemed waived and the City Administrator, city employees, contracting agents or other representatives are authorized to enter upon this property to abate the dangerous condition.

DATED: This ___ day of _____ 20__.

City Administrator

9.08.220 Notice of assessment.

Once the public nuisance or code violation has been abated, the director shall serve the responsible party in a manner authorized by Section 9.08.150 with an invoice itemizing all costs and expenses incurred by the city and specifying the fee due to the city as a result of

enforcement. The responsible party may appeal the amount of the fee being charged to the administrative appeals board in the manner provided in this code. The amount of any fee confirmed by the administrative appeals board shall be deemed immediately due and payable and delinquent if not paid within ten days of any final decision by the administrative appeals board with respect to the amount due. If no appeal is made concerning the amount charged to the responsible party, it shall be deemed immediately due and payable once the time to appeal expires and delinquent if not paid within ten days thereafter. All such charges may be collected and treated by the city in the same fashion as delinquent accounts receivable.

9.08.230 Collection by lien or special assessment.

In addition to any other method authorized by law for collection of outstanding charges pursuant to Section 9.08.190, the city may record a nuisance abatement lien pursuant to the provisions of Section 9.08.240. Alternatively, the city may make the cost of abatement a special assessment against the offending parcel or property pursuant to the provisions of Section 9.08.250. In either case, the director shall institute such proceedings by filing a report detailing all administrative abatement activities and an account related to all outstanding charges with the city clerk and shall request a hearing before the city council for purposes of authorizing an abatement lien or special assessment. The director may file such report whenever any outstanding abatement costs remain unpaid, even where the violation has been corrected by the responsible party. The city council shall consider the report and account at the time set for hearing, together with any objections or protests by any interested parties. Any owner of land or person interested therein may present a written or oral protest or objection to the report and account. At the conclusion of the hearing, the city council shall either approve the report and account as submitted or as modified or corrected. The amount so approved shall be an assessment upon the offending parcel or property pursuant to Section 9.08.240 or 9.08.250, respectively.

9.08.240 Nuisance abatement lien.

The city may collect its abatement cost by a nuisance abatement lien pursuant to the procedures authorized by Government Code Section 38773.1 as follows:

(1) Once a hearing has been set before the city council pursuant to a request made under Section 9.08.230, the responsible party shall be served with a notice that the city intends to authorize the recordation of a nuisance abatement lien pursuant to this section. The notice shall apprise the responsible party of the date, time and place of the hearing where the abatement lien will be considered. The notice shall also specify the amount of the lien and shall describe the parcel to which the lien will attach. The notice shall be served in the manner provided in Section 9.08.140 and shall be completed at least fifteen days prior to the city council hearing.

(2) The city council may adopt a resolution assessing the outstanding abatement costs as a lien(s) against those parcel(s) as shown on the latest available assessment roll where abatement activities occurred. The resolution shall explicitly authorize the recordation of a nuisance abatement lien.

(3) The nuisance abatement lien shall be recorded in the county recorder's office in the county in which the subject parcel is located and from the date of filing shall have the force, effect and priority of a judgment lien.

(A) The nuisance abatement lien authorized by this section shall specify the amount of the lien, the name of the agency on whose behalf the lien is imposed, the date of the abatement order, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed and the name and address of the record owner of the parcel.

(B) In the event that the lien is discharged, released or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in subsection (3)(A) of this section shall be recorded by the city. A nuisance abatement lien and the release of the lien shall be indexed in the grantor-grantee index.

(C) A nuisance abatement lien may be foreclosed by an action brought by the city for a money judgment.

(D) The city may recover from the responsible party any costs incurred regarding the processing and recording of the lien and in providing notice to the property owner as part of its foreclosure action to enforce the lien.

9.08.250 Special assessment.

As an alternative to the procedures authorized by Section 9.08.240, the city may make any outstanding nuisance abatement costs a special assessment against the offending property pursuant to the procedures authorized by Government Code Section 38773.5 as follows:

(1) Once a hearing has been set before the city council pursuant to a request made under Section 9.08.230, the responsible party shall be served with notice that the city intends to make the outstanding abatement costs a special assessment against the subject property. The notice shall apprise the owner of the date, time and place of the hearing where the special assessment will be considered. The notice shall also detail the probable amount of the assessment and shall describe the parcel to which the assessment will attach. This notice shall be served in the manner provided in Section 9.08.140 and shall be completed at least fifteen days prior to the city council hearing.

(2) The city council may adopt a resolution making the outstanding abatement costs a special assessment against the parcel(s), as shown on the latest available assessment roll, where the abatement activities occurred. The resolution shall explicitly authorize the special assessment and shall be filed with the county auditor.

(3) The county auditor shall enter each assessment in the county tax roll opposite the parcel(s) against which the assessment is to be made. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to

which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection. Notices or instruments relating to the abatement proceeding or special assessment shall be entitled to recordation.

Article 4. Procedure for Abatement of Certain Vehicles

9.08.260 Purpose of article.

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

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

9.08.270 Procedure.

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

9.08.280 Notice.

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

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

1. The street address and such other description as is required to identify the premises on which the vehicle(s) or parts thereof is located;
2. The identity of the vehicle(s) or parts thereof to be abated;
3. A statement that the department head has found the vehicle(s) or parts thereof to be a public nuisance as specified in this Code with a special citation to the applicable section of this Code, and to other sections of the City Code if applicable, including sufficient detail to provide the owner with information as to the conditions constituting the alleged nuisance;

4. A statement of the action required to be taken as determined by the department head, and that such action is to be completed within 10 days after the mailing of the notice;

5. A statement providing for a hearing by the administrative hearing officer, upon written request to the department head by the owner of the premises on which the vehicle(s) or parts thereof is located or by the owner of the vehicle(s) or parts thereof within 10 days after the mailing of the notice;

6. A statement that failure either to take the action required or to request a hearing within the applicable 10-day period shall be deemed a waiver of such rights, and that the department head may proceed to abate the nuisance;

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

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

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

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

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

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

(d) Upon issuance of the notice, the department head may provide additional notice by posting a copy thereof conspicuously on the vehicle(s) or parts to be abated. (Ord. 1719 § 2)

9.08.290 Hearing notice.

Whenever the owner of the premises on which the vehicle(s) or parts thereof is located or the owner of the vehicle(s) or parts thereof requests a hearing (hereinafter called "requesting party"), the department head shall issue a hearing notice to the requesting party allowing that party to appear before the administrative hearing officer to show cause why the vehicle(s) or parts thereof is not a public nuisance and should not be abated by the city. The hearing notice shall be served upon the requesting party either personally or by mailing a copy of such notice by certified mail, postage prepaid, return receipt requested, not less than 5 calendar days prior to the hearing date. (Ord. 1719 § 2)

9.08.300 Hearing by administrative hearing officer.

At the time fixed in the notice of intention required by the preceding section, the administrative hearing officer shall proceed to hear the testimony of the department head, requesting party, and other competent persons regarding the condition of the vehicle(s) or parts thereof and other relevant evidence concerning the matter. (Ord. 1719 § 2)

9.08.310 Form and contents of decision—Finality.

(a) If it is shown by a preponderance of all the evidence that the condition of the vehicle(s) or parts thereof constitute a violation of this Code, the decision of the administrative hearing officer shall be in writing and shall contain findings of fact and a determination of the issues presented. The administrative hearing officer shall issue an order that the vehicle(s) or parts thereof are a public nuisance and direct the owner to abate the nuisance, and that if the nuisance is not abated, it may be abated by the city in such manner as may be ordered by the department head and the expense thereof may be made a lien on the property involved, unless the administrative hearing officer has found that the owner of the premises is not responsible for the presence of the vehicle(s) or parts thereof on the premises. The order shall identify the abandoned, wrecked, dismantled or inoperative vehicle(s) or parts thereof to be abated. The order shall require that abatement of the nuisance be physically completed 5 days after issuance of the order or, in the alternative, within such greater time as the department head shall determine to be reasonable under all of the circumstances.

(b) The decision shall also inform the requesting party that the time for judicial review is governed by California Code of Civil Procedure Section 1094.6. Copies of the decision shall be forthwith delivered to the parties personally or sent to them by certified mail. The decision shall be final when signed by the administrative hearing officer and served as herein provided. (Ord. 1719 § 2)

9.08.320 Preventing rotation of abandoned, wrecked, dismantled and inoperative vehicles.

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

(a) Notify the owner of the premises that said act is in violation of the notice of the department head, and order the owner to remove such vehicle(s) or parts thereof; and

(b) Notify the city attorney of the violation. The city attorney shall have recourse to every remedy provided by law to prevent the owner of the premises from placing or causing to be placed upon the premises any abandoned, wrecked, dismantled vehicle, or parts thereof. (Ord. 1719 § 2)

9.08.330 Inapplicability to certain vehicles.

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

(a) Is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

(b) Is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer or a junkyard, provided such business is not unsightly or otherwise detrimental to the public health, safety or welfare.

(c) This exception shall not, however, authorize the maintenance of a public or private nuisance as defined under this provision. (Ord. 1719 § 2)

9.08.340 Abandonment of vehicles prohibited.

No person shall park a vehicle upon private property without the express or implied consent of the owner or person in lawful possession or control of the property. Violation of this section shall be an infraction and is governed by Section 9.08.100 of the Code of the City of Oroville. (Ord. 1719 § 2)

9.08.350 Costs of abating abandoned vehicles.

(a) The costs of abating any inoperative, dismantled or abandoned vehicle, or parts thereof, including the actual tow costs, plus an administrative fee covering direct and indirect overhead, which fee shall be set by resolution of the city council, is the joint and several personal

obligation of the property owner and the last registered owner; provided, however, that a property owner who establishes lack of responsibility for the presence of the vehicle or parts on the property as permitted by this Code shall not be personally liable for the costs; and provided, further, that a last registered owner who can satisfy the requirements of Vehicle Code Section 22524(b) shall not be personally liable for the costs. The director of finance shall take the appropriate steps to collect the costs from those who are liable for same.

(b) In the event the administrative hearing officer finds, pursuant to sworn statement of the owner of any premises or otherwise, that a vehicle which is ordered abated was placed on the premises without the consent of the owner, who did not later acquiesce to its presence on such premises, then the administrative hearing officer shall certify the finding to the department head, who shall not allocate the cost of the removal of such vehicle to the owner of the premises in the report filed with the city clerk. (Ord. 1719 § 2)

Article 5. Removal of Motor Vehicles and Transfer of Title

9.08.360 Generally.

(a) In the event the department head must cause to be removed a vehicle ordered abated pursuant to Article 5 of this chapter, the department head may cause the vehicle, or parts thereof, to be taken to a licensed scrapyard or automobile dismantler's yard.

(b) Thereafter the licensed dismantler or owner of the commercial enterprise who receives possession of the vehicle from the city shall be deemed to be the sole owner of the vehicle by reason of involuntary transfer made pursuant to law. After a vehicle has been removed it shall not thereafter be reconstructed or made operable, unless it is a vehicle which qualifies for either horseless carriage license plates or historical vehicle license plates, pursuant to Vehicle Code Section 5004. Licensed dismantlers or commercial enterprises acquiring vehicles removed pursuant to this article shall be excused from the reporting requirements of Vehicle Code Section 11520 and any fees and penalties which would otherwise be due the Department of Motor Vehicles are waived pursuant to Vehicle Code Section 22660; provided, that a copy of the order made pursuant to Article 5 of this chapter, is retained in the business records of the dismantler or commercial enterprise. (Ord. 1719 § 2)

9.08.370 Notice to Department of Motor Vehicles.

Within 5 days after the date of removal of the vehicle or parts thereof, notice shall be given to the Department of Motor Vehicles identifying the vehicle or part thereof removed. There shall also be transmitted to the Department of Motor Vehicles any evidence of registration available, including, but not limited to, the registration card, certificates of ownership, or license plates. (Ord. 1719 § 2)

Article 6. Securing of Unimproved Real Property

9.08.380 Securing of unimproved real property.

Whenever the department head has found that any unimproved real property within the city has reoccurring dumping problems as defined in Section 9.08.050(D), the department head may order the property owner(s) to secure the property to prevent further dumping on the property by requiring the owner to:

- (a) Erect a fence with gate(s) to city specifications;
- (b). Erect a lockable gate at specified access points; or
- (c) Install barricading to city specifications to reduce or eliminate accessibility to the property. (Ord. 1719 § 2)

9.08.390 Notice to owner.

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

(b) Upon receipt of the notice to secure, or upon 10 days following publication of the notice, the owner(s) shall have 30 days within which to secure the property. (Ord. 1719 § 2)

9.08.400 Failure to obey order to secure.

Upon expiration of the time period as set forth in Section 9.08.390, and upon failure of the owner(s) to secure, the department head may issue a hearing notice pursuant to the procedures set forth in Section 9.08.130. Abatement and securement procedures of Articles 2 and 4 of this chapter shall apply. (Ord. 1719 § 2)

9.08.410 Summary abatement of graffiti.

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

(b) The department head is hereby authorized to summarily abate graffiti in accordance with the provisions of Section 38771, et seq., of the California Government Code. The abatement may be undertaken by city staff or by outside contractors. (Ord. 1719 § 2)

9.08.420 Expense of abatement of graffiti a lien.

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

(b) The provisions of Section 9.08.190 pertaining to costs of abatement may be assessed against the subject property as a lien or made a personal obligation of the owner as provided in Section 38773.5 of the California Government Code. (Ord. 1719 § 2)

Article 7. Additional Nuisances

9.08.430 Controlled substances—Nuisances.

(a) Purpose and Intent. It is the desire and intention of the city council to eliminate the unlawful selling, serving, storing, keeping or giving way of any controlled substance as defined under Health and Safety Code Section 11000 et seq., within any and every building or place in the city.

1. The city council finds that the unlawful selling, serving, storing, keeping or giving away of any controlled substance in any building or place in the city is injurious to the health, safety, morals and general welfare of the community, and interferes with the comfortable enjoyment of life and property;

2. Section 11570 of the Health and Safety Code of California states that every building or place used for the purpose of unlawfully selling, serving, storing, keeping or giving away controlled substances as defined and every building or place wherein and upon which such acts take place is a nuisance which shall be enjoined, abated and prevented;

3. The laws of the state defining nuisance and the abatement thereof provides for civil and criminal enjoinder of such acts. The city council intends hereby to declare those activities set forth in this section as nuisances, provide a procedure for determining a nuisance exists, the necessary order of abatement thereof and civil and/or criminal prosecution for enforcement of any such findings and orders; and

4. The unlawful selling, serving, storing, keeping or giving away of any controlled substances as defined in the Health and Safety Code within any building or place in the city tends to debilitate family life in the City of Oroville.

(b) Findings. The city council as the legislative authority finds and declares that every and any building or place used for the purpose of unlawfully selling, serving, storing, keeping or giving away of any drugs or controlled substances, as defined under the California Uniform Controlled Substance Act, Section 1000 et seq., of the Health and Safety Code, is a nuisance, whether public or private.

(c) Direction to Abate. The city attorney or his/her designee is directed to abate, prevent and enjoin the nuisance of unlawful selling, serving, storing, keeping or giving away of any controlled substance within any building or place in the city upon the order of the city council as provided in this section.

(d) Presumption of Knowledge. Upon receiving notice through service of a certified copy of this section and order of abatement provided for in subsection (f) of this section, any and every person who legally or equitably owns, leases, maintains, manages, conducts or operates a building or place in the city which is declared to be a public or private nuisance, as set forth and stated in subsection (b) of this section, shall be presumed to be a person who has knowledge of such nuisance for the purpose of this section and is, thereafter, responsible for its maintenance and shall be liable therefor.

(e). Notice of Hearing—City Council. The city council may, upon its own motion or upon written charges filed with council by the city attorney, set a public hearing before the council to determine if a nuisance as set forth in subsection (b) and any other appropriate state or local law, exists. The persons described in subsection D shall be given a 10-day written notice delivered personally or by deposit in first-class United States mail, certified mail, return receipt requested, an opportunity to appear, either personally or by counsel or both, to be heard, to present evidence and to call witnesses on their behalf.

(f) City Council Resolution. Upon a specific finding that a nuisance, as defined in subsection B and any other appropriate state and local laws, exists in the city, the city council, in applying provisions of this section to such nuisance, may provide for the following by resolution:

1. Declare the fact that such nuisance exists;
2. Set forth the legal description and/or street address or location of the real property or place which constitutes a nuisance;
3. Set forth findings of fact considered by the city council in arriving at its determination that a nuisance exists, as defined in subsection (b);
4. Order all persons named in subsection (d) to abate such nuisance immediately, by terminating the unlawful selling, serving, storing, keeping or giving away of any

controlled substance as defined under the Health and Safety Code, as set forth in subsection (b), within the specified building or place;

5. Order the city attorney to proceed as directed in subsection (c) and do all things necessary to abate, prevent or enjoin such nuisance, as defined in subsection (b), through judicial proceedings;

6. Order that a certified copy of the resolution and a certified copy of this section be delivered by personal service or first-class certified mail, return receipt requested, to all persons of record having legal or equitable interest in the building or place where the nuisance exists and to any person who leases, maintains, manages, conducts or operates the building or place where the nuisance exists.

(g) Eviction. A landlord may, or shall if required by subsection I give notice required by law and bring an action to recover possession of a rental unit upon the happening of any of the following events:

1. The tenant is using the rental unit, or allowing the rental unit to be used, for illegal drug dealing activities or purposes. "Drugs" are as defined in subsection (b) of this section.

The term "illegal drug dealing activities or purposes" includes, but is not limited to, possession for sale or sale of illegal drugs from the rental unit.

2. The tenant is committing or permitting to exist a drug-related nuisance in the rental unit or the appurtenances thereof, or the common areas of the complex containing the rental unit.

The term "drug-related nuisance" includes, but is not limited to, any activity commonly associated with illegal drug dealing such as complaints of noise, steady traffic day and night to a particular unit, barricaded units or sighting of weapons brought to the attention of the landlord by other tenants, persons within the community or law enforcement agencies.

(h) Notification. The landlord shall state the reasons for the eviction in the written notice of termination served on the tenant pursuant to California Civil Code Section 1946.

When the termination of tenancy is for any ground set forth in subsection (g), the landlord shall file with the district attorney or other county or city office designated by the city council a declaration, in a form and in the number proscribed by that office, setting forth the reasons for the termination with specific facts to permit a determination of the date, place, witnesses and circumstances concerning the reasons.

(i) Failure to Institute Action. If a landlord does not commence an action when required under the provisions of this section to recover possession of the rental unit, the district attorney, or city attorney file an action to evict the tenant from the premises of the rental unit and name the landlord as a defendant in the action, if it can be established that the landlord aided or

acquiesced to the illegal activity or nuisance described in subsection (g). If the landlord is named as a defendant in the action, the court may impose a civil penalty in an amount not to exceed the amount outlined in the Master Fee Schedule against the landlord for his/her failure to comply with this section. (Ord. 1567 § 1)

SECTION 3. Environmental Determination.

The Council finds that the adoption and implementation of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, as it can be seen with certainty that there is no possibility that enactment of the Ordinance alone has the potential to cause a significant effect on the environment

SECTION 4. Severability.

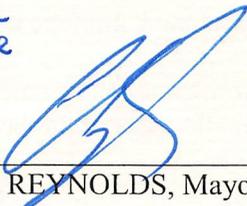
If any section, subsection, clause, phrase or word of this Ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. Effective Date.

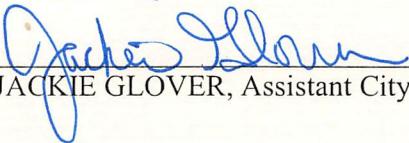
This Ordinance is an Urgency Ordinance enacted under California Government Code Sections 36934 and 36937(b). This Urgency Ordinance is immediately effective upon adoption by a four-fifths vote of the City Council.

I HEREBY CERTIFY that the foregoing ordinance was introduced and read by the City Council of the City of Oroville on the 16th day of April, 2019, and was duly read and adopted at a regular meeting on 16th day of April, 2019, by the following vote:

AYES:	COUNCIL MEMBERS:	Thomson, Hatley, Smith, Pittman
NOES:	COUNCIL MEMBERS:	Draper, Goodson, Reynolds
ABSENT:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None



CHUCK REYNOLDS, Mayor

ATTEST: 4/22/19


JACKIE GLOVER, Assistant City Clerk

FORM APPROVED:


SCOTT HUBER, City Attorney