PLANNING COMMISSION STUDY SESSION REPORT

II.1

MEETING DATE: JANUARY 25, 2010 ITEM NUMBER:

SUBJECT: CODE REVISIONS AND CODE ENFORCEMENT PRIORITIES

DATE: JANUARY 14, 2010

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER
(714) 754-5611 (mlee@ci.costa-mesa.ca.us)

DESCRIPTION

The purpose of this memo is to obtain feedback on proposed Code Enforcement priorities and any possible Code revisions based on those priorities.

This item was continued from the November 9, 2009, Planning Commission meeting to a Special Study Session.

MEL LEE, AICP
Senior Planner

KHANH NGUYEN
Acting Asst. Development Svs. Director

WILLA BOUWENS-KILLEEN, AICP
Chief of Code Enforcement

BACKGROUND AND ANALYSIS:

On November 9, 2009, the Planning Commission discussed a list of Code Enforcement Priorities for residential and non-residential properties, as well as possible revisions to Title 20 (Property Maintenance Standards) and Title 1, Chapter 2 (Civil Citations) based on those priorities.

The Commission continued the item to a Special Study Session for further discussion and staff review. The purpose of the study session is to discuss the following items in detail and any proposed changes to the Municipal Code or code enforcement procedures.

1. *Shift from "voluntary compliance" (i.e., issuance of warnings) to immediate compliance via issuance of citations for chronic or repeat offenders, or for "clearly obvious" violations*. An example cited by the Commission was the parking of commercial vehicles on residential properties, which is not permitted under Title 20 Section 20-4(o). It was suggested that such violations should be subject to immediate issuance of citations for compliance.

2. *Revise Title 1 Chapter 2 as it pertains to fines and fine amount (currently $75 fine within 30-60 days to sooner than 30 days (one week?) and higher fine amounts.* Based on input received from the Commission, staff can request Council authorization to prepare a code revision incorporating an increase in fees, perhaps based on fine amounts charged in other cities.

3. *Modify Weekend Code Enforcement*. The current focus of weekend Code Enforcement includes garage sales, which are limited to a maximum of two per year, not to exceed three consecutive days [Zoning Code Section 13-10(19)], as well as signs (banners plus temporary weekend signs) vendors, and any other items the officer(s) feels needs to be checked.

4. *Prohibit Vehicle parking on lawns*. Prohibit vehicle parking on lawns, during street sweeping activities.

5. *Prohibit parking of recreational vehicles (motor homes and boats) on residential properties*. An alternative to prohibiting parking of recreational vehicles on residential properties is to revise Title 20 to require recreational vehicles to be covered if visible from the street.

6. *Survey Cities of Anaheim, Huntington Beach, and Newport Beach for Code Enforcement policies and procedures*. Staff is surveying the cities for the following: budget, size of staff, whether they emphasize proactive or reactive enforcement, if they utilize automation, fines and citation amounts, etc. We will forward the survey results prior to the Study Session.

7. *Use new software/automation for quicker turnaround between an observed violation and issuance of citations to reduce clerical workload?* Laptops for field officers with links to City's existing Permits Plus software will be added to the next fiscal year budget.

8. *Revise Title 20 Sections 20-4 (d) and 20-7(o) as it pertains to weeds and landscaping to specify a percentage of plant materials not maintained in a healthy condition.* Commission

discussed having an amount of non-complaint landscaping that could be quantified in Code, for example, if a percentage of a lawn (i.e. 25%, 50%, etc.) is dead or overgrown with weeds, could this be considered a violation?

9. *Rotate City area assignments for Code Enforcement Officers*. Staff is preparing new code enforcement officer assignment areas based on the new year and recent retirements/changes in the section.

CONCLUSION:

While formal direction from Planning Commission does not occur at a study session, staff may be able to implement some changes to the current Code Enforcement procedures based on the general discussion. However, the most significant changes which relate to potential Code amendments will require formal direction from the Commission at a future hearing date prior to going to Council for authorization.

Attachments: 1. November 9, 2009 Planning Commission Staff Report and Exhibits

cc: City Council
City Manager
Acting Development Services Director
Deputy City Attorney
City Engineer
Fire Protection Analyst
Staff (4)
File (2)

File: 012510CodeEnfStudySession	Date: 011310	Time: 2:15 p.m.

ATTACHMENT 1

PLANNING COMMISSION AGENDA REPORT

VII. 1

MEETING DATE: NOVEMBER 9, 2009 ITEM NUMBER:

SUBJECT: CODE REVISIONS AND CODE ENFORCEMENT PRIORITIES

DATE: OCTOBER 15, 2009

FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER
(714) 754-5611 (mlee@ci.costa-mesa.ca.us)

DESCRIPTION

The purpose of this memo is to obtain feedback on proposed Code Enforcement priorities and any possible Code revisions based on those priorities.

RECOMMENDATION

Provide direction as noted above.

MEL LEE, AICP
Senior Planner

KHANH NGUYEN
Acting Asst. Development Svs. Director

BACKGROUND

On July 14, 2009, the City Council held a Joint Study Session meeting with the Planning Commission to obtain feedback on Code Enforcement priorities and procedures for issuing notices of violations and citations. During the meeting, a list of Code Enforcement priorities for residential and non-residential properties was presented and discussed.

ANALYSIS

Code Enforcement Priorities

Below is the current list of Code Enforcement priorities for residential and non-residential properties determined by Council:

Residential Priorities:

1. Graffiti
2. Visible trash and debris
3. Abandoned shopping carts
4. Inoperative vehicles
5. Overflowing dumpsters
6. Dead landscaping
7. Visible illegal building construction
8. Quality of landscape maintenance
9. Deteriorating building exteriors
10. Illegal garage occupancy
11. Illegally parked commercial trucks
12. Missing window screens
13. Research for illegal occupancy
14. Residential overcrowding
15. Trash cans in front yards
16. Vehicles parked on lawns
17. Street vendors
18. Illegal signage on vehicles
19. Illegal temporary signage

Non-Residential Priorities:

1. Graffiti
2. Overflowing dumpsters
3. Visible trash and debris
4. Excessive banner signage
5. Abandoned shopping carts
6. Deteriorating building exteriors
7. Excessive window signage
8. Visible illegal building construction
9. Inoperative vehicles
10. Dead landscaping
11. Quality of landscape maintenance
12. Illegal temporary signage
13. Illegal median and parkway signage
14. Illegally parked commercial trucks
15. Street vendors
16. Illegal signage on vehicles

Highlighted priorities below are based on input received by City Council and Planning Commission at the Joint Study Session. Note that some Council members and Commissioners stated that all priorities should be equally enforced.

Residential Priorities:

1. Graffiti
2. Visible trash and debris
3. Abandoned shopping carts
4. Inoperative vehicles
5. Overflowing dumpsters
6. Dead landscaping
7. Visible illegal building construction
8. Quality of landscape maintenance
9. Deteriorating building exteriors
10. Illegal garage occupancy
11. Illegally parked commercial trucks
12. Missing window screens
13. Research for illegal occupancy
14. Residential overcrowding
15. Trash cans in front yards
16. Vehicles parked on lawns
17. Street vendors
18. Illegal signage on vehicles
19. Illegal temporary signage

Non-Residential Priorities:

1. Graffiti
2. Overflowing dumpsters
3. Visible trash and debris
4. Excessive banner signage
5. Abandoned shopping carts
6. Deteriorating building exteriors
7. Excessive window signage
8. Visible illegal building construction
9. Inoperative vehicles
10. Dead landscaping
11. Quality of landscape maintenance
12. Illegal temporary signage
13. Illegal median and parkway signage
14. Illegally parked commercial trucks
15. Street vendors
16. Illegal signage on vehicles

Other suggestions made during the Joint Study Session by City Council and Planning Commission included the following:

- Rotate City area assignments for Code Enforcement Officers.
- Revise Title 1 Chapter 2 (Civil Citations) to shorten or eliminate warnings for flagrant or repeat violators, or violations that threaten public safety or health (in other words, go directly to issuance of citations).
- Increase fines for Civil Citations.
- Revise Title 20 (Property Maintenance Standards) to require locks on trash containers for both commercial and residential properties.
- Address water shortage issues in dealing with lack of landscape maintenance.
- Initiate area sweeps.
- Increase public outreach:
    - Update City web page.
    - Prepare an information packet for new and/or existing businesses, identifying common code requirements (banners, trash, graffiti, parking on streets, etc.).
    - Provide info for residents containing general code information.
- Concentrate enforcement on absentee property owners, perhaps based on the City of Anaheim model.
- Maintenance of fences visible from streets (missing boards, unpainted fences, etc.).
- Reduce Code staff time devoted to neighbor disputes or unfounded "nuisance" complaints.

Possible Code Revisions

Based on the above priorities, and on feedback/direction received from the Commission, staff will prepare the appropriate amendments to Title 20 (Property Maintenance Standards) and Title 1, Chapter 2 (Civil Citations) for consideration at a future Planning Commission hearing. The Code sections and current citation fees are attached to this memo for reference.

Attachments:
1. Title 20 – Property Maintenance Standards
2. Title 1, Chapter 2 – Civil Citations
3. Citation Fee Schedule

cc:
Acting Development Services Director
Deputy City Attorney
City Engineer
Fire Protection Analyst
Staff (4)
File (2)

File: 110909CodeEnf	Date: 101509	Time: 8:30 a.m.

ATTACHMENT 1

September 2000

Updated: March 2002; August 2002; and February 2005; October 2005; and November 2005

TITLE 20 PROPERTY MAINTENANCE

Costa Mesa

Property Maintenance Regulations

City of Costa Mesa

Code Enforcement Division

Phone: (714) 754-5623

FAX: (714) 754-4856

www.ci.costa-mesa.ca.us

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Adopted September 2000

Revised March 2002: Ordinances 02-2 and 02-4

Revised August 2002: Ordinances 02-14 and 02-16

Revised February 2005: Ordinance 05-3

Revised October 2005 Ordinances 05-12 and 05-13

Revised November 2005 Ordinance 05-15

TITLE 20
PROPERTY MAINTENANCE
ARTICLE 1. GENERAL

Sec. 20-1. Purpose.
The purpose of this title is to identify property maintenance standards, and establish procedures for the prosecution and abatement of public nuisance conditions identified in this title.

Sec. 20-2. Definitions.

The following words and phrases shall, for the purposes of this title, be defined as follows, except where the context clearly indicates a different meaning.

Collection of solid waste. The operation of gathering together and transporting of solid waste to the point of disposal by a solid waste hauler permittee pursuant to Title 8 of this code.

Commercial vehicle. Any motorized or non-motorized vehicle used or maintained to transport property or goods for profit or persons for hire or compensation.

Leaf blower. Portable power equipment powered by fuel or electricity and used in any landscape maintenance, construction, property repair, or property maintenance for the purpose of blowing, dispersing or redistributing dust, dirt, leaves, grass clippings, cuttings, and trimmings from trees and shrubs and other debris.

Inoperative vehicle. A vehicle is "inoperative" if it is:

(a) Mechanically incapable of being driven; or

(b) Prohibited from being operated on a public street or highway pursuant to the provisions of Vehicle Code Sections 4000, 5202, 24002, or 40001, concerning license plates, registration, equipment, safety and related matters.

Owner of the vehicle. The last registered owner and the legal owner of record.

Public property. Land, buildings, structures, or fixtures that are owned by a public agency. For the purposes of this title, public property does not include streets.

Recreational vehicle. Any travel trailer, camper, motor home, or trailer (as defined in State Vehicle Code Sections 242, 243, and 630, respectively), or any camper shell or boat.

Residential use. Any property zoned for residential use as provided for in Title 13 of this Code. Sidewalks, parkways, and streets adjacent to residential property shall be considered a residential area for purposes of this title.

Residentially-developed property. Any property developed with a conforming dwelling unit or legal nonconforming dwelling unit.

Rubbish. All waste which includes but is not limited to:

(a) Animal or human offal, asphalt, inoperative bicycles and parts, boards, inoperative boats and parts, bottles, boxes, bricks, cans, cartons, cement, cinder blocks, concrete, containers, crates, dirt, doors, equipment, glass, gravel, hoses, lumber, machinery, metal, paint, pallets, paper, pipe, plaster, rebar, rocks, rubber, sand, siding boards, stucco, tile, windows, wire, wood, and other similar material.

(b) Trimmings, clippings and cuttings from lawns, shrubs and trees, and all dead or uprooted grass, sod, shrubs, trees, vegetables and dirt, and firewood piles.

(c) Rugs, bedding, furniture, utensils, clothing, toys, appliances, household supplies and equipment.

(d) Vehicle bodies, motors, tires, parts and accessories.

(e) Any other similar item and material of residential, commercial or industrial nature existing in an unusable, inoperative, discarded or abandoned condition.

On or in front of real property. Includes all areas of the real property including but not limited to the rear, side, or front yard areas, parkways, sidewalks, or on abutting streets in all zones in the city except for items contained within a receptacle for collection of solid waste pursuant to Chapter IV of Title 8 of this Code.

Parkway. The area between any real property line and the edge of the pavement of a public street.

Responsible party. The owner, lessee, agent, person, or entity in lawful charge or possession of the property.

Street. A public street, drive, right-of-way, avenue, highway, place, alley, land, court, or way.

Vacant real property. Any vacant parcel of land, building or structure on real property in all zones in the city where the responsible party has intentionally left such property vacant and unoccupied for a period of time exceeding 30 calendar days.

Vehicle. An automobile, truck, motorcycle, trailer, and any other device by which any person or property may be propelled, moved, or drawn upon a highway, except a device moved by human power.

Weed abatement official. The city fire chief or his designated representative.

Weeds. Plant material that is noxious or dangerous, and/or dry grass, stubble, brush, or other flammable material that creates a fire hazard.

Wrecked and/or dismantled vehicle. Any vehicle that meets the criteria of a 'total salvage vehicle' or 'nonrepairable vehicle', as defined by the California Vehicle Code.

Sec. 20-3 Public nuisance declared.

(a) **Developed property**. Any property that is not maintained by a responsible party pursuant to Article 2 of this title, and is in such a condition as to be detrimental to the health, safety, or welfare of the public or the adjoining property, is hereby declared to constitute a public nuisance.

(b) **Vacant property**. The presence of vacant real property in the city that is not properly secured, fenced, boarded up, and maintained by a responsible party pursuant to Article 3 of this title, and which is in such a condition as to be detrimental to the health, safety, or welfare of the public or the adjoining property, is hereby declared to constitute a public nuisance.

(c) **Abandoned, wrecked, dismantled, or inoperative vehicles**. The presence of an abandoned, wrecked, dismantled or inoperative vehicle, or part thereof, on private or public property not including streets, except as permitted in Section 20-6 Exemptions, is hereby declared to constitute a public nuisance.

(d) **Weeds**. The presence of weeds growing upon any parkway, sidewalk or on private property within the city, is hereby declared to constitute a public nuisance.

(e) **Rubbish**. The presence of rubbish upon parkways, sidewalks, or private property within the city is hereby declared to constitute a public nuisance.

Sec. 20-4. Prohibited conduct.

Except as provided in Section 20-6 Exemptions, it shall be unlawful for any responsible party having charge or possession of any real property in the city to:

(a) Operate any business activity in the city without a business tax registration certificate and appropriate zoning approval.

(b) Operate any business or other activity in the city not consistent with all of the terms and conditions of all applicable zoning approvals and approved plans granted by the City. This includes, but is not limited to, business tax registration certificates and conditional use permits.

(c) Allow upon any premises under his/her control the placement of any temporary or permanent signs without appropriate zoning and building permit approval.

(d) Keep, store, or maintain on or in front of any real property, or in or on any vehicle upon the real property under his/her control any litter, rubbish or weeds, when such material is open to view at street level from a parkway, street, or adjoining property, or in such a condition as to be detrimental to the health, safety and welfare of the inhabitants of such real property or any adjoining property.

(e) Not maintain any parcel of land, building, or structure on real property in conformance with the standards contained in Article 2. Property Maintenance Standards of this title.

(f) Permit any parcel of land, building, or structure on real property to remain a vacant real property without properly securing and maintaining the property pursuant to Article 3. Vacant Property Maintenance Standards of this title.

(g) Allow upon any premises under his/her control the use of any pay telephone that is used as an instrument for or contributes substantially by its presence to any of the following conditions:

1. Selling or giving away controlled substances (as defined in Division 10 of the State Health and Safety Code); soliciting, agreeing to engage in, or engaging in any act of prostitution; or other criminal activity.

2. Consumption of alcoholic beverages on nearby outdoor public or private property except where outdoor consumption of alcoholic beverages is specifically authorized pursuant to an Alcoholic Beverage Control license.

(h) Allow upon any premises under his/her control any swimming pool, pond, spa, or other body of water or excavation which is abandoned, unattended, or unfiltered.

(i) Allow the disposal or storage of oil, grease, other petroleum products, noxious chemical, pesticides, or any gaseous, liquid, or solid waste in such a manner to constitute a health or fire hazard or degrade the appearance of or detract from the aesthetic and property values of neighboring properties.

(j) Operate a leaf blower inconsistent with Article 4. Leaf Blowers of this title.

(k) Keep, store, or maintain upon any premises under his/her control any abandoned, wrecked, dismantled, or inoperative vehicle, or part thereof, except as permitted by Table 20-6(c).

(l) Keep, store, or maintain upon any premises under his/her control any vehicle or recreational vehicle, except as permitted by Table 20-6(c).

(m) Use any parked or stored vehicle or recreational vehicle, operative or not, as temporary or permanent living space.

(n) Use a garage, or any portion thereof, as a temporary or permanent living space or as a meeting room.

(o) Keep, store, or maintain in any residential zone or on any residentially-developed property any of the following:

(1) Construction and/ or business equipment, supplies, materials, or machinery of any type or description;

(2) Buses, tow trucks, dump trucks, flatbed trucks, tractors, tractor trailers, truck trailers; or

(3) Any other commercial vehicle over 25-feet long or 8 feet in height or 90-inches wide.

(p) Keep, store, or maintain any materials, equipment or objects, including, but not limited to, appliances, furniture, barbeques, plants, toys, or other household items of any kind (except for roof-mounted mechanical equipment with a valid building permit) on rooftops of structures, including, but not limited to, carports and patio covers.

(q) Install, construct, or maintain any fencing or screening on, about, around, or projecting above rooftops of structures, including, but not limited to, carports and patio covers, without a valid building permit and zoning approval.

Sec. 20-5. Violations.

A violation of this title is a misdemeanor pursuant to section 1-33 and such violation may be established by evidence obtained by the police chief, fire chief, building official, code enforcement officer, or their designees.

Sec. 20-6. Exemptions.

The provisions of this title shall not apply to the following:

(a) **Construction activities.** Any material currently in use in the course of lawful construction, demolition or landscaping on the site; provided, however, that when the construction, demolition, or landscaping on the site exceeds 30 calendar days a permit shall be obtained pursuant to Title 5 of this Code which shall specify the time for completion of such work.

(b) **Stored materials.** Any material contained within a fully enclosed structure or lawfully constructed solid, opaque wall, or fence, and such material is not in a condition as to be detrimental to the health, safety, or welfare of the inhabitants of such real property, the public, or any adjoining property.

(c) **Vehicles.** The parking and storage of vehicles are subject to the provisions in Table 20-6 (c).

(d) Nothing in this section shall be construed as authorizing the maintenance of a public or private nuisance.

Table 20-6(c)
VEHICLE STORAGE AND PARKING REGULATIONS

Parking and Storage Options	RESIDENTIAL ZONES AND RESIDENTIALLY-DEVELOPED PROPERTY			NONRESIDENTIAL ZONES (EXCLUDING RESIDENTIALLY-DEVELOPED PROPERTY)		
	Vehicle and Recreational Vehicles	Inoperative vehicles	Wrecked or dismantled vehicles, or part thereof	Vehicle and Recreational Vehicles	Inoperative vehicles	Wrecked or dismantled vehicles, or part thereof
1. Interior storage. Enclosed completely within a building in a lawful manner where it is not visible from the street or other public or private property	P	P	P	P	P	
2. Licensed vehicle dealer. Stored or parked in a lawful manner in connection with the business of a licensed vehicle dealer.	•	•	•	P	P	
3. Other lawful business. Stored or parked on a lot pursuant to zoning approval granted by the City of Costa Mesa for that purpose, in connection with the operation of a lawfully-conducted business.	•	•	•	P	P	
4. Other residential storage options. Stored or parked on a paved area that meets the following criteria:				Not applicable	Not applicable	
a. A paved area that is not within the required building setback area abutting a public street, excluding alleys; and,	P[1]	P[1]	P[1]			
b. Screened by a 6-foot high permanent, solid, opaque fence or wall. The fence or wall shall be constructed and maintained in accordance with applicable development standards for fences and walls contained in the City of Costa Mesa Zoning Code. A building may also serve to screen the storage area.						
c. The exception to subparagraphs a. and b. above is that a vehicle may be stored or parked on a paved driveway connecting a garage or carport with a public or private street.	P[1]	P[1,2]	•			

Table 20-6(c)
VEHICLE STORAGE AND PARKING REGULATIONS

Parking and Storage Options	RESIDENTIAL ZONES AND RESIDENTIALLY-DEVELOPED PROPERTY			NONRESIDENTIAL ZONES (EXCLUDING RESIDENTIALLY-DEVELOPED PROPERTY)		
	Vehicle and Recreational Vehicles	Inoperative vehicles	Wrecked or dismantled vehicles, or part thereof	Vehicle and Recreational Vehicles	Inoperative vehicles	Wrecked or dismantled vehicles, or part thereof
5. Other Nonresidential storage options. Stored or parked on a paved area that meets the following criteria: a. A paved area that is not within the required building setback area abutting a public street, excluding alleys; and, b. Screened by a 6-foot high permanent, solid, opaque fence or wall. The fence or wall shall be constructed and maintained in accordance with applicable development standards for fences and walls contained in the City of Costa Mesa Zoning Code. A building may also serve to screen the storage area.	Not applicable	Not applicable		P	•	•
6. Stored or parked on any unpaved surface, except as permitted above.	•	•		•	•	

P = Permitted

• = Prohibited

1. Excludes buses, tow trucks, dump trucks, flatbed trucks, tractors, tractor trailers, truck trailers; or any other commercial vehicle over 25-feet long or 8 feet in height or 90-inches wide, except as allowed in Section 20-6(a).
2. Provided that the inoperative vehicle is covered by a vehicle cover, made for that purpose and maintained in good condition, and in compliance with Section 20-7(c).

ARTICLE 2. PROPERTY MAINTENANCE STANDARDS

Sec. 20-7. Standards for developed property.

All developed real property in the city shall be maintained at a level not less than the following standards.

(a) **Condition of structures.** Structures shall not be partially destroyed, abandoned, unsecured, or permitted to remain in a state of partial construction for more than 30 days. Buildings or structures shall not be boarded up for a period in excess of 10 days without a valid demolition or building permit on file, except in compliance with Article 3.

(b) **Building exteriors and roofs.** Exterior building surfaces and roofs shall be maintained free of significant surface cracks, missing materials, warping, dry rot which either threaten the structural integrity, or result in a dilapidated, decaying, disfigured, or partially ruined appearance.

(c) **Use of tarps.** Excluding emergency repairs, it is prohibited to use tarps for roof and building repairs. Additionally, the use of tarps for vehicle covers, or temporary canopies, enclosures, and/or awnings is prohibited in any outdoor area visible from any public right-of-way.

(d) **Reserved.**

(e) **Paint.** Painted surfaces on buildings, trash enclosures, walls, retaining walls, fences, and structures shall be maintained in order to prevent decay, excessive checking, cracking, peeling, chalking, dry rot, warping, or termite infestation.

(f) **Graffiti.** All structures, equipment, walls, and fencing on the property shall be maintained free of graffiti pursuant to Chapter VII½ of Title 11.

(g) **Lighting.** All exterior light fixtures shall be maintained in good working order free of broken lamps, lens, and light bulbs. Furthermore, the structural integrity of all supporting poles and mounting fixtures shall be maintained. All insulation and connections shall be intact and free of exposed wire.

(h) **Windows.** Broken windows and glass doors and the use of materials other than glass as a replacement or covering of windowpanes are prohibited.

(i) **Window screens.** All window and glass door screens shall be maintained free of tears, rips, and holes. On residential rental properties, window screens are required on all windows.

(j) **Trash bins.** Trash bins or dumpsters shall be kept within a trash enclosure, or screened from public view to the maximum extent feasible.

Exception: All existing trash dumpsters shall be affixed with a lid and screened from public view by a trash enclosure or other acceptable manner under the direction of the Planning Division. The provision of a trash enclosure or screen may result in the loss of required parking spaces, landscaping, and/or open space without approval of

a variance from development standards in Title 13, PLANNING, ZONING AND DEVELOPMENT. The Zoning Administrator may waive this requirement, if he/she determines that the loss of onsite parking shall create a hardship for the site, subject to review pursuant to Chapter IX of Title 2. The location of any trash enclosure or screen on the site as required by this section shall be approved by the Planning Division.

Overflowing trash bins or dumpsters due to inadequate number of bins and/or request for service from the trash hauler are prohibited. Use of commercial trash bins for residential uses in the R-1 zone is prohibited, except for the purpose of removing construction and demolition materials pursuant to Section 20-6(a) Construction Activities.

(k) **Walls, fences, and trash enclosures.** All walls, retaining and crib walls, and fences abutting public rights-of-way (including alleys), and trash enclosures, shall be maintained free of significant surface cracks, dry rot, warping, deterioration, leaning, missing panels or blocks which either threaten the structural integrity, or result in a dilapidated, decaying, disfigured, or partially ruined appearance. Effective on July 18, 2003, in residential zones, including planned development, chain link fencing visible from a public street shall be removed or screened with plant materials that have been approved by the Development Services Department. Chain link fences and landscaping that are located adjacent to street corners and driveways shall conform to the City's walls, fences, and landscaping standards in Title 13 of the Costa Mesa Municipal Code regarding maximum height and location.

(l) **Parking areas, sidewalks**. Parking areas, private alleys, driveways, sidewalks, and walkways shall be maintained free of potholes, cracks, breaks, lifting, and other deteriorated conditions.

(m) **Signs.** All signs shall be maintained in order to prevent deterioration, disrepair, and unsightliness.

(n) **Excavations**. Excavations, abandoned wells, shafts, basements, and other holes shall be properly secured to prevent access by unauthorized persons.

(o) **Landscaping**. With the exception of R-1 properties, all landscaping on the property shall be maintained pursuant to Section 13-108 LANDSCAPE MAINTENANCE of this Code. For R-1 properties, all unpaved areas visible from the public right-of-way shall be landscaped and the landscaping shall be maintained in a healthy condition free of dying, dead, diseased, decayed, discarded and/or overgrown vegetation.

(p) **Parkway landscaping.** In residential areas, the public parkway shall be landscaped and maintained by the adjacent property owner(s). The landscaping shall be maintained in a healthy condition free of dying, dead, diseased, decayed, discarded and/or overgrown vegetation.

(q) **Drainage.** Onsite drainage improvements shall be maintained in order to prevent deterioration, disrepair, and ineffectiveness.

(r) **Rodent and vermin control.** All property, including landscaped areas, buildings, and structures, shall be maintained free of rodents and other vermin.

(s) **Outdoor drying.** In all residential zones or residential developments, the outdoor airing and/or drying of laundry, clothes, other household linens, or food is permitted only in rear or side yards, provided that the items are not visible from public rights-of-way.

(t) **Pools.** Barrier fencing and gates for swimming pools and spas shall be maintained as required by the California Building Code. Swimming pools and spas shall not contain unfiltered or stagnant water.

(u) **Address numerals**. Street address numerals shall be maintained pursuant to following.

(1) Single-family units. Street addresses shall be visible from the public street and may be displayed either on the front door, on the fascia adjacent to the main entrance, or on another prominent location. When the property has alley access, address numerals shall be displayed in a prominent location visible from the alley. Numerals shall be a minimum 6" in height with not less than ½" stroke and shall contrast sharply with the background.

(2) Multi-family units. Street address shall be visible from the public street and shall be displayed on the complex identification sign. If there is no complex identification sign, the street address may be displayed on the fascia adjacent to the main entrance or on another prominent location. When the property has alley access, address numerals shall be displayed in a prominent location visible from the alley. Street address numerals shall be a minimum 6" in height with not less than ½" stroke and shall contrast sharply with the background. Identification of individual units shall be provided adjacent to the unit entrances. Letters or numerals shall be 4" in height with not less than ¼" stroke and shall contrast sharply with the background.

(3) Non-residential properties. Street address shall be visible from the public street and shall be displayed on the freestanding sign. If there is no freestanding sign, the street address may be displayed on the fascia adjacent to the main entrance or on another prominent location. When the property has alley access, address numerals shall be displayed in a prominent location visible from the alley. Numerals shall be a minimum 12" in height with not less than ¾" stroke and shall contrast sharply with the background. Identification of individual units shall be provided adjacent to the unit entrances. Letters or numerals shall be 4" in height with not less than ¼" stroke and shall contrast sharply with the background.

Sec. 20-8. Compliance responsibility.

Compliance with the standards contained in this article shall be at the sole cost of the responsible party for the real property and shall not limit the remedies or recovery of costs for the abatement of any real property found to be in violation by city council or its designee pursuant to this Code.

ARTICLE 3. MAINTENANCE STANDARDS FOR VACANT PROPERTIES

Sec. 20-9. Standards for vacant real property.

(a) **Mandatory standards.** All vacant real property in the city shall be secured and maintained at a level not less than the following standards during the time period that such property remains vacant real property:

(1) **Graffiti**. All structures, equipment, walls, and fencing on the property shall be maintained free of graffiti pursuant to Chapter VII½ of Title 11.

(2) **Rubbish, litter and weeds**. All landscaped, concrete, dirt, or paved open areas on the real property and adjoining public parkway shall be kept clear of rubbish, litter, and weeds.

(3) **Temporary fencing**. Unless required in subsection (b)(2), the installation of temporary fencing is not mandated. A building permit is required for any temporary fencing installed by a responsible party. The Planning Division shall review the fence location and material(s), and chain link fencing shall only be used in conjunction with an opaque screening material. The responsible party shall maintain the fence in good repair and condition. If the fence is not maintained properly, the Building Official or Fire Chief may order its removal and replacement.

The fence may be properly posted with no trespassing signs, and the fence shall be kept clear of all other signs, except lawfully installed signs."

(b) **Additional standards**. When deemed necessary by the Fire Chief or Building Official, and/or in order to maintain the safety of persons or property, the following standards may also be imposed:

(1) **Access points**. All windows, doors, and other open access features to the structures on the real property shall be boarded up and secured in compliance with the standard attached as Exhibit A to the ordinance adopting this title. All boards visible from the building's exterior shall be painted to match the building's exterior.

(2) **Temporary fencing.** The property shall be fenced on all sides along the property line with a chain link fence or other type of secure fencing at a minimum height of 6 feet from grade. The Fire Chief or Building Official may determine a greater fence height is necessary. The temporary fence shall require a building permit and shall be subject to the standards in subsection (a)(3).

(3) **Security lighting.** All structures which could be used for human habitation shall have an operable and effective exterior security lighting system. The front and rear yards shall each be illuminated with a minimum of one light. The lighting shall be capable of illuminating the structure's exterior so as to be visible from the street or alley from dusk to dawn. However, the lights shall be shielded to avoid lighting adjacent properties.

Sec. 20-10. Compliance responsibility.

Compliance with the standards contained in this article shall be at the sole cost of the responsible party for the vacant real property and shall not limit the remedies or recovery of costs for the abatement of any vacant real property found to be in violation by city council or its designee pursuant to this Code.

ARTICLE 4. LEAF BLOWERS

Sec. 20-11. Limited use.

(a) **Residential areas.** In residential areas, or within 50 feet thereof, the use of leaf blowers is prohibited except during the hours of 7:00 a.m. to 5:00 p.m., Monday through Friday, 9:00 a.m. to 5:00 p.m. on Saturdays; and 12:00 noon to 5:00 p.m. on Sundays and legal holidays.

(b) **Maximum noise levels.** Notwithstanding provisions of Chapter XIII Noise Control of Title 13 of this Code, the maximum noise level emitted by leaf blowers shall not exceed 65 decibels and shall not exceed 55 decibels for more than a total of 15 minutes at any given location. The noise level shall be measured at a distance of 50 feet from the leaf blower.

(c) **Dirt, dust, debris.** Leaf blower operations shall not cause dirt, dust, debris, leaves, grass clippings, cuttings or trimmings from trees or shrubs to be blown or deposited on any adjacent street or property, or upon the property on which the leaf blower is being operated. Deposits of dirt, dust, leaves, grass clippings, debris, cuttings or trimmings from trees or shrubs shall be removed and disposed of in a sanitary manner, to prevent dispersement by wind, vandalism, or similar means.

(d) **Windows and other openings.** Leaf blowers shall not be operated within a horizontal distance of 10 feet of any operable window, door or mechanical air intake opening or duct.

(e) **Identification required.** Each leaf blower shall have the business name, address, telephone number affixed to it in a clear, identifiable manner.

ARTICLE 4.5. CANOPIES

Section 20-11.5. Use of canopies.

The use of canopies is limited to residential properties and commercial zones or uses as specified herein below. A conditional use permit is required for any use not designated in this section. For the purposes of this provision, a canopy is defined as a canvas covering or other durable fabric such as denim or polyvinyl, that is designed for use or custom fitted over a metal frame or a frame constructed from some other sturdy material, excluding umbrellas, and used for protection, shade, or shelter from the elements and open on at least one side.

(a) **Non-Residential Properties:**

(1) **Car Washes and Motor Vehicle Detailing Businesses.** A maximum of one canopy is allowed on the same premises and in conjunction with a legally established car wash or motor vehicle detailing business provided it complies with all of the following standards:

a. The canopy shall not exceed 25 feet by 50 feet in dimension and 15 feet in height.

b. The canopy shall not be located in any required street or landscape setback area or interfere with the parking lot access and/or vehicular circulation.

c. The canopy shall cover no more than five standard size parking spaces, as defined in Title 13 of this code.

d. No signage, decals, logos or advertising of any nature shall be allowed on the canopy.

e. The frame of the canopy shall be safely secured to the ground in accordance with the manufacturer's installation instructions.

f. No electrical wiring and/or lighting, whether permanent or portable, shall be attached to the canopy.

g. The area under the canopy shall only be used for motor vehicle detailing and the temporary parking of operative motor vehicles for services associated with either the car wash or detailing business.

h. The canopy shall be maintained in good condition, and shall be removed, cleaned, or replaced if torn, faded, or dirty.

i. Canopies covering an area of 400 square feet or larger require issuance of a fire permit.

(2) **New and/or Used Motor Vehicle Dealerships.** A maximum of two canopies are allowed in conjunction with a legally established new and/or used motor vehicle dealership, provided the canopy(s) comply with all of the following standards:

a. The canopy(s) shall not exceed 50 feet by 100 feet in dimension, with an aggregate total of 5,000 square feet in area and shall not exceed 25 feet in height.

b. The canopy(s) shall be located within the automobile sales display or service area, and the canopy(s) shall not be located in any required street or landscape setback area or interfere with the parking lot access and/or vehicular circulation.

c. No signage, decals, logos, or advertising of any nature shall be allowed on the canopy.

d. The area under the canopy shall be used only for the temporary parking of operative motor vehicles that are on the premises in conjunction with the business.

e. The frame of the canopy shall be safely secured to the ground in accordance with the manufacturer's installation instructions.

f. Any electrical wiring and/or lighting, whether permanent or portable, attached to the canopy shall comply with all applicable provisions of the Uniform Electrical Code.

g. Automobile mechanical repair is prohibited under a canopy or on any open parking area. Motor vehicle detailing, not including mechanical repair, is an acceptable use under a canopy.

j. The canopy shall be maintained in good condition, and shall be removed, cleaned, or replaced if torn, faded, or dirty.

h. Canopies covering an area of 400 square feet or larger require issuance of a fire permit.

(b) **Residential Properties:** Any canopy located on a residential property shall be partially or wholly screened from the public right-of-way by either a building and/or solid, opaque wall or fence that is a minimum 6 feet in height. The canopy shall be maintained in good condition and shall be removed, cleaned, or replaced if torn, faded, or dirty.

ARTICLE 5. ABATEMENT PROCEDURES

Sec. 20-12. Abatement authorized; administrative costs.

(a) **City Council authority**. Upon discovering that a property is in violation of this title, the city council or its designee shall have the authority to cause the abatement and removal of the violation in accordance with the procedures prescribed in this article.

(b) **Administrative costs.** The city council shall determine and fix the amount to be assessed as administrative costs in addition to the actual costs for removal of the public nuisance conditions on the real property pursuant to this title.

Sec. 20-13. Abatement authorized.

(a) **Responsible officials**. The building official or fire chief or their designees are authorized to abate any dangerous building or conditions found to exist on real property subject to this title pursuant to Titles 5 and 7 of this Code, the Uniform Fire Code, or the Uniform Code for the Abatement of Dangerous Buildings, and such abatement action may include but is not limited to the implementation of standards in Articles 2 and 3 of this title.

(b) **Weed and rubbish abatement**. The weed abatement official is authorized to abate any rubbish or weeds found to exist on any real property subject to this title and Title 7 of this Code and the Uniform Fire Code.

(c) **Abandoned, wrecked, dismantled, or inoperative vehicles.** Upon discovering the existence of an abandoned, wrecked, dismantled, or inoperative vehicle, or part thereof, on private property or public property within the city, the Chief Code Enforcement Officer shall have the authority to cause its abatement and removal in accordance with the procedure prescribed in this title.

Sec. 20-14. Abatement Procedures, excepting abandoned, wrecked, dismantled, or inoperative vehicles.

(a) **Resolution.** Where the building official or fire chief or their designees find conditions to exist on any real property in the city that violates this title, the city council by resolution may declare such conditions a public nuisance. A resolution shall refer to the real property by the name under which it is commonly known, or by the street upon which the private property fronts or abuts or nearest to which the private property is located. The resolution shall describe the property upon which the nuisance appears, in the manner set forth in subsection (b).

(b) **Property description**. The resolution shall describe the property upon which or in front of which the nuisance exists by describing the property in accordance with the map used in describing property for taxation purposes. No other description shall be necessary. If the private property fronts or abuts upon more than one street, it shall be necessary to refer to only one of the streets. Any

number of streets or parcels of private property may be included in one resolution.

(c) **Notice.** Notice of the hearing at which the City Council will consider a resolution declaring a public nuisance shall be provided at least 10 days in advance of the hearing to the owner of the affected premises, as shown on the latest real property tax assessment roll, any known responsible party, and shall, if practical, be posted on the affected premises. The building official or fire chief or their designees are hereby designated as the person to give notice to the responsible party to abate the public nuisance conditions on the real property. The building official or fire chief or their designees shall have the power to develop such regulations, forms, and procedures as are necessary to accomplish the purposes of this title. After city council has passed a resolution pursuant to this section, the notice to the responsible party to abate the public nuisance conditions shall comply with the following:

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

NOTICE TO ABATE PUBLIC NUISANCE

Notice is hereby given that on the _____ day of _____, 20_____ , the city council of the City of Costa Mesa passed a resolution declaring that conditions detrimental to the public health, safety or welfare exist upon the real property on or nearest to street/road/avenue in the city, and that the conditions constitute a public nuisance which must be abated by the city, and the cost of removal assessed upon the land from which such nuisance conditions were removed and will constitute a lien upon such land until paid. Reference is hereby made to Resolution No. _____ for more particulars. A copy of the resolution is on file in the office of the city clerk, 77 Fair Drive, Costa Mesa, CA.

All property owners and other responsible parties having any objections to the proposed removal of such nuisance conditions are hereby notified to attend the meeting of the city council to be held on _____ when their objections will be heard and given due consideration.

Dated this _____ day of _____, 20_____.

Building Official/Fire Chief/Fire Marshal

(2) After the adoption of a resolution by city council, the notice shall be mailed by first class mail to the property owner(s) as shown by the most recently received real property tax assessment roll, and to any other responsible party, to the extent that his/her address is known.

(3) Proof of notice shall be provided to city council at the hearing on protests as set forth in this section.

(d) **Public hearing.** At the time stated in the notice set forth in subsection (b) of this section, the city council shall hear and consider all objections or protests, if any,

to the proposed removal of the nuisance conditions and may continue the hearing. Upon conclusion of the hearing, the city council shall allow or overrule by resolution or motion any or all objections, whereupon the city council shall acquire jurisdiction to proceed to perform the work of removal and the decision of the council on the matter shall be final and subject to California Code of Civil Procedure section 1094.6. If objections have not been made, or if the city council has overruled those made, it shall order the building official or fire chief or their designees to abate the nuisance by having the nuisance conditions removed. Such order shall be made by resolution or motion of city council.

(e) **Appeal.** Any rehearing or judicial review of the city council decision shall be according to the procedures set forth in TITLE 2, Chapter IX APPEAL, REHEARING AND REVIEW PROCEDURE.

(f) **Contact with responsible party.** The building official or fire chief or their designees shall not undertake to abate any nuisance by order of city council pursuant to this section until he/she has made a reasonable effort to personally contact any responsible party protesting the council order to abate, in order to explain the purpose of the program, handle any special problem, and grant the responsible party additional time if warranted to provide his/her own abatement.

(g) **Right of entry.** The building official or fire chief or their designees may enter upon private property to inspect or abate any nuisance prohibited by this title upon:

(1) Receipt of consent from the owner or occupant of the affected premises; or

(2) Obtaining a warrant authorizing such as inspection and/or abatement. Such city official may enter the private property immediately, if the nuisance presents a significant and immediate threat to the public health, safety, or welfare.

(h) **Removal before city representative.** Any responsible party may have the nuisance conditions removed and abated at his/her own expense if it is done before the arrival of the city representative to remove such conditions pursuant to this title.

(i) **Abatement work; costs and records; manner of collection.**

(1) **Abatement work.** The abatement work may be done by city work forces or by independent contractors.

(2) **Records and costs.** The building official or fire chief or their designees who are responsible for carrying out the order of abatement by city council shall keep an account of the cost of abatement of the nuisance on each separate lot or parcel of land and shall render a written itemized report to city council for confirmation showing the costs of removing the nuisance conditions on each separate lot or parcel of land.

a. **Posting of report required.** Before the report is submitted to the city council, it shall be posted at least 3 days on the bulletin board at the city hall with a notice of the time when the report will be submitted to the city council for confirmation.

b. **Mailing of notice of submission.** At least 7 days prior to the date of submission for confirmation, a postcard notice of the time and place of the submission of the report for confirmation, stating generally the nature of the report, shall be mailed to the owners of the parcels who have filed with the council a written request for a postcard notice within one year prior to the date of mailing the notice.

c. **Hearing on report.** At the time fixed for receiving and considering the report, the city council shall hear it with any objections of any of the property owners liable to be assessed for the work of abatement. The city council may make such modifications in the report as it deems necessary, after which, by motion or resolution, the report shall be confirmed.

d. **Costs lien on property affected.** The amount of the costs for abating the nuisance on the lot or parcel of land mentioned in the report, as confirmed, shall constitute special assessments against the respective parcels or lots, and shall be a lien on the property for the amount of the respective assessments. The decision by city council to confirm the costs for abating the nuisance shall be final and subject to California Code of Civil Procedure section 1094.6.

(3) **Manner of collection**. A certified copy of the report set forth in subsection (2) shall be filed with the County of Orange assessor on or before August tenth. The description of the parcels reported shall be those used for the same parcels on the county assessor's map books for the current year. The amount of the assessments shall be collected at the same time and in the same manner as city 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 city taxes.

a. **Application of tax statutes**. All laws applicable to the levy, collection and enforcement of city taxes shall be applicable to such special assessment taxes.

b. **Issuance of separate tax bills, receipts**. The county tax assessor, in his/her discretion, may issue separate bills for such special assessment taxes and separate receipts for collection on account of such assessments.

c. **Cancellation or refund required; grounds**. All or any portion of any such special assessment, penalty or costs heretofore or hereafter entered shall, on order of the city council, be canceled by the county assessor if uncollected, or, except as provided in subsection iii hereof,

be refunded by the director of finance if collected, if it was entered, charged or paid:

i. More than once;

ii. Through clerical error;

iii. Through the error or mistake of the city council or of the fire chief in respect to any material fact, including the case where the cost report rendered and confirmed as hereinbefore provided shows that the city abated the nuisance but such was not the actual fact;

iv. Illegally;

v. On property acquired after the lien date by the state or by any county, city, school district or other political subdivision, and because of this public ownership is not subject to sale for delinquent taxes.

d. **Claim or refund.** The provisions of this section shall not apply to cancellations. No order for a refund under this section shall be made except on a claim:

i. Verified by the person who paid the special assessment, his guardian, executor or administrator.

ii. Filed with the city clerk on or before March first after the tax became due and payable.

(j) **Demolition.** Where the building official or fire chief or their designees find that a real property contains a structure that violates this title and presents a threat to the safety or health of the public, city council by resolution may declare the structure a public nuisance and order the demolition of the structure where it finds the property violates this title, presents an immediate threat to the safety or health of the public and finds that persons have continued to enter, occupy or inhabit such structures despite the application of the standards in section 20-9. The demolition of a structure pursuant to this section shall not occur until the abatement procedures are complied with as set forth in this title.

(k) **Emergency abatement.** In the event the nuisance constitutes a significant and immediate threat to the public health, safety, or welfare, the building official, police chief, or fire chief, or their designees, may enter the property upon which the nuisance exists, abate the nuisance, and restore any property affected by the nuisance. To the extent reasonably practicable, informal notice shall be provided to the owner or occupant before abatement. If necessary to protect the public health, safety, or welfare, abatement may proceed without prior notice to or consent from the owner/occupant thereof and without judicial warrant.

(1) Imminent danger shall include, but is not limited to, circumstances that present a significant and immediate threat to the public health, safety, or welfare.

(2) Notwithstanding the authority of the City to conduct an emergency abatement action, an administrative hearing before the city council shall follow the abatement action. The hearing on the emergency abatement action shall be held within 5 business days following the action of abatement, unless the hearing (or the time required for the hearing) is waived in writing by the parties subject to the abatement action. A request for a hearing shall not be required of the person whose property is the subject of the abatement action. The city council at the hearing will determine the reasons for the abatement.

Sec. 20-15 Abatement Procedures for Abandoned, Wrecked, Dismantled, or Inoperative Vehicles

(a) **Notice required.** A 10-day notice of intention to abate and remove the vehicle, or part thereof, as a public nuisance shall be mailed by registered mail to the owner of the property on which the vehicle is located and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. The notices of intention shall be in substantially the following forms:

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

(Name and address of owner of the property on which the vehicle is located)

As owner shown on the last equalized assessment roll of the land located at (address), you are hereby notified that the undersigned pursuant to Title 20, Costa Mesa Municipal Code) has determined that there exists upon said land an (or part of an) abandoned, wrecked, dismantled or inoperative vehicle registered to _____, license number _____, which constitutes a public nuisance.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said part 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 Costa Mesa, and the costs thereof, together with administrative costs, assessed to you as responsible party on which said vehicle (or said part of a vehicle) is located.

As responsible party on which said vehicle (or said part of a vehicle) is located, you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the city council within the 10-day period, the City of Costa Mesa shall have the authority to abate and remove said vehicle (or said part of a vehicle) as a public

nuisance and assess the costs as aforesaid 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 part of a vehicle) on said land, with your reasons for denial, and such statement shall be construed as a request for 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, in lieu thereof, may present a sworn written statement as aforesaid in time for consideration at such hearing.

Notice Mailed _____

(Date) CITY OF COSTA MESA By _____\Building Official

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

(Name and address of last registered and legal owner(s) of record of vehicle--notice should be given to both if different)

As last registered (and/or legal) owner of record of (description of vehicle-make, model, license, etc.) you are hereby notified that the undersigned, pursuant to Title 20, Costa Mesa Municipal Code, has determined that said vehicle (or part 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 said Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said part of a vehicle) within 10 days from the date of mailing of this notice.

As registered (and/or legal) owner of record of said vehicle (or said part of a vehicle), you are hereby notified that you may, within ten 10 days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the city council within such 10-day period, the city council shall have the authority to abate and remove said vehicle (or said part of a vehicle) without a hearing.

Notice Mailed _____

(Date) CITY OF COSTA MESA By _____\Building Official

(b) **Public hearing upon written request.** Upon request by the owner of the vehicle or the owner of the property on which the vehicle is located received by the city within 10 days after the mailing of the notices of intention to abate and remove, a public hearing shall be held by the city council on the question of abatement and removal of the vehicle, or part thereof, as an abandoned, wrecked, dismantled or inoperative vehicle, and the assessment of the administrative costs and the costs of removal of the vehicle, or part thereof, against the property on which it is located.

(c) **Public hearing upon constructive request; notice of hearing; authority to abate and remove without hearing.**

If the owner of the property on which the vehicle is located submits a sworn written statement denying responsibility for the presence of the vehicle on his/her land within such 10-day period, said statement shall be construed as a request for a hearing which does not require his/her presence. Notice of the hearing shall be mailed, by registered mail, at least 10 days before the hearing to the owner of the property on which the vehicle is located 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 10 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 part thereof, as a public nuisance without holding a public hearing.

(d) **City Council to hear facts and testimony.** All hearings under this title shall be held before the city council, which shall hear all facts and testimony it deems pertinent. Said facts and testimony may include testimony on the condition of the vehicle, or part thereof, and the circumstances concerning its location on the said private property or public property. The city council shall not be limited by the technical rules of evidence. The owner of the property on which the vehicle is located may appear in person at the hearing or present a sworn written statement in time for consideration at the hearing and deny responsibility for the presence of the vehicle on the land with his/her reasons for such denial.

(e) **General powers of city council; notice of council's decision.**

(1) The city council may impose such conditions and take such other action, as it deems appropriate under the circumstances to carry out the purposes of this title. It may delay the time for removal of the vehicle, or part thereof, if, in its opinion, the circumstances justify it. At the conclusion of the public hearing, the city council may find that a vehicle, or part thereof, has been abandoned, wrecked, dismantled, or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as hereinafter provided and determine the administrative costs and the cost of removal to be charged against the responsible party. The order requiring removal shall include a description of the vehicle, or part thereof, and the correct identification number and license number of the vehicle, if available at the site.

(2) If it is determined at the hearing that the vehicle, or part thereof, was placed on the land without the consent of the owner of the property on which the vehicle is located and that he/she has not subsequently acquiesced in its presence, the city council shall not assess the costs of administration or removal of the vehicle, or part thereof, against the property upon which the vehicle, or part thereof, is located or otherwise attempt to collect such costs from such owner of the property on which the vehicle is located.

(3) If the owner of the property on which the vehicle is located submits a sworn written statement denying responsibility for the presence of the vehicle on his/her land but does not appear, or if an interested party makes a written presentation to the city council but does not appear, he/she shall be notified in writing of the decision.

(f) **Appeal.** Any rehearing or judicial review of the city council decision shall be according to the procedures set forth in TITLE 2, Chapter IX APPEAL, REHEARING AND REVIEW PROCEDURE.

(g) **Disposal.** Seven days after adoption of the order declaring the vehicle, or part thereof, to be a public nuisance, or 7 days from the date of mailing of notice of the decision if such notice is required by this article, the vehicle, or part thereof, may be disposed of by removal to a scrap yard or automobile dismantler's yard. After a vehicle has been removed it shall not thereafter be reconstructed or made operable, unless it is a vehicle that qualifies for either horseless carriage license plates or historical vehicle license plates, pursuant to Vehicle Code Section 5004, in which case the vehicle may be reconstructed or made operable.

(h) **Notice of removal to department of motor vehicles.** Within 5 days after the removal of the vehicle, or part thereof, notice shall be given to the department of motor vehicles identifying the vehicle, or part thereof, removed. At the same time there shall be transmitted to the department of motor vehicles any evidence of registration available, including, but not limited to the registration card, certificates of ownership, and license plates.

(i) **Costs of removal assessed.** If the administrative costs and the cost of removal which are charged against the owner of the property on which the vehicle is located or any other known responsible party pursuant to this title are not paid within 30 days of the date of the order, or the final disposition of an appeal there from, such costs shall be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code, and shall be transmitted to the tax collector for collection. The assessment shall have the same priority as other city taxes.

(j) **Nonexclusive remedy.** This title is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles with the City of Costa Mesa. It shall supplement and be in addition to the other regulatory codes, statutes, and ordinances heretofore or hereafter enacted by the City of Costa Mesa, the state, or any other legal entity or agency having jurisdiction.

ATTACHMENT 2

CHAPTER II CIVIL CITATIONS

Sec. 1-34. Applicability.

(a) This chapter makes any violation of the provisions of this Code subject to civil fines.

(b) This chapter establishes the administrative procedures for the imposition, enforcement, collection, and administrative review of civil fines pursuant to Government Code section 53069.4 and the city's general police power.

(c) The issuance of a civil citation under this chapter is solely at the city's discretion and is one option the city has to address violations of this Code. By adopting this chapter, the city does not intend to limit its discretion to utilize any other remedy, civil or criminal, for such violations that the city may select in a particular case.

(d) The purpose of issuing civil citations pursuant to this chapter is to encourage voluntary and complete compliance with the provisions of this Code and to eliminate nuisances for the protection and benefit of the entire community.

(e) Notwithstanding any lease, license or any other instrument or agreement, the owner of any real property has the right to enter upon his or her own property to the extent reasonably necessary to abate any nuisance or correct any violation of this Code existing thereon. The provisions of this subsection shall be an implied term of any instrument affecting the right to possession of real property located in the City of Costa Mesa.

(f) Because of the serious blighting conditions that can result affecting the residents' health and safety, this chapter is intended to impose strict civil liability upon the owners of real property for all building, housing, fire, health, land use, and abandoned vehicle code and zoning violations that occur upon the subject premises.

(Ord. No. 00-12, § 1, 7-16-00)

Sec. 1-35. Definitions.

The following definitions apply to the use of these terms for the purposes of this chapter:

(a) *Building violation* shall mean any violation of this Code pertaining to building, housing, plumbing, electrical, or other similar structural or zoning regulations, including regulations set forth in Title 5 of this Code, that does not create an immediate danger to health or safety.

(b) *Citation* shall mean civil citation issued pursuant to this chapter stating there has been a violation of this Code. Citation includes a notice of noncorrection unless the context clearly shows otherwise.

(c) *Citee* shall mean person given a civil citation charging him or her as a responsible person for a Code violation.

(d) *Code enforcement officer* shall mean any city employee or agent of the city designated by the city council pursuant to section 1-33.1 to have the authority and responsibility to enforce certain provisions of this Code.

(e) *Correction period* shall mean the period of time allowed for a citee to correct a building violation shown on a civil citation.

(f) *Department* shall mean the Development Services Department of the City of Costa

Mesa.

(g) *Director* shall mean the director of the department or his or her designee.

(h) *Hearing officer* shall mean the person appointed by the city manager to serve as the hearing officer for administrative reviews. Prior to conducting hearings the hearing officer must first be certified by the city attorney as qualified to provide a fair and impartial hearing based on appropriate education, training and experience.

(i) *Issued* shall mean giving a citation to the citee and issuance occurs on the date when a citation is personally served on the citee, the date it is mailed to the citee, or the date it is posted on real property where a property related violation exists.

(j) *Notice of decision* shall mean a form prepared by the department used to inform a citee of the decision made regarding various provisions of this chapter.

(k) *Notice of noncorrection* shall mean a notice contained in the second citation issued for a building violation which notes the violation on the prior citation has not been corrected within the applicable correction period.

(l) *Responsible person* shall mean any of the following:

(1) A person who causes a code violation to occur.

(2) A person who maintains or allows a code violation to continue, by his or her action or failure to act.

(3) A person whose agent, employee, or independent contractor causes a code violation by its action or failure to act.

(4) A person who is the owner of, lessee or sublessee with a current right of possession of, real property where a property related code violation occurs.

(5) A person who is the on-site manager of a business who normally works daily at the site when the business is open and is responsible for the activities at such premises.

(6) A person who is the beneficiary under a deed of trust for the property where a property related violation exists and that person has not corrected the violation within thirty (30) days after being notified by the director in writing of the violation and the fact that the trustee under the deed of trust is no longer living on the property and his or her whereabouts is unknown.

For purposes of this subdivision "person" includes a natural person or legal entity, and the owners, corporate officers, trustees, and general partners of a legal entity. There shall be a legal rebuttable presumption that the record owner of a parcel according to the County of Orange's latest equalized property tax assessment rolls and a lessee or sublessee of a parcel has notice of any Code violation existing on the premises. For the purposes of this chapter, there may be more than one responsible person for a violation, and a minor at least fourteen (14) years of age may be a responsible person subject to the provisions of this chapter for a violation personally committed by the minor.

(Ord. No. 00-12, § 1, 7-16-00)

Sec. 1-36. Civil citation--General.

(a) Any city code enforcement officer upon determining that a provision of this Code, which he or she is charged to enforce, has been violated has the authority to issue a civil citation to any responsible person or persons. A code enforcement officer may issue a citation for a violation not committed in the officer's presence if the officer has determined through investigation that

the responsible person cited did commit the violation. A responsible person to whom a citation is issued shall be liable for and shall pay to the city the fine or fines described in the citation when due pursuant to the provisions of this chapter.

(b) Every person who applies for and receives a permit, license, or any type of land use approval (e.g., subdivision maps, conditional use permits, variances), shall comply with all conditions imposed upon the issuance of the permit, license or other approval. If a person violates any condition of such permit, license or approval, he or she may be issued a civil citation and be liable for civil fines under the provisions of this chapter.

(c) Each day a violation of this Code exists shall be a separate violation and be subject to a separate fine. A citation may charge a violation for one (1) or more days on which a violation exists, and for violation of one (1) or more Code sections.

(d) The city may take into consideration the fact that a person has been issued citations when the city is determining whether to grant, modify, suspend, revoke, or deny any permit, license, or any type of land use approval regarding that person, and such citations are evidence that the person has committed acts that are not compatible with the health, safety and general welfare of other persons and businesses in the vicinity.

(Ord. No. 00-12, § 1, 7-16-00)

Sec. 1-37. Civil citation--Building violations.

(a) When a citation is issued for a building violation, a thirty (30) day correction period shall be allowed for the correction of the violation and the citee shall correct the violation within that period. Notwithstanding section 1-36, no responsible person for a building violation shall be liable for a civil fine unless the violation continues after the thirty (30) days allowed for its correction, plus any extension pursuant to subdivision (b), and he or she is issued a second citation containing a notice of noncorrection.

(b) The citee of a building violation may request an extension of the correction period provided that a request is filed with the director before the thirty (30) [day]-correction period ends. The director may, in his or her discretion, grant a reasonable extension of the period of time to correct the violation if the citee has supplied substantial evidence showing that the correction cannot reasonably be made within the thirty (30) day period. The filing for such an extension does not, unless granted, extend the thirty (30) day period or any other time periods set by this chapter.

(c) If a building violation has not been corrected by the end of the correction period, the code enforcement officer has authority to issue to the responsible person a second citation containing a notice of noncorrection. The citee to whom the notice of noncorrection is issued shall be liable for and shall pay to the city the fine or fines described in the citation which fine shall be due on the date this second citation is issued. Additional citations may be issued and fines imposed for every day the violation continues uncorrected from the date the second citation is issued.

(Ord. No. 00-12, § 1, 7-16-00)

Sec. 1-38. Citation contents.

(a) Each citation shall contain the following information:

(1) Name of the responsible person for the violation of this Code.

(2) Date on which the Code violation occurred.

(3) The Code section violated.

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(4) Address where the Code violation occurred.

(5) Description of the violation.

(6) Amount of the fine for the violation and procedure to pay the fine and avoid a late payment penalty.

(7) Designation of the building violation (if applicable), date the thirty (30) day correction period expires, and how to request an extension of that period, and designation of a notice of noncorrection when the building violation has not been corrected.

(8) Designation of prior citations issued for the same Code violations, if known by the code enforcement officer.

(9) Description of the procedure for requesting a waiver of fine deposit and/or an administrative review to contest a citation.

(10) Designation of an assigned hearing date, time and location to be used if the citee files a request for waiver of the fine deposit and/or an administrative review.

(11) A notice that the Code violation is a nuisance and the process for the collection of unpaid fines and/or nuisance abatement costs as more specifically set forth in section 1-48.

(12) Signature of the code enforcement officer issuing the citation.

(13) Date the citation is issued.

(14) A self-addressed envelope in which the citee can send to the city the fine or a request for a waiver of fine deposit and/or an administrative review.

(15) Any other information deemed necessary by the director for enforcement or collection purposes.

(Ord. No. 00-12, § 1, 7-16-00)

Sec. 1-39. Service of civil citations.

A civil citation may be served as follows:

(a) A code enforcement officer may personally serve the citation on the citee. The citee shall sign a copy of the citation showing his or her receipt of the citation.

(b) A code enforcement officer may mail the citation by first class mail, if the citee is not present for personal service when the officer determines there has been a violation. The citation shall be mailed to the citee's address shown on the county's last equalized property tax assessment rolls for a property related violation, or to any address known for the citee for all other violations.

(c) A code enforcement officer may post a copy of the citation on the property in a conspicuous place for a property related violation when the citee resides at an unknown address other than where the violation occurs. A copy of the citation will also be mailed to the citee at the property address.

(Ord. No. 00-12, § 1, 7-16-00)

Sec. 1-40. Amount of civil fines.

(a) The amount of the fines for violating particular provisions of this Code shall be set in a

schedule of fines adopted by resolution by the city council. The schedule may include escalating fine amounts for repeat Code violations occurring within specified periods of time.

(b) The schedule of fines may also specify the amount of interest and late payment penalty owed for any fine not paid when due. A late payment penalty and interest shall be imposed for fines not paid within thirty (30) days of their due date.

(c) Fines are due on the day the citation is issued, except (i) fines for building violations shall be due on the day the second citation containing the notice of noncorrection is issued and (ii) when a fine deposit has been waived pursuant to section 1-44 and the hearing officer upholds the citation the fine shall be due on the date the decision is made and the notice of decision given to the citee at the end of the hearing by the hearing officer, or the date the notice of decision is mailed to the citee.

(Ord. No. 97-27, § 3, 9-2-97; Ord. No. 00-12, § 1, 7-16-00)

Editor's note: Former § 1-37.

Sec. 1-41. Payment of civil fines.

(a) A civil fine shall be paid to the city finance department within thirty (30) days of its due date.

(b) Payment of a fine shall not excuse the citee from correcting the Code violation. The issuance of a citation and/or payment of a fine does not bar the city from taking any other enforcement action regarding a Code violation that is not corrected, including issuing additional civil citations, and/or filing criminal complaints.

(Ord. No. 97-27, § 3, 9-2-97; Ord. No. 00-12, § 1, 7-16-00)

Editor's note: Former § 1-38.

Sec. 1-42. Preliminary review.

(a) A person given a civil citation may request a preliminary review, if the request is received by the department within fourteen (14) days of the date the citation is issued, except a citation containing a notice of noncorrection of a building violation shall not be subject to a request for preliminary review.

(b) To obtain a preliminary review, the citee shall appear at the public service counter of the department at City Hall and bring a copy of the citation and file a signed written request stating the reasons why and any evidence showing no violation occurred or why he or she is not a responsible person for the violation. All filed requests shall be date stamped upon receipt by the department.

(c) The preliminary review shall be conducted by a city employee designated by the director. The reviewer shall not be the Code enforcement officer who issued the citation. The purpose of the review is to uncover and cancel any mistakenly issued citations due to errors that are easily verifiable, and not to resolve factual disputes concerning the violation that is the subject of the citation.

(d) The preliminary review may be decided on the same day filed by the citee and shall consist of a review of the citation and the written statement and any other evidence submitted at the time of the request by the citee and, at the discretion of the reviewer, any other related information. The review shall be decided whenever reasonably possible at the time the request is received or otherwise within three (3) business days of receipt of the request.

(e) The citee shall be notified of the results of the review by being given a notice of decision. The notice may be made by mail, facsimile, or in person. The department shall keep a record of

all preliminary review requests, decisions, and notices for a two (2) year period.

(f) A request for preliminary review does not extend any time periods for compliance, including the fine due date, the time any correction period ends, and the time to request an administrative review.

(g) If the conclusion of the preliminary review is that no Code violation occurred or that the citee was not responsible for the violation, the citation shall be canceled.

(Ord. No. 97-27, § 3, 9-2-97; Ord. No. 00-12, § 1, 7-16-00)

Editor's note: Former § 1-39.

Sec. 1-43. Request for administrative review.

(a) Any person receiving a civil citation may contest it by filing a request for an administrative review, except that a review of a building violation may not be requested unless and until a second citation containing a notice of noncorrection is issued. To obtain an administrative review, the citee shall file a signed written request form contained on the reverse side of the citation and indicate the grounds for contesting the citation and fine. A citee may contest the citation by denying that a violation occurred, by denying that it was not corrected within the correction period, if applicable, or by denying that the citee is a responsible person for the violation.

(b) To be effective and complete, the request must be received by the city within thirty (30) days of the date the citation was issued, and be accompanied by a deposit of the full amount of the fine. The request will not be accepted for filing if not accompanied by the fine deposit unless the citee also requests a waiver of the fine deposit pursuant to section 1-44. Where a request and fine deposit are mailed by the citee, the request and fine deposit shall be deemed filed on the date received by the city. All requests shall be date stamped upon receipt by the city. The director is authorized to designate the location within the city where the fines and deposits must be delivered to the city to satisfy this subdivision.

(c) The person requesting the administrative review shall appear at the hearing on the date, time and place specified on the citation. Failure to personally attend the hearing will be considered a nonappearance. Non-appearance by the citee shall constitute an abandonment of the request unless the hearing was continued pursuant to section 1-45(f).

(Ord. No. 00-12, § 1, 7-16-00)

Sec. 1-44. Waiver of fine deposit.

(a) A person filing a request for an administrative review may also request at the same time a hardship waiver of the fine deposit. To seek such a waiver and obtain a separate hearing on the request, the citee shall file with the city the signed written request form contained on the reverse side of the citation, check the box indicating this request, and attach a statement on the grounds for the request. The procedure governing the filing of such requests shall be the same as provided in section 1-43(b).

(b) The person requesting the waiver bears the burden of establishing by substantial evidence that he or she does not have the financial ability to make the deposit of the fine. The citee shall personally appear at the hearing on the request and non-appearance shall constitute an abandonment of the request unless excused pursuant to section 1-45(f).

(c) The request will be decided by the hearing officer at the hearing date, time and place specified on the citation. The request shall be heard at a separate hearing before the administrative review hearing on the contest of the citation. At the conclusion of the hearing on

the waiver request, the hearing officer shall issue a decision that the fine deposit is or is not waived. The hearing officer shall then insert on the notice of decision form the new date set for the administrative review which shall be within forty-five (45) days. A copy of the notice of decision shall be delivered to the citee at the end of the hearing on the waiver request.

(d) If the waiver is denied, the hearing officer shall give the citee a self-addressed envelope to use in making the fine deposit. The citee shall mail the deposit in the envelope provided so that it is postmarked at least three (3) business days before the date designated on the notice of decision for the administrative review. The director is authorized to designate the address to which the deposit is to be mailed. Failure to make the deposit by the time required shall be deemed an abandonment of the contest.

(e) The filing of a request for hardship waiver of the fine deposit does not extend the time within which to request an administrative review or any other time set forth in this chapter, except as provided in subsection (d), above. A hearing officer decision on the waiver is final and not subject to an appeal pursuant to section 1-47.

(Ord. No. 97-27, § 3, 9-2-97; Ord. No. 00-12, § 1, 7-16-00)

Editor's note: Former § 1-41.

Sec. 1-45 Hearing procedures.

(a) Hearings shall be conducted by a hearing officer either: (i) on the date, time and place specified in the citation, (ii) on the date designated on the notice of decision when there was a request to waive the fine deposit which was heard on the date noted on the citation, or (iii) on a date set by the director at least ten (10) but not more than thirty (30) days after the citee requests a hearing pursuant to section 1-48(c) and at least ten (10) days notice thereof shall be given to the citee.

(b) The director shall ensure that the pertinent citation records are delivered to the hearing officer for a citation set for hearing, including information showing all fine deposits and waivers granted. The director shall also make available to the citee before the hearing a copy of any additional reports concerning the citation that are provided to the hearing officer.

(c) The citee shall be given the opportunity to testify and to present evidence relevant to financial hardship, the Code violation specified in the citation, or the fact that all fines have been paid. A parent or legal guardian of a citee who is a juvenile, under 18 years of age, shall accompany the citee at the hearing or any request or contest shall be deemed abandoned.

(d) The citation, and any other reports prepared by the code enforcement officer, or prepared at his or her request, concerning the Code violation, attempted correction of the Code violation, or fine payments that are provided to the hearing officer shall be accepted by the hearing officer as prima facie evidence of the code violation and the facts stated in such documents.

(e) Neither the code enforcement officer nor any other representative of the city shall be required to attend the hearing, nor shall the hearing officer require that there be submitted any evidence, other than the citation, that may exist among the public records of the city on the violation. However, any such appearance and/or submission may be made at the discretion of the code enforcement officer or any city employee or agent.

(f) The hearing officer, director, or city attorney may continue a hearing if a request is made by the citee, or the citee's representative, or the representative of the city, upon a showing of good cause. All continuance requests shall either (i) be made in person at the hearing by the citee or a representative if the citee is physically unable to attend, or (ii) be made by a written request received by the department at least twenty-four (24) hours before the hearing date. If the continuance is granted, a new hearing date shall be set within forty-five (45) days and noted on the notice of decision. If the continuance is denied, the hearing shall proceed as scheduled, and

if the citee is not present the request shall be deemed abandoned in accordance with subdivision (h) below. The decision on the continuance request is final and the notice shall either be delivered personally to the citee or the representative if present or be mailed by the department. If the request for continuance is not made in person, the citee is responsible for determining whether the request is denied and the hearing is to proceed as scheduled.

(g) The hearing shall be conducted informally and the legal rules of evidence need not be followed. The hearing officer does not have the authority to issue a subpoena.

(h) The failure of the citee to appear at the hearing, unless the hearing was continued per subdivision (f) above, shall constitute an abandonment of the request for waiver of the fine deposit and/or administrative review, and a failure to exhaust administrative remedies concerning the violation as set forth in the citation. The fine deposit shall be credited by the city upon the fine due for the violation. The citee's failure to appear shall be noted on the notice of decision by the hearing officer and it shall be mailed to the citee.

(Ord. No. 97-27, § 3, 9-2-97; Ord. No. 00-12, § 1, 7-16-00)

Editor's note: Former § 1-42.

Sec. 1-46. Administrative review decision.

(a) After considering all the evidence and testimony submitted at the administrative review, the hearing officer shall issue a written decision to uphold the citation or cancel it based upon a conclusion of whether or not a violation occurred for which the citee was a responsible person. The hearing officer has no discretion or authority to reduce or modify a fine. The decision will be made on a notice of decision form and designate the reasons and evidence considered for the decision. The decision of the hearing officer shall be made at the conclusion of the hearing and shall be final. The notice of decision shall be personally delivered to the citee at the conclusion of the hearing.

(b) If the decision is to uphold the citation, the city shall keep the fine deposited. If the decision is to cancel the citation, the city shall refund the fine deposit to the citee within thirty (30) days of the filing of the decision. If the citation is upheld and the fine deposit had been waived, the fine shall be due on the date the decision is given to the citee at the end of the hearing by the hearing officer, or the date the notice of decision is mailed to the citee. The hearing officer may collect any fine due from the citee at the end of the hearing.

(c) The hearing officer's continued employment, performance evaluation, compensation, and benefits shall not directly or indirectly be linked to the number of citations upheld or canceled by the officer.

(Ord. No. 97-27, § 3, 9-2-97; Ord. No. 00-12, § 1, 7-16-00)

Editor's note: Former § 1-43.

Sec. 1-47. Right to judicial review.

(a) The citee may seek judicial review of the administrative review decision by filing an appeal with the superior court within twenty (20) calendar days after the citee receives a copy of the notice of decision at the conclusion of the hearing in accordance with the provisions of California Government Code section 53069.4. The appeal filed with the court shall also contain a proof of service showing a copy of the appeal was served upon the "City of Costa Mesa (Attention: City Attorney)." The citee must pay to the superior court the statutory filing fee when the appeal is filed.

(b) No appeal is permitted from a decision regarding:

(1) A request for preliminary review,

(2) An extension of the thirty (30) day correction period for building violations,

(3) A request for waiver of the fine deposit, or

(4) A decision the citee is deemed to have abandoned the contest of the citation or fine due to her or his failure to appear at the hearing or failure to deposit the fine.

(c) The city attorney shall forward to the superior court within fifteen (15) days of its request, the pertinent citation documents for any case appealed to that court. If the superior court cancels any citation, the city will refund any fine deposit made and the appeal filing fee.

(Ord. No. 97-27, § 3, 9-2-97; Ord. No. 00-12, § 1, 7-16-00)

Editor's note: Former § 1-44.

Sec. 1-48. Collection of unpaid fines.

(a) The city at its discretion may pursue any and all legal and equitable remedies for the collection of unpaid fines, interest and penalties. Pursuit of one remedy does not preclude the pursuit of any other remedies until the total fines, interest and penalties owed by a person under this chapter have been collected.

(b) the city may refuse to issue, extend, or renew any city permit, license, or other city approval to any person, who has unpaid delinquent fines, interest, penalties, liens or assessments due under this chapter, related to the permit, license, or approval.

(c) The city may suspend any permit, license, or land use approval issued to a person who has unpaid fines related to the permit, license, or approval totaling five hundred dollars ($500.00) or more that have been delinquent for over thirty (30) days. The suspension shall become effective twenty (20) days after the day notice of the suspension is placed by the director in the U.S. mail, postage prepaid, addressed to the person and shall continue until the delinquency is paid in full. The person may request an administrative hearing pursuant to the procedures in section 1-45 on the issue of fine delinquency only, if the request is filed with the director before the twenty (20) day period ends. Continuing to operate under a suspended permit, license or approval shall be grounds for revocation of the permit, license or approval. Revocation may be made by the city planning commission at a public hearing for which the same notice shall be given as required for issuance of the permit, license, or approval involved, but in no event shall there be less than ten (10) days written notice.

(d) It shall be unlawful for a citee to fail to pay any civil fine, interest, or penalty imposed pursuant to this chapter. The city attorney, at his or her discretion, may issue a criminal citation or complaint for an infraction to any citee who fails to make such a payment. The criminal fine for this violation shall be a mandatory minimum of one hundred dollars ($100.00).

(e) Any violation of this Code shall constitute a nuisance. To compel code compliance, the city may seek to abate the nuisance and collect the costs incurred by means of a nuisance abatement lien and/or special assessment against the property where a property related violation occurred. Any unpaid delinquent civil fines, interest and penalties may be recovered as part of any such lien or special assessment against the property of the responsible person who is the owner of the property where the violation occurred pursuant to Government Code sections 38773.1 and 38773.5.

(1) To pursue an abatement of a code violation as a nuisance and recover the costs, including any delinquent civil fines, interest and penalties as an abatement lien or special assessment, the city's director of finance may at his or her discretion take the following steps:

a. Submit to and receive from the city council a resolution certifying the amounts of the liens and special assessments sought to be collected from each property owner;

b. Request the Orange County Recorder to record a notice of any liens, or special assessments, and send the Recorder the resolution certifying the amounts;

c. Request the Orange County Tax Collector to collect any special assessments certified by the city council; and

d. Take any other necessary action to enforce collection of any liens, or special assessments provided for in this chapter.

(2) The director may pursue the lien and special assessment remedies whether or not the city is pursuing any other action to terminate an ongoing Code violation that was the basis for the fine.

(3) All citations shall contain a notice that unpaid fines, interest and penalties are subject to the assessment and lien collection procedures of this section. The lien or assessment shall be imposed on the date the citation for the Code violation is issued to the responsible person and becomes effective upon the recording of a Notice of Lien or Assessment by the County Recorder. This notice shall satisfy the notice requirements of Government Code sections 38773.1 and 38773.5, when a civil citation is personally served on the citee. In addition, the city finance director shall send notice by first class mail stating the date, time and location of the meeting to each property owner listed in the proposed resolution at least ten (10) days before the city council considers the resolution and certifies the amounts of the liens and special assessments.

(4) A citee may contest the amount and/or validity of any lien or assessment for a civil fine at the public hearing to certify the amount of the lien or assessment by city council pursuant to subsection (e) of this section. Such contests shall be limited to the issue of the amount and/or validity of the lien or assessment and may not consider whether the underlying Code violation occurred. Pursuit of such a contest by a responsible person is necessary to exhaust the administrative remedies concerning a legal challenge to the validity of any such lien or assessment.

(f) The parent or legal guardian of a citee who is a minor shall be liable for any fines imposed upon the minor pursuant to the provisions of this chapter. Any such fines may be collected from the minor, parent or guardian.

(Ord. No. 97-27, § 3, 9-2-97; Ord. No. 00-12, § 1, 7-16-00)

Editor's note: Former § 1-45.

ATTACHMENT 3

RESOLUTION NO. 00-60

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, AMENDING THE CIVIL FINES AND PENALTIES PURSUANT TO SECTION 1-40 OF THE COSTA MESA MUNICIPAL CODE.

THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY RESOLVE AND DECLARE AS FOLLOWS:

WHEREAS, the City has enacted Chapter II of Title 1 of the Costa Mesa Municipal Code which allows for the assessment of a civil fine for violations of the Municipal Code; and

WHEREAS, Section 1-40 provides that the fines and penalties shall be set by the City Council by resolution; and

WHEREAS, in Resolution No. 97-81, the City Council originally set the fines and penalties when the civil citation ordinance was first enacted in September, 1997; and

WHEREAS, the City Council has reevaluated the amount of the fines and now wishes to set new specific fines and penalties for code violations:

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Costa Mesa determines and orders as follows:

SECTION 1. The civil fines, penalties, and implementing provision for violations of the Costa Mesa Municipal Code pursuant to Title 1, Chapter II, shall be those as specified in Schedule 1, attached hereto and incorporated herein.

SECTION 2. These fines and penalties are subject to the provisions of said Chapter II of Title 1 and shall remain in force until changed by a new resolution.

PASSED AND ADOPTED this 3rd day of July, 2000

Mayor of the City of Costa Mesa

ATTEST:

Deputy City Clerk of the City of Costa Mesa

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, MARY T. ELLIOTT, Deputy City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Resolution No. 00-60 was duly and regularly passed and adopted by the said City Council at a regular meeting thereof, held on the 3rd day of July, 2000.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this 5th day of July, 2000.

Deputy City Clerk and ex-officio Clerk of the City Council of the City of Costa Mesa

SCHEDULE 1

CIVIL FINES AND PENALTIES FOR MUNICIPAL CODE VIOLATIONS

1. Fines for Violations of Costa Mesa Municipal Code:

$ 75	-	First violation;
$ 200	-	Second violation; and
$ 500	-	All other violations of the same code provision within a one-year period from first violation.

2. Violations of infractions: The fine for violating a code provision that is specifically made an infraction under the Municipal Code shall not exceed the fines imposed for infractions.

3. Late payment penalties: A $25 late payment penalty shall be added to fines not paid within 30 days of their due date.

4. Collections: Fines that are delinquent for 60 days or more and total at least $250 shall be processed through the abatement and/or assessment procedures specified in section 1-48 of the Costa Mesa Municipal Code. All other delinquent fines may be referred to a collection agency as determined by the Director of Finance.

SCHEDULE 1

CIVIL FINES AND PENALTIES FOR MUNICIPAL CODE VIOLATIONS VENDORS

1. Fines for Violations of Chapter XXI of Title 10 of the Costa Mesa Municipal Code:

   $ 250 - First violation;

   $ 500 - Second violation; and

   $ 750 - All other violations of the same code provision within a one-year period from first violation.

2. Late payment penalties: A $25 late payment penalty shall be added to fines not paid within 30 days of their due date.

3. Collections: Fines that are delinquent for 60 days or more and total at least $250 shall be processed through the abatement and/or assessment procedures specified in section 1-48 of the Costa Mesa Municipal Code. All other delinquent fines may be referred to a collection agency as determined by the Director of Finance.

PLANNING COMMISSION SUPPLEMENTAL MEMO

VII. 1a.

MEETING DATE: NOVEMBER 9, 2009 **ITEM NUMBER:**

TO: **PLANNING COMMISSION**

FROM: **WILLA BOUWENS-KILLEEN, CHIEF OF CODE ENFORCEMENT**

DATE: **NOVEMBER 5, 2009**

SUBJECT: **COMPLAINT TIME LINES**

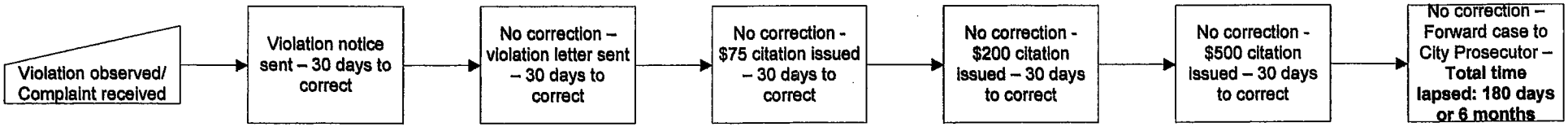
Attached is a flow chart comparing processing times for complaints.

cc: Asst. Development Svs. Director
Deputy City Attorney
Staff (4)
File (2)

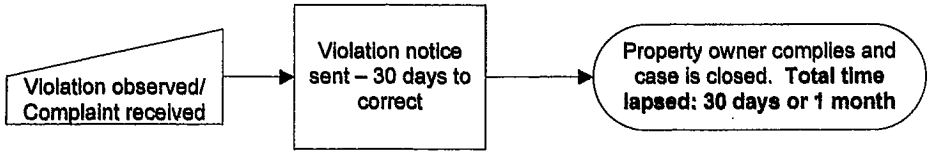
Code Enforcement Process

November 2009

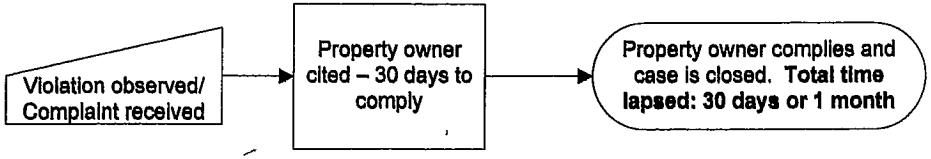
Worse Case Scenario:



Voluntary Compliance:

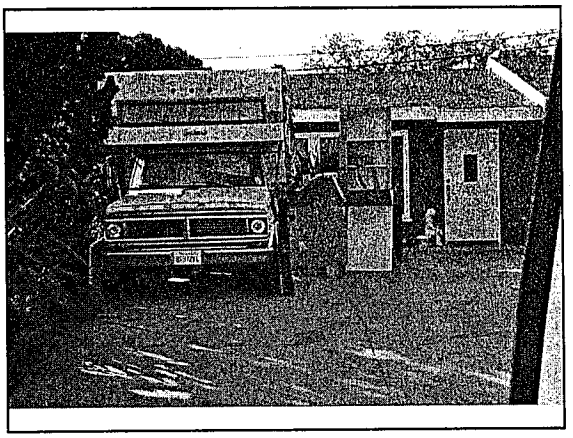


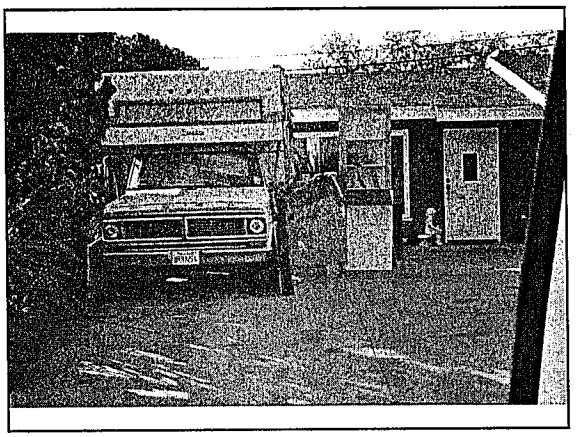
Immediate Citation:

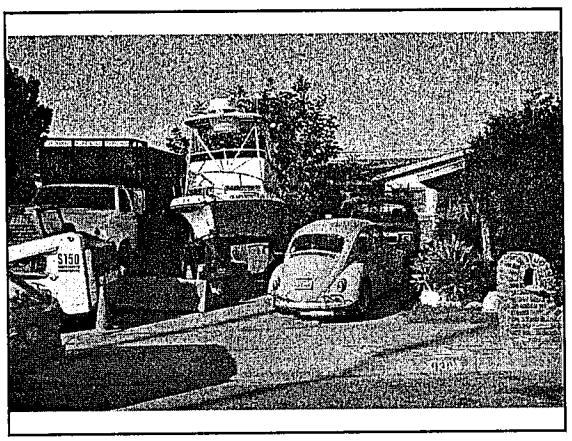


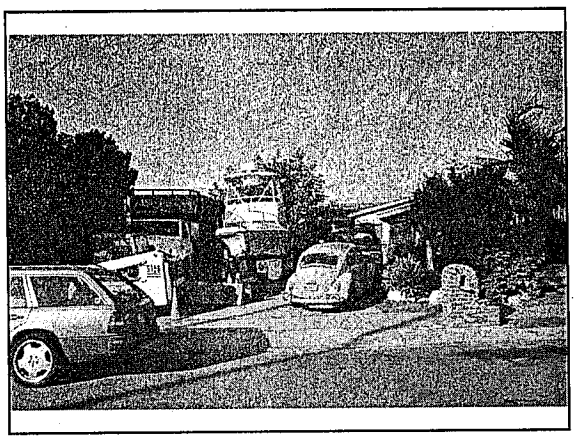
By paying the citation fee and requesting a hearing date, the compliance deadline is automatically extended to that date, which can be upwards of 45 days or more.

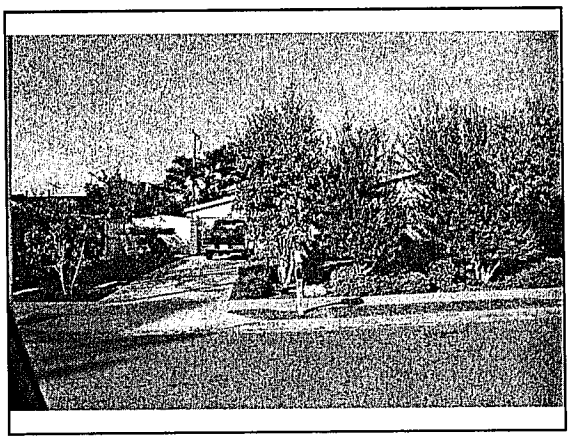
PHOTOS PRESENTED DURING 11/9/09 PLANNING COMMISSION MEETING

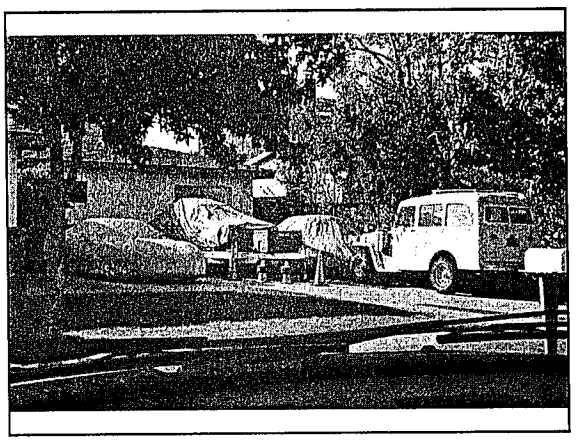


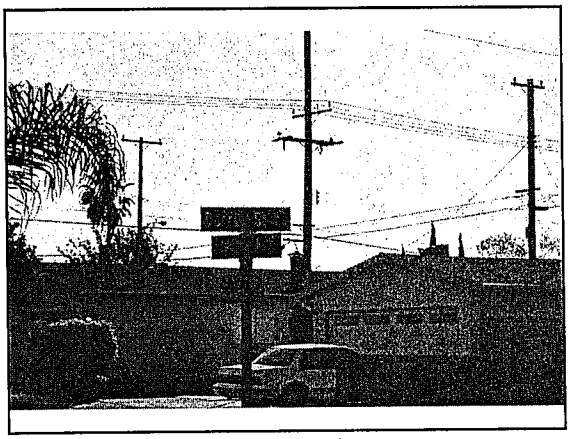


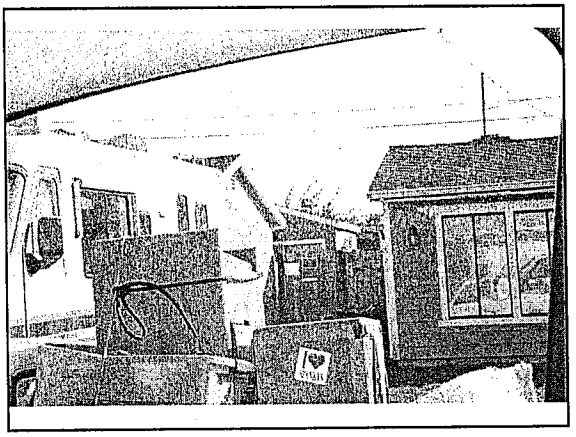


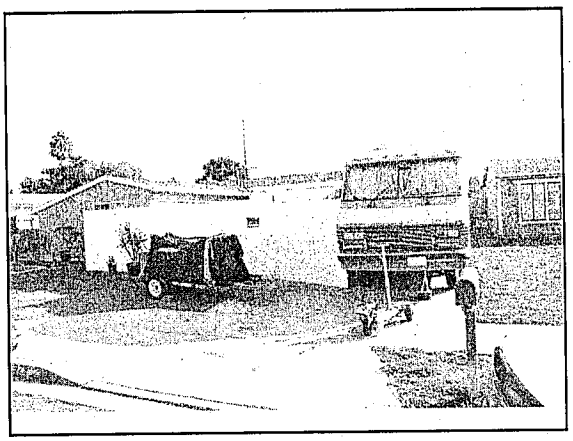


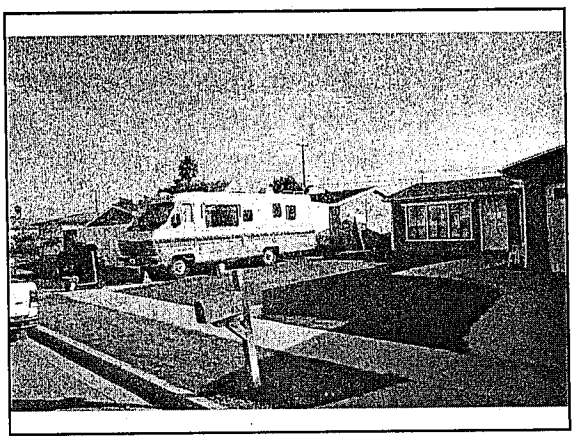


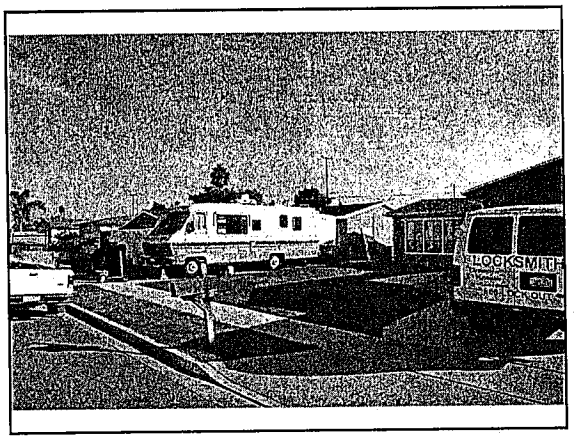











LOCKSMITH

PLANNING COMMISSION SUPPLEMENTAL MEMO

II.1a.

MEETING DATE: JANUARY 25, 2010 ITEM NUMBER

SUBJECT: SURVEY OF CODE ENFORCEMENT IN OTHER CITIES

DATE: JANUARY 21, 2010

FOR FURTHER INFORMATION CONTACT: WILLA BOUWENS-KILLEEN, AICP
CHIEF OF CODE ENFORCEMENT – 714.754.4952
WBKILLEEN@CI.COSTA-MESA.CA.US

At the November 9, 2009, hearing, Planning Commission requested a comparison of various Code Enforcement Divisions to the City of Costa Mesa's. Below is a table comparing seven local cities to Costa Mesa:

	Costa Mesa	*Newport Beach*	*Hunting-ton Beach*	*Santa Ana*	*Irvine*	*Fountain Valley*	*West-minster*	*Anaheim*
Population	116,479	85,252	202,480	355,662	212,793	58,309	93,284	348,467
Sq. miles	15.5	25.3	27.4	27.3	66.3	9.6	10.2	50.3
Total Budget	$118.3 million	$250 million	$304.5 million	$216.5 million	$146.5 million	$37.4 million	$98 million	$1.3 billion
Total CE Budget	$800,000*	$500,000	$713,425	$1.3 million	$1.1 million	$208,800	$767,560	$5 million
% of total budget	0.7%	0.2%	0.2%	0.6%	0.8%	0.5%	0.8%	0.4%
# of CEOs	5-1/2*	4 (also enforce water quality)	5	16	5	2	4-1/2	21
# of support staff	2*	0	1	5	1 + 22 bldg. inspect. as needed	0	1	4
Reactive/ proactive	Both	Both	Reactive	Both	Reactive; proactive on illegal signs	Both	Reactive; proactive on weed abatement	Reactive
Data base	Accela	Accela	CityView	Own data base	Eden Building Permit	Custom Microsoft	HdL Permitting System	Tidemark
Field units	No	No	Yes	No	No	No	Yes	Yes
Civil cite program?	Yes	Yes	Yes	Yes	Yes	No	In process	Yes
Annual fines	$30,000	$50,000	$29,125	$147,000	$10,000 to 20,000	N/A	N/A	$423,862 (incl. Parking cites)
Current citation amounts	$75/200/ 500	$100/200/ 500	$250/500/ 1,000	$100/200/ 500	$100/200/ 500 + $120 admin fee/hr min. 2 hours	N/A	$100/200/5 00	$100/200/ 500 Temp signs: doubled
Prop. maint. Code?	Yes	Yes	Yes	Yes	Yes	No (Public nuisance)	Yes	Yes
Total annual cases	**22,000**	2,000	3,800	12,200	2,000	2003	850	34,556
% of compli-ance	86%	Not tracked	95%+	80%	99% -- voluntary compliance stressed	97%	80%	90% after second notice

* Includes CDBG staff and budget

Distribution: Acting Development Services Director
Deputy City Attorney
City Engineer
Fire Protection Analyst
Staff (4)
File (2)

File: 012510CESurveyPCSS	Date: 011910	Time: 2:30 p.m.