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Culver City Municipal Code

TITLE 9: GENERAL REGULATIONS

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CHAPTER 9.01: ANIMALS AND FOWL

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GENERAL PROVISIONS

§ 9.01.005 PENALTIES FOR VIOLATION OF CHAPTER.

A. Any person who violates or fails to comply with any provision of this Chapter shall be guilty of an infraction which shall be punishable by a fine, only, not to exceed Two Hundred Fifty Dollars (\$250.00).

B. Any violation which would otherwise be an infraction is a misdemeanor if a defendant has been convicted of three or more violations of this Chapter within the 12-month period immediately preceding the violation and such prior convictions are admitted by the defendant or alleged in the accusatory pleading. For this purpose, a bail forfeiture shall be deemed to be a conviction of the offense charged.

('65 Code, § 5-0) (Ord. No. CS-913 § 1)

§ 9.01.010 DEFINITIONS.

Whenever in this Chapter the following terms are used, they shall have the meaning ascribed to them, unless it is apparent from the context thereof that some other meaning is intended:

CONTRACTOR or **POUNDMASTER**. Agency with which the City has contracted to perform the duties of poundmaster and animal regulations.

DOG. Any dog of any age, including female as well as male.

DOMESTIC ANIMAL. Any horse, pony, mule, jack, jenny, cow, bull, calf, heifer, sheep, goat, swine, rabbit, as well as any livestock and any other domesticated animal other than a household pet.

HOUSEHOLD PET. Any cat, dog, canary, parrot and any other kindred animal and bird usually and ordinarily kept as a household pet.

IMPOUNDED. Having been received into the custody of any pound authorized under the provisions of this Chapter.

KENNEL. Any lot, building, structure, enclosure, or premises whereupon or wherein four or more dogs are kept or maintained for any commercial purpose, including places where dogs are boarded, kept for sale, or kept for hire.

PERSON. Includes a firm, partnership, corporation, trust, or any association of persons.

POULTRY and **DOMESTIC FOWL**. Any pigeon, chicken, duck, goose, turkey and all other domesticated fowl other than a household pet.

POUNDKEEPER. Any person or any duly authorized agent of any such person in charge at any time of any pound.

UNLICENSED DOG. Any dog for which the license for the current year has not been paid, or to which the tag for the current year provided for in this Chapter is not attached.

WORKING HOURS. Hours during which the office or place of business of any poundkeeper is open for the business of receiving, impounding, or caring for animals, and does not include any time during which such office or place of business is closed.

('65 Code, § 5-1) (Ord. No. CS-415 § 1.1)

§ 9.01.015 LIVESTOCK OR POULTRY AT LARGE PROHIBITED.

It shall be unlawful for any person owning or having charge, care, custody, or control of any pig, hog, cow, bull, steer, horse, mule, jack, jenny, hinny, sheep, or other livestock, including poultry, to wilfully or knowingly permit the same to run at large upon any highway, street, lane, alley, court or other public place, or in or upon any cultivated or improved land owned by any person, other than the owner of such animal, unless the consent of the owner of such land is first obtained.

('65 Code, § 5-2) (Ord. No. CS-415 § 3.3)

§ 9.01.020 ANIMALS OTHER THAN HOUSEHOLD PETS; PERMIT REQUIRED; BUSINESS EXCLUSION.

A. It shall be unlawful for any person, firm, company or corporation to keep or maintain, or have in possession or under control, any animals, fowl or reptiles, other than household pets, in the City, without having applied for and received a permit as hereinafter provided, which permit shall be revocable at any time it is made to appear to the City Council that the keeping of such animals, fowl or reptiles is, or may become, detrimental to the public health, safety, and/or general welfare.

('65 Code, § 5-3) (Ord. No. CS-415 § 6.1)

B. 1. Each duly licensed pet or animal shop, establishment or business shall be excluded from Subsection A. of this Section except to the extent that any such business shall be required annually to obtain and maintain in force a single permit for the keeping of animals, fowls, or reptiles, other than household pets. Such permit shall be issued by the City Clerk upon proper showing that the applicant is the owner of the business and that the business is duly licensed under the applicable City ordinances to conduct business within Culver City. This provision shall not be construed to apply to any person, corporation or business entity other than those legally engaged in the purchase and sale of animals, fowl or reptiles to the general public.

2. Any animal business, as above described, shall make a quarterly report to the City Clerk of all animals, fowl or reptiles, other than household pets, as herein used and defined, sold to persons residing within Culver City and no animal dealer shall deliver such an animal, fowl, or reptile to a purchaser without obtaining accurate information with respect to the purchaser's full name, address and exact location where the creature will be kept.

('65 Code, § 5-3.1) (Ord. No. CS-687 (part))

§ 9.01.025 PERMIT FOR DOGS AND CATS.

Notwithstanding any other provision of this Chapter, no person shall keep or permit to be kept on any or in any lot, building, structure or premises more than three (3) dogs over the age of four (4) months or more than three (3) cats over the age of four (4) months without first having applied for and received a permit as provided herein.

('65 Code, § 5-4) (Ord. No. 415 § 6.3; Ord. No. CS-1019 § 1; Ord. No. 84-002 § 1)

§ 9.01.030 APPLICATION FOR PERMIT; APPEAL UPON DENIAL.

A. *Application for permit.*

1. All applications for permits to keep animals, fowl or reptiles shall be filed with the City Clerk, shall be accompanied by a fee of Fifty Dollars (\$50.00) and shall state the number and kind of animals, fowl or reptiles as well as such other information required by the City Clerk. Signatures of at least one (1) adult resident of each dwelling or apartment unit within a radius of

two hundred (200) feet, indicating approval or disapproval, shall be appended to such applications. Upon receipt of application, a copy thereof shall be referred to the City's health agency and Police Department for investigation and report.

2. Upon receipt of said reports, the City Clerk shall cause notices to be posted within a radius of three hundred (300) feet from the address wherein said animals, fowl or reptiles are proposed to be kept, and not more than fifty (50) feet apart. Permit will be granted providing no written objections are filed within ten days and approval is received from the City's health agency and Police Department.

('65 Code, § 5-5)

B. *Appeal to City Council.* In the event of the denial of an application, the applicant may appeal to the City Council by filing with the City Clerk a written request for hearing before the City Council within ten (10) days from receipt of notice of denial.

('65 Code, § 5-6) (Ord. No. CS-415 §§ 6.2, 6.4; Ord. No. CS-628 § 1)

§ 9.01.035 ANIMAL ANNOYANCE PROHIBITED.

It shall be unlawful for any person to harbor or keep any animal, bird or fowl which disturbs the peace or causes annoyance or disturbance to the neighborhood or reasonably interferes with the peace, comfort or repose of any person or persons in the quiet enjoyment of his or their property, by repeated or continuous barking, howling, whining, or making other sounds common to their species, between the hours of 10:00 p.m. and 8:00 a.m. and such disturbance shall be deemed to constitute the maintenance of a nuisance. Provided, however, that the prohibitions contained in this Section shall not apply to a licensed kennel owner or hospital or other place in which animals, birds or fowl are kept pursuant to a license or permit issued by governmental agencies.

('65 Code, § 5-7) (Ord. No. CS-415 § 5-17; Ord. No. CS-24 § 2(d))

Cross-reference:

Animals and fowl; noise regulations, see § 9.07.030

§ 9.01.040 ANIMAL EXPERIMENTATION PROHIBITED.

Nothing in this Chapter shall be construed to permit the transfer, disposal or otherwise surrendering of any animal obtained from within the City to any research institution, person or other agency for experimentation, whether medical in nature or otherwise. It shall be unlawful for any person having the care, custody or possession of such animal to wilfully permit the violation of this Section.

('65 Code, § 5-8) (Ord. No. CS-415 § 7.25)

§ 9.01.045 ANIMALS AND FOWL IN OR NEAR CERTAIN ESTABLISHMENTS PROHIBITED.

It shall be unlawful for any person to keep or maintain any rabbits, fowl, or birds (other than canaries, parrots or similar species), within 35 feet of any food establishment, school, church, hospital or any residence or dwelling house, apartment or hotel, or other building or structure occupied for any purpose by human beings. Nor shall any animal or fowl be kept in any sandwich packing or box lunch establishment, bakery, restaurant or lunch stand or within 35 feet of any door, window, ventilator or air shaft of such places. All fowl and animals shall be securely kept within their enclosures and shall not be permitted to run at large at any time.

('65 Code, § 5-9) (Ord. No. 387; Ord. No. 567; Ord. No. 593)

§ 9.01.050 APIARY OR RIDING ACADEMY; PERMIT REQUIRED.

It shall be unlawful for any person, firm or corporation to conduct or manage any riding academy business or the keeping of bees, or an apiary, unless a permit has been obtained in the manner required for the obtaining of permits from the City Council generally. Nothing, however, shall be construed herein to prohibit the keeping of bees in a hive or box located within a school house for the purpose of study or observation.

('65 Code, § 5-10) (Ord. No. 387)

§ 9.01.055 KEEPING OF CARRIERS OF COMMUNICABLE DISEASES.

It shall be unlawful for any person, firm or corporation to keep, or allow to be kept, any domestic fowl or animal which has a communicable disease of any kind, unless such animal is securely tied or kept confined away from all other animals, fowl, or human beings.

('65 Code, § 5-11) (Ord. No. 387)

§ 9.01.060 RIDING OR DRIVING OF HORSES OR OTHER ANIMALS UPON PUBLIC STREETS; EXCEPTIONS.

A. No person shall use the public streets, alleys, or other public places of the City, or any portion thereof, as a bridle or equestrian path, or shall ride or cause to be driven any horse thereon, or shall drive any loose cattle, horses, mules, sheep, goats or swine, in, upon, or along any such streets, alleys or public places.

('65 Code, § 5-13)

B. The Chief of Police may designate, by legible signs, street crossings and other locations over which horses may be ridden to allow ingress or egress to and from bridle paths. He may also issue temporary permits for the purpose of transporting horses, cattle, or other animals, from one location to another inside or outside the boundaries of the City, such permit to designate streets to be utilized with least danger or inconvenience to the public.

('65 Code, § 5-14) (Ord. No. CS-252)

§ 9.01.065 VICIOUS DOGS.

It shall be unlawful for any person to keep within the City a vicious dog. Proof that any dog has bitten a person and that the person keeping such dog probably had knowledge thereof shall be deemed to be prima facie evidence that the dog is vicious; provided, however, that this test shall not be exclusive and for the purposes of this Section, a dog may be shown to be vicious even though it is not proven to have bitten any person.

('65 Code, § 5-14.1) (Ord. No. CS-687 (part))

IMPOUNDMENT GENERALLY

§ 9.01.200 DUTIES OF POUNDMASTER.

The duties of the Poundmaster shall include the following:

A. To capture and take into custody all unlicensed dogs; dogs and other animals running at large contrary to the provisions of this Chapter or any State law; sick, injured, stray, unwanted or abandoned animals, and dogs which are unvaccinated in violation of this Chapter.

B. To pick up or accept and care for any animal to be held for observation by the County Health Officer if such animal is suspected of being rabid.

C. Custody of animals picked up. The Poundmaster shall place all animals which he takes into custody in the pound required to be provided in the contract with said Poundmaster.

D. Cruelty to animal investigations. The Poundmaster shall investigate all instances coming within his knowledge of inhumane treatment or cruelty to animals, and enforce the provisions of this or other parts of this Code or of State law, pertaining to humane treatment of animals, and he may furnish shelter for any such animal which has received inhumane treatment.

E. Disposal of dead animals. The Poundmaster shall pick up and dispose of all dead animals on public highways and on public and private property within the City, where the owner is unknown.

('65 Code, § 5-15) (Ord. No. CS-415 § 4)

§ 9.01.205 IMPOUNDING REGULATIONS.

The Poundmaster and poundkeeper shall hold, advertise, sell, and in all respects treat animals impounded by him, pursuant to the provisions of this Chapter, as provided in the California Agricultural Code.

('65 Code, § 5-16) (Ord. No. CS-415 § 7.3)

§ 9.01.210 POUND CHARGES.

The Poundmaster may make such charges as provided by resolution of the City Council for impounding and caring for animals.

('65 Code, § 5-17) (Ord. No. CS-950 § 1)

§ 9.01.215 DELIVERY TO POUNDMASTER OF STRAY ANIMALS.

Every person taking up any stray animal shall, within four hours thereafter, give notice to the Poundmaster or to the Police Department of the City of the fact that he has the possession of such animal.

('65 Code, § 5-18) (Ord. No. CS-415 § 7.4)

§ 9.01.220 PROCEDURE ON IMPOUNDING; NOTIFICATION OF OWNER.

The Poundkeeper shall, within 12 working hours after receiving any impounded dog, notify the owner by telephone or letter as to such impounded animal. No charge or fee of any kind shall be charged for board or care of such dog during the time of its impoundment unless the Poundkeeper has given the notice as required herein.

('65 Code, § 5-19) (Ord. No. CS-415 § 7.11)

§ 9.01.225 UNLAWFUL IMPOUNDING.

No charge shall be collected for any animal which has been unlawfully taken up and impounded. Such animal shall be immediately delivered upon demand to the owner or person entitled to the custody thereof.

('65 Code, § 5-21) (Ord. No. CS-415 § 7.19)

§ 9.01.230 OWNER'S RIGHT TO REDEEM.

The owner or person entitled to the custody of any animal taken up and impounded under the provisions of this Chapter may at any time before the sale or disposal thereof redeem such animal by paying to the Poundmaster or poundkeeper the fees and charges prescribed by this Chapter accrued up to the time of such redemption.

('65 Code, § 5-22) (Ord. No. CS-415 § 7.20)

§ 9.01.235 INTERFERENCE WITH IMPOUNDING OF ANIMALS PROHIBITED.

It shall be unlawful for any person to interfere with, oppose, or resist any Poundmaster, poundkeeper or person authorized by them under the provisions of this Chapter to take up and impound animals.

('65 Code, § 5-24) (Ord. No. CS-415 § 8.5)

§ 9.01.240 POUNDKEEPER'S RECORDS.

The Poundkeeper shall keep a record of each animal impounded by him, the date thereof, manner of disposal, and other pertinent facts, including the amount of all fees received or collected.

('65 Code, § 5-25) (Ord. No. CS-415 § 7.8)

DOGS**§ 9.01.300 LICENSE REQUIRED.**

It shall be unlawful for any person to have, harbor, keep, to permit to be harbored or kept, any unlicensed dog in the City, over the age of four months.

('65 Code, § 5-26) (Ord. No. CS-415 § 5.10)

§ 9.01.305 LICENSE FEE; EXEMPTIONS.

A. *License fee.* There shall be an annual dog license fee. The amount, time of payment, prorating schedule, if any, and penalty for late payment, if any, of said fee shall be established by resolution of the City Council.

('65 Code, § 5-27) (Ord. No. CS-415 § 5.1; Ord. No. CS-746 § 1 (part); Ord. No. CS-839 § 1 (part); Ord. No. CS-941 § 1; Ord. No. CS-1019 § 2)

B. *Exemptions.* The license fees established by Subsection A. of this Section shall not apply to any individual who qualifies for an exemption as established by resolution of the City Council.

('65 Code, § 5-27.1) (Ord. No. CS-987 § 1; Ord. No. 2007-005 § 2)

Cross-reference:

Licenses generally, see Ch. 11.01

§ 9.01.310 DEFINITION OF OWNER UNDER LICENSING REGULATIONS.

Any person keeping or harboring any dog for 15 consecutive days shall be deemed to be the owner thereof within the meaning of this Chapter.

('65 Code, § 5-28) (Ord. No. CS-415 § 5.3)

§ 9.01.315 [RESERVED]**§ 9.01.320 TERM OF LICENSE.**

Every license and tag issued pursuant to this Subchapter shall be for the period of 12 months, beginning on the first day of the month in which the animal is licensed, and continuing until the last day of the month 12 months thereafter.

('65 Code, § 5-30) (Ord. No. CS-415 § 5.1; Ord. No. CS-746 § 1 (part); Ord. No. CS-839 § 1 (part); Ord. No. 2007-005 § 4)

§ 9.01.325 TRANSIENT DOGS EXEMPTED.

The license provisions of this Chapter shall not apply to the following:

A. Any dog found within the City when the owner thereof resides in any municipality within the County or within the unincorporated area of the County and such dog is wearing or has attached to it a license tag for the current year issued by such municipality or County.

B. Any dog owned by or in charge of any person who is a non-resident of the City and is traveling through the City or temporarily sojourning therein for a period of not exceeding 30 days.

C. Any dog brought into the City and kept therein for not to exceed 30 days for the exclusive purpose of entering the same in any bench show or dog exhibition or field trials or competition.

D. Any dog brought or sent into the City from any point outside thereof for the exclusive purpose of receiving veterinary care in any dog hospital, in the event that such dog is kept at all times strictly confined within such hospital.

('65 Code, § 5-32) (Ord. No. CS-415 § 5.8)

§ 9.01.330 VETERINARIAN'S CERTIFICATE REQUIRED.

No dog license shall be issued unless the applicant exhibits a certificate signed by a veterinarian licensed either by the State of California or by any other State to practice veterinary medicine, to the effect that:

A. Such dog has been vaccinated with phenolized tissue vaccine less than one year prior to date of application or the first day of the license period, whichever is later, or

B. Such dog has been vaccinated with chick embryo vaccine less than two years prior to date of application, or the first day of the license period, whichever is later, or

C. Such dog should not be vaccinated with rabies vaccine because such vaccination would jeopardize the health of such dog due to infirmity or other disability, which infirmity or disability and the estimated date of termination thereof is shown on the face of the certificate to the satisfaction of the Poundmaster.

('65 Code, § 5-33) (Ord. No. CS-415 § 5.11)

§ 9.01.335 DISABLED DOGS.

A person who obtains a license without submitting a certificate of vaccination because of the infirmity or disability of the dog, shall within 10 days after the termination of such infirmity or disability cause such dog to be vaccinated as required herein.

('65 Code, § 5-34) (Ord. No. CS-415 § 5.12)

§ 9.01.340 LICENSE TAGS.

A. *Manner of affixing.* The license tag required hereunder shall be securely affixed to a collar, harness, or other device which shall at all times be worn by each dog except while such dog remains indoors or in any enclosed yard or pen.

('65 Code, § 5-35)

B. *Duplicate tags.* In the event any license tag for a dog is lost or destroyed, a duplicate thereof may be procured from the agency designated by the Contractor upon the submission to such agency of such proof as he may require and upon the payment therefor of the sum of One Dollar (\$1.00).

('65 Code, § 5-36)

C. *Unauthorized removal of tags prohibited.* It shall be unlawful for any unauthorized person to remove from any dog, any collar or harness or other device to which is attached a license tag for the current year or remove such tag therefrom.

('65 Code, § 5-37)

D. *Counterfeit tags prohibited.* It shall be unlawful for any person to attach to any dog a counterfeit tag in lieu of the tag required and issued under the provisions of this Chapter.

('65 Code, § 5-38) (Ord. No. CS-415 §§ 5.13 - 5.15)

§ 9.01.345 RIGHT TO ENTER PRIVATE PREMISES FOR ENFORCEMENT.

The Poundmaster or any person authorized by him, or any other person authorized to enforce the provisions of this Chapter, shall have the right to enter any premises upon which a dog is kept or harbored, in order to enforce the provisions hereof. It shall be unlawful for any person to fail or refuse to exhibit any dog, certificate, license or tag when requested so to do by the person authorized to enforce the provisions of this Chapter, in the event that the same are possessed by such person.

('65 Code, § 5-39) (Ord. No. CS-415 §§ 5.6, 5.7, 8.5)

§ 9.01.350 REMOVAL AND DISPOSAL OF DOG FECES FROM PUBLIC AND PRIVATE PROPERTY.

A. A person who owns or has custody of a dog shall immediately remove and dispose of in a sanitary manner, by placing in an appropriate device and depositing in a sanitary receptacle, any

feces deposited by such dog on any public or private property without the consent of the person in lawful possession of the property.

B. A person who has custody of a dog shall carry an appropriate device to pick up dog feces during all times when the dog is not on the premises of its owner or custodian.

C. Exception: The provisions of this Section shall not apply to a blind person being accompanied by a guide dog.

('65 Code, § 5-40) (Ord. No. CS-949)

§ 9.01.355 DOGS CONFINED ON PRIVATE PREMISES.

No person owning or having charge, care, custody or control of any dog shall cause, permit or allow the same to be loose on private premises, except if such premises are fenced in such a manner as to adequately confine said dog.

('65 Code, § 5-41) (Ord. No. CS-415 § 3.2)

§ 9.01.360 DOGS RUNNING AT LARGE; PROHIBITION.

It shall be unlawful for any person owning or having charge, care, custody or control of dog in the City to cause, permit or allow the same to be or to run at large upon any highway, street, lane, alley, sidewalk, median, parkway, court or other public place, or upon any private property or premises other than those of the person owning or having charge, care, custody or control of such dog, unless that dog be restrained by a substantial chain or leash not exceeding six (6) feet in length, and is in the control of a competent person. In addition to the foregoing, no person shall cause, permit or allow a dog under that person's charge, care, custody or control to be in any of the following places: any store, market, restaurant, cafe, lunchroom, soda fountain, bakery or kindred establishments wherein foods for human consumption are served, sold or kept for sale; or, except as permitted by § 9.10.400 or § 9.10.600, in any public park.

('65 Code, § 5-42) (Ord. No. CS-415 §3.1; Ord. No. 2004-015 §1; Ord. No. 2006-008 §1)

§ 9.01.365 DISPOSAL OF DOGS; CONDITIONS.

Dogs wearing a current license tag impounded pursuant to this Chapter shall not be destroyed or otherwise disposed of unless:

- A. The person to whom the current license for such dog was issued so directs; or
- B. Five full days have elapsed since such person was notified of his dog's whereabouts by telephone; or
- C. Six full days have elapsed since a letter, postage fully prepaid, addressed to such person at his last known address, and informing such person of the whereabouts of his dog, has been deposited in the United States Mail.

('65 Code, § 5-43) (Ord. No. CS-415 § 7.13)

§ 9.01.370 POUND CHARGES AND BOARDING CHARGES; DOGS.

A. *Pound charges.* The Poundmaster may make such charges as provided by resolution of the City Council for impounding and caring for dogs. Before an impounded dog is released from the pound to anyone, that person shall pay the pound charges and show proof that the dog is currently licensed and currently vaccinated against rabies.

('65 Code, § 5-44) (Ord. No. CS-950 § 3)

B. *Additional charges.* The Poundmaster may charge a fee for the care and feeding of each dog impounded pursuant to the provisions of this Chapter, excluding the day on which it is impounded, and in addition may charge for the giving of notice of the impounding of any dog, in the amount of its actual cost. A charge may be made by the poundkeeper for the impounding and boarding of other animals in the amount of actual reimbursement.

('65 Code, § 5-45) (Ord. No. CS-415 § 7.16)

§ 9.01.375 CONFINEMENT OF DOGS AFFLICTED WITH RABIES.

In the event the County Health Officer finds that any dog is afflicted with rabies, the Poundmaster or poundkeeper shall confine it as directed by the Health Officer.

('65 Code, § 5-46) (Ord. No. CS-415 § 7.22)

§ 9.01.380 VACCINATION AND RE-VACCINATION REQUIREMENTS.

A. *Vaccination requirements.* It shall be unlawful for every person keeping, harboring or having any dog over four months of age in the City without having it vaccinated with rabies vaccine by a person licensed by the State of California, or other State, to practice veterinary medicine, on or before the latest of the following dates:

1. One year after vaccination with tissue phenolized vaccine.
2. Two years after vaccination with chick embryo vaccine.
3. Fifteen days after first acquiring such a dog.
4. Fifteen days after bringing such dog into the City.

('65 Code, § 5-47)

B. *Re-vaccination requirements.* Every person keeping, harboring or having a dog in the City which has been vaccinated with chick embryo vaccine shall cause such dog to be revaccinated within a period of not more than two years after such prior vaccination. When tissue phenolized vaccine has been used, each dog shall be revaccinated within a period of not more than one year after a prior vaccination.

('65 Code, § 5-48) (Ord. No. CS-415 §§ 8.1, 8.2)

§ 9.01.385 VETERINARIAN CERTIFICATE TO OWNER.

Every Veterinarian who vaccinates a dog with rabies vaccine shall issue to the person to whom he delivers the dog, an original and a duplicate original of a certificate signed by him which states:

- A. Name and address of the owner or harbinger of the vaccinated dog.
- B. Kind of vaccine used, name of the manufacturer and the manufacturer's serial or lot number, and date of vaccination.
- C. Breed, age, color, and sex of the vaccinated dog.

('65 Code, § 5-49) (Ord. No. CS-415 § 8.5)

§ 9.01.390 EXEMPTION FOR LOCAL LAW ENFORCEMENT AGENCY DOGS.

Notwithstanding any other Section of this Chapter or Code, the regulations regarding licensing of dogs, dogs at large, dogs on private property, and dogs in a public park or other public areas are not applicable to a dog which is part of a canine program within a local law enforcement agency while such dog's activity is directly or indirectly related to the canine program and the dog is on active duty with the local law enforcement agency.

('65 Code, § 5-50) (Ord. No. 86-025 § 1)

CATS

§ 9.01.400 LICENSE VOLUNTARY.

Every person owning or having custody or control of any cat over the age of four months in the City may obtain, on a voluntary basis, a license for each of such cats in accordance with the provisions of Chapter 10.20 of Title 10 of the Los Angeles County Code ("LACC"), as adopted and incorporated by reference by § 9.01.500 of this Chapter. If such license is obtained, all required license fees shall be paid as set forth in § 9.01.405 of this Subchapter.

(Ord. No. 2007-005 § 1 (part))

§ 9.01.405 LICENSE FEE; EXEMPTIONS; TERM.

A. *License fee.* There shall be a voluntary annual cat license fee. The amount, time of payment, prorating schedule, if any, and penalty for late payment, if any, of said fee shall be established by resolution of the City Council.

B. *Exemptions.* The license fees established by Subsection A. of this Section shall not apply to any individual who qualifies for an exemption. The criteria for such exemptions and process for application of an exemption shall be established by resolution of the City Council.

C. *Term.* Every license and tag issued pursuant to this Subchapter shall be for the period of 12 months, beginning on the first day of the month in which the animal is licensed, and continuing until the last day of the month 12 months thereafter.

(Ord. No. 2007-005 § 1 (part))

ADOPTION OF ARTICLE 10 OF THE LOS ANGELES COUNTY CODE BY REFERENCE

§ 9.01.500 ANIMAL CONTROL ORDINANCE.

A. Divisions 1, 2 and 3 of Title 10 of the Los Angeles County Code, “Animals,” encompassing §§ 10.04.010 through 10.90.010, inclusive, known as the “Animal Control Ordinance,” attached to Ordinance 2006-010 as “Exhibit A,” are hereby adopted and incorporated by reference; provided the provisions relating to mandatory microchipping of dogs, mandatory spaying and neutering of dogs, and mandatory licensing of cats, shall not become operative until July 1, 2007.

B. In the event there are any inconsistencies between the Animal Control Ordinance and this Chapter pertaining to animal control, the Animal Control Ordinance as adopted shall prevail. This Subsection shall not apply to the following Sections of this Chapter: § 9.01.305, including any resolution adopted pursuant thereto; § 9.01.320; § 9.01.400; and § 9.01.405, including any resolution adopted pursuant thereto.

(’65 Code, § 5-60) (Ord. No. 98-005 § 1; Ord. No. 2003-002 § 1; Ord. No. 2006-010 § 1; Ord. No. 2007-005 § 5)

DECLAWING OF ANIMALS

§ 9.01.600 ONYCHECTOMY (DECLAWING) AND FLEXOR TENDONECTOMY PROHIBITED.

A. No person, licensed medical professional or otherwise, shall perform or cause to be performed an onychectomy (declawing) or flexor tendonectomy procedure by any means on any animal within the City, except when necessary for a therapeutic purpose. **THERAPEUTIC PURPOSE** means the necessity to address the medical condition of the animal, such as an existing or recurring illness, infection, disease, injury or abnormal condition in the claw that compromises the animal's health. **THERAPEUTIC PURPOSE** does not include cosmetic or aesthetic reasons or reasons of convenience in keeping or handling the animal. In the event that an onychectomy or flexor tendonectomy procedure is performed on any animal within the City in violation of this Section, each of the following persons shall be guilty of a violation of this Section:

1. The person or persons performing the procedure;
2. All persons assisting in the physical performance of the procedure; and

3. The animal guardian that ordered or requested the procedure.

B. Section 9.01.005 of the Culver City Municipal Code shall not apply to this Section. Any violation of this Section shall constitute a misdemeanor. However, at the discretion of the City Attorney, any violation may be prosecuted as an infraction.

(Ord. No. 2009-010 § 1)

CHAPTER 9.02: FIRE PREVENTION

Section

California Fire Code Adoption and Amendments

9.02.005 The 2015 International Fire Code with the 2016 California Fire Code adopted by reference

9.02.010 Violations and penalties

9.02.015 Amendments, additions, deletions, and substitutions

9.02.020 Amendments; Chapter 1 of the California Fire Code

9.02.025 Amendments; Chapter 2 of the California Fire Code

9.02.030 Amendments; Chapter 4 of the California Fire Code

9.02.035 Amendments; Chapter 5 of the California Fire Code

9.02.040 Amendments; Chapter 9 of the California Fire Code

9.02.045 Amendment; Chapter 20 of the California Fire Code

9.02.050 Amendment; Chapter 23 of the California Fire Code

9.02.055 Amendment; Chapter 48 of the California Fire Code

9.02.060 Amendments; Chapter 57 of the California Fire Code

9.02.065 Amendment; Appendix B of the California Fire Code

9.02.070 Amendment; Appendix C of the California Fire Code

9.02.075 Amendment; Appendix D of the California Fire Code

Administrative Assessment Cost Recovery Program

9.02.300 Definitions

9.02.305 Hazardous materials cleanup

9.02.310 False alarms; violations

9.02.315 Re-inspections

9.02.320 Penalties

9.02.325 Appeals

Very High Fire Hazard Severity Zone

9.02.400 Designation of very high fire hazard severity zone

CALIFORNIA FIRE CODE ADOPTION AND AMENDMENTS

§ 9.02.005 THE 2015 INTERNATIONAL FIRE CODE WITH THE 2016 CALIFORNIA FIRE CODE ADOPTED BY REFERENCE.

A. The City Council hereby adopts all chapters, certain amendments, additions, deletions and exceptions to the 2015 International Fire Code, with errata, incorporating Part 9 of Title 24 of the California Code of Regulations known as the 2016 California Fire Code, with errata, including the 2016 Fire Code Chapter 1 as amended, Chapter 2 as amended, Chapter 4 as amended, Chapter 5 as amended, Chapter 9 as amended, Chapter 20 as amended, Chapter 23 as amended, Chapter 48 as amended, Chapter 57 as amended, Appendix Chapter 4, Appendix B as amended, Appendix BB, Appendix C as amended, Appendix CC, Appendix D as amended, Appendix E, Appendix F, Appendix G, Appendix H, Appendix I, and Appendix N as adopted by the California Building Standards Commission, Chapter 9.02, the Zoning Code, as set forth in Title 17 of this Code, and any other City regulations relating to existing zoning, fireworks, building trades, is hereby adopted. The provisions of the International Fire Code, with errata, California Fire Code, and Fire Code Appendices, as indicated above, shall be applicable in the City and referred to as the "Fire Code of the City of Culver City."

B. One copy of the Fire Code of the City of Culver City shall be available in the Culver City Fire Prevention office for public inspection.

(Ord. No. 2017-001 § 2 (part))

§ 9.02.010 VIOLATIONS AND PENALTIES.

A. No person shall violate any provision or fail to comply with the requirements of the Fire Code of the City of Culver City, hereinafter referred to as the "Fire Code." Any person violating any of the provisions or failing to comply with any of the requirements of the Fire Code shall be guilty of a misdemeanor, and shall be punished in accordance with § 1.01.035 and § 1.01.040 of this Code.

B. In addition to the penalties herein provided above, any condition caused or permitted to exist in violation of any provision of the Fire Code, shall be deemed a public nuisance and may be summarily abated as such, and each day such condition continues, shall be regarded as a new and separate offense.

(Ord. No. 2017-001 § 2 (part))

§ 9.02.015 AMENDMENTS, ADDITIONS, DELETIONS AND SUBSTITUTIONS.

The Fire Code is amended as provided in this Subchapter.

(Ord. No. 2017-001 § 2 (part))

§ 9.02.020 AMENDMENTS; CHAPTER 1 OF THE CALIFORNIA FIRE CODE.

Section 104.1.1 Fire Prevention Standard Operating Policy Manual. A Fire Code Departmental Policy Manual, known as the Culver City Fire Prevention Standard Operating Guidelines has been created and adopted to serve as instructions and interpretations of the adopted Fire Code. The Policy Manual shall be a published document, maintained in the Fire Prevention office, and amended from time to time to provide current instruction and interpretation.

Section 105.1.1.1 Permit Fees. Permit Fees shall be adopted by resolution of the City Council.

Section 105.6.3.1 Aviation. An operational permit is required for all types of aircraft that are flying, hovering, landing, lifting, filming, parking, or similar activities.

Section 105.6.15.1 Permits to Conduct Displays of Fireworks Granted by City Council. The City Council, by resolution, upon written application as provided in this Subchapter and subject to the provisions of this Subchapter, may grant two (2) permits to conduct a public display of fireworks in a calendar year, each display to occur on a separate date. The City Council may by resolution, grant an additional special permit for a public fireworks display sponsored by the City.

Section 105.6.15.2 Application for Permit; Conditions for Filing. An application for a permit to conduct a public display of fireworks shall be filed in compliance with all of the following:

A. Application for a permit to conduct a public display of fireworks shall be filed in the Office of the City Manager, on forms provided by the City, at least 180 days prior to the date requested for conducting the public display of fireworks.

B. The following information shall be included on the application:

1. The location of the public display of fireworks as approved by the Culver City Fire Department;

2. The location for storage of the fireworks to be displayed as approved by the Culver City Fire Department, if within the City;

3. Who, if anyone, will provide management services to the applicant for the public display of fireworks and evidence that such manager has complied with all business tax certificate requirements; and

4. Transportation routes and any other information deemed necessary by the City Council for the consideration of the application.

C. Evidence of the following types of insurance in a form with endorsements as approved by the City Attorney and in an amount as established by the City Attorney and the Fire Chief, but not less than Five Million Dollars (\$5,000,000.00) shall be filed with the application:

1. Commercial general liability insurance; combined single limit, bodily injury and property damage, each occurrence;
2. Premises/operation liability;
3. Contractual liability, specifically referencing indemnification agreements with the City; and
4. Products liability, including completed operations liability.

D. All fees required pursuant to this Code and City Council resolution shall be paid at the time of filing the application; and

E. Evidence of compliance with any special conditions required by the Culver City Fire Department because of the location of the public display of fireworks.

Section 105.6.15.3 Conditions Governing Permit. Any permit granted to conduct a public display of fireworks shall be governed by all of the following:

A. The public display of fireworks shall be conducted by a duly licensed pyrotechnician who shall have obtained Culver City Fire Department approval no later than the last day of June of the year in which the permit is granted;

B. One public display of fireworks may be conducted on July 4th, and one may be conducted in conjunction with Culver City High School's annual homecoming celebration. Any fireworks display shall be conducted strictly in accordance with all regulations and conditions specified in this Subchapter and in the Council resolution granting the permit;

C. Any attempt to transfer a permit to any person shall void the permit;

D. The permittee shall agree, in writing, to indemnify and hold harmless the City, its officers, representatives, and employees from any loss or liability or damages, including expenses and costs, for bodily injury or property damage sustained by any person as a result of any operation related to the permit; and

E. Failure to comply with any of the provisions of this Subchapter shall preclude consideration of any application filed if permits have not been granted thereunder; and shall be sufficient cause of the revocation of any permit previously issued.

Section 105.5.15.4 Time Limits. The City Council, by resolution, may extend or shorten the time requirements established by this Subchapter.

Section 105.6.15.5 Rescission of Prohibition. The prohibition set forth in Chapter 56 of the California Fire Code shall not be rescinded by the City Council without the approval of a majority of the voters voting at a regular or special election.

Section 105.6.34.1 Special Events and Assemblage. A permit is required for special events and assemblages.

Section 105.6.50 Non-Defined Operations. An operational permit may be required after a Fire Department Review for hazards to people or property from the proposed operation, system or event.

Section 105.6.51 Installation Contractor Permit. An Installation Contractor permit shall be obtained prior to obtaining a Suppression/Detection permit for life safety system installations,

service repairs, maintenance or testing. Permit fees shall be per City Council fee schedule adopted by City Council Resolution.

Section 108.4 Appeals. Protests and appeals from the enforcement of this Code shall be made to the Municipal Code Appeals Committee in accordance with Section 1.01.065 of the Culver City Municipal Code.

(Ord. No. 2017-001 § 2 (part))

§ 9.02.025 AMENDMENT; CHAPTER 2 OF THE CALIFORNIA FIRE CODE.

Chapter 2 Definitions is hereby amended to read as follows:

Section 202, Existing Building/structure square footage. The existing square footage of a building/structure is defined as the remaining square footage after all demolition of the building has been completed.

Section 202, Existing Roof Structure square footage. The existing square footage of a roof structure is defined as the remaining square footage of the roof structure after all demolition of the roof structure has been completed.

(Ord. No. 2017-001 § 2 (part))

§ 9.02.030 AMENDMENT; CHAPTER 4 OF THE CALIFORNIA FIRE CODE.

Chapter 4 is hereby amended to read as follows:

Section 401.1.1 Permits. A permit shall be required as set forth in the Culver City, City Council approved fee schedule for all special event and assemblages.

Section 403.1.1. Special Event Application and Submittals. All special events and assemblages shall be submitted to the fire department for review. All applications shall have a contact name, phone number, business name, address, a plot plan, floor plan and sufficient detail and information to allow for a comprehensive evaluation. Permits, Fire Safety Officers, security, and other issues determined by the review shall be provided by the event organizer prior to allowing the event or assemblage to operate. Tents in excess of 400 square feet needed for a special event or assemblage shall meet the requirements of Chapter 31 and require a separate fire permit.

Section 403.11.1.5.1 Identification. Identification numbers shall be provided for all individual units in covered mall buildings, multi-unit buildings and other commercial complexes, and shall be placed in such a position as to be plainly visible and legible. The position and size of such identification numbers shall be determined by the Fire Code Official. Numbers and names shall be provided for all enclosed rooms and spaces, including service rooms, mechanical rooms, closets, and similar spaces to identify use.

(Ord. No. 2017-001 § 2 (part))

§ 9.02.035 AMENDMENT; CHAPTER 5 OF THE CALIFORNIA FIRE CODE.

Chapter 5 is hereby amended to read as follows:

Section 503.1.2.1 Difficult apparatus access. If the Fire Code Official or his/her designee determines that access for fire apparatus and equipment to any building or structure is unduly difficult, installation of an automatic fire-extinguishing system shall be required.

Section 504.1 Required Access.

504.1.1 Keysets, handles, locks and keys. As determined by a fire department review, all noted exterior doors shall be provided with locksets and handles for Fire Department Access. Keys for required access shall be provided by the owner and made readily available in the KNOX Box.

Section 504.5 Catwalks and Ladders. Upon review, buildings with parapets and other construction that exceeds five (5) feet from the roof may be required to provide non-combustible catwalks and ladders.

Section 504.6 Exterior Structure Requirements. All buildings with wall tops and/or parapets with soft materials, rails or other construction that creates a hazard to safe access for firefighting purposes shall have solid surfaces to support the use of ladders, firefighters with gear and other suppression equipment. Review and approval of surfaces shall be by the Fire Code Official.

Section 507.1.1 Hydrant location for new sprinkler systems. Fire hydrants shall not be located more than 150 feet from the Fire Department Connection.

Section 509.3. Ventilation/exhaust fan Controls. When the Building Code requires a mechanical ventilation/exhaust system for enclosed areas and parking structures (other than in enclosed malls or high rise buildings) the mechanical exhaust system shall include a Fire Department manual control switch(s); The design and submittal of the Manual Control Switch shall include an "Off, On, Automatic" operations provided to the Culver City Fire Prevention Division and the Building Department for review and issuance of permits. The location of the manual fan control switch(s) shall be in a fire department approved location.

(Ord. No. 2017-001 § 2 (part))

§ 9.02.040 AMENDMENT; CHAPTER 9 OF THE CALIFORNIA FIRE CODE.

Chapter 9 of the Fire Code is hereby amended to read as follows:

Section 901.4.1.1 An automatic fire-extinguishing (sprinkler) system shall be installed in every new building in the City, including any new residential building, hereinafter constructed or moved into the City, regardless of area separation or type of construction.

Exception: New buildings less than 500 square feet may be exempted upon approval of the Fire Code Official.

Section 901.4.1.2 Commercial, Industrial and Multi-family. In existing commercial, industrial and multi-family residential occupancies, fire sprinklers shall be required in existing and new portions of the building for height increases, area increases of 50% or more, and for any occupancy change that increases fire risk or hazard.

Section 901.4.1.3 Residential. Existing one and two family dwellings shall be required to install a full automatic fire sprinkler system in existing and new portions of the building when a

story is added, more than 75% of the existing roof structure is replaced, or when the enclosed floor area is increased by more than 75%. NOTE: See Culver City Amended Chapter 2 for the definition of "EXISTING BUILDING/ STRUCTURE AND ROOF STRUCTURE."

Section 903.3.8. LIMITED AREA SPRINKLER SYSTEMS DELETED, REPLACED BY new Section 903.3.8.6. Partial Fire Sprinkler Systems. Where in the Fire Code or the Building Code a partial fire sprinkler system is allowed or required, the fire sprinkler system shall be installed, modified or extended to protect the entire building or structure.

Section 903.3.8.5.1 Hydraulically calculated systems. The design of hydraulically calculated fire sprinkler systems shall not exceed 90% of the water supply capacity.

Section 903.3.5.3 Sprinkler Control Valves and Equipment. Sprinkler shutoff valves, flow switches, gauges, and drains shall be required on each floor of buildings three stories or greater in height.

Section 907.1.2(10) Voltage Drop Calculations. Maximum percent of voltage drop on any initiation, output, audible/visual circuit or load consuming circuit shall not exceed percentage as required per UL and manufacturer's requirements.

Section. 907.1.6 Projection Room Controls. All projection equipment and audio equipment shall be interconnected to the fire alarm system for shut down, upon an interrupt signal from the fire alarm panel, to prevent interference of all visual and audible evacuation devices and directions from the theatre staff for evacuation directions.

(Ord. No. 2017-001 § 2 (part))

§ 9.02.045 AMENDMENT; CHAPTER 20 OF THE CALIFORNIA FIRE CODE.

Chapter 20 is hereby amended to read as follows:

Section 2001.3.1 Permits. All flight operations within the City of Culver City are required to have an approved Culver City Fire Department permit. Permits shall cover but not be limited to: flight to perform lifts, hovering, fly over, landings, filming and other operations while flying, hovering or landing.

Section 2001.3.2 Operation and review standards. Compliance with CA Fire Code Chapter 20 and CCMC 9.09 shall be used to obtain a flight permit and the requirements for flight operations and approvals. All operations shall be reviewed and approved by the fire department. Landing, fueling, repairs, and storage are limited.

The need for providing standby personnel, Fire Safety Officers and permits for any or all activities shall be determined by the Fire Department.

(Ord. No. 2017-001 § 2 (part))

§ 9.02.050 AMENDMENT; CHAPTER 23 OF THE CALIFORNIA FIRE CODE.

Chapter 23 is hereby amended to read as follows:

Section 2301.7 Class III-B Liquids. Where in this chapter there is a requirement for Class III-A Liquids, this same requirement shall apply to Class III-B Liquids.

(Ord. No. 2017-001 § 2 (part))

§ 9.02.055 AMENDMENT; CHAPTER 48 OF THE CALIFORNIA FIRE CODE.

Chapter 48 is hereby amended to read as follows:

Section 4804.6.1 Illumination. The approved perimeter aisles shall be illuminated at floor level with light fixtures spaced at intervals of not more than fifty (50) feet apart and providing a minimum light intensity of not less than (1) foot-candle. Power for the emergency light fixtures shall be supplied as required by Culver City Fire Department Regulations. All Exit and Emergency lights shall comply with the Building Code requirements for two sources of power with one of the two sources of power provided by approved batteries.

Section. 4804.10 Flammable Liquids and Compressed Gases on Sound Stages. Unless approved, in writing, by the Fire Code Official, flammable liquids and compressed flammable gases shall be prohibited on television and motion picture sound stages.

Section 4804.11 Fire Department Filming and Performance Regulations. All Motion Picture and Television Production Studio Sound Stages, Approved Production Facilities and Productions Locations shall comply with Culver City Fire Department Filming and Performance Regulations. Fire Department Filming Regulations are available for review at the Fire Prevention Counter.

(Ord. No. 2017-001 § 2 (part))

§ 9.02.060 AMENDMENT; CHAPTER 57 OF THE CALIFORNIA FIRE CODE.

Chapter 57 is hereby amended to read as follows:

Section 5701.6 Class III-B Liquids. Where in this chapter there is a requirement for Class III-A Liquids, this same requirement shall apply to Class III-B liquids.

(Ord. No. 2017-001 § 2 (part))

§ 9.02.065 AMENDMENT; APPENDIX B OF THE CALIFORNIA FIRE CODE.

Appendix B, Exception, is hereby amended to read as follows:

Section B 105.2, Exception: The reduction in required fire flow of up to 50 percent, as approved, is allowed when the building or structure is provided throughout with an approved automatic fire sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2. The minimum resulting fire-flow shall not be less than 1,500 gallons per minute (5678 L/min) for the prescribed duration as specified in Table B105.1.

(Ord. No. 2017-001 § 2 (part))

§ 9.02.070 AMENDMENT; APPENDIX C OF THE CALIFORNIA FIRE CODE.

Appendix C is hereby amended to read as follows:

Section C101.1.2. Whenever the reference is made to Table C105.1, use Culver City Fire Department requirements of 300 foot fire hydrant spacing in commercial/industrial areas and 600 foot spacing in residential areas for Hydrant Placement, Spacing and Specifications. Maximum distance of a fire hydrant to an FDC shall not exceed 150 feet.

(Ord. No. 2017-001 § 2 (part))

§ 9.02.075 AMENDMENT; APPENDIX D OF THE CALIFORNIA FIRE CODE.

Appendix D is hereby amended to read as follows:

Section D101.1.2. Use table as indicated. Upon review of a project and based on Fire Department access and water supplies, the Fire Department may change the tables to mitigate special hazards.

(Ord. No. 2017-001 § 2 (part))

ADMINISTRATIVE ASSESSMENT COST RECOVERY PROGRAM**§ 9.02.300 DEFINITIONS.**

For the purpose of this Subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CULVER CITY MUNICIPAL CODE. The ordinances embraced in the Chapters and Sections found in "The Code of the City of Culver City, California," hereinafter referred to as "CCMC."

FAILURE TO NOTIFY.

1. Pre-Test Notification Failure - failure to notify the Fire Department before proceeding with any testing of a fire alarm or fire suppression system which results in an unnecessary response.

2. Post-Test Notification Failure - failure to notify the Fire Department after completion of testing and/or maintenance of a fire alarm or fire suppression system, which results in an unnecessary response.

FALSE ALARM. The deliberate reporting of an alarm for which no fire or emergency actually exists or an alarm that is set off "needlessly" includes, but is not limited to, the triggering of an alarm by conditions that are not typical of a current or impending fire emergency.

FIRE CODE. The "Fire Code of the City of Culver City" as defined in § 9.02.005 of the CCMC.

FIRE CODE STANDARDS. Volume 2 of the "International Fire Code" published by the International Code Council.

HAZARDOUS MATERIALS. Any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant or potential hazard to human health and safety, to the environment, or to property if released. For the purposes of this chapter ***HAZARDOUS MATERIALS*** include, but are not limited to, hazardous materials as defined in § 9.03.105 N., O., or P. of the CCMC, and other substances known to cause harm to the environment if released such as used oil, paint, paint residues, and solvents.

HOUSEHOLD HAZARDOUS WASTE. Hazardous waste generated from a Culver City household in conducting non-commercial activities.

MUNICIPAL CODE APPEALS COMMITTEE. The committee is authorized to hear appeals of alleged violations of the CCMC. [CCMC § 1.01.065].

RE-INSPECTION. A repeat inspection for compliance after the issuance of an "Order to Comply" served by a member of the Culver City Fire Department to any person, firm or corporation to correct a Fire Code violation.

SEWER SYSTEM. All pipes, drains, channels, and other means used to transport sewage to the Hyperion Water Treatment Plant, or other City-authorized treatment facility for treatment (e.g. household or commercial drains, and the like).

STORM DRAIN SYSTEM. All pipes, drains, channels, and other means used to transport surface waters to the ocean without treatment (e.g., curbside drains, La Ballona Creek, and the like).

UNAUTHORIZED DISCHARGE. A release or emission of materials in a manner which does not conform to the provisions of this code [CCMC § 9.02.005] or applicable public health and safety regulations.

(Ord. No. 2014-004 § 2 (part))

§ 9.02.305 HAZARDOUS MATERIALS CLEANUP.

A. *Violation.* It shall be a violation of this Section to release hazardous materials in an unauthorized manner. At no time shall a hazardous material be released into a street or surface where the drainage is to the storm drain system.

B. *Responsibility for cleanup.* The person, firm or corporation responsible for an unauthorized discharge, shall institute and complete all actions necessary to remedy the effects of such unauthorized discharge, whether sudden or gradual, at no cost to the jurisdiction. When deemed necessary by the Fire Code Official or his designee, cleanup may be initiated by the Fire Department or by an authorized individual or firm. Costs associated with such a cleanup shall be borne by the owner, operator or other person responsible for the unauthorized discharge.

C. *Assessment of administrative charges.* Costs are determined based on actual personnel costs plus benefits, and estimated costs of equipment per unit response, plus any other applicable expenditure.

(Ord. No. 2014-004 § 2 (part))

§ 9.02.310 FALSE ALARMS; VIOLATIONS.

A. *Violation.* It shall be a violation of this Section for:

1. Any person, firm, entity or corporation to cause or allow more than four (4) false alarms within the prior three hundred sixty-five (365) days from a facility in a residential, commercial, or manufacturing zone; or any other zone recognized by the Culver City Municipal Code.

2. An alarm company to cause or allow more than one (1) "Failure to Notify" the Culver City Police/Fire Dispatcher to testing, inspecting, or maintaining a fire suppression and/or alarm system of a specified facility within the prior three hundred sixty five (365) days. For notification requirements for maintenance, service and testing see California Fire Code Chapter 9, section 901.

3. An alarm company to cause or allow more than one (1) "Failure to Notify" the Culver City Police/Fire Dispatcher within one (1) hour after completion of testing, inspecting, or maintaining a fire suppression and/or alarm system of a specified facility, within the prior three hundred sixty-five (365) days. For notification requirements for maintenance, service and testing see California Fire Code Chapter 9, section 901.

B. *Assessment of administrative charges.* An administrative charge of One Hundred Dollars (\$100.00) will be assessed for each additional false alarm above the limits as set forth in Subsection A.

(Ord. No. 2014-004 § 2 (part))

§ 9.02.315 RE-INSPECTIONS.

A. *Violation.* It shall be a violation for any person, firm, entity or corporation to fail to comply within the prescribed time with orders to comply issued by the Culver City Fire Department.

B. *Violation corrected.* Where the violation has been corrected within the time period prescribed as confirmed by inspection or other proof acceptable to the Fire Marshal, the case shall not be assessed.

C. *Violation not corrected.* Where the violation has not been corrected within the time period prescribed by the Fire Department, any additional compliance inspection(s) shall be assessed to the violator at an administrative charge of One Hundred Dollars (\$100.00) for the first additional inspection. If compliance is still not achieved, a further administrative charge of Five Hundred Dollars (\$500.00) per each additional inspection required shall be assessed.

(Ord. No. 2014-004 § 2 (part))

§ 9.02.320 PENALTIES.

In addition to any administrative costs as described above, violations of this Section shall be punished as:

- A. For the first violation in a twelve (12) month period as an infraction;
- B. For the second and each subsequent violation in a twelve (12) month period as an infraction or misdemeanor as determined by the City Attorney.

(Ord. No. 2014-004 § 2 (part))

§ 9.02.325 APPEALS.

A. The "initial warning" cannot be appealed. Subsequent notices and orders can be appealed to the Municipal Code Appeals Committee. To contest first and subsequent notices and orders to comply, and/or the administrative fee assessment, a written objection must be filed with the City Clerk's office within ten (10) days of receipt of the appealable notice or order. The City will notify each appellant of the date and time of the scheduled informal hearing.

B. Those who wish to appeal an Order to Comply an Administrative Assessment shall follow the process set forth on the order to comply form and appropriate City procedures.

(Ord. No. 2014-004 § 2 (part))

VERY HIGH FIRE HAZARD SEVERITY ZONE

§ 9.02.400 DESIGNATION OF VERY HIGH FIRE HAZARD SEVERITY ZONE.

A. The City Council designates a very high fire hazard severity zone as recommended by the Director of the California Department of Forestry and Fire Protection, and as designated on a map entitled Very High Fire Hazard Severity Zones in LRA - As Recommended by Cal Fire, dated September, 2011.

B. The VHFHSZ map shall be kept on file in the City Clerk's office, and in the Fire Prevention Division offices.

(Ord. No. 2012-005A, § 1)

CHAPTER 9.03: HEALTH, SANITATION AND HAZARDOUS MATERIALS

Section

Health Code

9.03.005 Health Code adopted by reference; violations

Public Health Licensing

9.03.007 Adoption of public health licensing

Hazardous Materials Disclosure Requirements, Business Plans, and Inspections

9.03.100 Findings and declarations

9.03.105 Definitions

9.03.110 Business plans

9.03.115 Inventory reports

9.03.120 Risk management and prevention program

9.03.125 Trade secrets

9.03.130 Public inspection of records

9.03.135 Reporting release or threatened release of hazardous materials

9.03.140 Authority to inspect

9.03.145 Fees

9.03.150 Civil and criminal penalties and fines; rewards

9.03.155 Investigations of violations

9.03.160 Liberal construction; severability

9.03.165 Incident command authority

Culver City Hazardous Waste Management Plan

9.03.300 Purpose and adoption; contents

9.03.305 Hazardous waste management facility siting permit

9.03.310 Land use approvals

HEALTH CODE**§ 9.03.005 HEALTH CODE ADOPTED BY REFERENCE; VIOLATIONS.**

There is hereby adopted by reference the Los Angeles County Public Health Code, as amended, three (3) copies of which are on file in the Office of the City Clerk. Any violations of said County Code, hereby adopted as the Health Code of the City of Culver City, shall be punishable as a misdemeanor under the provisions of §§ 1.01.035 et seq. of the Culver City Municipal Code.

('65 Code, § 16-1) (Ord. No. CS-826 § 3; Ord. No. 88-014 § 1)

PUBLIC HEALTH LICENSING

§ 9.03.007 ADOPTION OF PUBLIC HEALTH LICENSING.

A. Division 1 of Title 8, Consumer Protection, and Division 1 of Title 11, Health and Safety, of the Los Angeles County Code, as amended as of February 1, 2002, are hereby adopted by reference thereto; and a copy of Division 1 of Title 8 and Division 1 of Title 11 of the Los Angeles County Code, as amended as of February 1, 2002, shall be kept on file in the office of the City Clerk and shall be maintained by the City Clerk for use and examination by the public.

B. In the event of any conflict or ambiguity between the provisions of this Code and those contained in Division 1 of Title 8, Consumer Protection, and Division 1 of Title 11, Health and Safety, of the Los Angeles County Code, as amended as of February 1, 2002, thereto, this Code shall prevail.

C. Any person who violates any provision of Division 1 of Title 8, Consumer Protection, or Division 1 of Title 11, Health and Safety, of the Los Angeles County Code, as amended as of February 1, 2002, is guilty of a misdemeanor and shall be punishable in such manner and to such extent as provided by Chapter 1.01 of this Code and any and all remedies, civil and criminal, provided therein.

(Ord. 2002-004 § 1)

HAZARDOUS MATERIALS DISCLOSURE REQUIREMENTS, BUSINESS PLANS, AND INSPECTIONS

§ 9.03.100 FINDINGS AND DECLARATIONS.

The City Council finds and declares in order to protect the public health, safety and welfare and the environment, and in order to supplement the City's existing emergency response program and to comply with Federal and State laws and regulations, it is necessary to establish a system for collecting and verifying information for business plans relating to the handling, use, storage, release or threatened release of hazardous materials. The authority for this Subchapter includes the provisions of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), 42 USC 11001 et seq., as amended; Cal. Health & Safety Code §§ 25500 et seq., as amended, and the City's police power to protect the health, safety and welfare of the general public. Furthermore, pursuant to Cal. Health & Safety Code § 25502, the Culver City Fire Department has been designated as the administering agency for Cal. Health & Safety Code §§ 25500 et seq. and shall carry out its intent and requirements.

('65 Code, § 16-8) (Ord. No. 88-014 § 2)

§ 9.03.105 DEFINITIONS.

Unless the context otherwise indicates, the following definitions govern the construction of this Subchapter:

ACUTELY HAZARDOUS MATERIAL. This term shall have the same meaning as **EXTREMELY HAZARDOUS MATERIAL**.

BUSINESS PLAN. An emergency pre-plan prepared for each facility, site, or branch of a business which meets the requirements of § 9.03.115 A. Each business plan shall provide the information required in § 9.03.115.

BUSINESS. Any employer, self-employed individual, trust, firm, joint stock company, corporation, partnership, or association. For the purpose of this Subchapter, **BUSINESS** includes both for-profit and non-profit enterprises.

CAL. HEALTH & SAFETY CODE. The California Health and Safety Code, as amended.

CHEMICAL. Any chemical element, chemical compound or chemical mixture.

CHEMICAL NAME. The scientific designation of a substance in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the system developed by the Chemical Abstracts Service.

COMMON NAME. Any designation or identification, such as a code name, code number, trade name, or brand name used to identify a substance other than by its chemical name.

DEPARTMENT. The Culver City Fire Department.

DUN & BRADSTREET NUMBER. The number assigned to a business as listed in various directories published by Dun & Bradstreet.

EPA NUMBER. The number assigned by the U.S. Environmental Protection Agency to a specific business site where hazardous wastes are generated.

EXTREMELY HAZARDOUS MATERIAL. Any chemical on the list prepared by the United States Environmental Protection Agency and classified as an extremely hazardous substance pursuant to 40 CFR 300 and 355, and any amendments thereto.

FIRE CHIEF. The Fire Chief of the Culver City Fire Department or his/her designee(s). A designee of the Fire Chief may vary for any different aspect of the hazardous material disclosure and business plan program.

HANDLE. To use, generate, process, produce, package, treat, store or possess, emit, discharge or dispose of any hazardous material in any fashion. **STORE**, as used in this Subsection, does not include the storage of hazardous materials which are in transit or which are temporarily maintained in a fixed facility for a period of less than thirty (30) days during the course of transportation.

HANDLER. Any business which handles any hazardous material.

HAZARDOUS MATERIAL. Any material that because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment.

HAZARDOUS MATERIALS include, but are not limited to, hazardous substances, acutely hazardous materials, hazardous waste, infectious waste, explosives, radioactive materials, petroleum or petroleum products or gases, poisons, biological agents, flammable, corrosive, oxidized or reactive materials and any material for which a handler or the Department has a

reasonable basis for believing it would be injurious to the health, safety and welfare of persons or harmful to the environment if released into the workplace or the environment.

HAZARDOUS SUBSTANCE.

1. Any substance or chemical product listed in 49 CFR 172 and 173 and in Cal. Health & Safety Code § 25501.1.
2. In general, if the manufacturer or producer is required to prepare a Material Safety Data Sheet (MSDS) for the substance or product, or if the substance is radioactive, the handler should refer to the above described lists.

HAZARDOUS WASTE. Includes the definitions found in Cal. Health & Safety Code §§ 25115, 25117, and 25316, as amended. In general, if the chemical meets the definition of ***HAZARDOUS MATERIAL*** and is being disposed of or will no longer be used, the handler should refer to the above described Sections.

MATERIAL SAFETY DATA SHEET or MSDS. A form on which data about a specific chemical substance is provided, as required in Cal. Admin. Code Title 8, § 5194 and in the Occupational Safety and Health Act of 1970, 29 USC 651 et seq. This data includes, but is not limited to, information about the chemical in the following categories: hazardous ingredients, physical data, fire and explosion data, health hazard data, reactivity data, spill or leak procedures, special protection information and special precautions.

MODIFIED FACILITY.

1. An addition or change to a facility or business which results either in a substantial increase in the amount of extremely hazardous materials handled by the facility or business, or a significantly increased risk in handling an extremely hazardous material, as determined by the Department.
2. ***MODIFIED FACILITY*** does not include an increase in production up to the facility's existing operating capacity. ***MODIFIED FACILITY*** also does not include an increase in the production levels up to the production levels authorized in a permit granted pursuant to Cal. Health & Safety Code § 42300, as long as the increased levels would not result in a significant increase in danger or harm to persons in the workplace or to the environment.

QUALIFIED PERSON. A person who is qualified to attest, at a minimum, to the validity of the hazard and show the relationship between the plan and the hazards the plan is designed to mitigate.

RELEASE. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, dumping, or disposing (including the abandonment or discarding of barrels, containers, and other closed receptacles) into the environment of any hazardous material, extremely hazardous substance, or toxic chemical, unless permitted or authorized by a regulatory agency.

RISK MANAGEMENT AND PREVENTION PROGRAM or (RMPP). The administrative and operational programs which are designed to prevent acutely hazardous materials accident risks, including, but not limited to, design safety of new and existing equipment, standard operating procedures, preventative maintenance programs, operator training and accident investigation procedures, risk assessment for unit operations, or operating alternatives,

emergency response planning and internal or external audit procedures to ensure these programs are being executed as planned.

SITE. A location with a single address used by a business. Locations with different addresses, but used by the same business, even if contiguous, shall be considered separate sites. Furthermore, if a location with a single address used by a business has two (2) or more buildings or structures at that location, each building or structure may be considered a separate site, if in the discretion of the Fire Chief or his designee, there exists a significant potential danger to the public health and safety and/or environment.

STANDARD INDUSTRIAL CLASSIFICATION CODE or SIC CODE. The identification number assigned to specific types of businesses in the Standard Industrial Classification Manual issued by the Federal Office of Management and Budget.

THREATENED RELEASE. A condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, or the environment.

TITLE III. Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), 42 USC 11001 et seq., as amended, which Act amended the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 USC 9601 et seq. Title III is also known as the “Emergency Planning and Community Right-to-Know Act of 1986.”

TRADE SECRET. Information about a chemical or chemicals, the release of which would unreasonably harm the competitive position of a business. Specific factors for determining trade secret status are described in Cal. Health & Safety Code § 25511, as amended, 42 USC 11042, as amended, Cal. Gov't Code § 6254.7(d), as amended, Cal. Evid. Code § 1060, as amended, and § 9.03.125 of this Subchapter and any Resolution adopted thereunder.

('65 Code, § 16-9) (Ord. No. 88-014 § 2)

§ 9.03.110 BUSINESS PLANS.

A. *Applicability and contents.* Every business within the City must complete the Departments reporting form(s), declaring whether that business handles any hazardous or extremely hazardous materials at any time within the calendar year. All businesses handling hazardous or extremely hazardous materials shall be required to prepare and submit a business plan to the Department. Business plans shall include, but not be limited to, the inventory of hazardous materials, as described in § 9.03.115, procedures for emergency notification to the Department and the State Office of Emergency Services, procedures for mitigation of a release or threatened release of hazardous materials, evacuation plans and employee training, as required by Resolution by the City Council.

B. *Reporting dates; facilities, sites, and branches.* Business plans shall be submitted under the same schedule established for the hazardous material inventories under § 9.03.115 as set by Resolution by the City Council. A separate business plan shall be required for each facility, site, or branch of a business which meets the requirements of Subsection A.

('65 Code, § 16-10) (Ord. No. 88-014 § 2)

§ 9.03.115 INVENTORY REPORTS.

A. *Applicability; reporting dates.* Every business within the City which handles hazardous or extremely hazardous materials shall prepare an inventory of all hazardous materials it handles within a single calendar year. The inventory shall be considered part of the business plan, required pursuant to § 9.03.110 of this Subchapter, and shall be submitted to the Department annually, according to the dates established in the Inventory Reporting Schedule. The Inventory Reporting Schedule and specific information required thereunder shall be established by Resolution by the City Council.

B. *Required inventory data.* The inventory data shall be submitted in a manner and format authorized by the Department. This data shall include all information required by Resolution by the City Council and the following:

1. Cal. Health & Safety Code § 25509;
2. Title III, §§ 311 and 312, being 42 USC 11021 and 11022;
3. Any regulations adopted by the State or Federal governments for the implementation of these laws;
4. Any amendments to these laws or their respective implementing regulations;
5. Any information the Fire Chief deems necessary to promote the health, safety and welfare of the general public.

('65 Code, § 16-11) (Ord. No. 88-014 § 2)

§ 9.03.120 RISK MANAGEMENT AND PREVENTION PROGRAM.

A. *General requirements; timetable.*

1. Any business which handles any acutely hazardous material at any time within the calendar year, shall be required to file an acutely hazardous material registration form, pursuant to Cal. Health & Safety Code § 25533. Within ninety (90) days after the Department receives the form, said business may be required, at the discretion of the Fire Chief, to prepare a Risk Management and Prevention Program (RMPP) for that business. The RMPP shall be prepared within twelve (12) months following the Fire Chief's request for preparation.

2. The RMPP shall be required for any new or modified facility which will be used for the handling of acutely hazardous materials and which will commence or have commenced new or modified operations on or after January 1, 1988. The new or modified operations dealing with acutely hazardous materials shall not commence until the RMPP has been prepared and certified, pursuant to Subsection D. The RMPP shall be prepared in addition to the business plan required in § 9.03.115 of this Subchapter. A separate plan shall be prepared for each site, branch, or facility of the business located within Culver City, unless the Fire Chief agrees to a consolidated plan.

B. *Plan contents.* The RMPP shall include all the information required by Cal. Health & Safety Code § 25534.

C. *Review and update of RMPP.* The handler shall review the RMPP, and shall make necessary revisions to the RMPP at least every three (3) years, but, in any event, within sixty (60) days following a modification which would materially affect the handling of an acutely hazardous material.

D. *Certification; copy of RMPP.* The RMPP, including any revisions required by the Department, shall be certified as complete by a qualified professional and the facility operator. If requested, a copy shall be provided to the Department.

E. *Notification of completion; implementation of the RMPP.* The handler shall notify the Department in writing when the RMPP has been completed and certified. The handler shall implement the programs and activities specified in the RMPP. The handler shall again notify the Department in writing when the RMPP has been implemented, and shall summarize the steps taken in the preparation and implementation of the RMPP. The handler shall continue to carry out the programs and activities specified in the RMPP after notification of implementation is sent to the Department.

('65 Code, § 16-12) (Ord. No. 88-014 § 2)

§ 9.03.125 TRADE SECRETS.

A. *Trade secret factors; disclosure to Department.* If a business believes the inventory required by this Subchapter involves the release of a trade secret, the business shall still make the full disclosure to the Department, but shall notify the Department in writing of that belief on the inventory form.

B. *Protection from disclosure.* Subject to the requirements of Cal. Health & Safety Code § 25511, this Section and the Resolution adopted pursuant to this Subchapter, any person who receives trade secret information as authorized hereunder, shall protect from disclosure any trade secret designated as such by the handler.

C. *Violations; enforcement.* Any person, as described in the Resolution adopted pursuant to this Subchapter, who discloses trade secret information in violation of this Section and/or the Resolution, is guilty of a misdemeanor.

('65 Code, § 16-13) (Ord. No. 88-014 § 2)

§ 9.03.130 PUBLIC INSPECTION OF RECORDS.

A. The business plan and revisions thereto shall be available for public inspection during the regular working hours of the Administration Division of the Department, except that those portions of the business plan specifying the location where hazardous materials are stored and handled on-site, shall not be available for public inspection. Such location information includes, but is not limited to, any maps of the site, as required by Cal. Health & Safety Code § 25509(a) (5).

B. Trade secret information shall not be revealed, except if it is required by Cal. Health & Safety Code § 25511 or § 11042 of Title III (42 USC 11042). However, business plan information shall be made available to Federal, State and other local agencies upon request.

('65 Code, § 16-14) (Ord. No. 88-014 § 2)

§ 9.03.135 REPORTING RELEASE OR THREATENED RELEASE OF HAZARDOUS MATERIALS.

A. Immediate verbal notice required.

1. A person shall provide an immediate, verbal report of any release or threatened release of a hazardous material to the Department and the State Office of Emergency Services, as soon as:

- a. He or she has knowledge of the release or threatened release;
- b. Notification can be provided without impeding immediate control of the release or threatened release; and
- c. Notification can be provided without impeding immediate emergency medical measures.

2. The immediate reporting required hereunder shall include all the information described in the Resolution adopted pursuant to this Subchapter. An immediate report shall not be required if there is a reasonable belief that the release or threatened release poses no significant present or potential hazard to human health and safety, property, or the environment. Each handler shall allow fire, public health and safety personnel to have access to the facility.

B. Written report required. In addition to the immediate verbal notification required in Subsection A., any business with ten (10) or more employees and which handles more than ten thousand (10,000) pounds of hazardous materials in a single calendar year shall submit a copy to the Department of any report on any release or threatened release of a hazardous material prepared in writing, pursuant to Title III, being 42 USC 11001 et seq., as submitted to the Administrator of the U.S. Environmental Protection Agency, within ten (10) days of the date of the release.

('65 Code, § 16-15) (Ord. No. 88-014 § 2)

§ 9.03.140 AUTHORITY TO INSPECT.

In order to carry out the purposes of this Subchapter, any employee or authorized representative of the Department shall be granted access to inspect the premises of a handler, and any real property within two thousand (2,000) feet of the premises of a handler, pursuant to the authority specified in Cal. Health & Safety Code §§ 25185, 25185.5 and 25508. The Department shall also have the right to inspect the premises of a handler to determine if the business plan and/or RMPP has been implemented.

('65 Code, § 16-16) (Ord. No. 88-014 § 2)

§ 9.03.145 FEES.

A. *In general.* To pay for the costs incurred by the City in carrying out the provisions of this Subchapter, the City Council shall by Resolution, set a schedule of fees to be collected from each business.

B. *Late fees.* Businesses submitting inventories and business plans after the filing deadlines established by Resolution by the City Council, shall be assessed a penalty as provided by Resolution. Any business which pays its fees after the required payment date shall also be assessed a penalty.

C. *Enforcement.* Any business which fails to pay the fees established pursuant to this Subchapter or fails to pay the late fees when applicable under Subsection B. shall not be issued a City Business Tax Certificate nor be allowed to renew a current Certificate, until such time as the fees are paid in full.

('65 Code, § 16-17) (Ord. No. 88-014 § 2)

§ 9.03.150 CIVIL AND CRIMINAL PENALTIES AND FINES; REWARDS.

A. *Civil liability.* Any business found in violation of §§ 9.03.110 (Business Plans), 9.03.115 (Inventories), 9.03.120 (RMPP), 9.03.140 (Inspections) and/or 9.03.145 (Fees) of this Subchapter, or of the implementing regulations, rules and procedures thereto shall be civilly liable to the City in the following amounts:

1. For any violation, an amount not to exceed Two Thousand Dollars (\$2,000.00) for each day of violation, except as otherwise provided in this Section.

2. Any business that knowingly violates the above-stated sections, after reasonable notice of the violation, shall be civilly liable to the City in an amount not to exceed Five Thousand Dollars (\$5,000.00) for each day of violation.

3. If the violation results in, or significantly contributes to, an emergency, including but not limited to a fire, the business shall also be assessed the full cost of the City and/or county emergency response, as well as the cost of cleaning up and disposing of the hazardous materials.

4. If a civil penalty has been levied under this Section, against a business which fails to submit full payment of the penalty, that business shall not be issued a new City Business Tax Certificate nor be allowed to renew a current Certificate, until such time as the penalty is paid in full. Furthermore, a late fee may be assessed.

B. *Criminal fines and imprisonment; failure to report releases; risk management and prevention.*

1. a. Any business that violates §§ 9.03.110 (Business Plans), 9.03.115 (Inventories), and 9.03.145 (Fees) of this Subchapter shall be guilty of an infraction, except as otherwise provided in this Subchapter, which shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00), in accordance with the provisions of § 1.01.035 of the Culver City Municipal Code. Each and every day a violation continues shall constitute a separate offense.

b. Any violation which would otherwise be an infraction shall be a misdemeanor if a defendant has been convicted of three (3) or more violations of this Subchapter within the twelve (12) month period immediately preceding the violation and if such prior convictions are admitted

by the defendant and/or alleged in the accusatory pleading. For this purpose, a bail forfeiture shall be deemed a conviction of the offense charged.

2. Any person or business who violates § 9.03.135 of this Subchapter (reporting of releases), or who knowingly makes any false statement or representation in any record, report, or other document filed, maintained, or used for the purpose of compliance with § 9.03.120 of this Subchapter (RMPP) or with Cal. Health & Safety Code §§ 25500 et seq., shall, upon conviction, be subject to the following penalties:

a. First conviction - A fine not to exceed Twenty-Five Thousand Dollars (\$25,000.00) for each day of violation, or by imprisonment in the county jail for not more than one (1) year, or by both the fine and imprisonment.

b. Repeat convictions - If the conviction is for a violation committed after a first conviction under this Section, the person shall be punished by a fine of not less than Two Thousand Dollars (\$2,000.00) nor more than Fifty Thousand Dollars (\$50,000.00) for each day of violation, or by imprisonment in the State prison for sixteen (16), twenty (20), or twenty-four (24) months or in the county jail for not more than one (1) year, or by both the fine and imprisonment.

c. If the violation results in, or significantly contributes to, any emergency, including, but not limited to a fire, the person or business shall also be assessed the full cost of the City and/or county emergency response, as well as the cost of cleaning up and disposing of the hazardous materials.

C. *Interference with enforcement; misdemeanor.* Any person who willfully prevents, interferes with, or attempts to impede the enforcement of this Subchapter by any authorized representative of the City is, upon conviction, guilty of a misdemeanor.

D. *Rewards; persons providing information.* Any person who provides information which materially contributes to (1) the imposition of a civil penalty under § 9.03.150 A.; or (2) the conviction of a person under § 9.03.150 B. as determined by the City Attorney or other person filing the action, shall receive a reward from the City or the State equal to ten percent (10%) of the amount of the settlement or the fine collected, not to exceed Five Thousand Dollars (\$5,000.00), according to the provisions and limitations of Cal. Health & Safety Code § 25517. The reward shall be paid from the amount of the civil penalty or criminal fine collected. This Section shall not apply to any City employee who provides such information in the scope of his/her employment.

E. *Other laws, rules and regulations.*

1. The provisions of this Section are in addition to other provisions of local, State and Federal laws, regulations, and rules, which in and of themselves, or in combination with the requirements of this Section, may bring about civil and/or criminal actions against a person or business for violation of the specific sections of those laws, rules, or regulations.

2. Pursuant to § 1.01.055 of the Culver City Municipal Code, unless otherwise expressly provided, the remedies and penalties provided by this Subchapter are cumulative to each other and to the remedies and penalties available under other laws.

('65 Code, § 16-18) (Ord. No. 88-014 § 2)

§ 9.03.155 INVESTIGATIONS OF VIOLATIONS.

The Department shall be the lead agency in all investigations of violations of this Subchapter and/or of violations of Cal. Health & Safety Code §§ 25500 et seq., except if the Fire Chief authorizes in writing that another agency may accept lead status. Such authorizations shall be made on a case-by-case basis.

('65 Code, § 16-19) (Ord. No. 88-014 § 2)

§ 9.03.160 LIBERAL CONSTRUCTION; SEVERABILITY.

A. This Subchapter is to be liberally construed so as to accomplish the intent of the City Council in protecting the public health, safety and welfare and the environment.

B. For the purpose of this Subchapter, all references to any Federal, State or local laws, statutes and codes shall be construed to include any amendments thereto and any rules and regulations promulgated thereunder.

C. Severability. If any provision of this Subchapter or the application thereof to any person or circumstances is held invalid, that invalidity shall be severable from and shall not affect any and all remaining phrases, clauses, sentences, paragraphs and sections of this Subchapter.

('65 Code, § 16-20) (Ord. No. 88-014 § 2)

§ 9.03.165 INCIDENT COMMAND AUTHORITY.

The authority for incident command at the scene of an on-highway hazardous substance incident on local streets and roads, other than freeways, is assigned to the Culver City Fire Department.

('65 Code, § 16-21) (Ord. No. 96-008 § 1)

CULVER CITY HAZARDOUS WASTE MANAGEMENT PLAN**§ 9.03.300 PURPOSE AND ADOPTION; CONTENTS.**

Pursuant to state requirements, the City has determined it shall provide a plan for the management of hazardous waste, including the siting of hazardous waste storage, transfer and/or disposal facilities, which is consistent with the provisions of the Los Angeles County Hazardous Waste Management Plan ("LA CoHWMP"). Pursuant to Cal. Health & Safety Code § 25135.7 (c)(1), the City, in its efforts to assist in the proper management of hazardous waste and to provide adequate protections for its citizens, adopts that certain document titled the Culver City Hazardous Waste Management Plan ("CCHWMP"), a copy of which shall be kept on file with the City Clerk and the City's Planning Division. The CCHWMP includes the following elements, as described in Cal. Health & Safety Code § 25135.1(d):

A. An analysis of the hazardous waste stream generated in Los Angeles County, including an accounting of the volumes of hazardous waste produced in the County by type of waste, and estimates of the expected rates of hazardous waste production until 1994, by type of waste.

B. A description of the existing hazardous waste facilities which treat, handle, recycle, and dispose of the hazardous waste produced in the County, including a determination of the existing capacity of each facility.

C. An analysis of the potential in the County for recycling hazardous waste and for reducing the volume and hazard of hazardous waste at the source of generation.

D. A consideration of the need to manage the small volumes of hazardous waste produced by businesses and households.

E. A determination of the need for additional hazardous waste facilities to properly manage the volumes of hazardous waste currently produced or that are expected to be produced during the planning period.

F. Siting criteria to be utilized in selecting sites for new hazardous waste facilities.

G. A statement of goals, objectives and policies for the siting of hazardous waste facilities and the general management of hazardous wastes through the year 2000, as well as a statement of the goals of the City.

H. A schedule which describes County and City actions necessary to implement the LA CoHWMP and CCHWMP through the year 2000, including the assigning of dates for carrying out the actions.

('65 Code, § 16-24) (Ord. No. 91-013 § 1 (part))

§ 9.03.305 HAZARDOUS WASTE MANAGEMENT FACILITY SITING PERMIT.

A. *Permit required.* A Culver City Hazardous Waste Facility Siting Permit ("Facility Siting Permit" or "FSP") shall be obtained prior to the siting of any hazardous waste management facility in the City.

('65 Code, § 16-25)

B. *Procedures for obtaining permit.* To obtain a Facility Siting Permit, the applicant must comply with the following procedures and in addition, with the applicable provisions of the Health and Safety Code, pertaining to permitting of hazardous waste facilities:

1. *Information required.* Applications shall be accompanied by:

a. A plot plan and description of the property involved, plans and descriptions of the proposed use of the property, with ground plans and elevations for all proposed buildings; and

b. Any other information required in determining the validity of the request.

2. *Filing of applications.*

a. Applications for a Facility Siting Permit shall be made in writing to the City Planner and in such form and supplying such information as is required pursuant to this Subchapter. No application shall be accepted, unless it complies with such requirements.

b. Applications filed pursuant to this Subchapter shall be numbered consecutively in the order of their filing and shall become a part of the permanent official records of the City and there shall be attached thereto copies of all notices and actions pertaining thereto.

3. *Filing fees.* Before accepting any application for filing, the City shall charge and collect a filing fee, based on the type of application, in an amount set forth by resolution of the City Council, for the purpose of defraying the expenditures, incidental to the proceedings required.

4. *Investigation.* The City Planner, or his/her designee shall make such investigation of facts bearing upon such applications as will serve to provide all necessary information to assure that the action on each such application is consistent with the intent and purpose of this Subchapter. The City Planner, upon completing the investigation, shall immediately prepare for the Planning Commission a staff report setting forth the pertinent facts and one or more recommended courses of action.

5. *Procedures for public hearings and actions; Planning Commission and City Council.* The procedures and requirements as set forth in this Section shall govern public hearings before the Planning Commission and the City Council and actions on matters requiring public hearings.

6. *Setting of public hearings.* The Clerk of the Planning Commission, upon receipt in proper and complete form of any application requiring a public hearing shall fix a reasonable time and place for a public hearing which shall commence not less than twelve (12) calendar days nor more than ninety (90) calendar days after the receipt of the application.

7. *Notice of public hearings.*

a. All notices for public hearings regarding a Facility Siting Permit, before the Planning Commission and the City Council, shall be by mailing, postage prepaid, to the owners of property within a radius of one thousand (1000) feet of the exterior boundaries of the property described in the application, using for this purpose the last known name and address of such owners as shown upon the City's copy of the assessment rolls of the County of Los Angeles. Such notice shall state the nature of the request, the location of the property and the time and place of the hearing.

b. Notice of a public hearing regarding a Facility Siting Permit shall be published once in a newspaper of general circulation in the City, not less than ten (10) calendar days prior to the date of the public hearing.

c. In the case of a hearing before the City Council, the City Clerk shall cause to be posted notices headed "Notices of Hearing for a Culver City Hazardous Waste Facility Siting Permit," which heading shall be in words not less than one (1) inch in height and the notice to be substantially the same as the postcard, except that explanatory maps or plats posted shall not be required on the postcard. Posted notices shall be posted not more than one hundred (100) feet in distance apart within a one thousand (1000) foot radius, and there shall be at least three (3) of such notices on each side of the property. Such notices shall be posted at least ten (10) calendar days prior to the time set for the public hearing.

d. Notices of the public hearing shall be sent by certified mail to the applicant(s), not less than ten (10) calendar days before the date set for the hearing.

8. *Public hearing.* The Planning Commission and City Council shall each review the application or proposed action and the staff report and recommendation followed by any other evidence pertinent to any action proposed to be taken. All persons so desiring shall be heard relative to the subject matter for the public hearing. The applicant or appellant may appear in his/her own behalf or be represented by counsel or other duly authorized representative. The Planning Commission and City Council may establish their own rules for the conduct of such hearings.

9. *Notice of decision.* Within ten (10) working days after recommendation by the Planning Commission, a notice to the applicant shall be delivered or mailed at the address shown on the application. A copy of such notice shall also be sent, within the same period of time, to each member of the City Council, City Manager, City Attorney and to each person who has made a written request for such notice.

10. *Decision of the Planning Commission.* The decision of the Planning Commission shall be advisory to the City Council.

11. *City Council hearing and final decision.* Within ten (10) working days after action by the Planning Commission, the Planning Commission's recommendations and the complete record of the case, shall be delivered to the City Clerk for transmittal to the City Council. The City Clerk shall set a City Council public hearing in accordance with the provisions of this Section. The City Council shall reach a final decision within thirty (30) calendar days following the close of the City Council public hearing.

('65 Code, § 16-26)

(Ord. No. 91-013 § 1 (part))

§ 9.03.310 LAND USE APPROVALS.

Pursuant to Cal. Health & Safety Code § 25135.7(d) the City may attach appropriate conditions to the issuance of any land use approval of a hazardous waste facility in order to protect the public health, safety or welfare of its citizens.

('65 Code, § 16-27) (Ord. No. 91-013 § 1 (part))

CHAPTER 9.04: NUISANCES

Section

Nuisances Enumerated

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Administrative Procedures for Abatement of Nuisances

- 9.04.030 Abatement of public nuisances
- 9.04.035 Continuing obligation of responsible persons to abate a public nuisance
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- 9.04.135 Recordation of declaration of substandard property
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Graffiti

- 9.04.200 Prevention and removal of graffiti

- 9.04.205 Definitions
- 9.04.210 Graffiti prohibited
- 9.04.215 Possession of graffiti implement
- 9.04.220 Removal policy
- 9.04.225 Authorization to remove; methods
- 9.04.230 Notice to abate; appeal; abatement by city
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- 9.04.240 Failure to remove graffiti upon notice
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- 9.04.250 Reward for information
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- 9.04.260 Penalty for violation
- 9.04.265 Community service
- 9.04.270 Suspension or delay of driving privileges

Cross-reference:

Abandoned vehicles, see Ch. 9.05

Unruly parties and gatherings; law enforcement costs, see §§ 9.06.005 through 9.06.025

Newsracks, see §§ 9.08.600 through 9.08.675

NUISANCES ENUMERATED

§ 9.04.005 PURPOSE AND INTENT.

A. *Purpose and intent.* The purpose and intent of this Chapter are as follows:

1. To define as public nuisances and violations those conditions and uses of land that are offensive or annoying to the senses, detrimental to property values and community appearance, an obstruction or interference with the comfortable enjoyment of adjacent properties or premises (both public and private), and/or are hazardous or injurious to the health, safety, or welfare of the general public.
2. To develop regulations that will promote the sound maintenance of property and enhance of conditions of appearance, habitability, occupancy, use and safety of all structures and premises in all areas of the City.
3. To establish administrative procedures for the City's use, upon its election, to correct or abate violations of this Chapter on real property throughout the City.

4. This Chapter is not intended to be applied, construed or given effect in a manner that imposes upon the City, or upon any officer or employee thereof, any duty towards persons or property within the City or outside of the City that creates a basis for civil liability for damages, except as otherwise imposed by law.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.010 DEFINITIONS.

As used in this Chapter, the following definitions shall apply. For purposes of this Chapter, these definitions shall supersede any other definitions of the same terms elsewhere in this Code.

ABANDONED PERSONAL PROPERTY. Any item, object, thing, material or substance that, by its condition of damage, deterioration, disrepair, nonuse, obsolescence or location on public real property or on private real property, causes a reasonable person to conclude that the owner has permanently relinquished all right, title, claim and possession thereto, or that the object, thing, material or substance cannot be used for its intended or designed purpose. **ABANDONED PERSONAL PROPERTY** may include junk and vehicles.

ABANDONED STRUCTURE. Real property, or any building or structure thereon, that is vacant and is maintained in an uninhabitable condition or a condition of disrepair or deterioration as evidenced by the existence of public nuisances therein, or that is vacant and under a current notice of default and/or notice of trustee's sale, pending tax assessor's lien sale, or that is vacant and has been the subject of a foreclosure sale where title was retained by the beneficiary of a deed of trust involved in the foreclosure. Factors that may also be considered in a determination of an **ABANDONED STRUCTURE** include, without limitation: present operability and functional utility; the presence of non-functional, broken or missing doors or windows, such that entry therein by unauthorized persons is not deterred; the existence of real property tax delinquencies for the land upon which the structure is located; age and degree of obsolescence of the structure, and the cost of rehabilitation or repair versus its market value.

ABATEMENT COSTS. All costs, fees, and expenses, incidental or otherwise, incurred by the City in investigating and abating a public nuisance.

ATTRACTIVE NUISANCE. Any condition, device, equipment, instrument, item or machine that is unsafe, unprotected and may prove detrimental to minors whether in a structure or in outdoor areas of developed or undeveloped real property. This includes, without limitation, any abandoned or open and accessible wells, shafts, basements or excavations; any abandoned refrigerators and abandoned or inoperable motor vehicles; any structurally unsound fences or structures; or, any lumber, trash, fences, debris or vegetation which may prove hazardous or dangerous to inquisitive minors. An **ATTRACTIVE NUISANCE** shall also include pools, standing water or excavations containing water, that are unfenced or otherwise lack an adequate barrier thereby creating a risk of drowning, or which are hazardous or unsafe due to the existence of any condition rendering such water to be clouded, unclear or injurious to health due to, without limitation, any of the following: bacterial growth, infectious or toxic agents, algae, insect remains, animal remains, rubbish, refuse, debris, or waste of any kind.

BUILDING. Any structure designed, used, or maintained for the shelter or enclosure of persons, animals, chattels, equipment, or property of any kind, and shall also include structures

wherein things may be grown, made, produced, kept, handled, stored, or disposed of, and all appendages, accessories, apparatus, appliances, and equipment installed as a part thereof.

CITY. The City of Culver City.

CITY MANAGER. The City Manager or his or her duly authorized representative(s) or designee(s).

CITY PERSONNEL. Any City employee, representative, agent or contractor designated by the City Manager.

CODE, CODES, and CULVER CITY MUNICIPAL CODE. The City of Culver City Municipal Code and any code, law, or regulation incorporated therein by reference and any adopted and uncodified ordinances.

CODE ENFORCEMENT FEES. Fees imposed by the city to defray its costs of code enforcement actions, pursuant to Cal. Gov't Code § 54988 and Cal. Health & Safety Code § 17951 (and any successor statutes thereto), the Culver City Building Code, and any other applicable local, state, or federal law, as well as by the City's police powers as authorized by the California Constitution, including, but not limited to, the time and other resources of public officials and city consultants expended by them in identifying, inspecting, investigating, seeking or causing the abatement of a violation at a real property. Examples of code enforcement actions include, but are not limited to, site inspections, drafting reports, taking photographs, procuring other evidence, engaging in meetings with other officials of the city or other agencies, engaging in conferences and communications with responsible persons, their agents or representatives, concerning a violation, as well as with attorneys for the city at any time, and appearances before judicial officers or reviewing authorities during the commencement or pendency of a judicial or administrative hearing. The time and resources that public officials and city consultants further expend to confirm that a real property remains free of a violation while a responsible person is on probation to a court or when a matter concerning a property remains pending before a reviewing authority in an administrative action, shall also constitute code enforcement actions.

CODE ENFORCEMENT OFFICER. Any individual employed by the City with primary enforcement authority for City Codes, or his or her duly authorized representative(s).

COMMERCIAL VEHICLE. Any vehicle of a type required to be registered under the State of California Vehicle Code used or maintained for the transportation of persons for hire, compensation or profit, or designed, used, or maintained primarily for the transportation of property or for other commercial purposes. Passenger vehicles that are not used for the transportation of persons for hire, compensation, or profit, house cars (motor homes), and vanpool vehicles are not commercial vehicles.

COMPLIANCE PERIOD. The period of time and/or required schedule for the abatement of any violation as set forth in any warning, notice, citation, or other communication from the City, including, but not limited to, a Notice of Abatement and/or an Order of Abatement.

CONTROLLED SUBSTANCES. Any substance that is declared by State or Federal law to be a controlled substance.

FIRE HAZARD. Shall include, but shall not be limited to, any device, equipment, waste, vegetation, condition, thing, or act which is in such a condition that it increases or could cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing, or

extinguishing fire or that otherwise provides a ready fuel to augment the spread and intensity of fire or explosion arising from any cause; or any device, equipment, waste, vegetation, condition, thing, or act which could obstruct, delay, hinder, or interfere with, or may become the cause of obstruction, delay, or hindrance of, the operations of the Fire Department or other emergency service personnel or the egress of the occupants in the event of fire.

GRAFFITI. Any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on or otherwise glued, posted, or affixed to or on any public or private real or personal property (including, but not limited to, buildings, structures, and vehicles), regardless of the nature of the material to the extent that the same was not authorized in advance by the owner thereof. **GRAFFITI** shall also include any writing, drawing, or inscription defined as **GRAFFITI** in § 9.04.205 of this Chapter or as defined in State law.

HAZARDOUS MATERIALS. Any material or substance of any kind that is declared by any federal, state, or local law, ordinance, or regulation to be composed of hazardous material.

HEARING OFFICER. Any city employee or other person appointed by the City Manager to hear all timely appeals as set forth in this Chapter.

INCIDENTAL EXPENSES. Shall include, but shall not be limited to, the actual expenses and costs of the City or incurred by the City, such as preparation of notices, specifications, contracts, inspection of work, costs of printing and mailings required hereunder, costs of any filing and/or recordation with the County Recorder's Office or other governmental agency, and the costs of administration and legal services.

INOPERABLE VEHICLE. Includes, without limitation, any vehicle that is incapable of being lawfully driven on a highway. Factors that may be used to determine this condition include, without limitation, vehicles that have a "planned non-operational" status with the California Department of Motor Vehicles, vehicles lacking a current registration, a working engine, transmission, wheels, inflated tires, doors, windshield or any other part or equipment necessary for its legal and safe operation on a highway or any other public right-of-way.

JUNK. Includes, but is not limited to, any cast-off, damaged, discarded, junked, obsolete, salvaged, scrapped, unusable, worn-out or wrecked appliance, device, equipment, furniture, fixture, furnishing, object, material, substance, tire, or thing of any kind or composition. **JUNK** may include abandoned personal property, as well as any form of debris, refuse, rubbish, trash or waste. Factors that may be considered in a determination that personal property is **JUNK** include, without limitation, its:

1. Condition of damage, deterioration, disrepair or nonuse.
2. Approximate age and degree of obsolescence.
3. Location.
4. Present operability, functional utility and status of registration or licensing, where applicable.
5. Cost of rehabilitation or repair versus its market value.

NOTICE OF ABATEMENT. A Notice of Public Nuisance and Intention to Abate with City Personnel, as described in § 9.04.040 of this Chapter.

ORDER OF ABATEMENT. An order issued by a Hearing Officer following an appeal of a Notice of Abatement.

OWNER. Means and includes any person having legal title to, or who leases, rents, occupies or has charge, control or possession of, any real property in the City, including all persons shown as owners on the last equalized assessment roll of the Los Angeles County Assessor's Office. **OWNERS** include persons with powers of attorney, executors of estates, trustees, or who are court appointed administrators, conservators, guardians or receivers. An **OWNER** of personal property shall be any person who has legal title, charge, control, or possession of such property.

PERSON. Means and includes any individual, partnership of any kind, corporation, limited liability company, association, joint venture or other organization, however formed, as well as trustees, heirs, executors, administrators, or assigns, or any combination of such persons.

PERSON also includes any public entity or agency that acts as an owner in the City.

PERSONAL PROPERTY. Property that is not real property, and includes, without limitation, any appliance, article, device, equipment, item, material, product, substance or vehicle.

PLANT MATERIAL. Trees, shrubs, vines, ground cover, turf or any other ornamental live plants, or as otherwise defined in the Culver City Zoning Code.

PUBLIC NUISANCE. Anything which is, or likely to become, injurious or detrimental to health, safety or welfare, or is offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any sidewalk, public park, square, plaza, street or highway. All conditions hereafter enumerated in this Chapter, or that otherwise violate or are contrary to any provision of the Culver City Municipal Code, are **PUBLIC NUISANCES** by definition and declaration, and said enumerated conditions shall not, in any manner, be construed to be exclusive or exhaustive. A **PUBLIC NUISANCE** shall also exist when a person fails to comply with any condition of a City approval, entitlement, license or permit or when an activity on, or use of, real property violates, or is contrary to, any provision or requirement of the Culver City Municipal Code.

REAL PROPERTY or PREMISES. Any real property owned by any person and/or any building, structure, or other improvement thereon, or portions thereof. **REAL PROPERTY** or **PREMISES** includes any parkway or unimproved public easement abutting or adjacent to such real property, whether or not owned by the City of Culver City.

RESPONSIBLE PERSON. Any person, whether as an owner as defined in this Chapter, or otherwise, that allows, causes, creates, maintains, suffers, or permits a public nuisance, or any violation of the Culver City Municipal Code or County or State law, or regulation thereof, to exist or continue, by any act or the omission of any act or duty. A **RESPONSIBLE PERSON** shall also include employees, principals, joint venturers, officers, managers, agents, and/or other persons acting in concert with, or at the direction of, and/or with the knowledge and/or consent of the owner and/or occupant of the lot, building or structure on, or in which, a public nuisance or violation exists or existed. The actions or inactions of a responsible person's agent, employee, representative or contractor may be attributed to that responsible person.

STRUCTURE. That which is built or constructed, an edifice, wall, fence, or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. For purposes of this Chapter, this definition shall supersede any other definition of this term in the Culver City Municipal Code.

TARP. A piece of plastic, canvas or other durable fabric such as denim or polyvinyl typically designed or used for temporary protection of exposed objects or areas from the elements.

VACANT. Real property or any building or structure thereon that is not legally occupied, or as to commercial property, where no lawfully licensed business is conducted on a permanent non-transient basis on the property or in the building or structure thereon. Factors that may be used to determine whether real property, or building or structures thereon, is **VACANT** include, but shall not be limited to, the lack of a valid Culver City business tax certificate; or, the presence of overgrown and/or dead vegetation; an accumulation of newspapers, circulars, flyers, and/or mail; past due utility notices and/or disconnected utilities; accumulation of trash, junk, and/or other debris; the absence of window coverings such as curtains, blinds, and/or shutters; the absence of furnishings and/or personal items consistent with residential and/or commercial furnishings consistent with the permitted uses within the zone of the real property; statements by neighbors, passersby, delivery agents, government employees that the property is **VACANT**.

VEHICLE. Any device, by which any person or property may be propelled, moved, or drawn upon a highway or other public right-of-way, and includes all vehicles as defined by the California Vehicle Code, and all future amendments thereto. **VEHICLE** does not include devices (i) that are propelled exclusively by human power such as bicycles and wheelchairs, or (ii) those that are used exclusively upon stationary rails or tracks.

VIOLATION. Means and includes any prohibited activity, condition, or use on land or in connection with a building or a structure that is caused, allowed to exist, or maintained (whether due to an affirmative act, inaction, or omission) by a responsible person in disregard of, or nonconformity with, any other provision, regulation, prohibition, or requirement of the Culver City Municipal Code, or any applicable county, state, or federal laws or regulations. Any such **VIOLATION** shall also constitute an unlawful public nuisance for each and every day or part thereof, during which it is allowed, committed, continued, maintained or permitted by a responsible person.

WEEDS. Shall include, but shall not be limited to, any of the following:

1. Any plant, brush, growth, or other vegetation that bear seeds of a downy or wingy nature;
2. Any plant, brush, growth, or other vegetation that attains such large growth as to become, when dry, a fire hazard;
3. Any plant, brush, growth, or other vegetation that is noxious or dangerous;
4. Poison oak and poison ivy when the conditions of growth are such as to constitute a threat to the public health; or
5. Dry grass, rubble, brush, or other flammable plant, growth, or other vegetation that endangers the public safety by creating or tending to create a fire hazard.

XERISCAPE LANDSCAPING. Native or indigenous plant material that requires little to no water or maintenance, typically the use of mulch, and no or limited drip/subsurface irrigation.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.015 PROHIBITED PUBLIC NUISANCE CONDITIONS ON REAL PROPERTY.

The City Council finds and declares that it is a public nuisance and unlawful for any person to allow, cause, create, maintain, or suffer, or permit others to maintain the following:

A. Any real property or properties in the City in such a manner that any one or more of the following conditions are found to exist thereon:

1. Land, the topography, geology or configuration of which whether in natural state or as a result of the grading operations, excavation or fill, causes erosion, subsidence, or surface water drainage problems of such magnitude as to be injurious or potentially injurious to the public health, safety and welfare, or to adjacent properties.

2. Buildings or other structures, or portions thereof, that are partially constructed or destroyed or allowed to remain in a state of partial construction or destruction for an unreasonable period of time. As used herein, an “unreasonable” period shall mean any portion of time exceeding the period given to a responsible person by the City for the complete abatement of a nuisance condition with all required City approvals, permits and inspections. Factors that may be used by the City to establish a reasonable period for the complete abatement of this nuisance include, but are not limited to, the following:

(a) The degree of partial construction or destruction and the cause therefor.

(b) Whether or not this condition constitutes an attractive nuisance or if it otherwise poses or promotes a health or safety hazard to occupants of the premises, or to others.

(c) The degree of visibility, if any, of this condition from public or adjoining private real property.

(d) The scope and type of work that is needed to abate this nuisance in a manner that conforms to the City’s Building Code.

(e) The promptness with which a responsible person has applied for and obtained all required City approvals and permits in order to lawfully commence the nuisance abatement actions.

(f) Whether or not a responsible person has complied with other required technical code requirements, including requesting and passing required inspections in a timely manner, while completing nuisance abatement actions.

(g) Whether or not a responsible person has applied for extensions to a technical code permit or renewed an expired permit, as well as the number of extensions and renewals that a responsible person has previously sought or obtained from the City.

(h) Whether or not a responsible person has made substantial progress, as determined by the City, in performing nuisance abatement actions under a technical code permit that has expired, or is about to expire.

(i) Whether delays in completing nuisance abatement actions under a technical code permit have occurred, and the reason(s) for such delays.

3. Real property, or any building or structure thereon, that is abandoned, uninhabited, or vacant (irrespective of whether said structure is secured against unauthorized entry) for a period of more than six (6) months.

4. Exterior portions of buildings or structures (including, but not limited to, roofs, balconies, decks, fences, stairs, stairways, walls, signs and fixtures), as well as sidewalks, walkways, pedestrian ways, driveways, parking areas, and any detached or freestanding structure, that have become defective, unsightly, or are no longer viable; or are maintained in a condition of dilapidation, deterioration or disrepair to such an extent as to result in, or tend to result in, a diminution in property values, or where such condition creates a hazard to persons using said building, structure, or way, or where such condition interferes with the peaceful use, possession and/or enjoyment of adjacent properties, or where such condition otherwise violates, or is contrary to, the Culver City Municipal Code, or other applicable law.

5. Failure to provide and maintain adequate weather protection to structures or buildings, in such a manner that results in or tends to result in the existence of cracked, peeling, warped, rotted, or severely damaged paint, stucco or other exterior covering.

6. Broken, defective, damaged, dilapidated, or missing windows, doors, or vents in a building or structure, and/or broken, defective, damaged, dilapidated, or missing screens for windows, doors, or crawl spaces in a building or structure.

7. Windows or doors that remain boarded up or sealed after ten (10) calendar days written City notice to a responsible person requesting the removal of these coverings and the installation of fully functional or operable windows or doors. City actions to board up or seal windows or doors in order to deter unauthorized entry into structures shall not relieve responsible persons from installing fully functional or operational windows or doors.

8. Obstructions of any kind, cause or form that interfere with required natural or mechanical light, heat, or ventilation for a building or structure, or that interfere with, hinder, delay, or impede ingress therein and/or egress therefrom.

9. Abandoned personal property that is visible from public or private property.

10. Any form of an attractive nuisance.

11. Interior portions of buildings or structures (including, but not limited to attics, ceilings, walls, floors, basements, mezzanines, and common areas) that have become defective, unsightly, or are maintained in a condition of dilapidation, deterioration or disrepair, or where such condition interferes with the peaceful use, possession and/or enjoyment of occupants or properties in the vicinity, or where such condition otherwise violates, or is contrary to, the Culver City Municipal Code or other applicable law.

12. Items of junk, trash, debris, or other personal property that are kept, placed, or stored inside of a structure or on exterior portions of real property that constitute a fire or safety hazard or a violation of any provision of the Culver City Municipal Code; or items of junk, trash, debris, or other personal property that are visible from public or private real property; or that are otherwise out of conformity with neighboring community standards to such an extent as to result in, or tend to result in, a diminution in property values.

13. The keeping or disposing of, or the scattering or accumulating of flammable, combustible or other materials including, but not limited to, composting, firewood, lumber, junk, trash, debris, packing boxes, pallets, plant cuttings, tree trimmings or wood chips, discarded items, or other personal property on exterior portions of real property, or within any building or structure thereon, when such items or accumulations:

(a) Render premises unsanitary or substandard as defined by the California Health & Safety Code, the Culver City Building Code, or other applicable local, State, or Federal law, rule, or regulation;

(b) Violate the Culver City Health Code;

(c) Cause, create, or tend to contribute to, a fire or safety hazard;

(d) Harbor, promote, or tend to contribute to, the presence of rats, vermin and/or insects;

(e) Cause, create, or tend to contribute to, an offensive odor;

(f) Are visible from the public right-of-way;

(g) Cause the premises to be out of conformity with neighboring community standards to such an extent as to result in, or tend to result in, a diminution of property values. Provided, however, that this use of land or condition shall not constitute a nuisance when expressly permitted under the applicable zone classification and the premises are in full compliance with all provisions of the Culver City Zoning Code, and all other applicable provisions of the Culver City Municipal Code and any future amendments and additions thereto, as well as applicable County, State, and/or Federal laws and regulations.

14. Unsanitary, polluted or unhealthful pools, ponds, standing water or excavations containing water that constitute an attractive nuisance or that are otherwise likely to harbor mosquitoes, insects or other vectors. The likelihood of insect harborage is evidenced by any of the following conditions: water which is unclear, murky, clouded or green; water containing bacterial growth, algae, insect larvae, insect remains, or animal remains; or, bodies of water which are abandoned, neglected, unfiltered or otherwise improperly maintained.

15. Holiday lights, decorations, or displays that are erected, installed, displayed, or maintained on exterior portions of real property more than thirty (30) calendar days before a Federal, State, or religious holiday and/or more than fifteen (15) calendar days after a Federal, State, or religious holiday.

16. The hanging, drying, or airing of clothing or household fabrics on fences, trees, or shrubberies, or the existence of clotheslines, in front yard areas of any real property, or in any yard area that is visible from a public right-of-way.

17. Canopies, tents, tarps, or other similar membrane structures located in the front yard of any real property or on any other exterior portion of real property that is visible from the public right-of-way, unless otherwise authorized pursuant to a permit or other entitlement from the City.

18. Overgrown vegetation including, but not limited to, any one of the following:

(a) Plant material likely to harbor, or promote the presence of, rats, vermin and/or insects.

(b) Plant material causing detriment to neighboring properties, or that is out of conformity with neighboring community standards to such an extent as to result in, or contribute to, a diminution of property values, including, but not limited to:

(1) Lawns with grass in excess of six inches (6") in height.

(i) Xeriscape landscaping and drought tolerant materials are encouraged as an acceptable landscape feature and are not subject to the six inch (6") limitation set forth herein,

however, xeriscape landscaping must be maintained as indicated in Subsection 9.04.015(A)(18)(b)(2), hereinbelow.

(2) Plant material that is not maintained in a neat, orderly, and healthy manner for that particular species, as a result of lack of adequate mowing, grooming, trimming, pruning, weeding, fertilizing, watering, and/or replacement.

(c) Plant material that creates, or tends to create, the existence of a fire hazard.

(d) Plant material that overhangs or grows onto or into any public property, including, but not limited to, any public alley, highway, land, sidewalk, street or other right-of-way, so as to cause an obstruction to any person or vehicle using such public property.

(e) Tree branches within three feet (3') of the rooftop of a structure so as to facilitate rodent or animal access thereto.

19. Dead, decayed, diseased or hazardous trees, weeds, ground cover, and other vegetation, or the absence of healthful vegetation, that causes, contributes to, or tends to cause or contribute to, any one of the following conditions or consequences:

(a) An attractive nuisance;

(b) A fire hazard;

(c) The creation or promotion of dust or soil erosion;

(d) A diminution in property values; or,

(e) A detriment to public health, safety or welfare.

20. Lack of landscaping or other approved ground cover in any yard area as required by the Culver City Zoning Code or other provisions of the City's municipal code, or so as to promote or cause dust or soil erosion.

21. Garbage containers, yard waste containers, and recycling containers that are kept, placed or stored in driveways or parking areas when less than twenty feet from the front or side property line, or, kept, placed, or stored in front of the building line on the property when the building line is less than twenty feet from the front property line, except when placed in places of collection at times permitted and in full compliance with this Code.

22. Recreational vehicles that are parked or stored on any real property for use as temporary or permanent living space, unless authorized pursuant to any City permit or entitlement or as otherwise authorized by law.

23. Vehicles, trailers, campers, boats, recreational vehicles, and/or other mobile equipment placed, parked or stored in violation of any provision of the Culver City Zoning Code.

24. Vehicles, trailers, campers, boats, recreational vehicles, and/or other mobile equipment placed, parked, or stored on any unpaved surface, or on any paved surface that does not have continuously paved access to an adjacent street, alley, highway, or other public right-of-way for vehicular travel.

25. Parking spaces required by the Culver City Municipal Code, including the Culver City Zoning Code, that are not maintained in such a manner that said spaces are continuously free, accessible, and available for vehicle parking without the movement of real or personal property.

26. Abandoned, dismantled, inoperable or wrecked boats, campers, motorcycles, trailers, vehicles, or parts thereof, unless kept, placed, parked, or stored inside of a completely enclosed, lawfully constructed building or structure.

27. Vehicles, construction equipment, or other machinery exceeding the permissible gross vehicle weight for the streets or public property upon which they are located. A nuisance also exists under this provision when a vehicle, construction equipment, or other machinery is stopped, kept, placed, parked, or stored on private real property and when such vehicle, equipment, or machinery exceeds the permissible gross vehicle weight for the streets or public property that were utilized in its placement on said private real property unless pursuant to a valid permit issued by the City.

28. Any equipment, machinery, or vehicle of any type or description that is designed, used, or maintained for construction-type activities that is kept, parked, placed, or stored on public or private real property except when such item is being used during excavation, construction, or demolition operations at the site and/or where said equipment, machinery, or vehicle is located pursuant to an active permit or license issued by the City.

29. Maintenance of signs, or sign structures, on real property relating to uses no longer lawfully conducted or products no longer lawfully sold thereon, or signs and their structures that are in disrepair or which are otherwise in violation of, or contrary to, the Culver City Zoning Code.

30. Specialty structures that have been constructed for a specific single use only, and which are unfeasible to convert to other uses, and which are abandoned, partially destroyed or are permitted to remain in a state of partial destruction or disrepair. Such specialty structures include, but are not limited to, the following: tanks for gas or liquid(s), lateral support structures and bulk-heads, utility high-voltage towers and poles, utility high-rise support structures, electronic transmitting antennas and towers, structures which support or house mechanical and utility equipment and are located above the roof lines of existing buildings, high rise freestanding chimneys and smoke stacks, and recreational structures such as tennis courts and cabanas.

31. Any personal property or structure that obstructs or encroaches on, across, or over any public property, including, but not limited to, any public alley, highway, land, sidewalk, street or other right-of-way, unless a valid encroachment permit has been issued authorizing said encroachment or obstruction.

32. Any personal property, vegetation, and/or structure that encroaches on, across, or over any public alley, highway, land, sidewalk, street or other right-of-way, or that is otherwise situated on private property, in such a manner that inhibits, prevents, or interferes with vehicular or pedestrian access or use of said right-of-way, or that otherwise endangers vehicles or persons in the immediate area of said right-of-way.

33. Causing, maintaining or permitting graffiti or other defacement of real or personal property to be present or to remain on a building, structure or vehicle, or portion thereof, that is visible from a public right-of-way or from private real property.

34. Storage of hazardous or toxic materials or substances, as so classified by any local, State or Federal laws or regulations, on real property in such a manner as to be injurious, or potentially injurious or hazardous, to the public health, safety or welfare, or to adjacent properties, or that otherwise violates local, State or Federal laws or regulations.

35. Any discharge of any substance or material other than stormwater which enters, or could possibly enter, the City's storm sewer system in violation of the Culver City Municipal Code.

36. Maintenance of any tarpaulin (plastic, vinyl, canvas, or other similar material) or similar covering on or over any graded surface or hillside, except in the following circumstances:

(a) A state of emergency has been declared by local, County, State, or Federal officials directly impacting the area to be covered;

(b) Covering with a tarp performed pursuant to an active building or grading permit; and/or

(c) Tarps installed during the period from December 1 through March 30 of each year, when required due to rain or other weather forecasted within the subsequent seven (7) calendar days that would be likely to damage or erode the graded surface or hillside.

37. Maintenance of any tarpaulin (plastic, vinyl, canvas, or other similar material) or similar covering on or over any roof of any structure, except during periods when rain has been forecasted within the subsequent seven (7) calendar days, or when specifically permitted under an active roofing or building permit.

38. Maintenance of any tarpaulin (plastic, vinyl, canvas, or other similar material) or similar covering attached to, affixed to, or located on a fence for purposes of screening or for providing shade;

39. The keeping or suffering of any animal, reptile, or insect in a manner that poses a threat, disturbance, or menace to persons or property, or in such a manner or quantity that otherwise violates any provision of the Culver City Municipal Code.

40. Maintenance of premises so out of harmony or conformity with the maintenance standards of properties in the vicinity as to cause, or that tends to cause, substantial diminution of the enjoyment, use, or property values of such properties in the vicinity.

B. Pollution.

1. The production of dense smoke, noxious fumes, gas, soot, cinders, or smoke by any commercial or industrial or other organization, through furnaces or other facilities, in such quantities as to be detrimental to the public health or which unnecessarily interferes with the health, comfort, or safety of any person.

2. The pollution of any well, cistern, stream, creek, or other body of water, by sewage, industrial wastes, or other substances detrimental to the public health.

C. Any "unsafe building" or "unsafe structure" as defined by the Culver City Building Code.

D. Any building or structure, or portion thereof, or the premises on which the same is located, in which there exists any of the conditions listed in Cal. Health & Safety Code § 17920.3, and any future amendments thereto.

E. Any building or structure used by any person to engage in acts which are prohibited pursuant to the laws of the United States or the State of California, the provisions of the Culver City Municipal Code, or any other ordinance of this City, including, but not limited to the following acts:

1. Unlawful possession, use, and/or sale of controlled substances; and/or
2. Prostitution; and/or
3. Unlawful gambling.

F. Any real property, or any building or structure thereon, that is used by persons to cause, allow, contribute to, permit, or suffer any of the following acts:

1. Disturbances of the peace;
2. Excessive and/or loud noise disturbances;
3. Consumption of alcohol in public and/or public intoxication;
4. Urination in public;
5. Harassment of passersby;
6. Theft, assault, battery, or vandalism;
7. Storage or sale of stolen goods;
8. Excessive littering;
9. Illegal parking or traffic violations;
10. Curfew violations;
11. School attendance violations;
12. Lewd and/or lascivious conduct; and/or
13. Excessive responses by the Police Department or other law enforcement personnel.

G. Storage or use of gunpowder, dynamite, fireworks, explosive chemicals, or other explosive materials except in compliance with the terms and conditions of a permit sought from and issued by the City.

H. *Noise disturbances.*

1. *General.* Any noise that is made, generated, produced, or continued, whether by a person, activity, animal, fowl, automobile, motorcycle, engine, machine, or other mechanical device, whether on public or private property, in such a manner that it unreasonably disturbs the peace and quiet of any neighborhood or which causes any discomfort or annoyance to any reasonable person of normal sensitivities, or that otherwise violates any provision of the Culver City Municipal Code, including the regulations set forth in Chapter 9.07 (“Noise Regulations”) and/or the noise limits set forth in the Culver City Zoning Code. Factors which shall be considered in determining whether the noise is a nuisance shall include, but not be limited to the following:

- (a) The volume of the noise;
- (b) The intensity of the noise;
- (c) Whether the nature of the noise is usual or unusual;

- (d) Whether the origin of the noise is natural or unnatural;
- (e) The volume and intensity of the background noise, if any;
- (f) The proximity of the noise to residential sleeping facilities;
- (g) The nature of the zoning of the area from which the noise emanates;
- (h) The density of inhabitation of the area from which the noise emanates;
- (i) The time of day or night the noise occurs;
- (j) The duration of the noise;
- (k) Whether the noise is recurrent, intermittent, or constant;
- (l) Whether the noise is produced by commercial or noncommercial activity; and
- (m) Whether the noise is a consequence or expected result of an otherwise lawful use.

2. *Musical instruments, radios, and the like, in residential districts or immediately adjacent thereto, between 10:00 p.m. and 8:00 a.m.* The using, operating or permitting to be played, used or operated, of any musical instrument, radio or phonograph or amplifying device, in such manner as to disturb the peace, comfort or repose of the neighboring inhabitants; the conducting or carrying on of band or orchestral concerts or rehearsals or practice wherein any occupied adjoining building is nearer than 200 feet.

3. *Loud speakers and amplifying devices in public places - permit required.* The playing or operating, or permitting the playing or operating, of any musical instrument, radio or phonograph, or the operation and use of any loud speaker or sound amplifying device, either mobile or stationary, through which device the spoken word, or other sounds, are produced or reproduced in such increased volume as to be clearly audible to a person of normal hearing under normal and ordinary conditions, for a distance of more than 200 feet from the source of such sound, upon the public street, or in any public place, or outside of any doorway of any building facing upon a business street in the City, except in compliance with the terms and conditions of a permit sought from and issued by the City.

4. *Mechanical noise or construction noise near residential zones.*

(a) The use or operation of any automobile, motorcycle, engine, machine, or mechanical device, or other contrivance or facility, or the carrying on of any trade or business, causing between the hours of 8:00 p.m. and 8:00 a.m., any loud or unusual noise or sound, disturbing the peace of residents of a residentially zoned neighborhood.

(b) Any construction or excavation work, except between the hours of 8:00 a.m. and 8:00 p.m. Mondays through Fridays, or between the hours of 9:00 a.m. and 7:00 p.m. on Saturdays, or between the hours of 10:00 a.m. and 7:00 p.m. on Sundays.

5. *Mechanical devices, and the like, interfering with business or industrial operations.* The operation of any automobile, motorcycle, engine, machine or mechanical device or other contrivance or facility, or the carrying on of any trade or business, any loud or unusual noise or sound from which interferes with the transaction or conduct of any business or industrial operation in the surrounding area, unless the making of such noise is incident to the construction

or repair of buildings or equipment or is otherwise necessary to the protection or preservation of the property from which such noise or sound emanates.

6. *Vulgar or obscene language through loud speaker.* The uttering through any loud speaker, sound making or sound amplifying device, or otherwise, of any obscene, vulgar, profane or indecent language, or uttering language intending to, or which would reasonably be expected to, incite riot, destruction or damage to property or injury to any person, or intended to, or which would reasonably be expected to, incite others to do any unlawful act or which utterance would reasonably be expected to create a condition which would result in a clear and present danger of the commission of such unlawful acts.

I. *Use of leaf blowers.* The use or operation of any leaf blower or other portable machine powered with an internal combustion engine used to blow leaves, dirt, and other debris off sidewalks, driveways, lawns and other surfaces without first having obtained a permit pursuant to this Section issued by the Fire Marshal.

1. Each applicant for a leaf blower operator's permit shall be required to demonstrate conformance with the City's guidelines for leaf blower usage and provide evidence of a current business tax certificate. Such guidelines shall be adopted by resolution.

2. Notwithstanding the provisions of § 9.07.050.B of this Code, it shall be unlawful for any person to operate a leaf blower or other machine described in this Section within the City of Culver City, except between the hours 8:00 a.m. and 6:00 p.m. Mondays through Fridays and between the hours of 10:00 a.m. and 5:00 p.m. on Saturdays and Sundays.

3. The City may revoke a permit issued pursuant to this Section as a result of any violation of Subsection J.2.

4. An applicant for a permit who has had a permit revoked or been convicted of or pled guilty or no contest to a criminal charge alleging a violation of this Section within the prior six (6) months shall not be issued a permit.

J. The keeping or maintaining of decayed or unwholesome food, sold, or offered for sale to the public.

K. Any condition recognized in local or State law or in equity as constituting a public nuisance, or any condition existing on real property that constitutes, or tends to constitute, blight, or that is a health or safety hazard to the community or neighboring properties.

L. Any condition, use, or activity that constitutes a public nuisance as defined by Sections 3479 or 3480 of the California Civil Code, and any future amendments thereto.

M. Any building, structure, or use of real property that violates or fails to comply with (i) any applicable approval, permit, license, or entitlement or condition relating thereto, (ii) any ordinance of the City, including, but not limited to any provision of this Code, or (iii) any applicable County, State, or Federal law or regulation.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.020 NUISANCE PROHIBITED; PENALTY.

A. Notwithstanding any other provision of the Culver City Municipal Code to the contrary, any person who causes, permits, suffers, or maintains a public nuisance, or any person who violates any provision of this Chapter, or who fails to comply with any obligation or requirement of this Chapter, is guilty of a misdemeanor offense punishable in accordance with Chapter 1.01 of Title 1 of this Code. A criminal prosecution and/or civil litigation may be initiated without the commencement of the “Administrative Nuisance Abatement” procedures outlined in Part 2 of this Chapter.

B. Nothing in this Chapter shall prevent the City Attorney from prosecuting a violation of this Chapter as an infraction, at his/her discretion, as set forth in § 1.01.035.B of this Code.

C. Nothing in this Chapter shall prevent the City Attorney from bringing a civil action, at his/her discretion, for violations of the provisions of this Chapter, as set forth in § 1.01.050 of this Code.

D. Nothing in this Chapter shall prevent any City Enforcement Officer from issuing Administrative Citations for violation of the provisions of this Chapter, as set forth in Chapter 1.02 of this Code.

E. Each person shall be guilty of a separate offense for each and every day, or part thereof, during which a violation of this Chapter, or of any law or regulation referenced herein, is allowed, committed, continued, maintained or permitted by such person, and shall be punishable accordingly.

(Ord. No. 2013-009, § 4 (part))

ADMINISTRATIVE PROCEDURES FOR ABATEMENT OF NUISANCES

§ 9.04.030 ABATEMENT OF PUBLIC NUISANCES.

All conditions or uses that constitute a public nuisance as defined in this Chapter, or that are contrary to, or in violation of, any other provision or requirement of the Culver City Municipal Code, or of any applicable County or State law, or regulation thereof, which shall also constitute a public nuisance, shall be abated by repair, rehabilitation, demolition, removal or termination. The procedures for abatement in this part shall not be exclusive and shall not, in any manner, limit or restrict the City from pursuing any other remedies available at law, including the use of administrative citations under Chapter 1.02 of this Code, civil actions for penalties and/or equitable relief, or criminal prosecutions, or from enforcing City codes and adopted ordinances, or from abating or causing abatement of public nuisances, in any other manner provided by law.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.035 CONTINUING OBLIGATION OF RESPONSIBLE PERSONS TO ABATE A PUBLIC NUISANCE.

A. Responsible persons shall not allow, cause, create, permit, suffer or maintain a public nuisance to exist on their premises. If public nuisances do arise or occur, responsible persons

shall promptly abate them by repair, rehabilitation, demolition, removal or termination with all required City approvals, permits and inspections, when applicable.

B. The City may exercise its administrative, civil/injunctive and criminal remedies, or any one or combination of these remedies, to compel responsible persons to abate a public nuisance when, in its judgment, such persons have not completed nuisance abatement actions in a timely or proper manner, or when responsible persons have failed to prevent an occurrence or recurrence of a public nuisance.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.040 NOTICE OF PUBLIC NUISANCE AND INTENTION TO ABATE WITH CITY PERSONNEL.

A. Whenever the City Manager or his/her designee, Community Development Director, Police Chief, or Fire Chief determines that City employees, representatives or contract agents (hereafter “City Personnel”) may need to abate a public nuisance, he or she shall cause to be served a written “Notice of Public Nuisance and Intention to Abate with City Personnel” (hereafter in this section and in subsequent sections of this Chapter, the “Notice of Abatement”) on the responsible person(s) that contains the following provisions:

1. The address of the real property on which the nuisance condition(s) exist(s).
2. A description of the nuisance condition(s).
3. A reference to the law describing or prohibiting the nuisance condition(s).
4. A brief description of the required corrective action(s) and
5. A compliance period in which to complete the nuisance abatement actions (with all required City approvals, permits and inspections, when applicable).
6. The period and manner in which a responsible person may contest the Notice of Abatement as set forth in § 9.04.065 of this Chapter. No such right shall exist when the City is not seeking to establish the right to abate a public nuisance with City forces or contract agents.
7. A statement that the City may record a Notice of Substandard Property with the Los Angeles County Recorder’s Office against the premises if the public nuisance is not fully abated or corrected (with all required approvals, permits and inspections), as determined by the City, within a thirty (30) day period after service of the Notice of Abatement and provided that a timely appeal therefrom has not been made.

B. The procedure in Subsection A shall not apply to public nuisances constituting an imminent hazard. In such instances, the provisions in § 9.04.095 (“Emergency Action to Abate an Imminent Hazard”) shall be followed.

C. The City’s election to issue a Notice of Abatement pursuant to this section shall not excuse responsible persons from their continuing obligation to abate a public nuisance in accordance with all applicable laws, regulations and legal requirements. Furthermore, the issuance of a Notice of Abatement shall not obligate the City to abate a public nuisance.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.045 ADDITIONAL REQUIREMENTS FOR DEMOLITION OF BUILDINGS OR STRUCTURES.

A. The City shall provide responsible persons with a reasonable period to elect between options of repair, rehabilitation, or demolition, as well as a reasonable period of time to complete any of these options, before City Personnel abate a public nuisance by demolishing a building or structure pursuant to this Chapter.

B. The City shall serve a Notice of Abatement on all secured lienholders of record with the Los Angeles County Recorder's Office in the event abatement actions include demolition of a building or structure.

C. Notwithstanding the provisions of § 9.04.070.A of this Chapter, entry onto any real property to abate a public nuisance by demolition of a building or structure, excepting in cases involving an imminent hazard, shall be pursuant to a warrant or other order issued by a court of competent jurisdiction.

D. The provisions of this section of this Code shall not apply if demolition is required to address an imminent hazard. In such situation, the provisions of § 9.04.095 ("Emergency Action to Abate an Imminent Hazard") shall apply.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.050 NOTICE AND ORDER TO VACATE BUILDINGS OR STRUCTURES.

A. If the Building Official, Fire Chief, and/or Health Official (or designees thereof) determine that a public nuisance exists at real property (or any buildings or structures thereon) to such an extent that said property (or any building or structure thereon) is immediately dangerous to the life, limb, property, or safety of the occupants of the property or the general public, the building or structure shall be ordered to be vacated.

B. If any building or structure is ordered vacated pursuant to § 9.04.050.A, the Notice of Abatement issued pursuant to § 9.04.040, in addition to the information required pursuant to § 9.04.040, shall include:

1. A determination that the Building Official, Fire Chief, and/or Health Official (or designees thereof) has determined that the property (and/or any building or structure thereon) constitutes an immediate danger to the life, limb, property, or safety of the occupants of the property or the general public;

2. A reference to the specific building(s) and/or structure(s) which is/are being ordered vacated;

3. The date and/or time when the Order to Vacate becomes effective; and

4. Language that substantially states that "No person shall remain in or enter any building or structure that has been ordered vacated until authorized to do so by the Building Official, Fire Chief, and/or Health Official (or designee thereof). No person shall remove, alter, or deface this Notice after it has been posted at the property referenced herein until all required repairs, demolition, or removal have been completed in accordance with this Notice and until such time as the removal of this Notice has been authorized by the Building Official, Fire Chief, and/or

Health Official (or designee thereof). Any person violating this Order to Vacate shall be guilty of a misdemeanor.”

(Ord. No. 2013-009, § 4 (part))

§ 9.04.055 SAMPLE NOTICE OF ABATEMENT.

A. The Notice of Abatement shall be written in a form that is substantially consistent with the following:

Notice of Public Nuisance(s) and Intention to Abate with City Personnel (“Notice of Abatement”)

[Date]

_____ [Responsible Person(s)]

_____ [Mailing Address]

_____ [City, State and Zip Code]

Re: Real Property a _____, CA

L.A. County A.P.N.: _____

Legal description [Optional]: _____

Notice is hereby given that the following public nuisance conditions or activities exist on the premises described above:

(1) [Describe condition or activities] _____

in violation of Culver City Municipal Code [as well as County and State laws, if applicable] Section(s) _____

(a) Required Corrective Action(s):

(with all required permits, approvals and inspections).

(b) Required Completion Date:

__ [Repeat (1 a-b) for each additional public nuisance to be included in this notice]

The foregoing public nuisance conditions are subject to abatement by repair, rehabilitation, demolition, removal or termination.

Please Take Further Notice that you may appeal this Notice of Abatement by filing an appeal on a City approved form with the City Clerk’s office (located at 9770 Culver Boulevard, Culver City, CA) within fifteen (15) calendar days of service of this notice. No fee shall be due for the filing of an appeal. Failure of the City Clerk to receive a timely appeal constitutes a waiver of your right to any further administrative appeal and renders the Notice of Abatement final and binding. A written request for an appeal shall contain the following information:

1. Name, address, and telephone number of each responsible party who is appealing the Notice of Abatement (hereinafter, “appellant”), as well as relationship of appellant to the public nuisance described in the Notice of Abatement.
2. Address and description of real property upon which the City intends to enter and abate a public nuisance.
3. Date of Notice of Abatement being appealed.
4. Specific action or decision being appealed.
5. Grounds for appeal in sufficient detail to enable the Hearing Officer to understand the nature of the controversy.
6. The signature of at least one appellant.

Following appeal, in the case of a final decision by the City, judicial review of this decision is subject to the provisions and time limits set forth in California Code of Civil Procedure sections 1094.6 et seq.

Please Take Further Notice that, if the public nuisance violations are not abated within the time specified and a timely appeal is not made, such nuisance may be abated by City employees, representatives or contract agents (hereafter “City Personnel”), in the manner stated in this Notice of Abatement. On such occasions, all costs of the abatement, including, but not limited to, those stated in Chapter 9.04 of the Culver City Municipal Code, shall be assessed against the responsible person(s) and/or the subject property, as a lien, or as a special assessment, or as otherwise allowed by law.

Please Take Further Notice that the City may record a Notice of Substandard Property with the Los Angeles County Recorder’s Office against the premises if the public nuisance is not fully abated or corrected (with all required approvals, permits and inspections), as determined by the City, in the manner and time set forth in this Notice of Abatement and provided that a timely appeal therefrom has not been made.

Please Take Further Notice that, in the event of abatement by City Personnel, all buildings, structures, and/or personal property constituting a public nuisance may be removed from the subject premises or from public property and destroyed or disposed of, without regard to its actual or salvage value.

Dated: This _____ day of _____ 20____.

Public Official [Name and Title] [End of Form]

A Notice of Abatement shall be deemed in substantial compliance with this subsection regardless of form if all substantive information is contained in such Notice of Abatement.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.060 SERVICE OF NOTICE.

A. Except as otherwise expressly required by a provision of this Chapter, any notice required by this Chapter may be served by personal delivery to any responsible person or by first class mail. The date of service shall be the date it is personally delivered or placed in a U.S. Postal Service receptacle. Failure of any responsible person to receive a properly addressed Notice of Abatement by mail shall not invalidate any action or proceeding pursuant to this Chapter.

1. In addition to being served upon a responsible party in accordance with this Section, any Notice of Abatement that includes an Order to Vacate shall also be posted at or upon the main entrance of the building or structure being ordered vacated or at another prominent location if the entire property is being ordered vacated.

B. Except as otherwise expressly required by a provision of this Chapter, any notice issued to an owner of real property shall be sent to the mailing address on the last equalized assessment roll of the Los Angeles County Assessor's Office. Failure of any owner to receive a properly addressed notice by mail shall not invalidate any action or proceeding pursuant to this Chapter.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.065 RIGHT OF APPEAL FROM A NOTICE OF ABATEMENT.

A. A responsible person may contest a Notice of Abatement by filing a written request for an appeal with the City Clerk's office (located at 9770 Culver Blvd., Culver City, CA) within fifteen (15) calendar days of service of the Notice of Abatement. No fee shall be due for the filing of an appeal.

B. A written request for an appeal shall contain the following information:

1. Name, address, and telephone number of each responsible party who is appealing the Notice of Abatement (hereinafter, "appellant").

2. Address and description of real property upon which the City intends to enter and abate a public nuisance.

3. Date of Notice of Abatement being appealed.

4. Specific action or decision being appealed.

5. Grounds for appeal in sufficient detail to enable the Hearing Officer to understand the nature of the controversy.

6. The signature of at least one appellant.

C. Failure of the City Clerk to receive a timely appeal constitutes a waiver of the right to contest a Notice of Abatement. In this event, the Notice of Abatement is final and binding.

D. The provisions of this section only apply to instances where the City has elected to establish the right, but not the obligation, to abate public nuisances with City Personnel. In no event does this Chapter limit the right of City officials to issue alternative written or oral notices of code violations to responsible persons or to cause the abatement of public nuisances in a different manner, including without limitation, by court orders arising from the City's exercise of its criminal or civil remedies. In such instances, a responsible person shall receive a right to hearing and other due process rights through the court process.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.070 CONSEQUENCE FOR AN UNTIMELY APPEAL.

A. If a timely appeal is not received by the City Clerk, the right to appeal is waived and the Notice of Abatement is final and binding. In such instances, the City may, without any administrative hearing, cause the abatement with City personnel of any or all of the nuisance conditions or activities stated in the Notice of Abatement. Entry onto private real property that is both improved and occupied shall, excepting instances of an imminent hazard, be pursuant to a warrant from a court of competent jurisdiction. The City shall follow the procedures stated in this Chapter for recovery of all abatement costs, fees and expenses (incidental or otherwise).

B. Nothing contained in this Chapter shall obligate the City to undertake abatement actions pursuant to a Notice of Abatement, whether or not there is a timely appeal.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.075 ABATEMENT BY RESPONSIBLE PERSON PRIOR TO HEARING.

A. Any responsible person shall have the right to abate a nuisance in accordance with the Notice of Abatement at his or her own expense, provided all corrective actions are completed with all required City permits, approvals and inspections, prior to the date the matter is set for a hearing.

B. A hearing shall be cancelled if all nuisance conditions or activities are, as determined by the City, fully and lawfully abated prior thereto.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.080 REVIEW BY HEARING OFFICER.

A. Any responsible person who contests a Notice of Abatement shall, subject to filing a timely appeal, obtain review thereof before a hearing officer. The administrative appeal shall be scheduled no later than sixty (60) calendar days, and no sooner than ten (10) calendar days, after receipt of a timely filed request for appeal. The appellants listed on the written request for an appeal shall be notified in writing of the date, time, and location of the hearing at least ten (10) calendar days prior to the date of the hearing.

B. Any request by an appellant to continue a hearing must be submitted to the City Clerk in writing no later than two (2) business days before the date scheduled for the hearing. The hearing officer may continue a hearing for good cause or on his/her own motion; however, in no event may the hearing be continued for more than thirty (30) calendar days without stipulation by all parties.

C. At the place and time set forth in the notification of appeal hearing, the hearing officer shall hear and consider the testimony of the appealing person(s), the issuing officer, and/or their witnesses, as well as any documentary evidence presented by these persons concerning the alleged public nuisance(s).

D. Appeal hearings are informal, and formal rules of evidence and discovery do not apply. The City bears the burden of proof to establish a nuisance exists by a preponderance of evidence. The issuance of a Notice of Abatement shall constitute prima facie evidence of the violation and the Code Enforcement Officer who issued the Notice of Abatement, or another Enforcement Services representative, is required to participate in the appeal hearing. The appellant, and the enforcement officer issuing the Notice, as well as all other responsible persons, shall have the opportunity to present evidence and to present and cross-examine witnesses. The appellant and the enforcement officer issuing the Notice of Abatement, or other responsible persons, may represent himself/herself/themselves or be represented by anyone of his/her/their choice. The appellant, or other interested persons, may bring an interpreter to the hearing at his/her/their sole expense. The City may, at its discretion, record the hearing by stenographer or court reporter, audio recording, or video recording. The hearing officer may question any person who presents evidence or testifies at any hearing.

E. If the appellant fails, or other responsible persons fail, to appear, or to otherwise submit any admissible evidence demonstrating the non-existence of the alleged nuisance(s), the hearing officer shall cancel the hearing and send a notice thereof to the responsible person(s) by first class mail to the address(es) stated on the appeal form. A cancellation of a hearing due to non-appearance of the appellant shall constitute the appellant's waiver of the right to appeal and a failure to exhaust all administrative remedies. In such instances, the Notice of Abatement is final and binding.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.085 DECISION OF HEARING OFFICER; ORDER OF ABATEMENT.

A. Not later than fifteen (15) calendar days following conclusion of the hearing, the hearing officer shall determine if any nuisance condition exists at the subject property. If the hearing officer determines that each nuisance condition described in the Notice of Abatement is non-existent, the Notice of Abatement shall be deemed cancelled. If the hearing officer determines that one or more of the nuisance conditions described in the Notice of Abatement exists, he/she shall issue a written Order of Abatement which shall contain the following:

1. A finding and description of each nuisance condition existing at the subject property.
2. The name of each person responsible for a nuisance condition or conditions at the subject property, as well as the name of any person who is not responsible therefor.
3. The required corrective action and a compliance period for each unabated nuisance condition.
4. Any other finding, determination or requirement that is relevant or related to the subject matter of the appeal.

B. The decision of the hearing officer is final and conclusive. The decision shall also contain the following statement: "The decision of the Hearing Officer is final and binding. Judicial review of this decision is subject to the provisions and time limits set forth in California Code of Civil Procedure Sections 1094.6 et seq."

C. A copy of the decision shall be served by first class mail on each responsible person to whom the Notice of Abatement was issued. If the owner is not an appellant, a copy of the Order

of Abatement shall also be served on the owner by first class mail and certified mail to the address shown on the last equalized assessment roll. Failure of a person to receive a properly addressed decision shall not invalidate any action or proceeding by the City pursuant to this chapter.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.090 ABATEMENT OF NUISANCE BY RESPONSIBLE PERSONS PRIOR TO CITY ABATEMENT ACTIONS.

A. Any responsible person shall have the right to fully abate a nuisance in accordance with the Hearing Officer's decision prior to the date of entry of City personnel upon the subject real property, provided that all corrective actions are completed with all required City permits, approvals and inspections, prior to said entry date. In such instances, all administrative proceedings shall be cancelled, with the exception of the City's right to seek recovery of its incurred incidental expenses, Code Enforcement Fees, and Attorney's Fees as provided by and pursuant to the provisions of this Chapter.

B. Once the City enters a subject real property to abate a public nuisance, it shall have the right to complete this action.

C. It is unlawful and a misdemeanor for any person to obstruct, impede, or interfere with City Personnel in the performance of any act that is carried out to abate a public nuisance.

D. All buildings, structures, and/or personal property that is removed by City Personnel from premises in the abatement of a nuisance shall be lawfully disposed of or destroyed without regard to its actual or salvage value.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.095 EMERGENCY ACTION TO ABATE AN IMMINENT HAZARD.

A. Notwithstanding any provision of the Culver City Municipal Code to the contrary, the City Manager, the Police Chief, the Fire Chief, or the Building Official, or any of their designees, may cause a public nuisance to be summarily abated if it is determined that the nuisance creates an imminent hazard to a person or persons, or to other real or personal property.

B. Prior to abating nuisance that creates an imminent hazard, the City Manager shall attempt to notify a responsible person by telephone or in writing of the imminent hazard and request its abatement by said person; provided however, that the City Manager may dispense with any attempt at prior notification of a responsible person if, in the sole discretion of the City Manager, the nature or severity of the hazard justifies such inaction. If notice has been so given, but, in the sole discretion of the City Manager, the responsible person(s) fail(s) to take immediate and meaningful steps to abate the imminent hazard, the City may abate the nuisance with City Personnel without further notice, and charge the costs and fees thereof to the responsible person (s).

C. Within ten (10) business days following emergency action of City Personnel to abate an imminent hazard, the City shall serve any responsible person with a Notice of Emergency

Abatement by City Personnel of an Imminent Hazard by both certified mail, return receipt requested, and first class mail. Notice to a property owner shall be mailed to the mailing address set forth in the last equalized assessment roll of the Los Angeles County Assessor's Office. Failure of any responsible person to receive a properly addressed Notice of Emergency Abatement by City Personnel of an Imminent Hazard by mail shall not invalidate any action or proceeding pursuant to this Chapter.

D. A Notice of Emergency Abatement by City Personnel of an Imminent Hazard shall contain the following provisions:

1. The name of all known responsible persons who are being served with the Notice of Emergency Abatement by City Personnel of an Imminent Hazard and the address of the real property on which the imminent hazard was present.
2. A brief description of the condition(s) and reasons why it constitutes an imminent hazard.
3. A brief description of the law prohibiting or pertaining to the imminent hazard.
4. A brief description of the actions City Personnel took to abate the imminent hazard.

E. Omission of any of the foregoing provisions in a Notice of Emergency Abatement by City Personnel of an Imminent Hazard, whether in whole or in part, or the failure of a responsible person to receive this document, shall not render it defective or render any proceeding or action pursuant to this Chapter invalid.

F. Emergency abatement of an imminent hazard by City Personnel shall not preclude the City from recording a Declaration of Substandard Property in accordance with the provisions of Section 9.04.135 of this Chapter, if conditions thereafter remain at the premises that constitute a violation of law or a public nuisance.

G. The City shall be entitled to recover its fees and costs (incidental or otherwise) for the abatement of an imminent hazard. In such instances, the City shall follow the procedures set forth in this Chapter.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.100 COMBINATION OF NOTICES.

The notices that are authorized by this Chapter may be combined in the discretion of the City.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.105 ESTABLISHMENT OF COSTS OF ABATEMENT.

A. The City shall keep an accounting of the Abatement Costs.

B. The City shall serve a Statement of Abatement Costs on the responsible persons within ninety (90) calendar days of the City's completion of nuisance abatement actions. Service of this statement may be made in the manner provided for in § 9.04.060 of this Chapter.

C. Unless a timely contest of the Statement of Abatement Costs is filed, a responsible person shall tender the Abatement Costs in U.S. currency to the City within thirty (30) calendar days of the date of service of the Statement of Abatement Costs.

D. A responsible person has the right to contest a Statement of Abatement Costs by filing a written request for contest with the City Clerk's Office (located at 9770 Culver Blvd., Culver City, CA) within fifteen (15) calendar days of service of the Statement of Abatement Costs.

1. A written request for contest shall contain the following information:

(a) Name, address, telephone number, and signature of each responsible person who is contesting the Statement of Abatement Costs.

(b) Address and description of the real property upon which the City abated a public nuisance.

(c) Date of the Statement of Abatement Costs being appealed.

(d) Description of the specific Abatement Cost being contested, and a statement of the grounds for contest in sufficient detail to enable the City Manager or designee thereof to understand the nature of the controversy.

2. No fee shall be due for the filing of a request for contest.

E. Failure of the City Clerk to receive a timely appeal request for contest constitutes a waiver of the right to contest a Statement of Abatement Costs and a failure to exhaust all administrative remedies. In this event, the Statement of Abatement Costs is final and binding, and the City may proceed to collect its Abatement Costs as contained in a final Statement of Abatement Costs in any manner allowed by law.

F. If a timely request for contest is received by the City Clerk, a hearing shall be set before the City Manager no later than sixty (60) calendar days, and no sooner than ten (10) calendar days, of receipt of the request for contest. A notice of the date, time and location of the hearing shall be served on all responsible persons who contested the Statement of Abatement Costs by first class mail to the address(es) stated on the request form at least ten (10) calendar days prior to the hearing. Failure of a person requesting a contest to receive a properly addressed notice shall not invalidate any action or proceeding by the City pursuant to this Chapter.

G. Any request by an appellant to continue a hearing must be submitted to the City Clerk in writing no later than two (2) business days before the date scheduled for the hearing. The City Manager may continue a hearing for good cause or on its own motion; however, in no event may the hearing be continued for more sixty (60) calendar days without stipulation by all parties.

H. At the time and place fixed for receiving and considering the request to contest the Statement of Abatement Costs, the City Manager shall hear and pass upon the evidence submitted by City Personnel, together with any objections or protests raised by responsible persons liable for said costs. Testimony and evidence shall be limited to issues related to the abatement costs, and no person shall be permitted to present evidence or testimony challenging the existence of a public nuisance or manner of abatement as described in the Notice of Abatement. Thereupon, the City Manager may make such revision, correction or modification to the statement as it may deem just, after which the statement, as it is submitted, or as revised, corrected or modified, shall be confirmed. The hearing may be continued from time to time.

I. The decision of the City Manager is final.

J. The City Clerk shall cause a confirmed Statement of Abatement Costs to be served upon all persons who contested the original statement by first class mail to the address(es) stated on the request form. The City Clerk shall cause a confirmed Statement of Abatement Costs to be served on the owner of the property on which City personnel abated a public nuisance by first class mail to the address shown on the last equalized assessment roll (irrespective of whether the owner contested the Statement of Abatement Costs). This document shall also contain the following statement: "The determination of the City Manager is final and binding. This document shall also contain the following statement: "The decision of the City Manager is final and binding. Judicial review of the this decision is subject to the provisions and time limits set forth in California Code of Civil Procedure Sections 1094.6 et seq."

K. Failure of a person to receive a properly addressed confirmed statement shall not invalidate any action or proceeding by the City pursuant to this Chapter.

L. A responsible person shall tender the Abatement Costs in U.S. Currency to the City within thirty (30) calendar days of the date of service of the confirmed Statement of Abatement Costs. The City may thereafter proceed to collect its Abatement Costs as contained in the confirmed Statement of Abatement Costs in any manner allowed by law.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.110 COLLECTION OF ABATEMENT COSTS BY SPECIAL ASSESSMENT.

A. The City may cause a special assessment to be made upon real property upon which a public nuisance was abated pursuant to Cal. Gov't Code § 38773.5, and future amendments thereto, in the event a Statement of Abatement Costs or a confirmed Statement of Abatement Costs is not paid in a timely manner.

B. A Notice of Special Assessment shall be sent to the owner(s) of the subject real property by certified mail at the time the assessment is imposed, which shall contain the following recitals:

The property may be sold after three years by the tax collector for unpaid delinquent assessments. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

C. The City Attorney or City Prosecutor shall establish the Notice of Special Assessment form for use, or consideration by, the Tax Collector in collecting a special assessment.

D. The Notice of Special Assessment shall be entitled to recordation with the Los Angeles County Recorder's Office.

E. The amount of a Special Assessment shall also constitute a personal obligation of the property owners of land upon which the nuisance was abated.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.115 COLLECTION OF COSTS OF ABATEMENT BY NUISANCE ABATEMENT LIEN.

A. As an alternative to the procedure contained in § 9.04.110 of this Chapter, the City may cause a nuisance abatement lien to be recorded upon real property upon which a public nuisance was abated pursuant to Cal. Gov't Code § 38773.1, and future amendments thereto, in the event a Statement of Abatement Costs or a confirmed Statement of Abatement Costs is not paid in a timely manner.

B. A lien shall not be recorded prior to serving the owner of record of the parcel of land on which the public nuisance is maintained, with a notice. This document shall be served in the same manner as a summons in a civil action in accordance with Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. If the owner of record, after diligent search cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of 10 days and publication thereof in a newspaper of general circulation published in Los Angeles County pursuant to Cal. Gov't Code § 6062.

C. The nuisance abatement lien shall be recorded in the Los Angeles County Recorder's office in the County in which the parcel of land is located and from the date of recording shall have the force, effect, and priority of a judgment lien.

D. A nuisance abatement lien authorized by this section shall specify the amount of the lien for the City of Culver City, the name of the City department on whose behalf the lien is imposed, the date of the abatement actions, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the parcel.

E. In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in Subsection (D) shall be recorded by the City. A nuisance abatement lien and the release of the lien shall be indexed in the grantor-grantee index.

F. A nuisance abatement lien may be foreclosed by an action brought by the City for a money judgment.

G. The City may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.

H. The amount of a Nuisance Abatement Lien shall also constitute a personal obligation of the property owners of land upon which the nuisance was abated.

§ 9.04.120 RESTITUTION OF ABATEMENT COSTS IN JUDICIAL PROCEEDINGS.

Nothing in this Chapter shall prevent the City from seeking an order of restitution for abatement costs from a court of competent jurisdiction in connection with a civil or criminal judicial proceeding seeking the abatement of a public nuisance.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.125 TREBLE THE COSTS OF ABATEMENT.

Pursuant to Cal. Gov't Code § 38773.7 (or any subsequent amendment thereto), upon entry of a second or subsequent civil or criminal judgment within a two (2) year period finding that an owner of property is responsible for a public nuisance except for public nuisance conditions abated pursuant to Cal. Health & Safety Code § 17980 ("State Housing Law"), the court may order that person to pay treble the costs of the abatement.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.130 VIOLATIONS AND PENALTIES.

A. Any person who remains in or enters any building or structure that has been ordered to be vacated pursuant to the provisions of this Chapter is guilty of a misdemeanor offense punishable in accordance with Chapter 1.01 of Title 1 of this Code.

B. Any responsible person who fails to comply with an Order of Abatement by completing each of the requisite corrective actions in the manner and time set forth in the Order of Abatement is guilty of a misdemeanor offense punishable in accordance with Chapter 1.01 of Title 1 of this Code.

C. Any person who obstructs, impedes, or interferes with any representative of the City engaged in vacating, repairing, rehabilitating, or demolishing and removing any property pursuant to the provisions of this Chapter is guilty of a misdemeanor offense punishable in accordance with Chapter 1.01 of Title 1 of this Code.

D. Any person who defaces, alters, or removes any notice or order posted as required in this Chapter is guilty of a misdemeanor offense punishable in accordance with Chapter 1.01 of Title 1 of this Code.

E. Each person shall be guilty of a separate offense for each and every day, or part thereof, during which a violation of this Chapter, or of any law or regulation referenced herein, is allowed, committed, continued, maintained or permitted by such person, and shall be punishable accordingly.

(Ord. No. 2013-009, § 4 (part))

RECORDATION, ENFORCEMENT FEES AND ATTORNEY'S FEES

§ 9.04.135 RECORDATION OF DECLARATION OF SUBSTANDARD PROPERTY.

A. Notwithstanding any provision of the Culver City Municipal Code to the contrary, if the City determines that any property, building or structure, or any part thereof, is in violation any provision of the Culver City Municipal Code and said violation has not been fully abated or corrected, as determined by the City, in the manner and time provided in a written notice to a responsible person, then the City, in its sole discretion, may record a Declaration of Substandard Property with the Los Angeles County Recorder's Office against said premises. As used herein, "fully abated or corrected" includes the procurement of all required City approvals, permits, licenses and the passage of all City required inspections.

B. A Declaration of Substandard Property shall not be recorded unless the City has first issued a written notice (in any form) to the owner of real property (i) identifying and requiring correction of a public nuisance condition; and, (ii) disclosing that a Declaration of Substandard Property may be recorded against the real property if the public nuisance condition(s) is/are not fully abated or corrected in the manner and time delineated in said notice, as determined by the City.

1. If the notice required pursuant to this Section was comprised of a Notice of Abatement as defined in this Chapter or of an administrative citation issued pursuant to Chapter 1.02 of this Code, a Declaration of Substandard Property shall not be recorded unless the Notice of Abatement and/or administrative citation is deemed a final and binding City decision.

D. The form that constitutes a Declaration of Substandard Property shall be approved by the City Attorney or the City Prosecutor.

E. The City shall record a Notice of Rescission of Declaration of Substandard Property with the Los Angeles County Recorder's Office within ten (10) business days of its determination that a violation or a public nuisance has been fully abated or corrected.

F. The City shall cause copies of recorded Declarations of Substandard Property and Notices of Rescission of Declaration of Substandard Property to be served on all persons having an ownership interest in the subject real property as shown in the last equalized assessment roll of the Los Angeles County Assessor's Office. Service thereof shall be by first class mail. Failure of any person to receive such notices shall not invalidate any action or proceeding pursuant to this Chapter.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.140 CODE ENFORCEMENT FEES.

A. Pursuant to Cal. Gov't Code § 54988 and Cal. Health & Safety Code § 17951 (and any successor statute thereto), the Building Code, and any other applicable local, State, or Federal law, as well as by the City's police powers as authorized by the California Constitution, the City may charge and collect Code Enforcement Fees from responsible persons who cause, allow, permit, suffer, or maintain a violation in or upon any real property located within the City to defray the City's costs of code enforcement actions. Such fees shall not exceed the amount reasonably required to achieve this objective and are chargeable whether the City's code enforcement actions occur in the absence of formal administrative or judicial proceedings, as well as prior to, during, or subsequent to, the initiation of such proceedings.

1. The amount(s) or rate(s) of Code Enforcement Fees for City Personnel time and other resources that are used for code enforcement actions shall be established, and may thereafter be amended, by resolution by the City Council.

2. The fees imposed pursuant to this section shall be in addition to any other fees or charges that responsible persons may owe in accordance with any other provision of the this Code, or which are imposed pursuant to County, State or Federal laws or regulations.

B. The City shall keep an accounting of the Code Enforcement Fees and shall serve a Statement of Code Enforcement Fees upon the responsible persons. The issuance, service, and contest of a Statement of Code Enforcement Fees and the payment and collection of Code Enforcement Fees shall be made in the same manner and in the same time frames as for the issuance, service, and contest of a Statement of Abatement Costs and for the payment and collection of Abatement Costs as set forth in §§ 9.04.105 through 9.04.125 of this Code.

C. The City Manager, or a designee thereof, is authorized to establish regulations for the uniform imposition of Code Enforcement Fees, and for related administrative actions pertaining to such fees.

D. Code Enforcement Fees shall also be recoverable in conjunction with any action, administrative proceeding, judicial proceeding, or special proceeding to cause the abatement or cessation of, or otherwise to remove a violation or a public nuisance, and is not limited to those proceedings wherein City Personnel perform the necessary abatement actions.

E. Failure to pay Code Enforcement Fees shall constitute a debt that is collectible in any manner allowed by law, including, but not limited to the recordation of a lien with the County Recorder's Office and/or with the California Franchise Tax Board "Inter-Agency Offset Program" (pursuant to Section Cal. Gov't Code § 12419.10).

F. The City shall be entitled to recover its attorney's fees and costs pursuant to § 9.04.145 of this Chapter arising from an action to collect Code Enforcement Fees imposed in accordance with this Chapter, as well as any other fee or charge imposed or allowed by any City, County, State, or Federal laws or regulations.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.145 RECOVERY OF ATTORNEY'S FEES.

A. The prevailing party of any action, administrative proceeding, or special proceeding to abate a nuisance or to cause the abatement of a public nuisance or other violation of this Code, or in any appeal or other judicial action arising therefrom, shall be entitled to recover reasonable attorney's fees. Attorneys' fees shall not be recoverable unless the City Manager (or a designee thereof) or an attorney for and on behalf of the City elects in writing at the initiation of that individual action or proceeding to seek recovery of its own attorneys' fees.

B. Provided that the City has made an election to seek attorney's fees, an award of attorney's fees to a person shall not exceed the amount of reasonable attorney's fees incurred by the City in that action or proceeding.

C. Unpaid attorneys' fees shall be collectible in any manner allowed by law.

(Ord. No. 2013-009, § 4 (part))

§ 9.04.150 APPLICABILITY OF OTHER LAWS.

A. This Chapter does not exclusively regulate the conditions and use of property within the City. This Chapter shall supplement other provisions of this Code and other statutes, ordinances or regulations now existing or subsequently enacted by the City, the State or any other entity or agency having jurisdiction.

B. The procedures for abatement set forth in this Chapter are not exclusive and are in addition to any other provisions set forth in this Code or by State law for the abatement of public nuisances.

(Ord. No. 2013-009, § 4 (part))

GRAFFITI

§ 9.04.200 PREVENTION AND REMOVAL OF GRAFFITI.

Whenever the City Manager or his designee determines that graffiti is located on public property not owned by the City of Culver City, or on private property, so as to be visible to a person utilizing any public street or highway in the City of Culver City, including but not limited to any roadway, parkway, sidewalk or alley, then the City Manager or his/her designee is authorized to expend City funds for the removal of the graffiti. Removal of the graffiti at public expense shall be restricted to the painting and repair of only the area where the graffiti is located.

('65 Code, § 22-10.1) (Ord. No. 91-006 § 1 (part); Ord. No. 2006-009 § 22 (part))

§ 9.04.205 DEFINITIONS.

For the purpose of this Subchapter, the following words and phrases are defined and shall be construed as hereinafter set out, unless it is apparent from the context that a different meaning was intended:

AEROSOL CONTAINER. Any aerosol based container, bottle, spray device or other mechanism, which is adopted or made for the purpose of spraying paint, ink, dye or other similar substance.

BONA FIDE EVIDENCE OF MAJORITY AND IDENTITY. Any document evidencing the age and identity of an individual which has been issued by a Federal, State or local government entity, and includes, but is not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act, or an identification issued by a member of the armed forces.

CITY MANAGER. The **CITY MANAGER** for the City of Culver City appointed by the City Council, or his or her designee.

FELT TIP MARKER. Any indelible marker, pen or similar implement which contains a fluid which cannot be removed with plain water and has a flat, pointed or angled tip which at its broadest width is greater than one-eighth (1/8th) inch.

GRAFFITI. Writings, drawings or inscriptions of any type which, in the determination of the City Manager, has any of the following characteristics.

1. Insults or incites hatred or contempt of any racial, religious or ethnic group;
2. Refers to the name of a gang or includes words or symbols associated with a gang or individual;
3. Insults or threatens any identifiable individual or group;
4. Includes obscene or indecent language or depictions;
5. Constitutes an aesthetic blight or eyesore to a neighborhood;
6. Tends to attract more graffiti; and
7. Promotes criminal activity or promotes retaliatory action by an individual(s).

GRAFFITI IMPLEMENT. An aerosol container, a felt tip marker, nail polish, shoe polish, paint stick, etching instrument, or any other device containing paint, ink, chalk, dye or similar substance which when used or applied is capable of defacing glass, metal, concrete, wood composites, or fabric.

GRAFFITI OFFENSE. The unauthorized application of paint, ink, chalk, dye or the use of any other instrument to deface, damage or destroy public and private buildings, structures, or any portion thereof.

PAINT STICK or GRAFFITI STICK. Any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance that cannot be removed with plain water and is capable of being applied to a surface by pressure, and upon application, leaves a mark at least one-eighth (1/8th) inch in width.

('65 Code, § 22-10.2) (Ord. No. 94-027 § 3 (part); Ord. No. 2006-009 §§ 19, 22 (part))

§ 9.04.210 GRAFFITI PROHIBITED.

A. It is unlawful for any person to apply or attempt to apply graffiti to any public or privately owned structure located on public or privately owned real property within the City. There is no presumption that any person has a right to apply graffiti, as herein described, on any public or private property within the City.

B. It shall be unlawful for any owner, lessee, occupant or other person having present possession of a lot or parcel of land within the City to (1) permit graffiti to remain upon such lot or parcel of land or (2) to maintain any structure affixed to such lot or parcel of land with graffiti on such structure or any portion thereof, for a period in excess of forty-eight (48) hours following service by the City of a notice to abate graffiti. Each day the graffiti is maintained beyond the initial forty-eight (48) hours period hereby constitutes a separate offense and is subject to the penalties set forth in § 9.04.240.

('65 Code, § 22-10.3) (Ord. No. 94-027 § 3 (part))

§ 9.04.215 POSSESSION OF GRAFFITI IMPLEMENT.

No person under the age of eighteen (18) years and not in the presence of a parent or legal guardian shall have in his or her possession a graffiti implement, as defined by § 9.04.205, while in any public park, playground, swimming pool, public recreational facility or any public right-of-way in the City unless necessary in order to participate in any City or School District sponsored function. This Section shall not apply to authorized employees of the City of Culver City nor shall it apply to the authorized agents or contractors under contract with the City.

('65 Code, § 22-10.4) (Ord. No. 94-027 § 3 (part))

§ 9.04.220 REMOVAL POLICY.

The City Manager or his/her designee shall develop a graffiti removal program to assist property owners in the expeditious removal of graffiti from their property. Notwithstanding any other provision of this Subchapter, the City shall be authorized to recover its costs incurred in the removal of graffiti from private property if:

A. The removal of graffiti or other inscribed material from privately owned real property exceeds four (4) requests from the City to the property owner or occupant or a maximum of six hundred (600) square feet per privately owned real property during one (1) calendar year, which is not removed by the property owner or occupant.

B. Where the removal of graffiti has been mandated pursuant to § 9.04.230, the owner of the affected property shall reimburse the City for such services.

C. Nothing in this Subchapter shall prohibit the City Manager or his/her designee from waiving the provisions of this Section if it can be determined that the affected property owner has demonstrated a conscientious effort to prevent graffiti from occurring on their property as exhibited by, but not limited to, the installation of security devices such as surveillance cameras, security lighting, sprinklers linked to motion sensors; protective or covering landscaping; graffiti resistant building materials; or the application of graffiti-resistant paint.

('65 Code, § 22-10.5) (Ord. No. 94-027 § 3 (part); Ord. No. 2006-009 § 22 (part))

§ 9.04.225 AUTHORIZATION TO REMOVE; METHODS.

Graffiti may be removed by any of the following methods:

A. Whenever the City Manager determines that writings or other inscriptions constitutes "graffiti" as defined in § 9.04.205 and is so located on public or privately owned property within the City so as to be capable of being viewed by a person utilizing any public right-of-way in the City, the City Manager is authorized to provide for the removal of the graffiti or other inscribed material upon advising the property owner that removal will be undertaken by the City if not removed within forty-eight (48) hours of notification of the existence of graffiti. The City Council has determined that the failure to remove graffiti constitutes a public nuisance which

permits the City by and through its authorized representative to enter on private property to abate the declared public nuisance, without additional notice to or authorization from the landowner.

1. In removing the graffiti or other inscribed material, the painting or repair of a more extensive area shall not be authorized.

2. Where a structure is owned by a public entity other than this City, the removal of the graffiti or other inscribed material is authorized after notifying the public entity having jurisdiction over the structure and such entity fails to remove the graffiti within forty-eight (48) hours after receipt of notice to abate the graffiti.

B. Graffiti which is located on privately owned structures on privately owned real property within the City and which can be viewed by a person utilizing any public right-of-way within the City may be removed by the City at the owner's expense as a public nuisance pursuant to § 9.04.230. This Section shall apply under the following circumstances:

1. The private property owner has persuaded, allowed or encouraged the graffiti problem;

2. The City Manager determines that the removal of graffiti or other inscribed material from a privately owned property has exceeded four (4) requests from the City or a maximum of six hundred (600) square feet per privately owned real property during one (1) calendar year and the property owner has not removed the graffiti within the required time after a notice to abate has been given as described in § 9.04.230 below.

('65 Code, § 22-10.6) (Ord. No. 94-027 § 3 (part); Ord. No. 2006-009 § 22 (part))

§ 9.04.230 NOTICE TO ABATE; APPEAL; ABATEMENT BY CITY.

Whenever the City Manager determines that graffiti is being maintained upon the premises within the City in violation of § 9.04.210, the City Manager shall send, by registered or certified mail or post, at a conspicuous place on the premises where the graffiti is located, written notice to the owner, and to any lessee, occupant or other person having present possession of a lot or parcel of land within the City that the graffiti must be removed within forty-eight (48) hours from the date of service of the notice. The notice shall be entitled "Notice to Abate Graffiti," in letters not less than one (1) inch in height, and shall cite this Subchapter as authority for such abatement. The notice shall contain a general description of the property on which the graffiti is located.

A. The notice shall be on City letterhead in substantially the following form:

NOTICE TO ABATE GRAFFITI

NOTICE IS HEREBY GIVEN that under the provisions of Section 9.04.210 of the Culver City Municipal Code ____ you are required at your expense to remove or paint over the graffiti located on the property commonly known as ____, City of Culver City, California, which is visible to public view, within forty-eight (48) hours after the date of service of this notice. The graffiti is visible to public view and therefore constitutes a public nuisance. If you fail to comply with this order the City or its contractor will enter upon your property and abate the public nuisance. The cost of the abatement of the City or its contractor will be assessed upon your property and such costs will constitute a lien upon the land until paid.

All persons having any objection to, or interest in said matter are hereby notified to submit an appeal to the Office of the City Manager within forty-eight (48) hours from the date of this notice.

At the conclusion of this forty-eight (48) hour period the City may proceed with the abatement of the graffiti on your property at your expense without further notice.

B. If an appeal has been made to the Office of the City Manager, within five (5) days from the date of the Notice to Abate Graffiti, the City Manager, or his/her designee, shall hold an administrative hearing on appeal. The decision of the City Manager or his/her designee shall be final and conclusive.

C. If an appeal has not been submitted as set forth in § 9.04.230 B. above, or if the appeal has been denied following an administrative hearing, and if the private property owner fails to remove or fails to cause the graffiti to be removed by the designated date, or such continued date thereafter as approved by the City Manager, then the City Manager shall cause the graffiti to be abated as a public nuisance by the City or its contractor, and the City or its contractor is expressly authorized to enter upon the premises for such purpose.

('65 Code, § 22-10.7) (Ord. No. 94-027 § 3 (part); Ord. No. 2006-009 § 22 (part))

§ 9.04.235 RECOVERY OF COSTS.

Should the City Manager be required to abate the graffiti as a public nuisance, as set forth in § 9.04.230 C., the City may recover, pursuant to Cal. Gov't Code § 38773, the costs of abatement through the assessment of a lien against the property on which the nuisance is maintained.

A. Prior to the recordation of a lien against property for the recovery of abatement and related administrative costs, the City, in accordance with Cal. Gov't Code §§ 38773.1 or 38773.5, shall provide written notification, by registered or certified mail, to the property owner that a lien will be assessed against their property and such costs will constitute a lien upon the land until paid. The notice of lien shall for purpose of this Subchapter be in form substantially as follows:

NOTICE OF LIEN

Pursuant to Cal. Gov't Code §38773 and the authority of Ordinance ____ of the City of Culver City, the City Manager of the City of Culver City did on or about the ____ day of _____, 20__, cause the removal of graffiti at the premises hereinafter described in order to abate a public nuisance on said real property; and the City Council of the City of Culver City did on the ____ day of _____, 20__, assess the cost of such abatement upon the real property hereinafter described; and the same has not been paid nor any part thereof; and that said City of Culver City does hereby claim a lien for such costs of abatement in the amount of said assessment to wit: the sum of ____ dollars; and the same shall be a lien upon said real property until the same has been paid in full and discharged of record.

The real property hereinabove mentioned, and upon which a lien is claimed, is that certain parcel of land lying and being in the City of Culver City, County of Los Angeles, State of California, and particularly described as follows: _____

Dated this ____ day of _____, 20__.

City Clerk, City of Culver City

B. Between the first and fifteenth day of July of each year, the City Manager shall cause to be published in the official newspaper of the City a notice that any person affected or aggrieved by an act or determination of the City or the City Manager in connection with the provisions of this Subchapter may appeal to the City Council. An appeal shall be in writing and shall be filed with the Office of the City Clerk prior to the fifteenth day of July with the appropriate fee, or from time to time thereafter may be determined by the Council, the City Council shall hear and render a decision upon each appeal, and the determination of the Council shall be final and conclusive. In the event any determination of the City Manager is modified by determination of the City Council or any assessment changed or corrected, the City Manager shall cause the correction to be made upon the record showing the assessment.

C. The appellant shall bear the burden of proof which shall be a preponderance of evidence. Oral testimony unsupported by physical evidence is disfavored.

D. At the expiration of the time for appeal, or upon the determination by the City Council of all appeals so filed, and in compliance with the requirements of any determination so made, the City Manager shall deliver to the County Auditor of the County of Los Angeles an abstract of each lot or parcel of land within the City affected by this Section and the amount of each such charge to be placed upon the assessment roll against the respective parcel. Thereafter, the charges shall be of the same character and effect, subject to the same penalties, and shall be collected in the same manner and at the same time as City taxes. The provision of this Section shall not apply to any lot or parcel of land if the charge against it has been paid prior to the delivery of the abstract to the County Auditor.

E. No charges for removal of graffiti shall be imposed until after six (6) months from the date of the adoption of this Subchapter unless amended by the Culver City Council.

('65 Code, § 22-10.8) (Ord. No. 94-027 § 3 (part); Ord. No. 2006-009 § 22 (part))

§ 9.04.240 FAILURE TO REMOVE GRAFFITI UPON NOTICE.

In addition to any costs incurred by the City for the abatement of graffiti from private property, failure to voluntarily abate graffiti after notification shall result in the following penalties:

A. The failure of any person, firm, partnership, or corporation, failing to remove graffiti within the prescribed forty-eight (48) hour period as set forth in § 9.04.210 B. hereby constitutes an infraction and is punishable by a fine of One Hundred Dollars (\$100.00) upon first conviction thereof.

B. Any person, firm, partnership, or corporation convicted of violating § 9.04.210 B. of this Subchapter for a second time or any subsequent number of times shall be deemed guilty of an infraction or misdemeanor and shall be punished by a fine of Two Hundred Fifty Dollars (\$250.00).

C. Any person, firm, partnership, or corporation convicted of violating § 9.04.210 B. of this Subchapter for a third time or any subsequent number of times shall be deemed guilty of an

infraction or misdemeanor and shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00).

D. Any person, firm, partnership, or corporation previously convicted three (3) times under this Section, violating the provisions of § 9.04.210 B. hereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided in § 9.04.260 hereof.

('65 Code, § 22-10.9) (Ord. No. 94-027 § 3 (part))

§ 9.04.245 ALTERNATIVE ACTIONS.

The violation of any of the provisions of this Subchapter or any State law pertaining to vandalism of property with a graffiti implement shall constitute a nuisance and may be abated by the City through a civil process by means of a restraining order, preliminary or permanent injunction or in any other manner available to the City under provisions of applicable ordinances or State law.

('65 Code, § 22-10.10) (Ord. No. 94-027 § 3 (part))

§ 9.04.250 REWARD FOR INFORMATION.

The City Council may, by resolution, offer and pay a reward for information leading to the apprehension and conviction of any person who places graffiti or other inscribed material as defined herein upon public or privately owned structures within the City. In addition to any fines levied by the City for violation of this Subchapter, any person who has damaged property by inscribing graffiti on public or private property shall be liable for the amount of any reward paid pursuant to this Subchapter and Cal. Gov't Code § 53069.5.

('65 Code, § 22-10.11) (Ord. No. 94-027 § 3 (part))

§ 9.04.255 PARENTAL RESPONSIBILITY.

Pursuant to Cal. Civil Code § 1714.1(b), where graffiti is applied by an unemancipated minor, the parents or legal guardian of said minor shall be jointly and severally liable for payment of civil damages resulting from the misconduct of the minor in an amount not to exceed Ten Thousand Dollars (\$10,000.00) for each such offense.

('65 Code, § 22-10.12) (Ord. No. 94-027 § 3 (part))

§ 9.04.260 PENALTY FOR VIOLATION.

It shall be unlawful for any person, firm, partnership, or corporation to violate any provision or fail to comply with any of the requirements of this Subchapter.

A. Except as provided in § 9.04.240, any person, firm, partnership, or corporation violating any provision of this Subchapter, or failing to comply with any of its requirements shall be deemed guilty of an infraction or misdemeanor, and upon conviction thereof, shall be punished

by a fine not exceeding One Thousand Dollars (\$1,000.00), or by imprisonment not exceeding six (6) months, or by both such fine and imprisonment. Each such person, firm, partnership, or corporation shall be deemed guilty of a separate offense for each and every day or any portion thereof during which any violation of this Subchapter, is committed, continued, or permitted by such person, firm, partnership, or corporation, and shall be deemed punishable therefor as provided in this Subchapter.

B. Notwithstanding the penalties set forth in Subsection A. above, any person who maliciously defaces, damages or destroys property with a graffiti implement is guilty of vandalism, pursuant to Cal. Penal Code § 594, and upon conviction thereof, shall be punished by imprisonment in the State prison or in a County jail for a period not to exceed one (1) year, or by a fine of Five Thousand Dollars (\$5,000.00), but no more than Fifty Thousand Dollars (\$50,000.00), depending upon the severity and the amount of defacement, damage or destruction to property, or by both such fine and imprisonment.

('65 Code, § 22-10.13) (Ord. No. 94-027 § 3 (part))

§ 9.04.265 COMMUNITY SERVICE.

A. Upon conviction of any person for violation of §§ 9.04.210 or 9.04.215, or any State law pertaining to vandalism of property with a graffiti implement, the City shall petition the sentencing court to impose community service time, pursuant to Cal. Penal Code § 640.6. The sentencing court may require the performance of community service within the City in addition to any monetary penalties imposed. In the event the sentencing court approves community service, the City shall request any adult or emancipated minor convicted of vandalism, as defined by Cal. Penal Code § 594(a)(1) to:

1. Complete a minimum of twenty-four (24) hours, but no more than forty-eight (48) hours of community services cleaning up, removing, and repairing property damaged by graffiti for the first conviction; and

2. Complete forty-eight (48) hours, but no more than ninety-six (96) hours of community services cleaning up, removing, and repairing property damaged by graffiti for each subsequent conviction.

B. Any person who is under the age of eighteen (18) when he or she violates any provision of this Subchapter or any State law pertaining to vandalism of property with a graffiti implement, and is found to be a person described in Cal. Welf. & Inst. Code § 602 by reason of the commission of vandalism, may be required to perform community service time pursuant to Cal. Welf. & Inst. Code § 742.16. For any minor adjudicated guilty of vandalism, the City will petition the juvenile court and the court may, in addition to any other penalties imposed by the City, require the unemancipated minor to provide the necessary labor to clean up, repair, or replace defaced, damaged or destroyed property, or otherwise make restitution to the property owner.

C. If a minor is personally unable to pay any fine levied for violating any provisions of this Subchapter or is otherwise unable to make restitution for damages, the minor's parent or legal guardian shall be liable for payment of the fine or restitution. If the parent or legal guardian cannot make restitution, the sentencing court may waive payment of the fine or community service time by the parent or legal guardian upon a finding of good cause. If the sentencing court

waives payment of the fine by the parent or legal guardian, the City shall petition the sentencing court, and the court, at the court's option, may order the parent or legal guardian to provide the necessary labor, equal to the number of hours assigned to the minor adjudicated guilty of violating any provision of this Subchapter, to clean up, repair, or replace property damaged by the unemancipated minor.

('65 Code, § 22-10.14) (Ord. No. 94-027 § 3 (part))

§ 9.04.270 SUSPENSION OR DELAY OF DRIVING PRIVILEGES.

For each conviction of a person aged thirteen (13) to twenty-one (21) for violation of §§ 9.04.210 or 9.04.215, or any State law pertaining to vandalism of property with a graffiti implement, the City shall petition the sentencing court to suspend existing driving privileges or delay the issuance of driving privileges in accordance to Cal. Veh. Code § 13202.6.

('65 Code, § 22-10.15) (Ord. No. 94-027 § 3 (part))

CHAPTER 9.05: ABANDONED VEHICLES

Section

- 9.05.005 Purpose; declaration of nuisance
- 9.05.010 Definitions
- 9.05.015 Exceptions
- 9.05.020 Provisions not exclusive
- 9.05.025 Administration and enforcement
- 9.05.030 Right of entry for removal
- 9.05.035 Amount of cost assessment
- 9.05.040 Abatement and removal
- 9.05.045 Notice of intention to abate and remove
- 9.05.050 Public hearings
- 9.05.055 Appeals
- 9.05.060 Disposal of vehicles
- 9.05.065 Notice to Department of Motor Vehicles
- 9.05.070 Costs; nonpayment; assessment against land
- 9.05.075 Penalty

§ 9.05.005 PURPOSE; DECLARATION OF NUISANCE.

A. In addition to and in accordance with the determination made and the authority granted by the State of California under Cal. Veh. Code § 22660 to remove abandoned, wrecked, dismantled or inoperative vehicles or parts thereof as public nuisances, the City Council hereby makes the findings and declarations set forth in Subsection B.

B. The accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof on private or public property not including highways is hereby found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled or inoperative vehicle or parts thereof, on private or public property not including highways, except as expressly hereinafter permitted, is hereby declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this Subchapter.

('65 Code, § 22-15) (Ord. No. CS-763 § 1)

Cross-reference:

Nuisances, see Ch. 9.04

§ 9.05.010 DEFINITIONS.

For the purpose of this Subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HIGHWAY. A way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. **HIGHWAY** includes street.

OWNER OF THE LAND. The owner of the land on which the vehicle, or parts thereof, is located, as shown on the last equalized assessment roll.

OWNER OF THE VEHICLE. The last registered owner and legal owner of record.

PUBLIC PROPERTY. Does not include **HIGHWAY**.

VEHICLE. A device by which any person or property may be propelled, moved, or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks.

('65 Code, § 22-16) (Ord. No. CS-763 § 1)

§ 9.05.015 EXCEPTIONS.

A. This Subchapter shall not apply to:

1. A vehicle, or parts thereof, which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

2. A vehicle, or parts thereof, which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junk dealer, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.

B. Nothing in this Subchapter shall authorize the maintenance of a public or private nuisance as defined under provisions of law other than Cal. Veh. Code §§ 22650 et seq. and this Subchapter.

('65 Code, § 22-17) (Ord. No. CS-763 § 1)

§ 9.05.020 PROVISIONS NOT EXCLUSIVE.

This Subchapter is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the City. It shall supplement and be in addition to the other regulatory codes, statutes, and ordinances heretofore or hereafter enacted by the City, the State or any other legal entity or agency having jurisdiction.

('65 Code, § 22-18) (Ord. No. CS-763 § 1)

§ 9.05.025 ADMINISTRATION AND ENFORCEMENT.

Except as otherwise provided herein, the provisions of this Subchapter shall be administered and enforced by the City Manager or his designee. In the enforcement of this Subchapter such officer and his deputies may enter upon private or public property to examine a vehicle or parts thereof, or obtain information as to the identity of a vehicle and to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this Subchapter.

('65 Code, § 22-19) (Ord. No. CS-763 § 1; Ord. No. 2006-009 § 22 (part))

§ 9.05.030 RIGHT OF ENTRY FOR REMOVAL.

When the City Council has contracted with or granted a franchise to any person or persons, such person or persons shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this Subchapter.

('65 Code, § 22-20) (Ord. No. CS-763 § 1)

§ 9.05.035 AMOUNT OF COST ASSESSMENT.

The City Council shall by resolution from time to time determine and fix an amount to be assessed as administrative costs under this Subchapter.

('65 Code, § 22-21) (Ord. No. CS-763 § 1)

§ 9.05.040 ABATEMENT AND REMOVAL.

Upon discovering the existence of an abandoned, wrecked, dismantled, or inoperative vehicle, or parts thereof, on private property or public property within the City, the City Manager or his designee shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed herein.

('65 Code, § 22-22) (Ord. No. CS-763 § 1; Ord. No. 2006-009 § 22 (part))

§ 9.05.045 NOTICE OF INTENTION TO ABATE AND REMOVE.

A 10-day notice of intention to abate and remove the vehicle, or parts thereof, as a public nuisance shall be mailed by registered or certified mail to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. 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 PARTS THEREOF AS A PUBLIC NUISANCE.

(Name and address of owner of the land)

As owner shown on the last equalized assessment roll of the land located at (address), you are hereby notified that the undersigned pursuant to Chapter 9.05 of the 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 pursuant to the provisions of Chapter 9.05 of the Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle (or parts of a vehicle) within ten 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 and the costs thereof, together with administrative costs, assessed to you as owner of the land on which said vehicle (or said parts of a vehicle) is located.

As owner of the land on which said vehicle (or said parts of a vehicle) is located, you are hereby notified that you may, within ten days after the mailing of this Notice of Intention, request a public hearing, and if such a request is not received by the City Manager or his designee within such ten-day period, the City Manager or his designee shall have the authority to abate and remove said vehicle (or said parts 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 ten-day period denying responsibility for the presence of said vehicle (or said parts 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)

/s/.....

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

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

As last registered (and/or legal) owner of record of (description of vehicle - make, model, license, and the like), you are hereby notified that the undersigned pursuant to Chapter 9.05 of the Municipal Code has determined that said vehicle (or parts of a vehicle) exists as an abandoned, wrecked, dismantled or inoperative vehicle at (describe location on public or private property) and constitutes a public nuisance pursuant to the provisions of Chapter 9.05 of the Municipal Code.

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

As registered (and/or legal) owner of record of said vehicle (or said parts of a vehicle), you are hereby notified that you may, within ten days after the mailing of this Notice of Intention, request a public hearing and if such a request is not received by the City Manager or his designee within such ten-day period, the City Manager or his designee shall have the authority to abate and remove said vehicle (or said parts of a vehicle) without a hearing.

Notice Mailed (date) /s/.....

('65 Code, § 22-23) (Ord. No. CS-763 § 1; Ord. No. 2006-009 § 22 (part))

§ 9.05.050 PUBLIC HEARINGS.

A. Request for hearing.

1. Upon request by the owner of the vehicle or owner of the land received by the City Manager or his designee within ten days after the mailing of the notices of intention to abate and remove, a public hearing shall be held by the officer on the question of abatement and removal of the vehicle, or parts thereof, as an abandoned, wrecked, dismantled or inoperative vehicle, and the assessment of the administrative costs and the cost of removal of the vehicle, or parts thereof, against the property on which it is located.

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

('65 Code, § 22-24)

B. *Hearing; before whom held; action.*

1. All hearings under this Subchapter shall be held before the City Manager or his designee who shall hear all facts and testimony he deems pertinent. Said facts and testimony may include testimony on the condition of the vehicle, or parts thereof, and the circumstances concerning its location on the said private property or public property. The City Manager or his designee shall not be limited by the technical rules of evidence. The owner of the land 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 reasons for such denial.

2. The City Manager or his designee may impose such conditions and take such other action as he deems appropriate under the circumstances to carry out the purpose of this Subchapter. He may delay the time for removal of the vehicle or parts thereof if, in his opinion, the circumstances justify it. At the conclusion of the public hearing, the City Manager or his designee may find that a vehicle or parts 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 owner of the land. The order requiring removal shall include a description of the vehicle or parts thereof and the correct identification number and license number of the vehicle, if available at the site.

3. If it is determined at the hearing that the vehicle was placed on the land without the consent of the owner of the land and that he has not subsequently acquiesced in its presence, the City Manager or his designee shall not assess the costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such owner of the land.

4. If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his land but does not appear, or if an interested party makes a written presentation to the City Manager or his designee but does not appear, he shall be notified in writing of the decision.

('65 Code, § 22-25) (Ord. No. CS-763 § 1; Ord. No. 2006-009 § 22 (part))

§ 9.05.055 APPEALS.

A. Any interested party may appeal the decision of the City Manager or his designee by filing a written notice of appeal with the City Clerk of said City within five days after his decision.

B. Such appeal shall be heard by the City Council which may affirm, amend or reverse the order or take other action deemed appropriate.

C. The City Clerk shall give written notice of the time and place of the hearing to the appellant and those persons specified in this Subchapter.

D. In conducting the hearing the City Council shall not be limited by the technical rules of evidence.

('65 Code, § 22-26) (Ord. No. CS-763 § 1; Ord. No. 2006-009 § 22 (part))

§ 9.05.060 DISPOSAL OF VEHICLES.

Five days after adoption of the order declaring the vehicle or parts thereof to be a public nuisance, five days from the date of mailing of notice of the decision if such notice is required by this Subchapter, or fifteen days after such action of the City Council authorizing removal following appeal, the vehicle or parts 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.

('65 Code, § 22-27) (Ord. No. CS-763 § 1)

§ 9.05.065 NOTICE TO DEPARTMENT OF MOTOR VEHICLES.

Within five days after the date of removal of the vehicle or parts thereof, the City Manager or his designee shall give notice to the Department of Motor Vehicles identifying the vehicle or parts thereof removed. At the same time there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including registration certificates, certificates of title and license plates.

('65 Code, § 22-28) (Ord. No. CS-763 § 1; Ord. No. 2006-009 § 22 (part))

§ 9.05.070 COSTS; NONPAYMENT; ASSESSMENT AGAINST LAND.

If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to this Subchapter are not paid within thirty days of the date of the order, or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Cal. Gov't Code § 38773.5 and shall be transmitted to the tax collector for collection. Said assessment shall have the same priority as other City taxes.

('65 Code, § 22-29) (Ord. No. CS-763 § 1)

§ 9.05.075 PENALTY.

A. Unless otherwise specified, a violation of any of the provisions of Chapter 9.05 shall be deemed a misdemeanor, and shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), six (6) months in jail, or both.

B. Nothing in this Chapter shall prevent the City Attorney from prosecuting a violation of Chapter 9.05 as an infraction, at his/her discretion, as set forth in § 1.01.035 B. of this code.

C. Nothing in this Chapter shall prevent the City Attorney from bringing a civil action, at his/her discretion, for violations of the provisions of this Chapter, as set forth in § 1.01.050 of this code.

('65 Code, § 22-1) (Ord. No. 96-034 § 2)

CHAPTER 9.06: PARTIES AND GATHERINGS; PARADES

Section

Unruly Parties and Gatherings; Law Enforcement Expenses

- 9.06.005 Purpose and intent
- 9.06.010 Abatement procedures; responsibility for costs
- 9.06.015 Cost reimbursement required
- 9.06.020 Written notice
- 9.06.025 Penalty

Parades

- 9.06.100 Definitions
- 9.06.105 Permit and compliance with conditions required
- 9.06.110 Application for permit
- 9.06.115 Permit fees
- 9.06.120 Investigation by Police Department
- 9.06.125 Alternative plan; request for hearing
- 9.06.130 Hearing and decision by Committee
- 9.06.135 Conditions of granting permit
- 9.06.140 Granting of permit
- 9.06.145 Denial of permit
- 9.06.150 Alternative permit
- 9.06.155 Officials to be notified
- 9.06.160 Interference with parade
- 9.06.165 Notice of right to appeal; procedure
- 9.06.170 Revocation of permit

UNRULY PARTIES AND GATHERINGS; LAW ENFORCEMENT EXPENSES

§ 9.06.005 PURPOSE AND INTENT.

The City Council finds that unruly parties, gatherings, or other assemblages of persons on private property and other gathering places on private property within the City, can disturb the public peace, safety and welfare so as to require law enforcement services over and above those normally provided. It is in the best interests of the public safety and welfare for those persons causing the need for law enforcement services beyond those normally provided to the public at large to be required to pay all or part of such extraordinary law enforcement expenses.

('65 Code, § 22-72) (Ord. No. 94-026 § 1 (part))

Cross-reference:

Police Department, see Ch. 3.04

Nuisances, see Ch. 9.04

§ 9.06.010 ABATEMENT PROCEDURES; RESPONSIBILITY FOR COSTS.

When a party, gathering or other assemblage of persons occurs on private property and is determined by a police officer at the scene to constitute a violation of the California Penal Code or is otherwise disturbing the public peace, health, safety or welfare, due to the magnitude of the crowd, noise, disturbance or unruly behavior generated by the gathering, or by excessive traffic or property damage caused by the gathering, then the Culver City Police Department shall take such actions and give such direction as is necessary to abate the violation or condition and shall advise the responsible party orally and in writing if the violation or condition is not immediately abated, the responsible party and/or property owner shall be held responsible for the cost of providing any additional law enforcement services beyond the initial response as provided in this Chapter. Such direction shall be given to the person responsible for the party, gathering or other assemblage of persons or on whose property it is located. If the violation or condition is not voluntarily abated or if it otherwise becomes necessary to call in additional Culver City Police Department personnel or take additional action in order to terminate the gathering, quell any disturbance, direct traffic, cite illegally parked vehicles or otherwise respond to the situation, then the cost of such additional law enforcement services beyond the initial response shall be reimbursed to the City as provided in § 9.06.015.

('65 Code, § 22-73) (Ord. No. 94-026 § 1 (part))

§ 9.06.015 COST REIMBURSEMENT REQUIRED.

A. The person or persons responsible for a party, gathering or other assemblage of persons described in § 9.06.010, or on whose property the gathering is held, or if such person is a minor, then the parents or legal guardians of the minor shall be jointly and severally liable for the following costs attributable to the event, or, if lower, the amount established by resolution of the City Council:

1. The actual cost to the City of law enforcement services beyond the initial response by a police officer necessary to abate the violations or conditions described in § 9.06.010.
2. Damage to public property resulting from such law enforcement response; and
3. Injuries to law enforcement personnel incurred in such law enforcement response.

4. Any legal costs associated with the collection of Subsections 1., 2., or 3. above.

B. The Police Department shall compute the cost of providing such services in accordance with the schedule of rates and charges for personnel and equipment contained in the law enforcement service agreement with the City and advise the City Manager of such costs, as well as any other costs of damage to public property or injuries to personnel resulting from the law enforcement response. The person responsible for the party, gathering or other assemblage or on whose property the party, gathering or other assemblage takes place shall be billed for these costs by the City Manager upon notice of the charges from the Culver City Police Department and payment shall be due and payable within fifteen (15) days of the billing date. Should the amount due not be paid, the City may collect the debt, as well as any costs incurred in collecting the debt due to nonpayment, pursuant to any available provision of law.

('65 Code, § 22-74) (Ord. No. 94-026 § 1 (part); Ord. No. 2006-009 § 22 (part))

§ 9.06.020 WRITTEN NOTICE.

The Chief of Police is hereby authorized and directed to prepare appropriate advisory procedures to be followed by police officers responding to a party, gathering or other assemblage, including preparation of written materials advising the responsible person or person of the provisions of this Chapter.

('65 Code, § 22-75) (Ord. No. 94-026 § 1 (part))

§ 9.06.025 PENALTY.

A. Unless otherwise specified, a violation of any of the provisions of this Subchapter shall be deemed a misdemeanor, and shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), six (6) months in jail, or both.

B. Nothing in this Subchapter shall prevent the City Attorney from prosecuting a violation of this Subchapter as an infraction, at his/her discretion, as set forth in § 1.01.035 B. of this code.

C. Nothing in this Subchapter shall prevent the City Attorney from bringing a civil action, at his/her discretion, for violations of the provisions of this Subchapter, as set forth in § 1.01.050 of this code.

('65 Code, § 22-1) (Ord. No. 96-034 § 2)

PARADES

§ 9.06.100 DEFINITIONS.

For the purpose of this Subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMITTEE. The Committee on Permits and Licenses as established by § 11.01.510.

PARADE. Any march or procession consisting of persons, animals or vehicles, or combination thereof, upon any public street, sidewalk, alley or other public place which does not comply with normal and usual traffic regulations or controls.

('65 Code, § 3-1) (Ord. No. 84-012 § 2)

Cross-reference:

Streets, sidewalks and parkways, see Ch. 9.08

§ 9.06.105 PERMIT AND COMPLIANCE WITH CONDITIONS REQUIRED.

A. No person shall conduct, manage or participate in any parade without a written permit from the Committee.

B. No person shall violate any of the terms and conditions of a parade permit.

('65 Code, § 3-2) (Ord. No. 84-012 § 2)

§ 9.06.110 APPLICATION FOR PERMIT.

A. Any person desiring to conduct or manage a parade shall not less than forty (40) nor more than one hundred and eighty (180) days before the date on which the parade is proposed to be conducted file a verified application for a permit with the Secretary of the Committee.

1. The application shall contain:

a. The name of the applicant, the sponsoring organization, the parade chairman and the address and telephone numbers of each; the assembly area, disbanding area and the route to be traveled; the assembly time, and the starting time; and

b. So far as reasonably practicable, the disbanding time; the maximum parade length; the total number of bands, sound vehicles or musical units, if any, their type and number of members in each unit; the total number of marching units, if any, their type and the number of members in each unit; the number of animals, if any, and type; the number of floats, if any, their size, type and how powered; the space between the units and their speed.

B. If such parade is to be held by or on behalf of any organization, other than the applicant, the applicant for such permit shall file a statement in writing from such organization, authorizing the applicant to apply for such permit on its behalf.

C. The Committee shall have authority, upon a showing of good cause, to consider any application for a permit to conduct a parade which is filed less than forty (40) days before the date such parade is proposed to be conducted.

D. Notwithstanding any other provision of this Subchapter, if the applicant for a parade permit files a declaration signed under penalty of perjury, stating the reasons the proposed parade is topical and time is of the essence and demands, in writing, immediate consideration of the application, the Chief of Police, City Manager and Fire Chief, or their designees, shall form an ad hoc committee to consider the application. Such ad hoc committee shall consider the

application no later than 5:00 p.m. on the first full working day after the filing of the declaration and written demand. Such consideration shall be limited by the provisions set forth in § 9.06.140.

('65 Code, § 3-3) (Ord. No. 84-012 § 2; Ord. No. 84-035 § 1; Ord. No. 2006-009 § 22 (part))

§ 9.06.115 PERMIT FEES.

Any applicant for a parade permit shall pay a fee, as established by resolution, at the time of filing any application for a parade permit.

('65 Code, § 3-4) (Ord. No. 84-012 § 2; Ord. No. 2007-002 § 6)

§ 9.06.120 INVESTIGATION BY POLICE DEPARTMENT.

Upon the filing of the application, it shall be referred by the Secretary of the Committee to the Police Department for investigation, report and recommendation. The investigation shall be completed and a report and recommendation made in writing to the Committee within fourteen (14) days after the filing of the application, unless the applicant requests or consents to an extension of the time period. If the report recommends denial of the permit to the applicant, the grounds for the recommended denial shall be set forth. At the time of the filing of the report and recommendation with the Committee, a copy thereof shall be served personally or by certified mail on the applicant, accompanied by a notice that the applicant may request to be heard when the Committee considers the application and report.

('65 Code, § 3-5) (Ord. No. 84-012 § 2)

§ 9.06.125 ALTERNATIVE PLAN; REQUEST FOR HEARING.

If the report and recommendation for denial of a permit prepared pursuant to § 9.06.120 is based in whole or in part, on the date, hour, or route of travel, the applicant may submit, with a request to be heard, a proposed alternative date, route of travel or hours.

('65 Code, § 3-6) (Ord. No. 84-012 § 2)

§ 9.06.130 HEARING AND DECISION BY COMMITTEE.

A. The Committee shall consider the application and any suggested alternative plan at a hearing held at a regularly scheduled meeting on or before the seventh (7th) day after the filing of the report and recommendation referred to in § 9.06.115.

B. Notice of the time and place of the hearing shall be given to all parties at least three (3) days prior to the hearing.

C. Any interested party shall be heard upon a reasonable request.

D. The City shall have the burden of proof to show the permit should be denied.

E. The decision of the Committee to grant or deny the parade permit shall be in writing and if adverse to the applicant shall contain findings of fact and a determination of the issues presented.

F. Unless the applicant agrees in writing to an extension of time, the Committee shall make its order denying or granting the application within 24 hours after completion of the hearing on the application for a permit and shall notify the applicant of its action by personal service or certified mail.

G. Any member of the Committee who was absent from the hearing or who has not read or heard the record of the proceeding shall not vote on the decision.

('65 Code, § 3-7) (Ord. No. 84-012 § 2)

§ 9.06.135 CONDITIONS OF GRANTING PERMIT.

A. The Committee, when granting a permit, shall uniformly impose reasonable conditions concerning:

1. The assembly area and time therefor;
2. The starting time;
3. The minimum and maximum speeds;
4. The route of the parade;
5. The portions of streets to be traversed that may be occupied by such parade;
6. The maximum number of platoons or units and the maximum and minimum interval of space to be maintained between the units of such parade;
7. The maximum length of such parade in miles or fractions thereof;
8. The disbanding area and time;
9. The number of persons required to monitor the parade;
10. The number and types of vehicles, if any;
11. The material and maximum size of any sign, banner, placard or carrying device therefor;
12. Such other requirements as are found by the Committee to be reasonably necessary for the protection of persons or property.

B. When a parade permit is granted, the Committee shall also impose the following conditions:

1. Permittee shall advise all participants in the parade, either orally or by written notice, of the terms and conditions of the permit, prior to the commencement of such parade;
2. The amplification of sound permitted to be emitted from sound trucks, or bull horns be fixed and not variable;

3. The parade continues to move at a fixed rate of speed and that any willful delay or willful stopping of the parade, except when reasonably required for the safe and orderly conduct of the parade, shall constitute a violation of the parade permit; and

4. Permittee agrees, in writing, to comply with all the conditions for such permit.

C. Each permit shall contain such conditions in writing.

('65 Code, § 3-8) (Ord. No. 84-012 § 2)

§ 9.06.140 GRANTING OF PERMIT.

Upon standards uniformly applied under similar conditions, the Committee shall issue the permit unless such Committee finds that:

A. The time, route and size of the parade will disrupt to an unreasonable extent the movement of other traffic; or

B. The parade is of a size or nature that requires the diversion of so great a number of police officers of the City to properly police the line of movement and the areas contiguous thereto, as to prevent reasonable police protection to the City; or

C. The permittee has not provided for the services of monitors to control the orderly conduct of the parade in conformity with such permit; or

D. The permittee has failed to provide reasonable means for informing all the persons participating therein of terms and conditions of such permit; or

E. The concentration of persons, animals and vehicles at assembly and disbanding areas and along the parade route will prevent proper fire and police protection or ambulance service; or

F. Such parade will not move from its assembly area to its disbanding area expeditiously or without stopping enroute except when reasonably required for the safe and orderly conduct of the parade; or

G. Such parade will interfere with another parade for which a permit has been granted; or

H. Such parade is proposed to be held for the sole purpose of advertising any product, goods, wares, merchandise, or event, and is to be held for private profit.

('65 Code, § 3-9) (Ord. No. 84-012 § 2)

§ 9.06.145 DENIAL OF PERMIT.

The Committee shall deny such permit only when:

A. The Committee makes any finding specified in § 9.06.140 as cause for not issuing such permit; or

B. The applicant fails to appear at the hearing; or

C. The statements contained in the application are found to be false; or

D. The applicant refuses to agree to abide by or comply with all conditions of the permit.

('65 Code, § 3-10) (Ord. No. 84-012 § 2)

§ 9.06.150 ALTERNATIVE PERMIT.

When the Committee denies an application, it may authorize the conduct of such parade on a date, or an hour, or over a route different from that requested by the applicant. If the applicant desires to accept the proposed date, time and route, a written notice of acceptance shall be filed within three (3) days after notice of the action of the Committee. The Committee shall thereupon issue a permit. Such permit shall conform to the requirements of § 9.06.125.

('65 Code, § 3-11) (Ord. No. 84-012 § 2)

§ 9.06.155 OFFICIALS TO BE NOTIFIED.

Immediately upon the granting of a parade permit, the Committee shall send notice thereof to:

A. The Municipal Services Director;

B. The general manager or administrative head of each public transportation utility, the regular routes of which will be affected by the route of the parade;

C. The Postmaster of the Culver City Post Office;

D. The Fire Chief; and

E. The Police Chief.

('65 Code, § 3-12) (Ord. No. 84-012 § 2)

§ 9.06.160 INTERFERENCE WITH PARADE.

No person shall join or participate in any permitted parade without the consent of the permittee, nor in any manner interfere with its progress or orderly conduct.

('65 Code, § 3-13) (Ord. No. 84-012 § 2)

§ 9.06.165 NOTICE OF RIGHT TO APPEAL; PROCEDURE.

A. *Notice of right to appeal.* An applicant shall be notified of the right to appeal a Committee decision at the same time and in the same manner as such applicant is notified of the Committee's decision.

('65 Code, § 3-14)

B. *Appeal to City Council; procedure.*

1. An applicant may appeal a Committee decision as provided in § 11.01.535 of this Code.

2. The City Council shall consider the applicant's appeal and make its decision thereon not later than fourteen (14) days after the date the notice of appeal is filed. The Council's decision shall be made based upon its own written findings.

3. At the hearing on appeal, the City Council shall exercise its independent judgment in determining whether the findings of the Committee are supported by the weight of the evidence.

4. At the hearing on appeal, the City shall have the burden of proof to show the Committee's decision should be upheld.

('65 Code, § 3-15)

(Ord. No. 84-012 § 2)

§ 9.06.170 REVOCATION OF PERMIT.

Any permit for a parade issued hereunder may be summarily revoked by the Committee at any time when by reason of disaster, public calamity or other emergency, the Committee determines that the safety of persons or property demands such revocation. Notice of any meeting of the Committee for such purpose shall be given to applicant in the same manner as the members of the Committee are notified.

('65 Code, § 3-16) (Ord. No. 84-012 § 2)

CHAPTER 9.07: NOISE REGULATIONS

Section

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9.07.060 Exemptions from provisions

9.07.065 Conflict of provisions

Cross-reference:

Nuisances declared and prohibited, see § 9.04.020

§ 9.07.005 DECLARATION OF POLICY.

A. In order to control unnecessary, excessive and annoying noise in the City of Culver City, it is hereby declared to be the policy of the City to prohibit or limit such noise generated from or by all sources as specified in this Chapter.

B. It shall be the policy of the City to maintain, preserve and enhance the quiet atmosphere of the City, to implement programs aimed at retaining ambient noise levels throughout the City, and to mitigate noise conflicts. It is determined that certain noise levels are detrimental to the public health, welfare and safety, and are contrary to the public interest. Therefore, creating, maintaining, causing, or allowing to be created, caused, or maintained, any noise in a manner prohibited by the provisions of this Chapter is a public nuisance and shall be punishable as such.

('65 Code, § 23-44.1) (Ord. No. 95-004 § 2 (part))

§ 9.07.010 DEFINITIONS.

Unless the context otherwise clearly indicates, the words and phrases used in this Chapter are defined in this Section. All terminology used in this Chapter not defined below shall be in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body. The following words, phrases, and terms as used in this Section shall have the meanings as follows:

AMBIENT NOISE. The composite of all noise from sources near and far, none of which are particularly dominant. The ***AMBIENT NOISE*** constitutes the normal or existing level of environmental noise at a given location.

AMPLIFIED SOUND. Sound enhanced by use of electronic equipment.

A-WEIGHTED NOISE LEVEL. The sound level in decibels as measured on a sound level meter using the A-Weighted scale. The level so read is designated in dBA.

COMMERCIAL PROPERTY. A parcel of real property zoned and used entirely, or partially, for commercial purposes.

CONSTRUCTION. Any site preparation, demolition, assembly, erection, substantial repair, alteration, or similar action, or related services or activities, for or of private property, structures, utilities, or public rights-of-way.

CUMULATIVE. An additive period of time composed of individual time segments which may be continuous or interrupted.

DECIBEL. A unit for measuring the amplitude of sound, equal to ten (10) times the logarithm (to the base of ten (10)) of the ratio of the two (2) mean square values of sound pressure, voltage, or current.

DOMINANT NOISE SOURCE. The most significant source of noise at a given location which is identifiable by the Officer.

EQUIVALENT SOUND LEVEL (LEQ). Constant noise level that, in a given situation and time period, contains the same acoustic energy as the actual time-varying A-weighted sound level.

EMERGENCY. Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

EMERGENCY WORK. Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

FIXED NOISE SOURCE. A stationary device which creates noise while in a fixed or stationary position including, but not limited to, industrial and commercial machinery and equipment, pumps, fan compressors, generators, air conditioners, and refrigeration equipment.

IMPULSIVE NOISE. A noise of short duration usually of high intensity with an abrupt onset and rapid decay. Impulsive noise sources include but are not limited to impact wrenches, pneumatic hammers, hammering devices, explosions, fire arms and other similar noise sources.

INDUSTRIAL PROPERTY. A parcel of real property which is zoned and used entirely or partially for industrial purposes.

INTRUSIVE NOISE. That alleged offensive noise which exceeds the existing ambient noise at a given location.

MOBILE NOISE SOURCE. Any noise source other than a fixed noise source.

NOISE. An unwanted sound which is generally random in nature.

NOISE DISTURBANCE. Any noise which, as judged by a City employee or City-employed agent that annoys or disturbs a reasonable person or exceeds the standard set forth in this Chapter. Compliance with the quantitative standards as listed herein shall constitute elimination of a noise disturbance.

NOISE LEVEL (LN). The sound pressure level as measured with a sound level meter.

PERCENT NOISE LEVEL (%). That noise level expressed in decibels which exceeds the specified (LN) value as a percentage of total time measured. For instance, an L25 noise level means that noise level which is exceeded twenty-five percent (25%) of the time measured.

PERSON. An individual, firm, association, partnership, joint venture or corporation including any officer, employee, department, agency, or instrumentality of a State or political subdivision of a State.

PITCH. The frequency of a noise.

PUBLIC RIGHT-OF-WAY. Any street, parkway, trail, public way, sidewalk, bike path, alley or similar place which is owned or controlled by a governmental entity.

PURE TONE. Any noise which is judged as audible as a single frequency or a set of single frequencies. Pure tones include but are not limited to noise from whistles, bells, fans or other mechanical devices that emit audible tones.

REAL PROPERTY BOUNDARY. An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person or a public right-of-way.

RESIDENTIAL PROPERTY. A parcel of real property which is zoned and used either in part or in whole for residential purposes.

SOUND. A pressure oscillation in air which is capable of evoking the sensation of hearing.

SOUND AMPLIFYING EQUIPMENT. Any device for the amplification of the human voice, music, or any other sound, excluding automobile radios when used and heard only by the occupants of the vehicle in which the radio is installed, and, as used in the Chapter, warning devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes.

SOUND LEVEL METER. An instrument, including a microphone, amplifier, output meter, and frequency weighing networks for the measurement of noise and sound levels, which satisfies the requirements pertinent for Type A meters in American National Standards Institute specifications for Sound Level Meters, S1.4-1983, or the most recent revision thereof.

SOUND TRUCK. Any motor vehicle, or any other vehicle, except public health and safety vehicles, regardless of motive power, whether in motion or stationary, having mounted thereon or attached thereto any sound amplifying equipment.

VIBRATION. The minimum ground or structure-borne shaking motion necessary to cause a normal person to be aware of the shaking by such direct means as, but not limited to, sensation by touch or visual observations of moving objects.

WEEKDAY. Any day, Monday through Friday, which is not a City specified holiday.

('65 Code, § 23-44.2) (Ord. No. 95-004 § 2 (part))

§ 9.07.015 VIOLATIONS; PENALTIES.

A. *Prima facie violation.* Any noise which is reasonably determined to be excessively loud, piercing, or offensive to occupants of neighboring properties or peace officers called to the location of the noise shall be deemed prima facie evidence of a violation of the provisions of this Chapter.

B. *Penalty for violation.* Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in an amount not to exceed One Thousand Dollars (\$1,000.00) or be imprisoned in jail for a period not to exceed six (6) months or by both fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense.

C. *Additional remedy.* The operation or maintenance of any device, instrument, vehicle, or machinery in violation of any provision of this Chapter which causes or creates noise levels exceeding the allowable limits as specified, shall be deemed a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction. Additionally, no provisions of this Chapter shall be construed to impair

by common law or statutory cause of action, or legal remedy therefrom, or any person from injury or damage arising from any violation of this Chapter or from other law.

D. *Severability.* If any provision, clause, sentence, or paragraph of this Chapter, or the application thereof to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions, or application of the provisions of this Chapter, which are effective without the invalid provisions or application and, therefore, the provisions of this Chapter are hereby declared to be severable.

('65 Code, § 23-44.3) (Ord. No. 95-004 § 2 (part))

§ 9.07.020 NOISE DISTURBANCES PROHIBITED; SPECIFIC PROHIBITIONS.

No person shall unnecessarily make, continue, or cause to be made or continued, any noise disturbance. The following actions, and the causing or permitting thereof, are prohibited and are declared to be in violation of this Chapter.

('65 Code, § 23-44.4) (Ord. No. 94-004 § 2 (part))

§ 9.07.025 STREET SALES.

A. It is prohibited for any person to offer for sale, sell or advertise anything, by shouting or outcry within any area of the City. The provisions of this Section shall not be construed to prohibit the selling by outcry of merchandise, food, and beverages at licensed sporting events, parades, fairs, circuses, or other similar licensed public entertainment events.

B. It is prohibited for any person to operate a horn or bell or similar signaling device on a lunch truck within a residential area.

('65 Code, § 23-44.5) (Ord. No. 95-004 § 2 (part))

§ 9.07.030 ANIMALS AND FOWL.

Any animal or fowl which emanates sound or outcry in an excessive, continuous, or untimely fashion, shall be considered a public nuisance and is subject to abatement pursuant to Chapter 9.04 of the Culver City Municipal Code.

('65 Code, § 23-44.6) (Ord. No. 95-004 § 2 (part))

Cross-reference:

Animal annoyance prohibited, see § 9.01.035

§ 9.07.035 CONSTRUCTION.

A. All construction activity shall be prohibited, except between the hours of:

8:00 a.m. and 8:00 p.m. Mondays through Fridays

9:00 a.m. and 7:00 p.m. Saturdays

10:00 a.m. and 7:00 p.m. Sundays

B. It is prohibited for any person to operate a device, which amplifies music or sound, at a construction site in a manner that results in noise levels that are audible beyond the construction site property line.

C. Construction activity of a specific nature (such as the pouring of concrete), with a limited duration, in non- residential zoning districts (as set forth in Article 2 of Title 17, Zoning, of this Code), on construction sites one (1) acre or greater in size, during the times prohibited by Subsection A. of this Section may be authorized, provided such exception has been determined to be in the public interest and one (1) of the following permits has been issued:

1. A land use permit, processed in accordance with the provisions of Article 5 of Title 17, Zoning, of this Code. The request for extended construction hours shall accompany the land use permit application and include detailed facts showing that the public interest will be served by allowing the extended construction hours. The request shall be considered in conjunction with the project as a whole and shall be subject to conditions of approval as determined to be necessary by the decision making authority.

2. A Temporary Use Permit approved by the City Council, processed in accordance with the provisions of Chapter 17.520. At least fifteen (15) days prior to the anticipated date of decision on the Temporary Use Permit application, notice of the Temporary Use Permit application shall be mailed to all property owners and occupants within a one thousand (1,000) foot radius of the construction site. Applications for a Temporary Use Permit shall set forth detailed facts showing that the public interest will be served by the issuance of such permit.

D. In the case of an emergency, the Building Official may issue a permit for construction activity for periods during which construction activity is prohibited by Subsection A. of this Section. Such permit shall be issued for only the period of the emergency.

E. The City Council shall retain the right to impose more restrictive hours of construction upon any project by adding appropriate conditions to the approval of any Use Permits that are required for the project.

F. Home repairs and routine maintenance of personal property such as automobiles or boats are not considered construction.

G. All minor exterior home improvement construction activities such as, but not limited to roof replacement, and patio construction shall be subject to the provisions of this Chapter.

(‘65 Code, § 23-44.7) (Ord. No. 95-004 § 2 (part); Ord. No. 95-014 § 1; Ord. 2016-011 § 1)

Cross-reference:

Administrative Assessment Cost Recovery Program, see §§ 15.02.900 through 15.02.915

§ 9.07.040 STATIONARY NONEMERGENCY SIGNALING DEVICES.

A. It is prohibited for any person to intentionally sound or permit the sounding outdoors of any electronically-amplified signal from any stationary bell, chime, siren, whistle, automobile or

vehicle alarm or similar device intended primarily for nonemergency purposes, from any place, for more than fifteen (15) seconds in any hour.

B. It is prohibited for any person to operate or permit the operation of a horn or bell or any other signaling device on a parking lot sweeper except as required by law.

C. Church bells and chimes sounding at a church site or Veteran's Auditorium or other City facility shall be exempt from the provisions of this Section.

('65 Code, § 23-44.9) (Ord. No. 95-004 § 2 (part))

§ 9.07.045 EMERGENCY SIGNALING DEVICES.

A. It is prohibited for any person to intentionally sound or permit the sounding outdoors of any fire, burglar, or civil defense alarm, siren, whistle, or similar stationary emergency signaling device, except for emergency purposes or for testing as provided in Subsection B. of this Section.

B. The testing of a stationary emergency signaling device shall not occur except between 7:00 a.m. and 7:00 p.m. Any such testing shall only use the minimum cycle test time. In no case shall such test time exceed sixty (60) seconds. The testing of the complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month.

C. It is prohibited for any person to sound or permit the sounding of any exterior audible burglar or fire alarm or any motor vehicle burglar alarm unless such alarm is automatically terminated within fifteen (15) minutes after activation. Repetition of the sounding of the alarm within a twenty-four (24) hour period for nonemergency reasons shall constitute a violation.

('65 Code, § 23-44.10) (Ord. No. 95-004 § 2 (part))

§ 9.07.050 DOMESTIC POWER TOOLS.

A. It is prohibited for any person to operate or permit the operation of any power saw, sander, drill, grinder, lawn or garden tool, or similar tool, or pneumatic or other air-powered tool except between 7:30 a.m. and 10:00 p.m. so as to be audible at or beyond the property line where the tool is located.

B. It is prohibited for any person to operate, or permit the operation of any gasoline-powered lawn mower, leaf blowers, or similar equipment within the City except during the hours of 8:00 a.m. to 8:00 p.m. Monday through Friday, and except during the hours of 9:00 a.m. to 8:00 p.m. on Saturday, Sunday, and City-specified holidays.

('65 Code, § 23-44.11) (Ord. No. 95-004 § 2 (part))

§ 9.07.055 AMPLIFIED SOUNDS.

A. *Electronic devices.* It is prohibited for any person to permit the transmission of, or cause to be transmitted, any amplified sound on any public street, sidewalk, alley, right-of-way, park, or any other public place or property which sound is audible at fifty (50) feet. This Section shall

not apply to any noncommercial public speaking, public assembly, or other activity for which a permit has been issued.

('65 Code, § 23-44.12)

B. *On private property.* It shall be prohibited for any persons to operate a loud speaker or sound amplifying equipment for the purposes of transmitting messages, giving instructions or providing entertainment which is audible at a distance of fifty (50) feet or beyond the subject's property line without first filing an application and obtaining a permit as set forth in this Chapter.

('65 Code, § 23-44.13)

C. *Permits.* Every user of sound amplifying equipment on public or private property, except block parties which have obtained a permit from the Chief of Police or activities in public parks which have obtained a permit for use of amplifying equipment from the Parks, Recreation and Community Services Department shall file an application with the Committee on Permits and Licenses at least ten (10) days prior to the day on which the sound amplifying equipment is to be used.

1. *Restrictions.* The commercial and noncommercial use of sound amplifying equipment shall be subject to the following restrictions:

- a. The only sounds permitted shall be either music or human speech, or both.
- b. The operation of sound amplifying equipment shall occur only between the hours of:
 - 8:00 a.m. through 8:00 p.m. Monday through Thursday
 - 8:00 a.m. through 10:00 p.m. Friday,
 - 10:00 a.m. through 10:00 p.m. Saturday,
 - 10:00 a.m. through 8:00 p.m. Sunday and City specified holidays

2. Exempt from these hours of operation are those activities which are authorized by the City of Culver City or the public school districts serving the residents of the City, including the use of the Civic Center facilities, athletic fields and courts, community centers, and the conduct of City approved special events.

('65 Code, § 23-44.14)

(Ord. No. 95-004 § 2 (part); Ord. No. 2002-005 § 1 (part))

§ 9.07.060 EXEMPTIONS FROM PROVISIONS.

A. *Emergency exemptions.* The emission of noise for the purpose of alerting persons to the existence of an emergency or the emission of noises in the performance of emergency work is exempted from the provisions of this Chapter.

B. *Warning devices.* Warning devices necessary for the protection of public safety, as for example fire, police and ambulance sirens, including the testing of such devices, are exempted from the provisions of this Chapter.

C. *Outdoor activities.* Permitted activities conducted on public playgrounds and public or private school grounds including but not limited to school athletic and entertainment events are exempted from the provisions of this Chapter.

D. *Trash collection activities.* All trash collection activities in residential area within the City are exempted from the provisions of this Chapter if after 7:00 a.m.

E. *Public utilities.* Public utilities operating under the authority of the Public Utilities Commission are exempted from the provisions of this Chapter only when specifically authorized through the City's permit system.

F. *Filming activity.* Filming activity conducted in accordance with the provisions of Chapter 11.14 is exempt from the provisions of this Chapter.

('65 Code, § 23-44.15) (Ord. No. 95-004 § 2 (part); Ord. No. 2004-018 § 2)

§ 9.07.065 CONFLICT OF PROVISIONS.

In the event of any conflict between this Chapter and any other provisions of this Code, this Chapter shall prevail.

('65 Code, § 23-46) (Ord. No. CS-653 § 2 (part))

CHAPTER 9.08: STREETS, SIDEWALKS AND PARKWAYS

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Special Gas Tax Street Improvement Fund, see § 3.07.200

Scattering of refuse on streets, and the like, see § 5.01.035

Parades, see §§ 9.06.100 through 9.06.170

GENERAL PROVISIONS

§ 9.08.005 DEFINITION.

For the purpose of this Chapter, the word ***STREET*** shall include all streets, parkways, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and opened to public use.

('65 Code, § 30-1) (Ord. No. 460 § 1)

§ 9.08.010 OBSTRUCTIONS PROHIBITED.

It shall be unlawful for any person owning, leasing, occupying, having charge or control of any lot or premises, to allow, keep or maintain any of the following obstructions:

A. Any tree, bush, grain or vegetation growing upon any lot or premises abutting any street or sidewalk so that the limbs, twigs, leaves or parts of such interfere with the free passage of pedestrians or vehicles.

B. Any soil, rubbish, papers, trash, garden refuse, tree trimmings, ashes, tin cans, or other waste or refuse to remain upon any sidewalk or upon any street which may interfere with or obstruct the free passage of pedestrians or vehicles or which may become detrimental to the public health or welfare.

C. Any structure, building or other obstacle of any nature whatever upon any sidewalk or street which will interfere with the free passage of pedestrians or vehicles.

D. Except as provided in § 9.08.040 of this Chapter, any merchandise, baggage, or any article of personal property upon any sidewalk, except that boxes, barrels and other receptacles for merchandise may be unpacked and their contents removed upon sidewalks, if such containers are removed immediately thereafter.

('65 Code, § 30-2) (Ord. No. 460 § 2; Ord. No. 96-018 § 3)

§ 9.08.015 OBSTRUCTING VIEW OF TRAFFIC.

It shall be unlawful to permit any hedge, wall or closed fence adjacent to a driveway abutting a sidewalk or street to be kept or maintained at such height as to obstruct the view of the driver of a vehicle backing into the street from said driveway.

('65 Code, § 30-4) (Ord. No. 613 § 4)

§ 9.08.020 CERTAIN TREES DEEMED OBSTRUCTION.

Trees or bushes of more than fifteen (15) feet in height growing in or upon the portion of any premises abutting any street or sidewalk; shall be deemed to interfere with and obstruct the free passage of pedestrians and vehicles within the meaning of this Subchapter unless the lower limbs, twigs, or leaves of such trees or bushes are kept removed at all times so as to have a clearance of at least nine (9) feet above such street or sidewalk.

('65 Code, § 30-5) (Ord. No. 460 § 2)

§ 9.08.025 SIDEWALK OPENINGS REGULATED.

It shall be unlawful for any person to construct or maintain any permanent opening in any sidewalk, unless the same is constructed and maintained in the manner required in this Subchapter.

A. *Type of opening required.* Every opening in any sidewalk shall be covered with metal trap doors, the sides of which shall not be less than four (4) feet from the outer edge of any curb, and no door shall have a width greater than five (5) feet. Metal guards shall be provided and maintained at each opening, each of which shall reach to the height of such doors when open and shall be constructed of wire mesh, the meshes of which shall not exceed three (3) inches in the greatest dimension. Every metal cover shall be flush with the surface when closed and the upper surface shall be roughened. It shall be capable of sustaining a load, at all points simultaneously, equal to four hundred (400) pounds for each superficial foot of the surface thereof.

B. *Requirements for opening.* It shall be unlawful for any person to open a door required herein covering any sidewalk opening, unless a metal guard, as required herein, is placed on each side of the opening except when merchandise is actually being conveyed from the opening and a person is stationed for the purpose of warning passers-by.

('65 Code, § 30-6) (Ord. No. 460 § 3)

§ 9.08.030 WATER SPRINKLING PROHIBITION.

It shall be unlawful for any person to cause water to be thrown upon any sidewalk in such a manner as to interfere with the free and uninterrupted passage of any pedestrian thereupon.

('65 Code, § 30-7) (Ord. No. 460 § 4)

§ 9.08.035 USE OF SIDEWALKS FOR OUTDOOR DINING.

A. *Purpose.* The purpose of this Subchapter is to authorize the administrative licensing of outdoor dining areas in areas where the establishment of outdoor dining will promote commercial revitalization and business opportunities in a manner that is consistent with the public welfare and safety.

('65 Code, § 30-58.1)

B. *Applicability.* In order to use the sidewalk for outdoor dining, any person must obtain an Outdoor Dining License Agreement as provided in this Subchapter, which shall provide for indemnification of the City, and the maintenance of liability and other insurance coverage. The City Council shall establish standards and procedures for design and operation of outdoor dining areas by adoption of a resolution.

('65 Code, § 30-58.2)

C. *City Engineer authority.*

1. The City Engineer is authorized to approve and execute, on behalf of the City, an Outdoor Dining License Agreement, subject to the adopted Outdoor Dining Standards and Procedures.

2. The City Engineer is authorized to suspend the Outdoor Dining License Agreement for violation of the adopted Outdoor Dining Standards and Procedures.

3. In addition to all other remedies provided by law or agreement, the City Engineer is authorized to revoke the Outdoor Dining License Agreement for violation of the adopted Outdoor Dining Standards and Procedures.

('65 Code, § 30-58.3)

D. Placement and removal of fixtures and equipment on sidewalk.

1. Notwithstanding § 9.08.010 of this Code, fixtures and equipment approved by the City Engineer pursuant to an Outdoor Dining License Agreement may remain in and on the sidewalk during such time as an Outdoor Dining License Agreement is in effect.

2. Upon revocation or termination of an Outdoor Dining License Agreement, all fixtures and equipment shall immediately be removed from the sidewalk, and the sidewalk returned to its original condition.

3. After revocation or termination of an Outdoor Dining License Agreement, failure to remove all fixtures and equipment or to return the sidewalk to its original condition, or both, shall be a nuisance affecting the public safety and is prohibited.

('65 Code, § 30-58.4)

E. Use of sidewalk for outdoor dining prohibited. Notwithstanding any other provisions of this Code, it shall be unlawful for any person to use the sidewalk for outdoor dining without a valid Outdoor Dining License Agreement.

('65 Code, § 30-58.5)

(Ord. No. 94-015 § 1 (part))

§ 9.08.040 USE OF SIDEWALKS FOR OUTDOOR DISPLAY OF GOODS.

A. Purpose. The purpose of this Subchapter is to authorize the administrative permitting of the outdoor display of certain goods in specified areas of the City where the establishment and operation of such outdoor displays will promote commercial revitalization and business opportunities in a manner that is consistent with the public welfare and safety.

('65 Code, § 30-59.1)

B. Applicability.

1. Outdoor displays of goods shall be permitted only in the Downtown and East Washington Overlay Zones in the City, pursuant to the Zoning Code, as set forth in Title 17 of this Code.

2. In order to use the sidewalk for the outdoor display of goods, a person must obtain an Outdoor Display of Goods Permit, as provided in this Subchapter, which shall provide for

indemnification of the City and the maintenance of liability insurance coverage. Regulations and Standards for the operation of outdoor displays of goods shall be established by resolution of the City Council.

('65 Code, § 30-59.2)

C. City Planner authority.

1. The City Planner is authorized to approve and execute, on behalf of the City, an Outdoor Display of Goods Permit, subject to the Regulations and Standards adopted by resolution of the City Council.

2. In addition to all other remedies provided by law or agreement, the City Planner is authorized to suspend or revoke the Outdoor Display of Goods Permit for violation of this Subchapter or the adopted Regulations and Standards.

('65 Code, § 30-59.3)

D. Use of public sidewalk and private property for outdoor display of goods prohibited. Notwithstanding any other provisions of this Code, it shall be unlawful for any person to use the public sidewalk and private property for the outdoor display of goods without a valid Outdoor Display of Goods Permit.

('65 Code, § 30-59.4)

(Ord. No. 96-018 § 4 (part))

Cross-reference:

Street sales, see § 9.07.025

§ 9.08.045 IMPORT AND EXPORT OF EARTH MATERIALS ON PUBLIC STREETS.

A. Permit.

1. No person shall import or export more than one thousand (1,000) cubic yards of earth materials along a public street to or from a site within the City of Culver City without first having obtained a permit therefor from the City Engineer.

2. The City Engineer may approve the issuance of the permit upon the imposition of reasonable conditions, including but not limited to:

- a. The times and date(s) during which the importing or exporting shall be conducted.
- b. The route along public streets to be followed during the importing or exporting.
- c. Requirements regarding dust control and noise control.
- d. Submission of a bond, or other security, in an amount and form subject to the approval of the City Attorney and City exporting activity is, in the opinion of the City Engineer, in need of same.

e. Submission of evidence of insurance, in an amount and form subject to the approval of the City Attorney, including the City and its officers and employees as additional insureds and with endorsements as required.

f. Any other reasonable condition that the City Engineer determines necessary for the protection of public health, safety and welfare.

3. Before the issuance of the permit, the applicant shall pay a fee based upon the total number of cubic yards of earth materials to be imported or exported and upon the miles of public street to be traversed, excepting freeways, at a rate as established by a resolution of the City Council.

('65 Code, § 30-60)

B. *Establishing truck routes.* Notwithstanding any other provisions of this Code, the City Engineer, after consultation with the Chief of Police and if the public interest is better served, may permit the importing/exporting vehicles to be driven along routes other than those officially designated as truck routes.

('65 Code, § 30-61) (Ord. No. 84-023 § 1)

USE OF STREETS FOR MOVING PURPOSES

§ 9.08.100 MOVING REGULATIONS.

The following regulations shall govern the moving of buildings, structures, heavy machinery and equipment.

('65 Code, § 30-8)

§ 9.08.105 PERMITS CLASSIFIED.

For purposes of this Chapter, permits shall be required for the moving of buildings, structures, heavy machinery or equipment in accordance with the following classifications:

A. Class A Permit - For any building or structure moved by animal-drawn vehicles or motor truck or any vehicle propelled by its own power.

B. Class B Permit - For any heavy machinery or equipment moved by animal-drawn vehicles or motor truck or any vehicle propelled by its own power, where the weight of said machinery or equipment to be moved exceeds 8 tons.

C. Class C Permit - For any building or structure which, when loaded on housemoving dollies or rollers, does not exceed 22 feet in height or 30 feet in width.

D. Class D Permit - For any building or structure which, when loaded on housemoving dollies or rollers, is more than 22 feet in height but does not exceed 28 feet in height, and is more than 30 feet in width but does not exceed 40 feet in width.

E. Class E Permit - For any building or structure which, when loaded on housemoving dollies or rollers, exceeds 28 feet in height or exceeds 40 feet in width.

F. Class F Permit - For any building or structure, the walls of which are constructed of brick or of concrete, which, when loaded on housemoving dollies or rollers, exceeds 22 feet in height or exceeds 30 feet in width.

('65 Code, § 30-9) (Ord. No. 558 § 1)

§ 9.08.110 PERMIT REQUIRED.

It shall be unlawful for any person, firm or corporation to move, or cause to be moved, any house, building or structure, or any section or portion thereof, without first obtaining a permit so to do from the Building Official. The Street Maintenance Manager shall issue Class B permits, as well as approve route and condition of streets to be traversed.

('65 Code, § 30-10) (Ord. No. 558 §§ 2, 8; Ord. No. 93-002 § 1)

§ 9.08.115 COMPLIANCE WITH SITE PLAN REVIEW REQUIREMENTS PRIOR TO ISSUANCE OF CERTAIN PERMITS.

The Site Plan review requirements of the Zoning Code, as set forth in Title 17 of this Code, shall be complied with prior to the issuance of Class C, D, E or F permits.

('65 Code, § 30-11) (Ord. No. 558 § 10; Ord. No. 93-002 § 2)

§ 9.08.120 PERMIT UNOBTAINABLE; OLD BUILDINGS.

No permit shall be granted for the moving of old dilapidated structures in a state of disrepair.

('65 Code, § 30-12) (Ord. No. 558 § 10)

§ 9.08.125 APPLICATION; CONTENTS.

Application, in duplicate, for Class A, C, D, E and F permits shall be filed with the Building Official and Street Maintenance Manager. The application shall include or be accompanied by each of the following:

A. The name of the owner; type of building or structure; present and proposed location; fair value and approximate age of structure to be moved; route proposed to be followed; method of moving and time within which moving will be commenced and completed.

B. Necessary authority and permits from operators of public utilities which might be affected by moving operations.

C. A map or sketch of the property on which structure is to be placed, showing proposed location and any other improvements.

D. Photographs of all sides of building or structure, together with architectural plans of completed structure.

E. A Faithful Performance Bond, executed by a responsible surety company, in an amount recommended by the Building Official as being necessary to bring the structure up to standards of the immediate area.

F. Unless a bond in the sum of Ten Thousand Dollars (\$10,000.00), payable to the City, is filed with the City Clerk by the moving agency, C, D, E and F applications must be accompanied by a surety bond in the sum of Five Thousand Dollars (\$5,000.00), in favor of the City, for the benefit of any person, firm or corporation damaged directly by the moving of a building or structure.

G. Any pertinent information required by the Building Official or Street Maintenance Manager.

('65 Code, § 30-13) (Ord. No. 558 § 3, 4, 6, 10; Ord. No. 93-002 § 3)

§ 9.08.130 PERMIT FEES.

Each application for permit shall be accompanied by as established by resolution.

('65 Code, § 30-14) (Ord. No. 558 § 5; Ord. No. 2007-002 § 7)

§ 9.08.135 SEPARATE PERMITS REQUIRED.

A special permit shall be required for each building, structure, piece of machinery or equipment, or more than one section or portion thereof, and moving operations must be completed within time specified in the application unless the Building Official extends such time for causes which, in his/her opinion, warrant the extension.

('65 Code, § 30-15) (Ord. No. 558 § 11; Ord. No. 92-002 § 4)

§ 9.08.140 PERMITS SUPPLEMENTAL TO OTHER REQUIRED PERMITS.

Permits specified in this Chapter are in addition to all permits required under any other Chapter of this Code, and all relocated buildings or structures must conform to all requirements of the Building and other Codes of the City relating to building, construction, and necessary installations incident thereto.

('65 Code, § 30-16) (Ord. No. 558 § 12)

§ 9.08.145 DAMAGE.

Damage to any street, public property or public utility shall be repaired by the proper City Department and the cost thereof charged to the owner of the property or the person, firm or

corporation to whom moving permit was issued. No permit shall be issued for repair or reconstruction until all such costs and fees due the City have been paid.

('65 Code, § 30-17) (Ord. No. 558 § 7)

§ 9.08.150 APPLICABILITY OF REGULATIONS.

The provisions of this Chapter shall apply to all persons, firms or corporations moving buildings, structures, machinery or equipment within the City or to the City from an outside location.

('65 Code, § 30-18) (Ord. No. 558 § 9)

§ 9.08.155 FEE WAIVER.

Where the building, structure, machinery or equipment to be moved is owned or is to be used or occupied by another public agency, or is located within the City limits, or where distance moved is short enough to warrant modification of fees or other requirements, deposit and permit fees may be waived.

('65 Code, § 30-19) (Ord. No. 558 § 9)

§ 9.08.160 RED LIGHT REQUIRED.

No person, firm or corporation moving, or causing to be moved, any building, structure, machinery or equipment, or section or portion thereof, over, upon, along or across any public street, alley, or other public place, shall fail, refuse or neglect to keep a red light burning at all times between sunset and sunrise at each corner of such section or portion of building, structure, machinery or equipment, or at the end of any projection thereof, at intervals of not more than 10 feet, while the same or any part thereof is located in or upon any public streets, highway, alley, or public place.

('65 Code, § 30-20) (Ord. No. 558 § 13)

§ 9.08.165 LOOK-OUTS TO BE MAINTAINED.

During such time as any building, structure, machinery or equipment is being moved and in motion, sufficient look-outs shall be maintained to safeguard persons or property against injury or damage which might result from such moving operations.

('65 Code, § 30-21) (Ord. No. 558 § 13)

TREE REMOVAL

§ 9.08.200 DEFINITIONS.

In addition to the definitions contained elsewhere in this Code, the following words and phrases shall, for the purposes of this Subchapter, be defined as follows, unless it is clearly apparent from the context that another meaning is intended. Should any of the definitions be in conflict with any other provision of this Code, these definitions shall prevail.

APPLICANT. An interested person who has submitted an application for removal of a parkway tree.

INTERESTED PERSON. Except as otherwise provided in this definition, an **INTERESTED PERSON** is an owner, occupant or agent of real property located within a 100 foot radius of the location of a parkway tree that is proposed for removal. For purposes of this definition, an **INTERESTED PERSON** is limited to owners, occupants and agents of real property located on the same street on which the proposed parkway tree is located or on a street intersecting the street on which the proposed parkway tree is located.

PARKWAY. That portion of a street right-of-way between the curb and the sidewalk.

PUBLIC WORKS DIRECTOR. The City of Culver City Public Works Director/City Engineer or his/her designee.

STREET MEDIAN. A raised area containing landscaping, including trees and/or hardscape features, located in the street between opposing lanes of traffic.

STREET RIGHT-OF-WAY. Includes all streets, parkways, sidewalks, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in the City, which have been or may hereafter be dedicated and opened to public use.

(Ord. No. 2013-007, § 1 (part))

§ 9.08.205 PUBLIC WORKS DIRECTOR AUTHORITY AND DUTIES.

The Public Works Director shall have authority over the City's public right-of-way and shall be in charge of and have control over the planting, trimming, and removal of trees in parkways and other public places within the City. Except as otherwise provided in this chapter, the Public Works Director shall follow and be governed by the procedures set forth in the Tree Planting Act of 1931 (the "Act") (Cal. Sts. & High. Code §§ 22000 et seq., as amended), provided, however, that the authority provided to the Board under the Act shall be vested in the City Council.

(Ord. No. 2013-007, § 1 (part))

§ 9.08.210 REMOVAL OF TREES IN PARKWAYS; APPLICATION PROCEDURE; NOTICE AND APPEALS.

A. The Public Works Director shall have sole authority to cut, trim, prune, replace or remove any tree in or on any parkway in the City. No other person shall cut, trim, prune, replace, remove, deface, or in any manner injure any tree in or on any parkway in the City, except as authorized by the Public Works Director in the case of a private improvement project in accordance with § 9.08.215.

B. Any interested person may request discretionary removal of a parkway tree by submitting a written application to the Public Works Director, on a form approved by the City. The written application shall state the name and address of the applicant, the location of the tree, the reason for the request, and any other information required by the Public Works Director. The written application shall be accompanied by a filing fee, established by resolution of the City Council. A filing fee is not required to request removal of a tree that is suspected to be in a hazardous or unsafe condition.

C. The Public Works Director shall review the application and supporting documentation to determine whether to approve the removal of the requested tree. In determining whether any tree in or on the parkway shall be removed or replaced, the Public Works Director shall determine whether the removal or replacement is in the best interest of the City and the public health, safety and welfare. Such determination shall be based on the criteria set forth in either Subsection C.1 or Subsection C.2 as follows:

1. If any one of the following criterion is met:

a. The tree is dead, dying, or weakened by disease, age, storm, fire or other injuries so as to pose an existing or potential danger to persons, properties, improvements or other trees; or

b. The removal is necessary for construction of a Street improvement project or other public improvement/repair work; or

c. The removal is necessary for a private improvement or development project. Where the application for removal is related to a private improvement or development project, see § 9.08.215.

2. If two or more other criteria are met:

a. The tree is a known problem species or is otherwise found to be an undesirable species for its location based on tree size relative to available area for tree growth.

b. The tree roots are creating extensive and repeated damage to public and/or private infrastructure, including sidewalks, sewer lines, or other utility lines. A history of sewer line blockages from tree roots does not alone provide sufficient reason for tree removal, but rather suggests the need for sewer repair to stop leaks and the accompanying root intrusion that results.

c. The tree is creating a public or private nuisance.

D. If a Parkway tree is approved for removal, following review of the criteria listed in Subsection 9.08.210.C, such removal shall be accommodated subject to availability of city resources and funds. In the event that the applicant desires the approved removal occur prior to when it can be accommodated by the Public Works Director, the applicant shall be given the option of paying for the removal, in which case the tree will be removed at the first opportunity upon receipt of payment.

E. The decision of the Public Works Director is final, unless appealed by the applicant, a member of the City Council or an interested person. Appeals shall be submitted in writing and filed with the City Clerk within 10 days after the decision date identified in the notice of decision. The notice of decision shall be prepared by the Public Works Director and sent to the applicant and all interested persons with a copy provided to the City Council. The number of days shall be construed as City Hall business days. Time limits will extend to the following City Hall business day, where the last of the specified number of days falls on a weekend, holiday, or

other day when City Hall is officially closed. An appeal shall include a general statement, specifying the basis for the appeal, shall be based on an error in fact or dispute of the findings of the decision, and must be accompanied by supporting evidence substantiating the basis for the appeal. Appeals shall be accompanied by a filing fee established by resolution of the City Council.

F. Appeals shall be heard by the City Council, which shall affirm the decision of the Public Works Director, unless the appellant demonstrates, by substantial evidence, that the decision is based on an error in fact or disputed findings. The decision of the City Council on an appeal shall be final.

(Ord. No. 2013-007, § 1 (part))

§ 9.08.215 REMOVAL OF TREES IN PARKWAYS RELATED TO PRIVATE IMPROVEMENT OR DEVELOPMENT PROJECT.

A. An application for removal of an existing parkway tree, in accordance with §§ 9.08.210.B and 9.08.210.C.1.c, as a necessity for the construction of a private improvement or development project, shall be accompanied by a report prepared by a registered consulting arborist, for review and approval by the Public Works Director. The report shall explain the necessity of removing the tree and evaluate the feasibility of transplanting the tree(s) to another location.

B. If the Public Works Director determines that transplanting the tree(s) is feasible, the tree(s) shall be relocated, at the sole cost and expense of the applicant, to a location specified by the Public Works Director. Applicant has the option of performing this work or paying to the City the cost to have the work performed by the City's contractor.

C. If the requested tree(s) cannot be transplanted, then the applicant shall provide sufficient evidence, to be reviewed and considered by the Public Works Director, that the private improvement or development project cannot be reasonably redesigned to avoid the removal of the tree(s). If the Public Works Director determines that a project redesign is not feasible, then removal of the tree(s) may be approved, on the condition that the applicant shall plant two new street right-of-way trees or parkway trees for each tree that is removed. The size and location of the replacement trees shall be determined by the Public Works Director based on what is appropriate for the particular Street Right-of-Way or Parkway. Where feasible and appropriate for the location, the Public Works Director will require 36" box trees or larger for replacement.

D. At the applicant's sole cost and expense, the replacement trees shall be planted along the site frontage of the private improvement or development or in other street median or parkway locations in the City at the discretion and direction of the Public Works Director. Applicant has the option of performing this work or paying to the City the cost to have the work performed by the City's contractor.

E. All new or transplanted street median and/or parkway trees shall be planted in a tree well with a tree grate, if required, as approved by the Public Works Director. New or transplanted parkway trees that are located adjacent to the applicant's property shall be supplied with irrigation water from the irrigation system located on the applicant's property, which system shall include a timer and rain sensor. With the exception of single family developments, a landscape/irrigation plan for the new or transplanted parkway trees, and any other required

parkway landscaping, shall be prepared at the sole expense of the applicant and submitted to the Public Works Director for review, approval, and permitting.

F. Applicant shall be responsible for the maintenance of the transplanted or new parkway trees that are located adjacent to the applicant's property for a period of one year. If a transplanted or new Parkway tree, adjacent to applicant's property or otherwise, does not survive during the first year, the applicant shall be required to plant a replacement tree in accordance with the requirements of this § 9.08.215. Applicant shall be responsible for the maintenance of such replacement tree for a period of one year.

(Ord. No. 2013-007, § 1 (part))

§ 9.08.220 DIRECTOR-INITIATED REMOVAL OF TREES IN STREET MEDIANS AND PARKWAYS; NOTICE AND OBJECTIONS.

A. The Public Works Director has the authority to remove any street median tree or parkway tree if he or she determines such removal is in the best interest of the City and the public health, safety and welfare, based on the criteria listed in § 9.08.210.C.

B. Except as otherwise provided in § 9.08.220.E, prior to removal of any street median tree or parkway tree, the Public Works Director shall provide to all interested persons 10 days written notice of the date scheduled for removal of the street median tree or parkway tree.

C. Except as otherwise provided in § 9.08.220.E, if any interested person objects to such removal, his or her objection must be in writing and filed with the City Clerk at least three days prior to the date scheduled for removal of the tree. The objection shall state the name and address of the interested person, the location of the tree and the reason for the objection.

D. Any objection(s) timely filed shall be heard by the City Council at a regularly scheduled public meeting. The City Council shall consider the objections and make a determination as to whether the tree shall be removed. In order to overturn the Public Works Director's decision, the City Council must find the decision was based on an error in fact or dispute the findings that were the basis of the Public Works Director's decision.

E. In any case where the Public Works Director determines that a tree poses a manifest public danger and its removal is an immediate necessity, the notice and objection provisions of §§ 9.08.220.B and 9.08.220.C shall not apply.

(Ord. No. 2013-007, § 1 (part))

§ 9.08.225 VIOLATIONS UNLAWFUL; PENALTIES; ADMINISTRATIVE COST RECOVERY.

A. A violation of any provision of this subchapter is unlawful.

B. The remedies provided by this subchapter are cumulative and in addition to any other remedies available in law or equity, including those provided in Chapters 1.01 and 1.02 of this Code.

C. A violation of any provision of this subchapter is subject to a civil action brought by the City Attorney, punishable by a civil fine not less than one hundred dollars (\$100) and not exceeding one thousand dollars (\$1,000) per violation for each day, or part thereof, such violation occurs.

D. A violation of any provision of this subchapter may, at the discretion of the City Attorney, be prosecuted as an infraction or misdemeanor and subject to the criminal penalties provided in §§ 1.01.040 and 1.01.045 of this Code.

E. Causing, permitting, aiding, abetting or concealing a violation of any provision of this subchapter shall also constitute a violation of this subchapter.

F. It is the intent of the City Council to recover the costs incurred by the City from: (1) enforcing and obtaining compliance with the provisions of this subchapter; and (2) damage to City property resulting from violations of this subchapter. Any person, firm or corporation in violation of this subchapter shall be responsible to the City for the payment of an administrative assessment for all costs associated with said violation, including administrative costs of enforcing and obtaining compliance with this subchapter and actual costs of damage to City property. An administrative assessment may be appealed in the same manner as an administrative citation, pursuant to the procedures set forth in § 1.02.045 of this Code.

G. In addition to the administrative assessment and civil and criminal penalties attached to violations of this subchapter, any violation of this subchapter is hereby declared a public nuisance.

(Ord. No. 2013-007, § 1 (part))

§ 9.08.230 CONFLICT OF PROVISIONS.

In the event of any conflict between this subchapter and any other provisions of this Code or the Tree Planting Act of 1931, this subchapter shall control.

(Ord. No. 2013-007, § 1 (part))

EXCAVATIONS

§ 9.08.300 DEFINITIONS.

Whenever in this Subchapter the following terms are used, they shall have the meaning ascribed to them, unless it is apparent from the context thereof that some other meaning is intended:

CITY ENGINEER. The City Engineer of the City, or his authorized representative.

DIVISION. The Administrative Authority of the Division of Public Works of the City.

EXCAVATION. Any opening in the surface of a street made in any manner whatsoever, except an opening into a lawful structure below the surface of the street, the top of which is flush

with the adjoining street surface and so constructed as to permit frequent openings without injury or damage to the street.

FACILITY. Any pipe, pipe line, tube, main service trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire, tower, electrolier, signpost, pole, pole line, cross-arm or bracket, anchor, cable, junction box, transformer or any other material, structure, or object of any kind or character not particularly mentioned herein which is or may be lawfully constructed, left, placed or maintained in, upon, along, across, under, or over any street or portion thereof.

INCIDENTAL EXPENSES. All expenses incidental to any work authorized by permit under this Subchapter or incidental to the inspection, supervision or completion thereof, including a reasonable charge for overhead.

OBSTRUCTION. Any object, material, instrumentality or impediment in, upon, along, across, under or over any street, needed or useful for a limited period of time in performing or doing work in, upon, along, across, under or over such street or in or upon property in close proximity thereto, whether the same obstructs travel or not; provided, however, that a barricade, torch, light or sign when lawfully placed upon, along, or across a street in accordance with the provisions of this Subchapter shall not be considered an obstruction within the meaning of this definition.

PERSON. Includes natural person, firm, partnership, association, corporation, company or organization of any kind.

STREET BETTERMENT. The grading, paving of a street, gutter, sidewalk, crosswalk, step, seat, fountain, curb, driveway, tunnel, subway, viaduct, bridge, sewer, connecting sewer, instrumentality of sanitation, together with the necessary outlet, drain, channel for drainage purposes with necessary outlet, pole, post, wire, pipe, conduit, lamp, ornamental light standard and any suitable or necessary appliance for the purpose of lighting any street, street or house number, letter or name, hydrant and appliance for fire protection, retaining wall, embankment or any appliance, attachment or appurtenance in connection with any structure or object mentioned in this definition, or any similar structure or object which will improve the whole or any portion of any street.

STREET IMPROVEMENT. Any improvement or portion thereof, which the City or any instrumentality of the City is authorized law to make in, upon, along, across, under, or over any street, used or useful in connection with travel on the street.

TEMPORARY DRIVEWAY. The facility required by this Subchapter at the location upon any street designated in any permit issued hereunder authorizing a vehicle to be driven or operated over any sidewalk, parkway, or curb at a point other than where a driveway has been constructed.

('65 Code, § 30-22)

§ 9.08.305 PERMIT REQUIREMENTS.

It shall be unlawful for any person to do or perform any of the following acts without a permit so to do from the Division:

- A. Make any excavation, tunnel or bore in or under the surface of any street.

B. Construct, erect, place, or repair any facility in, upon, along, across, under or over any street, or remove any facility from any street.

C. Repair, construct, reconstruct, erect or make any street betterment in, upon, along, across, under or over any street or remove any street betterment from any street when such work is done or performed by or at the insistence and request of the owner of any real property abutting on said street.

D. Destroy or remove any street improvement or street betterment in, upon, along, across, under or over any street.

E. Construct, leave, place or maintain any obstruction in, upon, along, across, under or over any street.

F. Drive or operate any vehicle over any curb, parkway, or sidewalk located upon any street at a point other than where a driveway has been constructed.

G. Maintain any building material or debris of any kind whatsoever on any street, parkway, sidewalk, or other public way without special permit to do so from the Division.

H. All material or debris stored by the permittee in the street shall be barricaded and illuminated, in accordance with § 9.08.390 A. of this Subchapter and to the satisfaction of the City Engineer.

I. No person other than one having a State License as General Engineering Contractor Class A, Pipe Line Contractor Class C-34, or Sewer Contractor Class C-42, shall be permitted to do any sewer repair, sewer connections or sewer construction in the public way, except with a special permit issued by the Division.

J. Every permit granted under this Subchapter shall be granted upon the condition that the person to whom the permit was granted shall comply in every respect with the provisions of this Subchapter.

K. The Division retains the right to refuse a permit for the storage of any material or debris on any street, parkway, sidewalk or other public right of way, at the discretion of the City Engineer.

('65 Code, § 30-23)

§ 9.08.307 RIGHTS-OF-WAY MANAGEMENT PROCEDURES, FEES AND STANDARDS.

A. In order to protect the public health, safety and welfare, the City Council shall adopt by resolution a "Rights-of-Way Management Plan," establishing procedures, fees and standards for access to the public rights-of-way.

B. The Rights-of-Way Management Plan may be amended from time-to-time to conform to then current standards, taking into consideration developing technologies affecting use of the public rights-of-way.

C. In accordance with §§ 9.08.330 and 9.08.335 of this Code, the fees for such permitting shall be adopted as part of the Schedule of Charges.

D. In the event of any inconsistency between elements within CCMC Chapter 9.08 and the Rights-of-Way Management Plan, the Rights-of-Way Management Plan shall control.

(Ord. No. 2000-014, §1)

§ 9.08.310 EXCEPTIONS.

A. Any person maintaining any pipe, conduit, or pole in any street by virtue of any law, ordinance or franchise, may proceed with an excavation without a permit as herein required when emergency circumstances require the work to be done immediately for the preservation of the public peace, health, safety or welfare, provided the permit could not reasonably and practically have been obtained beforehand. Such person shall thereafter apply for a permit on the first day on which the office of the Division is open for business, and such permit shall be retroactive to the date when the work was begun.

B. Any division, department, officer or employee of the City may perform work without a permit as herein required when such work is a normal function of or is within the responsibility or jurisdiction of such division, department, officer or employee.

('65 Code, § 30-24)

§ 9.08.315 ANNUAL BLANKET PERMIT.

The Division may issue to any person operating under a franchise granted by the State of California or the City, an annual blanket permit to place or to repair any facility which does not interfere with, disturb, destroy or remove any street improvement or street betterment, or involve the making of any excavation in or below the surface of the street or interfere with any installation owned by any other person.

('65 Code, § 30-25)

§ 9.08.320 BUSINESS LICENSE REQUIREMENTS.

No permit shall be issued under this Subchapter until and unless the applicant shall have first complied with the provisions of the laws of the State of California and the Ordinances of this City requiring the possession of licenses.

('65 Code, § 30-26)

§ 9.08.325 PERMIT; APPLICATION AND ISSUANCE.

Application for permit shall be made to the Division and shall describe specifically the location, nature and extent of the proposed work, the purposes thereof, and the right, if any, of the applicant to do such work. The application shall be accompanied by a plat, in duplicate, showing the location of each proposed excavation, the dimensions thereof, and such other details as the Division may require. Where, in the opinion of the City Engineer, the work to be done is

of a minor nature, the requirement for duplicate plats may be waived and a sketch on the application form shall be submitted in lieu thereof. Applications for annual blanket permits need not be accompanied by a plat or sketch. If the applicant is lawfully entitled to do such work, or any portion thereof, at the place and in the manner proposed, the Division shall issue a permit for the doing of such work, or any portion thereof, as the case may be; provided, however, that no permit shall be issued by the Division until the applicant has paid the prescribed fee and deposited security for completion of the work as hereinafter provided.

('65 Code, § 30-27)

§ 9.08.330 PERMIT FEE AND DEPOSIT; EXCEPTIONS.

A. *Permit fee and deposit.* Prior to the issuance of a permit under the provisions of this Subchapter, each applicant shall:

1. Pay to the City an excavation permit fee and additional charges in accordance with the Schedule of Charges adopted by the City Council as per § 9.08.335, except that no fee shall be required of the United States, State of California, or any political subdivision, governmental agency, department or contractor thereof, if in the opinion of the City Engineer the City will benefit from the act to be performed.

2. Deposit or file with the City a sum of money, certified check payable to the order of the City, or surety bond, in an amount sufficient to cover the cost of inspection and other incidental expenses and to guarantee restoration of the street to as good or better condition than it was before the work was begun, as determined by the City Engineer. The amount of such deposit or surety bond shall be determined from a schedule which will be prepared and filed as set forth in § 9.08.335 of this Subchapter.

3. Each applicant for a permit under § 9.08.305, Subsection G., shall pay the permit fee and deposit as established by resolution.

('65 Code, § 30-28)

B. *Exceptions.* Persons operating under a franchise granted by the State of California or the City may be granted a permit exempt from the provisions of Subsections A.2. and A.3., provided that in such cases permittees shall be liable for the actual cost of any work required to be done by the Division or its authorized representative in repairing damaged improvements to meet current construction standards and specifications to the satisfaction of the City Engineer. Such permittees also shall be liable for the cost of inspection and other incidental expenses incurred by the Division in connection with the work. The City Engineer may require deposits, as provided for in Subsections A.2., in the event the work is to be performed by a contractor retained by the City.

('65 Code, § 30-29) (Ord. No. 92-009 § 2; Ord. No. 2007-002 § 8)

§ 9.08.335 SCHEDULE OF CHARGES.

The Division shall and it is hereby authorized to establish, subject to the approval and adoption by the City Council, a schedule of charges from which will be computed the amounts of deposits

or bonds required under § 9.08.330 A. of this Subchapter and to change such schedule from time to time, subject to the approval of the City Council, in order to conform to the prevailing prices for materials and labor. The schedule shall be open to public inspection in the office of the Division, upon the demand of any person interested therein.

('65 Code, § 30-29.1)

§ 9.08.340 ADDITIONAL WORK; GUARANTEE DEPOSIT.

For any work not contemplated in the Schedule of Charges, the applicant shall deposit a sum sufficient to guarantee restoration of the street and to reimburse the City for the actual cost of the inspection and similar services to be rendered by the City. This sum shall be computed by the Division and approved by the City Engineer, and upon deposit thereof a permit for the work may be issued by the Division.

('65 Code, § 30-30)

§ 9.08.345 LIABILITY INSURANCE.

Any person making application for a permit to conduct any operations regulated by this Subchapter shall furnish to the City, and maintain, a certificate of public liability and property damage insurance as issued by an insurance company approved by the City Engineer, with minimum limits of One Hundred Thousand Dollars/Three Hundred Thousand Dollars (\$100,000.00/\$300,000.00) personal injury liability and Fifty Thousand Dollars (\$50,000.00) property damage, to cover any liability created by the permittee in his operations permitted hereunder and to insure the City from any and all liability of any nature whatsoever connected directly or indirectly with said work. Public utilities operating under the supervision of the Public Utilities Commission, public utilities holding a franchise from the City, City Departments and other governmental agencies, may be relieved of the obligation of submitting such a bond by the City Engineer. No provision of this Section shall be construed to impose upon the permittee or any of said permittee's agents, servants or independent contractors, a greater or different duty of care to third persons than would otherwise be involved by law in the absence of such provision.

('65 Code, § 30-30.1)

§ 9.08.350 RETURN OF DEPOSIT AND CANCELLATION OF BOND.

Any deposit or bond made pursuant to this Subchapter shall remain in effect and shall be held by the City for a period of one year after the work is completed; provided, however that when in the opinion of the City Engineer the permittee's work is of such a nature that the damages, if any, may be immediately determined, the deposit may be refunded or the bond may be cancelled when the work is completed or at any time within one year thereafter, subject to the condition that before such deposit is refunded or such bond cancelled, there first shall have been paid to the City an amount sufficient to cover the City's cost for inspection and other incidental expenses.

('65 Code, § 30-31)

§ 9.08.355 DECISION OF CITY ENGINEER FINAL.

The decision of the City Engineer as to the cost of any work done or repairs made by the Division or under its directions, pursuant to the provisions of this Subchapter, shall be final and conclusive as to such cost.

('65 Code, § 30-32)

§ 9.08.360 ACCOUNTING OF DEPOSITS.

The Division shall maintain for each special or general deposit made under the provisions of this Subchapter, a full and accurate account thereof showing the amount of any such deposit received and all deductions made therefrom. All moneys refunded pursuant to the provisions of this Subchapter shall be paid upon demands approved by the City Engineer, and audited and paid in the same manner as other demands against the City.

('65 Code, § 30-33)

§ 9.08.365 OBSTRUCTING STREET OR FIRE HYDRANT.

A. Whenever an excavation or obstruction obstructs, or is likely to obstruct, the use of a street or access to any fire hydrant in such a manner as to deter or hinder the operation of the Fire Department in extinguishing or controlling fire, the person making such excavation, street improvement, street betterment, facility, equipment or obstruction shall promptly notify the Fire Department, giving the exact location. This provision shall appear on or be attached to every permit issued under this Subchapter.

B. No firm or person shall deposit or maintain any building material of any kind whatsoever or any debris from any building or excavation in or upon any street:

1. Within 25 feet of any fire hydrant.
2. Within 11 feet of the nearest rail of any railroad tract on such street.
3. Where no railroad track exists, not more than 5 feet from curb into the street.
4. In any manner as to prevent the passage of any vehicle.
5. In any manner as to obstruct the gutter space of the street, per § 9.08.400 of this Subchapter.
6. No building material, debris, or excavated material shall be stored, stockpiled or maintained on any street, parkway, or sidewalk other than immediately in front of the building in actual course of construction, alteration, repair or demolition.
7. No person shall mix, make, place, or pile any mortar, plaster, asphalt, tar, lime, concrete, or any similar substance or mixture upon any surface of any street, parkway, sidewalk, or other public right of way; nor shall any person wash any plaster mixer, mixing box, plaster tools, or any plastering equipment whatsoever onto any street, parkway, sidewalk or other public right of way, nor shall any person cause to be washed or emptied in any manner any concrete mixer or

box, mixing truck, wheelbarrow or any tools, or any other concrete equipment whatsoever; nor wash or empty any paint buckets, paint-spraying equipment, tools or brushes onto any street, parkway, and the like, nor allow any of the above-mentioned materials to leak or run onto any street, alley, parkway or sidewalk, or remain to seep into or become bonded to any paved street, alley or sidewalk. Any violation of this Subsection will cause a Stop Work Order to be issued and the Division to have the necessary clean-up work done, with all costs therefor to be charged to the violator and paid for before any Stop Work Order will be removed from any job where such violation was committed.

('65 Code, § 30-34)

§ 9.08.370 DISPLAY OF PERMIT.

Every person holding a permit under this Subchapter and engaged in the making or failing of any excavation, in any street, shall, on demand, while work is in progress, exhibit to the representative of the Division the permit issued for such work.

('65 Code, § 30-35)

§ 9.08.375 WORK TO BE EXPEDITED; REVOCATION OF PERMIT.

A. All acts regulated by this Subchapter shall be commenced within (60) days after the issuance of a permit therefor, except that such time may be extended by the Division. If not so commenced, the permit shall be revoked. Permits thus revoked may be renewed for an additional sixty (60) day period upon the payment of an additional permit fee as originally required. The doing of such work and the repairing and restoring of the street to its original condition shall be performed and prosecuted with diligence so as not to obstruct the street or travel thereon any more than is absolutely necessary. When traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the Division shall have full power to order, at any time during the work, that a crew of men and adequate facilities be employed by the permittee twenty-four (24) hours a day to the end that such excavation work may be completed as soon as possible.

B. The Division may revoke any permit granted under this Subchapter for violation of any Section thereof. If, upon the investigation of a reported violation of any part of this Subchapter, a violation is found to exist, a minimum investigation fee, as established by resolution, shall be charged the permittee for each investigation.

C. No person or firm shall continue to perform any work under any permit after the permit has been revoked or an order to stop work has been issued against a job by the Division.

('65 Code, § 30-36) (Ord. No. 2007-002 § 9)

§ 9.08.380 DIVISION OF PUBLIC WORKS MAY REPAIR DAMAGE; REMOVE MATERIAL OR DEBRIS.

A. Where existing street improvements have been excavated or damaged as the result of underground installations or other work for which a permit has been issued under this Subchapter, or when the repairs made by the permittee are found by the Division to be unsatisfactory, the Division may elect to have the City restore said improvements at the permittee's expense, in which event the restoration of said improvements shall be made by the Division and the cost thereof charged to holder of the permit.

B. No person shall fail to remove all building material or debris of any kind whatsoever deposited or maintained on any street, parkway or sidewalk under permit, within five (5) days after the completion of the construction, alteration, repair or demolition of any building or any other work, nor fail to leave the street, parkway or sidewalk in as good or better condition, as the same was prior to the depositing of such material or debris therein. Upon failure of the permittee to remove such material, the Division shall proceed to do such work or have the same done, and the cost thereof shall be paid by the permittee.

('65 Code, § 30-37)

§ 9.08.385 AUTHORITY TO CLOSE STREETS.

Whenever it shall appear necessary to the Division to close any streets for construction or repair work, the Division may close or authorize the closing of such street, or any portion thereof, from public travel; provided, however, that the Division shall first notify the Police Department and the Fire Department of such closing.

('65 Code, § 30-38)

§ 9.08.390 BARRIERS, LIGHTS AND SIGNS; WRONGFUL REMOVAL.

A. *Barrier, lights and signs.* The following barriers, lights and signs shall be required:

1. *Excavations.* Every person excavating any street shall place and maintain barriers at each end of such excavation and at such other places along the excavation as may be necessary to prevent accident, and shall also place and maintain lights at each end of such excavation and at distances of not more than fifty (50) feet along the line thereof, from sunset of each day to sunrise of the next day, until such excavation is entirely refilled. The person doing the work of excavating may place or post signs directing traffic around the excavation and any materials or equipment used in connection therewith. It shall be unlawful for any person to fail, refuse or neglect to comply with any requirement contained herein.

2. *Street closing.* Every street, or portion thereof, which is closed to public travel, shall be barricaded. Warning lights shall be placed on the barricades, as may be reasonably necessary, from sunset of each day to sunrise of the following day. Signs or notices to the effect that the street is closed shall be of a type approved by the City Engineer. Signs which direct traffic in such cases may be placed or posted only by or with the approval of the Division.

('65 Code, § 30-39)

B. *Wrongful removal.* No person shall willfully remove, injure, destroy or extinguish any barrier, warning light, sign or notice erected, placed, or posted in accordance with the provisions of this Subchapter.

('65 Code, § 30-40)

§ 9.08.400 DUTY TO PROVIDE SAFE PASSAGE AND DRAINAGE.

Every person excavating in any street shall, as may be necessary and/or in compliance with any order of the Division, maintain safe crossings for vehicles and pedestrians at street and alley intersections; safe crossings for pedestrians at intervals of not more than 300 feet; safe passage for vehicles and pedestrians when the excavation runs across the width of a street, and free access to all fire hydrant and water gates. Whenever routing traffic over the center line of the street is necessary, the Division shall be notified and it shall cause traffic lanes to be marked by means of barriers, rubber cones, striping, signs or similar devices, so as to leave no doubt as to where it is intended that traffic should flow past the obstruction. All materials for excavation shall be laid compactly along the side of the trench and kept trimmed up so as to cause as little inconvenience as possible to traffic. If the street is not of sufficient width to handle the excavation material without using a portion of the adjacent sidewalk, the person making the excavation shall erect a tight board fence upon and along such sidewalk and keep a passageway of at least two and one-half (2½) feet in width open upon and along said sidewalk, provided that the City Engineer may require wider portions of such sidewalk to be kept open in cases where such wider portions are considered necessary for public safety, convenience or welfare. All gutters shall be maintained free and unobstructed for the full depth of the adjacent curb and for at least one foot in width from the face of such curb at the gutter line. Whenever a gutter crosses an intersecting street, an adequate water way shall be provided and maintained at all times.

('65 Code, § 30-41)

§ 9.08.405 STORAGE OF MATERIALS.

Every holder of a permit for doing work in the public way under this Subchapter is authorized to place materials necessary for doing such work in the street, provided that such materials are barricaded and lighted as required by § 9.08.390 A. or any ordinance of the City or law of the State. It shall be unlawful for any person to haul any dirt, sand, gravel or similar material upon or along any City street unless contained in a box or receptacle sufficiently tight to prevent the same from sifting or dropping or spilling over the top of such receptacle onto any street.

('65 Code, § 30-42)

§ 9.08.410 COMPLIANCE WITH SPECIFICATIONS.

All workmanship, materials, equipment, methods and conditions for doing work authorized by this Subchapter shall be in accordance, unless otherwise specified herein, with specifications therefor on file in the office of the Division, provided, however, that such specifications shall have been approved and adopted by the City Council.

('65 Code, § 30-43)

§ 9.08.415 DRIVEWAYS; SIDEWALKS.

A. The maximum width of any driveway installed under the provisions of this Subchapter shall not exceed thirty (30) feet in the flat and all driveways and sidewalks so installed shall otherwise conform to the driveway specifications on file in the office of the City Engineer. Provided, however, that the City Engineer, at his discretion, may approve exceptions to these provisions.

B. Driveways or depressed curbs abandoned and no longer in use shall be removed and replaced with full height curb and sidewalk on standard slope without any cost to the City. No new driveway shall be constructed to serve any lot until any existing unused driveway or depressed curb abutting or in front of said lot is so removed and replaced.

C. Upon the completion of any building, addition or remodeling of any building, structure, or swimming pool, and before calling for any final building inspections, the owner or his contractor shall (without cost to the City) cause the repair or replacement of any defective, damaged, off-grade, or for any reason non-conforming sidewalk, drive approach, or non-conforming conditions that may exist in the public way and be considered hazardous by the City Engineer, or in the opinion of the City Engineer may become hazardous.

D. Requirements for temporary driveways:

1. Before any vehicle shall be driven or operated over any curb or sidewalk at any point other than where a driveway has been constructed, a permit to construct a temporary driveway shall be obtained from the Division.

2. Where said vehicle is to be operated over said sidewalk, planking of a minimum thickness of not less than 1-5/8 inches shall in such a way as to fully protect said sidewalk from damage. The outside ends of all planks so used shall be evenly adjusted and beveled in such a manner as to render passage thereover as easy and safe as possible.

3. Where said vehicle is to be operated over said curb, the gutter shall be maintained free and unobstructed for the full depth of curb and at least one foot in width from the face of such curb at the gutter line.

4. All portions of the sidewalk or curbing so protected shall be kept open, clean and passable at all times, and lights and proper barricades shall be maintained from sunset of each day to sunrise of the next day.

5. Such driveway shall be maintained only during the life of the permit issued therefor. The maintenance of said driveway over said curb and sidewalk after the expiration of said permit shall be unlawful and is hereby declared a public nuisance and may be abated by the City at any time thereafter by removing same without notice to the permittee, and the cost of removal shall be collected from the permittee in any manner authorized by law.

('65 Code, § 30-44)

§ 9.08.420 UNDERGROUND INSTALLATIONS.

A. *Filing maps.* Every person owning, using, controlling, or having an interest in pipes, conduits, ducts, tunnels, or other structures under the surface of any street, used for the purpose of supplying or conveying gas, electricity, communication impulses, water, steam, ammonia, gasoline, or oil, in, to, or from the City or to or from its inhabitants, or for any other purpose, shall file with the Division the following:

1. *Complete map.* On demand, a map or set of maps, each drawn to a scale of not less than 200 feet to one inch, showing in detail the exact location, size, description and date of installation, if known, of all mains, laterals, valves, pressure regulators, drips, manholes, hand holes, transformers, chambers or other appliances installed beneath the surface of the street belonging to, used by, or under the control of such person, or in which such person has any interest.

2. *Corrected map.* Before the first day of March of each and every year, a corrected map or set of maps, each drawn to a scale of not less than 200 feet to one inch, showing the complete installation of all such pipes, conduits, ducts, tunnels, or other structures, including all installations made during the previous year, to and including the last day of such year.

3. *Portion of map.* Within twenty-four (24) hours after the receipt of a written request to do so, copies of any portion of any map or maps of such installation.

4. *Affidavit.* Each map herein required shall be accompanied by an affidavit endorsed thereon to the effect that the same correctly exhibits the details required to be shown by this Section. Such affidavits are not required where prints of current engineering maps are filed.

('65 Code, § 30-45)

B. *Abandonment.*

1. Whenever any pipe, conduit, duct, tunnel, or other structure located under the surface of any street, or the use thereof, is abandoned, the person owning, using, controlling or having an interest therein shall within 30 days after such abandonment, file with the Division a statement, in writing, giving in detail the location of the pipe, conduit, duct, tunnel, or other structure so abandoned. Each map, or set of maps filed pursuant to the provisions of this Subchapter shall show in detail the location of all such pipes, conduits, ducts, tunnels, or other structures abandoned subsequent to the filing of the last preceding map or set of maps. If such lines are in the way, or subsequently become in the way of an installation of the City or any other public body, which installation is pursuant to a governmental function, the owner shall remove such abandoned lines when exposed or pay the cost of removal thereof, as required by the installation of a facility by the City or any other public body.

2. The requirements herein shall not apply to abandoned service lines designed to serve a single property owner.

('65 Code, § 30-46)

§ 9.08.425 REMOVAL OF OBSTRUCTIONS; NOTICE; INTERFERENCE WITH UTILITY FACILITIES.

A. *Notice to owner.*

1. Whenever the City Engineer shall determine that it is reasonable and necessary that any property or facility located in, upon, over or under any street be temporarily disconnected and reconnected or permanently moved, relocated or removed from any street in order that the City or other governmental agency or instrumentality may, in its governmental capacity, most economically under modern engineering and construction methods, install, construct, build or erect any public improvement or works in, on, over, under or along such street, or any other street, the City Engineer shall notify the person owning, maintaining or controlling such property to move, relocate or temporarily disconnect the same, as may be determined by the City Engineer.

2. No one doing excavation work in a City street shall interfere with any existing utility facilities without prior arrangements with the City Engineer and the Public Utility. Where existing public utility facilities would be intersected by new City owned installations or must be relocated to accommodate such work, when related to governmental function, the cost of relocation shall be borne by the Public Utility. Where existing public utility facilities are temporarily cut and reconnected by the Public Utility solely for the convenience of making new installations, the contractor making said new installations shall make arrangements with and reimburse the Public Utility for such work. Nothing in this Section is intended in any way to supersede or override the terms and provisions of any applicable franchise, or prior rights that otherwise exist in favor of said Public Utility.

('65 Code, § 30-47)

B. *Contents of notice.* Such notice shall identify and refer to the property or facility to be moved, relocated or temporarily disconnected.

('65 Code, § 30-48)

C. *Removal by owner or division.* Every person given such notice shall, within thirty (30) calendar days thereafter, begin the work of moving, relocating or disconnecting his property or facility as designated therein and shall prosecute such work diligently to completion; otherwise the Division shall have the power to do the same and the cost necessarily incurred to do such work may be recovered by the City from the person owning, maintaining or controlling such property or facility.

('65 Code, § 30-49)

§ 9.08.430 DAMAGE TO GRASS, PLANTS AND TREES.

Whenever any damage to grass, plants or trees in the street is caused by any permittee in the performance of work authorized by this Subchapter, it shall be the duty of the permittee to repair such damage to the satisfaction of the Park Superintendent. If such repairs are not made, the Park Superintendent shall cause notice thereof to be served, in person or by mail, upon the permittee and if such damage is not satisfactorily repaired within ten (10) days from service of said notice, the Park Superintendent shall repair the same and notify the Division of such repair and the cost thereof. The Division thereupon shall deduct from the deposit made by the permittee, or withhold cancellation of the permittee's bond until paid, the amount so expended and reported for repairing said damage.

('65 Code, § 30-50)

§ 9.08.435 LIMITATIONS.

A. Nothing in this Subchapter contained shall affect any ordinance or requirements in this City now or which hereafter may be in effect, in regard to inspection of plumbing, gas or electric construction, or as to making connection with public sewers or other mains or conduits in said City, or as to the payment required for the making of connections with public sewers financed by public funds, or which funds are raised from the sale of bonds of said City.

B. Nothing in this Subchapter contained, and no fact, circumstances or inference arising therefrom shall be deemed or considered to grant any franchise or privilege in, over or under any public streets, alleys or other public places in this City.

('65 Code, § 30-50.1) (Ord. No. CS-529)

USE OF STREETS FOR BUS BENCHES

§ 9.08.500 DEFINITIONS.

For the purpose of this Subchapter, certain terms used herein are defined as follows:

BENCH. A seat for the accommodation of persons awaiting transportation;

PUBLIC RIGHT-OF-WAY. Any public thoroughfare or way including the sidewalk, the parkway, curb, and any other public or quasi public property or easement bordering a public street or roadway.

('65 Code, § 30-52) (Ord. No. CS-736 § 1 (part))

§ 9.08.505 PERMITS REQUIRED.

It shall be unlawful for any person to place, install, relocate or maintain any bench on any public right-of-way without authority therefor obtained from the City Council following acceptance of a bid or an agreement for such services and location permits approved by the Director of Transportation. A blanket location permit shall be obtained, listing location of each bench, and shall be applicable for designated locations only.

('65 Code, § 30-53) (Ord. No. CS-736 § 1 (part))

§ 9.08.510 AWARD OF CONTRACT; COMPLIANCE WITH REGULATIONS.

A contract governing the exclusive placing and maintaining of benches within the City shall be awarded to that individual proposer submitting the best proposal for the rendering of such service. Such contract shall require an agreement as to the following regulations:

A. No bench shall be placed, located or maintained within the City without a location permit obtained from the Director of Transportation.

B. No bench shall be more than forty-two (42) inches high nor more than two (2) feet six (6) inches wide nor more than seven (7) feet long, over all.

C. Each bench shall have conspicuously displayed thereon the name of the permittee.

D. No advertising matter of any kind shall be displayed upon any bench within the City.

E. No bench shall tend to obstruct passage along any right-of-way or to create a hazard, inconvenience, or be detrimental to the public safety and welfare.

F. No bench shall be placed or maintained at a point less than eighteen (18) inches or more than thirty (30) inches from the face of the curb and each bench must be kept parallel with the curb.

G. It shall be the duty of the permittee to maintain each bench at all times in a safe, clean and painted condition and at its proper and lawful location, and to inspect each bench periodically and to immediately remove any bench which the Director of Transportation determines should be removed in the public interest for any reason;

H. The City reserves the right to terminate any agreement entered into pursuant to this Subchapter at its discretion upon giving thirty (30) days written notice to the permittee within which thirty (30) day period the permittee shall remove all benches required by the City to be removed.

I. In the event a permittee neglects or refuses to remove any bench pursuant to such notice, the City may remove it and charge the permittee or owner thereof a minimum charge performed by City crews for removal and storage, as set forth by resolution, and at the end of sixty (60) days of storage, sell or otherwise dispose of any benches remaining unclaimed.

J. The City Council may impose additional regulations and requirements or modify the herein regulations by its resolution.

K. The permittee shall agree to indemnify and save harmless the City, its agents, officers and employees from any and all loss, costs, damages, expenses or liability which may result from or arise out of the granting of any permit or the installation or maintenance of any bench. In connection herewith, permittee shall at all times keep and maintain public liability insurance in the sum of One Hundred Thousand Dollars/Three Hundred Thousand Dollars (\$100,000.00/\$300,000.00) and Ten Thousand Dollars (\$10,000.00) property damage.

('65 Code, § 30-54) (Ord. No. CS-736 § 1 (part); Ord. No. CS-809 § 3; Ord. No. 2007-002 § 10)

§ 9.08.515 PROPOSAL FOR CONTRACT.

A contract shall be awarded to that responsible proposer who submits the best proposal for the placing and maintaining of benches within the City in accordance with the terms and requirements of the herein ordinance and such additional terms as may be required by the City Council. The City Council may accept or reject proposals in its discretion. In the event a proposal is accepted, a contract, including the terms and requirements hereof, shall be executed granting such successful proposer a license for the exclusive placing and maintaining of benches within the City for such term as is determined by the City Council and subject to revocation at the discretion of either party.

('65 Code, § 30-55) (Ord. No. CS-736 § 1 (part))

§ 9.08.520 LOCATION PERMITS; APPLICATION; TERMS.

Upon awarding a contract in accordance with the provisions hereof, the proposer shall be required to apply for and duly receive location permits for benches to be placed and installed within the City. All applications for location permits shall contain the following:

- A. Detailed plans and specifications of benches to be installed.
- B. Name and address of owner of benches.
- C. A statement by applicant that applicant is familiar with the provisions of this Subchapter as same exists at the date of said application, and, if granted the permit applied for, will observe, and abide by, and be bound by such provisions.
- D. The application shall be filed with the Director of Transportation who shall grant the application or deny same within ten (10) days from filing of the application.
- E. All location permits shall be issued on an annual basis and shall be revocable upon the determination of the Director of Transportation that the public interest is served thereby.
- F. A list showing location of each bench.
- G. The permittee hereunder shall, in addition to the other fees required herein, pay a license fee in the form and manner required by Chapter 11.01 of this Code.
- H. A semi-annual report on number of bus benches with advertisements on them.

('65 Code, § 30-56) (Ord. No. CS-736 § 1 (part))

§ 9.08.525 EXISTING BENCHES.

All benches which have been placed and remain at any location on the streets of the City at the time of the adoption of this subchapter shall be removed within sixty (60) days from and after the effective date hereof unless, prior to said removal date, a permit shall have been duly obtained in the form and manner as required herein.

('65 Code, § 30-57) (Ord. No. CS-736 § 2)

NEWSRACKS

§ 9.08.600 DEFINITIONS.

For the purpose of this Subchapter, certain words and phrases shall be construed as set forth in this Section, unless it is apparent from the context that a different meaning is intended.

BLOCK. One side of a street between two intersecting streets. For purposes of this definition “street” does not include an alley or other right-of-way unless it is of the same width as a regular residential minimum-width street approved as part of a master plan of circulation.

CUSTODIAN. That person, or persons, who places, maintains or services a newsrack by, but not limited to, depositing and/or removing materials from such newsrack and/or collecting monies from such newsrack.

EXPLICIT SEXUAL ACTS. Depiction of sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, sadism, masochism, or excretory functions in conjunction with sexual activity, masturbation, or lewd exhibition of the genitals, whether any of the above conduct is depicted or described as being performed alone or between members of the same or opposite sex or between humans and animals, or other act of sexual arousal involving any physical contact with the person's genitals, pubic region, pubic hair, perineum, anus or anal region or breast.

NEWSRACK. Any self-service or coin-operated box, case, container, storage unit or other dispenser, exclusive of any tray or base mount, installed, used or maintained for the display or sale of any written or printed material, including but not limited to, newspapers, news periodicals, magazines, books, pictures, photographs and records.

PARKWAY. That portion of a street other than a roadway or sidewalk.

ROADWAY. That portion of a street improved, designed, or ordinarily used for vehicular travel.

STREET. All that area dedicated to public use for public right-of-way purposes and shall include, but not be limited to, roadways, parkways, alleys and sidewalks.

('65 Code, § 22-30) (Ord. No. CS-807 § 1 (part); Ord. No. CS-998, § 1 (part))

Cross-reference:

Nuisances, see Ch. 9.04

§ 9.08.605 PROHIBITION; NEWSRACKS ON ROADWAYS, SIDEWALKS, PARKWAYS.

A. No person shall install, use or maintain any newsrack which projects onto, into or over any part of the roadway or alley of any public street or which rests, wholly or in part, upon, along, or over any portion of the roadway or alley of any public street.

B. No person shall install, use or maintain any newsrack which, in whole or in part, rests upon, in or over, any public sidewalk or parkway:

1. When such installation, use or maintenance endangers the safety of persons or property; or
2. When a site or location is used for public utility purposes or public transportation purposes; or
3. When such newsrack unreasonably interferes with or impedes:

- a. The flow of pedestrian or vehicular traffic, including (i) any legally parked or stopped vehicle, or (ii) the ingress into or egress from any residence, place of business or legally parked or stopped vehicle; or
- b. The use of poles, posts, traffic signs or signals, hydrants or trash containers, mailboxes, or other objects permitted at or near said location; or
- c. The cleaning of any sidewalk by the use of mechanical sidewalk cleaning machinery.

('65 Code, § 22-31) (Ord. No. CS-807 § 1 (part); Ord. No. CS-998 § 1 (part))

§ 9.08.610 INSURANCE AND INDEMNIFICATION.

A. Prior to any placement, the owner or custodian must file with the Director of Public Works, or his or her designee, satisfactory to the liability and property damage insurance in the amount of One Million Dollars (\$1,000,000) to indemnify the City against any personal injury, death, loss or damage resulting from the permittee's activities. The City and its officers shall be named as additional insureds. The policy must include a statement by the insurance carrier that thirty (30) days written notice will be given to the City before any cancellation or modification of coverage. The permittee must maintain such insurance for as long as the permittee maintains a newsrack in the public right-of-way; any lapse in coverage shall be grounds for removal. Said policy shall be issued by a California company by an issuer rated in Best's Insurance Guide with a rating of AAA or better.

B. The owner shall also execute a hold harmless agreement as provided by the City prior to placement.

('65 Code, § 22-32) (Ord. No. 96-010 § 1 (part))

§ 9.08.615 LOCATION AND PLACEMENT.

A. No person shall install, use or maintain any newsrack which projects onto, into or over any part of the roadway or alley of any public street or which rests, wholly or in part, upon, along, or over any portion of the roadway or alley of any public street.

B. No person shall install, use or maintain any newsrack which, in whole or in part, rests upon, in or over, any public sidewalk, public easement or parkway, except as provided herein.

C. The specific location of newsracks shall comply with the following requirements:

- 1. Where placement is next to a building, it shall be placed adjacent and parallel to and within six (6") inches of the wall of the building;
- 2. Where placement is next to a curb it shall be situated parallel to and no less than eighteen (18") nor more than twenty-four (24") inches from the edge of the curb;
- 3. No more than six (6) newsracks shall be located on any public right-of-way within a space of two hundred (200') feet in any direction within the same block of the same street;
- 4. No more than sixteen (16) newsracks shall be allowed on any one block;

5. No newsracks shall be placed on a sidewalk or parkway facing another publication vending machine, group of such machines or newsstand, divided by only the width of a sidewalk or pedestrian walk.

D. 1. In determining which newsracks shall be permitted to remain, the Director of Public Works, or his or her designee, shall be guided solely by the following criteria set forth herein. In the event there are six (6) or more newsracks located on the public right-of-way within a space of 200 feet in any direction within the same block of the same street in the aforementioned locations on the effective date of this chapter, no additional newsracks shall be approved until such time when there are fewer than six (6) newsracks within a space of 200 feet in any direction within the same block of the same street at such location. The applicant, upon request, may be placed on a waiting list for such location. The waiting list shall be administered on a first come, first served basis.

2. *Priority system.* In determining which newsracks shall be permitted to remain, the Director of Public Works, or his or her designee, shall be guided solely by the following criteria.

a. *First priority.* First priority shall be given to newsracks used for the sale of publications which have been adjudicated to be newspapers of general circulation for Los Angeles County, pursuant to the procedure set forth in Cal. Gov't Code §§ 6020 et seq.

b. *Second priority.* Second priority shall be given to newsracks used for the sale of daily publications (those published on five (5) or more days in a calendar week) which have not been adjudicated to be newspapers of general circulation of Los Angeles County.

c. *Third priority.* Third priority shall be given to newsracks used for weekly publications (those published on at least one but less than five (5) days in a calendar week) which have not been adjudicated to be newspapers of general circulation for Los Angeles County.

d. *Conflict within priority categories.* As between newspapers included within any single category of priority above, the Director of Public Works, or his or her designee, shall also be guided by the following criteria of priorities whenever more than six (6) newsracks are proposed within 200 feet of one another or more than sixteen (16) newsracks are proposed for any one block:

(1) First priority shall be daily publications (published five (5) or more days per week).

(2) Second priority shall be publications published two (2) to four (4) days per week.

(3) Third priority shall be publications published one day per week.

(4) In the event that there is a conflict between newspapers within the same priority seeking the same location, and there are insufficient newsrack spaces remaining to accommodate the competing newspapers after first filling as many spaces as possible by utilizing the criteria set forth above, then the Director of Public Works, or his or her designee, shall assign the space or spaces at random by placing the names of all applicants for the remaining spaces at a location into a container from which the names shall be drawn, one at a time until the particular spaces remaining of unfilled newsracks have been filled. Such drawing shall be open to the public at a time and date designated by the Director of Public Works, or his or her designee.

E. No newsrack shall be placed, installed, used or maintained:

1. Within five (5') feet of any marked crosswalk;

2. Within fifteen (15') of the curb return of any unmarked crosswalk;
3. Within five (5') feet of any fire hydrant, fire callbox, police callbox, trash container, utility box, traffic signal controller, street light controller, or other emergency facility;
4. Within five (5') feet of any driveway;
5. Within five (5') feet ahead of, and twenty-five (25') to the rear of any sign marking a designated bus stop;
6. Within six feet (6') of any bus bench;
7. At any location whereby the clear space for the passageway of pedestrians is reduced to less than six (6') feet;
8. On or within three (3') feet of any area improved with lawn, groundcover, flowers, shrubs or trees;
9. Within three (3') feet of any display window of any building, abutting the sidewalk or parkway or in such a manner as to impede or interfere with the reasonable use of such window display purpose;
10. Within two (2) feet of any utility meter or ground level access thereto; and
11. At any location where the newsrack unreasonably obstructs, interferes with access to or the use and enjoyment of the abutting property.

('65 Code, § 22-33) (Ord. No. 96-010 § 1 (part); Ord. No. 99-003, § 1)

§ 9.08.620 MOVING OF NEWSRACKS.

In the event of violations of § 9.08.615, the Director of Public Works, or his or her designee, as an alternative to removal under the provisions of §§ 9.08.630 through 9.08.640, may move such machines in order to restore them to a legal condition.

('65 Code, § 22-34) (Ord. No. 96-010 § 1 (part))

§ 9.08.625 NEWSRACK REQUIREMENTS.

Newsrack installation shall comply with the following requirements:

A. Newsracks shall be the standard “K-Jack” model, standard KJ-100 Mini View model or an equivalent model approved by the Director of Public Works, or his or her designee, which shall be securely bolted to the sidewalk. Newsracks that are in place as of June 1, 1996 and not in compliance with this Subsection shall be replaced with conforming newsracks within four (4) months of June 1, 1996.

B. Newsracks which are required to conform to the requirements of this Subchapter shall carry no advertising, including rack cards, except that the name of the newspaper or periodical being dispensed may be displayed on the bottom one-third (1/3) of the hood on the front access

side of the newsrack. Newsracks in place prior to December 24, 1994, may carry rack cards which exclusively advertise the newspaper or periodical being dispensed.

C. The current name, address and telephone number of a responsible person or entity who may be contacted at anytime concerning the newsrack shall be displayed on the hood of the newsrack in such a manner as to be visible and readable to a prospective customer.

D. Newsracks shall at all times be maintained in good working order, and their exterior surface shall be maintained in a clean, untarnished and attractive condition free of defects, physical damage, handbills, extraneous markings and graffiti.

E. Upon the removal of any pedestal mount base from the parkway or sidewalk, the person so removing shall be responsible for the repair of any resulting condition, including the filling in of any holes. Such work shall be done to the satisfaction of the Director of Public Works, or his or her designee; and

F. No base mount or tray shall be maintained on a public sidewalk or parkway unless there is attached thereto a newsrack as provided herein.

('65 Code, § 22-35) (Ord. No. 96-010 § 1 (part))

§ 9.08.630 NONCOMPLIANCE WITH PROVISIONS.

A. Except as provided in § 9.08.640 hereof, if any publication vending machine is installed or maintained in violation of any provision of this Subchapter, the Director of Public Works, or his or her designee, shall attach a notice of violation to said publication vending machine specifying the date and nature of the violation. The owner or custodian of the vending machine or the publisher of the publication contained therein, if the identity of such persons can be ascertained from the records of the City or from the vending machine, shall be sent notice of said violation by the Director of Public Works, or his or her designee, by certified mail, return receipt requested, within five (5) working days. Such notices shall specifically describe the offending condition or conditions. Compliance with these notification requirements shall constitute adequate notice of violation.

B. Upon receipt of notice of a violation of any provision of this Subchapter, the owner or custodian of the vending machine or the publisher of the publication contained therein, shall within ten (10) working days from the date on which notice of said violation was attached to the publication vending machine, either cause the violation to be corrected or file a written request for a hearing pursuant to § 9.08.655.

('65 Code, § 22-36) (Ord. No. 96-010 § 1 (part))

§ 9.08.635 REMOVAL OF MACHINES.

A. When a final determination has been made that the violation specified on the notice attached to such publication vending machine has in fact occurred, and the owner or custodian of the vending machine or the publisher of the publication contained therein has failed to correct such violation within ten (10) working days from the mailing of notice of such notice of

determination, said publication vending machine shall be removed by the Director of Public Works, or his or her designee, and stored in a convenient place.

B. Failure to maintain any newsrack in compliance with the provisions of this chapter shall give the City the right to remove all newsracks of the newsrack vendor who is in violation.

('65 Code, § 22-37) (Ord. No. 96-010 § 1 (part))

§ 9.08.640 SUMMARY REMOVAL OF MACHINES.

A. If any publication vending machine is so located or maintained that it poses a danger to pedestrians or vehicles as specified in § 9.08.615, said publication vending machines shall be summarily removed by the Director of Public Works, or his or her designee, and stored in a convenient place.

B. If any publication vending machine has been abandoned, said publication vending machine shall be summarily removed by the Director of Public Works, or his or her designee, and stored in a convenient place. A publication vending machine shall be deemed abandoned when no new publication has been placed in such publication vending machine for a period of seven (7) days.

C. If any publication vending machine does not have the identification required by § 9.08.625 hereof, said publication vending machine shall be summarily removed by the Director of Public Works, or his or her designee, and stored in a convenient place.

D. 1. If any publication vending machine has had a notice affixed thereto of noncompliance with any Section of this Subchapter and the owner or custodian of the vending machine or the publisher of the publication contained therein has neither caused the violation specified on said notice to be corrected or requested a hearing pursuant to § 9.08.655 within the time permitted, said publication vending machine shall be summarily removed by the Director of Public Works, or his or her designee, and stored in a convenient place.

2. If a request for a hearing or appeal has been withdrawn by the owner or custodian of the vending machine or publisher of the publication contained therein, said publication vending machine shall be summarily removed by the Director of Public Works, or his or her designee, and stored in a convenient place. Such request shall be deemed withdrawn either by actual withdrawal or by the failure of the applicant to fully comply with § 9.08.655.

('65 Code, § 22-38) (Ord. No. 96-010 § 1 (part))

§ 9.08.645 NOTICE OF IMPOUNDMENT.

Whenever any publication vending machine is impounded pursuant to this Subchapter, the owner or custodian of the vending machine or publisher of the publication contained therein, if the identity of such persons can be ascertained from the records of the City or from the vending machine, shall be sent a notice of said action by the Director of Public Works, or his or her designee, by certified mail, return receipt requested, within five (5) working days thereafter. The owner or custodian of the vending machine or publisher of the publication contained therein may, within ten (10) working days after the mailing date of said notice, request a hearing as provided in § 9.08.655.

('65 Code, § 22-39) (Ord. No. 96-010 § 1 (part))

§ 9.08.650 IMPOUNDED MACHINES; RETURN; SALE OR DISPOSAL.

A. *Return of impounded machines.* Any publication vending machine, together with its contents, which has been impounded pursuant to this Subchapter shall be returned to the owner or the custodian of the vending machine or publisher of the publication contained therein:

1. Upon receipt of a fee established by resolution for removal and storage of such publication vending machine by City crews; or
2. Upon a determination after a hearing by the Municipal Code Appeals Committee, pursuant to § 9.08.655, that such impoundment was not authorized; or
3. Upon a decision by the City Council on appeal, pursuant to § 9.08.655, that such impoundment was not authorized.

('65 Code, § 22-40)

B. *Sale or disposal of impounded vehicles.* The Director of Public Works, or his or her designee, may process as unclaimed property and dispose of any impounded publication vending machine pursuant to the applicable provisions of this Code and the laws of the State:

1. Upon failure of the owner or custodian of the vending machine or publisher of the publication contained therein, to request a hearing pursuant to § 9.08.655, within the time permitted.
2. After a final determination that said publication vending machine was lawfully impounded and fees and costs assessed pursuant to Subsection A. have not been received within thirty (30) working days from the date of the final determination.

('65 Code, § 22-41) (Ord. No. 96-010 § 1 (part); Ord. No. 2007-002 § 11)

§ 9.08.655 REQUEST FOR HEARING AND APPEAL PROCESS; PROCEDURES.

A. Any owner or custodian of a publication vending machine or publisher of the publication contained therein may file a written request with the Director of Public Works, or his or her designee, for a hearing by the Municipal Code Appeals Committee for the purpose of demonstrating that a publication vending machine was illegally impounded, or that a violation as specified on the notice attached to a publication vending machine pursuant to § 9.08.630 has not in fact occurred.

B. Within five (5) working days from the date on which the request for hearing is received, the Director of Public Works, or his or her designee, shall notify the owner or custodian of the vending machine or publisher of the publication contained therein of the date, time and place of said hearing by certified mail, return receipt requested. Said hearing shall be set for a date within ten (10) working days of the mailing date of the notice.

C. At the time set for such hearing or at the date to which such hearing is continued, the Municipal Code Appeals Committee shall receive all evidence relevant to the occurrence or

nonoccurrence of the specified violation(s), the compliance or noncompliance with any of the provisions of this Subchapter, and any other relevant information. Such hearing need not be conducted according to technical rules relating to evidence and witnesses. Oral evidence shall be taken only on oath or affirmation.

D. Within five (5) working days after the conclusion of the hearing, the Administrative Hearing Board shall issue, in writing, its decision and the Director of Public Works, or his or her designee, shall send by certified mail, return receipt requested, a copy of said decision to the owner or custodian of the vending machine or publisher of the publication contained therein.

E. A decision of the Municipal Code Appeals Committee may be appealed to the City Council. Appeals to the City Council shall be filed with the City Clerk within ten (10) working days of mailing of the decision and shall state the basis of such appeal. Appeals shall be acknowledged by the Clerk within five (5) days of receipt. The Council shall hear the appeal within thirty (30) days of receipt.

('65 Code, § 22-42) (Ord. No. 96-010 § 1 (part))

§ 9.08.660 DISPLAY OF CERTAIN MATTER PROHIBITED.

A. No newsrack shall be used for advertising signs or publicity purposes other than for purposes dealing with the display, sale or purchase of the publications sold therein.

B. No person shall offer for sale or permit to be offered for sale to the public on any public right-of-way by means of a newsrack any publication in such a manner as to expose to the public view any of the following:

1. Any statements or words describing explicit sexual acts, sexual organs, or excrement where such statements or words have as their purpose or effect sexual arousal, gratification or affront.

2. Any picture or illustration of genitals, pubic hair, perineums, anuses, or anal regions of any person where such picture or illustration has as its purpose or effect sexual arousal, gratification or affront.

3. Any picture or illustration depicting explicit sexual acts where such picture or illustration has as its purpose or effect sexual arousal, gratification or affront.

('65 Code, § 22-43) (Ord. No. 96-010 § 1 (part))

§ 9.08.665 APPLICABILITY OF PROVISIONS.

A. The provisions of this Subchapter shall apply to all newsracks, whether installed and maintained prior to or after the effective date of any of the provisions herein. Those newsracks installed prior to the effective date of the said provisions shall be brought into compliance with said provisions within one hundred twenty (120) days of the effective date, hereof. Any newsrack not brought into compliance within said compliance period shall be deemed to be in violation of this Subchapter, except that one extension, not to exceed one hundred twenty (120) days, may be obtained, in writing, from the Director of Public Works, or his or her designee.

Such extension shall be granted only if the owner or custodian has made a good faith attempt to comply within the said compliance period.

B. Any costs incurred by an applicant for the installation and maintenance of any newsrack to comply with the provisions of this Subchapter of the Culver City Municipal Code shall be borne by the applicant.

('65 Code, § 22-44) (Ord. No. 96-010 § 1 (part))

§ 9.08.670 PENALTY.

A. Unless otherwise specified, a violation of any of the provisions of this Subchapter shall be deemed a misdemeanor, and shall be subject to a fine not to exceed One Thousand Dollars (\$1,000.00), six (6) months in jail, or both.

B. Nothing in this chapter shall prevent the City Attorney from prosecuting a violation of this Subchapter as an infraction, at his/her discretion, as set forth in § 1.01.035 B. of this code.

C. Nothing in this chapter shall prevent the City Attorney from bringing a civil action, at his/her discretion, for violations of the provisions of this chapter, as set forth in § 1.01.050 of this code.

('65 Code, § 22-1) (Ord. No. 96-034 § 2)

§ 9.08.675 SEVERABILITY.

If any section, subsection, subpart or provision of this Subchapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the provisions of this Subchapter and the application of such to other persons or other circumstances shall not be affected thereby.

('65 Code, § 22-45) (Ord. No. 96-010 § 1 (part))

PARKWAY LANDSCAPING GUIDELINES

§ 9.08.705 DEFINITIONS.

For the purpose of this Subchapter, certain terms used herein are defined as follows:

LANDSCAPING. Ornamental live plant materials (trees, shrubs, vines, groundcover or turf) in containers or at grade, and decorative hardscape areas.

PARKWAY. Land area between street curb and sidewalk.

RESIDENTIAL PARKWAY LANDSCAPING GUIDELINES. The City of Culver City Residential Parkway Landscaping Guidelines, established by resolution of the City Council.

TURF. Single bladed grass or sod.

(Ord. No. 2016-006 § 2 (part))

§ 9.08.710 RESIDENTIAL PARKWAY LANDSCAPING GUIDELINES.

A. All landscaping of residential parkways in the City shall conform to the Residential Parkway Landscaping Guidelines adopted by resolution of the City Council, except as provided in § 9.08.710.C.

B. The Residential Parkway Landscaping Guidelines apply to all residential parkways of the City.

C. Non-conforming landscaping existing at the time of the adoption of the Residential Parkway Landscaping Guidelines may remain, until replaced with new landscaping, which must conform to this Section, unless the non-conforming landscaping causes or results in an unsafe or hazardous condition.

(Ord. No. 2016-006 § 2 (part))

§ 9.08.715 PARKWAYS IN NON-RESIDENTIAL ZONES; PERMIT REQUIRED.

No person shall plant or alter the landscaping in parkways located in non-residentially zoned properties without first obtaining a permit to do so from the City. Such permit shall state the variety of trees, shrubs, and plants to be planted and the location and size thereof.

(Ord. No. 2016-006 § 2 (part))

§ 9.08.720 VIOLATIONS UNLAWFUL; REMEDIES.

A violation of any provision of this Subchapter is unlawful and may be enforced by any remedies available in law or equity, including those provided in Chapters 1.01 and 1.02 of this Code.

(Ord. No. 2016-006 § 2 (part))

§ 9.08.725 CONFLICT OF PROVISIONS.

In the event of any conflict between this Subchapter and any other provisions of this Code or the Landscape and Lighting Act of 1972, this Subchapter shall control.

(Ord. No. 2016-006 § 2 (part))

CHAPTER 9.09: HELICOPTERS AND HELISTOPS

Section

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- 9.09.015 Occasional use facilities; special landing permits
- 9.09.020 Helistop permit applications; processing procedures
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- 9.09.035 General regulations governing helistops
- 9.09.040 Police helicopters exempted

§ 9.09.005 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

EMERGENCY HELISTOP. An area of land or a portion of a structure used by a helicopter for takeoff and landing operations while participating in an actual or perceived emergency/disaster, when operating pursuant to the directions of the fire department, law enforcement, medical, or other public safety authorities or when going to the immediate aid of any person in peril.

HELICOPTER. A helicopter is a form of aircraft in the broad category of rotorcraft which depends for its support and motion in the air principally upon the lift generated by one (1) or more power driven rotors that rotate on a substantially vertical axis, or any steep gradient aircraft.

HELISTOP. An area on a roof of a building or other structure, or on the ground, used by helicopters or steep gradient aircraft for the purpose of picking up or discharging passengers or cargo, but not including fueling service or any other maintenance of any kind.

('65 Code, § 17A-1) (Ord. No. CS-570 § 1 (part); Ord. No. 93-013 § 1)

§ 9.09.010 ZONING RESTRICTIONS.

Helistops shall be permitted only in the M-1, M-2, and S Zones, subject to the regulations of this Chapter and the provisions of a conditional use permit regarding hours of use, types of aircraft, intensity of use, and other matters affecting the public welfare.

('65 Code, § 17A-2) (Ord. No. CS-570 § 1 (part))

Cross-reference:

Zoning Code, see Title 17

§ 9.09.015 OCCASIONAL USE FACILITIES; SPECIAL LANDING PERMITS.

Special landing permits for occasional landings at sites other than duly established helistops may be issued by the City Manager, subject to such conditions as may be imposed by the Fire Department. Such occasional use facilities shall be at ground elevation, or at roof elevation when approved by a licensed structural engineer.

('65 Code, § 17A-3) (Ord. No. CS-570 § 1 (part); Ord. No. 2006-009 § 22 (part))

§ 9.09.020 HELISTOP PERMIT APPLICATIONS; PROCESSING PROCEDURES.

A. *Applications.* An application for a helistop conditional use permit shall be filed with the Director of Planning and Community Development, using forms provided by that office. The application shall be accompanied by a detailed plot plan showing location in relation to land use in the area, and the size and detail of the proposed helistop. A filing fee in the amount established by Resolution of the City Council for a Conditional Use Permit shall be paid at the time of filing of the application.

('65 Code, § 17A-4)

B. *Processing procedure.* The application shall be set for hearing on the approval of a helistop before the Planning Commission within thirty (30) days following the filing thereof, unless said time is extended from time to time by that Commission. Notice of said hearing shall be posted and published in the manner required for noticing hearing of variance applications.

('65 Code, § 17A-5)

(Ord. No. CS-570 § 1 (part); Ord. No. CS-831 § 1)

§ 9.09.025 ROOF-TOP INSTALLATIONS.

Helistops may be erected on the roofs of buildings, subject to the following conditions:

A. On all touch-down or landing areas, whether elevated or flush with the roof, provision shall be made for collecting volatile substances which may be spilled in event of any emergency. Separator or clarifier tanks for collecting spilled volatile substances shall be installed under approval and supervision of the Fire Department.

B. The roof-top shall have at least two (2) conforming exits and they shall be located in such a manner as to permit safe exit from the roof area in the event one of the exits is blocked.

C. A wind indicating device shall be installed. A flag, banner, or similar device is acceptable.

D. Two or more wet standpipes shall be provided and equipped with one and one-half (1½) inch rubber lined fire hose not over one hundred (100) feet in length. Hose shall be equipped with combination fog nozzles. Sufficient pressure shall be available to afford a good fog pattern. Hose cabinets or racks shall be located near the separate exits. Standpipe outlets shall be so located that all portions of the roof area shall be within one hundred twenty (120) feet of the outlet.

E. Two fire extinguishers of at least sixteen (16) BC rating shall be provided, and be located remotely from each other.

F. No roof-top obstructions which may be difficult to see from the air shall be permitted within the required glide slope.

G. Such lights as are installed to illuminate the touch-down pad shall be directed on to the touch-down pad only, and in such a manner that the light rays cannot interfere with the helicopter pilot's vision, or other aircraft flying within the area of the landing facility.

H. No persons shall be permitted in the general landing area in any location where any portion of their bodies will be higher than the touch-down area surface while landing or take-off operations are underway.

I. Approved means of communication such as telephone, radio, fire alarm box, or signaling device shall be provided adjacent to the landing area.

J. If the roof has no parapet wall, a substantial fence shall be provided around the perimeter of the roof to insure the safety of all persons.

K. Roof-top markings. The bull's eye type marker shall be used for roof-top helistops. The painted border line marking the take-off and landing area may be a solid or broken line. The outer circle of the "bull's eye" should be inscribed within the touch-down area whose sides should be tangent to the circle. The dimensions of the bull's eye marker are thus determined by the size of the touch-down area. Each roof-top heliport should have painted with the bull's eye, in numerals not less than two feet in height, the maximum gross weight in thousands of pounds of the equipment which the roof is stressed to accept.

L. The helicopter landing facility should be located in such an area as would permit a glide slope angle determined by a ratio of eight feet horizontal distance for every one foot of vertical clearance required. Two such approaches shall be available, at least 90 degrees removed from each other.

M. The touch-down area shall be surrounded on all sides by a clear roof area averaging 15 feet in width, but with no side less than 5 feet wide. For helicopters of less than 3,500 pounds gross weight, the touch-down area shall be a minimum of 20 feet x 20 feet in size.

N. The touch-down area, if less than 3 feet above roof surface, should be available normally by only one path of approach which shall be within view of the pilot. If elevated more than 3 feet, two approaches opposite from each other shall be provided. However, one approach, which is not in view of the pilot, should be restricted and used only for emergencies.

O. The roof-top shall have two conforming exits and they shall be remote from each other.

P. No light standards, roof vents, guy lines, TV aerials, or other similar roof-top obstructions which may be difficult to see from the air, shall be permitted within the required glide slope on three sides, or within a 270 degree arc.

Q. No refueling or repairing is to be accomplished at the helistop except in extreme emergency and then only as approved by the Fire Department.

R. The roof-top shall be marked as prescribed by the Federal Aviation Agency.

S. The City Engineer's approval of a building for use as a roof-top facility shall be required as to structural adequacy.

('65 Code, § 17A-6) (Ord. No. CS-570 § 1 (part))

§ 9.09.030 GROUND-LEVEL INSTALLATIONS.

A. The helicopter landing facility should be located in such an area as would permit a glide slope angle determined by a ratio of eight feet horizontal distance for every one foot of vertical clearance required. Two such approaches shall be available, at least 90 degrees removed from each other.

B. An area of approximately 125 feet x 125 feet shall be required. This area shall be clearly defined by means of a substantial barrier providing physical restraint to prohibit the entrance of unauthorized persons into the landing area. A centrally located touch-down area at least 20 feet x 20 feet in size shall be provided for helicopters of less than 3,500 pounds gross weight.

C. No unauthorized persons whatsoever shall be permitted within the general landing area during flight operations.

D. The helicopter landing facility shall be marked as prescribed by the Federal Aviation Agency.

E. Any light installed shall illuminate and be directed onto the touch-down pad only, and in such a manner that the light rays cannot interfere with the pilot's vision.

F. A wind indicating device shall be installed. A flag, banner, or similar device is acceptable.

G. Two fire extinguishers of at least 16 BC rating shall be provided and be located remotely from each other.

H. Where buildings or structures in proximity to the landing area present a fire exposure hazard, there shall be provided at least two 1½ inches wet standpipe outlets equipped with 1½ inches fire hose, not over 100 feet in length, and a combination fog nozzle.

I. Approved means of communication such as telephone, radio, fire alarm box, or signaling device shall be provided adjacent to the landing area.

('65 Code, § 17A-7) (Ord. No. CS-570 § 1 (part))

§ 9.09.035 GENERAL REGULATIONS GOVERNING HELISTOPS.

It shall be unlawful to:

A. Operate a helicopter using a helistop within the City which is not equipped with the latest and most effective type of noise suppression devices and two-way radio communication equipment.

B. Repair or refuel a helicopter in a helistop except in the case of an emergency.

C. Land a helicopter or take off prior to 7:00 a.m. or later than 8:00 p.m. of any day.

D. Permit, as operator of a helistop, a greater number of landings and take-offs exceeding an average of five (5) or each per day, averaged monthly.

E. Violate the requirements of this Chapter or the regulations of the F.A.A. or any condition imposed upon the operation and users of helistops as contained in a conditional use permit or by a regulatory department of the City in protecting public safety.

F. Operate a helicopter in landing or taking off on or from a helistop within the City in a pattern contrary to the regulations of this Chapter or the conditions imposed by the Planning Commission, City Council or F.A.A.

G. Operate a helistop or permit its use without at all times having maintained in full force and effect public liability and property damage insurance in the amount of at least One Hundred Thousand Dollars (\$100,000.00) with respect to property damage, and One Million Dollars (\$1,000,000.00) single limit bodily injury coverage.

H. Operate a helistop, or to use the facilities of a helistop within the City for which a conditional use permit has not been duly issued.

('65 Code, § 17A-8) (Ord. No. CS-570 § 1 (part))

§ 9.09.040 POLICE HELICOPTERS EXEMPTED.

The provisions of this Chapter, pertaining to the operation of helicopters, shall not apply to any helicopter operated by the federal government, or a state, county, or city agency engaged in law enforcement, or fire suppression, or going to the aid of any person or the property thereof, so long as the same is operated in accordance with federal and state regulations and by the authorized personnel of said federal, state, county, or city agency.

('65 Code, § 17A-9) (Ord. No. CS-570 § 1 (part))

CHAPTER 9.10: PARKS, PUBLIC BUILDINGS AND PROPERTY

Section

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Cross-reference:

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REGULATION OF PARKS AND PLANTING

§ 9.10.005 DEFINITION; MAINTENANCE OF MAP.

A. As used in this Code, a ***PUBLIC PARK*** is any of the following:

1. Any area within the City of Culver City owned, leased or operated by the City as a park, playground, recreation field, civic center or bike path, including the parking lot or parking area immediately adjacent thereto;
2. Any area where public buildings or structures are located, including the parking lot or parking area immediately adjacent thereto; and
3. Any area owned or operated by another public agency as a park, playground, recreation field, civic center or bike path, including the parking lot or parking area immediately adjacent thereto.

B. As used in Subsection A., an official action of the City Council to formally dedicate or to officially accept an area for public park purpose is not required.

C. The City Engineer shall maintain a map designating public parks in the official records of the City Engineer.

('65 Code, § 25-1) (Ord. No. CS-290 Art. II § 1; Ord. No. 94-032 § 1)

§ 9.10.010 SALE OR TRANSFER OF PARK PROPERTY.

A. Any real property of the City used for park purposes shall not be sold, leased, or otherwise transferred, except by authority of a resolution of the City Council adopted at the conclusion of a public hearing on the proposed sale, lease, or transfer. An environmental impact report shall be considered and approved by the City Council before any such resolution is adopted.

B. Notice of the hearing shall be published twice in the newspaper designated by the City Council pursuant to City Charter § 621, the first publication to be at least ten days before the hearing. At least five copies of the published notice shall be conspicuously posted on the subject park property. The heading of the notices shall be "Notice of Proposed Sale/Transfer of This Park" in letters not less than one inch in height.

C. Any resolution adopted by the City Council authorizing any such sale, lease, or transfer shall by its terms state that it shall not be effective until after thirty days from the date of its adoption. The adoption of any such resolution shall be deemed to be a legislative act subject to referendum in the same manner as an ordinance.

('65 Code, § 25-2) (Ord. No. CS-290 Art II § 2; Ord. No. CS-971 § 1)

§ 9.10.015 POLICY ON CLOSING.

Any section or part of any park may be declared closed to the public by the Parks, Recreation and Community Services Director at any time and for any interval of time, either temporarily or at regular and stated intervals and either entirely or merely to certain uses, as the Parks, Recreation and Community Services Director shall find reasonably necessary.

('65 Code, § 25-3) (Ord. No. CS-973 § 1; Ord. No. 2002-005 § 2 (part))

§ 9.10.020 LOST ARTICLES.

The finding of lost articles by park attendants shall be reported to the Parks, Recreation and Community Services Director, who shall make every reasonable effort to locate the owners. The Parks, Recreation and Community Services Director shall make every reasonable effort to find articles reported as lost.

('65 Code, § 25-4) (Ord. No. CS-290 Art. II § 8; Ord. No. CS-973 § 1; Ord. No. 2002-005 § 2 (part))

§ 9.10.025 RESERVED.

§ 9.10.030 RESERVED.**§ 9.10.035 RESERVED.****§ 9.10.040 RESERVED.****§ 9.10.045 CELEBRATIONS IN PARKS; PERMITS.**

Except as hereinafter provided, no company, society or organization shall hold or conduct any picnics, celebrations, parade, service or exercises in any public park, without first obtaining permission from the person or persons duly authorized by the Parks, Recreation and Community Services Director, and agreeing to conform to the rules contained in the application. No person shall take part in any picnic-celebration, parade, service or exercise held or conducted contrary to the provisions hereof, except that nothing in this Section shall be construed as preventing individual families from using parks and facilities for picnics, and the like, when no reservations have been made and no permit has been issued therefor covering the date requested.

('65 Code, § 25-9) (Ord. No. CS-290 Art. II § 4; Ord. No. CS-973 § 1; Ord. No. 2002-005 § 2 (part))

§ 9.10.050 OBSTRUCTING PATHWAYS PROHIBITED.

No person shall assemble, collect or gather together in any walk, driveway, passageway or pathway in any park or in other places set apart for the travel of persons or vehicles in or through any park, or occupy the same so that the free passage or use thereof by persons or vehicles passing along the same shall be obstructed in any manner.

('65 Code, § 25-10) (Ord. No. CS-290 Art. II § 6)

§ 9.10.055 PROHIBITIONS.

Within the limits of any public park it shall be unlawful for any person:

A. Having charge, care, custody or control of any dog, except as permitted by § 9.10.400 or § 9.10.600, or other animal, fowl, or reptile to cause, permit or allow the same to be within the limits of any public park within the City, unless such person shall have obtained a special permit from the City Council to conduct an entertainment or exhibition in which an animal is a participant.

('65 Code, § 5-12) (Ord. No. CS-290; Ord. No. CS-405 § 1; Ord. No. 2004-015 § 2; Ord. No. 2006-008 § 2)

B. To carry or discharge any airgun or firearm, or discharge any missile from a slingshot or bow, or bring, or have in his possession, or set off or otherwise cause to explode or discharge or burn any firecrackers, torpedoes, rockets or other fireworks or explosives or inflammable

material, or discharge them or throw them into any such areas from land or highway adjacent thereto. This prohibition includes any substance, compound, mixture or article that in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints. This provision, however, shall not prevent the holding of fireworks exhibitions or displays in public parks or places when authorized by the City Council.

C. To swim, bathe, wade in, or pollute the water of any fountain or pond.

D. To make, kindle or use a fire, barbecue, portable stove or burning charcoal, except in designated areas provided by the City for such purpose, or in such areas and under such regulations as may be designated by the Parks, Recreation and Community Services Director. No person shall drop, throw, or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other inflammable material, within any park area, or upon any public property, highway, road or street abutting or contiguous thereto.

E. To camp, occupy camp facilities, or use camp paraphernalia; provided, however, that the Parks, Recreation and Community Services Director may issue a temporary permit to allow camping in connection with a special event. No person shall store personal property, including camp facilities and camp paraphernalia, within any public park or upon any public property. For purposes of this Subsection, the following definitions shall apply:

CAMP. To pitch or occupy camp facilities or to use camp paraphernalia;

CAMP FACILITIES. Include, but are not limited to, tents, huts or temporary shelters;

CAMP PARAPHERNALIA. Includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks, cooking facilities and similar equipment. **CAMP PARAPHERNALIA** shall not include City-designated cooking facilities or equipment;

STORE. To put aside or accumulate for use when needed, to put for safekeeping, or to place or leave in a location.

F. To ride or drive any horse or other animal, or propel any vehicle, cycle, or automobile elsewhere than on the roads or drives provided for such purpose.

G. To leave a bicycle lying on the ground or paving, or set against trees, or in any place or position where other persons may trip over or be injured by it, or leave a bicycle in a place other than a bicycle rack when such is provided and there is space available, or ride a bicycle other than on the right-hand side of the road paving as close as conditions permit, and bicycles shall be kept in single file when two or more are operating as a group. Bicyclists shall at all times operate their machines with reasonable regard to the safety of others, signal all turns, pass to the right of any vehicle they are overtaking, and pass to the right of any vehicles they may be meeting.

H. To sleep or lay on tables, seats, benches, playground equipment or any other areas not intended for such use or purpose.

I. To announce, advertise or call public attention in any way to any article or service for sale or hire, or expose or offer for sale any article or thing; nor shall he station or place any stand, cart, or vehicle for the transportation, sale or display of any such article or thing. Exception is here made as to any regularly licensed concessionaire acting by and under the authority and regulation of the Parks, Recreation and Community Services Director.

J. To play or bet at or against any game which is played, conducted, dealt or carried on with cards, dice or other device, for money, chips, shells, credit or any other representative of value, or maintain or exhibit any gambling table or other instrument of gambling or gaming.

K. To practice, carry on, conduct or solicit for any trade, occupation, business or profession without the permission of the City Council.

L. To drive or have any dray, truck, wagon, cart, or other traffic vehicle carrying goods or regularly used or employed in carrying goods, merchandise, lumber, machinery, oil, manure, dirt, sand or soil or any article of trade or commerce, or any offensive article or material whatsoever, upon any road or drive except such as may be especially provided or designated for such use, or such as may be authorized by permit from the Parks, Recreation and Community Services Director.

M. To take part in or abet the playing of any games involving thrown or otherwise propelled objects such as balls, stones, arrows, javelins, or model airplanes, except in areas set apart for such forms of recreation. The playing of rough or comparatively dangerous games such as football, baseball and quoits is prohibited except on the fields and courts or areas provided therefor. Rollerskating shall be confined to those areas specifically designated for such pastime.

N. To deposit any paper, fruit, rubbish, debris, or any waste material of any kind, except in City-designated receptacles.

O. To fight or challenge another person to fight, maliciously or willfully disturb another person by loud and unreasonable noise, or use offensive words that are inherently likely to provoke an immediate violent reaction from another person.

P. To interfere with or hinder any employee, agent or volunteer of the City engaged in maintenance or repair of any park or park facility.

Q. To enter, use, or abet the use of any area in violation of posted notices.

R. To fail to produce and exhibit any permit from the Parks, Recreation and Community Services Director he claims to have, upon request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with any ordinance or rule.

S. To maliciously, willfully or unreasonably disturb or interfere with any person or party occupying any area, or participating in any activity, under the authority of a permit.

T. To enter any park, park area or park facility barricaded or fenced for maintenance, repair or construction, without the authorization of the Parks, Recreation and Community Services Director.

('65 Code, § 25-11) (Ord. No. CS-290 Art II § 7; Ord. No. CS-973 § 1; Ord. No. CS-1006 § 1; Ord. No. 96-023 § 1; Ord. No. 2002-005 § 2 (part); Ord. No. 2005-012 §§ 1-10)

§ 9.10.060 HOURS OF OPERATION.

The City Council by resolution shall establish hours during which parks owned and operated by the City of Culver City shall be closed to the public. In each park a sign shall be conspicuously displayed which states the hours of operation of the park and the hours during which the park is closed to the public.

('65 Code, § 25-11.1) (Ord. No. CS-1006 § 2)

PUBLIC BUILDINGS AND PROPERTY

§ 9.10.200 PROHIBITIONS.

It shall be unlawful for any person to:

A. Cut, break, deface, mark or write upon, or in any manner injure or damage any public building, or any fixtures, furniture or appurtenances attached thereto, or damage any street tunnel, lighting standard, bench or other publicly owned or operated structure, apparatus or property.

B. Climb, cut, break, deface or disturb any tree, shrub, plant or flower, or pluck, pull up, take or remove any shrub, bush, plant or flower within any parkway or other public area.

C. Take, remove or carry away any machinery, equipment, motor vehicle, apparatus, wood, turf, grass, soil, rock, furniture or fixture of any kind from any public building, playground, park, yard or other area without permission from the custodian in charge of said buildings or premises.

D. Deposit any paper, food, rubbish, debris or any waste material of any kind in any public restroom, except in City-designated receptacles. No person over the age of ten (10) years shall use the restrooms and washrooms designated for the opposite sex.

E. Paste, glue, tack or otherwise post or distribute any sign, placard, advertisement, or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park.

('65 Code, § 25-12) (Ord. No. CS-290 Art. II § 9; Ord. No. 2005-012 § 11)

SKATEBOARDS, ROLLERSKATES, IN-LINE SKATES AND ROLLERBLADES - RULES AND REGULATIONS

§ 9.10.300 PUBLIC SKATEBOARD PARKS; RULES AND REGULATIONS.

(A) Any person who rides or operates a skateboard, rollerskates, in-line skates or rollerblades in a publicly-owned or operated skateboard park in the City must wear a helmet, elbow pads and kneepads at all times and signage shall be posted setting forth these requirements and the penalty for violation thereof.

(B) The Parks, Recreation and Community Services Director is authorized to set forth any administrative guidelines or processes, and the City Council may establish by resolution rules and regulations, regarding the use of public skateboard parks within the City. Signage setting forth all rules and regulations established by this subsection, and the penalty for violation thereof, shall be posted at all public skateboard parks within the City. A violation of any rule or regulation established by this subsection shall be subject to the penalties as set forth in § 9.10.300C.

(C) Violation of this section shall constitute an infraction, subject to penalties as set forth in § 1.01.045 of this Code.

('65 Code, § 25-15) (Ord. No. 99-009, § 1 (part); Ord. No. 2002-005 § 2 (part); Ord. No. 2007-006 § 1)

§ 9.10.305 SKATEBOARDING, ROLLER- SKATING, IN-LINE SKATING AND ROLLERBLADING PROHIBITIONS.

Skateboarding, rollerskating, in-line skating and rollerblading in the City may be prohibited by resolution of the City Council.

('65 Code, § 25-16) o(Ord. No. 99-009, § 1 (part))

OFF-LEASH DOG PARK

§ 9.10.400 RULES AND REGULATIONS.

Notwithstanding any other provision in this Code, a person may have charge, care, custody or control of any dog in that portion of Culver City Park designated as the Culver City Dog Park (the "Dog Park"), subject to all the following conditions enumerated in this Section.

A. The person who has charge, care, custody or control of any dog:

1. Must ensure the dog is currently licensed, vaccinated and over the age of four (4) months, and provide proof of licensing upon request by any City official;
2. Must not allow more than three (3) dogs to be in his or her charge, care, custody or control while in the Dog Park;
3. Must use the appropriate areas of the Dog Park designated for "Small/Timid" or "Large" dogs;
4. Is required to pick-up and dispose of the dog's feces in trash receptacles both in and out of the Dog Park;
5. Must remain with the dog at all times while using the Dog Park, and is solely liable for any and all injuries and/or damage caused by the dog;
6. Shall not permit a dog with a known communicable disease in the Dog Park at any time;
7. Shall not permit a female dog in heat in the Dog Park;
8. Shall not permit an aggressive dog in the Dog Park;
9. Must have the dog restrained by a substantial chain or leash not exceeding six (6) feet in length at all times, except while inside the fenced areas of the Dog Park; and
10. Must remove any pronged or spiked collar or choke collar from the dog prior to entry.

B. Children twelve (12) years of age and under are not permitted in the Dog Park, unless accompanied and supervised by an adult at all times.

C. No person shall bring a stroller, carriage, baby carrier, bicycle, skateboard, scooter, children's toy, food, dog toy, dog treat or dog food in the Dog Park.

D. No person shall bring any animal, other than a dog, into the Dog Park.

E. 1. No person shall conduct any activity at the Dog Park which may be an immediate danger to the public's health, safety and welfare.

2. Such activity must cease immediately when asked to do so by a City official.

F. 1. Smoking is prohibited in the Dog Park.

2. The inhaling, exhaling, burning or carrying of any lighted pipe, cigar, cigarette, weed, plant or other combustible substance in any manner or any form is prohibited.

G. No person shall enter or use the Dog Park when it is closed.

H. No person shall operate or conduct a business within the Dog Park, unless permitted by the City.

I. The use of the Dog Park in the City by an owner of a dog or by a person having charge, care, custody or control of a dog shall constitute an agreement, by said owner or person having charge, care, custody or control of a dog, to protect, indemnify, defend and hold harmless the City from any claim of injury or damage arising from or in connection with the use of the Dog Park, including but not limited to, injuries arising from dog bites.

J. 1. A person entering, using or visiting the Dog Park expressly assumes the risk of any injury or damage which may arise from or in connection with such entrance, visit or use of the Dog Park, including but not limited to, injuries resulting from dog bites.

2. The City shall not be liable for injuries or damages arising from or in connection with the use of the Dog Park, including but not limited to, injuries resulting from dog bites, by an owner of a dog or by a person having charge, care, custody or control of a dog.

(Ord. No. 2004-015, § 3)

§ 9.10.405 PENALTIES.

Any person who violates or fails to comply with any provision of § 9.10.400 shall be guilty of an infraction, and may be subject to a fine not to exceed \$100 per violation.

(Ord. No. 2004-015, § 4)

DESIGNATED DOG PATHS

§ 9.10.600 DESIGNATED DOG PATHS.

A. Notwithstanding any other provision in this Code, a person may have charge, care, custody or control of any dog upon the designated dog paths established by resolution of the City Council; provided such dog is at all times restrained by a substantial chain or leash not exceeding six (6) feet in length, in the control of a competent person.

B. For purposes of this Section, **DESIGNATED DOG PATHS** shall mean the pathways established by resolution of the City Council as **DESIGNATED DOG PATHS** and identified by conspicuously displayed signs indicating that they are **DESIGNATED DOG PATHS**, and where the pathways themselves are marked with pictures of paw prints.

C. Nothing in this Section shall permit or allow any person having charge, care, custody or control of any dog to permit or allow that dog to be in any portion of any public park, except as permitted by § 9.10.400, other than on the designated dog paths established by resolution of the City Council.

(Ord. No. 2006-008 § 3; Ord. No. 2009-003 § 1; Ord. No. 2014-005 § 1)

CHAPTER 9.11: SMOKING REGULATIONS

Section

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- 9.11.225 Smoking restrictions in new units of multi-unit residences

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- 9.11.235 Required and implied lease terms for all new and existing units in rental complexes
- 9.11.240 Smoking restrictions in existing units of a common interest complex
- 9.11.245 Required terms to be included in rules and regulations for all new and existing units in common interest complexes
- 9.11.250 Remedies not exclusive
- 9.11.255 Penalties and enforcement
- 9.11.260 Private enforcement
- 9.11.265 Conflict of provisions

Cross-reference:

Tobacco retailer licensing, see Ch. 11.15

REGULATION OF SMOKING IN OUTDOOR AREAS

§ 9.11.100 PURPOSE.

It is the intent of the City Council to control exposure to secondhand smoke by prohibiting smoking at certain locations, in addition to those places where smoking is prohibited by state law. The California Air Resources Board has identified environmental tobacco smoke, or secondhand smoke, as a toxic air contaminant, which may cause and contribute to death or serious illness, including increased risks of cancer, and is especially hazardous to children and people with asthma and other respiratory problems. The intent and purpose of prohibiting smoking at the locations identified in this chapter is to protect the public health, safety, and welfare by reducing the number of locations in the city where exposure to secondhand smoke can occur. The provisions of this chapter are intended to be a supplement to existing state law smoking prohibitions and restrictions.

(Ord. No. 2008-009 § 1 (part))

§ 9.11.105 DEFINITIONS.

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ENCLOSED AREA. An area that is closed in by a roof and walls, with appropriate openings for ingress and egress.

NON-ENCLOSED AREA. A predominantly outdoor area that does not meet the definition of "enclosed," including but not limited to, outdoor dining areas.

OUTDOOR BAR PATIO. Any non-enclosed area located on private or public property utilized primarily for the serving and/or consumption of alcoholic beverages, in which the serving and/or consumption of food is incidental to the serving and/or consumption of such beverages, and where minors are not allowed to enter and remain. **OUTDOOR BAR PATIO** does not include an outdoor dining area, regardless of whether alcoholic beverages are served and/or consumed therein.

OUTDOOR DINING AREA. Any non-enclosed area located on private or public property, made available to or customarily used by the general public, that is designed, established or regularly used for consuming food and/or beverages, or where food and/or beverages are served, whether or not for compensation. This includes, but is not limited to, restaurants, hotels, patios, and coffee shops. This does not include outdoor bar patios.

PARK OR RECREATIONAL AREA. Any outdoor area, owned or operated by the City of Culver City or Culver City Redevelopment Agency, open to the general public for primarily recreational purposes, regardless of any fee or age requirement, including but not limited to, picnic areas, playgrounds, sports or athletic fields, walking paths, gardens, hiking trails, bike paths, skateboard parks and dog parks. A **PARK OR RECREATIONAL AREA** shall not include the City Hall Courtyard, Town Plaza, any paved public sidewalk immediately abutting the boundary of the **PARK OR RECREATIONAL AREA**, or any parking area within the boundaries of the **PARK OR RECREATIONAL AREA**.

SMOKING or TO SMOKE. The possession of a lighted tobacco product, lighted tobacco paraphernalia, or any other lighted weed or plant, including a lighted pipe, cigar, hookah pipe, or cigarette of any kind; and the lighting of a tobacco product, tobacco paraphernalia, or any other weed or plant, including a pipe, cigar, hookah pipe, or cigarette of any kind.

TOBACCO PARAPHERNALIA. Cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or consumption of tobacco products.

TOBACCO PRODUCT shall mean:

1. Any substance containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco; and
2. Any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

(Ord. No. 2008-009 § 1 (part))

§ 9.11.110 SMOKING PROHIBITED IN OUTDOOR DINING AREAS.

A. *Prohibition.* Smoking is prohibited in all outdoor dining areas located on private or public property, including the public right-of-way. Smoking is further prohibited in all non-enclosed areas within five feet of any outdoor dining area, except while actively passing on the way to another destination. Outdoor bar patios are exempted from the provisions of this section,

provided the smoke does not enter adjacent areas in which smoking is prohibited by law or by the owner, lessee, or licensee of the adjacent property.

B. *Posting of signs.* Every outdoor dining area subject to the prohibition set forth in subsection A. above must have one or more conspicuously displayed signs, stating that smoking is prohibited in the outdoor dining area. Such signs must have text and/or graphics to clearly indicate that smoking is prohibited in the outdoor dining area, and include an appropriate Culver City Municipal Code citation. Any text must be clearly contrasted with the background, and must be a minimum of one inch in height. The text must state “No Smoking,” “Smoke Free Area,” or another phrase to clearly indicate that smoking is prohibited. Any graphics must be substantially similar to the international “No Smoking” symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it. Such signs shall be posted in a quantity and manner reasonably likely to inform individuals occupying the outdoor dining area that smoking is prohibited within the outdoor dining area, and must be made of permanent, weather-resistant materials.

C. *Time of posting.* Every business or property subject to subsection A. above shall post the signs required by this section within 30 days of the effective date of this chapter. Every business or property that becomes subject to the provisions of this chapter after its effective date shall post the required signs immediately upon commencing operations.

(Ord. No. 2008-009 § 1 (part))

§ 9.11.115 SMOKING PROHIBITED IN CITY PARKS AND RECREATIONAL AREAS.

A. *Prohibition.* Smoking within any park or recreational area is prohibited.

B. *Tobacco waste.* The disposal of any tobacco product or tobacco paraphernalia within any park or recreational area is prohibited, except in a city-designated waste receptacle, or unless being done as part of a scene in a film, television or live performance production.

C. *Posting of signs.* The city shall cause the installation of “No Smoking” signs, with letters of no less than one inch in height and including the international “No Smoking” symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle crossed by a red bar. Such signs shall be clearly and conspicuously posted and maintained at all main entrances to a park or recreational area, and additional signs shall be posted in a quantity and manner reasonably likely to inform individuals occupying the park or recreational area that smoking is prohibited within the area.

(Ord. No. 2008-009 § 1 (part))

§ 9.11.120 OTHER PROHIBITIONS AND REQUIREMENTS.

A. Nothing in this chapter shall be construed to prohibit smoking in any area in which it is already prohibited by state or federal law, unless the applicable state or federal law permits additional local regulation.

B. Nothing in this chapter shall be construed to grant any person an affirmative right to smoke or permit smoking in any area in which smoking is otherwise prohibited by this chapter or state or federal law, or prohibited by a person with property rights in the no-smoking area.

C. No person shall smoke or knowingly permit smoking in an area under the person's legal or de facto control in which smoking is prohibited by this chapter or state or federal law, except a person who is already compelled to act under state or federal law, unless the applicable state or federal law permits additional local regulation.

D. No person shall willfully mutilate or destroy any sign required by this chapter.

E. Signs required by this chapter are exempt from the sign requirements in Chapter 17.330 of this code.

F. The absence of signs required by this chapter shall not be a defense to a violation of any provision of this chapter.

G. No person shall intimidate, threaten any reprisal, or effect any reprisal, for the purpose of retaliating against another person who seeks to attain compliance with this chapter.

(Ord. No. 2008-009 § 1 (part))

§ 9.11.125 EXEMPTIONS.

The provisions of this chapter shall not apply to any person acting in a scene of a live performance production or a film or television production, as long as a film permit has been obtained, if required pursuant to the provisions of Chapter 11.14 of this code.

(Ord. No. 2008-009 § 1 (part))

§ 9.11.130 PENALTIES AND ENFORCEMENT.

A. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

B. A violation of this chapter is subject to a civil action brought by the City Attorney, punishable by a civil fine of not less than \$100, and not exceeding \$1,000, per violation.

C. A violation of any provision of this chapter may, at the discretion of the City Attorney, be prosecuted as an infraction or misdemeanor. The City Council shall, by resolution, establish the penalties for a violation of this chapter, but in no event shall such penalties exceed the maximum penalties permitted under state law.

D. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.

E. Any violation of this chapter is hereby declared to be a public nuisance. In addition, any violation of this chapter involving smoking is hereby declared to be a private nuisance.

F. Any person acting for the interests of itself, its members, or the general public may bring a civil action to enforce this chapter.

(Ord. No. 2008-009 § 1 (part))

§ 9.11.135 CONFLICT OF PROVISIONS.

In the event of any conflict between this chapter and any other provision of this code, this chapter shall control.

(Ord. No. 2008-009 § 1 (part))

REGULATION OF SMOKING IN MULTI-UNIT HOUSING

§ 9.11.200 PURPOSE.

It is the intent of the City Council of the City of Culver City, in enacting this Subchapter, to provide for the public's health, safety, and welfare by discouraging the inherently dangerous activity of tobacco use around non-consenting individuals, protecting children from exposure to smoking where they live and play and protecting the public from nonconsensual exposure to secondhand smoke in and around their homes.

(Ord. No. 2014-006 § 1)

§ 9.11.205 DEFINITIONS.

Notwithstanding the definitions set forth in Section 9.11.100, et seq., for the purposes of this Subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADJACENT PROPERTY. Any unenclosed area of property, publicly or privately owned, that abuts a multi-unit residence.

COMMON AREA. Every enclosed area or unenclosed area of a multi-unit residence that residents of more than one (1) unit of that multi-unit residence are entitled to enter or use, including, for example, halls and paths, lobbies and courtyards, elevators and stairs, community rooms and playgrounds, gym facilities and swimming pools, parking garages and parking lots, shared restrooms, shared laundry rooms, shared cooking areas, and shared eating areas.

COMMON INTEREST COMPLEX. A multi-unit residence that is a condominium project, a community apartment project, a stock cooperative, or a planned development as defined by Cal. Civil Code § 4100.

DESIGNATED SMOKING. An area where smoking is permissible and has been established in accordance with the provisions of Section 9.11.215 of this Subchapter.

ENCLOSED AREA. An area in which outside air cannot circulate freely to all parts of that area, and includes an area that has:

1. Any type of overhead cover whether or not that cover includes vents or other openings and at least three (3) walls or other vertical boundaries of any height whether or not those boundaries include vents or other openings; or
2. Four (4) walls or other vertical boundaries that exceed six (6) feet in height, whether or not those boundaries include vents or other openings.

EXISTING UNIT. A unit in existence on or before November 26, 2014.

HOA. An organization or entity established for the purpose of managing and/or maintaining a common interest complex.

LANDLORD. Any person who owns property let for residential use, any person who lets residential property, and any person who manages such property, except that **LANDLORD** does not include a master tenant who sublets a unit as long as the master tenant sublets only a single unit of a multi-unit residence.

MULTI-UNIT RESIDENCE. Residential property containing two (2) or more units and shall include a rental complex and a common interest complex. The following types of housing are specifically excluded from this definition:

1. A hotel or motel;
2. A mobile home park;
3. A single-family home; and
4. A single-family home with a detached or attached accessory dwelling unit when permitted pursuant to Section 17.400.095 of this Code.

NEW UNIT. A unit that is issued a certificate of occupancy on or after November 26, 2014.

NONSMOKING AREA. Any enclosed area or unenclosed area of a multi-unit residence in which smoking is prohibited by:

1. This Subchapter or other law;
2. By binding agreement relating to the ownership, occupancy, or use of real property; or
3. By designation of a person with legal control over the area.

In the case of a smoking prohibition established only by private agreement or designation and not by this Subchapter or other law, it shall not be a violation of this Subchapter for a person to engage in smoking or to allow smoking in that area unless:

1. The person knows that smoking is not permitted; or
2. A reasonable person would know that smoking is not permitted.

RENTAL COMPLEX. A multi-unit residence for which fifty percent (50%) or more of units are let by or on behalf of the same landlord.

SMOKE. The gases and particles, released into the air as a result of combustion when the apparent or usual purpose of the combustion is human inhalation of the byproducts, except when the combusting material contains no tobacco, other weed or plant, or nicotine and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term **SMOKE**

includes, but is not limited to, tobacco smoke and marijuana smoke, but specifically excludes vapors from electronic smoking devices.

SMOKING. Engaging in an act that generates smoke, such as, for example, the possession of a lighted tobacco product, lighted tobacco paraphernalia, or any other lighted weed or plant, including a lighted pipe, lighted hookah pipe, a lighted cigar, or a lighted cigarette of any kind; or the lighting of a pipe, a hookah pipe, a cigar, or a cigarette of any kind.

TOBACCO PARAPHERNALIA. Cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or consumption of tobacco products.

TOBACCO PRODUCT. Any substance containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco.

UNENCLOSED AREA. Any area that is not an enclosed area.

UNIT. A personal dwelling space, even where lacking cooking facilities or private plumbing facilities, and includes any associated exclusive-use enclosed area or unenclosed area, such as, for example, a private balcony, porch, deck, or patio. **UNIT** includes, without limitation, an apartment; a condominium; a townhouse; a room in a long-term health care facility, assisted living facility, hospital and a room in a homeless shelter. **UNIT** includes an existing unit and a new unit.

(Ord. No. 2014-006 § 1)

§ 9.11.210 SMOKING PROHIBITED BY LAW IN CERTAIN AREAS.

A. Smoking in a common area, other than in a designated smoking area established pursuant to Section 9.11.215 , is prohibited and a violation of this Subchapter.

B. Smoking in a new unit or existing unit, as set forth in Sections 9.11.225 , 9.11.230 and 9.11.240 , is prohibited and a violation of this Subchapter.

C. Smoking in a designated nonsmoking unit is prohibited and a violation of this Subchapter.

D. Smoking in an exclusive-use unenclosed area, such as, for example, a private balcony, porch, deck or patio, as set forth in Sections 9.11.220 , 9.11.225 , 9.11.230 and 9.11.240 , is prohibited and a violation of this Subchapter.

E. Smoking in an unenclosed area of a multi-unit residence within twenty-five (25) feet in any direction of any doorway, window, opening, or other vent into an enclosed area that is a nonsmoking area, as set forth in Section 9.11.220 .A, is prohibited and a violation of this Subchapter.

F. Smoking in an unenclosed area of adjacent property within twenty-five (25) feet in any direction of any doorway, window, opening, or other vent into an enclosed area that is a nonsmoking area, as set forth in Section 9.11.220 .B, is prohibited and a violation of this Subchapter.

G. Smoking in any nonsmoking area is prohibited and a violation of this Subchapter.

(Ord. No. 2014-006 § 1)

§ 9.11.215 SMOKING PROHIBITED IN COMMON AREAS EXCEPT IN DESIGNATED SMOKING AREAS.

A. Smoking is prohibited in all common areas, pursuant to Section 9.11.210 .A, except that a person with legal control over a common area, such as, for example, a landlord or HOA Board, may designate a portion of the common area as a designated smoking area provided that at all times the designated smoking area complies with Section 9.11.215 .B below.

B. A designated smoking area:

1. Must be an unenclosed area.
2. Must be located at least twenty-five (25) feet from any enclosed area that is a nonsmoking area. A person with legal control over a common area in which a designated smoking area has been established shall modify, relocate or eliminate that designated smoking area so as to maintain compliance with the requirements of this Section 9.11.215 .B as laws change, as binding agreements are created, and as nonsmoking areas on adjacent property are established.
3. Must be at least twenty-five (25) feet from unenclosed areas primarily used by children and unenclosed areas with improvements that facilitate physical activity including, for example, playgrounds, tennis courts, swimming pools, and school campuses.
4. Must be no more than ten percent (10%) of the total unenclosed area of the multi-unit residence for which it is established.
5. Must have a clearly marked perimeter.
6. Must be identified by conspicuous signs.

C. No person with legal control over a common area in which smoking is prohibited by this Subchapter or other law shall knowingly permit the presence of ash trays, ash cans, or other receptacles designed for or primarily used for disposal of smoking waste within the area.

D. Clear and unambiguous "No Smoking" signs shall be posted in sufficient numbers and locations to make common areas where smoking is prohibited by this Subchapter or other law obvious to a reasonable person. The signs shall have letters of no less than one inch in height or contain the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle crossed by a red bar). Such signs shall be maintained by the person or persons with legal control over the common areas. The absence of signs shall not be a defense to a violation of any provision of this Subchapter.

(Ord. No. 2014-006 § 1)

§ 9.11.220 NONSMOKING BUFFER ZONES.

A. Smoking is prohibited in unenclosed areas of a multi-unit residence, including balconies, porches, decks, and patios, within twenty-five (25) feet in any direction of any doorway,

window, opening, or other vent into an enclosed area that is a nonsmoking area, pursuant to Section 9.11.210 .E.

B. Smoking is prohibited in unenclosed areas of adjacent property within twenty-five (25) feet in any direction of any doorway, window, opening, or other vent into an enclosed area that is a nonsmoking area, pursuant to Section 9.11.210 .F.

C. Smoking is prohibited in all exclusive-use unenclosed areas associated with a unit, such as, for example, a private balcony, porch, deck, or patio, pursuant to Section 9.11.210 .D.

(Ord. No. 2014-006 § 1)

§ 9.11.225 SMOKING RESTRICTIONS IN NEW UNITS OF MULTI-UNIT RESIDENCES.

A. All new units of a multi-unit residence, including any associated exclusive-use enclosed areas or unenclosed areas, such as, for example, a private balcony, porch, deck, or patio, are hereby designated nonsmoking units.

B. Smoking in a designated nonsmoking unit is a violation of this Subchapter, as provided in Section 9.11.210 .

(Ord. No. 2014-006 § 1)

§ 9.11.230 SMOKING RESTRICTIONS IN EXISTING UNITS OF A RENTAL COMPLEX.

A. All existing units of a rental complex, including any associated exclusive-use enclosed areas or unenclosed areas, such as, for example, a private balcony, porch, deck, or patio, are hereby designated nonsmoking units as of May 26, 2016.

B. Prior to the effective date of a new or amended lease, or at least six (6) months prior to May 26, 2016, whichever occurs earlier, a landlord shall provide each tenant with:

1. A written notice clearly stating that all units, including the tenant's, unit, are designated nonsmoking units and that smoking in a unit shall be prohibited as of May 26, 2016; and
2. A copy of this Subchapter.

(Ord. No. 2014-006 § 1)

§ 9.11.235 REQUIRED AND IMPLIED LEASE TERMS FOR ALL NEW AND EXISTING UNITS IN RENTAL COMPLEXES.

A. Every lease or other rental agreement for the occupancy of a unit in a rental complex, including new units and existing units, entered into, renewed, or continued month-to-month after November 26, 2014, shall include the provisions set forth in Section 9.11.235 .B below on the earliest possible date such lease or other rental agreement may be amended in accordance with applicable law, including providing the minimum legal notice.

B. Every lease or other rental agreement for the occupancy of a unit in a rental complex, including new units and existing units, entered into, renewed, or continued month-to-month after November 26, 2014, shall be amended to include the following provisions:

1. A clause providing that as of May 26, 2016, or an earlier date if the landlord so determines, it is a material breach of the lease or other rental agreement to allow or engage in smoking in the unit. Such clause shall be substantially consistent with the following: "It is a material breach of this agreement for tenant or any other person subject to the control of the tenant or present by invitation or permission of the tenant to engage in smoking in the unit as of May 26, 2016 [or an earlier date if the Landlord so determines]."

2. A clause providing that it is a material breach of the lease or other rental agreement for tenant or any other person subject to the control of the tenant or present by invitation or permission of the tenant to engage in smoking in any common area of the property other than a designated smoking area. Such clause shall be substantially consistent with the following: "It is a material breach of this agreement for tenant or any other person subject to the control of the tenant or present by invitation or permission of the tenant to engage in smoking in any common area of the property, except in an outdoor designated smoking area, if one exists."

3. A clause providing that it is a material breach of the lease or other rental agreement for tenant or any other person subject to the control of the tenant or present by invitation or permission of the tenant to violate any law regulating smoking while anywhere on the property. Such clause shall be substantially consistent with the following: "It is a material breach of this agreement for tenant or any other person subject to the control of the tenant or present by invitation or permission of the tenant to violate any law regulating smoking while anywhere on the property."

4. A clause expressly conveying third-party beneficiary status to all occupants of the rental complex as to the smoking provisions of the lease or other rental agreement. Such clause shall be substantially consistent with the following: "Other occupants of the property are express third-party beneficiaries of those provisions in this agreement that concern smoking. As such, other occupants of the property may seek to enforce such provisions by any lawful means, including by bringing a civil action in a court of law."

C. Whether or not a landlord complies with Sections 9.11.235 .A and 9.11.235 .B above, the clauses required by those subsections shall be implied and incorporated by law into every lease or other rental agreement to which Sections 9.11.235 .A and 9.11.235 .B apply and shall become effective as of the earliest possible date on which the landlord could have made the insertions pursuant to Sections 9.11.235 .A and 9.11.235 .B.

D. A tenant who breaches a smoking provision of a lease or other rental agreement for the occupancy of a unit in a rental complex, or who knowingly permits any other person subject to the control of the tenant or present by invitation or permission of the tenant, shall be liable for the breach to:

1. The landlord; and
2. Any occupant of the rental complex who is exposed to smoke or who suffers damages as a result of the breach.

E. This Subchapter shall not create additional liability in a landlord to any person for a tenant's breach of any smoking provision in a lease or other rental agreement for the occupancy

of a unit in a rental complex if the landlord has fully complied with this Section and Section 9.11.230 .

F. Failure to enforce any smoking provision required by this Subchapter shall not affect the right to enforce such provision in the future, nor shall a waiver of any breach constitute a waiver of any subsequent breach or a waiver of the provision itself.

(Ord. No. 2014-006 § 1)

§ 9.11.240 SMOKING RESTRICTIONS IN EXISTING UNITS OF A COMMON INTEREST COMPLEX.

A. All existing units of a common interest complex, including any associated exclusive-use enclosed areas or unenclosed areas, such as, for example, a private balcony, porch, deck, or patio, are hereby designated nonsmoking units as of May 26, 2016.

B. At least six (6) months before May 26, 2016, an HOA Board shall provide each tenant with:

1. A written notice clearly stating that all units, including the homeowner's unit, are designated nonsmoking units and that smoking in a unit shall be prohibited as of May 26, 2016; and

2. A copy of this Subchapter.

(Ord. No. 2014-006 § 1)

§ 9.11.245 REQUIRED TERMS TO BE INCLUDED IN RULES AND REGULATIONS FOR ALL NEW AND EXISTING UNITS IN COMMON INTEREST COMPLEXES.

A. All existing rules and regulations for a common interest complex shall include the provisions set forth in Section 9.11.245 .B below on the earliest possible date such rules and regulations may be amended in accordance with applicable law, including providing the minimum legal notice.

B. All existing rules and regulations for a common interest complex shall be amended to include the following provisions:

1. A clause providing that as of May 26, 2016, or an earlier date if the HOA Board so determines, it is a violation of the rules and regulations to allow or engage in smoking in a unit. Such clause shall be substantially consistent with the following: "It is a violation of these rules and regulations for a homeowner or any other person subject to the control of the homeowner or present by invitation or permission of the homeowner to engage in smoking in the unit as of May 26, 2016 [or an earlier date if the HOA Board so determines]."

2. A clause providing that it is a violation of the rules and regulations for the homeowner or any other person subject to the control of the homeowner or present by invitation or permission of the homeowner to engage in smoking in any common area of the property other than a designated smoking area. Such clause shall be substantially consistent with the following: "It is a violation of these rules and regulations for a homeowner or any other person subject to the

control of the homeowner or present by invitation or permission of the homeowner to engage in smoking in any common area of the property, except in an outdoor designated smoking area, if one exists."

3. A clause providing that it is a violation of the rules and regulations for homeowner or any other person subject to the control of the homeowner or present by invitation or permission of the homeowner to violate any law regulating smoking while anywhere on the property. Such clause shall be substantially consistent with the following: "It is a violation of these rules and regulations for a homeowner or any other person subject to the control of the homeowner or present by invitation or permission of the homeowner to violate any law regulating smoking while anywhere on the property."

C. Whether or not an HOA Board complies with Sections 9.11.245 .A and 9.11.245 .B above, the clauses required by those subsections shall be implied and incorporated by law into all rules and regulations of a common interest complex to which Sections 9.11.245 .A and 9.11.245 .B apply and shall become effective as of the earliest possible date on which the HOA Board could have amended such rules and regulations pursuant to Sections 9.11.245 .A and 9.11.245 .B.

D. A homeowner who violates a smoking provision of the rules and regulations for a common interest complex, or who knowingly permits any other person subject to the control of the homeowner or present by invitation or permission of the homeowner, shall be liable for the violation to:

1. The HOA Board; and
2. Any occupant of the common interest complex who is exposed to smoke or who suffers damages as a result of the violation.

E. This Subchapter shall not create additional liability in an HOA Board to any person for a homeowner's violation of any smoking provision in the rules and regulations for a common interest complex if the HOA Board has fully complied with this Section and Section 9.11.240 .

F. Failure to enforce any smoking provision required by this Subchapter shall not affect the right to enforce such provision in the future.

(Ord. No. 2014-006 § 1)

§ 9.11.250 REMEDIES NOT EXCLUSIVE.

The provisions of this Subchapter are restrictive only and establish no new rights for a person who engages in smoking. Notwithstanding:

- A. Any provision of this Subchapter or other provisions of this Code;
- B. Any failure by any person to restrict smoking under this Subchapter; or
- C. Any explicit or implicit provision of this Code that allows smoking in any place, nothing in this Code shall be interpreted to limit any person's legal rights under other laws with regard to smoking, including, for example, rights in nuisance, trespass, property damage, and personal injury or other legal or equitable principles.

(Ord. No. 2014-006 § 1)

§ 9.11.255 PENALTIES AND ENFORCEMENT.

Notwithstanding the penalties and enforcement provisions set forth in Section 9.11.130 of this Chapter, for a violation of this Subchapter 9.11.200, et seq., the following provisions shall apply:

A. Except as otherwise provided in Section 9.11.255 .B below, a violation of this Subchapter is not a misdemeanor or an infraction. The enforcement of this Subchapter shall be by the private parties involved.

B. A violation of Sections 9.11.215 .B, 9.11.215 .C, 9.11.215 .D, 9.11.230 .B, 9.11.235 .A, 9.11.235 .B, 9.11.240 .B, 9.11.245 .A and 9.11.245 .B of this Subchapter:

1. In the discretion of the City Attorney, may be prosecuted as an infraction or misdemeanor. The penalties for a violation of the aforementioned Sections shall be consistent with the penalties set forth in Sections 1.01.040 and 1.01.045 of this Code, but in no event shall such penalties exceed the maximum penalties permitted under State law;

2. Is subject to a civil action brought by the City Attorney, punishable by a civil fine not less than one hundred dollars (\$100) and not exceeding one thousand dollars (\$1,000) per violation; and

3. Is subject to enforcement through the imposition of an administrative fine as set forth in Chapter 1.02 of this Code.

C. Under no circumstances shall the City have any responsibility or obligation to enforce or seek any legal redress, civil or criminal, for any violation of this Subchapter. Nothing in this Subchapter shall create a right of action in any person against the City of Culver City or its agents to compel public enforcement of this Subchapter against private parties.

D. The remedies provided by this Section 9.11.255 and Section 9.11.260 are cumulative and in addition to any other remedies available at law or in equity.

E. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Subchapter shall also constitute a violation of this Subchapter.

F. Any violation of this Subchapter is hereby declared to be a public nuisance.

G. No person shall intimidate, harass, or otherwise retaliate against any person who seeks compliance with this Subchapter. Moreover, no person shall intentionally or recklessly expose another person to smoke in response to that person's effort to achieve compliance with this Subchapter.

H. Any person acting for the interests of itself, its members, or the general public may bring a civil action to enforce this Subchapter in accordance with the provisions in Section 9.11.250 below.

(Ord. No. 2014-006 § 1)

§ 9.11.260 PRIVATE ENFORCEMENT.

A. Any person, including a legal entity or organization or a government agency, acting for the interests of itself, its members, or the general public may bring a civil action to enforce this Subchapter. Upon proof of a violation, a court shall award the following:

1. Damages in the amount of either:

a. Upon proof, actual damages; or

b. With insufficient or no proof of damages, five hundred dollars (\$500) for each violation of this Subchapter (hereinafter "statutory damages"). Each day of a continuing violation shall constitute a separate violation. Notwithstanding any other provision of this Subchapter, no person suing on behalf of the general public shall recover statutory damages based upon a violation of this Subchapter if a previous claim brought on behalf of the general public by another person for statutory damages and based upon the same violation has been adjudicated, whether or not the person bringing the subsequent claim was a party to the prior adjudication.

2. Exemplary damages, where it is proven by clear and convincing evidence that the defendant is guilty of oppression, fraud, malice, retaliation, or a conscious disregard for the public health.

B. The person may also bring a civil action to enforce this Subchapter by way of a conditional judgment or an injunction. Upon proof of a violation, a court shall issue a conditional judgment or an injunction.

C. Notwithstanding any legal or equitable bar against a person seeking relief on its own behalf, a person may bring an action to enforce this Subchapter solely on behalf of the general public. When a person brings an action solely on behalf of the general public, nothing about such an action shall act to preclude or bar the person from bringing a subsequent action based upon the same facts but seeking relief on his, her or its own behalf.

D. Nothing in this Subchapter prohibits a person from bringing a civil action in small claims court to enforce this Subchapter, so long as the amount in demand and the type of relief sought are within the jurisdictional requirements of that court.

(Ord. No. 2014-006 § 1)

§ 9.11.265 CONFLICT OF PROVISIONS.

In the event of any conflict between this Subchapter and any other provision of this Code, including Subchapter 9.11.100, et seq., this Subchapter shall control.

(Ord. No. 2014-006 § 1)

CHAPTER 9.12: VIEW PRESERVATION (OBSTRUCTION FROM TREES)

Section

9.12.003 Findings

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§ 9.12.003 FINDINGS.

The City Council finds and declares as follows:

A. Views, trees and vegetation contribute to the aesthetic value, quality of life, ambiance and economic value of properties within the City of Culver City (“City”).

B Views, whether of the City, the Los Angeles Basin, the surrounding hillside and canyons, or other natural and man-made landmarks, produce a variety of significant and tangible benefits for both residents and visitors.

C. Trees and vegetation (defined in § 9.12.010 as “tree(s)” and hereinafter collectively referred to as “tree(s)”) produce a wide variety of significant psychological and tangible benefits for both residents and visitors to the community. Trees provide privacy, modify temperatures, screen winds, replenish oxygen to the atmosphere, maintain soil moisture, mitigate soil erosion, and provide wildlife habitat. Trees contribute to the visual environment and aesthetics by blending, buffering, and reducing the scale and mass of architecture. Trees within the City provide botanical variety and a sense of history. Trees also create shade and visual screens, and provide a buffer between different land uses. The benefits derived from preexisting views may sometimes come into conflict with trees. The planting of trees and their subsequent growth, particularly when such trees are not properly maintained, can produce unintended harmful effects, both on the property on which they are planted and on neighboring properties.

D. This Chapter shall be applicable to the affected hillside areas in the City, including Hetzler/Tompkins, Blair Hills, and Culver Crest, as shown in gray shading on the map attached to Ordinance No. 2006-002 and incorporated herein by reference as Exhibit A.

(Ord. No. 2006-002 § 1 (part))

§ 9.12.005 PURPOSE AND PRINCIPLES.

A. The purposes of this Chapter are to:

1. Establish the right of a residential real property owner, whose property is located within the affected hillside areas, as depicted in Exhibit A, to preserve preexisting views from unreasonable obstruction by the growth of trees;
2. Establish that real property owners are in need of a process to resolve disputes among themselves concerning views within the immediate vicinity of their property that are unreasonably obstructed by the growth of trees; and
3. Establish a process and evaluation criteria by which real property owners may seek mutually acceptable resolution of such view disputes.

B. The rights and the restoration processes are based upon the following general principles:

1. The City recognizes the desire of many of its residents and real property owners for beautiful and plentiful landscaping, including trees. The City realizes this desire may sometimes conflict with the preservation of preexisting views, and disputes related to views are inevitable;
2. The City also recognizes residents and real property owners cherish their views of and from the hills of the City. The City recognizes views contribute greatly to the quality of life in the City, and promote the general welfare of the entire community;
3. Real property owners and residents should maintain trees on their property in a healthy condition, for both safety reasons and for preservation of preexisting views. Before planting trees, real property owners and residents should consider the potential for view blockage, both currently and at tree maturity. Persons have the right to seek civil remedies when threatened by dangerous tree growth;
4. The City shall establish a process by which a real property owner may seek to preserve and restore views from unreasonable obstruction by the growth of trees, when those views existed at the time they purchased their property. The City shall also establish a list of factors to be considered in determining appropriate actions to restore such views;
5. When a preexisting view-obstruction dispute arises, the parties should act reasonably to resolve the dispute through friendly communication, thoughtful negotiation, compromise, and other traditional means, such as discussions with the appropriate neighborhood or homeowner association. Those disputes not resolved through such means shall follow the procedure established herein;
6. It is the intent of the City for the provisions of this Chapter to receive thoughtful and reasonable application. It is not the intent of the City to encourage clear-cutting or substantial denuding of any property of its tree(s) by overzealous application of provisions of this Chapter; and
7. It is the intent of the City to discourage ill-considered damage to trees, and to promote proper use of trees and landscaping establishment and maintenance.

(Ord. No. 2006-002 § 1 (part))

§ 9.12.010 DEFINITIONS.

For the purpose of this Chapter, the meaning and construction of words and phrases is as follows:

ARBITRATOR. A neutral person who will conduct a process similar to a trial: who will hear testimony, consider evidence, and make a binding decision for the disputing parties.

BINDING ARBITRATION. A legal procedure as set forth in Cal. Code Civ. Proc. §§ 1280 et seq.

COMPLAINANT. Any real property owner (or legal occupant with written permission of the property owner) who alleges trees located within the immediate vicinity and on the property of another person are causing unreasonable obstruction of his or her preexisting views.

CROWN REDUCTION/SHAPING. A method of comprehensive trimming that reduces a tree's height or spread. **CROWN REDUCTION** entails the reduction of the top sides or individual limbs of a tree, by means of removal of leaders or the longest portion of limbs to a lateral large enough to assume the terminal.

MEDIATION. A process in which a neutral third person or persons facilitate communication between the disputants to assist them in reaching a mutually acceptable agreement, as further defined in Cal. Code Civ. Proc. §§ 1775 et seq.

MEDIATOR. A neutral, objective third person that assists people in finding mutually satisfactory solutions to their problem.

PREEXISTING VIEW. A view that existed at the time a complainant became owner or occupant of a property.

PRIMARY LIVING AREA. The portion or portions of a residence from which a view is observed most often by the occupants relative to other portions of the residence. The determination of **PRIMARY LIVING AREA** is to be made on a case-by-case basis.

RESTORATION ACTION(S). Any specific requirement to resolve a tree dispute as discussed in this Chapter.

STUMP GROWTH. New growth from the remaining portion of the tree trunk, the main portion of which has been cut off.

THINNING. The selective and systematic removal of branches from a tree so as to improve visibility through the tree and/or improve the tree's structural condition.

TOPPING. Elimination of the upper portion of a tree's trunk or main leader.

TREE(S). Any woody plant with the potential to obstruct views, including but not limited to, trees, shrubs, hedges, bushes and other vegetation. References to "tree" shall include the plural.

TREE CLAIM. The written basis for mediation, binding arbitration or court action under the provisions of this Chapter.

TREE OWNER. Any person owning real property in the City upon whose land is located a tree alleged by a complainant to cause an unreasonable obstruction to a preexisting view.

TREE REMOVAL. The elimination of any tree from its present location.

TRIMMING. The selective removal of portions of branches from a tree so as to modify its shape or profile or alter its appearance.

VIEW(S). A scene from the primary living area of a residence. The term **VIEW(S)** includes both upslope and downslope scenes, but is generally medium or long range in nature, as opposed to short range. **VIEW(S)** include, but are not limited to, skylines, landmarks, distant urban settings, distinctive geologic features, hillside terrains, ridges and bodies of water. The term **VIEW(S)** does not necessarily include an unobstructed panorama of these features.

WINDOWING. A form of thinning by which openings or “windows” are created to restore views.

(Ord. No. 2006-002 § 1 (part))

§ 9.12.015 RIGHTS ESTABLISHED.

A. A real property owner shall have the right to preserve and seek restoration of a preexisting view, when such view is from the primary living area and has subsequently been unreasonably obstructed by the growth of one or more trees; provided that such action has not been initiated against the same real property by the complainant, with respect to the same tree, within a two-year time period prior to the initiation of the most recent action.

B. In order to establish such rights pursuant to this Chapter, the person must follow the process established in this Chapter. In addition to the above rights, private parties have the right to seek remedial action for imminent danger caused by trees.

C. Nothing contained in this Chapter is intended to provide any authority or process for the permitting of alterations to or the removal of City-owned and -maintained trees.

(Ord. No. 2006-002 § 1 (part))

§ 9.12.025 CRITERIA FOR DETERMINING UNREASONABLE OBSTRUCTION.

The following criteria are to be considered (but are not exclusive) in determining whether unreasonable obstruction has occurred:

A. The extent of obstruction of a preexisting view from the primary living area of the complainant, both currently and at tree maturity.

B. The quality of the preexisting views being obstructed, including obstruction of landmarks, vistas, or other unique view features.

C. The extent to which the trees have grown to obscure the enjoyment of the view from the complainant's property, compared with the view that was available at the time the complainant acquired or occupied his or her home.

D. The extent to which the complainant's preexisting view has been diminished over time by factors other than tree growth.

E. The deleterious effect of the trees upon the complainant's vegetation through loss of heat and light, except that the dropping of leaves or maintenance factors shall not be considered a criterion under this Chapter.

(Ord. No. 2006-002 § 1 (part))

§ 9.12.030 CRITERIA FOR DETERMINING APPROPRIATE RESTORATION ACTION.

When it has been determined per § 9.12.025 of this Chapter that an unreasonable obstruction has occurred, the following unweighted factors shall be considered in determining the appropriate restoration action:

A. The hazard posed by a tree to any person or structure on the property of the complainant party, including but not limited to, fire danger and the danger of falling limbs or trees.

B. Variety of the tree, its projected rate of growth and maintenance requirements.

C. Aesthetic quality of the tree, including but not limited to, species characteristics, size, growth, form and vigor.

D. Location with respect to overall appearance, design, or use of the tree owner's property (i.e., blending, buffering or reduction in the scale and mass of adjacent architecture).

E. Soil stability provided by the tree, considering soil structure, degree of slope, and extent of the tree's root system.

F. Privacy (visual and auditory) and wind screening provided by the tree to the tree owner and to neighbors.

G. Energy conservation and or climate control provided by the tree.

H. Wildlife habitat provided by the tree.

I. The extent to which the tree provides historical context due to its age, and rare and interesting botanical species.

(Ord. No. 2006-002 § 1 (part))

§ 9.12.035 HIERARCHY OF RESTORATION ACTIONS.

A. If an unreasonable obstruction of a preexisting view exists, a mediator shall recommend, or an arbitrator or court shall order, restoration action based only on this Chapter. Restoration action may include written directions as to appropriate timing for such restoration action to be taken. Restoration action shall be structured and implemented in accordance with the hierarchy established herein. Restoration action includes, but is not limited to, the following:

1. Trimming;
2. Thinning or windowing;
3. Crown reduction;

4. Topping;
5. Removal with replacement plantings; and
6. Removal without replacement plantings.

B. In each case, restoration action shall only be required to the extent a preexisting view is proven by the complainant, based on documentable evidence.

C. Restoration action may include written conditions (including ongoing maintenance) and directions as to appropriate timing of such actions, as well as recordation of an agreement containing covenants or other documentation to memorialize the conditions and make them applicable. Where tree removal is required, replacement by appropriate species should be considered. The tree owner may elect tree removal with replacement plantings as an alternative to trimming, thinning, and topping.

D. In cases where trimming windowing, or other restoration action may affect the health of a tree that is to be preserved, such actions should be carried out in accordance with standards established by the International Society of Arboriculture for use in the State of California.

E. A tree, which has been subject to restoration action under the terms of this Chapter, is exempt from being part of another tree claim for a period of two (2) years after the date of the satisfactory completion of the restoration action

(Ord. No. 2006-002 § 1 (part))

§ 9.12.040 CITY GUIDELINES CONCERNING RESTORATION ACTION.

The City provides the following general guidelines concerning restoration actions:

A. *Stump growth.* Stump growth generally results in the hazard of weak limbs and its protection is not desirable. When considering restoration action for stump growth, aggressive action is preferred. Restoration action, which will result in future stump growth, should be avoided.

B. *Trimming.* Trimming is the most minor form of physical restoration action. This option is recommended when minor unreasonable obstruction has occurred, provided that ongoing maintenance is guaranteed.

C. *Thinning or windowing.* When simple trimming will not resolve the unreasonable obstruction, thinning or windowing may be necessary. This action should be supervised by a certified arborist.

D. *Crown reduction.* Crown reduction may be necessary when thinning and windowing will not resolve the unreasonable obstruction. However, as with thinning and windowing, crown reduction should be supervised by a certified arborist.

E. *Topping.* Topping as a restoration action should be used with caution. Topping can have deleterious effects on a tree's health, appearance, and cost of maintenance. Topping frequently results in stump growth. Tree removal with replacement plantings may be a preferable alternative

F. *Tree removal.* Tree removal may be required where it is essential to preserve preexisting views. While normally considered a drastic measure, tree removal can be the preferred solution in certain circumstances.

G. *Maintenance.* In order to achieve lasting preservation of preexisting views, ongoing tree maintenance requirements are strongly recommended as part of restoration action.

H. *Permanence.* To help notify subsequent real property owners of their applicability, conditions of restoration action should be memorialized in a recordable document for all affected properties.

(Ord. No. 2006-002 § 1 (part))

§ 9.12.045 PROCESS FOR RESOLUTION OF OBSTRUCTION DISPUTES.

The following process shall be used in the resolution of preexisting view disputes between parties:

A. *Initial discussions.*

1. Complainant, who believes tree growth on the property of another has caused unreasonable obstruction of a preexisting view from the primary living area, shall first notify the tree owner in writing of such concerns;

2. The notification should, if possible, be accompanied by personal discussions to enable the complainant and tree owner to attempt to reach a mutually agreeable solution, and shall be followed up with a written confirmation of any agreed-upon resolution and schedule for the required work of view restoration. If personal discussions fail, then neighborhood associations may be willing to assist with the resolution of the obstruction dispute;

3. The initial notification from the complainant to the tree owner shall provide a copy of this Chapter. In the initial notification, the complainant shall invite the tree owner to view the alleged obstruction from the complainant property, and the tree owner is urged to invite the complainant to view the situation from the tree owner's property. Failure of the tree owner to respond to the written request for initial discussion within thirty (30) days after the date of the posting shall be deemed a refusal by the tree owner to participate in the initial discussion phase of the process; and

4. After the initial discussion, if the parties do not agree as to the existence and nature of the complainant's obstruction or to the appropriate restoration action, or if the initial discussion is refused, the complainant may proceed with the subsequent dispute resolution process outlined herein with respect to tree claim preparation, mediation binding arbitration, and litigation.

B. *Tree claim preparation.* In the event the initial discussion process fails to resolve the dispute, the complainant must prepare a tree claim, and provide a copy to the tree owner, in order to pursue mediation, binding arbitration, or litigation under the authority established by this Chapter. A tree claim shall consist of all of the following:

1. *Evidence of preexisting view.* A written description of the nature and extent of the alleged obstruction, including pertinent and documentable physical evidence. Evidence may include, but is not limited to, photographic prints, negatives or slides, as well as written testimony or

declarations from residents living in the area. Such evidence must prove the absence of the obstruction at any documentable time during the tenure of complainant. Evidence confirming the ownership and the date of property acquisition of the complainant's property must be included;

2. *Evidence regarding unreasonable tree blockage.* The location of all trees alleged to cause the obstruction, the address of the property upon which the trees are located, and the present tree owner's name and address;

3. *Evidence of attempted resolution.* Evidence that an initial discussion, as described in § 9.12.045A., to resolve the dispute has been made and has failed. The complainant must provide physical evidence that written attempts at reconciliation have been made and have failed. Evidence may include, but is not limited to, copies of and receipts for certified or registered mail correspondence; and

4. *Desired action.* Specific view restoration actions proposed by the complainant to resolve the unreasonable view obstruction.

C. *Mediation.*

1. If the initial discussion attempt fails, then the complainant shall send to the tree owner a written request to participate in a mediation process as a timely means to settle the obstruction dispute;

2. Acceptance of mediation by the tree owner shall be voluntary, but the tree owner shall have no more than thirty (30) days after service of notice to either accept or reject the offer of mediation. Failure to respond shall be deemed formal refusal of the mediation process. If mediation is accepted, then the parties shall mutually agree in writing to the selection of a mediator;

3. It is recommended the services of a professionally trained mediator be employed;

4. The mediation meeting may be informal. The mediation process may include the hearing of viewpoints of lay or expert witnesses, and shall include a site visit to the properties of the complainant and the tree owner. Parties are encouraged to contact immediate neighbors and solicit input; and

5. The mediator shall consider the purposes and policies set forth in this Chapter in attempting to help resolve the dispute. The mediator shall not have the power to issue binding orders for restoration action, but shall strive to enable the parties to resolve their dispute by written agreement, in order to eliminate the need for binding arbitration or litigation.

D. *Binding arbitration.*

1. In those cases where the initial discussion process fails and where mediation is declined by the tree owner or has failed to resolve the complainant's complaint, the complainant must offer in writing to submit the dispute to binding arbitration.

2. Acceptance of binding arbitration by the tree owner shall be voluntary. The tree owner shall have thirty (30) days after service of notice to accept or reject binding arbitration. Failure to respond shall be deemed a formal refusal of binding arbitration. If accepted, the parties shall agree on a specific arbitrator and shall indicate such agreement in writing; and

3. The arbitrator shall use the provisions of this Chapter to reach a fair resolution of the tree claim, and shall submit a complete written report to the complainant and the tree owner. This

report shall include the arbitrator's findings with respect to §§ 9.12.025 and 9.12.030 of this Chapter, a pertinent list of all mandated restoration actions, with any appropriate conditions concerning such actions, and a schedule by which the actions must be completed. Upon completion, a copy of the arbitrator's report shall be filed with the City Clerk. Any decision of the arbitrator shall be enforceable pursuant to the provisions of Cal. Code Civ. Proc. §§ 1280 et seq.

E. *Litigation.*

1. In those cases where binding arbitration is declined by the tree owner, then civil action may be pursued by the complainant for resolution of the view obstruction dispute under the rights and provisions of this Chapter; and

2. The litigant must state in the lawsuit that binding arbitration was offered and not accepted, and a copy of the lawsuit was filed with the City Clerk. A copy of any order or settlement in the lawsuit shall also be filed with the City Clerk.

(Ord. No. 2006-002 § 1 (part))

§ 9.12.050 APPORTIONMENT OF COSTS.

A. *Cost of mediation and arbitration.* Unless the parties agree otherwise, the costs and fees for mediation and arbitration shall be subject to provisions of Cal. Code Civ. Proc. § 1284.2, which states among other things that parties to an arbitration should pay their own costs and a pro rata share of the arbitrator's fees and costs.

B. *Cost of litigation.* To be determined by the court or through a settlement.

C. *Cost of restoration action.* To be determined by mutual agreement, or through mediation, binding arbitration, court judgment, or settlement.

D. *Compensation to tree owner.* Nothing in this Chapter shall be construed to deny compensation to which a tree owner is entitled under any other provision of law.

(Ord. No. 2006-002 § 1 (part))

§ 9.12.055 LIABILITIES.

The issuance of mediation findings, a binding arbitration report, or a court decision shall not create any liability of the City with regard to the restoration actions to be performed. Failure of the City to enforce provisions of this Chapter shall not give rise to any civil or criminal liabilities by or against the City.

(Ord. No. 2006-002 § 1 (part))

§ 9.12.060 ENFORCEMENT.

A. A violation of this Chapter is not a misdemeanor or infraction. The enforcement of this Chapter shall be by the private parties involved. The complainant shall have the right to bring injunctive action to enforce any restoration action ordered pursuant to this Chapter.

B Under no circumstances shall the City have any responsibility or obligation to enforce or seek any legal redress, civil or criminal, for any decision made concerning a tree claim.

(Ord. No. 2006-002 § 1 (part))

§ 9.12.065 LIMITATIONS.

A. In adopting this Chapter, it is not the intent of the City to affect obligations imposed by an existing easement, already existing City Council and/or Planning Commission entitlements, or a valid preexisting covenant or agreement.

B. It is the intention of the City that all other portions of this Chapter shall remain in effect in the event a portion of it is invalidated by court action.

(Ord. No. 2006-002 § 1 (part))

§ 9.12.070 TREES OWNED AND MAINTAINED BY THE CITY.

Trees owned or maintained by the City are exempt from the provisions of this Chapter. For consideration in accordance with policies adopted by the City, requests or complaints regarding trees owned or maintained by the City should be made in writing to the Public Works Director.

(Ord. No. 2006-002 § 1 (part))

CHAPTER 9.13: MAINTENANCE AND SECURITY OF VACANT AND/OR UNDEVELOPED PROPERTY

Section

9.13.005 Maintenance and security standards for vacant, abandoned, or undeveloped property

§ 9.13.005 MAINTENANCE AND SECURITY STANDARDS FOR VACANT, ABANDONED OR UNDEVELOPED PROPERTY.

A. Every person who owns, possesses or has control of an abandoned, vacated or undeveloped property, area or place, including buildings and structures thereon, shall maintain and secure said property in such a way that it will not be injurious to public health, safety and general welfare or to the stability of real property so as to interfere with the comfortable enjoyment of life or property, nor become attractive to unauthorized persons, including but not limited to juveniles and transients, nor constitute a health, fire or safety hazard.

B. Every person who owns, possesses or is in control of any undeveloped real property in the City or any other real property in the City that has been vacant or abandoned for a period in excess of thirty (30) calendar days shall do the following:

(1) *Unsecured access points.* All means of ingress or egress to the property or structure on the property, including but not limited to, windows, doors, gates and fences that have been breached, vandalized, or damaged, shall be boarded up and/or secured in compliance with Federal Housing Authority board-up standards to ensure the property or structure is secured against unauthorized entry.

(2) *Paint.* All boards securing a breach in any ingress or egress on a structure shall be fully painted in such a manner as to complement or match the paint color of the structure.

(3) *Temporary fencing.* Any undeveloped real property within the City, or any other vacant real property in the City that an Enforcement Officer has determined in writing, based upon specific findings regarding the conditions of said real property and surrounding area(s), poses a threat to the health, safety, and welfare of the general public, shall be enclosed by a temporary security fence as approved by the Community Development Director or designee thereof. Notwithstanding the provisions of Title 17 ("Zoning Code") of this Code, said security fencing shall measure a minimum of six feet (6') in height measured from grade and shall be erected in accordance with all requisite City approvals, permits, and inspections. Conditions that shall be considered when determining the necessity of a temporary security fence include, but shall not be limited to, instances of unauthorized entry and/or vandalism, and the degree of decay, deterioration, dilapidation, or neglect of the real property and structures thereon.

(4) *Signage and emergency contact.* Signs prohibiting trespassing, and the name and phone number of the person or entity responsible for the maintenance and security of the vacant property shall be posted on all vacant structures and/or security fencing surrounding vacant properties. Security fencing shall be kept clear of all other signs.

(5) *Letter of agency.* Submit a "Letter of Agency" (or other similarly entitled authorization) to the Culver City Police Department every ninety (90) calendar days authorizing the Police Department to remove and/or arrest all unauthorized persons from the property.

(Ord. No. 2013-009, § 6)