

CHAPTER 14

ABATEMENT OF NUISANCES

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ARTICLE I – FINDINGS

14-1 Findings.

- (a) That the values and general welfare of this city are founded, in part, upon strict enforcement of building and zoning regulations, well-kept properties and upon the appearance and maintenance of properties and property values.
- (b) That certain detrimental conditions, as hereinafter set forth, are injurious or potentially injurious to the public health, safety and welfare of the community by contributing to the problems of, and the necessity for, expenditures for protection against hazards, diminution of property values, prevention of crime, accidents, fires, and disease, and the preservation of the community in a manner which is not offensive to the senses and which does not interfere with the comfortable enjoyment of life and property.
- (c) That the regulation of property as described herein reasonably relates to the property exercise of the police power to protect the health, safety and welfare of the public and that unless corrective measures are undertaken to alleviate some present property conditions, the socio-economic standards of this community will be depreciated.

- (d) That the abatement of such detrimental conditions will enhance the appearance and the values of neighboring properties and will benefit the use and enjoyment of properties in the city.

14-2 Intent.

- (a) It is not intended by this article to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, or with private restrictions placed upon property by covenant, deed, or other private agreement or with restrictive covenants running with the land to which the city is a party.
- (b) The purpose of this article is to provide minimum standards for the maintenance of property in the city.
- (c) Where this article imposes a greater restriction upon property or structures thereon than is imposed or required by existing provisions of law, ordinance, contract or deed, the provisions of this article shall control.
- (d) It is the decision of the city council that abatement of nuisances pursuant to this article may be performed by contract awarded by the city council on the basis of competitive bids let to the lowest responsible bidder pursuant to California Public Contract Code section 20164, 20166, 20167, and 20170 to 20174 inclusive. In such event the contractor shall keep the account and submit the itemized written report for each separate parcel of land required by section 14-17.

14-3 Responsibility for Property Maintenance. Every owner, lessee, occupant, or person having charge of property within the city shall maintain such property in a manner so as not to violate the provisions of this article, and such owner, lessee, occupant, or person having charge of property remains liable for violations hereof regardless of any contract or agreement with any third party regarding such property. The duty imposed by this section on a property owner shall in no instance relieve those persons herein referred to from the similar duty.

14-4 Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABATE. To remove the source of the public nuisance either by correcting specific problems or by removal from public or private property.

ABATEMENT COSTS. Also referred to as **COSTS OF ABATEMENT** and **ADMINISTRATIVE COSTS.** They include all costs and expenses incurred by the city in abating a public nuisance. Such costs include, but are not limited to, the following: the actual expenses and costs to the city in the preparation of notices, specification and contracts; inspection of the work; any attorney's fees expended in the abatement of the

nuisance, through civil action or otherwise; all costs and expenses for which the city may be liable under state law arising from or related to the nuisance abatement action; and all costs or expenses to which the city may be entitled pursuant to California Health and Safety Code Section 520 and other statutory entitlements.

ABATEMENT COSTS shall begin to accrue at the time the city first receives a complaint regarding a problem on the property.

ABATEMENT HEARING. The administrative hearing before the Hearing Officer after issuance of a notice to abate by an Enforcement Official.

APPLICABLE STATE CODE. Any law of the State of California which protects the health, safety, or welfare of the citizens of the City of Imperial.

BOARDED BUILDING. A building whose doors and windows have been covered with plywood or other material for the purpose of preventing entry into the building by persons or animals.

BUILDING OFFICIAL. The Building Official of the City of Imperial.

CITY MANAGER. The City Manager of the City of Imperial.

ENFORCEMENT OFFICIAL. The City Manager, the Building Official, the Chief of Police and any employee or agent of the city so designated by them and charged with enforcing the Municipal Code of the city, or applicable state code.

HEARING OFFICER. The official designated by the City Clerk charged with presiding over the abatement hearing and responsible for issuing orders to abate public nuisances and costs.

INTERESTED PARTY. The owner, legal occupant, or holder of a recorded interest of a property subject to a notice or order to abate.

NONAPPROVED MATERIAL. A material utilized that is not approved by the city.

NOTICE TO ABATE. That notice of a nuisance on the property and instructions to abate as ordered by an Enforcement Official upon the finding of a nuisance.

ORDER. The order to abate a public nuisance issued pursuant to Section 14-6 of this chapter.

ORDER TO ABATE. The order of the city to abate a nuisance.

OWNER. The owner of record of real property.

POLICE CHIEF. The Chief of the Imperial Police Department.

PREMISES. Any real property or improvements thereon.

PUBLIC NUISANCE. Any nuisance designated in Section 14-4 of this chapter.

PUBLIC VIEW. Anything which can be seen by a person with average vision while on public property or areas of private property open to access by the public.

RECIPIENT. Any person, not necessarily the owner of the premises, who received a notice or order to abate pursuant to this chapter.

REFUSE AND WASTE. Unused or discarded matter or material having no substantial market value, and which consists of such matter and material as rubbish, refuse, debris, and matter of any kind, including but not limited to sludge, rubble, asphalt, concrete, plaster, tile, rocks, bricks, soil, building materials, wood, crates, cartons, paper, containers, boxes, machinery or parts thereof, scrap metal and other pieces of metal, ferrous, or nonferrous, furniture, or parts thereof, trimmings from plants or trees, cans, bottles and barrels containing refuse and waste matter.

(Ord. 753)

14-4.1 Weeds: defined. (repealed ordinance No. 753)

14-5. Declaration of a Public Nuisance. It is unlawful and it is declared to be a public nuisance for any person owning, leasing, occupying, or having charge or possession of any residential, agricultural, commercial, industrial, business park, office, educational, religious, vacant, or other premises within the city, to maintain such premises in such a manner that any of the following conditions is found to exist thereon:

- (a) Any violation of a federal, state, or local ordinance, land use plan, rule, regulation, and/or any code adopted by reference in this code.
- (b) Any industrial, commercial, or residential property not maintained in a condition consistent with the approved plans or conditions.
- (c) Any land, the topography, geology, or configuration of which, whether in a natural state or as a result of grading operations, excavations, fill, or other alteration, interferes with the established drainage pattern over a property or from adjoining or other properties which does or may result in erosion, subsidence, or surface water drainage problems so as to be injurious to public health, safety, welfare, usability, or appearance to neighboring properties.
- (d) Any building or structure left permanently unoccupied, permanently abandoned, partially destroyed or in a state of partial construction for an unreasonable period of time; a period of 90 days shall serve as a guide in

determining whether an unreasonable time has gone by. Exception: when there exists a valid and active building permit, issued by the city, and construction is actively ongoing to the satisfaction of the Chief Building Official, a period of 180 days shall govern in accordance with the most recently adopted edition of the California Building Code.

(e) Any building or structure erected, altered, expanded, maintained or used, contrary to the provisions of this code or any condition or requirement imposed upon the structure.

(f) Any building or structure inadequately maintained or deteriorated in any of the following ways:

- (1) Peeling or discolored paint on the exterior of the structure;
- (2) Broken or boarded up windows;
- (3) Roof or ceiling in disrepair;
- (4) Damaged porch, balcony, or stairways;
- (5) Missing or damaged handrails or related safety equipment;
- (6) Broken or missing window screens, if required;
- (7) Broken or missing locks and latches on windows and doors.

(g) Any building, structure, or habitation constructed, maintained in violation of any federal, state or local ordinance adopted by the city.

(h) Any building, structure, or habitation, that is overcrowded with the persons such that it unreasonably interferes with a neighboring resident's right to access, use, or enjoy his or her property, or such that it impairs the general welfare of a neighboring resident, or provides inadequate sanitation for the number of occupants.

(i) Failure to secure and prevent public access into abandoned or vacant buildings, structures, or portions thereof.

(j) Any fence, wall, or gate in any of the following conditions:

- (1) Installed without the proper permits;
- (2) Installed or maintained contrary with the conditions set forth in the approved plans or permits;
- (3) Damaged, broken, dilapidated, unsightly or inadequately maintained;
- (4) Patch painted with colors that do not match;
- (5) Patched or covered by plywood, metal, plastic, tarpaulin or other non approved materials;
- (6) Constructed of metal or plywood garage doors;
- (7) Broken or non-working emergency access gates or equipment.

(k) Landscaping or any portion thereof, in the public view, in any of the following conditions;

(1) Lack of turf, planted material, decorative rock, bark, planted ground cover or coverings;

(2) Lawn or grass in excess of six inches in height or which is dead, decayed, diseased or uncultivated;

(3) Harbors rats, vermin, excessive amounts of insects, or other potential disease carriers;

(4) Obstructs vision of motorists or pedestrians;

(5) Encroaches into, over, or upon any public right-of-way, including, but not limited to streets, alleys or sidewalks.

(l) Offensive or nauseating odor or smell created by garbage, garbage or recycling containers, dead animals or other odor causing substances or materials.

(m) Any of the following conditions on any property or portion thereof viewable from the public right-of-way:

(1) Lumber, trash, garbage, debris, refuse, waste matter or other salvage materials;

(2) Hazardous pools, ponds and excavations;

(3) Abandoned, broken or neglected equipment and machinery;

(4) Furniture, appliances, play equipment or other household fixtures or equipment, except for lawn furniture;

(5) Clotheslines, clothes or similar materials hanging or placed in front yards, side yards, porches, balconies or fencing;

(6) Any type of item or material on roof top;

(7) Accumulation of litter, trash, boxes, or other in front of doorways, on sidewalks, public walkways and other common areas used by the public;

(8) Accumulation of litter, trash, boxes or other items in parking lots, planters and other landscaped areas;

(9) Display, sale or use of merchandise, equipment, machinery or other items in, on or blocking public access sidewalks, walkways or common areas;

(10) Temporary service bins, dumpsters, or storage containers stored on a public street or on private property;

(11) Garbage cans, trash cans, recycling containers and bins, gabs and other trash collection devices in place before 5AM on the day of pick and 5AM the day after;

(12) Commercial garbage or recycling bins stored outside the dumpster enclosure;

(13) Accumulation of grease, oil or other hazardous liquids or materials on paved and unpaved surfaces, driveways, sidewalks, walkways or any other location;

(14) Tarpaulins or other unapproved screening materials used for any purpose other than in emergency weather conditions;

(15) Portable devices or equipment, including but not limited to play equipment, located or stored on any public street, sidewalk or public right-of-way;

(16) Storage of construction equipment, machinery, or building materials other than during operations conducted under a valid building, grading or demolition permit;

(17) Cement mixers, construction trailers or other equipment parked for more than four hours at a location other than the site of the construction project;

(18) Weeds;

(19) Trees and shrubs in the following conditions:

(a) trees and shrubs with dead or fallen limbs or branches which present a safety hazard or restrict, impede or obstruct the public right-of-way, easement or roadway or;

(b) trees, shrubs and plants which grow out into or over a public right-of-way, easement, sidewalk or roadway where such growth restricts, impedes or obstructs pedestrian or vehicular use of said public right-of-way, easement, sidewalk or roadway.

(n) Any of the following conditions on parking lots, vehicular or pedestrian access areas:

(1) Striping installed or maintained contrary to the conditions set forth in the approved plans or permit;

(2) Potholes, major cracks or other conditions which reflect inadequate or poor maintenance;

(3) Vehicular stall markings have become deteriorated or are non-existent;

(4) Pedestrian walkway markings, if required, which are deteriorated or non-existent;

(5) Lack of the required number of handicap parking stalls or handicap walkways;

(6) Lack of the required handicap stall signage;

(7) Required curb markings or signs installed improperly;

(8) Required curb markings or signs not maintained in a good condition.

(o) Growth on palm trees, including but not limited to, dead or decayed palm fronds, noncommercial fruit, or flowers/pollen hanging from palm trees.

(p) Repairing or dismantling any vehicle or motorized equipment viewable from a public right-of-way unless:

(1) The repairing or dismantling is conducted in an enclosed garage where the vehicle or equipment is registered to and owned by a person permanently residing on the property;

(2) The repairing or dismantling can be started and completed in less than 24 hours.

(q) Any repairing or dismantling of any vehicle or motorized equipment on any vacant lot, commercial or industrial parking lot including those associated with auto repair or auto parts stores, public street, private street or alley.

- (r) Any swimming pool, spa, pond, fountain or other body of water which is unfiltered or not otherwise maintained, resulting in the water becoming polluted. "Polluted water" means water which contains bacterial growth, algae, insects, animal life, rubbish, refuse, dirt, debris, papers, chemicals, or other matter or material which, because of its magnitude, nature or location, constitutes an unhealthy or unsafe condition.
- (s) Any outdoor burning of any material, structure, matter or thing, unless authorized by the Fire Marshal or authorized representative by issuance of a permit to do so.
- (t) Any property with dirty water, sewage or any other substance, including but not limited to, urine or other bodily matter, discolored water, contents of septic tanks, cesspools or privy vaults, which flows onto public or private property.
- (u) Any premises, building or structure, wall, fence, pavement, or walkway which is painted in a garish manner, or in bright, fluorescent, or luminescent colors, which is out of harmony or conformity with the standards of adjacent properties.
- (v) To leave or permit any abandoned, attended or discarded icebox, refrigerator, freezer or other container which has an airtight door or lid with a snap lock or other device which may not be released from the inside, to be left outside of any building or structure at any time.
- (w) Stockpiling of fill dirt or other material without a permit.
- (x) Maintain premises or property in such a manner as to cause a hazard to the public obscuring the visibility of any public right-of-way, road intersection or pedestrian walkway.
- (y) To construct or maintain a privy within the City in any manner that does not comply with the Health and Safety Code.

(1) California Drug Abatement Act. The city may:

(A) Declare that a public nuisance exists whenever any member of the public creates, causes, commits, permits or maintains any condition or performs or causes to be performed any activity that falls within the scope of the definition of "public nuisance" as set forth in the California Health and Safety Code Section 11570; and

(B) Commence any action or proceeding pursuant to the California Drug Abatement Act to abate the public nuisance, to pursue all other remedies against the violator, to seek the imposition of all penalties against the violator and to recover any and all costs from the violator.

(2) Every owner, occupant, lessee or holder of any possessor interest of real property within the City is required to maintain such property so as not to violate the provisions of this chapter. The owner of the property shall remain liable for violations hereof regardless of any contract or agreement with any third party regarding such property or the occupation of the property by any third party. Every successive owner of property who neglects to abate continuing nuisance upon, or in the use of, such property, created by the former owner is liable therefore in the same manner as the one who first created it.

(Ord. 753)

14-6. Authorized Code Enforcement Officer: Citation Authority.

- (a) The city manager shall have authority to designate, by written order, particular officers or employees as a code enforcement officer. The code enforcement officer shall have the authority to do all acts necessary to enforce the provisions of this article as well as other provisions of this Code as set forth in an order of the city manager.
- (b) The code enforcement officer is hereby authorized by the city council, pursuant to sections 836.5 and 119(d) of the California Penal Code and subject to the provisions thereof, to arrest a person without warrant whenever the code enforcement officer has reasonable cause to believe that the person to be arrested has violated a provision of this article or such other section of this Code which he/she has been authorized by the city manager to enforce, in the code enforcement officer's presence or fails to correct a violation and therefore has committed an infraction which the code enforcement officer has the discretionary duty to enforce.
- (c) The code enforcement officer is further authorized by the city council to issue a "Notice to Appear" and to release such person on his or her written promise to appear in court, pursuant to sections 853.5 and 853.6 of the California Penal Code. Under no circumstances may the code enforcement officer take the person to be arrested into custody. In the event that the person to be arrested demands to be taken before the magistrate or refuses to provide his or her written promise to appear in court, the code enforcement officer must either summon an Imperial police officer, explain the situation, and request that the police officer arrest the person and take the person into custody, or seek assistance of the city attorney, and request that an infraction complaint be prepared and filed against the person.

ARTICLE II. ABATEMENT PROCEDURE

- 14-7 Abatement of Public Nuisances. Any property found to constitute a public nuisance in violation of section 14-5 hereof may be abated by rehabilitation, removal, demolition, or repair pursuant to procedures set forth herein. The

procedures for abatement set forth herein shall not be exclusive or restrict the city from enforcing other city ordinances or abating public nuisances in any other manner provided by law.

- 14-8 Notice to Abate. Whenever the code enforcement officer determines that property within the city is being maintained contrary to one or more provisions of section 14-5, he may give written “notice to abate.” Such notice shall be served on any owner, lessee and occupant of said property stating the section(s) being violated. The notice shall set forth a reasonable time limit, in no event less than ten (10) calendar days, for correcting the violation(s) and may also set forth suggested correction methods. The notice shall be served upon the property owner, lessee or occupant in accordance with the provisions of section 14-10. The notice shall contain a reference to the right of appeal provided in section 14-12.
- 14-9 Voluntary Abatement of Nuisances. The owner, lessee or occupant of any building, structure or property alleged to be a nuisance under the provisions of this chapter may abate the nuisance at any time within the abatement period provided in the notice of the code enforcement officer, by rehabilitation, repair, removal, or demolition. The owner, lessee, or occupant shall advise the code enforcement officer of the abatement. Once so advised, the code enforcement officer shall inspect the premises to ensure that the nuisance has, in fact, been abated.
- 14-10 Service of Notice. Any “notice to abate” “notice of hearing,” “resolution ordering abatement,” itemized statement of costs,” or other mailing required of city shall be served in person, by first class mail, or by certified mail to the owner, lessee, tenant, and occupant, to the addressee’s last known address, including the subject premises. Additionally, a copy of such notice shall be mailed to each property owner of record as shown on the last equalized assessment roll of the county or as known to the code enforcement officer. Services shall be deemed complete at the time the document is personally served or deposited in the mail. Failure of any person to receive a document shall not affect the validity of any proceedings hereunder.
- 14-11 Procedure –No Appeal. In the absence of any appeal, the property shall be rehabilitated, repaired, removed or demolished in the manner specifically set forth in said “notice to abate.” If such nuisance is not abated as ordered within said abatement period or within such time as extended by the code enforcement officer, the building official shall cause same to be abated by city employees or by private contractor. The building official is expressly authorized to enter said property for such purposes. Costs, as specified in section 14-17, shall be billed to the owner.
- 14-12 Appeal Procedure- Hearing by Board of Appeals.

- (a) The owner, occupant or lessee may appeal the code enforcement officer’s “notice to abate” to the board of appeals by filing an appeal with the building official within ten (10) calendar days of receipt of the code enforcement officer’s order to abate. The appeal shall contain:
- (1) Specific identification of subject property;
 - (2) Names and addresses of all appellants;
 - (3) A statement of appellant’s legal interest in the subject property;
 - (4) A statement (in ordinary, concise language) of the specific order or action protested and grounds for appeal, together with all supporting material facts;
 - (5) Date and signatures of all appellants; and
 - (6) Verification of at least one appellant as to the truth of matters stated in the appeal
- (b) As soon as practical after receiving the appeal, the building official shall set a date for the board to hear the appeal. This date shall be not less than ten (10) calendar days nor more than thirty (30) calendar days from date appeal was filed. The building official shall give each appellant written “notice of hearing by board of appeal” specifying the time and place of the hearing. Notice of said hearing shall be served upon the appellant at the address shown on the appeal in accordance with provisions of section 14-10. Continuance of the hearing may be granted by board on request of the appellant when good cause is shown, or on board’s own motion.
- (c) The code enforcement officer’s notice to abate shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

14-13 Decision by Board

- (a) Upon conclusion of the hearing, the board shall determine whether the property or any part thereof, as maintained, constitutes a public nuisance. If the board so finds, they shall adopt a resolution declaring such property to be a public nuisance (“resolution ordering abatement”), setting forth their findings and ordering abatement by having such property rehabilitated, repaired, removed or demolished by manner and means specifically set forth in the resolution. The resolution shall set forth the time when such work shall be completed by the appellant, in no event less than thirty (30) days. The decision and order of the board shall be final.

- (b) A copy of the “resolution ordering abatement” of said nuisance shall be service on the appellant and upon all owners if such persons are not the appellant of the subject property in accordance with provisions of section 14-10. Upon abatement in full by the appellant or any other person, the proceedings hereunder shall terminate.

14-14 Hearing Procedure. Hearings may be tape recorded. Hearings need not be conducted according to technical rules of evidence. All testimony given shall be under oath. Hearsay evidence may be used for supplementing or explaining direct evidence. Any decision need not depend upon any particular evidence or showing of proof.

14-15 Abatement by City.

- (a) If a declared nuisance is not abated as ordered within the given abatement period, the applicable abatement official, including without limitation, the fire marshal, the building official (or code enforcement officer, or their designee or representative) shall cause same to be abated by city employees or private contractor as appropriate. Said official or his designee is expressly authorized to enter said property for such purposes.
- (b) Costs, including incidental expenses, of abating the nuisance shall be billed to the occupant and to the owner if the owner is not the occupant and shall become due and payable thirty (30) days thereafter. The term “incidental expenses” shall include, but not be limited to, costs incurred in documenting the nuisance; personnel costs; printing and mailing costs; hearing costs; attorneys’ fees; actual expenses of the city in preparing notices; specifications or contracts, and costs to inspect work.
- (c) No person shall obstruct or interfere with the applicable abatement official including, without limitation, the fire marshal, building official, nuisance abatement officer, or code enforcement officer or their designees or representatives, or with any person who owns or holds an interest in a property, in the performance of necessary acts to execute an order to abate issued pursuant to this article. Violation of this section shall constitute a misdemeanor.

14-16 Alternative Actions. Noting in this article shall be deemed to prevent the city from ordering the commencement of a civil proceeding to abate a public nuisance pursuant to applicable law or from pursuing any other remedy available under applicable law.

ARTICLE III – COST RECOVER PROCEDURE

14-17 Itemized Statement of Costs.

- (a) The applicable abatement official including, without limitation, the fire marshal, the building official (nuisance abatement, or code enforcement officer, or their designee or representative), shall keep an account of the cost, including incidental expenses, of abating such nuisance one each separate lot or parcel of land where work is performed by the city or private contractor. An “itemized statement of costs” shall be rendered in writing to the city council showing the cost of abatement, including rehabilitation, demolition or repair of said property, including any salvage value relating thereto.
- (b) Before an “itemized statement of costs” is submitted to the city council, a copy of said statement and notice shall be served on the appellant and upon owners of said property, if the owners are not the appellant, in accordance with the provisions of section 14-10 at least ten (10) calendar days prior to submitting the report to council. Proof of posting and service shall be made by affidavit or declaration under penalty of perjury filed with the city clerk.

14-18 Protest and Objections. Any person liable to be assessed for the cost of an abatement action may file written protest to the applicable abatement official including, without limitation, the fire marshal, the building officials (nuisance abatement/code enforcement officers, or their designees or representatives) “itemized statement of costs” with the city clerk at any time prior to the time set for hearing. The city clerk shall endorse each protest or objection received and shall present such protest or objections to council at the time set for the hearing. No other protests or objections shall be considered.

14-19 Hearing of Protests. At the day and hour fixed for the hearing of protests and objections, the city council shall hear and act on the building official’s “itemized statement of costs” and on protests or objections of those liable to be assessed for the cost of abatement. The city council may make revisions or corrections to the statement as it deems just and thereafter shall confirm the statement by motion or resolution. The decision of the city council on all protests and objections which may be made regarding the statement shall be final and conclusive.

14-20 Special Assessment and Personal Obligation. Pursuant to Government Code section 38773 and 38773.5, the city council shall thereupon order that all costs included in the confirmed “itemized statement of costs” constitute a lien against the property to which it relates and that all such costs be made a personal obligation against the property owner.

14-21 Assessment Lien.

- (a) The total cost for abating such nuisance, as confirmed by the city council, shall constitute a special assessment against the respective lot or parcel of land to which it relates, and upon recordation in the office of the county

recorder of a “notice of lien,” as so made and confirmed, shall constitute a lien on said property for such assessment.

- (b) After such confirmation and recordation, a certified copy of the confirmed “itemized statement of costs” shall be filed with the Imperial County auditor-controller on or before August 1 of each year. It shall be the duty of the auditor-controller to add the amounts of the respective assessments to the next regular tax bills levied against said lots and parcels of land for municipal purposes.

Thereafter, said amounts shall 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 procedures 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 such special assessment.

- (c) In the alternative, after such recordation, such lien may be foreclosed by judicial or other sale in the manner and means provided by law.
- (d) A “notice of lien” for recordation shall be provided according to a standard format kept on record by the code enforcement officer.

14-22 Personal Obligation. All costs associated with abatement proceedings which are not satisfied through the procedures of this article may be collected on behalf of the city by the city attorney or the city attorney’s designee using the appropriate legal remedies.

ARTICLE III-1. ALTERNATIVE NUISANCE ABATEMENT PROCEDURE;
VEGETATION AND WASTE MATTER

14-23 City Council Declaration of Weeds, Rubbish, Refuse and Dirt to be Public Nuisances, Resolution. The city council may declare by resolution as public nuisances, and abate:

- (a) All weeds growing upon the streets, sidewalks, or private property in the city.
- (b) All rubbish, refuse, and dirt upon parkways, sidewalks, or private property in the city.

14-24. Resolution Declaring Public Nuisance; Contents. The resolution adopted by the city council pursuant to section 14-23 shall:

- (a) Refer to the street(s) by its/their commonly known name(s).

- (b) Describe the property(ies) upon which or in front of which the nuisance(s) exist(s) by giving the applicable lot and block number(s) according to the official or city assessment map.

14-25. City Council Declaration of Weeds as Recurrent Nuisances. Pursuant to California Government Code section 39562.1, at the time it adopts the resolution as provided for by sections 14-23 and 14-24 hereof, the city council may also find and declare that weeds on specified parcels of property are seasonal and recurrent nuisances.

Such seasonal and recurrent nuisances shall be abated in accordance with the provisions of this section, provided that upon the second and any subsequent occurrence of such nuisance on the same parcel or parcels within the same calendar year, no further hearings need to be held and it shall be sufficient to mail a post card notice to the owners of the property as they and their addresses appear upon the current assessment roll.

The notice shall refer to and describe the property and shall state that noxious or dangerous weeds of a seasonal and recurrent nature are growing on or in front of the property, and that the same constitute a public nuisance which must be abated by the removal of said noxious or dangerous weeds, and that otherwise they will be removed and the nuisance will be abated by the city authorities, in which case the cost of such removal shall be assessed upon the parcel and lands from which or in front of which such weeds are removed and that upon confirmation such cost will constitute a lien upon such parcel or lands until paid.

14-26. Recurrent Nuisances; Preventative Abatement.

- (a) When the city council has adopted findings and declared that weeds on specified parcels of property are seasonal and recurrent nuisances as provided in section 14-25, the city council may provide for the preventive abatement of such seasonal and recurrent nuisances as provided in this section pursuant to California Government Code section 39562.2.
- (b) The notice required by section 14.25 shall, in addition to containing all other required matters, state that the efficient and economical control of such seasonal and recurrent nuisance requires preventive chemical control of such weeds, weed seeds and weed seedlings and that the city may require preventive chemical control of such nuisance.
- (c) In the event the city has previously been required to abate such nuisance, the city council additionally may (before and during the next following germinating season of such weeds) provide for the preventive abatement of such nuisance by using chemical control of such weeds.

14-27 Posting of Notice; Location. After the city council has adopted the resolution described in section 14-24 and 14-25 hereof, the director of public works shall cause notices to be conspicuously posted on or in front of the property on or in front of which the nuisance exists. The director shall post:

- (a) One notice to each separately owned parcel of property of not over fifty (50) feet frontage.
- (b) Not more than two (2) notices to any such parcel of one hundred (100) feet frontage or less.
- (c) Notices at not more than one hundred (100) feet apart if the frontage of such a parcel is greater than one hundred (100) feet.

14-28 Heading of Notices to Destroy Weeds. The heading of the notices described in section 14-27 shall be “Notice to destroy weeds and remove rubbish, refuse, and dirt” in letters not less than one inch in height.

14-29 Text of Notice to Destroy Weeds and Remove Rubbish. The notice shall be substantially in the following form:

NOTICE TO DESTROY WEEDS AND REMOVE RUBBISH, REFUSE, AND DIRT

Notice is hereby given that on the _____ day of _____, [year], the city council of the City of Imperial passed a resolution declaring that noxious or dangerous weeds were growing upon or in front of the property on this street, and that rubbish, refuse, and dirt were upon or in front of property on this street, in the City of Imperial, and more particularly described in the resolution, and that they constitute a public nuisance which must be abated by the removal of the weeds, rubbish, refuse, and dirt. Otherwise they will be removed and the nuisance abated by the city and the cost of removal assessed upon the land from or in front of which the weeds, rubbish, refuse, and dirt are removed and will constitute a lien upon such land until paid. Reference is hereby made to the resolution for further particulars. A copy of said resolution is on file in the office of the city clerk.

All property owners having any objections to the proposed removal of the weeds, rubbish, refuse, and dirt are hereby notified to attend a meeting of the city council of the City of Imperial to be held [give date], when their objections will be heard and given due consideration.

Dated this _____ day of _____, [year].

Director of Public Works,
City of Imperial

14-30 Alternative to Posting Notice.

- (a) As an alternative to posting notice of the resolution and notice of the meeting when objections will be heard, the city council may direct the city clerk to mail written notice of the proposed abatement to all persons owning property described in the resolution. The city clerk shall cause such written notice to be mailed to each person to whom such described property is assessed in the last equalized assessment roll available on the date the resolution was adopted by the city council.
 - (b) When the county assessor performs the function of city assessor, the county assessor, at the request of the city clerk shall within ten (10) days thereafter mail to the city clerk a list of the names and addresses of all of the persons owning property described in the resolution. The address of the owners shown on the assessment roll shall be conclusively deemed to be the proper address for the purpose of mailing such notice. The city shall reimburse the county for the actual cost of furnishing such list and the cost shall be a part of the costs of abatement.
 - (c) The notices mailed by the city clerk shall be mailed at least five (5) days prior to the time for hearing objections by the city council.
 - (d) The notices mailed by the city clerk shall be substantially in the form provided by section 14-29, except, that notices shall be signed by the city clerk and the heading of the notice need not comply with section 14-29.
- 14-31. City Council Hearing. At the time stated in the notices, the city council shall hear and consider all objections to the proposed removal of weeds, rubbish, refuse, and dirt. It may continue the hearing from time to time.
- 14-32. Council Action; Jurisdiction. By motion or resolution at the conclusion of the hearing the city council shall allow or overrule any objections. At that time the city council acquires jurisdiction to proceed and perform the work of removal.
- 14-33. Decision of the City Council Final. The decision of the city council is final.
- 14-34. City Council Abatement Order. If objections have not been made, or after the city council has disposed of those made, it shall order the director of public works to abate the nuisance by having the weeds, rubbish, refuse, and dirt removed. The order shall be made by motion or resolution.
- 14-35. Entry upon Private Property. The community development director may enter upon private property to abate the nuisance.
- 14-36. Abatement by Property Owner; Possible Assessment. Before the community development director arrives, any property owner may remove the weeds, rubbish, refuse, and dirt at his own expense. Nevertheless, in any case in which

- an order to abate is issued, the city council by motion or resolution may further order that a special assessment and lien be imposed pursuant to section 39577 of the California Government Code. In that case the assessment and lien shall be limited to the costs incurred by the responsible agency in enforcing abatement upon the parcels, including investigation, boundary determination, measurement clerical and other related costs.
- 14-37. Account of Abatement Costs. The community development director or applicable agent or contractor, shall keep an account of the cost of abatement in front of or on each separate parcel of land where the abatement work is performed. He shall submit to the city council for confirmation an itemized written report showing such cost.
- 14-38. Posting of Copy of Account of Costs. A copy of the report shall be posted for at least three (3) days prior to its submission to the city council on or near the chamber door of the city council, with a notice of the time of submission.
- 14-39. City Council Hearing on the Account of Costs. At the time fixed for receiving and considering the report, the city council shall hear it with any objections of the property owners liable to be assessed for the abatement. It may modify the report if it is deemed necessary. The city council shall then confirm the report by motion or resolution.
- 14-40. Authority for City to Contract for Abatement Services. Abatement of the nuisance may in the discretion of the city council be performed by contract awarded by the city council on the basis of competitive bids let to the lowest responsible bidder pursuant to California Public Contract Code section 20164, 20166, 20167, and 20170 to 20174 inclusive. In such event the contractor shall keep the account and submit the itemized written report for each separate parcel of land required by section 14-37.
- 14-41. Costs of Abatement of Nuisance; a Special Assessment. The cost of abatement in front of or upon each parcel of land and the costs incurred by the responsible agency in enforcing abatement upon the parcels, including investigation, boundary determination, measurement, clerical and other related costs, constitutes a special assessment against that parcel. After the assessment is made and confirmed, a lien attaches on the parcel upon recordation of the order confirming the assessment in the office of the county recorder of Imperial County, except that if any real property to which such lien would attach 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 such taxes as imposed by California Government Code section 39578 and 14-42 of the City Code would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the costs of abatement and the costs of enforcing abatement, as

confirmed, relating to such property shall be transferred to the unsecured roll for collection.

- 14-42. Copy of Costs Report to City Assessor and Tax collector; to be added to next Regular Tax Bill. Except as provided in section 14-41, after confirmation of the report, a copy shall be given to the city assessor and the tax collector, who shall add the amount of the assessment to the next regular tax bill levied against the parcel for municipal purposes.
- 14-43. Filing of Certified Copy of Cost Report with County Auditor; time limit. Except as provided in section 14-41, if the county assessor and the tax collector assess property and collect taxes for the city, a certified copy of the report shall be filed with the county auditor on or before August tenth. The descriptions of the parcels reported shall be those used for the same parcels on the county assessor's map books for the current year.
- 14-44. Duty of County Auditor. Pursuant to California Government Code section 39580, the county auditor shall enter each assessment on the county tax roll opposite the parcel of land.
- 14-45. Collection of assessments as municipal taxes; provision for installment payments. Pursuant to California Government Code section 39581, the amount of the assessment shall be collected at the time and in the manner of ordinary municipal taxes. If delinquent, the amount is subject to the same penalties and procedure of foreclosure and sale provided for ordinary municipal taxes.

The city council may determine that, in lieu of collecting the entire assessment at the time and in the manner of ordinary municipal taxes, such assessments of fifty dollars (\$50.00) or more may be made in annual installments, in any event not to exceed five (5), and collected one installment at a time at the times and in the manner of ordinary municipal taxes in successive years. If any installment is delinquent, the amount thereof is subject to the same penalties and procedure for foreclosure and sale provided for ordinary municipal taxes. The payment of assessments so deferred shall bear interest on the unpaid balance at a rate to be determined by the city council, not to exceed six (6) percent per annum.

- 14-46 Ability of city to receive abatement costs after confirmation of costs report; time limit. The director of public works may receive the amount due on the abatement cost and issue receipts at any time after the confirmation of the report and until ten (10) days before a copy is given to the city assessor and tax collector, or, where a certified copy is filed with the county auditor, until August first following the confirmation of the report.
- 14-47 City Council Ordered Refund of Taxes; findings; claim procedure. The city council may order refunded all or part of a tax paid pursuant to this section if it finds that all or part of the tax has been erroneously levied. A tax or part shall not

be refunded unless a claim is filed with the city clerk on or before November 1st after the tax became due and payable. The claim shall be verified by the person who paid the tax or by the person's guardian, conservator, executor, or administrator.

14-48 Alternative Proceedings. Pursuant to California Government Code section 39587, the proceedings provided by this section are an alternative to the procedures established elsewhere in the City Code.

14-49 Priority of Nuisance Abatement Lien Assessment. Pursuant to California Government Code section 39588, the lien of the assessment described in this section shall have the priority of the taxes with which it is collected.

ARTICLE IV – EMERGENCY PROCEDURE

14-50 Emergency Abatement.

(a) Whenever any nuisance as defined herein constitutes an immediate hazard to life, health or property and, in the opinion of the applicable abatement official including, without limitation, the fire marshal, the building official, (nuisance abatement/code enforcement officer, or their designee or representative), abatement must be undertaken within less than the designated period, the building official (nuisance abatement/code enforcement officer, or their designee or representative) may abate or cause to be abated all or any portion of the nuisance as may be necessary to protect life, health or property. Notice shall be given to the parties concerned as circumstances will permit, but notice need not be given whenever, in the opinion of the building official, (nuisance abatement/code enforcement officer, or their designee or representative) with the approval of the city attorney, immediate action is necessary.

(b) Any attractive nuisance dangerous to children shall be abated by emergency abatement procedures.

14-51 Notice to City Council. Whenever an emergency abatement action is taken pursuant to the preceding section, the applicable abatement official including, without limitation, the fire marshal, the building official (nuisance abatement/code enforcement officer, or their designee or representative) shall submit to all members of the council a written report indicating the location of the nuisance and the reasons requiring emergency abatement thereof. A copy of this report shall be attached to, or included as part of, notice to the owner of record when notice is given as previously provided in this article. Additionally, said official or his designee will direct a copy of this report to the board of appeals (where such board is other than the City Council.)

ARTICLE V – AUTOMOBILES

14-52 Definitions. For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them:

- (a) 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.
- (b) Owner of land: the owner of the land on which a vehicle, or parts thereof, is or are located, as shown on the last equalized assessment roll.
- (c) Owner of the vehicle: The last registered owner and legal owner of record.
- (d) Public property: Does not include “highway.”
- (e) 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.
- (f) Inoperative vehicle: Any motor vehicle that cannot be moved under its own power.
- (g) Abandoned vehicle: Any vehicle which is parked, resting, or otherwise immobilized on any highway or public right-of-way and which lacks an engine, transmission, wheels, tires, doors, windshield, or any other part or equipment necessary to operate safely, as described by California Vehicle Code Section 22669(d).
- (h) Vehicles of Historic Value: any motor vehicle defined under California Vehicle Code Section 5004(a) through 5004(f). (Ord. 669)

14-53 Findings. In addition to and in accordance with the determination made and the authority granted by the State of California under section 22660 of the Vehicle Code to remove abandoned, wrecked, dismantled or inoperative vehicles or parts thereof as public nuisances, the city council hereby makes the following findings and declarations: The accumulation and storage of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof on private or public property, not including highways, hereby is 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 to 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, hereby is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this section.

14-54 Scope. The provisions of this section shall not apply to:

- (a) A vehicle, or parts thereof, which is or are completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or
- (b) A vehicle, or parts thereof, which is or are 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.
- (c) A vehicle of Historic Value as described under California Vehicle Code Section 5004(a) through 5004(f).

Nothing in this section shall authorize the maintenance of a public or private nuisance as defined under provisions of law other than Chapter 10 (commencing with section 22650) of Division 11 of the Vehicle Code and this section.

(Ord. 669)

14-55 Status. The provisions of this section are 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.

14-56 Administration and Enforcement. The provisions of this Article shall be administered and enforced by the Chief of Police and/or his/her designee. In the enforcement of this Article, such officers and their designees may enter upon private or public property to examine a vehicle or parts, or obtain information as to the identity of a vehicle. Upon discovery of an abandoned, wrecked, dismantled, or inoperable vehicle, or vehicle parts on public or private property within the City, stored in violation of City ordinance and constituting a public nuisance as defined by this Article, the Chief of Police and/or his/her designee shall have the authority to cause the abatement and removal of the nuisance in accordance with the procedure prescribed herein. When the City Council has contracted with any person or persons for the removal of nuisances, such person or persons shall be authorized to enter upon public or private property to remove or cause the removal of a vehicle or vehicle parts declared to be a nuisance pursuant to this Article.

(Ord. 669)

- 14-57 Other Authorized Persons. 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 section.

- 14-58 Administrative Costs. The city council shall from time to time determine and fix an amount to be assessed as administrative costs (excluding the actual cost of removal of any vehicle or any parts thereof) under this section, which amount shall be set as a fixed sum per vehicle removed or as a percentage of the actual cost of removal.

- 14-59 Abatement and Removal. Upon discovering the existence of an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, on private property within the city, the chief of police shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed herein.

- 14-60 Notice. A fifteen (15) day notice of intention to abate and remove a vehicle, or parts thereof, as a public nuisance shall be mailed by registered mail to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal 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 ins substantially the following form:

NOTICE OF INTENT TO ABATE AND REMOVE AN ABANDONED, WRECKED,
DISMANTLED, OR INOPERATIVE VEHICLE OR VEHICLE PARTS
CONSTITUTING 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 Ordinances of the City of Imperial, has determined that there exists upon such land an (or parts of an) abandoned, wrecked, dismantled, or inoperative vehicle registered to _____, license number, _____, which constitutes a public nuisance pursuant to the provisions of ordinances of the City of Imperial.

You are hereby notified to abate such nuisance by the removal of such vehicle (or vehicle parts) within fifteen (15) calendar 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 such vehicle (or vehicle parts) is located.

As owner of the land on which such vehicle (or vehicle parts) is located, you hereby are notified that you may, within fifteen (15) calendar days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the City

Council within such fifteen (15) calendar day period, the chief of police shall have the authority to abate and remove such vehicle (or 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 fifteen (15) calendar day period denying responsibility for the presence of such vehicle (or said parts of a vehicle) on such land, with your reasons for denial, 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)

Chief of Police

NOTICE OF INTENT TO ABATE AND REMOVE AN ABANDONED, WRECKED,
DISMANTLED OR INOPERATIVE VEHICLE OR VEHICLE PARTS
CONSTITUTING 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, etc.), you hereby are notified that the undersigned, pursuant to Ordinances of the City of Imperial, has determined that such 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 such ordinance of the City of Imperial.

You hereby are notified to abate said nuisance by the removal of said vehicle (or said parts of vehicle) within fifteen (15) calendar days from the date of the mailing of this notice.

As a registered (and/or legal) owner of record of said vehicle (or said parts of a vehicle), you hereby are notified that you may within fifteen (15) calendar days after the mailing of this notice of intention, request a public hearing and if such request is not received by the city council within such 15 (15) calendar day period, the building superintendent shall have the authority to abate and remove said vehicle (or parts of a vehicle) without a hearing.

Notice mailed _____ (date)

Chief of Police

(Ord. 669)

14-61 Request for public hearing on question of abatement and removal, notice of hearing abatement by the City when hearing request not filed.

- (a) Upon request by the owner of a vehicle or owner of land received by the chief of police within fifteen (15) calendar days after the mailing of notices of intention to abate and remove a vehicle pursuant to the section, a public hearing shall be held by the Community Development Director, or his designee, on the questions 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.
- (b) If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his land within such fifteen (15) calendar day period, such statement shall be construed as a request for a hearing which does not require his presence. Notice of the hearing shall be mailed, by registered mail, at least ten (10) 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 fifteen (15) calendar 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. (Ord. 669)

14-62 Hearing Procedures.

- (a) All hearings under this section shall be held before the Community Development Director, or his designee, who shall hear all facts and testimony he deems pertinent. Such facts and testimony may include testimony on the condition of the vehicle, or parts thereof, and the circumstances concerning its location on private or public property. The Community Development Director, 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.
- (b) The Community Development Director, or his designee, may impose such conditions and take such other action as he deems appropriate under the circumstances to carry out the purposes of this section. 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 Community Development Director, or his designee, may find that a vehicle, or parts thereof, has or have 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.

- (c) 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 Community Development Director, 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.
- (d) 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 Community Development Director, or his designee, but does not appear, he shall be notified in writing of the decision. (Ord. 669)

14-63 Appeal. If the owner of a vehicle or the owner of land is aggrieved by any decision of the city manager at the hearing provided for in this section, he may appeal the decision of the city manager to the city council by filing a written notice of appeal with the city clerk and paying a fee in the amount of fifty dollars (\$50.00) within five (5) days after the decision of the city manager. The council shall fix a time and place for hearing such appeal and the city clerk shall give written notice of the time and place thereof in accordance with the requirements provided for the original hearing. The hearing shall be conducted in the same manner as provided for the hearing by the city manager, and the city council may affirm, modify or reverse the order or take other action deemed appropriate.

14-64 Abate and Removal after Hearing. Five (5) days after the decision of the city manager, or the city council if appealed, declaring a vehicle or parts thereof to be a public nuisance, or five (5) days from the date of mailing of notice of the decision of such notice as required by this section, 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.

14-65 Notification to Department. Within five (5) days after the date of removal of a vehicle, or parts thereof, pursuant to this section, notice shall be given 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, certificate of title and license plates.

- 14-66 Assessment of costs. If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to this section are not paid within thirty (30) days of the date of the decision, or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to section 38773.5 of the Government Code and shall be transmitted to the tax collector for collection. Such assessment shall have the same priority as other city taxes.
- 14-67 Abandonment, etc; misdemeanor. It shall be unlawful and a misdemeanor for any person to abandon, park, store or leave or permit the abandonment, parking, storing or leaving of any licensed or unlicensed vehicle, or parts thereof, which is in an abandoned, wrecked, dismantled or inoperative condition upon any private or public property not including highways within the city for a period in excess of ten (10) days unless such vehicle or parts thereof is completely enclosed within a building in a lawful manner where it is not plainly visible from the street or other public or private property, or unless such vehicle is stored or parked in a lawful manner upon private property in connection with the business of a licensed dismantler, licensed vehicle dealer or a junkyard.
- 14-68 Failure or Refusal to Remove; misdemeanor. It shall be unlawful and a misdemeanor for any person to fail or refuse to remove an abandoned, wrecked, dismantled, or inoperative vehicle or parts thereof or refuse to abate such nuisance when ordered to do so in accordance with the abatement provisions of this section or state law where such state law is applicable.
- 14-69 Vehicles on Land of Another. It shall be unlawful for any person to operate any motorcycle, motor-driven cycle, minibike, trail bike, motor scooter, jeep, dune buggy, or other motor vehicle on real property owned or occupied by another without the written consent of all the owners and occupiers in such operator's possession, unless the owners of the property have posted the property permitting such use; provided, however, that this prohibition does not include the operation of a vehicle or cycle having a valid California vehicle registration by any person possessing a valid California operator's license, upon a public street or highway; provided, further, that this prohibition shall not apply to a public officer or employee acting within the course and scope of his employment; provided, further, that, the provisions of this section shall not apply to the operation of such vehicles on driveways, parking lots, race courses, or other places where the public is invited to operate such vehicles so long as such vehicle is operated in the reasonable and ordinary manner customary for such use.. (Ord 653)

ARTICLE VI – ABANDONED RESIDENTIAL PROPERTY

14-70.1 Purpose/Scope.

It is the purpose and intent of the Imperial City Council, through the adoption of this section, to establish an abandoned residential property registration program as a mechanism to protect residential neighborhoods from becoming blighted through the lack of adequate maintenance and security of abandoned properties.

14-70.2 Definitions.

For the purposes of this chapter, certain words and phrases used in the chapter are defined as follows:

“Abandoned” means a property that is vacant and is under a current notice of default and/or notice of trustee’s sale, pending tax assessor’s lien sale and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

“Accessible property” means a property that is accessible through a compromised/breached gate, fence, wall, etc.

“Accessible structure” means a property that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

“Agreement” means any agreement or written instrument which provides that title to residential property shall be transferred or conveyed from one owner to another owner after the sale, trade, transfer, or exchange.

“Assignment of rents” means an instrument that transfers the beneficial interest under a deed of trust from one lender/entity to another.

“Beneficiary” means a lender under a note secured by a deed of trust.

“Buyer” means any person, co-partnership, association, corporation, or fiduciary who agrees to transfer anything of value in consideration for property described in an agreement of sale, as defined in this subsection.

“Dangerous building” means any building structure that is violation of any condition referenced in Chapter 6 of this code.

“Days” means consecutive calendar days.

“Deed of trust” means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan and often used in California instead of a

mortgage. This definition applies to any and all subsequent deeds of trust, i.e., second trust deed, third trust deed, etc.

“Deed in lieu of foreclosure/sale” means a recorded document that transfers ownership of a property from the trustor to the holder of a deed of trust upon consent of the beneficiary of the deed of trust.

“Default” means the failure to fulfill a contractual obligation, monetary or conditional.

“Distressed” means a property that is under a current notice of default and/or notice of a trustee’s sale and/or pending tax assessor’s lien of sale or has been foreclosed upon by the trustee or has been conveyed to the beneficiary/trustee via a deed in lieu of foreclosure/sale.

“Evidence of vacancy” means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers, and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

“Foreclosure” means that the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt if the trustor (borrower) defaults.

“Local” means within 10 road/driving miles distance of the subject property.

“Neighborhood standard” means those conditions that are present on a simple majority of properties within a 300-foot radius of an individual property. A property that is the subject of a neighborhood standard comparison, or any other abandoned property within the 300-foot radius, shall not be counted toward the simple majority.

“Out of area” means in excess of 10 road/driving miles distance of the subject property.

“Owner” means any person, co-partnership, association, corporation, or fiduciary having a legal or equitable title or any interest in any real property.

“Owner of record” means the person having recorded title to the property at any given point in time is provided by the Imperial County Recorder’s Office.

“Property” means any unimproved or improved real property, or portion thereof, situated in the City and includes the buildings or structures located on the property regardless of conditions.

“Residential building” means any improved real property, or portion thereof, situated in the City, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as “residential” whether or not it is legally permitted and/or zoned for such use.

“Securing” means such measures as may be directed by the Director of Planning or his or her designee that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining/padlocking of gates, the repair of boarding of door, window and/or other openings. Boarding shall be completed to a minimum of the current HUD securing standards at the time the boarding is completed or required.

“Trustee” means the person, firm, or corporation holding a deed of trust on a property.

“Trustor” means a borrower under a deed of trust, who deeds property to a trustee as security for the payment of debt.

“Vacant” means a building/structure that is not legally occupied.

14-70.3 Recordation of transfer of loan/deed of trust/assignment of rents.

Within 10 days of the purchase and/or transfer of a loan/deed of trust secured by residential property the new beneficiary/trustee shall record with the Imperial County Recorder’s Office, an assignment of rents, or similar document, that lists the name of the corporation, and/or individual, the mailing address and contact phone number of the new beneficiary/trustee responsible for receiving payments associated with the loan/deed of trust.

14-70.4 Registration.

Any beneficiary/trustee, who holds a deed of trust on a property located within the City of Imperial, shall perform an inspection of the property that is the security for the deed of trust, upon default by the trustor, prior to recording a notice of default with the Imperial County Recorder’s Office. If the property is found to be vacant or shows evidence of vacancy, it is, by this chapter, deemed abandoned and the beneficiary/trustee shall, within 10 days of the inspection, register the property with the Director of Planning or his or her designee on forms provided by the City.

If the property is occupied but remains in default it shall be inspected by the beneficiary/trustee, or his designee, monthly until (1) the trustor other or party remedies the default or (2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the trustee shall, within 10 days of that inspection, register the property with the Director of Planning or his or her designee on forms provided by the City.

In either case the registration shall contain the name of the beneficiary/trustee (corporation or individual), the direct street/office mailing address of the beneficiary/trustee (no P.O. boxes), a direct contact name and phone number for the beneficiary/trustee and, in the case of a corporation or out-of-area beneficiary/trustee, the local property management company responsible for the security, maintenance, and marketing of the property. Registration fees will not be prorated.

An annual registration fee shall accompany the registration form. The fee and registration shall be valid for the calendar year, or remaining portion of the calendar year, in which the registration was initially required. Subsequent registrations and fees are due January 1st of each year and must be received no later than January 31st of the year due.

This section shall also apply to properties that have been the subject of a foreclosure sale where the title was transferred to the beneficiary of a deed of trust involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure/sale.

Properties subject to this chapter shall remain under the annual registration requirement, security, and maintenance standards of this section as long as they remain vacant.

Any person, firm or corporation that has registered a property under this chapter must report any change or information contained in the registration within 10 days of the change.

14-70.5 Maintenance Requirements.

Properties subject to this section shall be, in comparison to the neighborhood standard, kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state, or local law, discarded personal items including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.

The property shall be maintained free of graffiti, tagging or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.

Visible front and side yards shall be landscaped and maintained to the neighborhood standard at the time registration was required.

Landscape includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark or artificial turf/sod designed specifically for residential installation.

Landscape does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, mulch, indoor-outdoor carpet or any similar material.

Maintenance includes but is not limited regular watering, irrigation, cutting, pruning, and mowing of required landscape and removal of all trimmings.

Pools and spas shall be kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry. In either case properties with pools and/or spas must comply with the minimum security fencing requirements of the State of California.

Adherence to the section does not relieve the beneficiary/trustee or property owner of any obligations set for in any covenants, conditions and restrictions and/or homeowner's association rules and regulations which may apply to the property.

14-70.6 Security Requirements.

Properties subject to this section shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

Secure manner includes but is not limited to the closure and locking of windows, doors (walk-through, sliding and garage), gates and any other opening of such size that it may allow a child to access the interior of the property and/or structure(s). In the case of broken windows securing means the reglazing or boarding of the window.

If the property is owned by a corporation and/or out-of-area beneficiary/trustee/owner, a local property management company shall be contracted to perform weekly inspections to verify that the requirements of this section, and any other applicable laws, are being met.

The property shall be posted with name and 24-hour contact phone number of the local property management company. The posting shall be no less than 18 inches by 24 inches and shall be of a font that is legible from a distance of 45 feet and shall contain along with the name and 24-hour contact number the words "THIS PROPERTY MANAGED BY" and "TO REPORT PROBLEMS OR CONCERNS CALL." The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible from the street or, if no such area exists, on a stake of sufficient size to support the posting in a location that is visible from the street to the front of the property but not readily accessible to vandals. Exterior posting must be constructed of and printed with weather resistant materials.

The local property management company shall inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this chapter.

14-70.7 Additional Authority.

In addition to the enforcement remedies established in the Imperial Municipal Code, the Director of Planning or his or her designee shall have the authority to require the

beneficiary/trustee/owner and/or owner of record of any property affected by this section to implement additional maintenance and/or security measures, including but not limited to securing any/all door, window or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard or other measures as may be reasonably required to arrest the decline of the property.

14-70.8 Fees.

The fee for registering an abandoned residential property shall be set by resolution of the City Council.

14-70.9 Enforcement.

Violation of this chapter may be enforced in any combination as allowed in the Imperial Municipal Code.

14-70.10 Appeals.

Any person aggrieved by any of the requirements of this section may appeal insofar as such appeal is allowed under Chapter 6 of the Imperial Municipal Code.

14-70.11 Violation/Penalty.

Violations of this chapter shall be treated as a strict liability offense regardless of intent. Any person, firm and/or corporation that violates any portion of this section shall be subject to prosecution and/or administrative enforcement under the Imperial Municipal Code.

14-70.12 Severability.

Should any provision, section, paragraph, sentence or word of this chapter be determined or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, section, paragraphs, sentences or words of this chapter shall remain in full force and effect.

(Ord. 752)