

DRAFT

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VERNON ESTABLISHING ADMINISTRATIVE ENFORCEMENT PROVISIONS AND NUISANCE ABATEMENT PROCEDURES AND AMENDING THE VERNON CITY CODE TO ALLOW FOR ADMINISTRATIVE COMPLIANCE ORDERS, ADMINISTRATIVE CITATIONS, CIVIL PENALTIES AND NUISANCE ABATEMENT PROCEEDINGS

THE CITY COUNCIL OF THE CITY OF VERNON HEREBY ORDAINS:

SECTION 1: Chapter 1 of the Vernon City Code is hereby amended by adding "Section 1.8-1 Administrative Enforcement - Scope and Definitions to read as follows pursuant to Government Code §53069.4:

"Sec. 1.8-1. Administrative Enforcement - Scope, Definitions, and Hearing Procedures

(a) *Scope.* Sections 1.8-2, 1.8-3, 1.8-4, and 1.8-5 provide for administrative remedies in addition to Sections 5.68 through 5.70, 5.99 through 5.104; for violations of certain provisions of this code, except that with respect to the provisions set forth in Sections 10.11 through 10.13, 11.3.4, 11.3.5, 12.2, 13.26, 13.45, 13.46, in Sections 21.6.1 through 21.6.6, in Sections 25.107 through 25.109, in Section 26.9.1.9 and Chapters 7, 8 and 18, or any other existing provision of the Vernon City Code in conflict with Section 1.8-1, the Director, or Appropriate Enforcement Official, may elect to, at its discretion, proceed either under this Chapter 1 or under said latter provisions or both so long as not inconsistent. Administrative remedies may be pursued in lieu of any other legal remedy, criminal or civil, which may be pursued by the City to address any violation of this Code. The City

Attorney, City Prosecutor, or any Assistant City Attorney or Assistant City Prosecutor, or designated special counsel, has sole discretion to determine whether a violation will be prosecuted criminally. If a violation is not criminally prosecuted, the City may pursue administrative enforcement of this Code pursuant to sections 1.8-2, 1.8-3, 1.8-4, and 1.8-5 of this Code.

(b) *Definitions.* For purposes of Sections 1.8-2, 1.8-3, 1.8-4, and 1.8-5, the following words and phrases shall have the following meanings and provide the following procedures, unless the context otherwise requires:

(1) *Designee:* Means a person authorized by a Responsible Entity or Party, or by the Director or Enforcement Official, to act on its behalf for purposes of administrative enforcement.

(2) *Director:* means each of the Director of Community Services, the Director of Environmental Health, the Chief of the Fire Department and the Chief of the Police Department, individually.

(3) *Enforcement Official:* means any person authorized to enforce the provisions of the Vernon City Code, including but not limited to City Attorney, City police, fire officials, employees of the Department of Community Services, employees of the Health and Environmental Control Department, code enforcement officers, and any other person authorized by the City Attorney.

(4) *Legal Interest:* means any interest that is represented by a deed, deed of trust, lease, rental agreement, judgment lien, tax or assessment lien, mechanic's lien or other similar instrument that is recorded with the county recorder, including but not limited to, the county tax assessor's roll.

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(5) *Responsible Person or Entity*: means any person whom the Director or Enforcement Official determines is responsible for causing or maintaining a violation of this Code. The term "Responsible Person" includes but is not limited to a property owner, tenant, occupant, person with another legal interest in real property, person in possession of real property, or a designated legal representative. The pronoun "it" shall include male and female genders.

(6) *Service*: means the delivery of a compliance order, administrative citation, civil penalty notice and order, or notice to abate as follows:

(i) If the Responsible Person is a corporation, the Director or Enforcement Official, or his or her designee, may personally serve any one of the following individuals, and shall attempt to obtain the signature of that individual on any compliance order, administrative citation, civil penalty notice and order, or notice to abate, the president or other officer of the corporation, a general manager, or an agent authorized by the corporation to receive service of process in a civil action. In the alternative, if the office address of any of the above-listed individuals is known to the City, the compliance order, administrative citation, civil penalty notice and order, or notice to abate, may be mailed to that address by certified mail, return receipt requested, and also delivery by first class mail. Notwithstanding that if delivery by certified mail is refused or returned unsigned, such notice by regular mail shall be deemed sufficient for purposes of this section.

(ii) If the responsible person is a limited liability company, the director or enforcement official, or his or her designee, may personally serve the managing member or other manager of

the business, and shall attempt to obtain the signature of that individual on any compliance order, administrative citation, civil penalty notice and order, or notice to abate, the president or other officer of the corporation, a general manager, or an agent authorized by the corporation to receive service of process in a civil action. In the alternative, if the office address of any of the above-listed individuals is known to the City, the compliance order, administrative citation, civil penalty notice and order, or notice to abate, may be mailed to that address by certified mail, return receipt requested, and also delivery by first class mail. Notwithstanding that if delivery by certified mail is refused or returned unsigned, such notice by regular mail shall be deemed sufficient for purposes of this section.

(iii) If the Responsible Person is a business other than a corporation, or limited liability company, the Director or Enforcement Official, or his or her designee, may personally serve the general partner, if a partnership, or business owner or manager of the business, and shall attempt to obtain the signature of that individual on any compliance order, administrative citation, civil penalty notice and order, or notice to abate. In the alternative, the compliance order, administrative citation, civil penalty notice and order, or notice to abate shall be mailed to the business address by certified mail, return receipt requested, and also by first class mail. Notwithstanding that if delivery by certified mail is refused or returned unsigned, such notice by regular mail shall be deemed sufficient for purposes of this section.

(iv) If the Responsible Person is doing business as an individual, the Director or Enforcement Official, or his or her designee, may personally serve that individual, or manager of the

business, and shall attempt to obtain the signature of the recipient on any compliance order, administrative citation, civil penalty notice and order, or notice to abate. In the alternative, the compliance order, administrative citation, civil penalty notice and order, or notice to abatement shall be mailed by certified mail, return receipt requested, and also by first class mail. Notwithstanding that if delivery by certified mail is refused or returned unsigned, such notice by regular mail shall be deemed sufficient for purposes of this section.

(v) If a responsible person or person served refuses or fails to sign the compliance order, administrative citation, civil penalty notice and order, or notice of abatement, the failure or refusal to sign shall not affect the validity of the compliance order, administrative citation, civil penalty notice and order, or notice to abate, or of subsequent proceedings.

(vi) If the Director or Enforcement Official, or his or her designee, does not succeed in serving the Responsible Person by any of the methods detailed above, the Director or Enforcement Official, or his or her designee, shall post the compliance order, administrative citation, civil penalty notice and order, or notice of abatement on any real property within the City in which the City has knowledge that the Responsible Person has a Legal Interest, and such posting shall be deemed effective service. If the City has no knowledge that the Responsible Person has a Legal Interest in any real property within the City, the Director or Enforcement Official, or his or her designee, shall cause the compliance order, administrative citation, civil penalty notice and order, or notice of abatement to be published for four successive weeks in the City's newspaper designated for publishing public notices, which shall be deemed effective service.

(c) *Hearing and Appeal procedures:*

(1) *Request for administrative hearing.* A Responsible Person to whom a compliance order, administrative citation, or civil penalty notice and order is issued, its' designee, may contest the compliance order, administrative citation, or civil penalty notice and order no later than 30 days from the date of service by (1) completing a City approved request for hearing form and returning it to the Department specified on the compliance order, administrative citation, or civil penalty notice and order; and (2) either deposit the administrative citation amount or civil penalty amount with the City or provide notice that a request for an advance hardship waiver deposit has been filed pursuant to section 1.8-1(c)(2). A request for hearing form may be obtained from the Department specified in the compliance order, administrative citation, or civil penalty notice and order. Notices shall be mailed to the address designated on the request for hearing form.

(2) *Advance hardship waiver deposit.* A Responsible Person, or designee, which requests a hearing to contest a compliance order, administrative citation, or civil penalty notice and order and whose business entity is financially unable to deposit the administrative citation amount or civil penalty amount as required in section 1.8-1(c) may file a request for an advance deposit hardship waiver. The request shall be filed with the Department of Finance on an advance deposit hardship waiver application form, available from the Department of Finance, no later than 30 days after service of the compliance order, administrative citation, or civil penalty notice and order. The Director of Finance may issue an advance deposit hardship waiver only if the person requesting the waiver submits to the Finance

Director a sworn affidavit, together with any supporting documents, demonstrating to the satisfaction of the Finance Director the business entity's financial inability to deposit with the City the full amount of any citation amount or civil penalty amount in advance of the hearing. The Finance Director shall issue a written decision granting or denying the request for the waiver within fifteen calendar days after receiving the application for the waiver. Any decision to deny the waiver application shall specify the reasons for the denial. The decision shall be served upon the person requesting the waiver by certified mail, return receipt requested. If the Finance Director denies the application for the waiver, the Responsible Person, or designee, shall remit the full amount of any citation or civil penalty to the City within ten days of receipt of the Finance Director's written decision. Failure to submit the full amount of any citation or civil penalty within the ten day period shall invalidate the request for administrative hearing.

(3) *Time for administrative hearing.* After a request for hearing form is filed, and the Responsible Person, or designee, requesting the hearing has either deposited the citation amount or civil penalty amount in full or obtained an advance deposit hardship waiver, the City shall set the date and time for an administrative hearing. The hearing shall be set for a date not less than 15 days nor more than 60 days after the request for hearing form is filed and the citation amount or civil penalty amount, or advance deposit hardship waiver if issued, is deposited with the City. The City shall send notice of the date, time, and place of the hearing to the person requesting the hearing by certified mail, return receipt requested, at least ten days before the date of the hearing. Any documentation,

other than the compliance order, administrative citation, or civil penalty notice and order, which the Director or Enforcement Official has submitted or will submit to the hearing officer shall be served on the person requesting the hearing by certified mail, return receipt requested, at least five days before the date of the hearing.

(4) *Request for continuance of hearing.* The Responsible Person, or designee, may request one continuance, but in no event may the hearing begin later than 90 days after the request for hearing form is filed, and the citation amount or civil penalty amount is deposited or an advance deposit hardship waiver if issued, with the City.

(5) *Appointment of administrative hearing officer.*

The City Attorney, or designee, shall establish procedures for the selection of an administrative hearing officer. Administrative hearing officers shall be selected in a manner that avoids the potential for pecuniary or other bias. In no event shall the administrative hearing officer be the Director or the Enforcement Official who issued the compliance order, administrative citation, or civil penalty notice and order. The compensation, if any, of the administrative hearing officer shall be paid by the City. Compensation shall not be directly or indirectly conditioned upon whether or not the compliance order, administrative citations, or civil penalty notice and order is sustained by the administrative hearing officer.

(6) *Procedures at administrative hearing.*

In the event that the Director or Enforcement Official will seek fines in excess of \$100,000.00 then the California Administrative Procedures Act will apply. Otherwise, Administrative hearings are informal, and formal rules of evidence and discovery do not apply.

Each party shall have the opportunity to present evidence in support of its' case, to cross-examine witnesses and to argue its' position. The City bears the burden of proof at an administrative hearing to establish a violation of the City Code. The compliance order, administrative citation, or civil penalty notice and order, and any additional reports submitted by the Director or Enforcement Official shall constitute prima facie evidence of the facts contained in those documents. The administrative hearing officer must use preponderance of evidence as the standard of evidence in deciding the issues.

(7) *Failure to attend administrative hearing.* If the Responsible Person, or his or her representative, fails to attend the scheduled hearing, the hearing will proceed without the Responsible Person, or his or her representative, and the Responsible Person will be deemed to have waived his or her right to participate in an administrative hearing. Notwithstanding this waiver and the time limits set forth in section 1.8-1(c)(3), if service of the compliance order, administrative citation, or civil penalty notice and order is made by posting on real property and the Responsible Person, or designee, provides verifiable and substantial evidence that removal of the notice from the property by an unknown third party caused the Responsible Person's failure to timely request an administrative hearing, the Responsible Person shall be entitled to an administrative hearing.

(8) *Decision of administrative hearing officer.* No later than 30 days after the date on which the administrative hearing concludes the administrative hearing officer shall issue a written decision to uphold or cancel the compliance order, administrative citation, or civil penalty notice and order. The administrative

hearing officer shall set forth the findings supporting the decision. The decision shall be served upon the Responsible Person, or designee, by certified mail, return receipt requested, at the address designated on the request for hearing form. If the administrative hearing officer sustains the compliance order, administrative citation, or civil penalty notice and order, the City shall retain any applicable citation amount or civil penalty amount deposited by the Responsible Person. If the administrative hearing officer sustains the compliance order, administrative citation, or civil penalty notice and order, and any applicable citation amount or civil penalty amount has not been deposited pursuant to an advance deposit hardship waiver, the administrative hearing officer shall specify in the decision a payment schedule for any applicable citation amount or civil penalty amount. If the administrative hearing officer quashes the compliance order, administrative citation, or civil penalty notice and order, any applicable citation amount or civil penalty amount deposited with the City shall be promptly refunded. The administrative hearing officer's written decision is final, and notice of the decision shall also inform the Responsible Person of its' right to appeal, as provided in section 1.8-1(c) (10).

(9) *Administrative costs.* The administrative hearing officer shall assess against the cited entity administrative costs for any compliance order, administrative citation, or civil penalty notice and order that is upheld. The administrative costs include any and all costs incurred by the City in connection with investigating the violation for which the compliance order, administrative citation, or civil penalty notice and order was issued, and issuing and processing the compliance order, administrative citation, or civil penalty notice

and order, including, but not limited to, investigative costs, staffing costs for preparing and conducting the administrative hearing and the cost of the administrative hearing officer. The decision upholding the compliance order, administrative citation, or civil penalty notice and order shall specify the amount of administrative costs and the date by which the costs must be paid to the City.

(10) *Appeal of decision of administrative hearing officer.* Within 10 business days after service of the decision of the administrative hearing officer upon the Responsible Person, or designee, it may seek review of the decision by filing a notice of appeal with the City Council. The Responsible Person, or designee, shall serve upon the City Clerk either in person or by certified mail, return receipt requested, a copy of the notice of appeal. If the Responsible Person, or designee, fails to timely file a notice of appeal, the administrative hearing officer's decision shall be final. An appeal to the City Council shall be conducted as provided for in Section 5(i).

SECTION 2: Chapter 1 of the Vernon City Code is hereby amended by adding "Section 1.8-2 Administrative Enforcement - Compliance Orders, to read as follows:

"Sec. 1.8-2. Administrative Enforcement - Compliance Orders

(a) *Compliance order.* Whenever the Director or the Director's designee determines that there exists a continuing violation of any provision of this Code, the Director or the Director's designee may issue or cause to be issued a written compliance order to any Responsible Person.

(b) *Content of compliance order.* A compliance order shall contain all of the following information:

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(1) The date, approximate time, and location of the violation observed.

(2) The City Code section violated, and a description of in what way the section was violated.

(3) The action required to correct the violation and the date by which such action must be completed. The date for compliance shall not be less than five (5) business days from the date the compliance order is served.

(4) The consequences of failing to correct the violation, including a description of the Hearing and Appeal procedures as provided by Section 1.8-1(c) of this Code.

(5) The time period after which administrative penalties will begin to accrue if there is no compliance with the order.

(6) The amount of the penalty that will be imposed if there is no compliance with the order.

(7) Notice that a violation of the Vernon City Code is also a misdemeanor and is punishable by a fine of not more than one thousand dollars (\$1000) or by imprisonment in the County jail of not more than six months, or by both such fine and imprisonment as provided in Section 1.8 of this Code.

(c) *Procedure for serving a compliance order.* The Director, or the Director's designee, shall serve or cause a compliance order to be served as provided in Section 1.8-1(b) (5) of this Code.

(d) *Compliance order satisfied.* If the Director or the Director's designee determines that all violations specified in the compliance order have been corrected within the time set forth in the order, no further action shall be taken against the Responsible Person regarding the violation(s).

(e) *Failure to comply with compliance order.* If the Responsible Person fails to correct each violation identified in the compliance order within the time specified in the compliance order, the City may use any other legal remedy available to gain compliance with the compliance order. Additionally, no actions undertaken in this section shall preclude the City from criminally prosecuting any responsible person for any violation that has not been corrected within the time specified in the compliance order.

SECTION 3: Chapter 1 of the Vernon City Code is hereby amended by adding "Section 1.8-3 Administrative Enforcement - Citations" to read as follows:

"Sec. 1.8-3. Administrative Enforcement - Citations"

(a) *Administrative Citation.* Any person violating any section of this Code may be issued an administrative citation by an Enforcement Official as provided in this section. Each and every day a violation of any provision of this Code exists constitutes a separate and distinct violation.

(b) *Content of administrative citation.* An administrative citation shall contain all of the following information:

- (1) The date and location of the violation and the approximate time the violation occurred.
- (2) The Code section violated and a description of in what way the section was violated.
- (3) The amount of the fine imposed for the violation, and the time within which and the place at which the fine shall be paid.
- (4) An order prohibiting another occurrence of the Code violation.

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(5) A description of the administrative Hearing and Appeal procedures as provided by Section 1.8-1(c) of this Code, including the time within which to contest the administrative citation and the place from which to obtain a request for hearing form to contest the administrative citation.

(6) The name and signature of the citing Enforcement Official.

(c) *Procedure for serving administrative citation.* An Enforcement Official, or designee, may issue an administrative citation, on a form approved by the City Administrator, to a Responsible Person, as provided in the Service provisions set forth in Section 1.8-1(b)(5) of this Code.

(d) *Administrative fine.* The fine imposed pursuant to this Section 1.8-3 for a particular violation shall be in the amount set forth in the administrative citation schedule established by resolution of the City Council. The administrative citation schedule shall specify the amount of any late payment charges imposed for failure to timely pay the fine.

(e) *Payment of administrative fine.* The administrative fine shall be paid to the City within 30 days from the date of service of the administrative citation. If, after a hearing requested pursuant to section 1.8-3(f), the hearing officer determines that the administrative citation should be cancelled, the administrative fine shall be refunded in accordance with section 1.8-1(c)(8) of this Code.

(f) *Hearing and Appeal.* Any Responsible Person may make a request for a Hearing and Appeal pursuant to the provisions of Section 1.8-1(c) of this Code.

(g) *Late payment charges.* Any person who fails to pay to the City on or before the due date any administrative fine imposed pursuant to this Code or any administrative costs imposed by an administrative hearing officer, shall be liable for the payment of any applicable late payment charges set forth in the administrative citation schedule established by resolution of the City Council. Failure to pay such fine or administrative costs shall be a violation of this Code.

(h) *Collection of administrative fine.* The City may collect any past-due administrative fine, administrative costs reimbursement, or late payment charge through use of any available legal remedy.

(i) *Failure to pay administrative fine.* Failure to pay an administrative fine imposed by this Code or any administrative costs imposed by an administrative hearing officer is a violation of this Code and is a misdemeanor. Filing a criminal misdemeanor action does not preclude the City from using any other legal remedy available to gain compliance.

SECTION 4: Chapter 1 of the Vernon City Code is hereby amended by adding "Section 1.8-4 Administrative Enforcement - Civil Penalties" to read as follows:

"Sec. 1.8-4. Administrative Enforcement - Civil Penalties"

(a) *Purpose and Intent.* The City Council finds that there is a need for alternative methods of enforcement of the Vernon City Code. The City Council further finds that the assessment of civil penalties for code violations is a necessary additional method of code enforcement which will augment the city's existing code enforcement remedies. The administrative assessment of civil penalties established in this Section is in addition to any other administrative or judicial

remedy established by law which may be pursued to address violations of the City Code.

(b) *Authority.*

(1) Any person violating any provision of the City Code may be subject to the assessment of civil penalties pursuant to the administrative procedures provided in this Section.

(2) Each and every day a violation of any provision of this Code exists constitutes a separate and distinct violation.

(3) Civil penalties may be directly assessed by means of a notice and order issued by the Enforcement Official.

(4) Civil penalties for violation of any provision of this Code shall be assessed at a daily rate determined by the Enforcement Official pursuant to the criteria listed in Section 1.8-4(d) of this Section. The maximum penalty shall be two thousand five hundred dollars (\$2,500) per violation per day. The maximum amount of civil penalties shall not exceed one hundred thousand dollars (\$100,000) annually for any series of violations.

(c) *Procedures - Notice and order.*

(1) Whenever the Enforcement Official determines that a violation of one or more provisions of this Code has occurred and continues to exist, a written civil penalties notice and order may be issued to the Responsible Person and/or its business entity as provided in the Service provisions set forth in Section 1.8-1(b)(5) of this Code.

(2) The notice and order shall identify all Code sections violated and describe, in reasonable detail, in what way each section is being violated.

(3) The notice and order shall identify any dates, locations, and approximate times that any violations were observed.

(4) The notice and order shall describe all remedial action required to permanently correct outstanding violations and demand that the Responsible Person and/or its business entity cease and desist from further action causing the violations and commence and complete all action to correct the outstanding violations under the guidance of the appropriate City departments.

(5) The notice and order shall establish a daily amount of civil penalties as determined by the Enforcement Official pursuant to the criteria listed in Section 1.8-4(d) of this Section.

(6) The notice and order shall identify a date when the civil penalties began accruing, impose an ongoing assessment of penalties for continuing violations until the violations are corrected, and shall establish a date by which the civil penalty must be paid. If, after a hearing pursuant to Section 1.8-4(f), the hearing officer determines that the civil penalty should be cancelled, the payment shall be refunded in accordance with Section 1.8-1(c)(8) of this Code.

(7) The notice and order shall specify that the administrative assessment of civil penalties established in this Section is in addition to any other administrative or judicial remedy established by law which may be pursued to address violations of the City Code.

(8) The notice and order shall provide notice of the Hearing and Appeal procedures set forth in Section 1.8-1(c) of this Code.

(9) The notice and order shall identify the factors used by the Enforcement Official in determining the duration and the daily amount of civil penalties.

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(d) *Determination of civil penalties.*

(1) In determining the date when civil penalties begin to accrue, the Enforcement Official may consider the date when the City first discovered the violations as evidenced by the issuance of a notice of violation or any other written correspondence.

(2) The assessment of civil penalties shall end when all action required by the notice and order has been completed.

(3) In determining the amount of the daily civil penalty, the Enforcement Official may consider some or all of the following factors: (i) the duration of the violation; (ii) the frequency or recurrence of the violation; (iii) the seriousness of the violation; (iv) the history of the violation; (v) the Responsible Person's conduct after issuance of the notice and order; (vi) the reasonable and good faith effort by the Responsible Person to comply; (vii) the economic impact of the penalty on the Responsible Person; (viii) the impact of the violation upon the community; (ix) any other factors that justice may require.

(4) The Enforcement Official has the authority to establish a penalty schedule to use as a guideline in determining the amount of civil penalties to be assessed in each individual case. The Enforcement Official shall also establish criteria and procedures for the application of this penalty schedule.

(e) *Failure to comply with the civil penalty notice and order.* Upon the failure of the Responsible Person, or its business entity, to comply with the terms and deadlines set forth in the civil penalty notice and order, the Enforcement Official may use all appropriate legal means to recover the civil penalties and obtain compliance, including injunctive relief in a court of competent

jurisdiction.

(f) *Hearing and Appeal.* Any Responsible Person may make a request for a Hearing and Appeal pursuant to the provisions of Section 1.8(c) of this Code.

(g) *Late payment charges.* Any Responsible Person, or entity, who fails to pay to the City on or before the due date any civil penalty imposed pursuant to this Code or any administrative costs imposed by an administrative hearing officer, shall be liable for the payment of any applicable late payment charges set forth in the penalty schedule established by resolution of the city council. Failure to pay such civil penalty or administrative costs shall be a violation of this Code.

(h) *Collection of civil penalties.* The City may collect any civil penalties, administrative cost reimbursement, through use of any available legal remedy.

(i) *Failure to pay a civil penalty.* Failure to pay a civil penalty imposed by this Code or any administrative costs imposed by an administrative hearing officer is a violation of this Code and is a misdemeanor. Filing a criminal misdemeanor action does not preclude the City from using any other legal remedy available to gain compliance.

SECTION 5: Chapter 1 of the Vernon City Code is hereby amended by adding "Section 1.8-5. Nuisances" to read as follows:

"Sec. 1.8-5. Nuisances"

(a) *Public nuisances defined.* It is unlawful and it is declared to be a public nuisance for any Responsible Person, or business entity, to maintain property or cause property to be maintained in a manner where any of the following conditions are found to exist:

(1) Any violation of any provision of the Vernon City Code;

(2) Buildings or structures which are partially destroyed, or abandoned and not fully secured, for more than ninety consecutive calendar days, or ninety calendar days within a one hundred twenty calendar day period, unless a longer time limit is approved by the Director of Community Services;

(3) Land, the topography or configuration of which, in any man-made state, whether as a result of grading operations, excavations, fill or other alteration, interferes with the established drainage pattern over the property or from adjoining or other properties which does or may result in erosion, subsidence or surface water drainage problems of such magnitude as to be injurious to public health, safety or welfare or to neighboring properties;

(4) The failure to secure and maintain from public access all doorways, windows and other openings into vacant buildings or structures;

(5) Broken or missing windows;

(6) Any overgrown, dead, decaying or hazardous vegetation that: (i) may harbor rats, vermin or other disease carriers, (ii) constitutes an obstruction to the vision of motorists or a hazardous condition to pedestrians or vehicular traffic; (iii) constitutes an unsightly appearance, (iv) creates a dangerous condition or an attractive nuisance to the public;

(7) The accumulation of trash, refuse, garbage, dirt, litter, animal or human feces or debris in such a manner as to cause or likely cause the breeding of or attraction of flies, rodents or other vectors or insects. All trash, refuse, garbage, dirt, litter, animal

or human feces or debris shall be removed from the property as often as necessary to prevent the breeding of or attraction of flies, rodents or other vectors or insects;

(8) Construction debris storage bins for the property which stored in excess of fifteen days in any front or side yard setback area without the express written approval of the city engineer;

(9) Abandoned Vehicles. See Section 1.8-6 for Administrative Procedures;

(10) The existence of hazardous substances and waste, as defined by the Federal Resource Conservation and Recovery Act, 49 U.S.C. Section 6901 *et seq.*, or Chapter 6.5 of the California Health & Safety Code, that is unlawfully released, discharged, placed, maintained or deposited upon any property, unless expressly permitted by the Health and Environmental Control Department;

(11) Property containing an infestation of termites, insects, vermin or rodents;

(12) Any unlawful encroachment upon the public street, alley, sidewalk or other public right-of-way adjacent to the property, including, without limitation, signs, trash or vegetation;

(13) Any other condition declared by any state, county or City ordinance, code or regulation to be a public nuisance.

(b) *Commencement of abatement proceedings.* Whenever the Director, or its' designee, reasonably believes that a public nuisance exists on private property, it may commence abatement proceedings by serving a notice, as provided in the Service provisions set forth in Section 1.8-1(b)(5), to the Responsible Person, or designee, ordering it to abate the nuisance. The notice shall contain a description of the property in general terms reasonably sufficient to identify the

location of the property. The notice shall refer to the City Code section being violated, as well as the conditions on the private property causing the violation. The notice shall direct compliance by removal or correction of the condition that is in violation of the provisions of this Code by a date certain that is at least seven calendar days from the date of the notice. The notice shall further describe the consequences of failure to comply as prescribed in this section.

(c) *Voluntary abatement of public nuisances.* The Responsible Person, or entity, may abate said nuisance at any time within the abatement period by rehabilitation, repair, removal or demolition. The Director or his or her designee shall be advised of the abatement and shall inspect the premises to ensure that the nuisance has in fact been abated.

(d) *Involuntary abatement.* Upon failure of the Responsible Person, or entity, to remove or correct the conditions described in the notice by the date specified, the Director, or designee, shall cause a hearing to be held to determine whether the building, structure or property is being maintained in such a manner as to constitute a public nuisance. The Director shall give not less than ten (10) business days written notice of the hearing by serving notice as provided in the Service provisions set forth in Section 1.8-1(b)(5) to the Responsible Person with a Legal Interest, or designee, in the affected properties.

(1) The notice shall indicate the nature of the alleged public nuisance, a description of the property involved, and the designation of the time and place of the hearing to determine whether the same constitutes a public nuisance, and the manner of the proposed abatement if the same is found to be a public nuisance.

(2) Nothing shall prevent any Responsible Person or other interested person, or entity, from abating the nuisance prior to the time of the hearing and notifying the City of the same. Upon confirmation by the City that the nuisance has been abated, the hearing shall be cancelled.

(e) *Form of notice.* The notice given shall be provided in substantially the following format:

"NOTICE OF HEARING ON ABATEMENT OF PUBLIC NUISANCE

A hearing will be held at _____, Vernon on _____ at _____ to determine whether the premises at _____ constitutes a public nuisance.

The conditions asserted to constitute a public nuisance include the following: _____

A hearing may be avoided if the following corrections are made at least two (2) business days before the date set for the hearing: _____

If it is determined that the conditions on the property constitute a public nuisance, the following abatement action may be taken by the City if the owner has not abated the nuisance within five (5) business days after the hearing officer's determination.

If the abatement action is taken by the City, all costs of the abatement will be assessed against the property involved, and will attach as a lien until paid. All persons having an interest in this matter may attend the hearing and give testimony and evidence, which will be given due consideration by the hearing officer."

(f) *Appointment of administrative hearing officer.* The hearing to determine whether a public nuisance exists shall be conducted by an administrative hearing officer. The Director or his

designee shall establish procedures for the selection of an administrative hearing officer. Administrative hearing officers shall be selected in a manner that avoids the potential for pecuniary or other bias. The compensation, if any, of the administrative hearing officer shall be paid by the City. Compensation shall not be directly or indirectly conditioned upon whether or not a public nuisance is found to exist by the administrative hearing officer.

(g) *Procedures at administrative hearing.* Administrative hearings are informal, and formal rules of evidence and discovery do not apply. The administrative hearing officer is authorized to take testimony and in the course of so doing, is authorized to administer oaths or affirmations pursuant to California Code of Civil Procedure Section 2903(a). At the hearing, the administrative hearing officer shall consider all relevant evidence including but not limited to applicable staff reports. The administrative hearing officer shall give any interested person the reasonable opportunity to be heard in conjunction therewith. Based upon the evidence so presented, the administrative hearing officer shall determine whether a public nuisance exists.

(h) *Order of Abatement.* The decision of the administrative hearing officer shall be final and conclusive in the absence of appeal as provided in this section. The administrative hearing officer shall, within ten business days of the date of the hearing, cause to be sent a copy of the written notice of decision by certified mail to the Responsible Person, or entity, of the involved property, all other persons and entities who received notice of the original hearing, and to any other person, or entity, requesting the same. The notice shall contain an order of abatement, if a public nuisance is determined to

exist, directed to the Responsible Person, or entity, in the property, and any other Responsible Person, and shall set forth the nature of the nuisance, its location and the time and manner for its abatement. Where an appeal is filed as provided in this section, the order of abatement shall be suspended pending the appeal of the order in the manner set forth in this section.

(i) *Appeal.*

(1) Any Responsible Person, or entity, of the involved property, or designee, may appeal the Administrative Hearing Order to the City Council by filing an appeal with the City Clerk within ten (10) business days of the date of the order and by paying the appeal fee set by City resolution. The notice of appeal shall specify:

(i) A description of the property;

(ii) The abatement proceedings appealed;

(iii) The appellant's legal or equitable interest in the property;

(iv) A statement of disputed and undisputed facts;

(v) A statement specifying which portion of the order or proceedings are being appealed, together with any evidentiary or supporting materials that would support the appeal; and

(vi) A verification of the truth of all matters asserted.

(2) Upon the timely filing of a notice of appeal in the proper form, the City Clerk set the appeal for a regular or special meeting of the City Council scheduled to be held not less than five (5) business days nor more than thirty (30) business days after the appeal is received.

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(3) The City Clerk shall provide written notice of the appeal hearing, including the time, place and date of the hearing on the appeal, to the appellant and any other person to whom notice of the administrative hearing officer's order was sent. Such notice shall be sent in the same manner as notice of the administrative hearing officer's order.

(4) The City Council shall limit the issues on appeal to those detailed in the notice of appeal.

(5) Appeal hearings shall be informal, and formal rules of evidence and discovery shall not apply.

(j) *Notice of Council decision.* The City Clerk shall mail a copy of the City Council's decision by certified mail to the appellant and all other persons who received notice of the original hearing, and to any other person requesting the same, within five (5) business days after the adoption thereof. The Council's decision shall be final and conclusive. Pursuant to Code of Civil Procedure Section 1094.6, any action to review the decision of the Council shall be commenced not later than the 90th day after the date the Council's order is adopted.

(k) *Abatement of a nuisance by the city.* If the nuisance is not completely abated by the date specified in the administrative hearing officer's order, or in the City Council's decision, as appropriate, the City Administrator, or designee, may immediately abate the nuisance. The Responsible Person of the involved property, or the business entity, shall be liable to the City for all costs of such abatement.

(l) *Cost accounting - notification.*

(1) City personnel, or any private contractor authorized to abate the nuisance, shall keep an account of the cost,

including incidental expenses, of all abatement work performed on each separate lot or parcel of land where work is done and shall render an itemized report in writing to the Director showing the total cost of abatement, including any salvage value relating thereto. A copy of the report shall be available in the office of the City Clerk for at least five days before it is considered by the City Council and notice of the availability shall be posted at City Hall or any other location designated for posting City notices. Proof of posting shall be made by affidavit of the City Clerk or Deputy City Clerk. The term "incidental expenses" includes, but is not limited to, all actual expenses and costs of the city in the commencement of abatement proceedings, including personnel costs, preparation of notices, specifications and contracts, inspection of the work, the cost of printing and mailings required under this section, the costs of experts or consultants, the costs involved with any claims against the City arising as a consequence of the nuisance, any attorney fees expended in the abatement of the nuisance through civil action or otherwise, and any other costs involved with obtaining compliance with or enforcing the law. The City Attorney shall be responsible for keeping an accounting of attorney fees and costs and for transmitting the same to the Director.

(2) Costs shall be assessed at the conclusion of the abatement; in the case of an abatement by any method which takes more than six months, costs may be assessed at any time after six months, but in no event more than two times a year. Costs involved in abating the nuisance, or in attempting to abate the nuisance may also be recovered in an appropriate civil action.

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(3) The Director, or designee, shall submit his itemized statement of costs to the City Council and shall request that the City Clerk set the same for a hearing before the City Council.

(4) The Director, or designee, shall cause notice of the time and place of the hearing to be given to the Responsible Person of the involved property upon which the costs will be assessed, and to any other interested person requesting notice. Such notice shall be served at least ten (10) business days before the hearing pursuant to the procedures for Service set forth in Section 1.8-1(b)(5).

(m) *Assessment Lien.* The total cost for abatement of the nuisance, as confirmed by the City Council, shall constitute a special assessment against the lot or parcel of land on which the nuisance was abated, and upon recordation in the office of the county recorder of a notice of lien, shall constitute a lien on the property for the amount of the assessment.

(1) After confirmation and recordation, a copy of the notice of lien may be turned over to the tax collector to add the amounts of the assessments to the next regular tax bill levied against the respective lots and parcels of land. Thereafter the assessment amounts shall be collected at the same time and in the same manner as ordinary property taxes are collected and shall be subject to the same penalties and the same procedure for foreclosure and sale in case of delinquency as provided for ordinary property taxes. After recordation, the lien may be foreclosed by judicial or other sale in the manner and means provide by law. The notice of lien for recordation shall be in a form substantially as follows:

"NOTICE OF LIEN

Claim of the City of Vernon

Pursuant to the authority vested by Section 1.8-5 of the Vernon City Code, the administrative hearing officer [City Council] did on or about the ____ day of____, 20__, cause the property hereinafter described to be declared a public nuisance and order the same abated. The City Council of the City of Vernon, did on the ____ day of____, 20__, assess the cost of such abatement upon the property and the same has not been paid nor any part thereof. The City of Vernon does hereby claim a lien for such abatement in the amount of the assessment, in the sum of \$____, and the same shall constitute a lien upon the described real property until 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 entirely within the City of Vernon, County of Los Angeles, State of California, particularly described as follows:

(legal description)

Dated: This ____ day of ____, 20__.

City Administrator
CITY OF VERNON"

(n) *Emergency abatement - alternative actions.*

Notwithstanding any other provision of this section, whenever the Director or its' designee determines that any real property or any building, structure or condition thereon constitutes an immediate threat to public health or safety, it may, without being required to comply with the procedures of this section, immediately cause such public nuisance to be abated. Nothing in this section shall be deemed to prevent the City from commencing a civil or criminal proceeding to abate a public nuisance or from pursuing any other means available to

it under provisions of applicable ordinances or state law to correct or enjoin hazards, deficiencies or violations of law in real property in addition to or as alternatives to the proceedings set forth in this section.

(o) *Violations - Misdemeanor - Penalty.*

(1) The Responsible Person, or entity, which who maintains any public nuisance as defined in this section or who violates any order of abatement made is guilty of a misdemeanor.

(2) Any unauthorized person who removes any notice or order posted as required in this section is guilty of a misdemeanor.

(3) No person shall obstruct, impede or interfere with any representative of the City engaged in vacating, repairing, rehabilitating or demolishing and removing any property pursuant to the provisions of this section or in performing any necessary act preliminary to or incidental to such work as authorized or directed pursuant thereto.

(4) Any person violating or failing to comply with any of the provisions of this section shall be guilty of a misdemeanor and shall be punished in accordance with section 1.8. A criminal prosecution may be initiated without a nuisance hearing, as provided in this section, or upon a violation of any order resulting from such a hearing. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of the provisions of this section is committed or permitted to continue.

(p) *Citation procedure.* All designated officers and employees exercising their authority to issue citations under this Section shall comply with the procedures regarding misdemeanor citations set forth in Section 853.6 et seq. of the California Penal

Code, or its successor.

SECTION 6: Vernon City Code Chapter 24, Article X, Section 24.68 is hereby amended in its' entirety to read as follows:

"Sec. 24.68. *Enactment of Penalty Provisions.* All current offenses set forth in various primary codes as adopted or amended from time to time are considered offenses under this code pursuant to Government Code 50022.1 through 50022.4, or successor section 5; but may be enforced at the sole discretion of the Director, or appropriate Enforcement Official, under either this chapter or under the provisions of Section 1.8-1."

SECTION 7: Vernon City Code Chapter 26, Article IX, Section 26.9.1-7 regarding responsibility for enforcement of the conditions and standards imposed on land use approvals is hereby amended to read as follows:

"Sec. 26.9.1-7. *Responsibility.* The director of community services shall have principal responsibility for monitoring and enforcing the conditions and standards imposed on all land use approvals and entitlements granted by the city pursuant to this chapter. In addition to the authority granted to enforcement officials as defined in Section 1.8-1 of this code, and in accordance with the provisions of California Penal Code Section 836.5, employees of the department of community services, as directed and designated from time to time by the director of community services, are hereby authorized to issue citations for violations of this chapter. The procedures to be followed for the issuance of said citations are those that are or may be authorized from time to time by provisions of the California Penal Code."

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SECTION 8: Subsection (c) is hereby added to Vernon City Code Chapter 11, Article V Section 11.5.13 regarding enforcement procedures for health standards to read as follows:

"(c) *Administrative Enforcement.* To the extent that the City utilizes its administrative enforcement procedures as set forth in Chapter 1 of this code, then the procedures set forth in chapter 1 shall be utilized in place of the procedures set forth in this Section."

SECTION 9: Subsection (c) is hereby added to Vernon City Code Chapter 11, Article XII Section 11.12.12 regarding enforcement procedures for health standards to read as follows:

"(c) *Administrative Enforcement.* To the extent that the City utilizes its administrative enforcement procedures as set forth in Chapter 1 of this code, then the procedures set forth in chapter 1 shall be utilized in place of the procedures set forth in this Section."

SECTION 10: CEQA Compliance. The City Council hereby finds that this ordinance adding sections 1.8-1, 1.8-2, 1.8-3, 1.8-4, and 1.8-5 to Chapter 1 of the City's City Code has no likelihood of causing a significant effect on the environment, and accordingly both the City Council's action of adopting this ordinance and any effects derivative from that adoption are found to be exempt from this application of the California Environmental Quality Act of 1970, as amended, pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Title 14 C.C.R. 15061(b)(3)).

SECTION 11: Severability. If any chapter, article, section, subsection, subdivision, paragraph, sentence, clause, phrase, or word in this Ordinance or any part thereof is for any reason held to be

unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more chapters, articles, sections, subsections, subdivisions, paragraphs, sentences, clauses, phrases or words be declared unconstitutional, or invalid, or ineffective.

SECTION 12: Book of Ordinances. The City Clerk shall attest and certify to the adoption of this Ordinance and shall cause this Ordinance and the City Clerk's certification to be entered in the Book of Ordinances of the Council of this City. The City Clerk shall cause this ordinance to be published or posted as required by law.

SECTION 13: Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

APPROVED AND ADOPTED this ____ day of _____, 2011.

Name: _____
Title: Mayor / Mayor Pro-Tem

ATTEST:

Willard G. Yamaguchi, City Clerk

STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I, Willard G. Yamaguchi, City Clerk of the City of Vernon, do hereby certify that the foregoing Ordinance, being Ordinance No. _____ was duly and regularly introduced at a regular meeting of the City Council of the City of Vernon, held in the City of Vernon on Tuesday, _____, and thereafter adopted at a meeting of said City Council held on Tuesday, _____, by the following vote:

AYES: Councilmembers:
NOES: Councilmembers:
ABSENT: Councilmembers:

And thereafter was duly signed by the Mayor or Mayor Pro-Tem of the City of Vernon.

Executed this ____ day of _____, 2011, at Vernon, California.

Willard G. Yamaguchi, City Clerk

(SEAL)