



City of Sebastopol

CITY OF SEBASTOPOL CITY COUNCIL

AGENDA ITEM REPORT FOR MEETING OF: January 20, 2026

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To: Honorable City Councilmembers
From: Alex Mog, City Attorney
Subject: Introduction and First Reading of an Ordinance to Add Chapter 8.90, Community Preservation and Blight Reduction, and Substantially Amend Chapter 1.04, Code Enforcement and General Penalty, to the Sebastopol Municipal Code.

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RECOMMENDATION:

Introduce and waive first reading of an Ordinance to add Chapter 8.90, Community Preservation and Blight Reduction, and substantially amend Chapter 1.04, Code Enforcement and General Penalty, to the Sebastopol Municipal Code.

EXECUTIVE SUMMARY:

The City Council previously directed the City Attorney to prepare a blight ordinance to address nuisance conditions that occur on properties in the City from time to time. The proposed ordinance adds Chapter 8.90, Community Preservation and Blight Reduction, to establish standards on what constitutes blight and a public nuisance. The proposed ordinance also substantially amends Chapter 1.04, Code Enforcement and General Penalty, to establish procedures and options for enforcing violations of the Municipal Code.

PROCESS OF AGENDA ITEM:

- a. Presentation of agenda item by the City Attorney
- b. Questions and discussion from Councilmembers
- c. Public comment period
- d. Council takes action.

BACKGROUND

From time to time, conditions occur on properties in the City that many in the community consider blight. Such conditions include things like the accumulation of trash, outdoor placement/storage of appliances or other household items, and overgrown vegetation that can harbor rodents. However, the Sebastopol Municipal Code does not contain clear provisions identifying what constitutes blight and a public nuisance. The City Council previously provided direction for the City Attorney to prepare a blight ordinance. In addition, the City Attorney has prepared changes to the Municipal Code to establish procedures and options for enforcing violations of the Municipal Code, which enables action when blight conditions exist.

DISCUSSION:

Chapter 8.90 will establish standards on what constitutes blight and a public nuisance in the City. The ordinance provides general standards, as well as specific conditions that constitute blight. Examples of such conditions include: 1) overgrown vegetation that is likely to harbor rats, vermin, and other nuisances, 2) the accumulation of abandoned, discarded, or dilapidated objects or household items, and 3) the accumulation of litter, debris, trimmings, or trash on any property. The ordinance includes many



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other specific examples of conditions that constitute blight. However, because it is not possible to identify every possible condition that might constitute blight, the Ordinance also contains more general prohibitions, such as any other condition or use of property which gives rise to a reasonable determination that the condition a threat to the health and welfare of the public by virtue of its unsafe, dangerous or hazardous nature.

Some of the conditions prohibited by Chapter 8.90 are already prohibited by sections of the Municipal Code or applicable law. However, Chapter 8.90 creates a consolidated location for all such standards. Any requirements contained elsewhere in the Code remain applicable

Chapter 1.04 will establish options and procedures for enforcement of the City's Municipal Code. Currently, certain sections of the Municipal Code establish penalties for specific violations. However, no portion of the Municipal Code provides a full set of options and procedures for enforcing any violation of the Municipal Code. Chapter 1.04 will apply to violations of Blight Ordinance, as well as any other requirements of the Code. Procedures for enforcing specific violations that exist elsewhere in the Code will remain also remain options for enforcement.

The current version of Chapter 1.04 specifies that any violation of the Municipal Code may be prosecuted as a misdemeanor. However, criminal prosecution of Municipal Code violations is generally only appropriate in extremely rare cases. Accordingly, the City doesn't have currently have options for enforcement that is appropriate in most situations.

Chapter 1.04 establishes procedures for the following types of enforcement:

- Criminal Enforcement. The City is authorized to prosecute any violation of the Municipal Code as a misdemeanor. This is the appropriate approach only in very rare circumstances.
- Administrative Fines. The City is authorized to fine responsible parties for violations of the Municipal Code. Pursuant to state law, these fines begin at \$100 for a first offense, with a maximum fine of \$500 per day per violation. Chapter 1.02 establishes procedures for the City to issue fines, as well as procedures for responsible parties to file appeals.
- Abatement. If responsible parties fail to correct violations on their properties, after notice and an opportunity to cure, the City is authorized to abate the property itself and charge the property owner for such costs. Chapter 1.02 establishes procedures for the City to issue abatement orders, as well as procedures for responsible parties to file appeals. The City would also need to seek an abatement warrant from a court before it could enter private property to complete any abatement work. The City also has the authority to complete summary abatement, without notice or a hearing, when necessary to address an immediate threat to public health or safety.

If fines and abatement costs are not paid by the responsible party within the time required, Chapter 1.04 authorizes the City to record those costs as either a lien or special assessment on the relevant property. Any such action would require approval of the City Council at a noticed public hearing.

CITY COUNCIL GOALS/PRIORITIES; AND/OR GENERAL PLAN CONSISTENCY:

This agenda item represents the City Council goals/priorities as follows:

Goal 4: HIGH PERFORMANCE ORGANIZATION



City of Sebastopol

- *Restoring public trust*
- *Improve Public Communications*

COMMUNITY OUTREACH:

This item has been noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to schedule meeting date. The City has also used social media to promote and advertise the City Council Meeting Agenda Items.

As of the writing of this agenda item report, the City has not received public comment. If staff receives public comments following the publication and distribution of this agenda item report, such comments will be provided to the City Council as supplemental materials before or at the meeting and will be posted to the city website.

FISCAL IMPACT:

There are no direct fiscal costs associated with adoption of the proposed ordinance. However, enforcement of the ordinance will require staff time. The amount of staff time is unknown at this time. The City will be able to recover some of the costs of staff time through fines and other methods established by the ordinance, but is unlikely to recover most of such costs.

RESTATED RECOMMENDATION:

Introduce and waive first reading of an Ordinance to add Chapter 8.90, Community Preservation and Blight Reduction, and substantially amend Chapter 1.04, Code Enforcement and General Penalty, to the Sebastopol Municipal Code.

OPTIONS:

1. Introduce ordinance
2. Do not introduce ordinance
3. Provide alternative direction to staff

ATTACHMENTS:

1. Ordinance
2. Ordinance Exhibit A – Chapter 8.90
3. Ordinance Exhibit B – Chapter 1.04

ORDINANCE NUMBER

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL ADDING CHAPTER 8.90,
 COMMUNITY PRESERVATION AND BLIGHT REDUCTION, AND SUBSTANTIALLY AMENDING CHAPTER 1.04,
 CODE ENFORCEMENT & GENERAL PENALTY, TO THE SEBASTOPOL MUNICIPAL CODE

WHEREAS, properties that are in a condition of significant deterioration or disrepair or otherwise violate municipal code requirements are a blight and can cause general deterioration in surrounding neighborhoods; and

WHEREAS, properties that are in a condition of significant deterioration or disrepair or otherwise violate municipal code requirements can substantially endanger the health and safety of residents of the blighted properties and of the surrounding neighborhoods.

WHEREAS, properties that are in a condition of significant deterioration or disrepair or otherwise violate municipal code requirements can pose serious threats to the public's health and safety and therefore are declared to be public nuisances.

WHEREAS, the City Council desires to establish rules governing the conditions that constitute blight and a public nuisance; and

WHEREAS, the City Council desires to establish procedures for abating blight conditions in the City and imposing penalties on responsible parties who do not correct violations of the City's standards; and

WHEREAS, the California Constitution, Article XI, Section 7, provides cities with authority to enact ordinances to protect the health, safety, welfare and morals of their citizens, and the proposed ordinance is a permissible exercise of this authority.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEBASTOPOL DOES ORDAIN AS FOLLOWS:

1. Recitals. The above Recitals are true and correct and are made a part of this Ordinance.
2. Municipal Code Amendment – Community Preservation Standards. Chapter 8.90, Community Preservation and Blight Reduction, is hereby added to the Sebastopol Municipal Code to read as shown in Exhibit A, attached hereto and incorporated herein.
3. Municipal Code Amendment – Enforcement Procedures. Chapter 1.04, Code Enforcement and General Penalty, of the Sebastopol Municipal Code is hereby amended in its entirety to read as shown in Exhibit B, attached hereto and incorporated herein.
4. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed the Ordinance, and each and every section, subsection, sentence, clause, phrase or portion not declared invalid or unconstitutional without regard to whether any portion of this Ordinance would be subsequently declared invalid or unconstitutional.
5. CEQA. The Sebastopol City Council finds that this Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the CEQA

Guidelines. It can be seen with certainty that the ordinance has no potential for causing a significant effect on the environment.

6. Effective Date and Publication. This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its adoption. Before the expiration of fifteen (15) days after said passage, this ordinance or a summary therefore as provided in California Government Code Section 36933, shall be published at least once in a newspaper of general circulation published and circulated in the City of Sebastopol, along with the names of the Council Members voting for or against its passage.

APPROVED FOR FIRST READING AND INTRODUCTION OF ORDINANCE at the Regular City Council Meeting of January 20, 2026.

VOTE:

Ayes:

Noes:

Absent:

Abstain:

APPROVED:

Mayor Jill McLewis

ATTEST: _____

Mary Gourley, Interim City Manager/City Clerk, MMC

APPROVED AS TO FORM: _____

Alex Mog, City Attorney

CHAPTER 8.90

COMMUNITY PRESERVATION AND BLIGHT REDUCTION

- 8.90.010 Title**
- 8.90.020 Purpose**
- 8.90.030 Public Nuisance**
- 8.90.040 Prohibition on Property Blight**
- 8.90.050 Definitions**
- 8.90.060 General Conditions**
- 8.90.070 Unlawful Property Blight**
- 8.90.080 Enforcement**

8.90.010 TITLE.

This Chapter shall be referred to as the Community Preservation and Blight Reduction Ordinance.

8.90.020 PURPOSE.

The purpose of this Chapter is to promote the health, safety, and general welfare of the citizens by requiring a level of maintenance of private property to protect the livability, appearance, and social and economic stability of the City and to protect the public from the health and safety hazards and the impairments of property values that result from the neglect and deterioration of property.

8.90.030 PUBLIC NUISANCE.

Any property upon which there exists property blight as set forth in the provisions of this Chapter is hereby declared and determined to be a public nuisance.

8.90.040 PROHIBITION OF PROPERTY BLIGHT.

- A. No person, whether as owner, agent, manager, operator, lessee, tenant, sublessee, or occupant in possession of a property, shall maintain a blighted property or cause or permit property to be maintained as a blighted property.
- B. No person, whether as owner, agent, manager, operator, lessee, sublessee, tenant, or occupant of a property, shall take any action or allow any action to be taken at that property in violation of any provision of this Chapter or any order issued pursuant to the provisions of this Chapter.

8.90.050 DEFINITIONS.

- A. Boat. "Boat" means a boat of any kind, whether self-propelled or propelled by any other means, including sailing vessels and all other structures adapted to be navigated on water from place to place for recreational purposes or for the transportation of merchandise or persons.

- B. Camper shell. "Camper Shell" means a vehicle accessory designed to be mounted upon a motor vehicle and to provide facilities for human habitation, camping purposes, or storage.
- C. Household item. "Household Item" means any item, including any part of the item, typically used in the interior of a dwelling. By way of example and not limitation, the term "household item" includes washing machines, sinks, stoves, heaters, boilers, tanks, mattresses, sofas, couches or futons, upholstered chairs, and indoor carpets. The term "household item" excludes furniture expressly designed for outdoor use and refrigerators.
- D. Motor vehicle. "Motor Vehicle" means a passenger vehicle, truck, recreational vehicle, motorcycle, motor scooter, golf cart, or other similar self-propelled vehicle. "Motor vehicle" does not mean a motorized wheelchair, bicycle, tricycle, or quadricycle.
- E. Owner. "Owner" or "property owner." The owner of the property, their agent, and/or any lessee, occupant, or other person having charge or control over the property.
- F. Polluted water. "Polluted Water" means water that contains any bacterial growth, including algae, remains of rubbish, fecal matter, untreated sewage, refuse, debris, papers, or any other foreign matter or material that, because of its nature or location, constitutes an unhealthy or unsafe condition.
- G. Recreational vehicle. "Recreational Vehicle" means a motor vehicle designed and equipped for human habitation.
- H. Storage structure. "Storage structure" means a prefabricated enclosure that is not required to have a building permit and is not permanently affixed to the ground, but which is not on wheels or mobile.

8.90.060 GENERAL CONDITIONS.

The presence of any one or more of the following conditions on property constitutes property blight:

- A. Any condition that is detrimental to the public health, safety, or general welfare or that constitutes a public nuisance as defined in California Civil Code Sections 3479-3480, as amended from time to time.
- B. Any condition of deterioration or disrepair that creates a substantial adverse impact on neighboring properties.
- C. Any violation of the Sebastopol Municipal Code, including the Sebastopol Building Codes, that is visible from the public way and creates a substantial adverse impact on neighboring properties.

8.90.070 UNLAWFUL PROPERTY BLIGHT.

Blight, as defined in Section 8.90.070 above, includes, but is not limited to, the following enumerated conditions:

- A. **Unsecured building or structure.** Any building or structure that is unsecured constitutes property blight. A building or structure is unsecured when either of the following conditions exists:
 - 1. The building or structure is inhabited, occupied, or used without the consent of the owner or the agent of the owner; or
 - 2. Unauthorized persons can readily gain entry to the building or structure without the consent of the owner or the agent of the owner.
- B. **Abandoned construction.** A partially constructed, reconstructed, or demolished building or structure upon which work has been abandoned constitutes property blight. Work is deemed abandoned when there is no valid current building or demolition permit for the work or when there has not been any substantial work on the building or structure for a period of six months or more.
- C. **Attractive nuisance.** Any property that is unsecured and constitutes an attraction to children or a harbor for vagrants, criminals, or other unauthorized persons, or is in a condition such that persons can resort thereto for the purpose of committing a nuisance or unlawful act.
- D. **State of disrepair.** Any building or structure that is in a state of disrepair constitutes property blight. A building or structure is in a state of disrepair when any of the following conditions exist:
 - 1. Exterior walls or roof coverings have become deteriorated, do not provide adequate weather protection, or show evidence of the presence of termite infestation or dry rot; or
 - 2. Broken or missing windows or doors that create a hazardous condition or a potential attraction to trespassers; or
 - 3. Building exteriors, walls, fences, retaining walls, driveways, or walkways that are broken or deteriorated to the extent that the disrepair is visible from a street or neighboring properties.
- E. **Exterior property conditions.** The existence of any one or more of the following exterior property conditions constitutes property blight:
 - 1. The property contains overgrown, diseased, dead, or decayed trees, weeds, or other vegetation that constitute an unsightly appearance, fire hazard, or other conditions that are dangerous to the public health, safety, and welfare.
 - 2. Overgrown vegetation that is likely to harbor rats, vermin, and other nuisances, causing detriment to neighboring properties or property values, growing into the public right-of-way, or obstructing the necessary view of drivers on streets or private driveways.
 - 3. The accumulation of abandoned, discarded, or dilapidated objects or household items, including, but not limited to, junk; abandoned, wrecked, dismantled or inoperative vehicles; vehicle parts and equipment; machine

parts, scrap material, appliances, furniture, household equipment and furnishings, shopping carts, containers, packing materials, scrap metal, wood, plant cuttings, rubbish and debris or similar matter which constitutes a threat to the health or safety of any person or renders any premises unsightly and detrimental to the general public welfare.

This section does not prohibit the storage or maintenance of any of the following:

- i. Machinery installed in accordance with the provisions of this Code in the rear or side yard setback areas for household or recreational use; or
- ii. Furniture designed and used for outdoor activities; or
- iii. Any item stored or kept within an enclosed storage structure.

4. The storage of dirt, sand, gravel, concrete, litter, debris, or other similar material on the property which is visible from the street.

5. Packing boxes, pallets, lumber, junk, trash, salvage materials, or other debris kept on the property for more than 72-hours.

F. Inadequate solid waste management. The accumulation of solid waste constitutes property blight in the following situations:

- 1. The accumulation of litter, debris, trimmings, or trash on any property, including sidewalks, gutters, driveways, parking lots, or the public right-of-way, which is generated on, or as a consequence of the use or maintenance of the property, is visible from a street or neighboring property, and is present for more than seventy-two consecutive hours.
- 2. The accumulation of solid waste is being stored or disposed of in a manner that would allow the material to be transported by wind or otherwise onto or upon any street, or neighboring property, unless the method of storage or disposal is specifically allowed by this Code.
- 3. Trash containers without secure, firmly fitting covers or evidence of an overflow of trash and/or other debris.

G. Hazardous conditions. Any property upon which there exists a hazardous condition constitutes property blight. A property is considered to have a hazardous condition prohibited by this Chapter if any one or more of the following conditions exists on the property:

- 1. Land having a topography, geology, or configuration that, as a result of grading operations or improvements to the land, causes erosion, subsidence, unstable soil conditions, or surface or subsurface drainage problems that pose a threat of injury or are injurious to any neighboring property; or
- 2. Any condition or object, including, without limitation, landscaping, motor vehicles, fencing, or signs, that obscures the visibility of traffic, pedestrians, or street intersections in a manner that constitutes a hazard; or

3. Items are present that are inadequately secured or protected and, due to their accessibility to the public, may prove hazardous, including, without limitation:
 - i. Unused or broken equipment or machinery;
 - ii. Abandoned wells, shafts, or basements;
 - iii. Unprotected pools, ponds, or excavations;
 - iv. Structurally unsound fences or structures;
 - v. Lumber, or accumulations of lumber or other construction materials; or
 - vi. Chemicals, motor oil, or other hazardous materials; or
 - vii. Any swimming pool, pond, or other body of water that is abandoned, unattended, unfiltered, or not otherwise maintained, so that the water has become or is becoming polluted water.

H. Parking, storing, or maintaining certain items on property designed or used as a residence prohibited. The parking, storing, or maintaining of any one or more of the following items on property designed or used as a residence constitutes property blight:

1. Any construction or commercial equipment, machinery, vehicle having a manufacturer's gross vehicle weight rating of ten thousand pounds or more, or construction materials, except that the construction equipment, machinery, vehicle or materials may be temporarily kept within or upon the property for and during the time that the equipment, machinery, vehicle, or materials are required in connection with the delivery, pick-up, construction, installation, repair, or alteration of improvements or facilities on the property, unless the activity is otherwise prohibited by this Code, by any permit issued pursuant to this Code, or by other applicable law; or
2. Any unmounted camper shell, in an area visible from any street; or
3. Any refrigerator in an area visible from any street or in an area accessible to the public, except when the refrigerator is set out for bulky goods collection.

I. Parking, storing, or maintaining motor vehicles and boats. No motor vehicle or boat that has been wrecked, dismantled, or disassembled, or any part thereof, or any motor vehicle that is disabled or may not be operated because of the need for repairs or for any other reason, shall be parked, stored, or maintained in an area visible from any street for a period of time in excess of seventy-two consecutive hours.

1. Any parking, storage, or maintenance of either a motor vehicle or a boat in a side or rear yard shall either be:
 - i. In an accessory building constructed in accordance with the provisions of this Code; or
 - ii. In an area that provides for a five-foot setback from any property line and is not visible from any street. In addition to the setback requirement, at

least one thousand five hundred square feet or sixty percent of the remaining rear yard area, whichever is less, must be maintained as usable outdoor recreational space.

J. **Miscellaneous.** Any other condition or use of property which gives rise to a reasonable determination that said condition or use represents some threat to the health and welfare of the public by virtue of its unsafe, dangerous or hazardous nature, or which is so out of harmony with the standards of properties in the vicinity so as to cause substantial diminution of the enjoyment, use, or property values of such properties.

8.90.080 ENFORCEMENT.

- A. The City Manager is authorized to administer and enforce the provisions of this Chapter. All enforcement officers to whom the city manager has delegated enforcement responsibilities are authorized to inspect property and to take any other enforcement actions as may be required or appropriate to administer or enforce the provisions of this Chapter.
- B. Whenever the City Manager determines that a property is blighted property, the City Manager may require or take any necessary abatement or other enforcement actions as authorized by this Code.
- C. Nothing in this Chapter shall be construed to limit any right or remedy otherwise available in law or equity to any party harmed by a blighted property, including but not limited to the City Attorney's independent authority to pursue a civil action against a property owner. Nor shall this Chapter in any way limit the City's right to enforcement under any other provision of the Municipal Code or state law or create a duty or obligation on the part of the City to enforce this Chapter.

EXHIBIT B

CHAPTER 1.04 CODE ENFORCEMENT & GENERAL PENALTY

- ARTICLE 1 CODE ENFORCEMENT GENERALLY**
- ARTICLE 2 CRIMINAL ENFORCEMENT**
- ARTICLE 3 CIVIL ACTIONS**
- ARTICLE 4 ADMINISTRATIVE ENFORCEMENT**
- ARTICLE 5 SUMMARY ABATEMENT**
- ARTICLE 6 RECOVERY OF COSTS**

ARTICLE 1 CODE ENFORCEMENT GENERALLY

1.040.100 PURPOSE AND AUTHORITY

The City Council establishes the procedures set forth this Chapter for declaring and addressing nuisance conditions and other violations of this Code. The purpose of this Chapter is to provide criminal, civil, and administrative remedies, which shall be in addition to all other legal remedies that may be pursued by the City, to prevent, discourage, abate, or otherwise address any nuisance condition or violation of this code, as that term is defined below.

1.040.110 DEFINITIONS

“Affected property” shall mean the lands, or portions thereof, within the City, and/or improvements on such lands, on, in, or concerning which a violation has occurred.

“City” shall mean the City of Sebastopol

“City Manager” shall mean the City Manager of the City of Sebastopol or their designee.

“Code” shall mean the Sebastopol Municipal Code, all incorporated Uniform Codes, and any applicable state laws and regulations.

“Day” shall mean calendar days.

“Enforcement Officer” means the City Manager or any person who is authorized or directed by the City Manager to enforce any provision of this Code. In addition to any other powers conferred upon him or her by this Code or by other State, County or Federal law, any such designated Enforcement Officer shall have the authority to issue a notice to appear, as described in Penal Code Section 948, or issue a notice of violation or administrative penalty, as described in this Chapter, if such Enforcement Officer has cause to believe that a violation of this Code was, or is being, committed.

“Hearing Officer” shall mean the a person appointed by the City Manager to conduct a hearing authorized by this Chapter.

“Owner” shall mean the owner or owners of record of the affected property.

“Penalty” shall mean an administrative penalty imposed by an Enforcement Officer, pursuant to this Chapter.

“Responsible party” shall mean any natural persons, firm, association, club, organization, corporation,

partnership, business trust, trustee, or entity, and the parents or legal guardian of any person under 18 years of age, whose acts or omissions have caused or contributed to a violation of this Code, and shall include any owners, tenants, or holders of other estates or rights in, the affected property.

1.04.120 VIOLATION A PUBLIC NUISANCE, ALTERNATIVE REMEDIES PROVIDED

A violation of this Code is hereby declared to be a public nuisance. In addition to the remedies for nuisance abatement provided in this Chapter, the City expressly reserves the right to utilize other enforcement remedies found within specific chapters of the Code, remedies available under any applicable state or federal statute or pursuant to any other lawful power the City may possess.

All such remedies shall be alternative to or in conjunction with, and not exclusive of, one another. The election of remedies provided by this Chapter shall be at the sole discretion of the City and its officials. The City Manager may direct that any required hearing be conducted before a Hearing Officer. An Enforcement Officer, or a Hearing Officer designated by the City Manager, may order the abatement of any public nuisance, as defined in this Code or in any state or federal statute, following notice and an opportunity for a hearing. However, no notice or hearing is required to abate a nuisance pursuant to the summary abatement authority set forth below.

1.04.130 VIOLATION OF LICENSE, PERMIT, AGREEMENT, OR APPROVAL

It shall be a violation of this Code to violate any term or condition of any license, permit, agreement, or approval granted or issued pursuant by the City. Any person, whether as principal, agent, employee or otherwise, violating or contributing to the violation of any such term or condition shall be subject to the sanctions provided in this Chapter or any other law.

1.04.140 CAUSING A VIOLATION

Causing, permitting, aiding, abetting, contributing to, or concealing a violation of any provision of this Code shall constitute a violation of such provision.

1.04.150 SINGLE, SEPARATE AND CONTINUING VIOLATIONS

A single offense shall be deemed committed if a single violation of this Code occurs at any unlicensed, unpermitted, unauthorized, or unapproved property. A single violation may include issuance of a written order prohibiting future violations of this Code, establishing fines for subsequent violations, and authorizing the City, or an agent or contractor of the City, to enter onto the affected property and abate the condition that is the subject of said enforcement action, and allowing recovery by the City of the costs of enforcement actions.

A separate offense shall be deemed committed each day a violation of this Code occurs or continues. Any condition of real property that constitutes a violation of this Code, where the same, substantially similar, or related violations have been the subject of two or more enforcement actions within any 12 month period, is deemed to be a continuing violation.

For the purposes of this section, "enforcement action" shall mean any notice of violation, including a warning or courtesy notice, hearing, citation, complaint or petition, or any administrative or judicial order under authority of this Chapter or pursuant to any other legal authority. Any subsequent enforcement action with respect to such continuing violation may include issuance of a written order prohibiting future violations of this Code, establishing fines for subsequent violations, and authorizing the City, or an agent or contractor of the City, to enter onto the affected property and abate the condition that is

the subject of said enforcement action, and allowing recovery by the City of the costs of future enforcement actions.

1.04.160. AUTHORITY TO INSPECT

An Enforcement Officer may exercise all lawful authority to enter upon any real property or premises to ascertain whether the provisions of this Code are being obeyed and to make any examinations and surveys as may be necessary in the performance of his or her code enforcement duties. Inspections may include and/or involve the taking of photographs, samples, or other physical evidence and conferring with persons present. An Enforcement Officer shall obtain all required approvals and/or warrants before conducting any inspections.

1.04.170 SUPPLEMENTARY ENFORCEMENT AUTHORITY

Nothing in this Chapter shall prevent the City from initiating any other legal or equitable proceeding to obtain compliance or to discourage noncompliance with the provisions of this Code. The enforcement procedures described in this Chapter are intended to be alternative methods of obtaining compliance and/or discouraging noncompliance with the provisions of this Code and are expressly intended to be in addition to any other remedies provided by law or this Code. It is the intent of the City Council that the immunities prescribed in Penal Code Section 836.5 shall be applicable to the Enforcement Officer, and any other public officers or employees, acting in the course and scope of employment pursuant to this Chapter.

ARTICLE 2 CRIMINAL ENFORCEMENT

1.04.200 CRIMINAL ENFORCEMENT OF CODE VIOLATIONS

- A. A violation of this Code may be prosecuted as a criminal offense. Unless expressly described as an infraction, a violation of any provision of this Code, or failing to comply with any mandatory requirement hereof, shall constitute a misdemeanor. Notwithstanding the preceding sentence or any other section of this Code, a violation of this Code may, in the discretion of the enforcing authority, be charged and prosecuted as an infraction.
- B. Any person convicted of a misdemeanor under the provisions of this Code, unless provision is otherwise herein made, shall be punished by a fine of not more than one thousand dollars or by imprisonment in the County Jail for a period of not more than six months or by both fine and imprisonment.
- C. Any person convicted of an infraction under this Code shall be punished by a fine of not more than One hundred dollars for a first violation, or a fine of not more than Two hundred dollars for a second violation of the same Code section within one year. A third (or more) violation of the same code section by the same person within a 12 month period may be charged and prosecuted as a misdemeanor.

1.04.210 CRIMINAL CITATION PROCEDURE

- A. If an Enforcement Officer elects to charge the violation as a misdemeanor or infraction, such Officer shall prepare in duplicate a written notice to appear, pursuant to Penal Code Section 948, containing the name and address of such person, the offense(s) charged, and the time and place where and when

such person shall appear in court. The arresting Enforcement Officer shall deliver one copy of the notice to appear to the violator and the violator, in order to secure release, must give his or her written promise to so appear in court by signing the duplicate notice which shall be retained by the Officer. The time specified in the notice to appear must be at least 30 days after the date of the arrest.

- B. In any matter where the City Attorney is charged with prosecuting the violation, the arresting Enforcement Officer shall, as soon as practicable, send a duplicate notice to appear to the City Attorney, who will process the citation with the Superior Court of Sonoma County (hereinafter, "the court"). In all other cases, the matter shall be referred directly to the District Attorney's office for prosecution.

ARTICLE 3 CIVIL ACTIONS

1.04.300 CIVIL ACTION — COLLECTION OF COSTS BY THE CITY

The provisions of this Code may be enforced by a civil court action, prosecuted by the City Attorney in the name of the City.

- A. Whenever the City Attorney is authorized or directed to commence or sustain any civil action or proceeding, either at law or in equity, to enforce any provision of this Code, or any rule, regulation or order promulgated or issued pursuant to this Code, or any condition of an approval, permit or license granted pursuant to this Code, or to enforce any provision of any contract or agreement, or to enjoin or restrain any violation thereof, or to otherwise abate a public nuisance or collect any sums of money on behalf of the City, then the City shall be entitled to collect all costs and expenses of the same, including, without limitation, reasonable attorney's fees and the reasonable investigation costs, which shall be set by the court and made a part of and judgment in any such action or proceeding.
- B. Upon entry of a second or subsequent civil judgment against the same property owner within a two year period for a condition of real property constituting a public nuisance under this Chapter, the court issuing judgment may order the owner to pay treble the cost of the abatement.
- C. Any costs awarded to the City under this section may be enforced and collected upon in the manner described in this Chapter.

ARTICLE 4 ADMINISTRATIVE ENFORCEMENT

1.04.400 ADMINISTRATIVE ENFORCEMENT OF CODE VIOLATIONS

Any Enforcement Officer shall have the authority to gain compliance with all provisions of this Code. These powers include the power to issue a notice of violation and administrative penalties, the power to inspect public and private property, and to seek and employ whatever remedies are available under this Code.

1.04.410 NOTICE OF VIOLATION

- A. Subject to subsection (e) of this section, whenever an Enforcement Officer finds that a provision of this Code has been violated, including but not limited to a failure to comply with a condition imposed by any agreement, entitlement, permit, license or environmental document issued or approved by or on behalf of the City or failure to comply with any County, State or Federal laws the violation of which constitutes a public nuisance, and he or she may issue the responsible party a written notice of the violation providing that the City will abate the violation and providing the responsible party with an

opportunity to appeal the notice of violation and show cause at a hearing as to why such condition should not be abated by the City at the responsible party's expense ("notice of violation"). Failure to appeal pursuant to this Chapter constitutes a waiver of the right to appeal the notice of violation and a failure to exhaust administrative remedies. Such notice of violation shall be served on the responsible party in the manner described in subsection (b) of this section. The Enforcement Officer shall include in the notice of violation the following information:

1. The date and location of the violation, including the address or other definite description of the location where the violation occurred, or is occurring.
2. The sections of the Code being violated and a description of each such violation.
3. Actions required to correct or abate the violation, and the period of time during which such required actions shall be commenced and completed.
4. A statement that the failure to correct and abate the violation, will result in the Enforcement Officer ordering the violation or violations abated, and ordering that the responsible party bear the costs of such abatement including all administrative costs incurred by the City.
5. An order prohibiting the continuation or repeated occurrence of a violation of this Code described in the notice of violation.
6. A statement that the responsible party may appeal the notice of violation by filing with the City Clerk, on the form provided for that purpose, a request for hearing within 15 calendar days of the date the notice of violation is served, along with any applicable fee established by the City Council. If the responsible party prevails in the appeal, such fee shall be refunded. Failure to appeal the notice of violation, or failure to appear for an appeal hearing, constitutes a waiver of the right to appeal the notice of violation. Failure to appeal also waives the right to seek further administrative remedies.
7. The signature of the citing Enforcement Officer.

B. Service of notice of violation shall be made upon the responsible party or the owner, personally or by First Class U.S. mail, with certificate of mailing, and if by such mail to the owner it shall be sent to the last known address listed on the most recent tax assessor's records. In the case of personal service, service shall be deemed complete at the time of such delivery. In the case of service by First Class U.S. mail, service shall be deemed complete at the time of deposit into the United States mail. Where service is by First Class U.S. mail upon the owner, a copy of the notice of violation shall be conspicuously posted at the affected property. The failure of any person to receive a notice of violation that was sent via First Class U.S. mail shall not affect the validity of any enforcement proceedings under this Chapter.

C. Proof of service of the notice of violation shall be certified by a written declaration under penalty of perjury executed by the person effecting service, declaring the date, time, and manner that service was made, and the date and place of posting, if applicable. The declaration, along with the certificate of mailing, shall be affixed to a copy of the notice of violation and retained by the Enforcement Officer.

D. The time allowed for abatement of a violation shall be a "reasonable time" in the judgment of the Enforcement Officer, based upon the circumstances of the particular violation, taking into consideration the means required to abate the violation, the period of time that the nuisance has existed, and the potential threat to public health and safety created by the violation. If the violation pertains to building, electrical, or other similar structural or zoning issues where the violation does not create an immediate threat to health or safety, the responsible party shall be provided not less than 10 calendar days in which to correct, abate, or otherwise remedy the violation.

E. The failure of a notice of violation to satisfy all of the requirements of this provision shall not affect the

validity of any other enforcement proceedings under this Code.

1.04.420 ISSUANCE OF ADMINISTRATIVE PENALTIES

- A. Whenever an Enforcement Officer finds that a provision of this Code has been violated, including, but not limited to, a failure to comply with a condition imposed by any agreement, entitlement, permit, license or environmental document issued or approved by or on behalf of the City or failure to comply with any County, State or Federal laws the violation of which constitutes a public nuisance, such Enforcement Officer is authorized to issue administrative penalties. Administrative penalties may be issued for the enforcement of any section or provision of this Code, and may be issued regardless of whether a notice of violation has previously been issued. Such penalties may be issued to the responsible party.
- B. Administrative penalties shall be issued on forms approved by the City Attorney. Each penalty shall indicate, at a minimum, the following information:
 - 1. The name of the person or entity to whom the penalty is issued.
 - 2. The address or location where the violation is observed.
 - 3. The section of this Code that is being violated.
 - 4. The date by which an appeal of the penalty must be sought before the penalty becomes final.
 - 5. The procedure for seeking an appeal of the penalty.
 - 6. The amount of the administrative penalty to be imposed for each violation in accordance with California Government Code Section 36900.
 - 7. The manner of payment of the administrative penalty.
 - 8. If the violation pertains to building, electrical, or other similar structural or zoning issues where the violation does not create an immediate threat to health or safety, the responsible party shall be provided not less than 10 calendar days in which to correct, abate, or otherwise remedy the violation before a penalty is imposed.
- C. Service of the penalty shall be made upon the responsible party or the owner, personally or by First Class U.S. mail, with certificate of mailing, and if by such mail to the owner it shall be sent to the last known address listed on the most recent tax assessor's records. In the case of personal service, service shall be deemed complete at the time of such delivery. In the case of service by First Class U.S. mail, service shall be deemed complete at the time of deposit into the United States mail. Where service is by First Class U.S. mail upon the owner, a copy of the penalty shall be conspicuously posted at the affected property. The failure of any person to receive a copy of the penalty that was sent via First Class U.S. mail shall not affect the validity of any enforcement proceedings under this Chapter.
- D. The payment of a penalty by or on behalf of any responsible party shall not relieve such party from the responsibility of correcting, removing or abating the violation, nor prevent further proceedings under this Chapter or any other lawful authority to achieve the enforced correction, removal or abatement of the violation.
- 8. A responsible party may appeal the imposition of any penalty or the amount of such penalty by filing with the City Clerk, on the form provided for that purpose, a request for hearing within 15 calendar days of the date the notice of violation is served, along with any applicable fee established by the City Council. If the responsible party prevails in the appeal, such fee shall be refunded. Failure to appeal the notice of violation, or failure to appear for an appeal hearing, constitutes a waiver of the right to appeal the notice of violation. Failure to appeal also waives the right to seek further administrative remedies.

E. Each and every day during any portion of which any violation is committed, continued, or permitted shall be deemed a separate and distinct violation. A penalty may continue to accrue on a daily basis until the violation is corrected.

1.04.430 PAYMENT AND COLLECTION OF ADMINISTRATIVE PENALTY

- A. If a penalty is imposed the responsible party against whom a penalty is imposed shall pay any such penalty within 30 days of the imposition thereof, unless such penalty is timely appealed. Any penalty imposed shall be payable to the City, or to a collection agency if the penalty has been assigned to a collection agency pursuant to subsection (c) of this section.
- B. If the amount of any penalty imposed for a violation relating to real property has not been satisfied in full within 60 days of the date due and has not been successfully challenged in court, the penalty amount may become a special assessment and lien against the affected property, as provided in this Chapter. If the City elects to make the amount of any penalty a special assessment or lien against the affected property, a statement of the amount due, and any additional costs or expenses that might be recoverable as part of the enforcement action, shall be prepared and submitted to the City Council for confirmation in accordance with the procedures described in this Chapter.
- C. Notwithstanding subsection (b) of this section, the amount of any unpaid penalty may be collected by commencement of a civil action to collect such penalty, or in any other manner provided by law for the collection of debts, including assignment of the debt to a collection agency. Subject to the requirements of this Chapter and other applicable law, amounts assigned for collection are subject to collection agency rules, regulations and policies. The City shall be entitled to recover any and all costs associated with collection of any such penalty.
- D. The payment of a penalty by or on behalf of any responsible party shall not relieve such party from the responsibility of correcting, removing or abating the violation, nor prevent further proceedings under this Chapter or any other lawful authority to achieve the enforced correction, removal or abatement of the violation.

1.04.440 HEARINGS

- A. Any person appealing a notice of violation or penalty must obtain a "request for hearing" form from the City Clerk's Office and return it fully completed within 15 days from the date of service of the notice of violation or penalty. At the time of returning the request for hearing form to the City Clerk's Office, the person or entity requesting the appeals hearing shall pay an appeals processing fee established by the City Council. Failure to submit a completed appeals form or to pay the appeals processing fee constitutes a waiver of the right to appeal the notice of violation or penalty and a failure to exhaust administrative remedies. Imposition of a penalty shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.
- B. The hearing on appeal shall be set for a date not less than 15 days nor more than 60 days from the date the request for hearing form is filed, unless the responsible party and enforcement officer otherwise agree.
- C. A hearing under authority of this section shall be conducted according to the procedures set forth in this subsection. The failure of any interested party to appear at the hearing shall constitute a waiver of the right to such hearing and a failure by such party to exhaust their administrative remedies.
- D. When a request for hearing is filed, the City Clerk shall set the time and place for hearing pursuant to

this section, and shall serve a notice of hearing by regular mail to the appellant at the address provided in the request for hearing form. The time for such hearing shall be no sooner than 10 days from the date of said notice of hearing.

- E. At the place and time set forth in the notice of hearing, the Hearing Officer shall conduct a hearing on the issues subject to the appeal, the alleged violations and/or the imposition and amount of any penalty. The formal rules of evidence shall not apply to the hearing. The Hearing Officer shall provide for any interested person or persons to appear and object to the determination that is the subject of the appeal, including, but not limited to, whether a violation has occurred and/or that the violation continues to exist, or any matter pertaining to any penalty. The Hearing Officer may consider any written or oral testimony and evidence regarding the issue presented by the alleged appellant, the owner, any officer, employee, or agent of the City, and any other interested party.
- F. After receiving all of the evidence presented, the public portion of the hearing shall be closed. The Hearing Officer may then deliberate and consider what action, if any, should be taken, or may adjourn the hearing and take the matter under consideration.
- G. Within 30 days following the conclusion of the hearing, the Hearing Officer shall issue written findings and make a determination regarding the issue on appeal.
- H. The Hearing Officer shall issue written findings and make a determination regarding the existence of the violation and/or the failure of the responsible party to take required corrective action within the specified time period, or the validity of any penalty imposed. If the Hearing Officer finds by a preponderance of the evidence that a violation occurred, or that a violation was not corrected within the time period specified in the notice of violation or with the issuance of the penalty, the Hearing Officer shall issue its decision including any Administrative Order. If the Hearing Officer finds that no violation occurred, that the violation was corrected within the specified time period, or that the appellant is not the responsible party, the Hearing Officer shall issue a decision with written findings of those facts.
- I. The appellant shall be served with a copy of the decision of the Hearing Officer, including an Administrative Order if one is issued, in the manner and method set forth in Section 1.04.410(C) of this Article.

1.04.450 DECISION OF THE HEARING OFFICER AND ADMINISTRATIVE ORDER

- A. The Hearing Officer considering any appeal of the imposition of a penalty pursuant to may confirm, vacate, or increase, any such penalty imposed, and order the payment thereof.
- B. The Hearing Officer considering any appeal of a notice of violation, if it determines that a violation exists, may issue an Administrative Order imposing the remedies provided in this subsection. The remedies for a violation found as a result of such a hearing shall be as follows:
 - 1. Requiring the responsible party to correct or eliminate the violation or nuisance condition, including a proposed schedule for correction or elimination.
 - 2. Authorizing the City to enforce the Administrative Order and abate or cause the abatement of the violation where the responsible party has refused or has otherwise neglected to take appropriate steps to correct or eliminate the violation. The Administrative Order shall specify that if the City undertakes to abate or eliminate the violation it shall be entitled to recovery of all costs and expenses incurred in performing such work, and shall also be entitled to recover its administrative costs. Administrative costs shall include costs incurred by the City in

connection with the proceeding, including attorney's fees, costs of investigation, staffing costs incurred in preparation for the hearing and for the hearing itself, and the cost of any re-inspection and other costs necessary to enforce the Administrative Order. Such costs, if unpaid, may be recovered by the City through a lien on the affected property or through a special assessment as provided in this Chapter.

3. Any other order or remedy that is in the interests of justice.

1.04.460 PAYMENT OF PENALTY

- A. Any penalty imposed by the Hearing Officer shall be paid to the City within 30 days from the date of the decision, unless an extension of time is requested by the violator and granted by the Hearing Officer.
- B. Any appeals processing fee that is paid pursuant this Chapter shall be refunded to the payee if it is determined by the Hearing Officer that the person assessed the penalty was not responsible for the violation or that there was no violation as charged in said notice.
- C. Payment of any penalty that is upheld or otherwise imposed by the Hearing Officer shall not excuse or permit any continuation or repeated occurrence of the violation that is the subject of the penalty.
- D. Any penalty imposed by the Hearing Officer shall accrue from the date specified in the penalty and shall continue to accrue on a daily basis until the violation is corrected. The determination of compliance or elimination of the violation shall be made by the Enforcement Officer, unless such determination was made by the Hearing Officer as a result of the hearing. The Hearing Officer, in its discretion, may suspend the imposition of any penalty for a period of time not to exceed 60 days during which the responsible party applies for permits required to achieve compliance, and such permit applications are actively pending before, or have already been issued by, the City, the State, or other appropriate governmental agency.
- E. Any penalty assessed by the Hearing Officer is a debt owed to the City. In addition to all other means of enforcement and/or collection, any such penalty may be enforced as a personal obligation of the responsible party. If the violation is in connection with real property, such penalty may be enforced by imposition of a lien or special assessment upon the real property. Any lien or special assessment imposed upon the real property shall remain in effect until the penalty is paid in full.

1.04.470 REVIEW OF HEARING OFFICER DECISION

- A. Any person or entity aggrieved by the Hearing Officer's decision issued pursuant to this Chapter may obtain judicial review of said decision pursuant to Government Code Section 53069.4 by filing an appeal to the Superior Court for the County of Sonoma, subject to the time limits prescribed therein.
- B. Except as otherwise provided herein; the provisions of California Code of Civil Procedure Section 1094.6 or successor statute are hereby adopted and any petition for review of an administrative decision of the City of Sebastopol, or of any of its boards, commissions, departments, agencies, or persons authorized to render such a decision shall be filed within the time limits prescribed therein. Notwithstanding such time limits, where a shorter time limitation is provided by any other law, such shorter time limit shall apply.

Written notice of this limitation shall be given to the parties to such proceedings by the decision-maker in substantially the following form:

“The time within which judicial review of this decision must be sought is governed by C.C.P. Section 1094.6. Judicial review must be sought not later than the 90th day following the date on which this decision becomes final, except that where a shorter time is provided by any State or Federal law, such shorter time limit shall apply.”

ARTICLE 5 SUMMARY ABATEMENT

1.04.500 SUMMARY ABATEMENT PROCEDURE

Notwithstanding any other provision of this Code, whenever, in the reasonable judgment of the Enforcement Officer, the existence of any violation of this Code, or any public nuisance, poses an imminent or immediate danger of significant harm to persons or property, or so endangers the public health, welfare or safety, an Enforcement Officer may act immediately and without prior notice or hearing to abate such condition. The expense or cost resulting from such summary abatement shall be enforceable as a personal obligation of the responsible party. The expense or cost of summary abatement may be imposed as a lien or a special assessment on real property, as described in Section 1.04.600.

ARTICLE 6 RECOVERY OF COSTS

1.04.600 COST ACCOUNTS AND IMPOSITION OF LIENS OR SPECIAL ASSESSMENTS

- A. If a judicial order or Administrative Order authorizes the City to abate a public nuisance, the City official responsible for such abatement shall keep an accounting of the cost of abatement along with any other recoverable costs. The accounting shall be submitted to the City Council for inclusion in a report prepared for the City Council. At least 10 days prior to the submission of the report to the City Council, a copy of the report and notice shall be mailed to the responsible party and/or to the owner of the property where the nuisance existed, if the nuisance concerns real property, at the address shown for such owner on the last tax roll.
- B. At the time and place fixed for receiving and considering the report required by subsection (a) of this section, the City Council shall hear any objections by the responsible party or property owner against whom such costs are being charged or against whose property an abatement lien or special assessment may be imposed for such costs. After considering the report and any objections thereto, the City Council may make such modifications to the report as it deems appropriate, after which the report shall be confirmed by resolution or order.
- C. Any penalty imposed for violations of this Code, including any other codes or statutes that have been incorporated into this Code, any administrative costs or other expenses of enforcement, and the cost or expenses associated with the abatement of a public nuisance that are levied in accordance with this Chapter, whether imposed or levied judicially or administratively, may be enforced by the recordation of a lien against the property of the owner of the real property where the nuisance condition existed. Any such lien shall be recorded in the office of the County Recorder for Sonoma County, and from the date of recording shall have the force, effect, and priority of a judgment lien. A lien authorized by this section shall specify the amount of the lien, that the lien is being imposed on behalf of the City of Sebastopol, the date of the abatement order, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the parcel.

- D. Before recordation of a lien authorized by this section, a notice of lien shall be served on the responsible party and/or owner of record of the parcel of land on which the nuisance existed, based on the last equalized assessment roll or the supplemental roll, whichever is more current. The notice of lien shall be served in the same manner as a summons in a civil action. If the owner of record cannot be found, after a diligent search, the notice of lien may be served by posting a copy thereof in a conspicuous place upon the property for a period of 10 days and publication thereof in a newspaper of general circulation published in Sonoma County, California.
- E. Any fee imposed on the City by the County Recorder for costs of processing and recording the lien and the cost of providing notice to the property owner in the manner described herein may be recovered from the property owner in any foreclosure action to enforce the lien after recordation.
- F. As an alternative to the lien procedure described in subsection (c) of this section, any penalty imposed for violations of this Code, including any other codes or statutes that have been incorporated into this Code, any administrative costs or other expenses of enforcement, and the cost or expenses associated with the abatement of a public nuisance that are levied in accordance with this Chapter, whether imposed or levied judicially or administratively, may become a special assessment and lien against the real property where the nuisance condition existed. Any special assessment imposed on real property pursuant to this section may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as is provided for ordinary municipal taxes. Notice of any special assessment that is levied on real property pursuant to this section shall be given to the property owner by certified mail, and shall contain the information set forth in Government Code Section 38773.5(c). All laws applicable to the levy, collection, and enforcement of municipal taxes, including those described in Government Code Section 38773.5(c), shall be applicable to such special assessment.