

TITLE 5 – HEALTH AND SANITATION

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CHAPTER 5-1 ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLES

Section 5-1.01. Authority.

This ordinance is enacted under authority of Vehicle Code section 22660 and following, and any successor authority to those sections.

Section 5-1.02. Definitions.

As used in this chapter:

(a) "Abandoned" means a vehicle or vehicle part that is wrecked, dismantled, or inoperative and is parked, stored or left on public or private property, except as provided in "Exceptions" provisions in this Chapter. "Abandoned" also means a vehicle that is not inoperative and is parked, stored or left on public or private property without the written consent of the property owner.

(b) "Dismantled" means a vehicle that is in violation of California Vehicle Code section 24002.

(c) "Highway" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel.

(d) "Inoperative" means a vehicle that is:

(1) Mechanically incapable of being driven safely on a public street or highway; or

(2) Prohibited from being operated on a public street or highway under the California Vehicle Code, including but not limited to sections 4000, 5202, 24002, 40001, or their successor sections, concerning license plates, registration, equipment, safety and related matters; or

(3) Placed on jacks, ramps, blocks or similar equipment.

(e) "Private property" includes all real estate in which the City does not have an ownership interest.

(f) "Public property" includes all real estate in which the City has an ownership interest.

(g) "Street" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel.

(h) "Vehicle" means a device by which any person or property may be propelled, moved or drawn upon a street, except a device moved by human power or used exclusively upon stationary rails or tracks.

(i) "Wrecked" means destroyed or partially destroyed whether by collision or other means. (Prior Code § 16A-1 (part); Ord. 2003-19, eff. 11/7/03; Ord. 2005-01, eff. 3/3/05)

Section 5-1.03. Declared nuisance.

The City Council finds that the accumulation and storage of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof on public or private property in public view, is found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled or inoperative vehicle or parts thereof, on private or public property in public view, except as expressly permitted in this chapter, constitutes a public nuisance which may be abated as such in accordance with the provisions of this chapter. (Ord. 90-1 § 1 (part), eff. 3/8/90; prior Code § 16A-1 (part); Ord. 2003-19, eff. 11/7/03)

Section 5-1.04. Exceptions.

(a) This chapter shall not apply to:

(1) A vehicle or part thereof which is completely enclosed within a building or behind a solid fence not less than six feet high in a lawful manner where it is not visible from the street or other public or private property;

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

(b) Nothing in this section shall authorize the maintenance of a public or private nuisance as defined under provisions of law other than this chapter. (Prior Code § 16A-2; Ord. 2003-19, eff. 11/7/03)

Section 5-1.05. Provisions not exclusive.

This chapter is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the City. It shall supplement and be in addition to the other regulatory codes, statutes and ordinances enacted before or after the ordinance from which this chapter derives by the City, the State or any other legal entity or agency having jurisdiction. (Prior Code § 16A-3)

Section 5-1.06. Enforcement.

This chapter shall be administered and enforced by regularly salaried, full-time employees of the police department and code compliance division. In the enforcement of this chapter, City employees may enter upon private or public property to examine a vehicle or parts thereof, or obtain information as to the identity of a vehicle and to remove or cause the removal of a vehicle or part thereof declared to be a nuisance pursuant to this chapter. (Prior Code § 16A-4; Ord. 2003-19, eff. 11/7/03)

Section 5-1.07. Contract for Removal.

The City or its designated officials may enter into a contract or grant a franchise for the removal and hauling of abandoned, wrecked, dismantled or inoperative vehicles. The contractor or franchisee shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle or vehicle parts declared to be a nuisance under this chapter. (Prior Code § 16A-5; Ord. 2003-19, eff. 11/7/03)

Section 5-1.08. Notice of Intention to Abate and Remove.

When a person authorized to enforce this chapter determines that a vehicle or part thereof is a public nuisance, a ten (10) day notice of intention to abate and remove shall be issued as follows:

- (a) The notice shall be mailed by registered or certified mail;
- (b) The notice shall be mailed to the owner of the land as shown on the last equalized assessment roll and to the vehicle's last registered and legal owners of record, unless the vehicle is in such condition that identification numbers are not available to determine ownership;
- (c) The notice shall identify the vehicle or part determined to be a nuisance and explain that the City or its representatives will enter the land during normal business hours, remove, store and dispose of the item at the addressee's expense unless a timely request for hearing is received;
- (d) The notice shall state that the addressee may, in writing and within ten (10) days after mailing of the notice, request a hearing before a City official designed by the City Council. The notice shall contain the name and address of the person to whom a hearing request must be made. The notice shall inform the landowner that s/he may appear at the hearing or may submit a sworn, written statement denying responsibility for the presence of the vehicle on the land, with his or her reasons for such denial, in lieu of appearing.

This section does not apply if the landowner and vehicle owner have signed releases authorizing removal and waiving further interest in the vehicle or vehicle part. The landowner or vehicle owner may request a public hearing under Section 5-1.10 at the time of signing such a release. (Prior Code § 16A-7; Ord. 2003-19, eff. 11/7/03)

Section 5-1.09. Low-Valued Vehicles on Unimproved Property.

- (a) Section 5-1.08 does not apply when an inoperable vehicle or part is located on a parcel zoned for agricultural use or not improved with a residential structure containing one or more dwelling units, and
 - (1) The vehicle or part is inoperative due to absence of a motor, transmission, or wheels and incapable of being towed; and
 - (2) The vehicle or part is valued at less than \$200 by a person specified in Vehicle Code section 22855; and
 - (3) A person authorized to enforce this chapter determines that the vehicle or part is a public nuisance and an immediate threat to public health or safety; and
 - (4) The landowner has signed a release authorizing removal and waiving further interest in the vehicle or part.
- (b) The City may dispose of an inoperative vehicle or part under this section by removing it to a scrapyard, automobile dismantler's yard, or any suitable site operated by a local authority for processing as scrap, or other final disposition consistent with the Vehicle Code. If the City found evidence of ownership as described in Section 5-1.11, it shall provide notice to registered and legal owners of intent to dispose of the vehicle or part; and if the vehicle or part is not claimed and removed from a site specified in this subsection within twelve (12) days after the notice is mailed, the City may proceed with final disposition. (Ord. 2003-19, eff. 11/7/03)

Section 5-1.10. Public Hearing and Determination.

- (a) Upon timely and proper request by the landowner or vehicle owner, a public hearing shall be held on the question of abatement and removal of the vehicle or part as abandoned, dismantled, inoperative, or wrecked, and on the assessment of administrative costs for abatement, removal, storage and disposition.

(b) If the City does not receive a timely request for public hearing from the landowner or the vehicle owner, the persons specified in Sections 5-1.06 and 5-1.07 shall have authority to remove and dispose pursuant to Vehicle Code section 22662, of the vehicle or part.

(c) At a public hearing under this section, the landowner may appear in person or may present a sworn, written statement denying responsibility for the presence of the vehicle on the land, with his or her reasons for the denial. When timely presented, such a statement shall also serve as a request for public hearing.

(d) Hearings under this chapter shall be held before a hearing officer designated by the Police Chief or such other person as the City Council may designate by resolution. All facts, information and testimony deemed pertinent to the question in subsection (a) shall be considered, and the hearing officer shall not be bound by technical rules of evidence.

(e) The hearing officer may impose such conditions and take such other action as deemed appropriate under the circumstances to carry out the purpose of this chapter. The officer may delay time for removal of the vehicle or part thereof if, in the officer's opinion, the circumstances justify it. At the conclusion of the public hearing the officer may find that a vehicle or part thereof has been abandoned, wrecked, dismantled or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as provided by Vehicle Code section 22662 and determine the administrative costs and the cost of removal to be charged against the vehicle owner and/or owner of the parcel of land on which the vehicle or part thereof is located. The order requiring removal shall include a description of the vehicle or part thereof and the correct identification number and license number of the vehicle, if available at the site.

(f) If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that landowner has not subsequently acquiesced in its presence, the hearing officer shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such landowner.

(g) If an interested party makes a written presentation to the hearing officer but does not appear, that person shall be notified in writing of the decision. (Ord. 2003-19, eff. 11/7/03)

Section 5-1.11. Notice of Removal to Department of Motor Vehicles.

Within five (5) days after the date of removal of the vehicle or part thereof, notice shall be given to the State Department of Motor Vehicles identifying the vehicle or part thereof removed. At the same time there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including registration certificates, certificates of title and license plates. (Prior Code § 16A-11; Ord. 2003-19, eff. 11/7/03)

Section 5-1.12. Prohibition on Reconstruction.

After a vehicle has been removed, it shall not be reconstructed or made operable, unless it is a vehicle that qualifies either for horseless carriage or historical vehicle license plates, pursuant to Vehicle Code section 5004, in which case the vehicle may be reconstructed or made operable. (Ord. 2003-19, eff. 11/7/03)

Section 5-1.13. Assessment of costs.

If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to Section 5-1.10 are not paid within thirty (30) days of the date of the order, such costs may be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code and shall be transmitted to the tax collector for collection. The assessment shall have the same priority as other City taxes. (Prior Code § 16A-12; Ord. 2003-19, eff. 11/7/03)

Section 5-1.14. Violation.

Unless an exception applies, it is unlawful for any person to park or leave, or permit the parking or leaving of any vehicle which is in an abandoned, wrecked, dismantled or inoperative condition, in public view upon any private property or public property within the City. Violation of this section shall be an infraction punishable as provided in Vehicle Code section 22523(c), or any successor section, and a public nuisance which the City Attorney may seek to enjoin. (Ord. 90-1 § 1 (part), eff. 3/8/90; Ord. 2003-19, eff. 11/7/03)

CHAPTER 5-2 ALARM SYSTEMS

Section 5-2.01. Purpose.

The City determines that it is in the best interest of all its citizens that all burglary, robbery and fire alarms within the City be subject to certain regulations designed to control false alarms and ensure prompt response. (Prior Code § 17A-2; Ord. 93-24, eff. 08/19/93)

Section 5-2.02. Terminals at Police Department.

All silent burglary, holdup or fire alarms will terminate at the facility operated by the alarm company. No alarm device will be permitted to terminate at the Police Department unless specifically authorized by the Chief of Police. Such terminations at the Police Department will be authorized when it is determined to be in the best interest of the public. (Prior Code § 17A-3; Ord. 89-14 § 1 (part), eff. 5/18/89; Ord. 93-24, eff. 08/19/93)

Section 5-2.03. Permit required.

It is unlawful for any person, corporation, business, commercial establishment or residence to possess any unauthorized type of alarm or any operating burglary, holdup or fire alarm system designed to annunciate audibly outside the confines of any structure or real property or to annunciate at any reception point remote from the annunciating alarm unless a City alarm permit has been issued for each alarm. (Prior Code § 17A-4 (part); Ord. 93-24, eff. 08/19/93)

Section 5-2.04. Permit issuance, fee, term.

- (a) Alarm permits shall be issued by the Police Department.
- (b) A fee, set by City Council resolution, shall be charged for the issuance of this permit.
- (c) Permits shall remain valid for one year from the date of issuance at which time a new permit must be issued. (Prior Code § 17A-4 (1, 2); Ord. 91-8 § 1 (part), eff. 5/16/91; Ord. 93-24, eff. 08/19/93)

Section 5-2.05. Permit contents.

The alarm permit shall bear the following information:

- (a) Date of issuance;
- (b) Date of expiration;
- (c) Name of alarm subscriber or user;
- (d) Address of alarm premises;
- (e) Telephone number of alarm subscriber or user;
- (f) Alarm type;
- (g) Alarm company;
- (h) If an alarm user is not serviced by an alarm company he must provide three (3) emergency numbers of persons who have the ability to shut off the alarm;
- (i) Emergency contact names and telephone number(s). (Prior Code § 17A-4 (3); Ord. 91-8 § 1 (part), eff. 5/16/91; Ord. 93-24, eff. 08/19/93)

Section 5-2.06. Current emergency contact and address.

Failure of the alarm subscriber to keep the Police Department informed of current emergency contact and premises address information may result in the suspension or revocation of the permit.

- (a) In the event of an annunciation, which results in an inability to reach an emergency contact due to the permittee's failure to keep the Police Department informed as required in this section, the permittee shall be subject to a civil penalty assessment fee set by City Council resolution for each incident. (Prior Code § 17A-4 (4); Ord. 93-24, eff. 08/19/93)

Section 5-2.07. Police records of alarms.

It shall be the responsibility of the Police Department to keep accurate records of alarm activity. (Prior Code § 17A-4 (5); Ord. 93-24, eff. 08/19/93)

Section 5-2.08. Operation without permit.

- (a) Possession of an operational alarm system within the City without a permit, or continuing activation of an operational alarm system for which the permit has expired, been denied, revoked or suspended is a misdemeanor.

(b) Persons, corporations, businesses, commercial establishments and residences equipped with operational alarms that do not have a current valid permit shall be subject to the following sanctions:

- (1) First offense, warning and requirement to obtain permit;
- (2) Second and subsequent offenses, issuance of citation for violation of this section. (Prior Code § 17A-4 (6, 7); Ord. 93-24, eff. 08/19/93)

Section 5-2.09. Misuse and false alarms.

(a) Alarm misuse; that is, intentional use of an alarm for a purpose for which it was not intended is a misdemeanor:

- (1) First offense: Warning;
- (2) Second offense and subsequent offenses: A second offense or subsequent offense within a one (1) year period of the first, or subsequent violations, may result in issuance of a citation for violation of this section.

(b) False alarms resulting from operational error or equipment malfunction: Four (4) false alarms in a twelve (12) month period shall be deemed a public nuisance, and shall subject the permittee to a civil penalty assessment fee set by City Council resolution for each subsequent occurrence. (Prior Code § 17A-4 (8); Ord. 93-24, eff. 08/19/93; Ord. 2002-05, eff. 7/18/02; Ord. 2009-02, eff. 3/5/09; Ord. 2009-18, eff. 10/2/09)

Section 5-2.10. Annunciations and unavoidable false alarms.

No penalty shall be incurred for legitimate alarm annunciation or from those situations in which a false alarm occurs but its cause was beyond operational or equipment control as determined by the Chief of Police. (Prior Code § 17A-4 (9); Ord. 93-24, eff. 08/19/93)

Section 5-2.11. Out-of-City systems.

No alarm systems originating outside the City shall terminate within the Police Department; provided, that the Chief of Police may examine an application for the termination of such alarm system from outside of the City and may permit such a terminal connection within the Police Department upon his written findings supported by verified evidence. The connection of such a system from outside the City to a Police Department terminal will be of substantial benefit to the City because of the location of the property whereon it is proposed to be situated, the surrounding property uses, the nature of and volume of crimes against property in and about that location which could affect nearby properties within the City in the absence of such a connection, or other pertinent factors which appear to him to warrant such permission. The written findings shall specify all of the factors which cause the Chief of Police to regard the connection as warranted, and a copy of such findings shall be reviewed by and approved by the City Manager before the connection is permitted. (Prior Code § 17A-5; Ord. 93-24, eff. 08/19/93; Ord. 2009-18, eff. 10/2/09)

Section 5-2.12. Automatic telephone dialers.

(a) No person, corporation, business, commercial establishment or residence shall use or cause to be used any telephone device or telephone attachment on any telephone trunk line of the Police Department which reproduces any prerecorded message.

(b) Any person, corporation, business or commercial establishment or residence within the City who utilizes an alarm device, commonly known as a "dialer," as described in subsection (a) of this section, shall be subject to all of the applicable permit regulations of this chapter. (Prior Code § 17A-6; Ord. 93-24, eff. 08/19/93; Ord. 2009-18, eff. 10/2/09)

Section 5-2.13. Twenty-four hour service required.

No company or person selling, renting, leasing, installing or otherwise providing alarm systems shall install any such alarm system without providing twenty-four (24) hour service for that system.

(a) For the purposes of this section, "alarm system" means any security, robbery or fire alarm device which is installed by a person or persons other than the alarm system user.

(b) "Service," for the purposes of this section, includes the ability to promptly repair a malfunctioning alarm system, and to provide periodic maintenance necessary to the alarm system's normal function.

(c) In the event an audible security alarm sounds within the limits of the City and no person can be contacted to shut the alarm off within a thirty (30) minute period, then the vendor shall be contacted to disable the alarm. All charges for such service shall accrue to the alarm user at a rate no greater than the vendor's standard service charge. The alarm user shall also be subject to a civil penalty assessment fee as set by City Council resolution for each such

occurrence. (Prior Code § 17A-7; Ord. 89-14 § 1 (part), eff. 5/18/89; Ord. 93-24, eff. 08/19/93; Ord. 2009-18, eff. 10/2/09)

Section 5-2.14. Definition.

For the purposes of this chapter "civil penalty assessment fee" means a recovery fee associated with the violation of this Municipal Code based on costs incurred by the City to respond to, mitigate or abate the situation encountered. (Ord. 93-24, eff. 08/19/93; Ord. 2009-18, eff. 10/2/09)

CHAPTER 5-3 ANIMALS

Section 5-3.100. Article 1. General Provisions

Section 5-3.101. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

(a) "Health Officer" means the Health Officer of the City and his duly appointed deputies, and shall also mean and include the Health Officer of the County and his duly appointed deputies, in the event the Health Officer of the County serves as Health Officer of the City pursuant to agreement between the City and county.

(b) "Keeping or maintaining" does not mean or include keeping or maintaining for a period of three (3) days or less.

(c) "Dangerous Dog" is a dog which:

(i) Has bitten or caused serious injury to a person or domestic animal without provocation;

(ii) Menaces or attempts to bite or attack any person without provocation, or destroys property; or

(iii) Engages in an attack which requires a defensive action by any person to prevent bodily injury or property damage when such person is acting in a peaceful and lawful manner;

(iv) Engages in or is found to have been trained to engage in exhibitions of fighting;

(v) Has been trained to guard, protect, patrol or defend any premises, area or yard, or any dog trained to protect, defend or guard any person or property, with or without the necessity of direct human supervision, that is straying or has escaped from confinement or restraint, and is at large or otherwise unrestrained, uncontrolled or unleashed on or in a public street, sidewalk, park, beach, or other public place or property, or in or upon any private property or building during such time that said private property or building is open to the general public, or in or upon the private property of another person without the consent of the person.

(d) "Seizure" means an animal being held under City or County authority pending completion of legal proceedings.

(e) "Senior Animal Control Officer" shall mean the person having charge of one or more publicly owned facilities within Santa Barbara County capable of humane seizure of animals.

The provisions of this section shall not apply to any dog assisting a peace officer engaged in law enforcement duties, or service animals while performing their duties. (Prior Code § 3-1; Ord. 2008-01, eff. 3/20/08; Ord. 2008-27, eff. 12/4/08)

Section 5-3.200. Article 2. Dog Control

Section 5-3.201. Running at large: Generally.

It is unlawful for any person owning or having custody or control of any dog to allow, cause or permit such dog to be at large in or upon any sidewalk, street or other public place in the City or in or upon any private property or area in the City without the express permission of the owner or custodian of such property or area; provided, that dogs may be permitted upon the sidewalks and other public places of the City if on a leash and under the immediate care and control of the owner or other person having custody or control thereof. Any person who violates or fails to comply with any provision of this section is guilty of a misdemeanor. (Prior Code § 3-30)

Section 5-3.202. Running at large: Near farm animals.

It is unlawful for the owner or person having control of any dog to suffer or permit the same to run at large on the lands of another whereon livestock or domestic fowl are kept without the consent of the owner or person entitled to the use or possession of such lands; provided, that such consent does not constitute an excuse or exemption under that portion of Article 3 of this chapter requiring dogs over the age of four (4) months to be licensed. (Prior Code § 3-31)

Section 5-3.203. Stray dog: Defined. Repealed.

Repealed in its entirety by Ordinance 2008-27. (Ord. 2008-27, eff. 12/4/08; Prior Code § 3-32)

Section 5-3.204. Collection, impoundment and seizure of dog; notice and hearing.

(a) Impoundment. The senior animal control officer may at his or her discretion and upon receipt of a report from any other animal control officer or based upon his or her own report which shows good cause that a dog

engaged in any behavior as defined in section 5-3.101(c), immediately cause the impoundment of any such dog if such impoundment appears necessary to prevent immediate injury to person or property, or if it appears that the owner of such dog is either unwilling or incapable of maintaining confinement and control of such dog. In connection with impoundment, the officer shall make prompt attempt in good faith to identify the owner of the dog.

(b) Surrender of Dog. Any owner of a dog subject to the provisions of this section shall immediately surrender custody and control of such dog at the request of the senior animal control officer.

(c) Notice of Seizure and Hearing. Within seventy-two hours excluding weekends and holidays after identification of any dog impounded pursuant to this article, the senior animal control officer shall give written notice of seizure to the owner with a summary of the facts justifying the seizure. Such notice shall be mailed to the owner's last known address and shall contain the information specified in subsection (e).

(d) Time of Hearing. Not later than ten business days after the date of notice pursuant to subsection (c), the Director of Animal Services or Designee shall conduct a hearing to determine whether or not the impounded dog is a dangerous dog as defined in this article. The Director of Animal Services or Designee may adopt written guidelines for the conduct of hearings.

(e) Notice of Hearing, contents. The senior animal control officer shall serve notice of a hearing upon the owner. The notice shall be in writing and may be served either by personal delivery of a copy or by United States mail to the person to be served. The notice shall include the following:

(1) A statement that the dog is a dangerous dog as defined by this article;

(2) The time, date and place of the hearing, which shall be no less than five calendar days after the date of service of the notice;

(3) A copy of this article.

(f) Hearing. The hearing shall be held before the Director of Animal Services or Designee at the time and place noticed or at such other time or place as may be mutually agreed to by the Director of Animal Services or Designee, the owner and the senior animal control officer. In the event that a mutually agreeable time and place cannot be agreed upon, the Director of Animal Services or Designee may set such a date and location for the hearing.

Notwithstanding the foregoing, the Director of Animal Services or Designee may continue the hearing to such time and place as may be reasonably necessary for the convenience of witnesses or other parties. Failure of the owner to appear at the hearing or any continuance thereof shall constitute a default.

(g) Decision. The Director of Animal Services or Designee shall render his or her decision in writing within 30 days after completion of the hearing and shall mail it to the owner by ordinary mail, first-class postage prepaid. The decision shall contain findings based on substantial evidence as to the matters listed in subsection (a). The decision of the Director of Animal Services or Designee is final. (Prior Code § 3-33; Ord. 2008-01, eff. 3/20/08, Ord. 2008-27, eff. 12/4/08;)

Section 5-3.205. Dangerous dogs at large.

It is unlawful for the owner or person having charge, custody or control of a dangerous dog to allow, cause or permit such dog to be at large in or upon any sidewalk, street or other public place in the City or in or upon any private property or area in the City. Any person who violates or fails to comply with any provision of this section is guilty of a misdemeanor. If, upon the trial of any such person, the court determines that such dog is dangerous or has exhibited dangerous behavior within the meaning of Section 5-3.101(c), the court shall order as appropriate that such dog be spayed or neutered, fitted with microchip implant identification, and registered as dangerous with the Department of Animal Health Services. The court shall also make all other orders consistent with the public health, safety and welfare up to and including destruction of the animal. (Prior Code § 3-34; Ord. 2008-01, eff. 3/20/08)

Section 5-3.206. Biting dogs: Confinement.

Upon written notice by the Health Officer or Poundkeeper, the owner or person having the control of any dog which has within the preceding fourteen (14) days bitten any person or animal shall, upon demand and in the discretion of the Health Officer or Poundkeeper, follow one (1) of the following procedures. He shall either:

(a) Confine such dog to his own premises;

(b) Surrender such dog to the Poundkeeper, who shall impound and keep such dog at the public pound in a separate kennel for a period of not less than fourteen (14) days;

(c) Surrender such dog to a licensed veterinarian as designated by the Health Officer or Poundkeeper; or

(d) Surrender the dog to the Poundkeeper or Health Officer for quarantine at any other location or facility designated and approved by the Health Officer or Poundkeeper. (Prior Code § 3-35)

Section 5-3.207. Biting dogs: Vicious or dangerous.

In the event that the Poundkeeper, having regard for the circumstances of the case, determines that the biting dog impounded pursuant to the provisions of Section 5-3.206 is vicious or dangerous to human persons, he shall follow the procedures set forth in Section 5-3.507 for the disposition of vicious or dangerous dogs. (Prior Code § 3-35.1)

Section 5-3.208. Biting dogs: Quarantine by owner.

If any biting dog is quarantined on the premises of the owner, the Health Officer or Poundkeeper may post a quarantine sign on such premises, and it is unlawful for any person to remove the sign during the term of such quarantine without the consent of the Health Officer or Poundkeeper. Any quarantine provided in this article shall be for a term of not less than fourteen (14) days unless otherwise specified by the Health Officer. (Prior Code § 3-36)

Section 5-3.209. Biting dogs: Redemption from impoundment.

During the period of confinement provided for in Section 5-3.206, it shall be the duty of the Health Officer, upon being notified by the Poundkeeper that such dog has been impounded, to determine whether or not such dog is suffering from any disease. If the Health Officer or a duly licensed veterinarian designated by the Health Officer determine that such dog is diseased and by reason of such disease is dangerous to persons or to other animals, he shall notify the Poundkeeper in writing to destroy such dog. A copy of such notice may also be served upon the owner or persons having control of such dog. If the Health Officer or the veterinarian determines that such dog is not diseased and if the license fee required for such dog has been duly paid for the then-current year, the Poundkeeper shall notify by mail the person to whom the license for such dog was issued and at the address from which the dog was surrendered to the Poundkeeper and shall, upon demand, release such dog to the owner or person lawfully entitled thereto, upon payment of any charges provided therefor, including expenses of quarantine and veterinary care. (Prior Code § 3-37)

Section 5-3.210. Biting dogs: Sale or destruction.

If no person lawfully entitled to such dog referred to in Section 5-3.209 appears, within five (5) days after the date of giving the notice referred to in Section 5-3.209, at the public pound and requests the release of such dog and pays any charges, such dog may be sold or destroyed by the Poundkeeper in the same manner provided for in Article 5 of this chapter. (Prior Code § 3-38)

Section 5-3.211. Disposal of dog waste.

(a) Any person owning, possessing, harboring or having the care, charge, control or custody of any dog shall immediately remove and thereafter dispose of any fecal matter deposited by said dog on public property. For the purpose of this section, dog fecal matter shall be immediately removed by placing said matter in a closed or sealed container and thereafter disposing of it by depositing said matter in a trash receptacle, sanitary disposal unit or other closed or sealed container. The matter shall not be disposed of in a private trash container without the permission of the container's owner or in a publicly owned trash container.

(b) Violation of this section shall be an infraction.

(c) This section shall not apply to blind persons accompanied by a dog used for their assistance. (Ord. 89-9 § 1, eff. 4/20/89)

Section 5-3.300. Article 3. Dog Licensing

Section 5-3.301. Required.

Except as provided in Section 5-3.302, it is unlawful to own, keep or control any dog unless a license has been procured therefor. Any person who violates or fails to comply with any provision of this section is guilty of an infraction. (Prior Code § 3-39)

Section 5-3.302. Exemptions.

The provisions of this article requiring the licensing of dogs shall not apply to:

- (a) Dogs under the age of four (4) months if kept within a sufficient enclosure; nor to
- (b) Dogs owned by or in custody or under the control of persons who are nonresidents of the City traveling through the City or temporarily sojourning therein for a short period not exceeding thirty (30) days; nor to
- (c) Dogs duly licensed with the current license of the City; nor to

(d) Dogs brought to the City exclusively for the purpose of entering them in any dog show or exhibition and which are actually entered in and kept at such show or exhibition; nor to

(e) Dogs under treatment in the custody or control of animal hospitals nor to dogs on sale in duly licensed pet shops; nor to

(f) Dogs owned, kept or controlled by any person having a permit to keep and maintain a dog kennel; provided, that such dogs are kept enclosed within such pet shop or dog kennel; nor to

(g) Dogs under the ownership, custody and control of the owner of a dog kennel duly licensed under the provisions of this article or his duly authorized employee or agent when such dogs are removed from such kennel in the bona fide operation thereof for the purpose of exercise or training; provided further, that any such dog bear an identification tag attached to a collar, harness or other device, which tag shall be of a size and type designated by the Poundkeeper, shall be furnished at the sole cost and expense of the owner of such kennel and shall set forth the name and address of such kennel. A dog bearing such tag shall be treated in all respects as a licensed dog in the event of its escape and subsequent impoundment; provided, that no unlicensed dogs shall be allowed to run at large. (Prior Code § 3-40)

Section 5-3.303. Fee.

An annual license fee, as provided in the Schedule of Fees and Charges within this Code, shall be paid for every dog over four (4) months of age owned, kept or controlled in the City. Every person owning, keeping or having control of any dog within the City shall pay such license fee for the year commencing on the date of license purchase, and no later than thirty (30) days after such dog attains the age of four (4) months or after such dog is first brought into the City, whichever is earlier, and upon failure to do so shall pay an additional sum as provided in the Schedule of Fees and Charges within this Code. The license fee for spayed bitches shall not exceed the amount authorized by Government Code Section 38792. (Ord. 2008-27, eff. 12/4/08; Prior Code § 3-41 (part))

* Editor's Note: Section 5-3.303 was amended by request of the City Attorney.

Section 5-3.304. Issuance.

(a) The Poundkeeper shall be the issuing authority for dog licenses. Upon payment of the license fee provided for in Section 5-3.303 and upon presentation to the license collector of a valid vaccination certificate, as provided for in Section 5-3.403, there shall be issued a license certificate stating the year for which such license fee is paid, the date of payment, the name and resident address to whom such license is issued, the name, breed and sex of the dog licensed and the number of the license tag provided for in Section 5-3.305. Such certificate shall be delivered to the person paying such license fee, and one (1) copy shall be retained by the Poundkeeper.

(b) All receipts and records of the Poundkeeper shall be kept in the office of the public pound as part of the records thereof during a period of at least three (3) years. (Prior Code § 3-42)

Section 5-3.305. Tags: Issuance: Display.

The Poundkeeper shall at the time of issuance of the license certificate issue and deliver to the person paying such license fee a tag of such form and design as the Poundkeeper shall designate with the words "City of Santa Maria Dog License" and a serial number and the calendar year for which issued plainly inscribed thereon. The license tag shall be securely affixed to a collar, harness or other device which shall be at all times worn by such dog. (Prior Code § 3-43)

Section 5-3.306. Tags: Misuse.

It is unlawful for any person to remove any tag from any dog not owned by him or not lawfully in his possession or under his control or to place on any dog any such license tag not issued as provided for in Section 5-3.305 for that particular dog for the then-current calendar year or to make or to have in his possession or to place on a dog any counterfeit or imitation of any license tag or vaccination tag provided for in this article or Article 4 of this chapter. (Prior Code § 3-44)

Section 5-3.307. Tags: Duplicates.

If any license tag is lost or stolen, the person owning, possessing or having control of the dog for which the same was issued shall be entitled to receive a duplicate of such tag by presenting to the Poundkeeper the original certificate showing ownership of such tag and subscribing to an affidavit sufficiently showing that such tag was stolen or lost. The Poundkeeper, upon receipt of the amount provided for in the Schedule of Fees and Charges within this Code, shall issue a properly numbered duplicate tag. He shall keep on file in his office the original affidavit upon which such duplicate tag was issued. (Prior Code § 3-45 (part))

Section 5-3.400. Article 4. Dog Vaccination

Section 5-3.401. Required.

It is unlawful for any person owning, harboring or having the care, custody or possession of any dog to keep or maintain such dog in any place in the City, unless such dog has been vaccinated as provided in Section 5-3.402. This section shall have no application to dogs under the age of four (4) months, who are fastened securely by a rope, chain or leash or confined within the private property of the owner or person having control of such dog. (Prior Code § 3-46)

Section 5-3.402. Prerequisite to license.

The Poundkeeper shall not license any dog until it has been vaccinated with an approved canine antirabies vaccine of modified live-virus chick-embryo origin by injection or other method approved by the Health Officer and the owner or person in possession of such dog submits a certificate of vaccination from a licensed veterinarian certifying the vaccination of such dog within eighteen (18) months of January 1st of the year for which the license is to be issued. (Prior Code § 3-47)

Section 5-3.403. Performance: Certificate and tag.

The vaccination shall be performed by a duly qualified and licensed veterinarian. The veterinarian vaccinating any dog shall issue to the owner or person in possession of such dog a rabies vaccination tag and a certificate of vaccination, which certificate shall include the following:

- (a) The type of vaccine used;
- (b) The date of vaccination;
- (c) Description of dog;
- (d) Serial number of rabies vaccination tag issued to dog;
- (e) Name and address of owner of dog;
- (f) Signature of the licensed veterinarian making vaccination;
- (g) Statement that dog is male, female or spayed female. (Prior Code § 3-48)

Section 5-3.500. Article 5. Impoundment

Section 5-3.501. Pound established.

A public pound is provided, and the same and any branches thereof shall be located and established at such place as is fixed from time to time by the Poundkeeper provided for in Article 6 of this chapter. (Prior Code § 3-10)

Section 5-3.502. Animals trespassing or at large.

Any animal found trespassing on any private property in the City may be taken up by any person at interest and delivered to the Poundkeeper; any dog found running at large on the lands of another where poultry or livestock are kept, without the permission of the owner or person in charge of such lands may be taken up by any person and delivered to the Poundkeeper. (Prior Code § 3-11)

Section 5-3.503. Found or privately impounded animals.

Every person taking up any animal under the provisions of this article and every person finding any lost, strayed or stolen animal shall, within twenty-four (24) hours thereafter, give notice thereof to the Poundkeeper, and every such person and any person in whose custody such animal may, in the meantime, be placed shall thereupon hold and dispose of such animal in the same manner as though such animal had been found running at large and impounded by him. (Prior Code § 3-12)

Section 5-3.504. Disposition of livestock.

All domestic bovine animals, horses, mules, burros, sheep, goats and swine impounded under this article shall, unless claimed by the owner or person entitled to the custody thereof within a reasonable time be released to the Director of Agriculture of the State in accordance with the provisions of Article 7, Chapter 7, Division 9 of the Food and Agriculture Code. (Prior Code § 3-13)

Section 5-3.505. Rabies suspects.

Whenever the owner or person having the custody or possession of an animal shall observe or learn that such animal shows symptoms of rabies or acts in a manner which would lead to a reasonable suspicion that it may have rabies, such owner or person having the custody or possession of such animal shall immediately notify the Health Officer. The Health Officer shall make or cause an inspection or examination of such animal to be made by a licensed veterinarian until the existence or nonexistence of rabies in such animal is established by such veterinarian. Such animal shall be kept isolated in a pound, veterinary hospital or other adequate facility in a manner approved by the Health Officer and shall not be killed or released for at least fourteen (14) days after the onset of symptoms suggestive of rabies, after which time such animal may be released by the Health Officer. (Prior Code § 3-14)

Section 5-3.506. Care at pound.

The Poundkeeper shall provide all animals in his custody with proper food and water and shall give them all necessary care and attention. (Prior Code § 3-16)

Section 5-3.507. Dangerous, old and sick dogs.

(a) Every dog taken into custody by the supervising Animal Control Officer, which by reason of age, injury, disease, vicious character or danger to human persons, or other good cause which jeopardizes the general health and safety, should be disposed of, may be destroyed by the supervising Animal Control Officer.

(b) In case a dog is regarded by him as vicious or dangerous to human persons, the supervising Animal Control Officer shall give written notice of intent to destroy the dog to the owner, if known, and to the victim or victims, if any, of any attack perpetrated by the dog, and shall hold the dog in custody prior to destruction for ten (10) days.

(c) If an objection is made, the supervising Animal Control Officer shall weigh the value of the objection and determine whether the dog should be destroyed, and in making such determination he shall be guided by the criteria of possible danger to human persons, or other good and just cause.

(d) If the supervising Animal Control Officer receives no notice of an objection to the destruction of the dog during the ten (10) day holding period, or has received a written waiver from the owner of the dog prior to expiration of the ten (10) day period, he may forthwith destroy the dog. (Prior Code § 3-17)

Section 5-3.508. Redemption: Generally.

The owner or person entitled to the custody of any animal so impounded may, at any time before the sale or other disposition thereof, during the office hours of the public pound, reclaim or redeem the same by paying to the Poundkeeper any charges imposed thereon. (Prior Code § 3-18)

Section 5-3.509. Redemption: Dogs.

The Poundkeeper shall keep any dog impounded for a period of five (5) days unless the dog is sooner reclaimed or redeemed by the owner or person having control thereof. Such redemption shall be made by exhibiting to the Poundkeeper the license certificate or tag issued by the Poundkeeper, showing that the license for such dog for the then-current year has been paid and by paying the Poundkeeper any charges provided for. Upon such redemption being made, the Poundkeeper shall release such dog; provided, that in all cases any charges provided for keeping such dog must be paid. (Prior Code § 3-19)

Section 5-3.510. Unredeemed dogs: Disposition generally.

At any time after the expiration of the period of five (5) days provided for in Section 5-3.509, the Poundkeeper may, without further notice and without advertising in any manner, sell or give away or destroy any dog not reclaimed or redeemed. The Poundkeeper shall use his best efforts to notify the owner of any animal in his possession of this fact. (Prior Code § 3-20)

Section 5-3.511. Unredeemed dogs: Return to surrenderer.

If there is no license tag for the current year attached to any dog surrendered to the Poundkeeper as provided in this article and such dog has not been redeemed by its owner within five (5) days from the time of impounding such dog, the Poundkeeper may return such dog to the person who surrendered such dog, provided that such person procures a license for such dog for the current year. (Prior Code § 3-21)

Section 5-3.600. Article 6. Poundkeeper

Section 5-3.601. Appointment: Contracted services.

The City Council may appoint a Poundkeeper or may enter into a contract with the County Humane Society or any other humane society, organization, association or person that will undertake to carry out the provisions of Article 5, this article and all applicable statutes of the State. Such society, organization, association or person shall thereupon have charge of the public pound provided and established in Section 5-3.501. If such contract is entered into, the society, organization, association or person shall be the Poundkeeper for all purposes of Article 5 and this article. (Prior Code § 3-22)

Section 5-3.602. Bond or insurance.

(a) Before entering upon the discharge of his official duties, the Poundkeeper shall give and execute to the City his official bond in the sum of one thousand dollars (\$1,000.00) conditioned for the faithful performance of his official duties as Poundkeeper with a surety to be approved by the City Council.

(b) The Poundkeeper, if other than a City employee, shall furnish the City a certificate showing that the City and the Poundkeeper are covered by adequate insurance covering the activities of the Poundkeeper and deputies, including false arrest. (Prior Code § 3-23)

Section 5-3.603. Compensation of contractor: Pound charges and proceeds.

If the City Council enters into a contract with the County Humane Society or any other society, organization, association or person as authorized in Section 5-3.601 to carry out the provisions of Article 5 and this article, such society, organization, association or person may fix charges, subject to the approval of the City Council, for the care, sale or redemption of any animal taken into its custody pursuant to the terms of Article 5 or this article. Any such charges shall be retained by such society, organization, association or person. Any proceeds from the State for the keeping and caring of any bovine animals, horses, mules, burros, sheep, goats and swine shall also be retained by such society, organization, association or person. (Prior Code § 3-15)

Section 5-3.604. Compensation of contractor: Fees and fines.

The City Council may provide in any contract which it may execute with the humane society or any other agency to act as Poundkeeper that the City will pay to such Poundkeeper any or all such fees and fines collected as consideration for acting as Poundkeeper for the City and for the enforcement of Article 5 and this article and applicable State laws. (Prior Code § 3-24)

Section 5-3.605. Records.

The Poundkeeper shall keep a record of the number, description and disposition of all animals impounded, showing in detail in the case of each animal the date of receipt, the date and manner of disposal, the name of the person reclaiming, redeeming or receiving such animals, the reason for destruction and such additional records as the Poundkeeper may from time to time feel necessary. Such records shall be kept by the Poundkeeper in a book or books provided for that purpose, which shall be the record book or books of the office of the Poundkeeper and shall not be removed therefrom except upon written order from a duly constituted authority. (Prior Code § 3-25)

Section 5-3.606. Badges: Impersonation.

(a) The Poundkeeper and his deputies, while engaged in the execution of their duties, shall each wear in plain view a badge having, in the case of the Poundkeeper, the word "Poundkeeper" and, in the case of the Deputy Poundkeeper, the words "Deputy Poundkeeper" engraved thereon; provided, that a duly appointed humane officer of the County Humane Society may wear his humane officer's badge in lieu of the badge of the Deputy Poundkeeper if he is appointed a Deputy Poundkeeper.

(b) Any person who has not been appointed a Deputy Poundkeeper, as provided in this section, or whose appointment has been revoked, who represents himself to be or attempts to act as such Deputy Poundkeeper is guilty of a misdemeanor. (Prior Code § 3-26)

Section 5-3.607. Resisting or obstructing.

It is unlawful for any person to resist, hinder, molest or obstruct the Poundkeeper or any of his deputies in the exercise of his duties as Poundkeeper or Deputy Poundkeeper. (Prior Code § 3-27)

Section 5-3.608. Arrest power.

The Poundkeeper and any deputies appointed by him shall have the power to arrest in connection with the enforcement of any of the provisions of Article 5 and this article. (Prior Code § 3-28)

Section 5-3.609. Enforcement duties.

It shall be the duty of the Poundkeeper to enforce the provisions of this chapter relative to the public pound, to dogs and to pet shops, catteries and dog kennels, and it shall be the duty of every City official to cooperate with the Poundkeeper in the enforcement of his duties. (Prior Code § 3-29)

Section 5-3.700. Article 7. Beekeeping

Section 5-3.701. When permitted.

It is unlawful for any person to engage in commercial beekeeping; that is, the keeping of bees for commercial purposes within the City. It is unlawful for any person to keep bees for noncommercial purposes within the City, except in the manner prescribed in, and in compliance with the provisions of this section and following sections; provided, that nothing in this article shall be deemed or construed to prohibit the keeping of bees in a hive or box located and kept within a school building or similar educational or research institution for the purpose of study, observation or other scientific purpose. (Prior Code § 3-4)

Section 5-3.702. Maintenance and control.

Each person maintaining one (1) or more colonies of bees (which bees may only be of the variety or species known as honey bees, *Apis mellifera*) in the City shall comply with the following conditions:

- (a) Each colony shall be maintained in movable frame hives.
- (b) Adequate space shall be maintained in the hive to prevent overcrowding and swarming or aggressive behavior.
- (c) Colonies shall be re-queened following any swarming or aggressive behavior.
- (d) Each colony shall be registered with the County Agricultural Commissioner.
- (e) Each colony, and all bees therein, shall at all times be under the control of the owner or keeper thereof, and shall not be permitted upon the property of another in such a manner that it disturbs the peace and quiet enjoyment of other persons within the City. Upon complaint of any resident or owner of property within the City, and upon determination by the Director of Community Development of a violation of this subsection (e), the violator shall forthwith remove the colony, and all bees therein, to a location not less than three hundred (300) feet from the exterior boundaries of the complaining owner or resident's property. (Prior Code § 3-4.1)

Section 5-3.703. Number and location of hives.

All colonies shall be maintained and located in the following manner:

- (a) No more than four (4) hives shall be maintained on lots having less than ten thousand (10,000) square feet in area. On lots having more than ten thousand (10,000) square feet in area, no more than one (1) additional hive may be maintained for each five thousand (5,000) square feet of additional lot area.
- (b) No hives shall be located within ten (10) feet of any property line except when situated and maintained eight (8) feet or more above adjacent ground level. (Prior Code § 3-4.2)

Section 5-3.704. Compliance with State provisions.

- (a) Each person maintaining one (1) or more colonies of bees in the City shall comply with all State regulations governing bee management and honey production, as provided in Division 13 (Section 29001 and following) of the Agriculture Code of the State, and any and all regulations adopted pursuant thereto.
- (b) Violations of the Agriculture Code, or regulations, shall be enforced by the County Agricultural Commission.
- (c) Violations of this article not involving the Agriculture Code or regulations shall be enforced by the Director of Community Development. (Prior Code § 3-4.3)

Section 5-3.800. Article 8. Livestock

Section 5-3.801. Hogs, swine, stallions, bulls.

It is unlawful to keep or maintain or cause to be kept or maintained, any live hog or swine, or any live stallion or bull, within the City. (Prior Code § 3-2)

Section 5-3.802. Prohibited breeding.

It is unlawful to breed or let to any mare or jennies or cows, any stallions or jack or bull, within the City. (Prior Code § 3-3)

Section 5-3.803. Proximity to dwellings.

It is unlawful to keep or maintain or cause to be kept or maintained, within the City, any live horse, mule or other equine animal, any cow or other bovine animal, or any sheep or goat, within one hundred twenty-five (125) feet of any building or structure used or occupied as a residence or dwelling. With respect to the restrictions contained in this section relating to the proximity of the place of keeping livestock to residences or dwellings, the residence or dwelling of the owner of such livestock shall not be considered. (Prior Code § 3-5)

Section 5-3.804. Permit: Required.

The keeping or maintaining within the City of any live horse, mule or other equine animal, cow or other bovine animal, sheep or goat, is unlawful without a permit first having been obtained from the Health Officer. (Prior Code § 3-6 (part))

Section 5-3.805. Permit: Issuance or refusal.

(a) The permit required in Section 5-3.804 shall be applied for to the Health Officer in writing and the Health Officer shall thereupon cause an investigation to be made. If, after investigating the conditions and considering the facts presented, the following facts appear, a permit shall be issued to such applicant by the Health Officer:

- (1) That the keeping or maintaining of such animal or animals will not constitute a nuisance to the neighborhood;
- (2) That the keeping or maintaining of such animal or animals will not constitute a menace to the public health;
- (3) That the keeping or maintaining of such animal or animals will not constitute an interference with the comfortable enjoyment of life or property;
- (4) That the keeping or maintaining of such animal or animals will not be in violation of any State or municipal law or ordinance.

(b) If such facts do not appear, such permit shall be refused. (Prior Code § 3-6 (part))

Section 5-3.806. Permit: Issuance.

Permits issued pursuant to Section 5-3.805 may be revoked by the Health Officer at any time for cause. (Prior Code § 3-6 (part))

Section 5-3.807. Sanitation: Enclosure.

All corrals, pens, buildings, kennels, yards or other places wherein any animals are kept or maintained shall be kept in a clean and sanitary condition, free from accumulations of urine, stagnant water, manure, used bedding material or any other filthy or odorous or unhealthful substances; provided, that the animals described in Section 5-3.804 shall be kept or maintained only in pens or corrals or buildings, and shall not be staked out or allowed to run on leash or tether in any unfenced or unenclosed area. (Prior Code § 3-7)

Section 5-3.808. Applicability: Rodeos, fairs and other exhibitions.

Except for the requirements of Sections 5-3.802 and 5-3.807 the requirements of this article shall not be applicable to any portion of the City set apart by public authority for rodeos, fairs, horse shows or other public showings or exhibitions of animals. (Prior Code § 3-8)

Section 5-3.809. Farmers or dairymen: Applicability of provisions.

Except for the requirements of Section 5-3.804, 5-3.805 and 5-3.806 the requirements of this article shall not be applicable to farmers or dairymen who keep livestock as a part of their business or for use in connection with farm work, and whose facilities for the keeping of such livestock are not located in any area subdivided into town lots within the City. (Prior Code § 3-9)

Section 5-3.900. Article 9. Pet Shops, Catteries and Kennels

Section 5-3.901. Definitions.

For the purposes of this article the following words and phrases shall have the meanings respectively ascribed to them in this section:

(a) "Cattery" means any lot, building, structure, enclosure or premises where four (4) or more cats are kept.

(b) "Dog kennel" means any lot, building, structure, enclosure or premises whereon or wherein four (4) or more dogs are kept or maintained for any purpose whatsoever; provided, that if other animals or birds or fowl are bought, sold or bartered, the classification to apply shall be that of a pet shop; and provided further, that this definition of dog kennel shall not be construed as applying to a duly licensed veterinary hospital nor the County Humane Society.

(c) "Pet shop" means any lot, building, structure, enclosure or premises whereon or wherein is carried on a business of buying, selling or bartering birds, animals or fowl, but this definition shall not be construed as applying to the buying or selling of livestock, nor to the business or activities of a duly licensed veterinary hospital, nor to the business or activities of the County Humane Society, nor to a duly licensed dog kennel. (Prior Code § 3-49)

Section 5-3.902. Permit: Required.

It is unlawful for any person to erect, establish or maintain any dog kennel, cattery or pet shop as defined in this article without first obtaining a permit from the Health Officer. (Prior Code § 3-50)

Section 5-3.903. Permit: Issuance.

The granting of a permit required by Section 5-3.902 shall be in the discretion of the Health Officer, who shall take into consideration the type of construction to be employed as it relates to sanitation and the manner in which the animals, birds or fowl are to be housed as well as the character of the person making application and such zoning regulations as are in effect as of the adoption of the ordinance from which this section derives or are adopted from time to time. The Health Officer may appoint the Poundkeeper as his agent to act in his behalf in investigating applications for such permits. (Prior Code § 3-51)

Section 5-3.904. Permit: Revocation.

The permit for the maintenance and operation of a dog kennel, cattery or pet shop may be revoked at any time for cause when, in the opinion of the Health Officer or his agent, such dog kennel, cattery or pet shop is not being properly maintained or operated from the standpoint of sanitation of the premises or proper care of the animals, birds or fowl. (Prior Code § 3-52)

Section 5-3.905. License: Fee: Issuance.

Upon the approval of the Health Officer or his designated agent and upon the payment of an annual license fee of twenty dollars (\$20.00), in addition to any applicable business license, the Poundkeeper shall issue to the applicant for the permit required by Section 5-3.902 a license for the privilege of maintaining a dog kennel, cattery or pet shop in such form as he may prescribe. (Prior Code § 3-53)

Section 5-3.906. License: Term.

The annual license shall be for the calendar year or any part thereof during which the dog kennel or pet shop shall be maintained and shall be due and payable in advance on January 1st of each year and shall expire on December 31st of such year, provided the permit required by Section 5-3.902 has not been revoked. (Prior Code § 3-54)

Section 5-3.907. License: Revocation.

Upon the revocation of the permit required by Section 5-3.902, the license issued by the Poundkeeper pursuant to Section 5-3.905 for the then-current year shall be null and void, and the entire fee for such animal license shall be forfeited. (Prior Code § 3-55)

Section 5-3.908. Posting emergency contacts.

Every person maintaining a dog kennel, cattery or pet shop shall post, in a conspicuous place where it may be seen outside the locked premises, a notice listing names, addresses and telephone numbers of persons who may be contacted in the event of an emergency. (Prior Code § 3-56)

Section 5-3.1000. Article 10. Wild Animals

Section 5-3.1001. Definitions.

For the purposes of this article the following words and phrases shall have the meanings respectively ascribed to them in this section:

(a) "Cats" includes all domesticated breeds of cats or combinations of the common domesticated varieties, but not any breeds or species of the cat genus not ordinarily and commonly domesticated, such as civet cats, ocelots and so forth, regardless of size.

(b) "Dogs" means all dogs of domesticated breeds or combinations thereof, but not including wild breeds of dogs not domesticated, such as the dingo, and not including wolves, coyotes, foxes or other species related to dogs.

(c) "Feral animals" means the same as "wild animals."

(d) "Reptiles" means all cold-blooded creatures, except fish.

(e) "Wild animal" includes any animal, other than common domestic animals, such as horses, cattle, sheep, goats and pigs, dogs or cats, or domestic fowl, such as chickens, ducks, geese or turkeys, whether ordinarily native to this State or not. Whenever "animal" or "wild animal" are used in this article they include fowl and reptiles. (Prior Code § 3-60)

Section 5-3.1002. Bears and certain felines.

(a) No person shall keep within the City any bear or any feline (other than a domesticated cat as defined in this article), except at a licensed zoo or circus, or a zoo operated by a public agency; provided further, that a licensed veterinarian may keep such an animal for purposes of treatment only. During the course of such treatment any veterinarian keeping such an animal for such treatment shall keep the animal in quarters adequate as to design and materials to retain such animal safely, having regard for its size, nature and characteristics.

(b) If any such animal, the keeping of which within the City is prohibited by this section, is found upon the private property of another person, or upon any public street, park or school ground, or other public place, it shall be destroyed by a Police Officer. The cost of disposal of the remains shall be a charge upon the person having ownership, custody or control of such animal, and may be collected by an action brought in the name of the City in any court of competent jurisdiction.

(c) If any such animal, the keeping of which is prohibited, is discovered upon the premises of the owner or other person having control or custody of such animal, such owner or other person having such custody or control shall, upon written or oral demand by a Police Officer, or by the Animal Control Officer, either make arrangements to destroy the animal within not more than forty-eight (48) hours after such demand is made, at his own expense, or shall deliver the animal to a point designated by such Police Officer or Animal Control Officer for destruction and disposal, in which case the cost of disposal of the remains shall be a charge upon such owner or other person having such custody or control, and may be collected by an action brought in the name of the City in any court of competent jurisdiction. (Prior Code § 3-61)

Section 5-3.1003. Running at large: Generally.

It is unlawful for any person owning, having an interest in, harboring or having charge, care, control, custody or possession of any wild or feral animal, whether such person has a permit for the keeping of such animal or not, to allow, cause or permit such animal to be in or on any public street, park, school ground or other public place, or in or upon any lot, premises or property of another. (Prior Code § 3-62)

Section 5-3.1004. Running at large: Near farm animals.

It is unlawful for the owner or person owning, having an interest in, harboring or having charge, care, control, custody or possession of any wild or feral animal, whether such person has a permit for the keeping of such an animal or not, to suffer or permit such animal to run at large on the lands of another, whereon livestock or domestic fowl are kept. (Prior Code § 3-63)

Section 5-3.1005. Impoundment: Authorized.

(a) Any wild or feral animal found trespassing on any private property within the City, or upon any public streets, parks, school grounds or other public place, or running at large on the lands of another where poultry or livestock are kept, may be taken up by any person at interest and detained by such person to be picked up by the Animal Control Officer, or may be taken up by the Animal Control Officer. Any person taking up such an animal shall report that fact at the earliest possible time, but in no event more than twenty-four (24) hours after taking up

the animal, to the Animal Control Officer. Upon receiving such report the Animal Control Officer shall forthwith take custody of the animal and place it in the public pound.

(b) If the nature, size or characteristics of the animal are such that it is not feasible or practicable for the Animal Control Officer to seize such animal for the purposes of impounding the animal, the Animal Control Officer shall forthwith notify the Police Department which shall forthwith take the necessary action to destroy such animal having due regard for the safety of persons and property. (Prior Code § 3-64)

Section 5-3.1006. Impoundment: Redemption: Security.

In every case when a wild or feral animal has been impounded by the Animal Control Officer, and the owner or other person having an interest in, having charge, care, control, custody or the right to possession of any such animal, seeks to redeem it from the public pound, such owner or other such person may be required, in the discretion of the Health Officer, to deposit cash security in the amount of two hundred dollars (\$200.00) to insure that such person or owner thereafter keeps such animal entirely within their own premises and the quarters designed for such animal. (Prior Code § 3-65)

Section 5-3.1007. Impoundment: Applicable provisions.

The conditions, terms and fees for impoundment and redemption for any wild or feral animal shall be the same as those elsewhere provided in this chapter for dogs, except that the provisions with regard to rabies vaccination shall not apply. (Prior Code § 3-66)

Section 5-3.1008. Biting or clawing: Impoundment.

(a) Upon written or oral demand by the Health Officer or the kennel control officer, the owner or person having control of any wild or feral animal which has within the preceding fourteen (14) days bitten or clawed any person or animal shall, upon demand, surrender such animal to the Health Officer or Animal Control Officer who shall impound and keep such animal at the public pound in separate quarters for a period of not less than fourteen (14) days, or in the discretion of the Health Officer or Animal Control Officer, shall impound and keep such animal at any other location or facility designated and approved by the Health Officer or Animal Control Officer.

(b) During the period of confinement provided for in this section, it shall be the duty of the Health Officer, upon being notified by the Animal Control Officer that such animal has been impounded, to determine whether or not such animal is suffering from any disease. If the Health Officer, or a duly licensed veterinarian designated by the Health Officer, shall determine that such animal is diseased, and by reason of such disease is dangerous to persons or to other animals, he shall notify the Animal Control Officer in writing to destroy such animal. A copy of such notice shall also be served upon the owner or persons having control of such animal if they are known to the Health Officer or Animal Control Officer. If the Health Officer or the veterinarian determine that such animal is not so diseased, the Animal Control Officer shall notify by mail the person having control of such animal, and shall upon demand release such animal to such owner or other person lawfully entitled thereto, upon payment of any charges provided therefor, including expenses of quarantine and veterinary care and, where applicable, the security deposit elsewhere provided for in this article. (Prior Code § 3-67)

Section 5-3.1009. Biting or clawing: Unredeemed.

If no person lawfully entitled to such animal shall within five (5) days after the date of giving the notice referred to in Section 5-3.1008, appear at the public pound and request the release of such animal and pay all charges, such animal shall be destroyed by the Animal Control Officer. (Prior Code § 3-68)

Section 5-3.1010. Violation: Misdemeanor.

Any person violating any of the provisions of this article is guilty of a misdemeanor, and each and every day in which a wild or feral animal is kept within the City in violation of the provisions in this article constitutes a separate offense. (Prior Code § 3-69)

Section 5-3.1100. Article 11. Domestic Animals.

(Ord. No. 2006-02, eff. 3/21/2006)

Section 5-3.1101. Running at large: prohibited.

It is unlawful for any person owning, having an interest in, harboring or having charge, care, control, custody or possession of any domestic animal, whether such person has a permit for the keeping of such animal or not, to allow, cause or permit such animal to be at large in or on any public street, park, school ground or other public place, or in

or upon any lot, premises or property of another. For the purpose of this article, “domestic animal” includes any animal not defined as a “wild animal” by this Code. Any person violating this article is guilty of a misdemeanor. (Ord. 2007-08, eff. 7/5/07; Ord. No. 2006-02, eff. 3/21/2006)

Section 5-3.1102. Domestic fowl: nuisance prohibited.

It is unlawful for any person owning, having an interest in, harboring or having charge, care, control, custody or possession of one or more domestic fowl, whether such person has a permit for keeping such animal(s) or not, to allow, cause or permit such animal(s) to accumulate or deposit guano which results in offensive odor or damage to property, and which substantially interferes with the reasonable enjoyment of property by other persons. (Ord. 2007-08, eff. 7/5/07)

CHAPTER 5-4 FOOD ESTABLISHMENT PERMITS

Section 5-4.01. Health Officer defined.

"Health Officer of the City," as used in this chapter, means and includes the "Health Officer of the County" at such times as such Health Officer is performing his duties as Health Officer of the City, pursuant to agreement between the City and County. (Prior Code § 13-1)

Section 5-4.02. Required.

It is unlawful for any person to sell, offer for sale, distribute or have in his or her possession for the purpose of selling, offering for sale or distributing, any food or drink intended for consumption by the public in the City, unless possessing a permit to be obtained in the manner provided by this chapter. This section does not apply to "retail food production and marketing establishments," as that term is defined in Section 28802 of the Health and Safety Code. Violation of this section shall be a misdemeanor, punishable as provided in Chapter 1-6 of this Code. (Prior Code § 13-2) (Ord. 2001-01, eff. 3/8/01)

* Editor's Note: Section 5-4.02 was amended by request of the City Attorney.

Section 5-4.03. Application and issuance: Term.

Every applicant for a permit, as required by this chapter, shall file with the Health Officer, prior to selling, offering for sale or distributing any food or drink intended for consumption by the public, a written application for a permit to conduct such activity. The Health Officer shall investigate and issue a permit for such selling, offering for sale or distribution, when the arrangements therefor conform to the laws of the State, the rules and regulations of the Health Officer, and any special requirements specified by the Health Officer to be applied to the particular proposed activity applied for. Such permits shall be in force for the period for which issued, unless revoked for cause, and shall be issued without charge. Renewal of permits shall be applied for and acted upon in the same manner. (Prior Code § 13-3)

Section 5-4.04. Fees.

The Health Officer is further authorized to charge and collect fees for the issuance or renewal of food or food establishment permits; provided, that such fees shall be those established by the County by ordinance or resolution, as the same may be issued or amended from time to time, and the fees charged or collected within the City for food or food establishment permits within the City shall be identical in amount to those charged or collected within the unincorporated area of the County for the same classification or activity. (Prior Code § 13-4)

Section 5-4.05. Permits to conform to county provisions.

Nothing in Section 5-4.04 is to be construed to provide for the issuance of permits other than those or different from those which are required pursuant to the provisions of Ordinance 3050 of the County, as the same may be amended or superseded from time to time. (Prior Code § 13-5)

CHAPTER 5-5 NOISE REGULATIONS

Section 5-5.01. Policy declared.

(a) It is declared to be the policy of the City to prohibit unnecessary, excessive and annoying noises from all sources subject to its police power. Noises detrimental to the health and welfare of the citizenry shall be systematically proscribed.

(b) It shall also be the policy of the City to prohibit noises that constitute a nuisance regardless of level during certain time periods. (Prior Code § 10-91A.1)

Section 5-5.02. Definitions.

As used in this chapter, unless the context otherwise clearly indicates, the words and phrases used in this section and its subsections are defined as follows:

(a) "Ambient base noise level" means the reasonable and representative ambient noise levels in various land use categories in the City and at various times as set forth in Section 5-5.05.

(b) "Ambient noise level" means the all-encompassing noise associated with a given environment, usually being a composite of sounds with many sources excluding the alleged offensive noise at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

(c) "Decibel" (dB) means a unit of level which denotes the ratio between two (2) quantities which are proportional to power; the number of decibels corresponding to the ratio of two (2) amounts of power is ten (10) times the logarithm to the base ten (10) of this ratio. For the purpose of this chapter zero decibels (0 dB(A)) shall be twenty (20) micronewtons per square meter.

(d) "Emergency work" means any work performed for the purpose of preventing or alleviating the mental or physical trauma or property damage threatened or caused by an emergency. "Emergency," for the purpose of this definition, includes any occurrence or set of circumstances involving actual or imminent mental or physical trauma or property damage which demands immediate action, or work by private or public utilities when restoring utility service.

(e) "Motor vehicles" includes but is not limited to off-road vehicles, minibikes and go-carts.

(f) "Noise Control Officer" means the Director of the Community Development Department and any other person authorized by this Code to enforce provisions of Title 5, Chapter 5.

(g) "Noise level" means the "A" weighted sound pressure level in decibels obtained by using a sound level meter at slow response with a reference pressure of twenty (20) micronewtons per square meter. The unit of measure is the dB(A). The equivalent noise level (Leq), a measure of the average noise experienced during a specified period of time, shall be considered the noise level, except when the L10 (the noise level exceeded ten percent (10%) of the time) is five (5) dB(A) over the Leq it is the noise level.

(h) "Person" means a person, firm, association, co-partnership, joint venture, corporation or any entity, public or private in nature.

(i) "Sound amplifying equipment" means any machine or device for the amplification of the human voice, music or any other sound. "Sound amplifying equipment" does not include standard automobile radios when used and heard only by the occupants of the vehicle in which the automobile radio is installed. "Sound amplifying equipment" does not include warning devices on authorized emergency vehicles or horns or other warning devices on any authorized emergency vehicles or horns or other warning devices on any vehicle or locomotive used only for traffic safety purposes.

(j) "Sound level meter" means an instrument meeting American National Standard Institute's Standard S1.4-1971 for Type 1 or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data.

(k) "Sound pressure level" of a sound in decibels means twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of this sound to the reference pressure, twenty (20) micronewtons per square meter.

(l) "Sound truck" means any motor vehicle, or any other vehicle regardless of motive power, whether in motion or stationary, having mounted thereon, or attached thereto, any sound amplifying equipment. (Ord. 2004-01, eff. 2/20/04)

Section 5-5.03. Complaint evaluation.

A complaint shall be evaluated in the following manner:

(a) An ambient reading shall be made at a time when the offending noise source is not present. A sample of no less than one (1) hour shall be taken.

(b) Noise reading shall be made concurrent with the offending noise. A sample of no less than one (1) hour shall be taken. The offending noise shall be considered the Leq or L10 as set forth in Section 5-5.02.

(c) These readings shall be made at precisely the same location, which shall be at the property line of the complaining party. (Prior Code § 10-91A.3)

Section 5-5.04. Determination of violation.

(a) A violation shall be determined to exist when the noise level exceeds the ambient noise level or the ambient base noise level, whichever is higher, as follows:

- (1) By any amount thirty (30) minutes for any given hour, measured cumulatively;
- (2) By five (5) dB(A), fifteen (15) minutes for any given hour;
- (3) By ten (10) dB(A), five (5) minutes for any given hour;
- (4) By twenty (20) dB(A) at any time.

(b) Where one (1) zone interfaces with another, the ambient noise base level prescribed for the most restrictive zones shall prevail.

Section 5-5.05. Ambient base noise level.

The ambient base noise level is established as follows:

**RANGE OF INTENSITIES
AMBIENT BASE NOISE LEVEL**

ZONES	DURATION			
	Ambient Base		Fifteen Minutes	
	Day	Night	Day	Night
Residential	55	45	60	50
Commercial	65	60	70	65
Industrial	75	70	80	75

ZONES	DURATION			
	Five Minutes		One Minute	
	Day	Night	Day	Night
Residential	65	55	70	60
Commercial	75	70	80	75
Industrial	85	80	90	85

(Prior Code § 10-91A.5)

Section 5-5.06. Unmeasurable nuisance noise.

Noises or noise sources which because of the time when they are emitted or their quality, intensity, frequency or uniqueness, are not amenable to measurement as other noise sources described in this chapter, but which nevertheless are offensive or detrimental to the health, safety or welfare of other persons, or which substantially interfere with the reasonable quiet enjoyment of property by other persons, are found and determined to be nuisances. Emitting or causing the emission of such noises is a violation of this chapter. Such sources include but are not necessarily limited to:

- (a) Animals and fowl (e.g. barking dogs, crowing roosters);
- (b) Automobile or other mechanical work or repairs not conducted in a licensed automobile or mechanical repair shop or workshop;
- (c) The use of power-driven tools or appliances other than in a licensed shop which is licensed for such activities;
- (d) Amplified sound such as that from television, radio, stereo or other similar devices;
- (e) Noise of construction caused by hand tools, power tools or equipment, when the noise occurs at a time other than:
 - (1) between the hours of 7:00 a.m. and 6:00 p.m., Monday through Friday; or
 - (2) between the hours of 8:00 a.m. and 5:00 p.m., Saturday through Sunday; or
 - (3) allowed by permit issued by the Noise Control Officer. (Ord. No. 2006-02, eff. 3/21/2006; Prior Code § 10-91A.6)

Section 5-5.07. Warning notice.

After review of a complaint received by the Noise Control Officer, the owner/operator of a noise source shall be given one (1) verbal or written notice and on the second verification of a complaint, shall be in violation of this chapter. (Prior Code § 10-91A.7)

Section 5-5.08. Residential zones: Prohibited noises.

The following noise sources are prohibited within residential zones:

- (a) Hawkers and peddlers;
- (b) Sound amplifying trucks. (Prior Code § 10-91A.8)

Section 5-5.09. Residential zones: Construction-noise permits.

Persons operating equipment or performing any outside construction or repair work on buildings, structures or projects within a residential zone, or within a radius of five hundred (500) feet therefrom, shall be required to obtain a permit from the Noise Control Officer only if they exceed the noise standards set forth in Sections 5-5.03 and 5-5.05. This permit would cover short-term or occasional, non-routine operations. (Prior Code § 10-91A.9)

Section 5-5.10. Enforcement guidelines.

The following shall be considered in the enforcement of the provisions of this chapter:

(a) The noise in question must have a distinguishable noise source. The intent of these regulations is not to enforce against the ambient or composite noise in any given area.

(b) Existing noise sources at the time of adoption of the ordinance from which this section derives will be considered as part of the ambient noise level, and hence not subject to the provisions of the regulations of this chapter, except as follows:

- (1) The noise is the subject of complaint by neighbors; and
- (2) The noise is distinguishable as to source.

(c) In such cases the Noise Control Officer may take action by requiring an abatement program which would consider:

- (1) A reasonable period for abatement;
- (2) The costs of such abatement;
- (3) The practicality of such abatement.

(d) In no case shall such abatement program require compliance in less than six (6) months from the time of notice to the involved party.

(e) Enforcement of the provisions of this chapter is in response to complaints made by the public. It shall not be the policy of the City to initiate action in the absence of a complaint. (Ord. 2004-01, eff. 2/20/04)

Section 5-5.11. Exclusions.

The provisions of this chapter shall not apply to:

(a) Sound produced by motor vehicles as regulated by sound-limitation provisions of the State Vehicle Code when such vehicle is located or operated on any public street, right-of-way or highway;

(b) Aircraft operated in conformity with federal law;

(c) Activities of the federal, state or local government and its duly franchised utilities;

(d) Trains operated in conformity with and regulated by any federal or state agency;

(e) Activities necessary to continue to provide utility service to the general public, whether this service is installing additional facilities, restoring worn or damaged facilities and/or maintaining existing service;

(f) Emergency work, as defined in Section 5-502;

(g) The reasonable operation of normal household gardening equipment or hobby shop equipment or home maintenance/repair work during the hours of seven (7:00) a.m. until six (6:00) p.m. on Monday through Friday and of eight (8:00) a.m. until five (5:00) p.m. on Saturdays and Sundays. (Ord. No. 2006-02, eff. 3/21/2006; Prior Code § 10-91A.13)

Section 5-5.12. Appeals.

Any and all persons aggrieved by any action of the Noise Control Officer taken pursuant to the provisions of this chapter may file an appeal from the action or any part thereof; provided, that such appeal shall be in writing stating the reasons for the appeal and filed with the secretary of the Planning Commission within not more than ten (10) working days following the action taken. The decision of the Planning Commission shall be final unless a

written appeal to the City Council is filed with the City Clerk within ten (10) days of the Planning Commission action. (Prior Code § 10-91A.14)

Section 5-5.13. Violation: Abatement.

As an additional remedy, the operation or maintenance of any device, instrument, vehicle or machinery in violation of any provision of this section is subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction. (Prior Code § 10-91A.12)

Section 5-5.14. Violation: Misdemeanor.

Any person violating any of the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof is punishable in accordance with Chapter 1-6 of this Code. (Prior Code § 10-91A.11)

CHAPTER 5-6 PROPERTY NUISANCE

Section 5-6.10. Purpose.

The purpose and intent of this chapter is:

- (a) To promote safe living and commercial areas for the community's residents, and to protect the health, safety and welfare of its residents;
- (b) To enhance and promote the maintenance of real property, improved and unimproved, and by so doing, improve the livability, appearance, and the social and economic conditions of the community;
- (c) To elevate the self-esteem of the residents of the City of Santa Maria, develop a cohesive and caring community, and thereby be beneficial to the growth and prosperity of the City; and
- (d) To ensure that the real properties, whether improved or unimproved, do not reach such a state of deterioration or disrepair as to cause the depreciation of the value of the surrounding neighborhood or be materially detrimental to nearby properties and improvements. (Ord. 99-25, eff. 1/21/00)

Article 1. Code Compliance Board

Section 5-6.100. Board established; purpose.

There is hereby established a Code Compliance Board ("Board"). The purpose and duty of the Board is to determine whether violations of law or conditions which constitute a public nuisance exist pursuant to Chapter 5-6 of the Santa Maria Municipal Code, and to order appropriate methods of abatement and/or the imposition of administrative penalties. No funds shall be expended for the abatement of any nuisance established in this chapter unless the Board has declared the property to be a public nuisance and ordered the abatement of the nuisance. (Ord. 99-25, eff. 1/21/00)

Section 5-6.101. Appointment of members; term of office.

The Board shall consist of five (5) members appointed by the Mayor with the approval of the City Council. The term of office shall be for a period of two (2) years, or until a successor is appointed. The initial term of office for three (3) members shall be for a period of one (1) year, and for two (2) members the initial term of office shall be two (2) years. (Ord. 99-25, eff. 1/21/00)

Section 5-6.102. Other duties.

- (a) The Board shall issue periodic reports to the City Council regarding its activities, including, but not limited to, the number of hearings conducted, the amounts of any administrative penalties and abatement costs imposed, and the compliance record with respect to Compliance Orders issued.
- (b) The Board shall hear such other matters that may be delegated or assigned to it by the City Council. (Ord. 99-25, eff. 1/21/00)

Article 2. Property Nuisances

Section 5-6.200. Definitions.

When used in this chapter, words shall have the same meaning as in Title 12 of this Code, unless otherwise specified. As used in this chapter:

- (a) "Abate/Abatement" means action to terminate, stop, cease, repair, rehabilitate, replace, demolish, correct or otherwise remedy nuisance activity, condition, premises or conduct by such means and in such manner as to bring the activity, condition, premises or conduct into compliance with the laws or regulations of the City of Santa Maria and/or the State of California or in such manner as is necessary to promote the health, safety or general welfare of the public.
- (b) "Abatement costs" means the actual costs paid or incurred by the City in connection with the matter, including, but not limited to:
 - (1) costs of investigation;
 - (2) personnel costs;
 - (3) City overhead incurred in the preparation for any hearing and appearing at the hearing itself;
 - (4) costs incurred for all inspections and re-inspections necessary to enforce any order issued under this chapter;
 - (5) costs of preparation of notices, specifications and contracts and inspecting the work performed under contract;

- (6) costs of mailing and printing notices and documents; and
- (7) the cost, including staffing costs, expended or incurred by the City in abating the conditions or violations pursuant to any order under this chapter.
- (c) "Attractive nuisance" shall mean any condition, instrumentality or machine located in a building or on premises, which is or may be unsafe or dangerous to children by reason of their inability to appreciate the peril therein, and which may reasonably be expected to attract children to the premises and risk injury by playing with, in, or on it.
- (d) "City Clerk" means the City Clerk of the City of Santa Maria.
- (e) "Compliance Officer" shall mean any Code Compliance Officer or any other official named in this Code to enforce the provisions of this chapter.
- (f) "Minor" shall mean any person under the age of eighteen (18) years, and who is not emancipated.
- (g) "Owner" means the owner or owners of any premises or real property.
- (h) "Premises or real property" shall mean, in context, any location, building, structure, residence, garage, room, shed, shop, store, dwelling, lot, parcel, land or portion thereof, whether improved or unimproved.
- (i) "Responsible party or person" means any individual, business or entity responsible for creating, causing, maintaining or permitting the nuisance activity, premises, condition or conduct; and includes, but is not limited to, the property owner, tenant, lessee, possessor, or occupant of real property, the president or other officer of the corporation, a business owner or manager of a business.
- (j) "Secretary" means the secretary to the Code Compliance Board.
- (k) "Yard" means any open space other than a court on the same lot with a building or a dwelling group, which space is clear of structures and thus open from ground to sky. The exception for projections and/or accessory buildings stated in Section 12-2.145 of this Code does not apply. (Ord. 2010-03, eff. 5/20/10; Ord. 99-25, eff. 1/21/00)

Section 5-6.201. Alternative actions.

The procedures provided in this chapter shall be cumulative and in addition to any other procedure or legal remedy provided for in this Code or by State law for the abatement of nuisance related activities, premises, conditions or conduct. Nothing in this chapter shall be deemed to prevent the City from commencing a civil or criminal proceeding to abate a nuisance under applicable Civil, Criminal or Municipal Code provisions as an alternative or alternatives to the proceedings set forth in this chapter. (Ord. 99-25, eff. 1/21/00)

Section 5-6.202. Unlawful property nuisance.

It is unlawful for any person owning, renting, leasing, occupying, managing or having charge, or possessing of any real property in this City to maintain such premises in such a manner that any of the following conditions are found to exist thereon:

- (a) A building, structure, or portion thereof, which is in a dilapidated or dangerous condition so as to be unfit, unsafe, or unsuitable for human occupancy. Such conditions include, but are not limited to:
 - (1) Inadequate or inoperable mechanical, electrical, plumbing, or sanitation systems or equipment;
 - (2) Lack of sound and effective exterior walls or roof covering to provide weather protection;
 - (3) Lack of structural integrity, including deteriorated or inadequate foundations, joints, vertical or horizontal support;
 - (4) Broken, missing, or inoperable windows or doors constituting a hazardous condition or a potential attraction to trespassers;
 - (5) Buildings or structures which are unpainted or which otherwise lack exterior coating, causing dry rot, warping or termite infestation;
 - (6) Broken, deteriorated, or substantially defaced structures visually impacting on the neighborhood or presenting a risk to public safety;
 - (7) Substandard building conditions described in the State Housing Law, including but not limited to Section 17920.3 of the Health and Safety Code.
- (b) An abandoned building or structure such as:
 - (1) An unoccupied and unsecured building or structure;
 - (2) A partially constructed, reconstructed, or demolished building or structure where work is abandoned for 120 consecutive days;
 - (3) A damaged or partially destroyed building or structure not removed or repaired within 120 days after the damage or destruction, or, if the removal or repair cannot reasonably be accomplished within 120 days, upon which removal or repair has not been commenced within such period and prosecuted diligently toward completion.

(c) Property maintained in a condition so defective, unsightly, or in a state of such deterioration, disrepair or neglect that it causes a health, safety or fire hazard or an attractive nuisance to children such as:

(1) The accumulation of dirt, litter, refuse, trash, debris, rubble, piles of soil, rock or combustible material in carports, parking areas, driveways, front yards, side yards, rear yards, vestibules, doorways of buildings, the adjoining sidewalk, or alley;

(2) Storage of personal property (other than items designated for outdoor use) on driveways, or in front, exterior side, or rear yard areas visible to public view, including, but not limited to unregistered, inoperative or dismantled vehicles or vehicle parts, building materials not currently being used for the construction of improvements on the site, appliances, household furnishings or equipment, tools, machines, garbage cans, portable toilets (unless approved as part of a construction project), cargo containers (unless properly zoned and permitted), packing boxes, debris, rubbish, and broken or discarded furniture; provided however, that a violation of this subsection limited to garbage cans shall be an infraction;

(3) Trees, weeds, or other vegetation which are dead, decayed, infested, diseased, overgrown, or likely to harbor rats or vermin, or which are detrimental to neighboring property or property values;

(4) Abandoned and broken equipment or machinery, or parts thereof;

(5) Parking lots, driveways, paths or other paved surfaces with cracks, potholes or other deficiencies posing a risk of harm to the public;

(6) Fences or walls:

(A) which lack structural support because of missing or wet soil, missing or failed footings, or missing or failed fastenings; or which otherwise do not stand erect;

(B) which are in disrepair due to damage, crumbling mortar, missing bricks or wood, rotted wood, breaks or dents in their structure;

(7) Front yards, and street side yards on improved lots, including corner lots, which lack required landscaping with a lawn, ground cover, bushes, or trees, or which lack required covering with rock or other decorative material, except during permitted construction, demolition, or remodel work on the lot;

(8) A surface excavation or grading on private property which:

(A) contains four (4) or more inches of standing water for a period in excess of five (5) days during which no rain has fallen; or

(B) has sides which slope at an angle that exceeds City standards.

(C) This prohibition does not apply to:

(i) Completed drainage facilities which are owned or maintained by, or approved and maintained in the manner approved by, the City of Santa Maria or County of Santa Barbara;

(ii) Excavations made as part of construction approved by the City and protected with barriers or fences that meet City, County and/or State standards; or

(iii) Excavations which are completely surrounded by a fence or other secure barrier at least six (6) feet tall;

(9) A vehicle or vehicles parked or stored in a front or corner side yard, except for registered and operable vehicles on a driveway or a paved area or behind a solid fence. No more than fifty percent (50%) of the front or side yard may be paved. This provision shall not apply to vehicles completely screened by a fence or wall (at ground level) from public view, so long as the vehicle does not violate sections 5-6.202(h) or 12-32.08A of this code, or any successor section regulating the storage of vehicles on property in residential use.

(d) Buildings, structures, or other surfaces upon which graffiti exists. Graffiti, as used in this chapter, shall mean defacement, damage, or destruction by the presence of paint or ink, chalk, dye, or other similar substances; or by carving, etching, or other engraving.

(e) Clothing, linen, towels, laundry, rugs, mattresses, and other similar material hung, placed, or attached to power lines, trees, bushes, fences, buildings, railings, or walls and visible from public property or an area open to the public.

(f) Waste matter or personal property placed on rooftops.

(g) Construction or agricultural equipment, machinery, or materials, parked or placed on residential premises and visible from public property or an area open to the public; except during permitted construction, demolition or remodel work on the site.

(h) Commercial vehicles or vehicles designed for commercial purposes which are parked or stored on a lot or parcel in a residentially zoned district, as defined by Title 12 of this Code.

(1) For purposes of this subsection (h), commercial vehicles or vehicles designed for commercial purposes shall include, but not be limited to, any of the following vehicles:

(A) A "commercial vehicle" as defined in California Vehicle Code Section 260;

(B) A commercial vehicle with a weight in excess of ten thousand (10,000) pounds "gross vehicle weight rating" as defined in California Vehicle Code Section 350(a);

(C) A commercial vehicle that exceeds eight (8) feet in total outside width, or seven (7) feet in height (including any load thereon), or twenty-one (21) feet in length in total bumper to bumper length;

(D) A "tank vehicle," which shall mean any commercial vehicle that is designed to transport any liquid or gaseous material within a tank that is permanently or temporarily attached to the vehicle or the chassis, including, but not limited to, cargo tanks and portable tanks, as defined in Part 171 of Title 49 of the Code of Federal Regulations [this definition does not include portable tanks having a rated capacity under one hundred (100) gallons], or a motor vehicle holding hazardous wastes or hazardous materials which is required to display placards or markings pursuant to Vehicle Code Section 27903;

(E) A "general public paratransit vehicle" or a "paratransit vehicle" or a "transit bus" as defined in Vehicle Code Sections 336, 462 and 642, respectively, but not a "vanpool vehicle" as defined in California Vehicle Code Section 686;

(F) A "school bus" or a "school pupil activity bus" or a "youth bus" as defined in California Vehicle Code Sections 545, 546 and 680, respectively;

(G) A "semi trailer" as defined in California Vehicle Code Section 550;

(H) A pickup truck with a "utility body" as defined in California Vehicle Code Section 471;

(I) A stake bed truck which shall mean any motor vehicle with a bed surrounded by side rails or endrails or a stake gate;

(J) A "trailer" as defined in California Vehicle Code Section 630 that is either used, maintained or designed for commercial purposes;

(K) A "water tender vehicle" as defined in California Vehicle Code Section 676.5;

(L) "Special construction equipment" vehicles as defined in California Vehicle Code Section 565;

(M) A "tow truck" or a "tow dolly" as defined in California Vehicle Code Sections 615 and 617, respectively;

(N) A "tour bus" or a "trailer bus" as defined in California Vehicle Code Sections 612 and 636, respectively;

(O) A "truck tractor" as defined in California Vehicle Code Section 655;

(P) An "armored vehicle" as defined in California Vehicle Code Section 115;

(Q) A "taxicab" as defined in 4-10.101(g) of this Code;

(R) A "bus" as defined in California Vehicle Code Section 233;

(S) A street sweeper or vacuum truck used for cleaning parking lots or similar surfaces.

(2) Exceptions - Subsection (h) shall not apply to any of the following:

(A) Vehicles making pickups or deliveries of goods, wares and merchandise from or to any building or structure, except when the building or structure is used as a home occupation subject to the regulations in Title 12, Chapter 29 of this code;

(B) Vehicles parked for the purpose of delivering materials to be used in the actual and bona fide repair, alteration; remodeling, or construction of any building or structure;

(C) Vehicles completely screened by a fence or wall (at ground level) from public view, so long as the vehicle does not violate subsections (1)(A), (1)(B) or (1)(C) of this subsection (h) or 12-32.08A of this code;

(D) Vehicles stored within a fully enclosed garage;

(E) Recreational vehicles as defined in Health and Safety Code Section 18010

(F) Except as provided for in 5-6.202(h)(2)(A) and (B), pickup trucks not used in connection with a business to transport, haul or store related products, items or equipment in, or to or from a residential parcel; those vehicles which are not subject to home occupation regulations as noted in 12-29.10 SMMC.

(i) Vehicle or vessel repair as defined in Section 12-29-02.1(b) of this Code, which occurs in a residentially zoned district and is offensive or detrimental to the health, safety, or welfare of other persons, or which substantially interferes with the reasonable enjoyment of property by other persons, because of the substances, odors, noise, or visual clutter created by the repair; or because of the items stored in connection with the repair, or because the repair is performed on a vehicle not owned by the occupant of the property.

(j) Any building or structure which is a public nuisance under common law.

(k) Any violation of the zoning ordinances or occupying or otherwise using property in violation of the provisions of any conditional use permit, planned development permit, variance or other land use entitlement or land use permit.

(l) Any condition or activity which is a "nuisance" or a "public nuisance" as defined in Sections 3479 and 3480 of the Civil Code of the State of California or which is specifically declared to constitute a nuisance by any statute of the State of California or by any ordinance of the City of Santa Maria.

(m) Any building or structure which is constructed, altered, repaired, modified, maintained or used in violation of the following provisions of the Santa Maria Municipal Code:

(1) Title 9, Chapter 1, Article 1 (Building Code), and Title 9, Chapter 1, Article 2 (Building Code amendments);

(2) Title 9, Chapter 1, Article 3 (Housing Code);

(3) Title 9, Chapter 1, Article 5 (Mechanical Code);

(4) Title 9, Chapter 2 (Electrical Code);

(5) Title 9, Chapter 3 (Fire Prevention Code);

(6) Title 9, Chapter 4 (Plumbing Code).

(n) Any activity which is in conflict with the Constitution or laws of the State or the United States. (Ord. 99-25, eff. 1/21/00; Ord. 2002-05, eff. 7/18/02; Ord. 2004-01, eff. 2/20/04; Ord. 2005-17, eff. 1/20/06; Ord. 2006-20, eff. 2/1/07; Ord. 2008-01, eff. 3/20/08; Ord. 2009-18, eff. 10/2/09; Ord. 2010-03, eff. 5/20/10; Ord. 2011-02, eff. 5/5/11)

Section 5-6.203. Declaration of public nuisance; recording Notice of Nuisance.

All property found to be maintained in violation of any one or more of the provisions of Section 5-6.202 of this chapter is hereby declared to be a public nuisance and shall be abated pursuant to the procedures set forth herein. The procedures for abatement set forth herein shall not be exclusive and shall not in any manner limit or restrict the City from enforcing other City ordinances or abating public nuisances in any manner provided by law. A Notice of Nuisance document may be recorded with the County Recorder for any property that is declared to be a public nuisance pursuant to this section, for the purpose of providing constructive notice of the existence of a public nuisance at the property to potential buyers, sellers and successors-in-interest. A Notice of Release document will be recorded upon abatement of the public nuisance identified in the Notice of Nuisance document. (Ord. 99-25, eff. 1/21/00; Ord. 2010-12, eff. 12/2/10)

Section 5-6.204. Responsibility for property maintenance.

Every responsible party who owns or is in possession of premises within the City is required to maintain such premises in a manner so as not to violate the provisions of this chapter. (Ord. 99-25, eff. 1/21/00)

Section 5-6.205. Right to enter property to inspect or abate.

Any officer, employee, or agent of the City of Santa Maria may enter and inspect or abate any building or premises whenever necessary to secure compliance with, or prevent violation of, any provision of this chapter. If required by law, the officer, employee or agent shall first obtain consent of the responsible party or an appropriate court order. (Ord. 99-25, eff. 1/21/00)

Section 5-6.206. Compliance Order; contents.

Whenever the Compliance Officer determines that any property is maintained in violation of one or more of the provisions of Section 5-6.202, he shall serve on the responsible parties a written Compliance Order which contains:

(a) The date and location of the violation;

(b) The section of the Code violated and a brief description of the violation;

(c) The actions required to correct the violation(s) or abate the condition(s);

(d) The time period after which the City will enter the property to abate the conditions or administrative penalties will begin to accrue if compliance is not achieved;

(e) The time period for abatement;

The Compliance Officer may grant an extension of time upon good cause, provided the responsible party signs a written agreement to abate the nuisance within a time certain.

(f) That a public hearing will be held before the Code Compliance Board if abatement is not achieved within the time set forth in the Compliance Order. (Ord. 99-25, eff. 1/21/00; Ord. 2001-01, eff. 3/8/01)

Section 5-6.207. Service of notices; failure to receive notice.

(a) All written notices required to be given under the provisions of this chapter may be served in the following manner:

(1) By personal delivery, or

(2) To the property owner, by mailing a copy of the notice by United States mail, postage prepaid, to his or her address shown on the last equalized assessment roll available on the date the notice is prepared, and to other responsible parties at their address as known to the Compliance Officer or at the property address. Service under this subsection shall be deemed complete five (5) days after deposit in the United States mail.

(b) Where personal service or service by mail of the Compliance Order or the Notice of Hearing pursuant to subsection (a) of this section upon the property owner is unsuccessful, the Compliance Officer shall cause all of the following to occur:

(1) A copy of the Compliance Order or the Notice of Hearing, as appropriate, shall be posted conspicuously at the real property where the public nuisance is occurring. A Notice of Hearing shall be posted not less than fifteen (15) days prior to the hearing referenced in the Notice; and

(2) A copy of the Compliance Order or Notice of Hearing, as appropriate, shall be published for at least three (3) consecutive days in a newspaper of general circulation in the City. A copy of the Notice of Hearing shall be published at least ten (10) days prior to the hearing referenced in the Notice.

(c) In the case of violations of subdivision (m) of Section 5-6.202 [Building Codes] only, the holder of any mortgage or deed of trust shall be served with a Compliance Order pursuant to subsection (a)(2) [service by mail] of this section at the address appearing on the recorded mortgage or deed of trust.

(d) Notwithstanding any provision in this section, service by mail may be made to any responsible party at any address authorized or requested by such person.

(e) The failure of any person to receive any notice required under this chapter and properly served, mailed, posted or published under this chapter shall not affect the validity of any proceedings taken under this chapter. (Ord. 99-25, eff. 1/21/00; Ord. 2002-05, eff. 7/18/02)

Article 3. Hearing Procedure, Appeals

Section 5-6.300. Hearing request.

(a) If the Compliance Officer determines all violations have been corrected within the time specified in the Compliance Order, or any extension thereof, no further action shall be taken.

(b) If compliance is not achieved within the time specified in the Compliance Order, the Compliance Officer issuing the Compliance Order shall notify the Secretary to set a hearing before the Board.

(c) The Secretary shall cause a written notice of hearing to be served on all parties named in the Compliance Order by United States mail, first class, postage prepaid. Upon request of the Compliance Officer notice shall be served on properties within one hundred (100) feet of the property that is subject to the abatement hearing, or upon the complainant or complainants, if any, who reside beyond that distance. (Ord. 99-25, eff. 1/21/00)

Section 5-6.301. Notice of hearing; setting of hearing; failure to appear.

(a) Every notice of hearing shall contain the time, date and place at which the hearing will be conducted.

(b) The hearing date shall be not less than fifteen (15) days nor more than sixty (60) days from the date of the Notice of Hearing, unless the Compliance Officer determines the matter is urgent or good cause exists for an extension of time.

(c) The hearing shall provide a full opportunity for the responsible parties subject to a Compliance Order to object to the determination that a nuisance has occurred, that the nuisance has continued to exist or has recurred and/or that the person is responsible for creating, maintaining or fostering the nuisance.

(d) The failure of any person subject to a Compliance Order pursuant to this chapter to appear at the hearing shall constitute an admission of the facts in the Compliance Order and shall constitute a failure to exhaust administrative remedies. (Ord. 99-25, eff. 1/21/00)

Section 5-6.302. Conduct of hearing.

(a) At the time and place stated in the notice, the Code Compliance Board shall hear and consider all relevant evidence, including, but not limited to, the testimony of the responsible party, City personnel, neighbors, witnesses or other interested parties, and may consider staff reports or other written materials, on the following issues:

(1) Whether the activity, condition, or conduct stated in the Compliance Order exist on the property or existed after the time for compliance stated in the Compliance Order;

(2) Whether the person(s) named in the Compliance Order are responsible parties; and

(3) The appropriate method of abatement, the amount of administrative penalties and the imposition of abatement costs.

(b) Proof of the existence of the nuisance must be by the preponderance of evidence, and the burden of proof is with the City.

(c) The formal rules of evidence shall not apply.

(d) Continuances for good cause may be granted on the motion of any responsible party, the Compliance Officer, or upon the Board's own motion. (Ord. 99-25, eff. 1/21/00)

Section 5-6.303. Required findings; Determination; Nuisance Abatement Order.

(a) Within fifteen (15) days after the conclusion of the hearing, the Board shall make findings and issue its written determination in connection with the Compliance Order.

(b) The Board shall issue a Nuisance Abatement Order by resolution if it finds that:

(1) The activity, condition, or conduct stated in the Compliance Order exist on the property or existed after the compliance date specified in the Compliance Order;

(2) No activity, condition or conduct existed beyond the control of any person that prevented compliance with the Compliance Order; and

(3) The parties in the Compliance Order are responsible parties.

(c) The Nuisance Abatement Order may impose or order any or all of the following:

(1) Administrative penalties pursuant to Santa Maria Municipal Code Chapter 1-8.

(2) Abatement within the time specified in the Nuisance Abatement Order of the nuisance, or that the City may upon failure to abate the nuisance, abate the nuisance at the expense of the responsible parties.

(3) Abatement costs against the persons responsible for creating, maintaining or fostering the public nuisance when the Board finds the nuisance occurred or recurred on or after the compliance date specified in the Compliance Order.

(d) If the City Attorney determines that the violation implicates a first amendment right, the Nuisance Abatement Order shall provide that the order is suspended until the responsible party exhausts his or her judicial remedies. (Ord. 99-25, eff. 1/21/00)

Section 5-6.304. Service of Determination or Nuisance Abatement Order.

The Secretary shall serve a copy of the Nuisance Abatement Order of the Board upon the responsible parties and the Compliance Officer. (Ord. 99-25, eff. 1/21/00)

Section 5-6.305. Procedure: No appeal.

In the absence of any appeal pursuant to Section 5-6.306, the public nuisance found to exist on the property shall be abated by having such property, building or structures rehabilitated, repaired or demolished within the time specified, and in the manner and means specifically set forth in the Nuisance Abatement Order issued by the Code Compliance Board. (Ord. 99-25, eff. 1/21/00; Ord. 2009-21, eff. 10/15/09)

Section 5-6.306. Appeal.

Any person affected by the decision of the Board may appeal the decision to the Superior Court of Santa Barbara County within twenty (20) days of the decision or service of the Nuisance Abatement Order. The appeal shall be governed by the provisions of Government Code Section 53069.4 (Ord. 99-25, eff. 1/21/00; Ord. 2009-21, eff. 10/15/09)

Section 5-6.307. Compliance with Nuisance Abatement Order.

Every person subject to a Nuisance Abatement Order shall comply with the Nuisance Abatement Order and with all applicable laws, permits or other approvals of the federal, state or local governments in any and all actions taken pursuant to or in order to comply with the Compliance Order, including, without limitation, the payment of all applicable permit fees. (Ord. 99-25, eff. 1/21/00; Ord. 2009-21, eff. 10/15/09)

Section 5-6.308. Compliance report.

If the Compliance Officer determines that compliance with the Nuisance Abatement Order has been achieved, the Compliance Officer shall notify the responsible party and file a report with the Board indicating that compliance has been achieved and the date of the City's final inspection of the property. (Ord. 99-25, eff. 1/21/00; Ord. 2009-21, eff. 10/15/09)

Section 5-6.309. Compliance dispute; determination by Board; finality.

(a) If the City Attorney does not file a Compliance Report pursuant to Section 5-6.308, any person subject to a Nuisance Abatement Order who believes that compliance has been achieved may request a Compliance Hearing before the Board by filing written request for a hearing with the Secretary.

(b) The hearing shall be conducted in the same manner as provided for in Section 5-6.302.

(c) The Board shall determine if compliance with the Nuisance Abatement Order has been achieved and, if so, when achieved.

(d) The decision of the Board is final. (Ord. 99-25, eff. 1/21/00; Ord. 2009-21, eff. 10/15/09; Ord. 2010-03, eff. 5/20/10)

Section 5-6.310. Recordation of Nuisance Abatement Order.

If no appeal is filed pursuant to Section 5-6.306 in the Superior Court contesting the Nuisance Abatement Order. The City Clerk shall record a copy of the Nuisance Abatement Order with the County Recorder of Santa Barbara County. When compliance is achieved, the City Clerk shall record a release of the Order. (Ord. 99-25, eff. 1/21/00; Ord. 2009-21, eff. 10/15/09)

Article 4. City Abatement; cost recovery; special assessment; property lien

Section 5-6.400. City abatement.

If the responsible party fails or neglects to remove or otherwise take action to abate the public nuisance or correct the violation within the time specified in a Compliance Order or Nuisance Abatement Order, the Compliance Officer, through City employees or private contractor, shall cause such nuisance to be abated. The Compliance Officer shall keep, maintain and file with the Board a report of the proceedings and an accurate account of the abatement costs, including the salvage value, on each separate property. (Ord. 99-25, eff. 1/21/00)

Section 5-6.401. Hearing and confirmation of assessment.

(a) Upon receipt of the report, the Secretary shall set the report and account for hearing by the Board. The Secretary shall fix a time, date and place for hearing and confirmation of said report, and any protests or objections thereto. The Secretary shall cause notice of said hearing to be posted on the property involved, published at least once in a newspaper of general circulation in the City of Santa Maria, and served by certified, return receipt requested, postage prepaid, addressed to the property owner as his or her name appears on the last equalized assessment role or as known to the Secretary. The notice shall be given at least ten (10) calendar days prior to the date of hearing and shall specify the time, date and place of hearing when the Board will consider the report and accounting of the Compliance Officer, together with any protests or objections thereto which may be filed by any party interested in or affected by the proposed charge.

(b) At the time and place of the hearing, the Board shall hear and pass upon the report of the Compliance Officer together with any objections or protests. The Board may make revisions, corrections or modifications in the report or charges as it may deem just; and when the Board is satisfied with the correctness of the charges and the report, they shall be final and conclusive. (Ord. 99-25, eff. 1/21/00)

Section 5-6.402. Special assessment; collection on tax roll.

(a) Unless paid within thirty (30) days following the adoption of the Board resolution confirming the costs of abatement, the total cost for abating such nuisance, as confirmed by the Board, shall constitute a special assessment against the respective lot or parcel of land to which it relates, and upon recordation in the Office of the County Recorder of a Notice of Lien, as so made and confirmed shall constitute a special assessment on the property for the amount of the assessment. The assessment shall be collected at the same time and in the same manner as ordinary real estate taxes. The Board may provide for the collection of such assessment in not more than five (5) annual installments. The payment of assessments so deferred shall bear interest at the rate of ten percent (10%) per annum.

(b) The Secretary shall give written notice to the owner of the imposition of the special assessment by United States mail, postage prepaid, at the time of imposing the assessment. The notice shall contain the following information:

(1) That the property may be sold after three (3) years by the tax collector for unpaid delinquent assessments and that the tax collector's power of sale shall not be affected by the failure of the property owner to receive notice.

(2) That the assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected and subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes.

(3) That if the property is sold to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date to which the first installment of taxes would become delinquent, the cost of abatement shall not be a lien against the real property, but shall be transferred to the unsecured roll for collection. (Ord. 99-25, eff. 1/21/00; Ord. 2002-05, eff. 7/18/02)

Section 5-6.403. Recordation of nuisance abatement lien.

(a) As an alternative, and in addition to, the special assessment provided for in Section 5-6.402, the Board may impose a nuisance abatement lien on the property subject to the abatement proceedings. Prior to the recordation of the lien, notice shall be given to the owner of the property. Service of notice shall be served in the same manner as summons in a civil action in accordance with Article 3 (commencing with Section 415.1) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. If, after diligent search, the owner cannot be found, the notice may be served by posting a copy in a conspicuous place on the property for a period of ten (10) days and publication thereof in a newspaper of general circulation published in the County in which the property is located pursuant to Government Code Section 6062.

(b) The nuisance abatement lien shall contain the following information:

- (1) The name and address of the recorded owner of the parcel;
- (2) The amount of the lien;
- (3) The name of the City of Santa Maria as the agency on whose behalf the lien is imposed;
- (4) The date of the Nuisance Abatement Order and/or Compliance Order; and
- (5) The street address, legal description and assessor's parcel number of the parcel on which the lien is imposed.

(c) The nuisance abatement lien shall have the same force, effect and priority as a judgment lien, and may be foreclosed in the same manner as a money judgment.

(d) The City of Santa Maria shall record a notice of discharge of the nuisance abatement lien, in the event it is released or satisfied through payment or foreclosure. The notice of discharge shall contain the information contained in subsections (b)(1) through (5) of this section.

(e) The City of Santa Maria may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of any foreclosure action to enforce the lien. (Ord. 99-25, eff. 1/21/00)

Section 5-6.404. Alternative Method of Collection.

Administrative penalties and abatement costs incurred by the City are a personal debt and obligation owed to the City and, in addition to any other means of enforcement, the City Attorney is authorized to bring an action against the responsible party or parties for collection of administrative penalties and abatement costs in any court of competent jurisdiction. (Ord. 99-25, eff. 1/21/00)

Section 5-6.405. Interest.

Any person who fails to remit payment to the City of any penalty or cost or other charge required to be paid by the City pursuant to a Compliance Order or Nuisance Abatement Order under this chapter on or before the date the penalty, cost or other charge is due, shall in addition to the amount of the penalty, cost or other charge, pay interest on the amount due at the rate of ten percent (10%) per annum, pro-rata, from the date on which the amount due first became delinquent until the date that payment is received by the City. (Ord. 99-25, eff. 1/21/00)

Section 5-6.501. Violation – Misdemeanor.

Violation of any of the provisions of the chapter shall be a misdemeanor, punishable as provided in Chapter 1-6 of the Code. (Ord. 2001-01, eff. 3/8/01)

CHAPTER 5-7 TOBACCO CONTROL ORDINANCE

Section 5-7.01. Title.

This chapter shall be known as the "Tobacco Control Ordinance."
(Ord. 2009-03, eff. 3/5/09; Ord. 88-12 § 1 (part), eff. 7/21/88)

Section 5-7.02. Findings and purpose.

The City Council does hereby find that:

Scientific studies have concluded that cigarette smoking causes chronic lung disease, coronary heart disease, stroke, cancer of the lungs, larynx, esophagus, mouth, and bladder, and contributes to cancer of the cervix, pancreas, and kidneys; and

More than 440,000 people die in the United States from tobacco-related diseases every year, making it the nation's leading cause of preventable death; and

The World Health Organization estimates that by 2030, tobacco will account for 10 million deaths per year, making it the greatest cause of death worldwide; and

The United States Surgeon General has concluded that there is no risk-free level of exposure to secondhand smoke and neither separating smokers from nonsmokers nor installing ventilation systems effectively eliminates secondhand smoke; and

The United States Environmental Protection Agency has found secondhand smoke to be a risk to public health, and has classified secondhand smoke as a group A carcinogen, the most dangerous class of carcinogen; and

The California Air Resources Board has put secondhand smoke in the same category as the most toxic automotive and industrial air pollutants by categorizing it as a toxic air contaminant; and

The California Office of Environmental Health Hazard Assessment has included secondhand smoke on the Proposition 65 list of chemicals known to the State of California to cause cancer, birth defects, and other reproductive harm; and

Exposure to secondhand smoke is the third leading cause of preventable death in this country, killing over 52,000 non-smokers each year, including 3,000 deaths from lung cancer; and

Secondhand smoke exposure adversely affects fetal growth with elevated risk of low birth weight, and increased risk of Sudden Infant Death Syndrome in infants of mothers who smoke; and

Secondhand smoke exposure causes as many as 300,000 children in the United States to suffer from lower respiratory tract infections, such as pneumonia and bronchitis, exacerbates childhood asthma, and increases the risk of acute chronic middle ear infection in children; and

The total cost of smoking in California was estimated to be \$475 per resident or \$3,331 per smoker per year, for a total of nearly \$15.8 billion in smoking-related costs in 1999 alone; and

The medical and economic costs to nonsmokers suffering from lung cancer or heart disease caused by secondhand smoke are nearly \$6 billion per year in the United States;

Almost 90% of adult smokers started smoking at or before age 18; and

It is estimated that in 2006, 15.4% of California secondary students smoked and that the smoking rate was 16.8% for the same group in Santa Barbara County; and

With certain exceptions, Labor Code §6404.5 now prohibits smoking inside an enclosed place of employment; and

Various sections of State law prohibit public school students from smoking or using tobacco; among these are laws prohibiting these students from smoking or using products while on campus, while attending school-sponsored activities, or while under the supervision or control of school district employees; and

State law prohibits smoking in playgrounds and tot lots and restricts smoking within specified distances of the main entrances and exits of public buildings, while expressly authorizing local communities to enact additional restrictions; and

It is the intent of the City Council in enacting this ordinance to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of tobacco use around non-tobacco users; by protecting adults and children from exposure to smoking and tobacco while they work and play; by reducing the potential for children to associate smoking and tobacco with a healthy lifestyle; by protecting the public from smoking and tobacco-related litter and pollution; and by affirming and promoting the family atmosphere of the City's public places. It is expressly not the intent of the City Council in this ordinance to duplicate what is already prohibited by state or federal law, but rather to fill in regulatory gaps as permitted by state and federal regulation. (Ord. 88-12 § 1 (part), eff. 7/21/88; Ord. 2008-01, eff. 3/20/08)

Section 5-7.03. Definitions.

The following words and phrases, whenever used in this chapter, shall be defined as follows:

"Business" means any sole proprietorship, partnership, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are performed.

"Employee" means any person who is employed by any employer in the consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a nonprofit entity.

"Employer" means any person, partnership, corporation, including a municipal corporation, or nonprofit entity, who employs the services of one or more individual persons.

"Enclosed area" means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows (exclusive of door or passage ways) which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid, "office landscaping" or similar structures.

"Place of employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a child care or health care facility.

"Public place" means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, health facilities, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, theaters, waiting rooms, and recreation or meeting rooms in condominium, apartment, housing developments and mobilehome parks. A private residence is not a "public place."

"Reasonable Distance" means a distance that ensures that occupants of an area in which smoking is prohibited are not exposed to secondhand smoke created by smokers outside the area. This distance shall be a minimum of twenty (20) feet.

"Significant Tobacco Retailer" means any tobacco retailer that derives seventy-five percent (75%) or more of gross sales receipts from the sale or exchange of tobacco products and tobacco paraphernalia.

"Smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe, weed, plant or other combustible substance of any kind in any manner or in any form. (Ord. 88-12 § 1 (part), eff. 7/21/88; Ord. 2008-01, eff. 3/20/08)

Section 5-7.04. Application of article to City-owned facilities.

All enclosed facilities owned by the City of Santa Maria shall be subject to the provisions of this chapter. Smoking and ashtrays are also prohibited within a reasonable distance of any enclosed City building or area where smoking is prohibited. (Ord. 88-12 § 1 (part), eff. 7/21/88; Ord. 2008-01, eff. 3/20/08)

Section 5-7.05. Prohibition of smoking in public places.

(a) Smoking shall be prohibited in all enclosed public places within the City of Santa Maria with the following exceptions:

(1) Smoking is allowed as part of a stage or theatrical production, although use of simulated smoking products is encouraged whenever possible;

(2) Smoking is permitted within the walled boundaries of a significant tobacco retailer, if at all times minors are prohibited from entering the store;

(3) This ordinance does not regulate smoking in hotel and motel rooms rented to guests. Smoking is regulated by State law in these locations;

(4) This ordinance does not regulate smoking in residences. Smoking may be regulated by state law in these locations.

(b) Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment or facility described in this section may declare that entire establishment or facility as a nonsmoking establishment. (Ord. 88-12 § 1 (part), eff. 7/21/88; Ord. 2008-01, eff. 3/20/08)

Section 5-7.06. Regulation of smoking in places of employment.

Smoking in enclosed places of employment is regulated by Labor Code §6404.5. Any person who controls a place of employment may declare the entire establishment to be a nonsmoking establishment. (Ord. 88-12 § 1 (part), eff. 7/21/88; Ord. 2008-01, eff. 3/20/08)

Section 5-7.07. Posting of signs.

"Smoking" or "No Smoking" signs, whichever are appropriate, with letters of not less than one inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every building or other place where smoking is regulated by this article, by the owner, operator, manager or other person having control of such building or other place. (Ord. 88-12 § 1 (part), eff. 7/21/88; Ord. 2008-01, eff. 3/20/08)

Section 5-7.08. Violations and penalties.

(a) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this chapter to fail to comply with any of its provisions.

(b) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this chapter.

(c) Any person who violates any provision of this chapter shall be guilty of an infraction, punishable by:

(1) A fine not exceeding one hundred dollars (\$100.00) for a first violation;

(2) A fine not exceeding two hundred dollars (\$200.00) for a second violation of this chapter within one (1) year;

(3) A fine not exceeding five hundred dollars (\$500.00) for each additional violation of this chapter within one (1) year.

(d) Notwithstanding any other provision of this chapter, a private citizen may bring legal action to enforce this chapter. (Ord. 88-12 § 1 (part), eff. 7/21/88; Ord. 2008-01, eff. 3/20/08)

Section 5-7.09. Non-retaliation.

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any rights afforded by this chapter. (Ord. 88-12 § 1 (part), eff. 7/21/88; Ord. 2008-01, eff. 3/20/08)

Section 5-7.10. Other applicable laws.

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. (Ord. 88-12 § 1 (part), eff. 7/21/88; Ord. 2008-01, eff. 3/20/08)

Section 5-7.11. Severability.

If any provision, clause, sentence or paragraph of this chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable. (Ord. 88-12 § 1 (part), eff. 7/21/88; Ord. 2008-01, eff. 3/20/08)

CHAPTER 5-8 WEEDS AND RUBBISH ON PRIVATE PROPERTY

Section 5-8.01. Deposit of rubbish.

It is unlawful for any person, firm or corporation to deposit or permit or cause to be deposited any rubbish, paper, tree or brush trimmings, earth, rock, garbage, ashes or other debris upon public or private property in the City. (Ord. No. 2006-02, eff. 3/21/2006; Prior Code § 16B-1)

Section 5-8.02. Noxious or dangerous weeds.

It is unlawful for any person, firm or corporation to allow weeds, vines, shrubs or brush which, upon maturity, will bear seeds of a wingy or downy nature, or which upon maturity will attain such growth as to become a fire menace when dry, or which contain poisonous oils, or which are otherwise noxious or dangerous to the life, health, comfort or convenience of the community to remain upon private property in the City after notice by the City in the manner provided in this chapter to remove them. (Prior Code § 16B-2)

Section 5-8.03. Allowing hazardous debris.

It is unlawful for any person, firm or corporation to allow debris which is of such a nature that it constitutes a fire menace or fire hazard, or constitutes a harbor for rodents or insects, or a menace to the life, health, comfort or convenience of the community, to remain upon any private property in the City after notice by the City in the manner provided in this chapter to remove such debris. (Prior Code § 16B-3)

Section 5-8.04. Order to remove: Notice: Hearing.

If and when it appears that weeds, vines, shrubs, brush and/or debris have been placed upon or are upon private property in the City in violation of the provisions of the preceding sections of this chapter, and constitute a menace as set forth in those sections, the Council may by appropriate resolution order the removal thereof and shall cause notice to be posted upon such property to the effect that such weeds, vines, shrubs, brush and/or debris must be removed within ten (10) days from and after the date of such posting, and of a public hearing with regard thereto at which protests and objections will be considered. The City Clerk may also send a similar notice to the last-known owner of such property through the mail, but the sending of such notice or the failure to send it shall not affect the power of the City as provided in this chapter. (Prior Code § 16B-4)

Section 5-8.05. Action by City: Lien for costs.

In the event the weeds, vines, brush, shrubs and/or debris have not been removed, then upon the expiration of ten (10) days from and after the posting of such notice, or following the public hearing with regard thereto, as provided in Section 5-8.01, whichever is later, the Council shall cause the weeds, vines, shrubs, brush and/or debris to be removed from the property upon which notice was posted by appropriate methods, including but not limited to chemical weed controls, and the cost of such work shall be made a lien upon such property until paid, and shall be payable under the same rules and regulations as are provided for the collection of taxes in the City. The lien shall attach at the time of the performance of such work, and the cost thereof shall be filed with the next ensuing tax bills against such property; provided, however, that if such work is performed subsequent to September 1st of any year, the bill therefor shall be annexed to the tax bill for the following fiscal year. (Prior Code § 16B-5)

Section 5-8.06. Provisions not exclusive.

The methods of removing weeds, vines, shrubs, brush and/or debris from property, as provided in this chapter, shall not be an exclusive method, but shall be an alternative method and such weeds, vines, brush, shrubs and/or debris may be removed from such property pursuant to the provisions of any law of the State or of any ordinance of the City applicable thereto. (Prior Code § 16B-6)

Section 5-8.07. Violation: Misdemeanor.

Any person, firm or corporation who violates any of the provisions of this chapter is guilty of a misdemeanor. (Prior Code § 16B-7)

CHAPTER 5-9 CONDOM WARNING SIGNS

Section 5-9.01. Legislative finding.

The City Council finds and declares that latex condoms labeled for disease prevention can prevent the passage of the AIDS, hepatitis and herpes viruses but natural or lambskin condoms may not do this. In order to serve the public health, safety and welfare, the declared purpose of this chapter is to educate the public by requiring that warning signs be placed at all locations where condoms are sold to the public. (Ord. 91-26 § 1 (part), eff. 12/5/91)

Section 5-9.02. Duty to post.

Any person or entity who owns, operates, manages, leases or rents a premises or vending machine offering condoms for sale, or dispensing condoms for consideration, to the public, shall cause a sign or notice to be posted on the premises both in English and Spanish as provided in this section. The sign or notice shall read:

WARNING. CONDOMS MAY NOT BE 100% SAFE AGAINST SEXUALLY TRANSMITTED DISEASES, BUT LATEX CONDOMS LABELLED FOR DISEASE PREVENTION PROVIDE GREATER PROTECTION AGAINST AIDS THAN DO NATURAL (LAMBSKIN) CONDOMS. FOR MORE INFORMATION CALL 1-800-922-2437.

AVISO. LOS PRESERVATIVOS O PROFILÁTICOS (CONDONES) QUIZÁ NO SEAN 100% SEGUROS CONTRA LAS ENFERMEDADES SEXUALES, PERO LOS PRESERVATIVOS O PROFILÁTICOS DE LATEX QUE ANUNCIAN LA PREVENCIÓN DE ENFERMEDADES, PROVEEN MAYOR PROTECCIÓN CONTRA EL SIDA QUE LOS PREVERVATIVOS O PROFILÁTICOS NATURALES (HECHOS DE PIEL DE CORDERO-CORDERINA O "LAMBSKIN"). PARAS MAS INFORMACION LLAME AL 1-800-922-2437

The sign or notice as required in this section shall not be smaller than eight and one-half inches by eleven inches. The words "WARNING" and "AVISO" shall not be less than one-half inch in height and shall be centered on a single line with no other text nor shall any other lettering thereon be less than one-quarter inch in height, except as provided in Section 5-9.03. The sentence "FOR MORE INFORMATION CALL 1-800-922-2437" shall be a separate paragraph centered immediately following the last sentence of the English warning and the sentence "PARA MAS INFORMACION LLAME AL 1-800-222-2437" shall be a separate paragraph centered immediately following the last sentence of the Spanish warning. (Ord. 91-26 § 1 (part), eff. 12/5/91; Ord. 2002-05, eff. 7/18/02)

Section 5-9.03. Placement of notice.

The required sign or notice shall be placed as follows:

(a) Where the sale or dispensing of condoms to the public occurs other than through the use of a vending machine, at least one sign shall be placed to assure it is readable by the public where the condoms are displayed or stored for public sale.

(b) Where the sale or dispensing of condoms to the public occurs through the use of a vending machine, the sign or notice and the lettering thereon is not subject to the minimum width, height or length requirements of Section 5-9.02 except at least one sign or notice shall be attached or affixed to the front of a vending machine to assure that it is readable by a person who is physically close enough to the vending machine to actually operate it. (Ord. 91-26 § 1 (part), eff. 12/5/91)

Section 5-9.04. Violation and penalties.

Anyone subject to the provisions of Section 5-9.02 who knowingly fails to post the required warning is guilty of an infraction. (Ord. 91-26 § 1 (part), eff. 12/5/91)