

BILL NO. 985-C.S.

ORDINANCE NO.     -C.S.

**AN ORDINANCE OF THE CITY OF EUREKA AMENDING CHAPTER 150 OF THE EUREKA MUNICIPAL CODE**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EUREKA AS FOLLOWS:**

Section 1.

Title 15, Chapter 150, is hereby *amended to read* as follows. New text is shown underlined, deletions are shown as ~~strikethrough~~:

**CHAPTER 150: BUILDING REGULATIONS**

**UNSAFE STRUCTURES; ABATEMENT OF NUISANCES**

**§ 150.140 PURPOSE.**

This subchapter is adopted for the purpose of defining those conditions of real property in the City which constitute nuisances; and for the further purpose of establishing just, equitable and practicable methods for ordering the abatement of a nuisance; authorizing City personnel to undertake the work necessary to abate such nuisance in the event of noncompliance with such abatement order; levying an assessment against the owner of the property on which such nuisance abatement work was performed in the amount of City's abatement costs; and either causing a lien to be recorded against such property in the amount of such assessment costs or causing such assessment to be added to the county assessment rolls and collected at the same time and in the same manner as property taxes.

(Ord. 680-C.S., passed 6-17-04)

**§ 150.141 FINDINGS.**

The City Council finds as follows:

(A) That there are numerous buildings, structures and other conditions on or pertaining to real property located in the City which constitute nuisances as defined in this subchapter;

(B) That the continued existence of such nuisances is injurious to the public health, safety and welfare;

(C) That abatement of such nuisances in the manner provided by this subchapter is a proper exercise of the City's police powers and is specifically authorized by Cal. Gov't Code (§ 38771 et seq.); and

(D) That abatement of such nuisances in the manner provided by this subchapter is reasonable and affords to the owner of the property on which the nuisance is located all of the due process rights guaranteed by the federal and state constitutions.

(Ord. 680-C.S., passed 6-17-04)

### **§ 150.142 DEFINITIONS.**

(A) "City" means the City of Eureka.

(B) "City enforcement officials" means the employees of the City of Eureka who are designated pursuant to this subchapter and the Eureka Municipal Code to enforce the laws of the City.

(C) "EMC" means the Eureka Municipal Code.

### **§ 150.143 APPLICATION.**

The provisions of this subchapter apply generally to all property throughout the City wherein any of the conditions hereinafter specified are found to exist; provided, however, that any condition which would constitute a violation of this subchapter, but which is duly authorized under any city, state or federal law, shall not be deemed to violate this subchapter.

(Ord. 680-C.S., passed 6-17-04)

### **§ 150.144 CODE REQUIREMENTS.**

(A) All buildings, structures, property or premises which are required to be repaired, demolished, secured or otherwise abated under the provisions of this subchapter shall be subject to the requirements and standards set forth in the Eureka Municipal Code or any other code adopted by the City.

(B) All buildings, structures, property or premises within the scope of this subchapter and all construction or work for which a permit is required shall be subject to inspection in accordance with and in the manner provided by applicable provisions of the Eureka Municipal Code or any other code adopted by the City.

(Ord. 680-C.S., passed 6-17-04) Penalty, see § 150.150

### **§ 150.145 RESPONSIBILITY FOR PROPER PROPERTY MAINTENANCE.**

Every owner of real property within the City is required to maintain such property in a manner so as not to violate the provisions of the Eureka Municipal Code or any other code adopted by the City, and such owner remains liable for violations thereof, regardless of any contract or agreement with any third party regarding such property.

(Ord. 680-C.S., passed 6-17-04) Penalty, see § 150.150

#### **§ 150.146 INSPECTIONS; RIGHT OF ENTRY.**

City enforcement officials are authorized to enter upon any property or premises to ascertain whether the provisions of the Eureka Municipal Code or applicable state codes are being obeyed, and to make any examinations, inspections and surveys as may be necessary in the performance of their enforcement duties. These may include the taking of photographs, samples or other physical evidence. If an owner, occupant or agent refuses permission to enter or inspect, the City may seek an inspection warrant pursuant to the applicable state and local laws.

#### **§ 150.147 AUTHORITY TO ISSUE NOTICE TO APPEAR AND RELEASE CITATIONS; ARREST.**

(A) Pursuant to the provisions of Section 836.5 of the Penal Code of the State of California, certain officers and employees of the City of Eureka are authorized to issue written notice to appear and release citations for misdemeanors or infraction violations of City ordinances which such officers or employees have the duty to enforce.

(1) The following officers and employees of the City of Eureka ("City enforcement officials") are hereby designated and authorized to issue said citations:

Police Department:

- (a) Police chief;
- (b) All sworn personnel;
- (c) Community Service Officer; and
- (d) Animal Control Officer

Public Works Department:

- (a) Director of Public Works and his or her designees;
- (b) Chief building official and his or her designees; and
- (c) Code Enforcement Officer

(B) City enforcement officials are authorized to arrest without a warrant any person whenever the official has reasonable cause to believe that the person has committed a violation of the Eureka Municipal Code or applicable state codes in his or her presence. Pursuant to Penal Code Section 836.5 the official, if not a peace officer, can only arrest

a person by issuing a misdemeanor field citation or by effecting a citizen's arrest with the assistance of a sworn peace officer.

#### **§ 150.148 ABATEMENT, REPAIR AND DEMOLITION FUND**

(A) *General.* The City Council shall establish a special revolving fund to be designated as the Abatement, Repair and Demolition Fund. Payments shall be made out of the fund upon the demand of the Building Official or responsible official to defray the costs and expenses which may be incurred by the City in doing or causing to be done the necessary work of abatement, repair, demolition or securement pursuant to this subchapter.

(B) *Maintenance of fund.* The City Council may at any time transfer to the abatement, repair and demolition fund, out of any money in the general fund or applicable enterprise fund of the City, such sums as it may deem necessary in order to expedite the performance of the work of abatement, repair, demolition or securement, and any sum so transferred shall be deemed a loan to the abatement, repair and demolition fund and shall be repaid out of the proceeds of the collections provided for in this subchapter. All funds collected under the proceedings in this subchapter shall be paid to the City Finance Department, who shall credit the same to the abatement, repair and demolition fund.

(Ord. 680-C.S., passed 6-17-04)

#### **§ 150.149 RECOVERY OF ATTORNEYS' FEES IN NUISANCE ABATEMENT ACTIONS.**

In any action, administrative proceeding or special proceeding to abate a nuisance in which the City elects, at the initiation of the action or proceeding, to seek recovery of its attorneys' fees, the prevailing party in the action or proceeding shall recover its attorneys' fees incurred in the action or proceeding. In no action, administrative proceeding or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding. "Prevailing party" shall not include a party who complies with a notice of violation issued by the City or an order in any action, administrative proceeding or special proceeding. Attorney fees shall include fees for the services of the City Attorney or his or her assistant and deputies, calculated based on the effective hourly rate of such attorney. Ref. Government Code Section 38773.5.

(Ord. 680-C.S., passed 6-17-04)

#### **§ 150.150 CIVIL ACTIONS; PRIVATE PARTIES.**

Any property owner or tenant of property within 500 feet of an immediately dangerous building, an immediately dangerous condition, a dangerous building or a substandard building or a public nuisance is declared to be damaged thereby.

(A) Any such party may institute a civil action against the property owner or lessee, sublessee or occupant who creates or maintains an immediately dangerous building, an immediately dangerous condition, a dangerous building, a substandard building or a public nuisance, to obtain damages and/or require compliance with the requirements of the Eureka Municipal Code or any other code adopted by the City. Damages shall include actual damages, costs, attorney's fees and a civil penalty of up to \$500 in addition thereto.

(B) Nothing in this provision shall be construed to limit any other right or remedy otherwise available in law or equity to any party, nor shall this provision in any way limit the City's right to enforcement under any other provision of this code, nor shall it create a duty or obligation on the part of the City.

(Ord. 680-C.S., passed 6-17-04)

### **§ 150.151 VIOLATIONS.**

Any responsible person, whether owner, lessee, sublessor, sublessee or occupant of any property or premises who violates the provisions of this subchapter, consisting of §§ [150.140](#) through [150.190](#), may be prosecuted pursuant to § [10.99](#) of this code for each day such violation continues. For purposes of §§ [150.140](#) through [150.190](#), "person" includes individuals, partnerships, corporations, joint ventures, receivers, limited liability company, trust, estate, cooperative, association or any other entity. Any person violating the provisions of this division or any other provision of §§ [150.140](#) through [150.190](#) shall also be liable for civil penalties of not less than \$250 or more than \$1,000 for each day the violation continues. The City Attorney may seek civil penalties in any civil action brought to enforce any provision of §§ [150.140](#) through [150.190](#).

(Ord. 680-C.S., passed 6-17-04)

### **§ 150.152 IMMEDIATELY DANGEROUS CONDITION – SUMMARY ABATEMENT AUTHORIZED.**

Notwithstanding any provisions of this subchapter to the contrary, the procedures for the abatement of an immediately dangerous condition, as defined, shall be regulated by the provisions of this subchapter.

(Ord. 680-C.S., passed 6-17-04)

### **§ 150.153 IMMEDIATELY DANGEROUS CONDITION -- DEFINITION.**

For the purpose of this subchapter, an **IMMEDIATELY DANGEROUS CONDITION** shall be defined as a condition on any premises or property which, in the opinion of the Building Official, Community Development Director or Fire Chief, is of such a nature as to be imminently dangerous to the health, safety or welfare of the

public, which, if abated according to the procedures of this code, would, during the administrative proceedings, subject the public to potential harm of a serious nature.

(Ord. 680-C.S., passed 6-17-04; Am. Ord. 709-C.S., passed 3-6-07)

#### **§ 150.154 IMMEDIATELY DANGEROUS CONDITION – SUMMARY ABATEMENT PROCEDURE.**

(A) Whenever the Building Official, Community Development Director or Fire Chief has inspected or caused to be inspected any premises or property and has found and determined that there exists on such premises or property an immediately dangerous condition as defined in § [150.153](#), the same may be summarily abated and removed by the City without compliance with the provisions of this code prior to such abatement.

(B) The Building Official, Community Development Director or Fire Chief may abate the immediately dangerous condition in any reasonable manner which he or she determines will eliminate the immediate threat to the health, safety or welfare of the public. Reasonable means to abate the immediately dangerous condition include, but are not limited to, demolition, repairing, boarding to City specifications, securing the perimeter of the property with fencing, gates or barricades, vacating and removal of junk and debris.

(C) No action shall be taken to summarily abate an immediately dangerous condition without prior approval of the City Attorney or his or her authorized representative.

(Ord. 680-C.S., passed 6-17-04; Am. Ord. 709-C.S., passed 3-6-07)

#### **§ 150.155 IMMEDIATELY DANGEROUS CONDITION – ABATEMENT COST RECOVERY.**

The cost of abatement, including all reasonable administrative and engineering costs incurred by the City as a result of any action taken pursuant to this subchapter, may be assessed as a lien or special assessment against the premises or property upon which the immediately dangerous condition was located, and may also be made a personal obligation of the property owner. The recovery of such costs shall be governed by the procedures provided in §§ [150.179](#) through [150.190](#).

(Ord. 680-C.S., passed 6-17-04)

#### **§ 150.156 IMMEDIATELY DANGEROUS BUILDING – SUMMARY ABATEMENT AUTHORIZED.**

Notwithstanding any provisions of this subchapter to the contrary, the procedures for the abatement of an immediately dangerous building or structure shall be regulated by the provisions of this subchapter.

(Ord. 680-C.S., passed 6-17-04)

**§ 150.157 IMMEDIATELY DANGEROUS BUILDING -- DEFINITION.**

For the purpose of this subchapter, an ***IMMEDIATELY DANGEROUS BUILDING OR STRUCTURE*** shall be defined as any building or structure which has been so damaged by fire, infestation, seismic disturbance, or by any other cause, including neglect, to the extent that its structural integrity is irreparably damaged or destroyed and is in imminent danger of collapsing or where the condition of the structure poses an immediate and present threat of life, health or safety of the public.

(Ord. 680-C.S., passed 6-17-04)

**§ 150.158 IMMEDIATELY DANGEROUS BUILDING – SUMMARY ABATEMENT PROCEDURE.**

(A) Whenever the Building Official or Fire Chief has inspected or caused to be inspected any building or structure and has found and determined that such building or structure is an immediately dangerous building or structure as defined in § [150.157](#), the same may be summarily abated and removed by the City without compliance with the provisions of this code prior to such abatement.

(B) The Building Official or Fire Chief may summarily abate the immediately dangerous building and/or the dangerous conditions in any reasonable manner which he or she determines will eliminate the immediate threat to the health, safety and welfare of the public. Reasonable means to abate the immediately dangerous building and/or the dangerous conditions include, but are not limited to, demolition, repairing, boarding to City specifications, securing, fencing and vacating.

(C) No action shall be taken to summarily abate an immediately dangerous building without prior approval of the City Attorney or his or her authorized representative.

(Ord. 680-C.S., passed 6-17-04)

**§ 150.159 IMMEDIATELY DANGEROUS BUILDING – ABATEMENT COST RECOVERY.**

The cost of abatement, including all reasonable administrative and engineering costs incurred by the City as a result of any action taken pursuant to this subchapter, may be assessed as a lien or special assessment against the property upon which the immediately dangerous building or structure was located, and may also be made a personal obligation of the property owner. The recovery of such costs shall be governed by the procedures provided in §§ [150.179](#) through [150.190](#).

(Ord. 680-C.S., passed 6-17-04)

## **§ 150.160 SUBSTANDARD BUILDINGS AND PUBLIC NUISANCES – ABATEMENT AUTHORIZED.**

Notwithstanding any provisions of this subchapter to the contrary, the procedures for the abatement of substandard buildings and public nuisances, as defined, shall be regulated by the provisions of this subchapter.

(Ord. 680-C.S., passed 6-17-04)

## **§ 150.161 SUBSTANDARD BUILDINGS AND PUBLIC NUISANCES -- GENERAL DEFINITIONS.**

For purposes of this subchapter, the following words shall have the following specified meanings:

**COMMON AREA.** The entire common interest development as that term is defined in Cal. Civ. Code § 1351, except the separate interests therein, or any area defined as a **COMMON AREA** within a homeowners association's declaration of covenants, conditions and restrictions.

**JUNK.** Any cast-off, damaged, discarded, junked, obsolete, salvaged, scrapped, unusable, worn- out or wrecked object, thing or material composed in whole or in part of asphalt, brick, carbon, cement, plastic or other synthetic substance, fiber, glass, metal, paper, plaster, plaster of paris, rubber, terra cotta, wool, cotton, cloth, canvas, organic matter or other substance, having no substantial market value or requiring reconditioning in order to be used for its original purpose.

**JUNK YARD.** A site or portion of a site on which waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including used furniture and household equipment yards, house wrecking yards, used lumber yards and the like, except a site on which such uses are conducted within a completely enclosed structure and except scrap metal yards.

**OWNER.** The owner of record of real property, occupant, lessee, sublessee, interested holder in real property, or homeowners association, as the case may be. For purposes of this subchapter, a homeowners association which exercises management and/or control over a common area shall be deemed an **OWNER** of the area over which such control is exercised. Exercising control includes but is not limited to ownership, maintenance, easements and/or assessing fees on property owners pursuant to agreements, deeds or recorded documents.

**PREMISES.** Any real property and/or improvements thereon, as the case may be, including but not limited to an area designated as a common area within a condominium or similar project.

**PROPERTY.** Any premises.

**RESPONSIBLE OFFICIAL.** The Building Official, Community Development Director and Fire Chief or their respective designees, authorized to use the provisions of this

subchapter for violations of those ordinances for which their respective departments have primary enforcement authority.

(Ord. 680-C.S., passed 6-17-04; Am. Ord. 709-C.S., passed 3-6-07; Am. Ord. 885-C.S., passed 5-21-19)

**§ 150.162 SUBSTANDARD BUILDINGS AND CONDITIONS SPECIFIED.**

Any building or structure or any portion thereof, including any dwelling unit, guest room, or suite of rooms, or the premises on which the same is located, in which there exists any of the following conditions to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building and a public nuisance:

(A) *Inadequate sanitation.* Inadequate sanitation shall include but not be limited to the following:

(1) Lack of or improper water closet, lavatory, bath tub or shower in a dwelling unit, lodging house or congregate residence.

(2) Lack of or improper water closets, lavatories, and bath tubs or showers per number of guests in a hotel.

(3) Lack of or improper kitchen sink.

(4) Lack of hot and cold running water to plumbing fixtures in a hotel.

(5) Lack of hot and cold running water to plumbing fixtures in a dwelling unit.

(6) Lack of adequate heating facilities.

(7) Lack of or improper operation of required ventilating equipment.

(8) Lack of minimum amounts of natural light and ventilation required by the Eureka Municipal Code, the California Building Code, or any other code adopted by the City.

(9) Room and space dimension less than required by the Eureka Municipal Code, the California Building Code, or any other code adopted by the City. However, a condition which would require displacement of sound walls or ceilings to meet height, length, or width requirements for ceilings, rooms and dwelling units shall not by itself be considered sufficient existence of dangerous conditions making a building a substandard building, unless the building was constructed, altered, or converted in violation of such requirements in effect at the time of construction, alteration or conversion.

(10) Lack of required electrical lighting.

(11) Dampness of habitable rooms.

(12) Infestation of insects, vermin, or rodents as determined by City officials and/or the Health Officer.

(13) Visible mold growth, as determined by a health officer or a code enforcement officer, as defined in Section 829.5 of the Penal Code, excluding the presence of mold that is minor and found on surfaces that can accumulate moisture as part of their properly functioning and intended use.

(14) General dilapidation or improper maintenance.

(15) Lack of connection to required sewage disposal system.

(16) Lack of adequate garbage and rubbish storage and removal facilities as determined by City officials and/or the Health Officer.

(B) *Structural hazards.* Structural hazards shall include but not be limited to the following:

(1) Deteriorated or inadequate foundations.

(2) Defective or deteriorated flooring or floor supports.

(3) Flooring or floor supports of insufficient size to carry imposed loads with safety.

(4) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.

(5) Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.

(6) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration.

(7) Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads with safety.

(8) Fireplaces or chimneys which list, bulge or settle due to defective material or deterioration.

(9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.

(C) *Nuisances.* Any nuisance as defined in this code, state law or common law.

(D) *Hazardous wiring.* Hazardous wiring includes all wiring not installed, maintained or used in conformance with the Eureka Municipal Code, the California Building Code or any other code adopted by the City. Except as provided in any federal, state or local law or ordinance now or hereinafter enacted, hazardous wiring shall not include wiring which conformed with all applicable laws in effect at the time of installation and which has been adequately maintained in a good and safe condition and is being used in a safe manner.

(E) *Hazardous plumbing.* Hazardous plumbing includes all plumbing not installed, maintained or used in conformance with the Eureka Municipal Code, the California Building Code or any other code adopted by the City. Except as provided in any federal, state or local law or ordinance now or hereinafter enacted, hazardous plumbing

shall not include plumbing which conformed with all applicable laws in effect at the time of installation and which has been adequately maintained in a good and safe condition and which is free of cross-connections and siphonage between fixtures.

(F) *Hazardous mechanical equipment.* Hazardous mechanical equipment includes all mechanical equipment, including vents, not installed, maintained or used in conformance with the Eureka Municipal Code, the California Building Code or any other code adopted by the City. Except as provided in any federal, state or local law or ordinance now or hereinafter enacted, hazardous mechanical equipment shall not include mechanical equipment which conformed with all applicable laws in effect at the time of installation and which has been adequately maintained in a good and safe condition and is being used in a safe manner.

(G) *Faulty weather protection.* Faulty weather protection, which shall include, but not be limited to, the following:

(1) Deteriorated, crumbling or loose plaster.

(2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.

(3) Defective or lack of weather protection for exterior wall coverings, including lack of paint or weathering due to lack of paint or other approved protective covering.

(4) Broken, rotted, split or buckled exterior wall coverings or roof coverings.

(H) *Fire hazard.* Any building or portion thereof, device, apparatus, equipment, combustible waste, vegetation, or act which, in the opinion of the Building Official or Fire Chief, is in or creates such a condition as to increase or which could cause an increase of the hazard or menace of fire or explosion, or provide a ready fuel to augment the spread and intensity of fire or explosion, or anything or act which could obstruct, delay, hinder or interfere with the operations of the Fire Department or the egress of occupants in the event of fire, shall be deemed a fire hazard.

(I) *Faulty materials of construction.* Faulty materials of construction shall include all materials of construction except those which are specifically allowed or approved by Eureka Municipal Code, the California Building Code and any other code adopted by the City, and which have been adequately maintained in good and safe condition.

(J) *Hazardous or unsanitary premises.* Hazardous or unsanitary premises shall include those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials and similar materials or conditions exist which, in the opinion of City officials or the Health Officer, constitute fire, health or safety hazards.

(K) *Unsafe building.* Any building or portion thereof which is determined to be an unsafe building due to inadequate maintenance or any other reason, in accordance with the Eureka Municipal Code, the California Building Code, the Uniform Fire Code or any other code adopted by the City.

(L) *Inadequate exits.*

(1) Inadequate exits includes all buildings or portions thereof not provided with adequate exit facilities as required by the Eureka Municipal Code, the California Building Code, the Uniform Fire Code or any other code adopted by the City. Except as provided in any federal, state or local law or ordinance now or hereinafter enacted, inadequate exits shall not include those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction and which have been adequately maintained in a good and safe condition and increased in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(2) When an unsafe condition exists through lack of or improper location of exits, additional exits may be required to be installed.

(M) *Inadequate fire protection or firefighting equipment.* Inadequate fire protection or firefighting equipment includes all buildings or portions thereof which are not provided with the fire resistive construction or fire extinguishing systems or equipment required by the Eureka Municipal Code, the California Building Code, the Uniform Fire Code or any other code adopted by the City. Except as provided in any federal, state or local law or ordinance now or hereinafter enacted, inadequate fire protection or fire fighting equipment shall not include those buildings or portions thereof which conformed with all applicable laws at the time of their construction and whose fire resistive integrity and fire extinguishing systems or equipment have occupied for living, sleeping, cooking or dining purposes which were not designed or intended to be used for such occupancies.

(N) *Inadequate structural resistance.* Inadequate structural resistance includes all buildings or portions thereof not constructed with adequate structural resistance to horizontal forces as required by the Eureka Municipal Code, the California Building Code or any other code adopted by the City. Except as provided in any federal, state or local law or ordinance now or hereinafter enacted, inadequate structural resistance shall not include any building which conformed with all applicable laws at the time of its construction and which has been adequately maintained in a good and safe condition and is being used in a safe manner.

(Ord. 680-C.S., passed 6-17-04; Am. Ord. 709-C.S., passed 3-6-07; Am. Ord. 865-C.S., passed 10-17-17) Penalty, see § [150.151](#)

### **§ 150.163 PUBLIC NUISANCES SPECIFIED.**

It is declared a public nuisance for any person owning, leasing, subleasing, occupying or having charge or possession of any premises in the City to maintain such premises in such a manner that any one or more of the conditions or activities described in the following subsections are found to exist:

(A) (1) Unless properly stored behind a six-foot solid fence and determined not to be a fire, health or safety hazard, the keeping, storage, depositing, or accumulation on the premises of any personal property which is within the view of persons on adjacent or nearby real property or the public right-of-way when such personal property constitutes visual blight, reduces the aesthetic appearance of the neighborhood, is offensive to the senses or is detrimental to nearby property or property values. Personal property includes, but is not limited to, junk as defined in § [150.161](#), abandoned, wrecked or

dismantled automobiles and motorcycles; abandoned, wrecked, dismantled or not seaworthy boats or vessels; automotive parts and equipment, appliances, furniture, containers, packing materials, scrap metal, wood, building materials, rubbish and debris.

(2) Wood and building materials being used or to be used for a project of repair or renovation for which an active building permit is in existence may be stored for such period of time as is necessary to expeditiously complete the project. Upon finalization, expiration or cancellation of the permit, the wood and building materials of any nature for the project must be immediately removed.

(B) The keeping, storage, depositing, or accumulation on the premises of any dead grass, weeds, brush or rubbish of any kind likely to increase the danger of fire, or any manure, dead animals, decayed vegetables, offal or other similar matter which is in the view of persons on adjacent or nearby real property or the public right-of-way when such items constitutes visual blight, a danger to the health, safety or welfare of the public, reduces the aesthetic appearance of the neighborhood, is offensive to the senses or is detrimental to nearby property or property values.

(C) The keeping, storage, depositing or accumulation of dirt, sand, gravel, concrete or other similar materials that constitutes visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to nearby property or property values.

(D) The operation of a junk yard or automobile dismantling yard without a properly issued permit from the City.

(E) Any dangerous, unsightly or blighted condition which is detrimental to the health, safety or welfare of the public.

(F) Any condition in violation of [Chapter 90](#) of the Eureka Municipal Code, Abandoned Vehicles.

(G) Any condition in violation of [Chapter 94](#) of the Eureka Municipal Code, Health and Sanitation, or in violation of the California Fire Code.

(H) Any condition in violation of this [Chapter 150](#) of the Eureka Municipal Code, Building Regulations, or in violation of the California Building Code, the Uniform Housing Code, the California Electrical Code or the California Plumbing Code.

(I) Any condition in violation of [Chapter 155](#), Zoning Regulations or any chapter of Title XV, Land Usage, of the Eureka Municipal Code.

(J) Any condition specified in the Eureka Municipal Code as a public nuisance.

(K) Any condition recognized in law or in equity as constituting a public nuisance.

(L) The maintenance of the exterior of any vacant or unoccupied building or the interior of any such building which is readily visible from any public street or adjacent parcel of property in a state of unsightliness so as to constitute a blighted condition detrimental to the property values in the neighborhood or otherwise detrimental to the public welfare.

(M) The draining or allowing or suffering to be drained any sewage into or onto the ground of any premises, whether or not occupied or improved, except that sewage may be properly disposed of in an adequate private sewage disposal system as otherwise permitted by law.

(N) Any unimproved real property or improved, but unoccupied real property which has become a dumping ground for litter, garbage, junk, debris, discarded vehicles, vehicle parts and/or vehicle hulks, and which real property has been subject of two or more written requests by the City to remove litter, garbage, junk, debris, discarded vehicles, vehicle parts and/or vehicle hulks from the property within a 12-month time period, or which has been subject to abatement action on one or more occasions by the City. Once proceedings have been commenced pursuant to this subchapter to declare property a public nuisance under this division, no such property shall be deemed to be in compliance with this subchapter solely because such property thereafter becomes occupied.

(Ord. 680-C.S., passed 6-17-04) [Penalty, see § 150.151](#)

#### **§ 150.164 SUBSTANDARD BUILDINGS AND PUBLIC NUISANCES -- HEARING NOTICE.**

(A) Whenever the responsible official has inspected or caused to be inspected any premises and has found and determined that such premises are in violation of this subchapter, he or she may cause the owner of such property to be served with a request to abate such nuisance prior to initiating any of the nuisance abatement proceedings provided for by this subchapter, provided the nuisance conditions are not determined to be immediately dangerous.

(B) In such written request, the responsible official or designee shall describe the nuisance to be abated, set forth a reasonable time within which work to abate the nuisance must be completed, and advise the property owner that the property owner may be subject to the nuisance abatement proceedings provided for by this subchapter in the event the nuisance is not abated within the time prescribed in this subchapter.

(C) If the owner fails to abate the nuisance in the time specified in such notice, the responsible official shall initiate nuisance abatement proceedings and issue a notice directed to the record owner of the premises. The notice shall contain:

(1) The street address and such other description as is required to identify the premises.

(2) A statement that the Building Official has found the building or structure to be substandard with a brief and concise description of the conditions found to render the building or structure substandard under the provisions of this subchapter and/or a statement that the responsible official has found the premises constitutes a public nuisance with a brief and concise description of the conditions which constitute the public nuisance.

(3) A statement advising that, in accordance with Cal. Rev. & Tax. Code §§ 17274 and 24436.5, a tax deduction may not be allowed for interest, taxes, depreciation or amortization paid or incurred in the taxable year.

(4) An order to the owner to appear before the Abatement Hearing Officer at a stated time, but in no event less than 30 calendar days after having mailed such notice, to show cause why the premises should not be declared a substandard building and/or a public nuisance and the same abated in accordance with this subchapter.

(5) A statement advising the owner that he or she has the option of voluntarily abating the substandard building and/or public nuisance prior to the date set for hearing. If the owner chooses voluntary abatement, such abatement must be completed prior to the hearing date. The owner must advise the responsible official in writing that he or she will voluntarily abate the substandard building and/or public nuisance, and the proposed date of completion. The responsible official will inspect the premises on the completion date, and if the substandard building and/or public nuisance has been abated, the hearing will be taken off calendar. The owner may request a continuance of the hearing pursuant to § [150.168](#).

(6) A statement that the decision and order of the Abatement Hearing Officer after the hearing is a final decision and order and is subject only to judicial review pursuant to Cal. Civ. Proc. § 1094.5.

(7) A statement that if, prior to compliance, the substandard building or conditions in the building or on the property or the public nuisance becomes an immediately dangerous building as defined in § [150.157](#) or an immediately dangerous condition as defined in § [150.153](#), the City may abate the immediately dangerous building as provided in § [150.158](#), or the City may abate the immediately dangerous condition as provided in § [150.154](#).

(8) A statement advising the owner whether the City elects to seek its attorneys' fees in the abatement proceeding pursuant to § [150.149](#).

(9) A statement that every owner of property within the City is liable to the City for the total cost of abatement proceedings undertaken pursuant to this subchapter on his or her property.

(10) A statement about how and where interested persons may contact the responsible official or his or her designee about the hearing notice.

(Ord. 680-C.S., passed 6-17-04)

### **§ 150.165 SUBSTANDARD BUILDINGS AND PUBLIC NUISANCES -- SERVICE AND METHOD OF SERVICE OF HEARING NOTICE.**

(A) *Service of hearing notice.* The hearing notice, and any amended or supplemental notice, shall be served upon the record owner, and posted on the property, and one copy thereof shall be served on each of the following if known to the responsible official or disclosed from official public records:

(1) The holder of any mortgage or deed of trust or other lien or encumbrance of record;

(2) The owner or holder of any lease of record; and

(3) Any known tenants actually occupying the property or that portion affected by the hearing notice.

(B) *Method of service.* Service of the hearing notice may be made upon all persons entitled thereto, either by personal delivery or by certified mail, return receipt requested. Service may be made upon the record owner at his, her or their address as it appears on the latest equalized assessment roll of Humboldt County, or the supplemental roll, whichever is more current, or as known to the responsible official. Service by certified mail in the manner herein provided shall be effective on the date of mailing. A copy of the hearing notice and any amended or supplemental notice shall also be posted on the premises. In lieu of personal service or service by certified mail, service of the hearing notice and any amended or supplemental notice may be made as follows:

(1) In the event that service by certified return receipt mail cannot be effected or the recipient cannot be personally served, service may be made by substituted service. Substituted service may be accomplished as follows:

(a) By leaving a copy during usual business hours in the recipient's business with the person who is apparently in charge, and by thereafter mailing by first-class mail a copy to the recipient at the address where the copy was left; or

(b) By leaving a copy at the recipient's dwelling or usual place of abode in the presence of a competent member of the household and thereafter mailing by first-class mail a copy to the recipient at the address where the copy was left.

(2) In the event the recipient refuses to accept certified return receipt mail or cannot be personally served and has a property manager or rental agency overseeing the premises, substituted service may be made as set forth in division (B)(1) of this section upon the property manager or rental agency.

(3) If the recipient lives out of state and will not accept certified return receipt mail, then service may be made by first-class mail.

(4) If the recipient cannot be located or service cannot be effected as set forth in this section, service may be made by publication in a Eureka newspaper of general circulation which is most likely to give actual notice to the owner. Service shall be deemed sufficient when it is accomplished pursuant to Cal Gov't Code § 6062.

(C) *Failure to serve.* The failure of the responsible official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other persons duly served or relieve any such person from any duty or obligation imposed on him by the provisions of this subchapter. The failure of any person served pursuant to this section to receive such notice and order shall not affect the validity of any proceedings taken under this section.

(D) *Proof of service.* Proof of service of the hearing notice shall be certified to at the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the hearing notice retained by the responsible official.

(Ord. 680-C.S., passed 6-17-04)

#### **§ 150.166 SUBSTANDARD BUILDINGS AND PUBLIC NUISANCES -- FILING OF HEARING NOTICE.**

(A) *Filing of notice.* Concurrent with the service of the notice of hearing, the responsible official shall record a notice legally describing the property and certifying that the building or condition is substandard and that the owner has been so notified. The notice shall include: the date of notice; property owner's name; mailing address; property address; parcel number; legal description; and description of the substandard building or conditions.

(B) *Recordation of a Notice of Compliance.* The responsible official shall record a Notice of Compliance within 15 days following the earlier of the following dates: (1) the date the responsible official verifies both voluntary compliance in abating the substandard building or condition and/or public nuisance and payment of all accrued costs of abatement to which the City is entitled pursuant to this title; or (2) the date of final resolution of the administrative abatement action.

(Ord. 680-C.S., passed 6-17-04; Am. Ord. 709-C.S., passed 3-6-07)

#### **§ 150.167 SUBSTANDARD BUILDINGS AND PUBLIC NUISANCES – ABATEMENT STANDARDS.**

Any premises declared to be a substandard building or public nuisance under this subchapter shall be abated by the owner in accordance with the applicable provisions of the Eureka Municipal Code, the California Building Code or any other code adopted by the City.

(Ord. 680-C.S., passed 6-17-04) [Penalty, see § 150.151](#)

#### **§ 150.168 SUBSTANDARD BUILDINGS AND PUBLIC NUISANCES -- HEARINGS; GENERALLY.**

(A) The City Manager shall designate one or more persons qualified by education and experience to serve as hearing officers for administrative hearings conducted under this subchapter.

(B) *Hearing by Abatement Hearing Officer.* At the time fixed in the notice required by § 150.164, the Abatement Hearing Officer shall proceed to hear the testimony of the responsible official or designee and the testimony of the owner and other competent persons, including members of the public, respecting the condition of the building, structure and/or premises.

(C) *Record.* A record of the entire proceedings shall be made by tape recording, or by any other means of permanent recording determined to be appropriate by the Abatement Hearing Officer. If the owner or other competent party seeks judicial review of the decision of the Abatement Hearing Officer, preparation of a record of the proceeding shall be governed by Cal. Civ. Proc. § 1094.5, as presently written or hereinafter amended.

(D) *Reporting.* The proceedings at the hearing may also be reported by a certified shorthand reporter if such reporter is provided by the owner or other competent party at his or her own expense.

(E) *Continuances.* The Abatement Hearing Officer may, upon request of the owner, other competent party or the responsible official, grant continuances from time to time for good cause shown, or upon his or her own motion.

(F) *Reasonable dispatch.* The Abatement Hearing Officer and his or her representatives shall proceed with reasonable dispatch to conclude any matter before him or her. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

(Ord. 680-C.S., passed 6-17-04; Am. Ord. 692-C.S., passed 7-7-05)

#### **§ 150.169 SUBSTANDARD BUILDINGS AND PUBLIC NUISANCES -- CONDUCT OF HEARING.**

(A) *Rules.* Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

(B) *Exclusion of evidence.* Irrelevant and unduly repetitious evidence shall be excluded.

(C) *Rights of parties.* Each party shall have these rights, among others:

(1) To testify and call others to testify on any matter relevant to the issues of the hearing;

(2) To introduce documentary and physical evidence;

(3) To rebut the evidence against him or her;

(4) To represent himself or herself or to be represented by anyone of his or her choice.

(5) If a party does not proficiently speak or understand the English language, he or she may provide an interpreter, at the party's own cost, to translate for the party. An

interpreter shall not have had any involvement in the issues of the case prior to the hearing.

(Ord. 680-C.S., passed 6-17-04)

### **§ 150.170 SUBSTANDARD BUILDINGS AND PUBLIC NUISANCES -- INSPECTION OF PROPERTY.**

(A) The Abatement Hearing Officer may, with the owner(s)' consent, or by inspection warrant, inspect the building or premises involved in the hearing prior to, during or after the hearing, provided that:

(1) Notice of such inspection shall be given to the parties before the inspection is made;

(2) The parties are given an opportunity to be present during the inspection;

(3) The Abatement Hearing Officer shall state for the record during the hearing, or file a written statement after the hearing for inclusion in the hearing record, upon completion of the inspection, the material facts observed and the conclusion drawn therefrom; and

(4) Each party then shall have a right to rebut or explain the matters so stated by the Abatement Hearing Officer either for the record during the hearing or by filing a written statement after the hearing for inclusion in the hearing record.

(B) Neither inspection warrant nor the owner's consent to inspect the building and surrounding properties is required if such inspection can be made from areas in which the general public has access or with permission of other persons authorized to provide access to the property on which the building is located.

(Ord. 680-C.S., passed 6-17-04)

### **§ 150.171 SUBSTANDARD BUILDINGS AND PUBLIC NUISANCES -- FORM AND CONTENTS OF DECISION; DECISION FINAL..**

(A) If it is shown by a preponderance of the evidence that the owner has violated provisions of this subchapter, then the Abatement Hearing Officer shall order the owner to commence abatement of the substandard building and/or public nuisance not later than 15 calendar days after issuance of the decision. The Abatement Hearing Officer shall further order the owner to complete the abatement within such time as specified by the Abatement Hearing Officer, or in the alternative, within the time specified by the responsible official. The Abatement Hearing Officer shall also order that if the owner fails, refuses or neglects to abate the substandard building and/or public nuisance within the time set forth in its order that the City may abate the substandard building and/or public nuisance in such a manner as may be ordered by the responsible official pursuant to this subchapter or institute an action to compel compliance with its order, and the expense thereof made a lien on the property.

(B) The decision of the Abatement Hearing Officer is a final decision, subject only to judicial review pursuant to Cal. Civ. Proc. § 1094.5, and shall be in the form of an order and shall contain findings of fact, a determination of the issues presented, and the requirements with which the owner shall comply. The order shall also inform the owner that the decision of the abatement hearing officer is a final decision and that the time for judicial review is governed by Cal. Civ. Proc. § 1094.6.

(C) The effective date of the decision and order and the period or periods within which the owner must comply with the requirements of the decision shall be as stated in the decision.

(Ord. 680-C.S., passed 6-17-04)

### **§ 150.172 SUBSTANDARD BUILDINGS AND PUBLIC NUISANCES -- SERVICE OF THE FINAL DECISION AND ORDER.**

A copy of the final decision and order of the Abatement Hearing Officer shall be served and posted in accordance with § [150.165](#).

(Ord. 680-C.S., passed 6-17-04)

### **§ 150.173 SUBSTANDARD BUILDINGS AND PUBLIC NUISANCES -- COMPLIANCE WITH DECISION AND ORDER.**

(A) *General.* After any decision and order of the Abatement Hearing Officer made pursuant to this subchapter is final, no person to whom any such order is directed shall fail, neglect or refuse to obey any such order or decision. Any such person who fails to comply with any such order or decision is guilty of a misdemeanor.

(B) *Failure to obey order.* If, after the decision and order of the Abatement Hearing Officer has become final, the person(s) to whom such order is directed shall fail, neglect or refuse to obey such order, the responsible official may: (1) cause such person to be prosecuted under division (A) of this section; (2) institute any appropriate action to abate such substandard building and/or public nuisance; or (3) abate the substandard building and/or public nuisance in accordance with the provisions of this subchapter or as provided in the order of the Abatement Hearing Officer. In any action brought by the City to enforce the provisions of this subchapter, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs whether or not the matter proceeds to judgment.

(C) *Failure to commence or complete work.* Whenever the required abatement is not commenced or completed within the time limits prescribed in the final decision and order of the Abatement Hearing Officer, the following shall apply:

(1) If the substandard building and/or public nuisance is in such condition as to make the premises immediately dangerous to the life, limb, property or safety of the public or its occupants, or if the Building Official determines that abatement of the substandard building or public nuisance cannot be accomplished without making it

immediately dangerous to life, limb, property or safety of the public or its occupants, the Building Official shall order the building, structure or premises to be vacated pursuant to a notice to vacate as provided in this division (C)(1).

(a) Every notice to vacate shall, in addition to being served as provided in § [150.165](#), be posted at or upon each exit of the building or upon any individual unit to be vacated, and shall be in substantially the following form:

**DANGEROUS BUILDING**

**DO NOT ENTER**

**UNSAFE TO OCCUPY**

You are hereby ordered and required to vacate this building/premises on or before \_\_\_\_\_. It is a misdemeanor pursuant to Eureka Municipal Code Section 150.173 to occupy this building/premises on or after or to remove or deface this notice.

Building Official City of Eureka

By \_\_\_\_\_

(b) Whenever a notice to vacate is posted, the Building Official shall specify in the notice and order to vacate the conditions which necessitate an immediate notice to vacate.

(c) No person shall remain in or enter any building, structure or premises which have been so posted, except that entry may be made to abate the substandard building and/or public nuisance under permit without the consent of the Building Official. No person shall remove or deface any such notice after it is posted until the abatement required by the Abatement Hearing Officer has been completed, and a certificate of occupancy issued pursuant to the provisions of the Eureka Municipal Code and the California Building Code, if necessary. Any person violating this division (C) shall be guilty of a misdemeanor.

(d) The Building Official may permit occupancy of the building or individual units if the owner corrects those problems which pose an immediate danger to life, limb, property and safety of the public or occupants.

(e) Whenever a notice to vacate has been posted and served in accordance with this division (C), the Building Official may order the immediate disconnection of any utility services determined to be hazardous by the Building Official. If the sewer service is ordered disconnected pursuant to this section, City water service to such building shall also be disconnected in order to prevent the accumulation of sewage on such premises. It shall be unlawful and a misdemeanor for any person to fail to disconnect utility services when ordered to do so pursuant to the provisions of this division (C).

(f) Prior to issuing a notice to vacate, the Building Official shall obtain approval of the City Attorney or his or her representative.

(2) To the extent allowed by law, the responsible official may, in addition to any other remedy herein provided, cause the substandard building and/or public nuisance to be abated as set forth in the decision and order of the Abatement Hearing Officer. Any such abatement shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this subchapter.

(3) No action shall be taken by the responsible official to abate a substandard building and/or public nuisance pursuant to this subchapter without prior approval of the City Attorney's office.

(D) Enforcement of the decision and order of the Abatement Hearing Officer made pursuant to this subchapter shall be stayed during the pendency of a properly and timely filed appeal therefrom to the superior court.

(Ord. 680-C.S., passed 6-17-04) [Penalty, see § 150.151](#)

#### **§ 150.174 SUBSTANDARD BUILDINGS AND PUBLIC NUISANCES -- EXTENSION OF TIME.**

Upon receipt of an application for an extension of time from the person required to conform to the final decision and order; an agreement by such person that he or she will comply with the order if allowed additional time; and an application for any required permits accompanied by the required permit fees, the responsible official may, in his or her discretion, grant an extension of time, not to exceed an additional 120 days, within which to complete the required abatement, if the responsible official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The responsible official's authority to extend time is limited to the physical abatement of the substandard building and/or public nuisance and will not in any way affect or extend the time to appeal the final decision and order or challenge any order of the Abatement Hearing Officer.

(Ord. 680-C.S., passed 6-17-04)

#### **§ 150.175 SUBSTANDARD BUILDINGS AND PUBLIC NUISANCES -- INTERFERENCE WITH WORK PROHIBITED.**

It is unlawful and a misdemeanor for any person to obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the City, or with any person who owns or holds any estate or interest in any substandard building and/or premises on which a public nuisance exists which has been ordered abated and/or vacated under the provisions of this subchapter whenever such officer, employee, contractor or authorized representative of the City, person having an interest or estate in such building premises, or purchaser is engaged in the work of abating and/or vacating any such building or premises, pursuant to the provisions of this subchapter, or is performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this subchapter.

(Ord. 680-C.S., passed 6-17-04) [Penalty, see § 150.151](#)

**§ 150.176 SUBSTANDARD BUILDINGS AND PUBLIC NUISANCES -- PERFORMANCE OF WORK.**

(A) *Procedure.* When any abatement work is to be done pursuant to Section [150.173](#) by the City or its agents or contractors, the responsible official shall provide the final order or decision to the Public Works Director and the work shall be accomplished by City personnel or by private contract under the direction of such Public Works Director and the responsible official. Plans and specifications therefor may be prepared by such engineer, or he or she may employ such architectural and engineering assistance on a contract basis as he or she may deem reasonably necessary.

(B) *Costs.* The cost of such abatement work shall be paid from the abatement repair and demolition fund, and may be made a lien against the property involved, and may be made a personal obligation of the property owner, as the Abatement Hearing Officer shall determine is appropriate pursuant to this subchapter.

(Ord. 680-C.S., passed 6-17-04)

**§ 150.177 SUBSTANDARD BUILDINGS AND PUBLIC NUISANCES -- LIABILITY FOR COSTS OF ABATEMENT.**

(A) Every owner of property within the City is liable to the City for the total cost of abatement proceedings undertaken pursuant to this subchapter on his or her property accrued to the date of final resolution of the proceedings, including the recordation of liens pursuant to this subchapter, if any. Such costs shall include, without limitation, costs of inspection, including inspections which form the basis of the Building Official's notice and order; expenses associated with issuing and serving the Building Official's notice and order, and the final decision and order, if any; expenses associated with the appeal of the Building Official's notice and order, if any; attorneys' fees pursuant to Section 150.149, if any; the cost of repair, securement, demolition or any other abatement of the dangerous building or structure and/or nuisance; costs of title reports, placing or removing liens and closing the file, and any other related administrative costs.

(B) The Building Official or his or her designee, in his or her sole discretion, may waive any portion of or all of the costs of abatement proceedings in the event the owner of the property voluntarily complies with the Building Official's notice and order.

(C) All costs not otherwise paid by the owner or waived by the responsible official with approval of the City Manager shall be collected pursuant to the procedures set forth in this part of this subchapter.

(Ord. 680-C.S., passed 6-17-04) [Penalty, see § 150.151](#)

**§ 150.178 SUBSTANDARD BUILDINGS AND PUBLIC NUISANCES -- SALE OF MATERIALS.**

(A) In the event the City abates the substandard building and/or public nuisance and the abatement consists in part of removal of materials or demolition of a building or structure, the City may, at the City's sole discretion, sell the removed materials or materials contained in the demolished building or structure at public sale to the highest responsible bidder. The City shall notice the sale by publication at least five days prior to the date of the sale. The notice shall be published twice in a newspaper of general circulation in the City. The notice by publication may occur either before or after the removal of the materials or demolition of the building or structure.

(B) Any moneys received from the sale of such removed materials or materials contained in the demolished building or structure shall be deducted from the expense of abatement.

(Ord. 680-C.S., passed 6-17-04)

**§ 150.179 COST RECOVERY -- ACCOUNT OF EXPENSES; FILING OF REPORT; CONTENTS.**

(A) The responsible official shall keep an itemized account of all expenses incurred by the City in the abatement of the substandard building and/or public nuisance, including, without limitation, those costs and expenses set forth in § [150.177](#).

(B) The responsible official shall keep an itemized account of all revenue received by the City for any sale of materials pursuant to § [150.178](#).

(C) Upon the completion of the work, the responsible official shall prepare a report, verified by the City official in charge of doing the work, specifying the following information:

(1) The work done in abating the substandard building and/or public nuisance, if any.

(2) The itemized and total cost of the abatement proceedings undertaken pursuant to this subchapter, including, without limitation, those costs and expenses set forth in § [150.177](#).

(3) The itemized and total revenue received from any sale of materials pursuant to § [150.178](#).

(4) The net expense of the abatement (gross expenses less the revenue from any sale of materials pursuant to § [150.178](#)).

(5) A description of the real property upon which the building or structure is or was located.

(6) The names and addresses of the persons entitled to notice pursuant to § [150.165](#).

(7) Notice of the time, date and place when and where the Abatement Hearing Officer will hear and pass upon the report, together with any objections or protests which may be filed by any person interested in or affected by the proposed charge, and shall confirm, reject or modify the report and determine whether the charge shall be made a personal obligation of the property owner(s) and charged as a lien against the property involved.

(8) A statement that the decision and order of the Abatement Hearing Officer after the hearing is a final decision and order and is subject only to judicial review pursuant to Cal. Civ. Proc. § 1094.5.

(Ord. 680-C.S., passed 6-17-04) (Ord. 680-C.S., passed 6-17-04)

### **§ 150.180 COST RECOVERY -- SERVICE OF THE REPORT AND NOTICE OF HEARING.**

(A) The responsible official's report and notice of the hearing shall be posted on the property and served by certified return receipt mail and first-class mail, postage prepaid, addressed to the persons entitled to notice pursuant to § [150.165](#) as their names and addresses appear on the last equalized assessment roll of the county or supplemental roll whichever is more current, if such so appears, or as known to the responsible official.

(B) Service of the report and notice shall be made at least ten days prior to the date set for hearing.

(C) All costs associated with service of the report and notice shall be added to total expenses to be reviewed by the Abatement Hearing Officer.

(Ord. 680-C.S., passed 6-17-04)

### **§ 150.181 COST RECOVERY -- MAKING OF PROTESTS OR OBJECTIONS.**

Any person interested in or affected by the proposed charge may file written protests or objections with the responsible official at any time prior to the time set for the hearing on the report of the responsible official or may make an oral protest at the hearing. Each written protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. The responsible official shall endorse on every such protest or objection the date it was received by him or her. The responsible official shall present such protests or objections to the abatement hearing officer at the time set for the hearing, and no other written protests or objections shall be considered.

(Ord. 680-C.S., passed 6-17-04)

### **§ 150.182 COST RECOVERY -- NATURE OF PROTESTS TO BE HEARD.**

(A) Except as provided in division (B) of this section, the protests heard by the Abatement Hearing Officer pursuant to § [150.183](#) shall relate only to the charge to be made for abatement, and no protest concerning the action of the responsible official or the Abatement Hearing Officer in ordering the abatement of the substandard building and/or public nuisance shall be heard at this time.

(B) Where the charge to be made is the result of summary abatement pursuant to §§ [154](#) and [150.158](#), the Abatement Hearing Officer may determine whether or not the action to summarily abate was proper, and may modify the charge or not as he or she may deem proper.

(Ord. 680-C.S., passed 6-17-04)

### **§ 150.183 COST RECOVERY -- HEARING OF PROTESTS AND CONFIRMATION, REJECTION OR MODIFICATION OF REPORT.**

Upon the day and hour fixed for the hearing, the Abatement Hearing Officer shall hear and pass upon the report of the responsible official together with any such objections or protests, and shall confirm, reject or modify the report. The Abatement Hearing Officer may make such revision, correction or modification of the report or the charge as he or she may deem just; and in the event the Abatement Hearing Officer is satisfied with the correctness of the charge, the responsible official's report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected.

(Ord. 680-C.S., passed 6-17-04)

### **§ 150.184 COST RECOVERY -- ORDER OF ABATEMENT HEARING OFFICER.**

The Abatement Hearing Officer may order that the charge be made a personal obligation of each owner of the property and charged against the property involved as a lien or special assessment.

(Ord. 680-C.S., passed 6-17-04)

### **§ 150.185 COST RECOVERY -- FINAL DECISION AND ORDER; SERVICE.**

(A) The decision and order of the Abatement Hearing Officer is a final decision, subject only to judicial review pursuant to Cal. Civ. Proc. § 1094.6.

(B) A copy of the final decision and order of the Abatement Hearing Officer shall be served in accordance with § [150.165](#).

(Ord. 680-C.S., passed 6-17-04)

### **§ 150.186 COST RECOVERY -- PERSONAL OBLIGATION.**

(A) If the Abatement Hearing Officer orders that a charge shall be a personal obligation of the property owner, he or she shall direct the City Attorney or the Finance Division to collect the same on behalf of the City by the use of all appropriate legal remedies.

**§ 150.187 COST RECOVERY -- LIEN AGAINST THE PROPERTY.**

(A) If the Abatement Hearing Officer orders that the charge shall be charged against the property as a lien, then in the event the charge confirmed by the Abatement Hearing Officer is not paid within five days after service of the decision of the Abatement Hearing Officer, the charge shall constitute a lien on the property. The lien shall continue until the amount of the charge and interest thereon at the legal rate, computed from the date of confirmation of the charge, is paid or until it is discharged of record.

(B) The lien shall have the priority of a judgment lien.

(C) An abatement lien may be foreclosed by an action brought by the City for a money judgment.

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

(E) After notice to the property owner(s) as provided in division (G), the City Clerk shall record a notice of lien with the County Recorder within 60 days after the confirmation of the charge by the Abatement Hearing Officer.

(F) The notice of lien shall be in substantially the following form:

**NOTICE OF LIEN**

NOTICE IS HEREBY GIVEN THAT pursuant to Eureka Municipal Code Chapter 150, Sections 150.140 through [150.190](#), the City of Eureka undertook the following actions:

1. On \_\_\_\_\_, the Abatement Hearing Officer of the City of Eureka ordered the abatement of a substandard building and/or public nuisance on the real property described herein.

2. On \_\_\_\_\_, the City of Eureka abated the substandard building and/or public nuisance.

3. On \_\_\_\_\_, the City of Eureka confirmed the cost of the abatement of the substandard building and/or public nuisance and charged such cost as a lien against the real property described herein.

4. As of the date of recordation of this Notice of Lien, the cost of the abatement has not yet been paid, and the City of Eureka does hereby claim a

lien on the real property described herein for the net expense of abating the substandard building and/or public nuisance on the property in the amount of \$ \_\_\_\_\_, and this amount shall be a lien until the real property described herein until the full amount, with interest at the legal rate, has been paid in full and discharged of record.

5. As of the date of recordation of this Notice of Lien, the name and address of the record owner of the property described below is: \_\_\_\_\_.

6. The real property upon which the lien is claimed is that certain real property commonly known as \_\_\_\_\_ (Assessor Parcel Number), and more particularly described in Exhibit A, attached hereto and incorporated by reference herein.

CITY OF EUREKA

Dated: \_\_\_\_\_

(Ord. 680-C.S., passed 6-17-04)

(G) The City Clerk shall serve the notice of lien on the owner of record of the property on which the substandard building and/or public nuisance was located based on the last equalized assessment roll or the supplemental roll, whichever is more current. The notice of lien shall be served in the same manner as a summons in a civil action in accordance with Cal. Civ. Proc. Article 3 (§ 415.10 et seq.) of Chapter 4 of Title 5 of Part 2. If the owner of record cannot be found, the notice may be served by posting a copy of the notice in a conspicuous place upon the property for a period of ten days and by publication in a Eureka newspaper of general circulation pursuant to cal. gov. code § 6062.

(H) In the event the lien is discharged, released or satisfied, either through payment or foreclosure, the City Clerk shall record a notice of discharge in substantially the following form:

### **DISCHARGE OF LIEN**

NOTICE IS HEREBY GIVEN THAT pursuant to Eureka Municipal Code [Chapter 150](#), Sections [150.140](#) through [150.190](#), the City of Eureka undertook the following actions:

1. On \_\_\_\_\_, the Abatement Hearing Officer of the City of Eureka ordered the abatement of a substandard building and/or public nuisance on the real property described herein.

2. On \_\_\_\_\_, the City of Eureka abated the substandard building and/or public nuisance.

3. On \_\_\_\_\_, the City of Eureka confirmed the cost of the abatement of the substandard building and/or public nuisance and charged such cost as a lien against the real property described herein.

4. The amount of the lien claimed by the City of Eureka was \$\_\_\_\_, with interest at the legal rate.

5. As of the date of recordation of this Discharge of Lien, the name and address of the record owner of the property described below is:

\_\_\_\_\_

6. The lien claimed by the City of Eureka has been discharged, released or satisfied and the City of Eureka no longer claims a lien on the real property described herein.

7. The real property upon which the lien was claimed is that certain real property commonly known as \_\_\_\_\_(Assessor Parcel Number), and more particularly described in Exhibit A, attached hereto and incorporated by reference herein.

CITY OF EUREKA

Dated: \_\_\_\_\_

Name of Officer \_\_\_\_\_

(Ord. 680-C.S., passed 6-17-04)

**§ 150.188 COST RECOVERY -- SPECIAL ASSESSMENT AS ALTERNATIVE.**

(A) As an alternative to collecting the lien as provided § 150.187, the City may request and the Hearing Officer may order that the costs of abatement be made a special assessment upon the property on which the substandard building and/or public nuisance was located.

(B) The assessment shall continue until it is paid, together with interest at the same rate as delinquent property taxes computed from the date of the order until payment.

(C) The assessment may be collected at the same time and in the same manner as ad valorem real property taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ad valorem real property taxes. All laws applicable to the levy, collection and enforcement of ad valorem real property taxes apply to this special assessment.

(D) When a special assessment is charged against property as provided in this section, the City shall mail, be certified mail, to the property owner and file in the office of the County Recorder of Humboldt County a certificate in substantially the following form:

### **NOTICE OF SPECIAL ASSESSMENT**

On (*insert date*), the City of Eureka abated a nuisance on the property located at (*insert address*) (*insert assessor's parcel number*). This property is owned by (*insert name*). The abatement was done under the authority of California Government Code Section 38773.5 and Eureka Municipal Code Chapter 150, Sections 150.140 through 150.190.

The City of Eureka claims a special assessment on the real property for the cost of the abatement in the amount of \$\_\_\_\_\_. This amount is a special assessment against the real property until paid with interest at the rate of 10 percent per annum from (*insert date*) and discharged of record. This property may be sold after three (3) years by the tax collector for unpaid delinquent assessments.

The real property referred to in this notice is that parcel of land situated with the City of Eureka, County of Humboldt, State of California, more specifically described as follows: (*insert or attach legal description*)

CITY OF EUREKA

Dated: \_\_\_\_\_

(E) The City shall file with the County Auditor a certified copy of the notice of special assessment, a brief description of the abatement action taken and a request that the charges be added to the tax rolls and collected at the same time and in the same manner as ordinary municipal taxes. These documents shall be filed on or before the August 10<sup>th</sup> which follows the close of the tax year in which the abatement action was taken.

### **§ 150.189 COST RECOVERY -- EFFECT OF FAILURE TO RECEIVE NOTICE.**

The fact that the owner or other person to whom notice is given under this subchapter (§§ 150.140 through 150.190) does not receive notice, or a letter is returned by the post office as undeliverable, does not affect the validity of the abatement proceedings.

### **§ 150.190 TREBLE COSTS OF ABATEMENT.**

Upon the entry of a second or subsequent civil or criminal judgment within a two-year period finding that an owner of the property is responsible for a condition on the property which may be abated as a public nuisance, the court may order the owner to pay treble the costs of the abatement. This section does not apply to court-ordered abatement of dangerous buildings pursuant to Health and safety Code Section 17980.

