



AGENDA
RIO DELL CITY COUNCIL
SPECIAL MEETING
TUESDAY, APRIL 23, 2013 AT 4:00 P.M.
CITY COUNCIL CHAMBERS
675 WILDWOOD AVENUE

***WELCOME . . .** By your presence in the City Council Chambers, you are participating in the process of representative government. Copies of this agenda, staff reports and other material available to the City Council are available at the City Clerk's office in City Hall, 675 Wildwood Avenue. Your City Government welcomes your interest and hopes you will attend and participate in Rio Dell City Council meetings often.*

A. CALL TO ORDER

B. ROLL CALL

C. PLEDGE OF ALLEGIANCE

Members of the Public are encouraged to attend and shall have an opportunity to directly address the City Council concerning any item described in this special meeting agenda before or during consideration of that item.

D. SPECIAL MEETING MATTERS

- 1) 2013/0423.01 - Interview with Candidate for City Council
- 2) 2013/0423.02 - Appointment of City Council Member to fill the Unexpired Term Ending November, 2014 **(ACTION)**
- 3) 2013/0423.03 - Review Draft Nuisance Abatement Ordinance and Provide Staff Direction on Proposed Revisions **(ACTION)**

E. ADJOURNMENT



In compliance with the American with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Office of the City Clerk at (707) 764-3532. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to assure accessibility to the meeting.



**CITY OF RIO DELL
STAFF REPORT
CITY COUNCIL AGENDA**

TO: Mayor and Members of the City Council

FROM: Karen Dunham, City Clerk

THROUGH: Jim Stretch, City Manager

DATE: April 23, 2013

SUBJECT: City Council Appointment

RECOMMENDATION

Vote to appoint an applicant to the City Council in accordance with the procedures outlined in Resolution No. 1127-2011

BUDGETARY IMPACT

None

BACKGROUND AND DISCUSSION

A vacancy exists on the City Council as the result of the resignation of R. L. "Bud" Leonard effective March 5, 2013. The Notice of Vacancy was posted on March 6, 2013 seeking applications from those who wish to be considered to fill the vacancy for the remainder of the four year term ending with the November, 2014 General Election. As of the close of the application period, March 21, 2013, two applications were received; Billy Joe Long and Carol Theuriet. Since Billy Joe Long decided to withdraw his application, the Council took action to extend the application deadline to April 10, 2013.

As of the close of the extended application period, three applications were received; Gordon Johnson, Carol Theuriet and Katherine Zingaro. Interviews with the candidates were scheduled for April 16, 2013 beginning at 4:00 p.m. Two of the three candidates were interviewed at that time. Due to mis-communication, Katherine Zingaro was not interviewed as scheduled. As a result, she was invited to interview at the beginning of the April 23, 2013 special meeting.

Ballots will be provided to council members at the meeting.

The newly appointed Council member will be sworn in and seated at the May 7, 2013 regular meeting.

ATTACHMENTS: Resolution No. 1127-2011



**CITY OF RIO DELL
APPLICATION FOR CITY COUNCIL APPOINTMENT**

Thank you for expressing your interest in serving the community as an appointed member of the Rio Dell City Council. All applicants must be a registered voter of the City of Rio Dell and permanently reside within the City of Rio Dell at the time of application. The appointed Councilmember will be required to file a Fair Political Practices Commission (FPPC) Statement of Economic Interest Form 700 required by California Government Code §87200 et seq. and the City of Rio Dell Conflict of Interest Code.

This application is considered a public record pursuant to the California Public Records Act (Government Code §6520 et seq.) and may be made available to any member of the public upon request.

PERSONAL DATA:

Name: Gordon E. Johnson

Address Where you Reside: 1165 So. Sequoia Ave, Rio Dell

Mailing Address (if different): Po Box 91, Rio Dell

Home Phone: 764-3050 Cell Phone: _____

Email Address: gordar2@att.net

EDUCATIONAL DATA:

High School: Eureka High School - 1963

College/University: Humboldt State College - 1968

EMPLOYMENT DATA:

Current Employer/Occupation When Employed: semi-retired civil engineer - last employer (2012) was CALTRIP Corp.

GENERAL INFORMATION:

Are you a former employee of the City of Rio Dell? _____ Yes No

If yes, please indicate which department and dates of employment: _____

Are you related to any person currently employed by the City of Rio Dell? _____ Yes No

If yes, please indicate name, relationship and department employee works in: _____

Have you ever been convicted of or plead guilty to a felony or been removed from a public office?

_____ Yes No

Do you currently serve on a City Board or Commission? Yes _____ No

If yes, please list: Rio Dell Planning Comm.

Please list any past or present community involvement: I have served the last 2 years on the RDPC.

Please explain why you are interested in the appointment and what you, as a City Councilmember, would offer to the City Council and the community: As a resident

of the City for the last 34+ years, I believe I know the community. I want to give back to the City in a greater manner than I presently am. With my background in city government (prior city engineer/public works director in OA) and construction I feel I have strong assets to bring to the Council.

Do you or any member of your immediate family residing in your household, hold a position (paid or unpaid) with any person or entity, or have a contract with or any obligation to any person or entity, that might appear to constitute a conflict of interest for a City Council member? For purposes of this question, "entity" specifically includes, but is not limited to, the City of Rio Dell and any entity which receives funds from the City. _____ Yes No

If yes, please explain:

CERTIFICATE OF APPLICANT:

I certify that: 1) I am a registered voter of the City of Rio Dell; 2) I permanently reside within the City limits of the City of Rio Dell; and 3) all statements made in this application are true and complete. I understand that any false statement or omission of material facts will subject me to disqualification or dismissal.

DATE: 4/9/13 SIGNATURE: 

RETURN COMPLETED APPLICATION TO:
Karen Dunham, City Clerk
675 Wildwood Avenue
Rio Dell, CA 95562
Phone: 764-3532
admin1@riodellcity.com



**CITY OF RIO DELL
APPLICATION FOR CITY COUNCIL APPOINTMENT**

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This application is considered a public record pursuant to the California Public Records Act (Government Code §6520 et seq.) and may be made available to any member of the public upon request.

PERSONAL DATA:

Name: CAROL D. THEURIET

Address Where you Reside: 553 PACIFIC AVE., RIO DELL, CA 95562

Mailing Address (if different): _____

Home Phone: 707-764-3694 Cell Phone: 209-625-7011 (MESSAGE ONLY)

Email Address: CAROLTHEURIET@ATT.NET

EDUCATIONAL DATA:

High School: WILLOW GLEN HIGH SCHOOL - SAN JOSE, CA 1960 GRAD

*SAN JOSE COMMUNITY - JOB RELATED CLASSES
SAN JOSE STATE UNIVERSITY - CONTINUATION CREDITS*

College/University: MODESTO COMMUNITY COLLEGE - CONTINUATION CREDITS
FURRAISING SCHOOL, SAN FRANCISCO, CA - CONTINUATION CREDITS

EMPLOYMENT DATA:

Current Employer/Occupation When Employed: OWN MY OWN BUSINESS "CARLEIGH PACKAGING"
BROKER 1992 - PRESENT

INSURANCE ADJUSTER: BROWN BROTHERS ADJUSTERS, ADJUSTCO, INC., FRIESE
AND GIANELLI - MODESTO, CALIF 1980'S

COMMUNITY RELATIONS COORDINATOR - VISITING NURSE ASSOCIATION - MODESTO, CA 1980'S
GED PARKING CENTERS - SAN JOSE, CAL - FAMILY OWNED BUSINESS - BOOKKEEPER 1961-1968

GENERAL INFORMATION:

Are you a former employee of the City of Rio Dell? _____ Yes No

If yes, please indicate which department and dates of employment: _____

Are you related to any person currently employed by the City of Rio Dell? _____ Yes No

If yes, please indicate name, relationship and department employee works in: _____

Have you ever been convicted of or plead guilty to a felony or been removed from a public office?

_____ Yes No

Do you currently serve on a City Board or Commission? _____ Yes No

If yes, please list: _____

Please list any past or present community involvement: BOARD OF DIRECTORS - EAGLE PRAIRIE ARTS COUNCIL + BOARD OF DIRECTORS - VISITING NURSE ASSOCIATION MADDESTO, CA + SPEAKER FOR UNITED WAY, MADDESTO, CA + DIPLOMAT CHAMBER OF COMMERCE - MADDESTO, CA + VOLUNTEER SERVICES: OPENED AND DIRECTED STAFF METHODIST HOSPITAL, SACRAMENTO CA GIFT SHOP, SERVED AS WAYS & MEANS CHAIR VOLUNTEER LEAGUE OF METHODIST HOSPITAL, MEMBERSHIP CAPTAIN FOR HOSPICE, MADDESTO, CA, PAST CHAPTER REGENT EL TOYAN DAUGHTERS OF THE AMERICAN REVOLUTION, CHAIRMAN OF SUB COMMITTEE FINANCE ELK GROVE UNIFIED SCHOOL DIST.

Please explain why you are interested in the appointment and what you, as a City Councilmember, would offer to the City Council and the community: _____

HAVING LIVED IN RIO DELL THE PAST SIX YEARS, I WOULD LIKE TO BE ACTIVE

IN HELPING THE CITY MEET IT'S GOALS. RIO DELL IS A UNIQUE COMMUNITY

WITH GREAT POTENTIAL TO SECURE NEW BUSINESS. WITH THE EAGLE PRAIRIE

ARTS DISTRICT AND COOPERATIVE WE WILL SEE EXCITING CHANGES AND I WOULD

LIKE TO BE PART OF THE DIRECTION OF THOSE CHANGES.

Do you or any member of your immediate family residing in your household, hold a position (paid or unpaid) with any person or entity, or have a contract with or any obligation to any person or entity, that might appear to constitute a conflict of interest for a City Council member? For purposes of this question, "entity" specifically includes, but is not limited to, the City of Rio Dell and any entity which receives funds from the City. _____ Yes No

If yes, please explain:

CERTIFICATE OF APPLICANT:

I certify that: 1) I am a registered voter of the City of Rio Dell; 2) I permanently reside within the City limits of the City of Rio Dell; and 3) all statements made in this application are true and complete. I understand that any false statement or omission of material facts will subject me to disqualification or dismissal.

DATE: April 5, 2013 SIGNATURE: Carol D. Theuriet

RETURN COMPLETED APPLICATION TO:

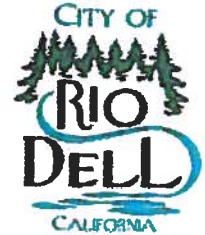
Karen Dunham, City Clerk
675 Wildwood Avenue
Rio Dell, CA 95562
Phone: 764-3532
admin1@riodellcity.com

NOTE: DOCUMENTATION PROVIDED WITH PRIOR APPLICATION



RECEIVED

4-10-13



CITY OF RIO DELL APPLICATION FOR CITY COUNCIL APPOINTMENT

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This application is considered a public record pursuant to the California Public Records Act (Government Code §6520 et seq.) and may be made available to any member of the public upon request.

PERSONAL DATA:

Name: Katherine Zingaro

Address Where you Reside: 263 Stream St.

Mailing Address (if different): _____

Home Phone: 764-5794 Cell Phone: 599-1965

Email Address: nickn@att.net

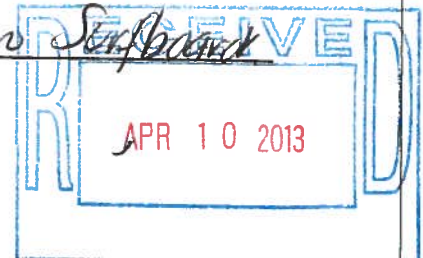
EDUCATIONAL DATA:

High School: Clayton High School, Clayton Missouri

College/University: Boston University, Franklin College, Simmons College

EMPLOYMENT DATA:

Current Employer/Occupation When Employed: Manager Zingaro Seafood
Housewife



GENERAL INFORMATION:

Are you a former employee of the City of Rio Dell? _____ Yes No

If yes, please indicate which department and dates of employment: _____

Are you related to any person currently employed by the City of Rio Dell? _____ Yes No

If yes, please indicate name, relationship and department employee works in: _____

Have you ever been convicted of or plead guilty to a felony or been removed from a public office?

_____ Yes No

Do you currently serve on a City Board or Commission? _____ Yes No

If yes, please list: _____

Please list any past or present community involvement: I have been involved with Eagle

Prave Elementary and Monument middle school since 2004 in various capacities, I've been a member of the PTO, helped out in classrooms and chaperoned field trips.

Please explain why you are interested in the appointment and what you, as a City Councilmember, would offer to the City Council and the community: Since we bought our

house in 2003, the city has changed immensely. I would like to be part

of the process of the continued beautification of Rio Dell. My children are

enrolled in our local schools (Fortuna High, Eagle Prave), our business is at a

plateau. I have the time, patience and ability to serve my community. I am an

articulate, efficient problem solver. In my internship with the Attorney General's

office I was working in the division of consumer complaints. I worked closely

with attorneys in mediating cases. My educational background in studying policy and

procedure in Environment and Politics has been very valuable to me.

Do you or any member of your immediate family residing in your household, hold a position (paid or unpaid) with any person or entity, or have a contract with or any obligation to any person or entity, that might appear to constitute a conflict of interest for a City Council member? For purposes of this question, "entity" specifically includes, but is not limited to, the City of Rio Dell and any entity which receives funds from the City. _____ Yes No

If yes, please explain:

CERTIFICATE OF APPLICANT:

I certify that: 1) I am a registered voter of the City of Rio Dell; 2) I permanently reside within the City limits of the City of Rio Dell; and 3) all statements made in this application are true and complete. I understand that any false statement or omission of material facts will subject me to disqualification or dismissal.

DATE: 4-10-13 SIGNATURE: 

RETURN COMPLETED APPLICATION TO:
Karen Dunham, City Clerk
675 Wildwood Avenue
Rio Dell, CA 95562
Phone: 764-3532
admin1@riodellcity.com

Katherine Shobe Zingaro
263 Stream st.
Rio Dell California
707-764-5794

Education:

Simmons College
Boston, Massachusetts B.A.

Franklin College
Lugano, Switzerland.
A.A. , I.E.S.

Boston University
Boston, Massachusetts.

Clayton High school
Clayton, Missouri

Work experience:

Zingaro Surfboards
business manager 1998-present

General Nutrition Center
San Diego, California
Sales Associate 2000-2002

General Nutrition Center
Santee, California
Store manager 1996-1998

Soul Joy Natural Foods 1993-1996
Cambridge, Massachusetts
manager, chef

RESOLUTION NO. 1127-2011
A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF RIO DELL PROVIDING A PROCEDURE FOR
APPOINTMENTS BY THE CITY COUNCIL
FOR VACANT POSITIONS ON THE CITY
COUNCIL AND COMMISSIONS

WHEREAS, the City Council is authorized under RDMC Section 2.55 to establish and by a majority vote appoint individuals to commissions, boards and committees; and

WHEREAS, City Council desires to use the same system to select the Mayor and Mayor Pro Tempore as is used to appoint individuals to commissions, boards and committees; and

WHEREAS, when vacancies occur on the City Council and Commissions, the City Council will vote to appoint replacements for the duration of the term (or for a full term when an election is planned and less candidates file than the number of seats that will become vacant); and

WHEREAS, the City Council desires that a set of procedures be in place to formally guide the voting process;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Rio Dell that:

1. Upon notice of a vacancy, an application time period shall be designated whereby interested applicants may complete an application to fill the vacant seat.
2. Names of all qualified applicants shall be placed in nomination for the vacant Seat.
3. All Councilmembers shall be considered nominated for Mayor and Mayor Pro Tempore (with the exception of the newly appointed Mayor). Any Councilmember may decline nomination for Mayor or Mayor Pro-Tempore.
4. Applicants shall be given an opportunity to make a short presentation to the Council at a public meeting.
5. At a City Council meeting where the vacancy is agendaized, each Councilmember will write the name of the applicant of their choice, and sign their ballot.
6. The ballots will be passed to the City Clerk to be counted and announced by name and for whom they voted.
7. If an applicant receives 3 or more votes, that candidate is chosen for the vacancy. Otherwise, there will be a runoff ballot between the top 2 applicants. Applicants receiving 2 votes will be placed in the runoff, and a separate vote shall be held for those receiving 1 vote if only 1 applicant has 2 votes (i.e. 2,1,1,1).

7. In the case of ties, a revote will be held.
8. After 3 ties, the Council will declare that the item be continued and placed on the next regular agenda.
9. At the next regular or special council meeting where the continued item is agendized, the Council shall re-vote up to 2 more times in the same manner as described above. In the event there is still a tie vote, the Council will declare a deadlock and reopen the application process.

BE IT FURTHER RESOLVED, that the procedure for establishing a system for City Council appointments to commissions, boards and committees and procedures for the selection of Mayor and Mayor Pro Tempore as described in Resolution Nos. 416, 625, 700, and 822-1-2002 are hereby repealed and replaced with the procedure described above.

PASSED AND ADOPTED by the City Council of the City of Rio Dell on this 6th day of September, 2011 by the following vote:

AYES: Woodall, Leonard, Marks, Thompson, Wilson
NOES: None
ABSENT: None
ABSTAIN: None



Julie Woodall, Mayor

Attest:

Karen Dunham, City Clerk

675 Wildwood Avenue
Rio Dell, CA 95562
(707) 764-3532



To: Honorable Rio Dell City Council
From: Graham Hill, Chief of Police 
Through: Jim Stretch, City Manager 
Date: April 23, 2013
Subject: Nuisance Abatement Ordinance

Council Action

1. Approve attached draft to be brought back to the City Council for a first public reading; or
2. Approve attached draft with specific edits to be brought back to the City Council for a first public reading, acknowledging that certain edits may require additional legal review by the city's attorney.

Background

Several months ago it came to my attention that some of the citations within the current Nuisance Ordinance were outdated or otherwise incorrect. This resulted in a legal review of the ordinance and a recommendation to adopt an updated ordinance. Ultimately the ordinance was redone. After several internal drafts were reviewed by staff and the city's attorney a 1st draft to be presented to the City Council has been completed. At this point the staff is prepared to review the ordinance and take recommendations from the City Council to address any desired changes or edits. All of the citations within the current draft have been reviewed by the attorney and are legally appropriate.

Some of the primary differences are as follows:

- The current version of the Nuisance Abatement Ordinance contains minimal definitions and leaves many portions open to interpretation to the enforcement official, resulting in varying degrees of enforcement depending on who is dealing with a specific complaint. The new version of the ordinance contains thorough definitions throughout and appropriate legal citations, leaving fewer options for independent interpretation which should result in a more uniform enforcement approach.
- The new version of the ordinance more clearly defines who is responsible for maintaining property, and includes specific language identifying that having a third party contract (renter/leaser) does not alleviate the responsibility of property maintenance of the owner of record. It further clarifies an occupant, renter, tenant, etc., is also required to maintain property in the same manner as the owner.

- The new ordinance clearly defines the authority and procedure for entering private property for the purposes of enforcing the ordinance, and clearly refers to the property owners Fourth Amendment Rights under the United States Constitution. The current version does not address this issue.
- The new version of the ordinance addresses the ability for the city to utilize other civil or criminal proceedings in addition to those contained within the ordinance, or separately. This is not clearly defined in the current ordinance.
- The new version of the ordinance addresses and defines, in detail, Administrative Abatement, Summary Abatement, the processes for each; the appeal process, the hearing process, and enforcement of the Order of a Hearing Officer. While the current version addresses these issues it does not do so in great detail and leaves some room for interpretation. The current version also does not adequately define the underlying authority these activities are performed under.
- The new version of the ordinance covers the procedure for assessing costs incurred by the city, and addresses the procedure for placing a Special Assessment Lien against the property to recover those costs. The current version does not adequately address this issue.
- The new version addresses the removal of vehicles and cost recovery, including those costs being assessed against the parcel when costs are not recovered within thirty days. This ordinance could be utilized in place of, or in addition to our current abandoned vehicle ordinance.

Budgetary Impact

No impact at this time.

Recommendation

Review current draft and provide staff with direction to prepare bringing the Ordinance back for a first public reading.

Attachments

1. 1st Draft of Nuisance Abatement Ordinance.

Chapter 8.10 NUISANCES

Article 1. Nuisances Generally

8.10.010 Application.

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

8.10.020 Definitions.

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

(a) Administrative citation. An administrative citation is a “ticket” issued when voluntary compliance is not obtained within a reasonable time. Administrative citations are not part of the judicial process unlike infractions or misdemeanors citations.

(b) Blight. For purposes of this Code, visual blight is any unreasonable, non permitted or unlawful condition or use of real property, premises or of building exteriors which by reason of its appearance as viewed from the public right-of-way, is detrimental to the property of others or to the value of property of others, offensive to the senses, or reduces the aesthetic appearance of the neighborhood. Visual blight includes, but is not limited to, the keeping, storing, depositing, scattering over or accumulation on the premises any of the following:

- (1) Lumber, junk, trash, debris, scrap metal, rubbish, packing materials, building materials.
- (2) Abandoned, discarded or unused objects or equipment such as furniture, stoves, appliances, refrigerators, freezers, cans or containers, automotive parts and equipment.
- (3) Abandoned, wrecked, disabled, dismantled or inoperative vehicles or parts thereof except inoperative vehicles that are not abandoned and are in an active state of renovation or restoration. For purposes of this article, “active state of renovation or restoration” means that the vehicle is actively being restored or renovated in a manner intended to make the vehicle operational, and shall not include restoration or renovation that solely improves the interior or exterior appearance, but not the operation, of the vehicle. A vehicle shall only be permitted to be in an active state of renovation or restoration for a period that

shall not exceed ninety days, whether consecutive or non-consecutive, out of any twelve month period.

(4) Stagnant water or excavations.

(5) Any personal property, object, device, decoration, design, fence, structure, clothesline, landscaping or vegetation which is unsightly by reason of its condition or its inappropriate location.

(6) Vehicles parked on any surface other than an “improved surface” or “driveway” as those terms are defined.

(7) Any condition of a building or structure deemed to be unsafe or that in the discretion of the City Manager or his/her designee, or the department head, would constitute a threat to public safety, health, or welfare, or poses a security problem by reason of dilapidation, fire hazard, disaster, damage or other similar occurrence specified in this code or any other applicable law.

(8) Any condition of a building or portion thereof which constitutes a substandard building, as defined in Health and Safety Code Section 17920.3 or its successor.

(9) Filling of any swimming pool with water prior to the final safety inspection required by the California Code of Regulations, conducted by city inspectors and before such final inspection has been noted on the permit card obtained from the city.

(c) City. The City of Rio Dell, a municipal corporation of the State of California.

(d) Code compliance administrator. The City Manager and the authorized representative(s) of the City Manager.

(e) Department head. The police chief, the city manager, and the city attorney, and their authorized representative(s).

(f) Highway. Any road, street, alley, way or place of whatever nature, publicly maintained and opened to the use of the public for purposes of vehicular travel. Highway includes city streets.

(g) Inoperative vehicle. Any vehicle which cannot be legally operated on the street because of lack of current registration or, lack of an engine, transmission, wheels, tires, windshield or any other part or equipment necessary to operate on public streets and/or highways.

(h) Junk. Any cast-off, damaged, discarded, junked, obsolete, salvage, scrapped, unusable, worn-out or wrecked object, thing or material, including but not limited to

those composed in whole or in part of asphalt, brick, carbon, cement, plastic or other synthetic substance, fiber, glass, plaster, plaster of paris, rubber, terra cotta, wool, cotton, cloth, canvas, wood, metal, sand, organic matter or other substance.

(i) Junkyard. Any premises on which any junk is abandoned, bailed, bartered, bought, brought, bundled, deposited, disassembled, disposed of, exchanged, handled, kept, stored or transported, regardless of whether or not such activity is done for profit.

(j) Notice and Order. A notice and order is legal notice which detail structural or technical code violations such as illegal construction, conversions, alterations, illegal plumbing, mechanical or electrical installations, dangerous buildings, substandard housing or similar.

(k) Owner. Owner of record of real property, occupant, lessee, or interested holder in same, as the case may be including the owner of real property whereon a vehicle(s) or part(s) thereof is located.

(l) Premises. Any real property or improvements thereon.

(m) Person. Any individual, group of individuals, firm, entity or corporation owning, occupying or using any premises.

(n) Service Station. Any premises upon which the improvements are designed and built for the primary purpose of selling to or providing others with fuels for internal combustion engines or motor vehicles, whether or not providing related automotive maintenance and repair service.

(o) Special Assessment Lien. A special assessment lien is a lien placed on real property and is collected by the county tax assessor.

(p) Vehicle. Any device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks.

8.10.030 Nuisances.

It is hereby declared unlawful and a public nuisance per se for any person owning, leasing, occupying and/or having charge or possession of any premises or land in this city to permit, allow, or maintain such premises or land such that any one or more of the following conditions or activities exist:

- (a) Any condition recognized in law or equity as constituting a public nuisance including, without limitation, any condition on or use of property which would constitute a nuisance as defined in California Penal Code §§ 370, 371 and/or 11225;

- (b) Any dangerous, unsightly, or blighted condition that is detrimental to the health, safety or welfare of the public;
- (c) Any condition that is in violation of any duly enacted ordinance of the Rio Dell Municipal Code, or resolution or lawful order promulgated by authorized city officials;
- (d) Any condition in violation of Chapters 8, 15, and 17 of this Code, including any condition in violation of any written design finding, including design standard, design guideline, or development standard that may be adopted by resolution or ordinance from time to time by the city council or the planning commission, or any condition imposed on any entitlement, permit, contract, or environmental document issued or approved by the city;
- (e) Any condition in violation of Chapter 8.25 of this Code entitled "Premises Used for Drug Related Activity."
- (f) Anything defined as a nuisance pursuant to state and federal law including but not limited to California Civil Code Section 3479 et seq.;
- (g) Any condition in violation of the weed and rubbish abatement laws defined at Government Code Sections 39501 et seq. and 39560 et seq. as enacted or hereafter amended and enforced by city ordinance and resolutions;
- (h) Any vacant, unoccupied or abandoned building or structure that is not reasonably secured against uninvited entry or that constitutes a fire hazard, or is in a state of unsightly or dangerous condition so as to constitute a blighted condition detrimental to property values in the neighborhood or otherwise detrimental to the health, safety and welfare of the public;
- (i) Any condition that constitutes an attractive nuisance; those objects or conditions that, by their nature may attract children or other curious individuals including, but not limited to, unprotected hazardous or unfilled pools, ponds, including pools or ponds that have not been properly barricaded, ice boxes, refrigerators or excavations;
- (j) Any condition that constitutes a visual Blight.

8.10.040 Responsibility for Property Maintenance.

- (a) 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 this chapter and such owner remains liable for violations thereof regardless of any contract or agreement with any third party regarding such property.

(b) Every occupant, lessee, tenant or holder of any interest in property, other than as owner thereof, is required to maintain such property in the same manner as is required of the owner thereof, and the duty imposed on the owner thereof shall in no instance relieve those persons referred to from the similar duty.

Article 2. Enforcement

8.10.050 Authority.

(a) The City Manager is hereby authorized to administer and enforce all of the provisions of this chapter. In accordance with approved procedures, the City Manager may assign said authority to department heads and/or employ qualified officers, inspectors, assistants, and other employees as shall be necessary to carry out the provisions of this chapter. The authority of the City Manager to enforce the provisions of this chapter is independent of and in addition to the authority of other city officials to enforce the provisions of any other chapter of the city code.

(b) Pursuant to California Code of Regulations, Title 25, Section 52, the procedures contained in this chapter are deemed to be equivalent for the purposes intended by, and may be used in lieu of, the regulations and procedures for abatement contained in Article 6 of Subchapter 1 of Chapter 1 of Division 1 of Title 25 of the California Code of Regulations which addresses mobile homes and parks.

(c) Nothing in this chapter shall be construed to limit the authority of the police chief of the city to enforce all laws within the police chief's jurisdiction.

8.10.060 Right of Entry.

(a) Whenever it is necessary to make an inspection of any premises to enforce the provisions of this chapter, and to the extent authorized by law, the code compliance administrator or the department head may enter on such premises at all reasonable times to inspect the same or to perform any duty imposed upon him/her by this Code, subject to the requirements of Amendment IV of the United States Constitution and any other provisions of applicable law.

(b) Whenever practicable, the code compliance administrator or the department head shall contact the occupant of such premises 24 hours prior to entry and inform the occupant of the reasons for such entry onto such property, and if the occupant is other than the owner, the code compliance administrator or the department head shall also, if practicable, contact such owner. This does not prevent entering the property within the 24 hours of notification with the owner or occupants permission.

(c) If entry onto any premises is denied by the owner or occupant of such premises, or by any third party, the department head shall have recourse to every remedy provided by law to secure peaceable entry on such premises to perform the duties required by this chapter.

8.10.070 Violations and Penalties.

(a) It shall be unlawful for any person, firm, corporation, or other entity to violate any provision of this chapter. Any person, firm, corporation, or other entity, whether as owner, lessee, sublesser, sublessee, or occupant of any premises that violates the provisions of this chapter or any order issued pursuant to this chapter shall be subject to any or all of the following:

- (1) Such person shall be subject to summary or administrative abatement of the nuisance by the city, and be subject to fines, civil penalties, fees and costs, including reasonable attorney fees imposed by the city pursuant to the summary or administrative abatement procedures contained in the Rio Dell Municipal Code or any other provisions of law;
- (2) Such person shall be guilty of a misdemeanor for each day such violation continues, and upon conviction thereof, shall be punished for each violation by a fine not to exceed one thousand dollars, or by imprisonment of not longer than six months, or both for each violation;
- (3) Such person shall be prosecuted in a civil action, criminal action, or both brought by the city. The city attorney or other authorized legal representative may bring an action in a court of competent jurisdiction to enjoin or prosecute any nuisance violation of this chapter, or violation of any other ordinance of the city;
- (4) Each and every day that any such violation continues to exist shall constitute a continuing and separate offense.

8.10.080 Administrative Citations.

An administrative citation may be issued for any violation of this article pursuant to Rio Dell Municipal Code _____.

8.10.090 Additional Enforcement.

Nothing in this chapter shall be deemed to prevent the city from commencement of any available administrative, civil and/or criminal proceeding to abate a nuisance pursuant to all applicable provisions of law as an alternative and/or in addition to any enforcement proceedings set forth in this chapter.

8.10.100 Cumulative Remedies.

The remedies set forth in this chapter include summary and administrative abatement, administrative citations, civil actions, criminal actions and all other remedies provided for by law. All remedies set forth in this chapter and in all city ordinances for the abatement or punishment of any violation thereof, are cumulative and may be pursued alternatively or in combination. Provisions of this Code are to be supplementary and complementary to

all of the city ordinances, the Rio Dell Municipal Code, state law, and any law cognizable at common law or in equity, and nothing herein shall be read, interpreted or construed in any manner so as to limit any existing right or power of the city to abate any and all nuisances and to enforce its ordinances.

8.10.110 Permits Required.

When a permit is required to correct a code violation pursuant to a code compliance action, the property owner shall complete the permit, including all inspections, corrections, and work in accordance with a timeline established by the code compliance administrator. In establishing the timeline the code compliance administrator shall provide a time frame, that in his or her judgment, is reasonable to expeditiously complete the permit. Failure to strictly adhere to the established timeframe shall be deemed a continuing violation subject to the remedies established in this article.

Nothing in this chapter shall be construed to relieve the violator from payment of any and all costs incurred by the city in enforcing and/or causing the abatement of any violation of the City of Rio Dell Municipal Code.

Article 3. Summary Abatement

8.10.120 Summary Abatement.

- (a) The city may immediately abate any nuisance or violation of this chapter that poses a clear and imminent danger to, or requires immediate action to prevent or mitigate the loss or impairment of, life, health, property, or essential public services. The city may perform this abatement without providing prior notice or hearing to the owner or occupier of the offending premises. Such summary abatement may proceed only upon the authorization of the manager and the city attorney, or their respective designees. The abatement shall include all actions necessary to secure the premises to prevent further occurrences of the nuisance.
- (b) The owner and/or occupier of the premises or the persons creating, causing, committing, or maintaining the nuisance shall be subject to any administrative fines, penalties, fees and costs, including reasonable attorney fees, imposed or incurred by the city pursuant to this chapter.
- (c) Any abatement performed by the city pursuant to this section shall be at the expense of the owner and/or occupier of the premises or the persons creating, causing, allowing, permitting, committing, or maintaining the nuisance. The city shall recover its expenses pursuant to the special assessment lien procedures contained in this Code or any other applicable provision of law.
- (d) As soon as practicable following completion of the abatement, the code compliance administrator or the department head shall issue a notice of violation

and/or notice and order in accordance with this chapter. Persons receiving such notice shall be entitled to all hearing rights as provided herein.

(e) If a structure is deemed untenable pursuant to California Civil Code § 1941.1 and the Code compliance officer determines that the structure is in such a condition as to make it immediately dangerous to the health and safety of the occupants or public, it shall be ordered to be vacated and posted as unsafe.

Article 4. Administrative Abatement

8.10.130 Commencement of Proceedings.

(a) Whenever the code compliance administrator or the department head has inspected or caused to be inspected any premises or condition and has found and determined that such premises or condition are in violation of this chapter, and that such violation does not pose an immediate danger to health or safety, the City Manager or his/her designee may commence proceedings to cause abatement of the nuisance as provided herein. When the City Manager or his/her designee, or department head has found that a violation of this chapter poses an immediate danger to health or safety, the City Manager or his/her designee, or department head may pursue any remedies available under this chapter or by law, including, but not limited to, summary abatement or administrative citation.

(b) Once proceedings have been commenced pursuant to this chapter to declare a public nuisance, no premises or building shall be deemed to be in compliance with this chapter solely because such building or premises thereafter becomes occupied or unoccupied.

8.10.140 Notice of Violation.

(a) Upon determination by the code compliance administrator or the department head that a premise is in violation of this chapter, and a notice of violation, administrative citation and/or a notice and order has not been issued against the same premises, or the same property owner but at a different premise, address or location, within the city, within the last twelve months, and that the violation does not create an immediate danger to health or safety, City Manager or his/her designee or the department head may issue a notice of violation to the owner of record of the premises and to the occupant of the premises, if any. The notice of violation shall contain:

- (1) The name and address of the person, firm, or corporation in violation, and the street address of the property where the violation is present;
- (2) A statement specifying the condition(s) which constitute a nuisance;
- (3) A statement explaining which specific code sections has been violated;

- (4) The range of the administrative, civil and/or criminal actions and monetary penalties, as described herein, that the city may impose for such violations if not corrected;
- (5) An order to correct the violation within a date certain, said date which shall be specified on the notice of violation and determined by the specific violation; and
- (6) A statement informing the recipient of the name and office telephone number of the person to contact should the recipient desire to explain why he or she believes (A) the premises should not be declared to be a public nuisance and abated, (B) penalties should not be assessed, and (C) the costs of such abatement should not become a charge and lien against the premises. The department head may rescind or modify the notice of violation based on substantive evidence presented by the recipient.

8.10.150 Stop Work Order.

If the violation is related to a permit, license or other approval of a project, the notice of violation may be accompanied by a stop work order which orders the recipient to stop immediately any and all work on the project that is subject to the permit, license or approval until the violation is corrected.

8.10.160 Service of Notice of Violation.

A copy of the notice of violation, and any amended or supplemental notices, shall be served either by personal delivery or by First Class U.S. mail, postage prepaid, upon the record owner at the address as it appears on the latest equalized assessment roll of Humboldt County, and upon the occupant of the premises, if any. If neither of these methods result in the notice being served upon the record owner and any occupants after reasonable attempts to serve, a copy of the notice shall be posted on the premises.

8.10.170 Notice and Order—Structural and Technical

Notice and orders are primarily used for structural or technical code violations such as illegal construction, conversions, alterations, illegal plumbing, mechanical or electrical installations, dangerous buildings, substandard housing or similar. When issued, the violation must be remedied in thirty calendar days, unless there is an immediate danger risk. If there is an eminent threat of danger the violation must be remedied immediately.

(a) **Grounds for issuance.** A notice and order may be issued under any of the following circumstances:

- (1) When a notice of violation has been served, and the specified time has passed without adequate correction and abatement of the violation;

- (2) When a stop work order has been issued but has not been complied with;
- (3) When the city has performed a summary abatement pursuant to this chapter;
- (4) When the same type or character of violation has been committed by the same person, or on the same premises, or a notice of violation, an administrative citation, or a notice and order has been served on the same person, or on the same premises, within the past twelve months.

(b) **Contents of notice and order.** A notice and order shall contain the following:

- (1) The name and address of the person, corporation, or entity in violation, and the street address of the property where the violation is present;
- (2) A statement specifying the condition(s) which constitute a violation and nuisance;
- (3) A statement explaining which specific code section(s) have been violated;
- (4) A statement informing the recipient of the number of days from the date of the notice and order the recipient has to voluntarily abate the violation and nuisance;
- (5) A statement informing the recipient of his or her right to appeal the determination to a hearing officer by filing with the City Clerk within ten calendar days from the date of the notice and order, and on a form available from the City of Rio Dell, a written statement requesting a hearing and providing a factual and specific explanation of: (A) why the premises should not be declared to be a public nuisance and abated and (B) why the costs of such abatement should not become a special assessment lien against the premises;
- (6) A statement informing the recipient of the Notice that there is a fee, which is set by resolution by the City Council of the City of Rio Dell, that must be deposited at the time an appeal is filed.
- (7) A statement that if the person, corporation or entity fails to abate the violation and nuisance or fails to file within ten calendar days, a request for an appeal hearing, the notice and order shall be final and not subject to judicial review, and all persons served with such notice shall be deemed to have consented to the abatement of the nuisance and that, at the election of the city, the city will abate the nuisance and the costs of such abatement may be charged against the premises and may be recorded as a special assessment lien against the premises.

(c) **Service of notice and order.**

(1) **Persons Entitled to Service.** The notice and order shall be served upon the owner of the premises, any occupants of the premises, and any other person, corporation, or entity in violation. If the city proposes to impose a special assessment lien on the property, the city official issuing the notice and order shall also serve one copy on each of the following if known or disclosed from official public records: (A) the holder of any mortgage, deed of trust, or other encumbrance of record; and (B) the owner or holder of any lease of record. The failure of the city official issuing the order to serve any person required to be served shall not invalidate any proceedings under this chapter or relieve any person who was duly served from any duty or obligation imposed on him/her by the provisions of this section.

(2) **Method of Service.** Unless otherwise provided in this section, service of a notice and order shall be made by personal service or by First Class U.S. mail, postage prepaid with confirmation of delivery by the U.S. Postal Service. Service on any property owner in violation is deemed complete when it is served or delivered at the address listed by the property owner on the latest equalized assessment roll of Humboldt County, or as known to the city official issuing the order. If personal service or service by mail with confirmation of delivery is not reasonably feasible, service of the notice and order may be made by posting the notice on the subject premises and sending a copy by regular United States mail service. Service posting in the manner herein provided shall be effective on the date of posting. As an alternative, substituted service of the notice and order may be made as follows:

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

(ii) 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 then mailing a copy by first-class mail to the recipient at the address where the copy was left.

(B) If the party entitled to service has a property manager or rental agency overseeing the premises, substituted service may be made as set forth in above upon the property manager or rental agency.

(C) Substituted service may be made by posting the notice and order on the premises and mailing a copy of the notice and order to the person, corporation, or entity in violation at the address of the property on which the violation has occurred or is occurring.

(D) If the person, corporation, or entity in violation or other person entitled to service cannot be located or service cannot be made as set forth in this section, service may be made by publication in a newspaper of general circulation in Yolo County. Service shall be deemed sufficient when it is accomplished pursuant to Government Code Section 6063.

(d) Preparation of a record of the proceeding shall be governed by California Code of Civil Procedure Section 1094.6, as presently written or hereinafter amended.

8.10.180 Appeal Hearing—Notice and Order.

(a) **Payment of appeal fee.** Any person, corporation, or entity seeking to appeal a notice and order shall be required to pay to the city, at the time the appeal is requested, a nonrefundable appeal fee to be set by resolution of the city council. The appeal fee is intended to cover the costs, expenses, and city employees' time incurred by the city in processing, preparing for, and hearing of the appeal. No appeal request is valid unless accompanied by the appeal fee or a city hardship waiver is granted.

(1) **Hardship Waiver.** If the appealing party establishes to the satisfaction of the city manager or designee, by means of tax returns, pay stubs or other similar documentary evidence, and submits a declaration under penalty of perjury that paying the appeal fee would cause undue financial hardship to the appealing party the city manager may grant a waiver of the appeal fee. The city manager's determination is not appealable and shall be final as to the hardship waiver request.

(b) **Hearing officer.** The appeal shall be heard by a hearing officer appointed by the city manager to hear administrative appeals. The city manager may appoint a California licenses contractor or other competent person in the city manager's discretion. The hearing officer may be a city employee, but in that event the hearing officer shall not have had any responsibility for the investigation, prosecution or enforcement of nuisances under this chapter and shall not have had any personal involvement in the appeal to be heard within the past twelve months.

(c) **Setting appeal hearing.** The appeal hearing shall be set by the city manager or his or her designee, and notice of the appeal hearing shall be sent to the appellant by first class mail at the address provided with the written appeal request. The appeal hearing shall be set for a date no sooner than twenty days following a request for an appeal hearing. Notice of the appeal hearing shall be mailed at least fifteen days before the date set for hearing.

(d) **Conduct of appeal hearing.**

(1) **Testimony at the Hearing.** At the time set for the appeal hearing, the hearing officer shall proceed to hear testimony from the representative of the city, the appellant, and any other competent persons with respect to the determination of a violation and nuisance or the imposition of an administrative penalty.

(2) **Record of Oral Evidence at Hearing.** The proceedings at the hearing shall be reported by a tape recording, or video recording. Either party may provide a certified shorthand reporter to maintain a record of the proceedings at the requesting party's own expense.

(3) **Continuances.** The hearing officer may, upon request of the person, corporation, or entity against whom a penalty is to be imposed, or upon request of the city, grant continuances from time to time for extreme or unusual cause shown, or upon the hearing officer's own motion.

(4) **Oaths; Certification.** The hearing officer or certified shorthand reporter shall administer the oath or affirmation.

(5) **Evidence Rules.** Government Code Section 11513, subsections (a), (b), and (c) shall apply to all administrative hearings. At the hearing officer's sole discretion, other relevant evidence may be admissible and hearsay evidence may be used for the purpose of supplementing and explaining other evidence.

(6) **Burden of Proof.** The accuracy of the notice and order containing the description of the violations and/or public nuisance and the actions required to abate such nuisance or violation is deemed a rebuttable presumption and the burden is on the appellant to provide such facts and information to overcome such presumption by a preponderance of the evidence.

(7) **Rights of Parties.**

(A) Each party shall have the following rights among others:

(i) To call and examine witnesses on any matter relevant to the issues of the hearing;

(ii) To introduce documentary and physical evidence;

(iii) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;

(iv) To impeach any witness regardless of which party first called that witness to testify;

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

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

(B) If a party does not proficiently speak or understand the English language, that party may provide an interpreter, at that party's own cost, to translate for the party. An interpreter shall not have been a resident of the premises or have had any personal relationship with or involvement in the parties or issues of the case prior to the hearing.

(8) Official Notice. In reaching a decision, the hearing officer may take official notice, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or which may appear in any of the official records of the city or county, or any of their departments.

(9) Inspection of the Premises.

(A) The hearing officer may inspect the premises involved in the hearing prior to, during, or after the hearing, provided that:

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

(ii) The parties consent and are given an opportunity to be present during the inspection; and

(iii) The 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 conclusions drawn there from.

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

(C) Notice to the parties or the owner(s)' consent to inspect the building and surrounding properties is not required if the property can be inspected from areas in which the general public has access or with permission of the other persons authorized to provide access to the property on which the building is located.

(e) **Form and contents of the decision; finality of decision.**

(1) Format of Hearing Officer's Decision. The hearing officer shall issue a written decision containing findings of fact and a determination of the issues presented. The hearing officer may affirm, modify or reverse the notice of

violation or the notice and order imposed by the city or find that the imposition of the penalty is not warranted or is not in the interest of justice.

(2) Contents of Hearing Officer's Decision. If it is shown by a preponderance of all the evidence that the condition of the premises constitutes a violation of the Rio Dell Municipal Code or is a public nuisance as defined in this chapter, the decision shall declare the premises to be a public nuisance and shall order and require the appellant to abate the nuisance not later than ten calendar days after the issuance of the decision or, if ten calendar days is insufficient to abate the nuisance, within such other time as specified by the hearing officer not to exceed sixty days. The decision shall inform the appellant that if the nuisance is not abated within the time specified, the nuisance may be abated by the city in such manner as may be ordered by the department head and the expense thereof made a special assessment lien upon the property involved. This is in addition to any other legal remedies that the city may choose to compel compliance.

(3) Service of the Hearing Officer's Decision. Upon issuance of the decision, the city shall serve a copy on the appellant by first class mail to the address provided by appellant in the written notice of appeal. The hearing officer's decision shall be deemed served three days after the date it is mailed to the address provided by the appellant.

(4) Finality of Hearing Officer's Decision. The decision of the hearing officer on an appeal of a notice and order shall constitute the final administrative decision of the city and shall not be appealable to the city council or any committee or commission of the city.

Article 5. Enforcement of Hearing Officer Order

8.10.190 Generally

After any notice of violation or any decision of a hearing officer made pursuant to this chapter has become final, no person to whom any such order is directed shall fail, neglect or refuse to obey such order.

8.10.200 Failure to Obey Order—Abatement by City.

(a) If, after any notice of violation or any order of a hearing officer made pursuant to this chapter has become final, the person to whom such order is directed shall fail, neglect or refuse to obey such order, the department head is authorized and directed to cause the nuisance to be abated by city personnel or private contract. In furtherance of this section, the department head shall obtain a warrant, if required, and thereafter is expressly authorized to enter upon the premises for the purpose of abating the nuisance.

(b) Additionally, any person who fails to obey such order shall be guilty of a misdemeanor punishable as specified in Section 8.10.070(a)(2) of this chapter.

8.10.210 Interference with Work Prohibited.

No person shall 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 premises on which a nuisance exists and which must be abated under the provisions of this chapter, whenever such officer, employee, contractor or authorized representative of the city, or person having an interest or estate in such premises is engaged in the work of abating any nuisance as required by the provisions of this chapter, or in performing any necessary act preliminary to or incidental to such work authorized or directed pursuant to this chapter.

8.10.220 Costs of Abatement.

(a) The department head shall keep an account of the costs and expenses of abating such nuisance, and the City shall render a statement of such costs to the person or persons receiving the notice to abate.

(b) Such person or persons receiving the notice of violation or decision of the hearing officer shall be liable to the city for any and all costs and expenses to the city involved in abating the nuisance. Such costs and expenses are due upon receipt of the statement required in subsection (a) of this section.

(c) Costs and expenses as referred to in this section shall include all costs allowed to be recovered by law, including attorneys' fees as allowed by Government Code Section 38773.5 or its successor.

8.10.230 Procedure for Assessing Costs.

If the person liable to pay the costs of abatement fails to do so within thirty calendar days of receiving the statement of such costs, the city may initiate proceedings to have such costs assessed against the real property or premises on which the city abated the nuisance. Such proceedings and notice of such proceedings shall be performed in accordance with Section 54954.6 of the California Government Code. The costs of abatement shall be treated as a new assessment for purposes of Section 54954.6. No majority protest rights exist for this assessment. The department head shall present to the city council a report of costs for abating the nuisance at the public meeting required by Section 54954.6.

8.10.240 Assessment of Costs—Special Assessment Lien Against Property.

(a) The total cost for abating a nuisance shall constitute a special assessment against the premises to which it relates, and upon recordation in the office of the county recorder of a notice of lien, shall constitute a lien on the property for the amount of such assessment. The procedure for collecting abatement costs through a

special assessment lien shall be in accordance with California Government Code Section 38773.5.

(b) After such recordation, a copy of the lien shall be turned over to the county assessor, who shall then enter the amount of the lien on the assessment rolls as a special assessment.

Thereafter, said amount shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided by Government Code Section 38773.5 and as provided for ordinary municipal taxes.

Article 6. Additional Provisions Governing Abatement of Vehicles

8.10.250 Application of Article.

The requirements of this article apply to any action taken under this chapter to abate as a public nuisance an abandoned, wrecked, dismantled or inoperative vehicle or parts thereof from private or public property.

8.10.260 Exemptions.

(a) This article shall not apply to:

(1) A vehicle, or part thereof, that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

(2) A vehicle, or part thereof, that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, or a junkyard.

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

8.10.270 Article Not Exclusive Regulation.

This article 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 heretofore or hereafter enacted by the city, the state or any legal entity or agency having jurisdiction.

8.10.280 Persons Granted Franchise or Contract—Right of Entry.

When the city has contracted with or granted a franchise to any person or persons, such person or persons shall be authorized to enter upon private or public property to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this article.

8.10.290 Assessment of Administrative Costs Determination.

Administrative costs incurred by the city under this article shall be assessed pursuant to Article 8.10.230 of this chapter.

8.10.300 Abatement and Removal Authority.

Upon discovering the existence of an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, on private property or public property within the city, the department head shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed in this chapter.

8.10.310 Notice of Violation for Abandoned or Inoperable Vehicles.

A notice of violation to abate and remove a vehicle or parts thereof as a public nuisance, as required by Section 8.10.140, shall be served by registered or certified mail on the owner of the land as shown on the last equalized assessment roll and the owner of record of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. The notice of violation shall comply with Section 8.10.140, and also shall be in substantially the following forms:

**NOTICE OF INTENTION TO ABATE AND
REMOVE AN ABANDONED, WRECKED,
DISMANTLED, OR INOPERATIVE
VEHICLE OR PARTS THEREOF AS
A PUBLIC NUISANCE**

(Name and address of owner or land)

As owner shown on the last equalized assessment roll of the land located at (address), you are hereby notified that the undersigned, pursuant to Rio Dell Municipal Code Chapter 8.15 has determined that there exists upon your land an abandoned, wrecked, dismantled or inoperative vehicle (or parts thereof) registered to _____, license number _____, which constitutes a public nuisance pursuant to provisions of Chapter 8.10.

You are hereby notified to abate the nuisance by removing the vehicle (or parts of the vehicle) within ten (10) days from the date of mailing of this notice. If you fail to remove the vehicle or parts within ten (10) days, the city will abate the nuisance by removing the vehicle or parts to a scrap yard or automobile dismantler's yard, after

which the vehicle or parts shall not again be made operable or reconstructed. Removal costs and administrative costs will then be assessed to you as owner of the land on which the vehicle or parts are located.

As owner of the land on which the vehicle or parts of the vehicle are located, you are hereby notified that you may, within ten (10) days after the mailing of this notice, request a public hearing. If such a request is not received by the department head within the ten (10) day period, the department head shall have the authority to abate and remove the vehicle or parts of the vehicle as a public nuisance and assess the removal and administrative costs without a public hearing. You may submit a sworn written statement within such ten (10) day period denying responsibility for the presence of the vehicle or parts of the vehicle on your land, with your reasons for denial. Such statement shall be construed as a request for hearing at which your presence is not required.

You may appear in person at the hearing requested by you or the owner of the vehicle or, in lieu thereof, may present a sworn written statement in time for consideration at the hearing. You may, through such sworn written statement deny responsibility for the presence of the vehicle or parts on your land with your reasons for denial.

Notice mailed

_____ (date)

_____ [Department Head]

NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLE OR PARTS THEREOF AS A PUBLIC NUISANCE

(Name and address of last registered and/or legal owner of record of vehicle—
Notice should be given to both if different)

As the last registered (and/or legal) owner of record of (description of vehicle - make, model, license, etc) you are hereby notified that the undersigned pursuant to Rio Dell Municipal Code Chapter 8.15, has determined that the vehicle (or parts of the vehicle) exist as an abandoned, wrecked, dismantled, or inoperative vehicle at (describe location on public or private property) and constitutes a public nuisance pursuant to the provisions of Chapter 8.15.

You are hereby notified to abate the nuisance by removing the vehicle or parts of the vehicle within ten (10) days from the date of mailing of this notice. If you fail to remove the vehicle or parts within ten (10) days, the city will abate the nuisance by removing the vehicle or parts to a scrap yard or automobile dismantler's yard, after which the vehicle or parts shall not again be made operable or reconstructed.

Removal costs and administrative costs will then be assessed to you as owner of the land on which the vehicle or parts are located.

As registered (and/or legal) owner of record of the vehicle (or parts of the vehicle), you are hereby notified that you may, within ten (10) days after mailing of this notice, request a public hearing. If such a request is not received by the department head within the ten (10) day period, the department head shall have the authority to abate and remove the vehicle or parts of the vehicle without hearing.

Notice mailed _____
(date) [Department Head]

8.10.320 Hearing—Generally.

Upon request by the owner of the vehicle or owner of the land received by the department head within ten days after the mailing of the notices of intention to abate and remove, a public hearing shall be held by the hearing officer in accordance with Section 8.10.180 on the question of abatement and removal of the vehicle or parts thereof as an abandoned, wrecked, dismantled or inoperative vehicle, and the assessment of the administrative costs and the cost of removal of the vehicle or parts thereof against the property on which it is located.

The owner of the land on which the vehicle is located may appear in person at the hearing 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. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that the landowner has not subsequently acquiesced to its presence, then the city 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 those costs from the landowner, if the vehicle has been removed from the property

8.10.330 Hearing—Presence of Owner Not Required—Abatement Without Hearing.

If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his or her land within ten days after the mailing of the notice of violation to abate and remove, the statement shall be construed as a request for a hearing that does not require the owner's presence. If such a request for hearing is not received within the ten days after mailing of the notice of intention to abate and remove, the city shall have the authority to abate and remove the vehicle or parts thereof as a public nuisance without holding a public hearing.

8.10.340 Order Requiring Removal.

At the conclusion of the public hearing, the hearing officer may find that a vehicle or parts 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 in this article and determine the administrative costs and the cost of removal to be charged against the owner of the land. The order requiring removal shall include a description of the vehicle or parts thereof and the correct identification number and license number of the vehicle, if available at the site.

8.10.350 Hearing—Nonassessment of Costs.

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

8.10.360 Hearing—Notification of Decision.

If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his or her land but does not appear, or if an interested party makes a written presentation to the hearing officer but does not appear, he or she shall be notified in writing of the decision.

8.10.370 Removal—When

Once the decision of the hearing officer becomes final, the vehicle or parts thereof found to be a public nuisance may be disposed of by removal to a scrap yard or automobile dismantler's yard ten calendar days after adoption of the order declaring the vehicle or parts thereof to be public nuisance. After a vehicle has been removed it shall not thereafter be reconstructed or made operable, unless it is a vehicle that qualifies for either horseless carriage license plates or historical vehicle plates, pursuant to California Vehicle Code Section 5004, in which case the vehicle may be reconstructed or made operable.

8.10.380 Removal—Notice to Department of Motor Vehicles.

Within five days after the date of removal of the vehicle or parts thereof, notice shall be given to the Department of Motor Vehicles identifying the vehicle or parts thereof removed. At the same time there shall be transmitted to the Department of Motor Vehicles any evidence or registration available, including registration certificates, certificates of title and license plates.

8.10.390 Removal—Costs—Assessment—Collection.

If the administrative costs and the cost of removal which are charged against the owner of the land pursuant to Section 8.10.290 are not paid within thirty days of the date of the order, such costs shall be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code and shall be transmitted to the assessor for placement on the

property tax roll and collected by the tax collector. The assessment shall have the same priority as other city taxes.