

**ORDINANCE NO. 96-012**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF APR 16 1996

**AN ORDINANCE AMENDING SECTION 61.03.301, THE TITLE OF CHAPTER 61.16, AND SECTIONS 61.06.1601, 61.16.1608, 61.16.1610 AND 61.16.1611 OF TITLE 61 OF THE SACRAMENTO CITY CODE, RELATING TO NUISANCE ABATEMENT**

**BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:**

**SECTION 1.**

Section 61.03.301 of the Sacramento City Code is hereby amended to read as follows:

61.03.301 Definitions--Generally

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

- (a) **Junk:** Any cast-off, damaged, discarded, junked, obsolete, salvage, 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, fibre, 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.
- (b) **Junk yard:** Any premises from on or which any junk is abandoned, bailed, bartered, bought, brought, bundled, deposited, disassembled, disposed of, exchanged, handled, kept, packed, processed, scattered, shipped, sold, stored or transported, regardless of whether or not such activity is done for profit.
- (c) **Owner:** Owner of record of real property, occupant, lessee, interested holder in same, or homeowners association, as the case may be. For purposes of this

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chapter, 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 maintenance, ownership, easements and/or assessing fees on property owners pursuant to agreements, deeds or recorded documents.

- (d) **Premises:** Any real property, 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..
- (e) **Property:** Premises.
- (f) **Drive-in enterprise:** Any commercial enterprise such as a service station or drive-in restaurant upon which enclosed buildings occupy less than 25% of the lot area and where a primary method of providing goods and services to customers is by means of a drive through service.
- (g) **Abandoned drive-in enterprise:** Any drive-in enterprise which has not been providing goods and services for at least 180 days. The term "abandoned drive-in enterprise" shall not include any enterprise all or a part of which has been lawfully converted to another use permitted by the zoning regulations and for which all necessary permits, licenses and other entitlements have been issued, so long as the premises are occupied and maintained for such use.
- (h) **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 of motor vehicles, whether or not providing related automotive maintenance and repair services.
- (i) **Inoperative vehicle:** Any motor vehicle which cannot be moved under its own power, or cannot be operated lawfully on a public street or highway within this state, due to removal of, damage to, or deterioration of, or inoperative condition of any component part or the lack of an engine, transmission, wheels, tires, doors, windshield or any other component part necessary for such movement or lawful operation or which cannot be operated on a public street or highway because it is not currently registered and fees paid to the California Department of Motor Vehicles.
- (j) **Cost of abatement:** The total cost incurred by the City in connection with a public nuisance including, but not limited to:

- (i) Any cost incurred in removing or remedying a public nuisance.
- (ii) A service fee for administrative services rendered by the City neighborhood services division in connection with the inspection, notification, prosecution and abatement procedures authorized by this code.
  - (a) The service fee shall be in such amounts as are determined from time to time by resolution of the city council.
  - (b) The service fee will be calculated based on all services rendered by neighborhood services division from the time of the initial inspection of the property made for the purpose of documenting a violation of this code until the violation is corrected.
  - (c) The service fee is not intended to be a penalty imposed for violation of this code or other laws
- (iii) Any cost incurred by the City in collecting the costs enumerated in Section 61.03.301(b)(i) and (ii) above.
- (k) **Homeowners association:** Any California corporation, California nonprofit mutual benefit corporation or unincorporated association created for the purposes of controlling, managing or maintaining the common areas of a common interest development as that term is defined in California Civil Code Section 1351.
- (l) **Common area:** The entire common interest development as that term is defined in California Civil Code Section 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.

**SECTION 2.**

The title of Chapter 61.16 is hereby amended to read as follows:

Chapter 61.16. Social Nuisance Code

**SECTION 3.**

Section 61.16.1601 of Title 61 of the Sacramento City Code is hereby amended to read as follows:

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61.16.1601 Title

This chapter shall be known as the "social nuisance code," may be cited as such, and will be referred to herein as "this code."

**SECTION 4.**

Section 61.16.1608 of the Sacramento City Code is hereby amended to read as follows:

61.16.1608 Generally.

It is hereby declared a public nuisance and a violation of this code for any person, firm or corporation, whether owner, lessee, sublessor, sublessee or occupant of any premises in this city to permit those premises to be used in such a manner that any one or more of the activities described in the following subsections are found to occur repeatedly thereon:

- (a) The illegal sale of controlled substances and other illegal drugs and substances which creates a public nuisance as defined in Civil Code Sections 3479 and 3480.
- (b) The illegal use of controlled substances and other illegal drugs and substances which creates a public nuisance as defined in Civil Code Sections 3479 and 3480.
- (c) The frequent gathering, or coming and going, of people who have an intent to purchase or use controlled substances on the premises.
- (d) The occurrence of prostitution, unlawful activities of a criminal street gang (as defined in Penal Code Section 186.22).
- (e) The making or continuing, or causing to be made and continued, of any loud, unnecessary or unusual noise which disturbs the peace and quiet of the neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area. The standards set forth in City Code Section 66.03.301 shall be considered in determining whether a violation of this subsection exists.
- (f) The firing of gunshots or brandishing of firearms or weapons as defined by Penal Code Section 12020 by a resident, or by a guest of a resident.
- (g) The occurrence of criminal activity which threatens the life, health, safety or welfare of the residents, neighbors or the public.

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**SECTION 5.**

Sections 61.16.1610 of Title 61 of the Sacramento City Code are hereby amended to read as follows:

61.16.1610 Citation and order - content; service; fee.

(a) The citation and order shall contain:

- (1) The street address and such other description as is required to identify the premises.
- (2) A statement specifying with particularity the behaviors which constitute the nuisance, including, when applicable, addresses and unit numbers of the person or persons allegedly causing the nuisance, and reasonable actions which the director orders the record owner to take to abate the nuisance.
- (3) A statement advising the owner to abate the nuisance within thirty (30) calendar days of mailing of the citation and order, or such longer time as the director may order. An extension of time to abate the nuisance shall be granted if the owner is making good faith efforts to abate the nuisance and those efforts are delayed due to judicial proceedings relating to the property.
- (4) A statement advising the owner that he or she has the right to request a hearing to contest the citation and order.
- (5) A statement advising the owner that an administrative penalty in an amount not to exceed \$5,000.00 shall be imposed upon the owner and made a lien on the property involved if the nuisance is not abated as required by the citation and order and no written request for hearing is filed within thirty (30) days of receipt of the citation notice.
- (6) A statement advising the owner that an owner may not retaliate against any tenant because the City has instituted proceedings under this ordinance.
- (7) A statement that in responding to the citation and order, the owner shall comply with all applicable federal, state, and local regulations relating to evictions and prohibitions against discrimination.

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- (8) If the director determines that mediation might facilitate abatement of the nuisance, a statement that the owner may participate in a mediation program designed to foster cooperation between property owners, and other interested persons, including the City.
- (b) The citation and order shall be served in the manner prescribed by Section 61.16.1615(b) and (c).
- (c) A fee shall be imposed on the owner of any property for which a citation and order is issued pursuant to this chapter. The fee shall be calculated to recover the total City cost of inspections and enforcement. The fee shall be a personal obligation of the owner and a lien against the property which is the subject of the citation and order. Any fee not paid within the time specified shall be recovered pursuant to Chapter 50.09 of the Sacramento City Code.
- (d) The citation and order shall state that a written abatement plan executed by the owner and director, with or without mediation, shall be deemed to be a final order of the hearing officer.
- (e) If an owner elects to participate in mediation, the time within which a request for hearing may be filed shall be extended by thirty (30) days. The owner shall appear personally at the mediation as set forth in the mediation procedures adopted by the director.

**SECTION 6.**

Section 61.16.1611 of the Sacramento City Code is hereby amended to read as follows:

61.16.1611 Director's review; notice of administrative penalty

- (a) After the time for abatement set forth in the citation and order has expired, the director shall determine whether the owner has taken the action ordered by the director and whether the nuisance has been abated. If the director determines that the owner has complied with the director's order and that the nuisance has been abated, the owner and any occupants other than the owner shall be notified in writing of such determination and the administrative action shall be suspended. If the Director suspends the administrative action, he/she may continue to monitor the property and activity associated with it. If the Director determines that the nuisance activity reoccurs and/or the owner has failed to comply with the

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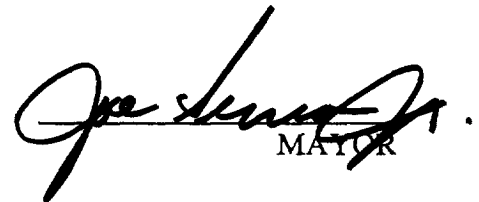
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previously issued citation and order within 18 months of suspension of the case, the Director may impose an administrative penalty as provided in this section.

- (b) If the director determines that the nuisance has not been abated that the owner has failed to comply with the director's order, or that the nuisance actually has reoccurred, the director may impose an administrative penalty of not more than \$5,000.00 upon the owner. In addition, the director may issue another citation and order to the owner pursuant to Section 61.16.1609 for the existence of any nuisance which has not been abated, or which has reoccurred.
- (c) If the director imposes an administrative penalty upon the owner, the director shall issue a notice of such penalty to the record owner of the premises, and to any occupants of the premises who are not the owner. The notice shall specify the amount of the administrative penalty, advise the owner of his or her right to request a hearing to contest the administrative penalty, and state that if no hearing request is received within thirty (30) calendar days, the administrative penalty will become final and be made a lien upon the property involved.
- (d) The notice of administrative penalty shall be served in the manner prescribed by Section 61.16.1615(b) and (c).

DATE PASSED FOR PUBLICATION: April 2, 1996  
DATE ENACTED: April 16, 1996  
DATE EFFECTIVE: May 15, 1996

  
MAYOR

ATTEST:

  
CITY CLERK

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