

CITY OF WINTERS PLANNING COMMISSION AGENDA

Tuesday, September 27, 2016 @ 6:30 PM  
City of Winters Council Chambers  
318 First Street  
Winters, CA 95694-1923  
Community Development Department  
Contact Phone Number (530) 794-6713  
Email: [dave.dowswell@cityofwinters.org](mailto:dave.dowswell@cityofwinters.org)

Vice Chairman: Kate Frazier  
Commissioners: Dave Adams, Lisa Baker,  
Paul Myer, Frank Neal, Patrick Riley,  
Gregory Contreras  
City Manager: John W. Donlevy, Jr.  
Associate Planner, Jenna Moser

Chairman:

- I CALL TO ORDER
- II ROLL CALL & PLEDGE OF ALLEGIANCE
- III CITIZEN INPUT: Individuals or groups may address the Planning Commission on items which are not on the Agenda and which are within the jurisdiction of the Planning Commission. NOTICE TO SPEAKERS: Speaker cards are located on the first table by the main entrance; please complete a speaker's card and give it to the Planning Secretary at the beginning of the meeting. The Commission may impose time limits.
- IV CONSENT ITEM
  - A. Minutes of the August 2, 2016 special meeting of the Planning Commission.
- V STAFF/COMMISSION REPORTS
  - A. Introduction of Commissioner Gregory Contreras
- VI DISCUSSION ITEMS:
  - A. Public Hearing and Consideration of Site Plan/Design Review for revise the façade of the building and the on-street parking along Railroad Avenue for the Downtown Hotel.
  - B. Public Hearing to consider various amendments to Title 17 (Zoning Ordinance) of the Winters Municipal Code.
  - C. Study Session – Discussion about adopting a new nuisance abatement ordinance amending Title 19, Code Enforcement, of the Winters Municipal Code.
  - D. Selection of Chairperson
- VII COMMISSION/STAFF COMMENTS
- VIII ADJOURNMENT

POSTING OF AGENDA: PURSUANT TO GOVERNMENT CODE § 54954.2, THE COMMUNITY DEVELOPMENT MANAGEMENT ANALYST POSTED THE AGENDA FOR THIS MEETING ON APRIL 21, 2016

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DAVID DOWSWELL, COMMUNITY DEVELOPMENT DEPARTMENT PLANNER

APPEALS: ANY PERSON DISSATISFIED WITH THE DECISION OF THE PLANNING COMMISSION MAY APPEAL THIS DECISION BY FILING A WRITTEN NOTICE OF APPEAL WITH THE CITY CLERK, NO LATER THAN TEN (10) CALENDAR DAYS AFTER THE DAY ON WHICH THE DECISION IS MADE.

PURSUANT TO SECTION 65009 (B) (2), OF THE STATE GOVERNMENT CODE "IF YOU CHALLENGE ANY OF THE ABOVE PROJECTS IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING(S) DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE CITY PLANNING COMMISSION AT, OR PRIOR TO, THIS PUBLIC HEARING".

MINUTES: THE CITY DOES NOT TRANSCRIBE ITS PROCEEDINGS. ANYONE WHO DESIRES A VERBATIM RECORD OF THIS MEETING SHOULD ARRANGE FOR ATTENDANCE BY A COURT REPORTER OR FOR OTHER ACCEPTABLE MEANS OF RECORDATION. SUCH ARRANGEMENTS WILL BE AT THE SOLE EXPENSE OF THE INDIVIDUAL REQUESTING THE RECORDATION.

PUBLIC REVIEW OF AGENDA, AGENDA REPORTS, AND MATERIALS: PRIOR TO THE PLANNING COMMISSION MEETINGS, COPIES OF THE AGENDA, AGENDA REPORTS, AND OTHER MATERIAL ARE AVAILABLE DURING NORMAL WORKING HOURS FOR PUBLIC REVIEW AT THE COMMUNITY DEVELOPMENT DEPARTMENT. IN ADDITION, A LIMITED SUPPLY OF COPIES OF THE AGENDA WILL BE AVAILABLE FOR THE PUBLIC AT THE MEETING. COPIES OF AGENDA, REPORTS AND OTHER MATERIAL WILL BE PROVIDED UPON REQUEST SUBMITTED TO THE COMMUNITY DEVELOPMENT DEPARTMENT. A COPY FEE OF 25 CENTS PER PAGE WILL BE CHARGED.

ANY MEMBER OF THE PUBLIC MAY SUBMIT A WRITTEN REQUEST FOR A COPY OF PLANNING COMMISSION AGENDAS TO BE MAILED TO THEM. REQUESTS MUST BE ACCOMPANIED BY A CHECK IN THE AMOUNT OF \$25.00 FOR A SINGLE PACKET AND \$250.00 FOR A YEARLY SUBSCRIPTION.

OPPORTUNITY TO SPEAK, AGENDA ITEMS: THE PLANNING COMMISSION WILL PROVIDE AN OPPORTUNITY FOR MEMBERS OF THE PUBLIC TO ADDRESS THE COMMISSION ON ITEMS OF BUSINESS ON THE AGENDA; HOWEVER, TIME LIMITS MAY BE IMPOSED AS PROVIDED FOR UNDER THE ADOPTED RULES OF CONDUCT OF PLANNING COMMISSION MEETINGS.

REVIEW OF TAPE RECORDING OF MEETING: PLANNING COMMISSION MEETINGS ARE AUDIO TAPE RECORDED. TAPE RECORDINGS ARE AVAILABLE FOR PUBLIC REVIEW AT THE COMMUNITY DEVELOPMENT DEPARTMENT FOR 30 DAYS AFTER THE MEETING.

THE COUNCIL CHAMBER IS WHEELCHAIR ACCESSIBLE



**PLANNING COMMISSION  
STAFF REPORT**

**TO:** Chairman and Planning Commissioners  
**DATE:** September 27, 2016  
**FROM:** David Dowswell, Community Development Department   
**SUBJECT:** Public Hearing and Consideration of Site Plan/Design Review revisions to the façade of the building and on-street parking along Railroad Avenue for the Downtown Hotel.

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**RECOMMENDATION:** Staff recommends that the Planning Commission take the following actions:

- 1) Receive the staff report; and
- 2) Conduct the Public Hearing to solicit public comment; and
- 3) Approve the revisions to the Site Plan/Design Review for the downtown hotel

**BACKGROUND:** At the November 18, 2014 City Council meeting, Council approved Resolution 2014-41, authorizing the City to enter into a Disposition and Development Agreement (“DDA”) with Royal Guest, aka AKM Railroad LLC, for the sale and development of a downtown hotel on City owned property.

On December 18, 2014 the Design Review Committee (“DRC”) reviewed the initial site plan and project design. Overall, the DRC was extremely favorable to the hotel project design; however, they did universally feel the “rain screen” element proposed for the northwestern-most façade was too modern and recommended it be removed. The City did receive comment from Bill Hailey.

On January 27, 2015 the Planning Commission approved Design/Site Plan Review, Parcel Map, and Conditional Use Permit for construction of a 70-room hotel, subject to the Conditions of Approval. According to Section 17.24.060B.1 of the Municipal Code (Zoning Ordinance) if a project has not commenced construction within one year after the date of the hearing it shall be deemed null and void without further action.

On January 5, 2016 the applicant’s representative submitted a request to extend all of the approvals for the 70-room hotel for six months to allow completion of the final

exhibits needed for approval by the planning commission and to complete the construction drawings.

On January 26, 2016 the Planning Commission approved an extension of the Site Plan/Design Review until June 30, 2016.

On April 26, 2016 the Planning Commission approved the deferred submittal items (lighting, awnings & window treatments, sign plan, landscaping plan) including adding a roof-deck with elevator for the proposed 70-unit Hotel with banquet/conference center, and approximately 10,500 square feet of commercial space and meeting rooms. The roof-deck was conditioned to be limited for use by hotel guests only.

**ANALYSIS:** The applicant is working with a prospective restaurant tenant wishing to occupy the restaurant on the first floor. The tenant is requesting to change the façade to create a more open and inviting feeling to pedestrians walking along Railroad Avenue. The changes to the façade would affect the entire frontage along Railroad Avenue and the portion the same building facade that wraps the corner onto Abbey Street. The new façade is a more modern look and includes blade awnings above the windows. The tenant also wants to eliminate the three on-street parking spaces along Railroad Avenue and create outdoor patio similar to outdoor patios in front of the Putah Creek Café and Buckhorn Restaurant. Unlike the patio area in front of Turkovich's the three parking spaces would not be installed, instead the sidewalk would be built to include the patio area.

Staff finds the changes to the design of the façade are in keeping with the overall design of the hotel. The changes will create a different look than façade along Abbey Street, adding interest to the overall design. Prior to issuing a building permit the applicant will need to submit samples or details of the window mullions and blade awnings for approval by the Community Development Department.

The request to eliminate the three parking spaces along Railroad Avenue is consistent with the City agreeing to eliminate the other on-street parking spaces on Railroad Avenue between Abbey Street and Main Street. Eliminating these spaces will create a unified look. Staff realizes the loss of these parking is significant as it relates to this project. Currently, the City is in the process of hiring a consultant to conduct a parking study for the overall downtown. The study will identify any problems and recommended solutions.

If the Commission approves the applicant's request to eliminate the three parking spaces along Railroad Avenue to create an outdoor seating area the applicant will still need to apply for a sidewalk café permit as required in Chapter 17.116 of the Municipal Code. This permit is issued by the Community Development Director.

**PROJECT NOTIFICATION:** Public notice advertising for the public hearing on this planning application was prepared by the Community Development Department's Management Analyst in accordance with notification procedures set forth in the City of Winters' Municipal Code and State Planning Law. Two methods of public notice were

used: a legal notice was published in the Winters Express on 09/15/16 and notices were mailed to all property owners who own real property within three hundred feet of the project boundaries at least ten days prior to tonight's hearing. Copies of the staff report and all attachments for the proposed project have been on file, available for public review at City Hall since 09/21/16.

**ENVIRONMENTAL ASSESSMENT:** The proposed project is exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15332 (In-Fill Development Projects)

**ALTERNATIVES:** Approve the façade changes but not the removal of the three parking spaces along Railroad Avenue for using as outdoor seating.

**RECOMMENDATION:** Staff recommends approval of the proposed revisions to the Site Plan/Design Review as submitted, subject to all of the previous conditions of approval with the following additional conditions:

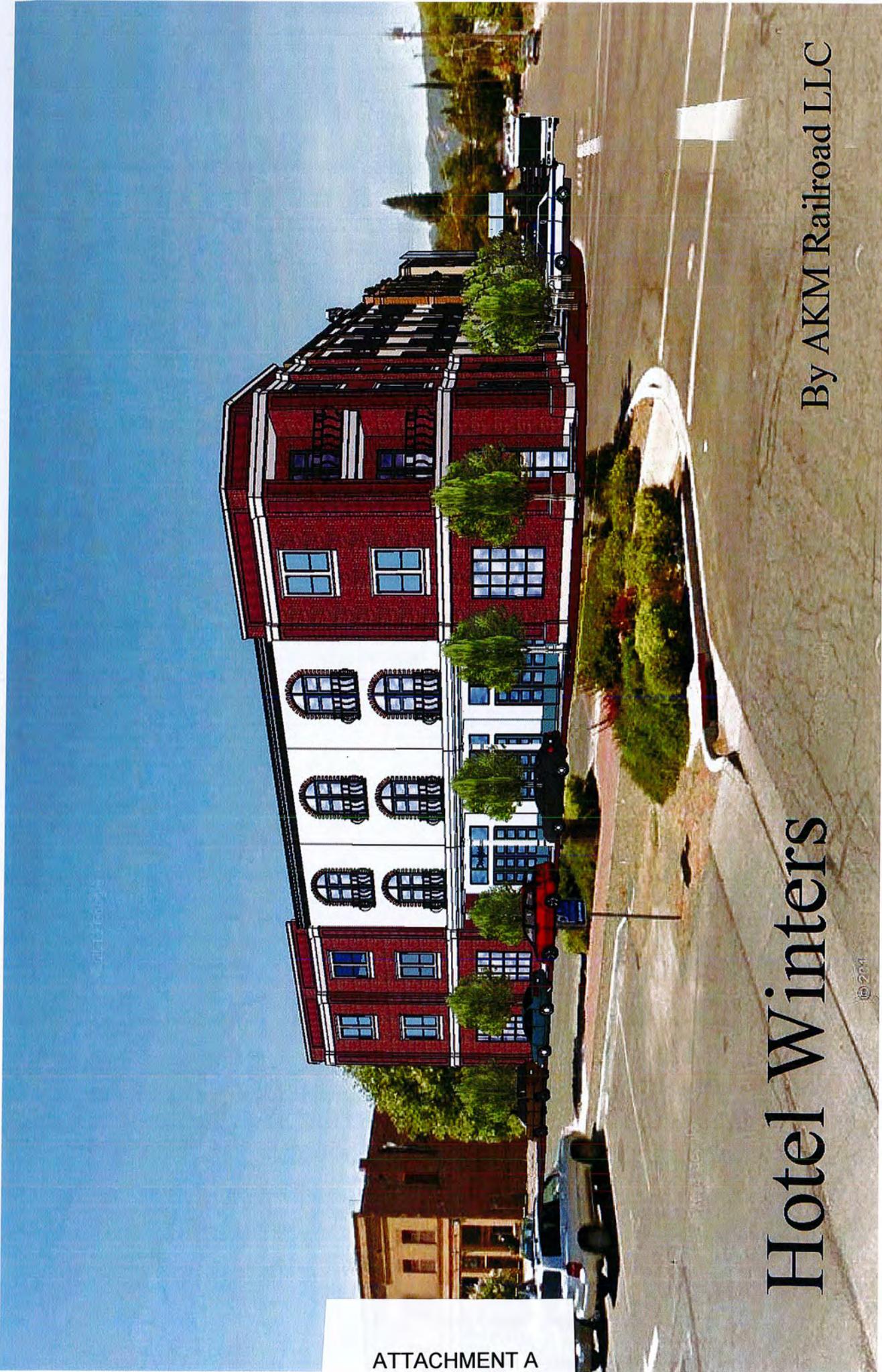
1. Prior to issuing a building permit the applicant will need to submit samples or details of the window mullions and blade awnings for approval by the Community Development Department.
2. Prior to converting the three parking spaces on Railroad Avenue the applicant shall apply for a sidewalk café permit as required in Chapter 17.116 of the Municipal Code. This permit is issued by the Community Development Director.

**I MOVE THAT THE CITY OF WINTERS PLANNING COMMISSION APPROVE THE CHANGES TO THE SITE PLAN AND DESIGN FOR THE RAILROAD AVENUE PORTION OF THE 70-UNIT HOTEL WITH BANQUET/CONFERENCE CENTER BY TAKING THE FOLLOWING ACTIONS:**

- Confirmation of exemption from the provisions of CEQA - The proposed project is exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15332 (In-Fill Development Projects),.
- Approve Design Review/Site Plan, subject to the all of the previous conditions of approval and the additional conditions mentioned above.

**ATTACHMENTS:**

- A. Approved elevations
- B. Proposed site plan and elevations
- C. Public Hearing Notice



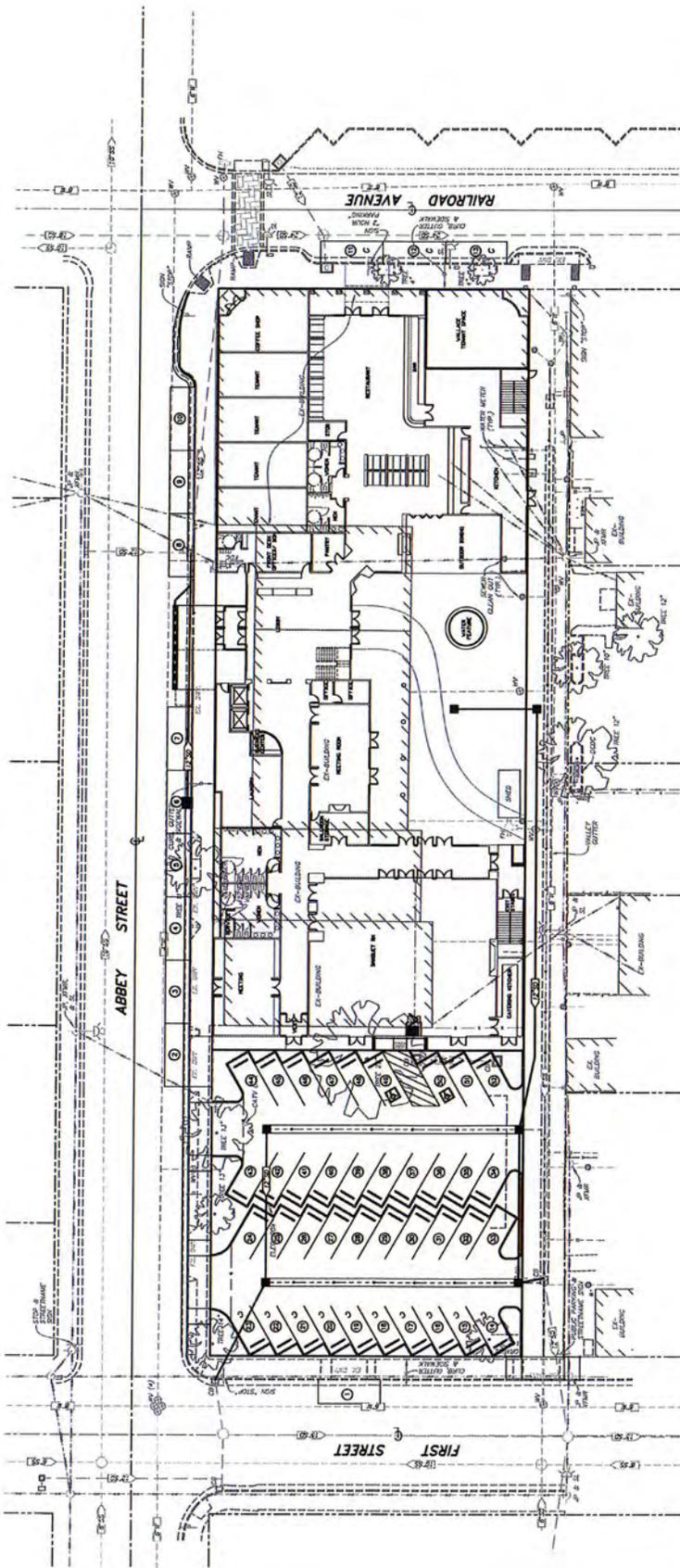
ATTACHMENT A

# Hotel Winters

By AKM Railroad LLC

© 2014

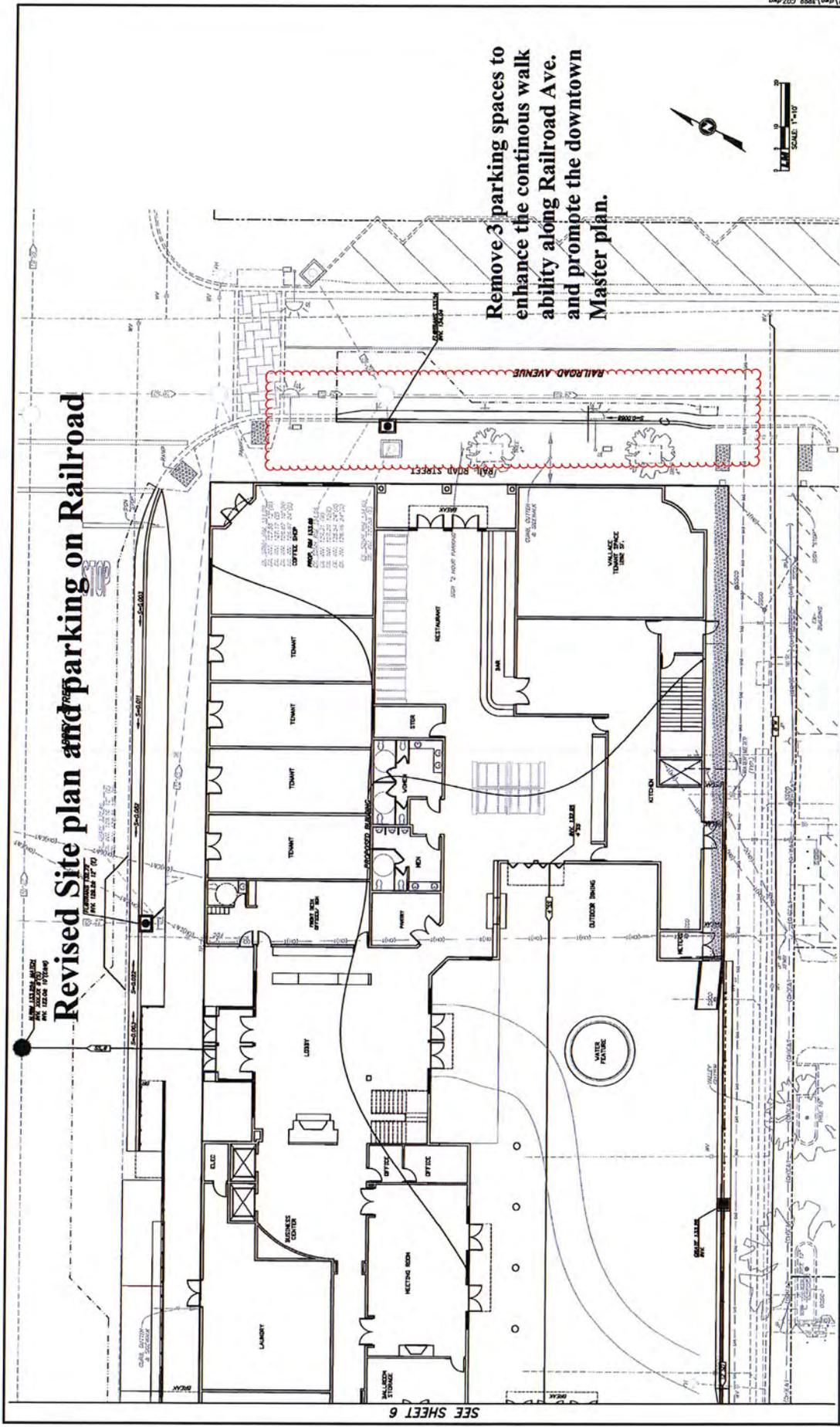
# Approved Site Plan and parking



PARKING SUMMARY:  
 ON STREET PARKING 13  
 OFF STREET PARKING 36  
 TOTAL NUMBER OF PARKING STALLS ADDED 52  
 (PERCENTAGE OF COMPACT STALLS = 13/25 = 25%)

DESIGNED BY	ICJ	REV.	DATE	DESCRIPTION	BY	APP'D.
DRAWN BY	JSW					
CHECKED BY	ICJ					
LAUGENOUR AND WEIKLE BY: TODD C. THOMERSON DATE: P.E. 38272 REGISTRATION EXPIRES 8-30-15						
IMPROVEMENT PLANS ON <b>AKM RAILROAD, LLC</b> YOLO COUNTY SITE PLAN						
SCALE: NONE VERT.: NONE HORIZ.: 1" = 20' CAD FILE: 388 SITE PLAN DATE: 01-20-2015 JOB NO. 3889						
SHEET 1						

# Revised Site plan and parking on Railroad

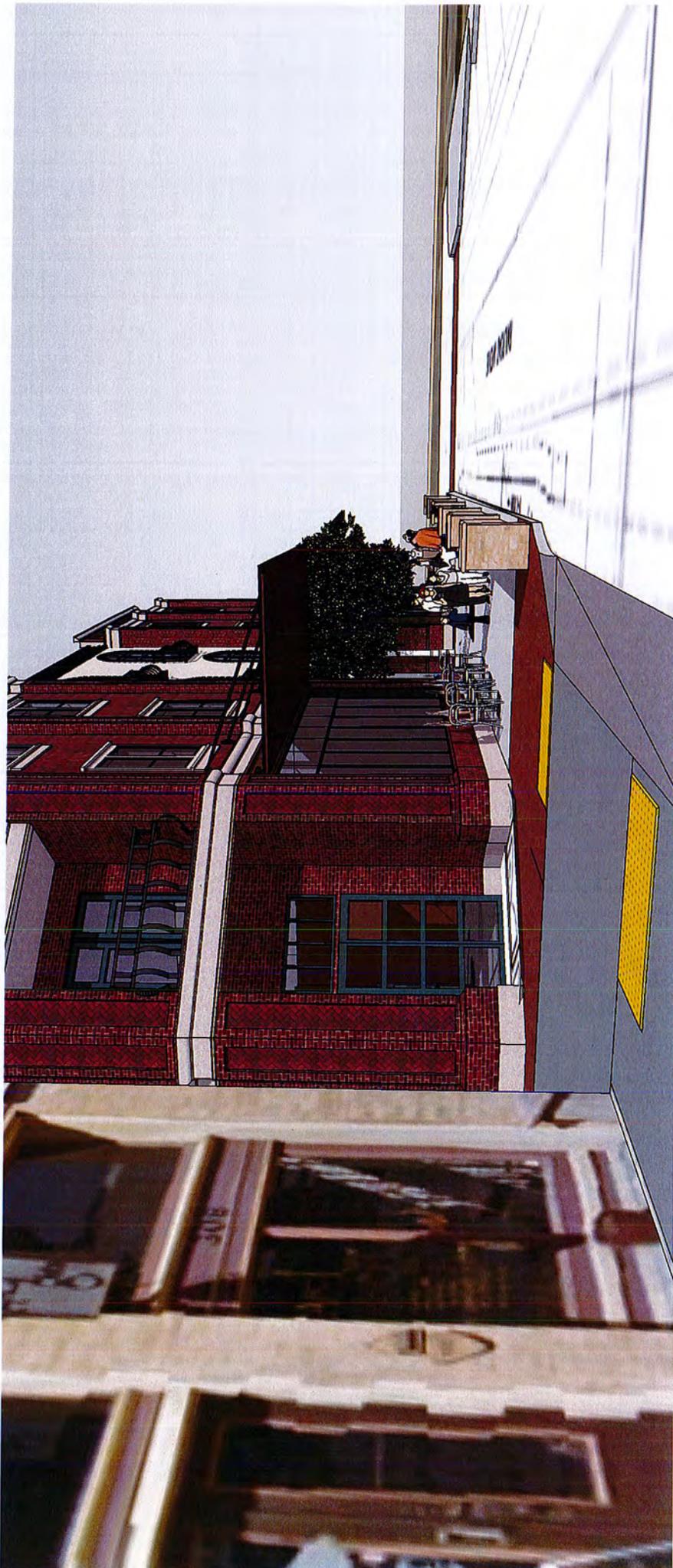


Remove 3 parking spaces to enhance the continuous walk ability along Railroad Ave. and promote the downtown Master plan.

SEE SHEET 6

DESIGNED BY JST	DATE	DESCRIPTION	BY APP'D. DATE
DRAWN BY MSW			
CHECKED BY JST			
CITY OF WINTEERS PUBLIC IMPROVEMENTS AUTHORITY FOR CONSTRUCTION BY ALAN L. WITKOSKI, P.E. CITY ENGINEER			
LM LAUGENOUR AND MEIKLE 2000 W. 10TH ST., SUITE 100, WINTERS, CALIFORNIA 95791 PHONE: (209) 842-1713 FAX: (209) 842-1713 BY TROY C. TAMMORASSAN P.E. # 39277 DATE 02-12-15 P.E. 39277			
CITY OF WINTEERS IMPROVEMENT PLANS FOR AKM RAILROAD, LLC CITY OF WINTEERS CALIFORNIA DATE: 07-13-15 SHEET 7 OF 9 SCALE 1"=10' CAD FILE: 3995_C07.dwg DATE: 07-13-15 JOB NO. 3994			











## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City of Winters will conduct a Public Hearing by the Planning Commission on Tuesday, September 27th, 2016 at 6:30 p.m. at the City Council Chambers located on the first floor of City Hall at 318 First Street, Winters, California to consider an application from Project applicant AKM Railroad LLC – Ken Patel or Mike Olivas to consider Site Plan/Design Review approval to revise the building façade and on-street parking along Railroad Avenue for the Downtown Hotel. The Planning Commission will take final action on the project unless appealed to the City Council.

The purpose of the public hearing will be to provide citizens an opportunity to make their comments on the project known. If you are unable to attend the public hearing, you may direct written comments to the City of Winters, Community Development Department, 318 First Street, Winters, CA 95694 or to [jenna.moser@cityofwinters.org](mailto:jenna.moser@cityofwinters.org). In addition, the staff report will be available on the City's website on 09/21/16.

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in these hearings, please contact City Clerk Nanci Mills at (530) 795-4910, ext. 101. Please make your request as early as possible and at least one-full business day before the start of the hearing.

The City does not transcribe its hearings. If you wish to obtain a verbatim record of the proceedings, you must arrange for attendance by a court reporter or for some other means of recordation. Such arrangements will be at your sole expense.

If you wish to challenge the action taken on this matter in court, the challenge may be limited to raising only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission prior to the public hearing.

Availability of Documents: Copies of the Staff Report will be available on the City's website [www.cityofwinters.org](http://www.cityofwinters.org)

For more information regarding this project, please contact David Dowswell, Community Development Department at (530) 794-6714.



**PLANNING COMMISSION  
STAFF REPORT**

**TO:** Chair and Planning Commissioners  
**DATE:** September 27, 2016  
**FROM:** David Dowswell, Community Development Department   
**SUBJECT:** Public Hearing and Consideration of various amendments to Title 17 (Zoning Ordinance), of the Winters Municipal Code.

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**RECOMMENDATION:** Staff recommends the Planning Commission take the following actions:

- 1) Receive the staff report; and
- 2) Conduct the Public Hearing to solicit public comment; and
- 3) Recommend the City Council find the proposed amendments Categorical Exempt from CEQA; and
- 4) Recommend the City Council adopt the proposed amendments to Title 17, Zoning Ordinance, of the Winters Municipal Code.

**GENERAL PLAN DESIGNATION, EXISTING ZONING AND LAND USE:** The proposed Municipal Code amendments to various sections will affect properties designated in the General Plan as agricultural, residential, commercial, industrial, public/quasi-public and zoned A-1, R-R, R-1, R-2, R-3, R-4, C-1, C-2, C-H, D-A, D-B, O-F, B-P, M-1, M-2, P-R and PQP.

**BACKGROUND:** Earlier this year staff brought forward for the Commission's consideration various amendments to the city's sign, noise and performance standard regulations. During the review of the Zoning Ordinance for these amendments staff observed a number of irregularities (formatting, duplicative language) and a lack of consistency between various chapters within the Code. Recently, the Planning Commission also reviewed and recommended approval of a request adding a Planned Development (P-D) overlay zoning to a parcel approved for a new hotel. The overlay was needed in order for the height of the hotel to be increased from 30 to 45 feet. The proposed amendments include revising the Lot Development Standards in Table 3A in Section 17.56.010 by increasing from 30 to 45 feet the maximum allowable structure height permitted in the Highway Service Commercial (C-H) Zone.

**ANALYSIS:** The formatting of the various chapters is inconsistent. The first section in some chapters is either entitled “purpose”, “purpose and intent”, “purpose, intent and applicability” and “purpose-scope”; the most common being “purpose and intent”. Staff is proposing all first sections which use “purpose” be entitled “purpose and intent”. In some instances staff is proposing adding a “purpose and intent” section to a chapter for clarity.

At the beginning of the Zoning Ordinance is the definition section (17.04.140B), which contains over 100 definitions. There are also definition sections in many of the other chapters of the Zoning Ordinance. There are some definitions for the same word or term in two or more chapters. In some cases the duplicate definitions are worded exactly the same and in others they are worded slightly different. Staff is proposing where definitions with the exact same wording are used in two different sections keeping the definition which makes the most sense and deleting the other one. For example, the definitions describing “farmworker, farmworker dwelling unit, farmworker housing, and farmworker housing complex” are being deleted from the definition section (17.04.140B) and kept in the definition section (17.123.020) of Chapter 17.123 Farmworker Housing. In cases where there are two or more definitions with different wording, staff is recommending keeping the most descriptive definition and deleting the others. For example, “low income, moderate income and very low income” are defined in sections 17.04.140B, 17.112.020 and 17.200.020. Staff is proposing keeping the ones in section 17.200.020 (highlighted in green) and deleting the ones from the other two sections. In a few cases staff proposes moving a definition from one section to another section because it makes more sense.

Staff is proposing that Table3A in section 17.56.010 to increase from 30 to 45 feet the maximum structure height allowed in the C-H zone to allow for taller buildings and to be consistent the maximum allowed structure height permitted in the C-2 zone.

**METHODOLOGY:** Two actions are required to process the requested project:

1. Confirmation of CEQA exemption finding – Noise Control and Performance Standards are Categorically Exempt, Section 15308 (Actions by Regulatory Agencies to Protect the Environment).
2. Recommendation that the City Council adopt the ordinance amendments;

**APPLICABLE REGULATIONS:** The planning application is subject to several regulations:

- The California Environmental Quality Act (CEQA)
- State Planning and Zoning Law
- City of Winters General Plan
- City of Winters Zoning Ordinance
- City of Winters Municipal Code

**PROJECT NOTIFICATION:** An eighth (1/8) of a page legal notice (Attachment B) advertising for the public hearing on this planning application was prepared in accordance with notification procedures set forth in the City of Winters’ Municipal Code and State Planning Law. The notice was published in the Winters Express on 9/15/16, ten days prior to public hearing. Copies of the staff report and all attachments for the proposed project have been on file, available for public review at City Hall since 9/27/16.

**ENVIRONMENTAL ASSESSMENT:** The proposed project is categorically exempt from environmental review pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15308 (Actions by Regulatory Agencies).

**RECOMMENDED FINDINGS FOR PROPOSED AMENDMENTS TO TITLE 17 (ZONING ORDINANCE) OF THE CITY OF WINTERS MUNICIPAL CODE.**

CEQA Findings:

- 1) The proposed project is categorically exempt from review under the California Environmental Quality Act (CEQA) Guidelines, Sections 15308 (Actions by Regulatory Agencies to Protect the Environment).

General Plan and Zoning Consistency Findings:

- 1) The project is consistent with the goals and policies of the General Plan.
- 2) The project will not result in a negative fiscal impact upon the City.

**RECOMMENDATION:** Staff recommends the Planning Commission recommend the City Council approve the proposed amendments to the Municipal Code by making an affirmative motion as follows:

**I MOVE THAT THE CITY OF WINTERS PLANNING COMMISSION RECOMMEND THE CITY COUNCIL APPROVE THE PROPOSED AMENDMENTS TO THE MUNICIPAL CODE, TITLE 17, BASED ON THE IDENTIFIED FINDINGS OF FACT AND BY TAKING THE FOLLOWING ACTIONS:**

- Confirmation of exemption from the provisions of CEQA
- Confirmation of consistency findings with the General Plan and Zoning Ordinance
- Recommend City Council approval of the amendments to the various chapters in Title 17, as shown in Attachment A.

**ALTERNATIVES:** The Planning Commission can elect not to recommend approval of the two amendments, modify the amendments or refer the amendments back to staff for additional review.

**ATTACHMENTS:**

- A. Draft Ordinance redline copy
- B. Draft Ordinance clean copy
- C. Notice of Public Hearing published 9/15/16

ORDINANCE NO. 2016-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS  
AMENDING VARIOUS SECTIONS OF TITLE 17 (ZONING ORDINANCE) OF  
THE WINTERS MUNICIPAL CODE

The City Council of the City of Winters, State of California, does hereby ordain as follows:

1. Purpose. The purpose of this ordinance is to amend various sections of Title 17 involving mostly formatting, removal of duplicative language and amending Table 3A in Chapter 17.56 by increasing from 30 to 45 feet the maximum allowable structure height permitted in the Highway Service Commercial (C-H) Zoning District.

2. Authority. The City of Winters has authority to adopt this ordinance pursuant to the general police power granted to cities by Article 11, Section 7 of the California Constitution.

3. Amendments to Title 17 of the Municipal Code are hereby amended ~~to read~~ as follows:

a. Chapter 17.04 of the Municipal Code is hereby amended in its entirety to read as follows:

**Chapter 17.04**  
**INTRODUCTORY PROVISIONS AND DEFINITIONS**

**17.04.140 Definitions.**

B. Definitions.

"Abutting" or "contiguous" means land or zoning district boundaries having a common property line. Lands or district boundaries separated by an alley, street or right-of-way shall be considered abutting.

"Acceptance for filing" means receipt and continued processing of an application or submittal over the public counter or through the mail or other delivery service, based on a preliminary determination that all required components (e.g. fees, completed application, mailing lists, appropriate copies of maps, special notes or statements, etc.) are provided. If all required components are not provided, the application shall not be accepted and/or shall be returned.

"Acceptance" for purposes of filing, routing, or processing, is to be distinguished from a determination that the application or submittal is "complete."

"Access drive" or "driveway" means a private driveway connecting a street or alley with a parking or loading area with space and of sufficient width to permit safely the passage of all vehicles, equipment, machinery, trailers, mobilehomes, boats, and/or pedestrians, either self-propelled or transported, which may normally or reasonably be expected to seek access to the parking or loading area or space. Whenever the size, location, or use of the parking or loading

area is such as to reasonably necessitate the use of the drive by emergency vehicles, the drive shall be of adequate width and design to permit the passage of the emergency vehicles. An access drive or easement serving four (4) or fewer single-family residences shall not be counted for setback purposes.

"Accessory building or accessory structure" means a detached subordinate structure or building located on the same premises as the main building or buildings (or proposed for development concurrently with the main building or buildings), the use of which is customarily incidental to that of the main building or to the use of the land. Where any portion of a wall of an accessory building or structure is attached to the main building, or where an accessory structure is attached to the main building in a substantial manner by a roof or deck, the accessory building or structure shall be considered and treated as part of the main building.

"Accessory use" means a lawfully permitted use in the zone, unless otherwise noted in this title, which use is customarily incidental and subordinate to the principal use of the site or of a main building on the site and serving a purpose which does not change the character of the principal use, and which is compatible with other principal uses in the same zone and with the purpose of the zone.

"Adjoin" means the same as "abutting."

"Administrative" means an internal, preliminary draft document submitted to the city for independent review for administrative purposes only. Administrative draft documents are not a part of the record of proceedings nor considered a "public document" for the purposes of the Public Records Act or the California Environmental Quality Act (CEQA). Administrative drafts are to be discarded or returned to the consultant, and shall not be retained in the project files.

"A-Frame sign" means a portable freestanding sign capable of standing without support or attachment.

~~"Affordable housing" means affordable sales housing or affordable rental housing. Affordable housing focuses on moderate, low and very low income households as defined herein and by state statute.~~

**Comment [1]:** Moved to Section 17.200.020.

"Agent of owner" means any person who can show certified written proof that he or she is acting for the property owner.

"Alley" or "lane" means a public or private way, other than a driveway, affording only secondary means of access to abutting property.

"Alter" means a physical change in a structure, including changes to bearing walls, columns and beams, or to the exterior appearance of a structure, other than painting.

~~"Animal, Exotic-animal"~~ means any wild animal not customarily confined or cultivated by man for domestic purposes, other than small or large domestic animals. This term includes llamas, peacocks, large reptiles.

~~Animal, Large Domestic.~~

~~"Animal, Large domestic-animal"~~ means domestic horses, burros and mules, domestic swine, domestic cattle, sheep, goats and similar livestock. The term shall also include the keeping of rabbits, pot-bellied pigs, hens, and geese.

~~Animal, Small Domestic.~~

~~"Animal, Small domestic-animal"~~ means dogs and cats over the age of ten (10) weeks.

"Apartment" means a multifamily dwelling consisting of three (3) or more dwelling units offered for rent or lease, under single ownership.

"Applicant" means the person, public or private, listed as the applicant on an application for a project and includes the record owner of the real property that is the subject of the project at the time of the application for the project.

"Approving body" means the city council of the city of Winters and/or the Winters planning commission, whichever takes final discretionary action on a project.

"Beginning of construction" means the incorporation of labor and materials at a construction site, commencing with grading or foundation construction, whichever occurs sooner.

"Block" means all property fronting on one (1) side of a street between intercepting streets or between a street and a waterway, dead-end street, major easement or right-of-way, or unsubdivided land. An intercepting street shall only determine the boundary of a block on the side of the street which it intercepts.

"Breezeway" means a roofed structure open on two (2) sides connecting two structures, such as a residence and a garage.

"Building" means any structure having a roof and supported by columns or walls, which is used or intended to be used for the shelter or enclosure of persons, animals or property.

"Building frontage" means the primary wall of a building facing a street (not including the freeway). If the building does not front on a street, the face of the building containing the main structure entry is the building frontage.

"Building materials" means any substance that can be used in construction of buildings, roadways or accessory structures.

~~Building, Main.~~

~~"Building, Main-building"~~ means a building in which is conducted the principal use of the building site on which the building is situated.

~~Building, Nonconforming.~~

~~"Building, Nonconforming-building"~~ means a building or portion thereof which was lawful when established but which does not conform to subsequently established zoning regulations.

"Carport" means a roofed structure with one [\(1\)](#) or more open sides for the parking of vehicles.

"Commercial marijuana cultivation" means cultivation of medical marijuana licensed by the state of California in accordance with the Medical Marijuana Regulation and Safety Act, California Business and Professions Code Section [19300](#) et seq., and contemplated by the definition of "commercial cannabis activity" set forth in California Business and Professions Code Section [19300.5\(k\)](#), as amended. Commercial marijuana cultivation is prohibited in the city. Pursuant to Section [11362.777](#) of the California Health and Safety Code, effective January 1, 2016, this definition is intended to regulate the cultivation of medical marijuana by prohibiting commercial marijuana cultivation within the city, and thereby expressly reserving any future local licensing authority granted to the city by that section. This definition shall not restrict cultivation of medical marijuana by a "primary caregiver" or "qualified patient," as those terms are defined by Health and Safety Code Section [11362.7](#), or by a "medical marijuana cooperative," as defined herein subject to the restrictions set forth in this section.

"Community development director" means the director of the community development and building department.

~~"Complete Application":~~ means ~~A~~an application or submittal ~~shall be~~ determined to be complete pursuant to Section [65943](#) of the Government Code, upon receipt of adequate (sufficient) information and data describing the project and the project setting, to allow for an initial study to be conducted and the environmental determination to be made. This determination is usually documented by a letter of completeness.

~~"Condominium" means an estate in real property consisting of an undivided interest in common, in a portion of a parcel of real property, such as a converted apartment complex, office or store. A condominium may include in addition a separate interest in other portions of such real property.~~

~~"Cottage food operation"~~ means any activity operated as a cottage food enterprise with not more than one (1) full-time equivalent cottage food employee, not including a family member or household member of the cottage food operator living in the home where the cottage food products are prepared or packaged for direct or indirect sale to consumers, as defined and may be amended by the California Department of Public Health, Section [113758](#) of the Health and

**Comment [2]:** Similar as definition in 17.112.020.

Safety Code. Gross annual sales are regulated by the provisions of Section [113758](#) of Health and Safety Code.

"Cottage food products" means non-potentially-hazardous foods, including foods that are limited to and described in Section [114365.5](#) of the California Health and Safety Code and that are prepared for sale in the kitchen of a cottage food operation.

"Counter audit" means a preliminary evaluation of a submittal or application that occurs at the public counter, to determine whether it can be accepted for filing, routing, or processing, and to determine the applicability of CEQA.

"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, trimming or processing of marijuana or any part thereof.

"Deemed withdrawn" means a determination by the city that an application is no longer valid. Applications that have been deemed withdrawn are to be physically returned to the applicant, and no further processing is conducted. Processing fees that have not been expended, less administrative charges, are reimbursed or may be applied to resubmittal. Projects that are withdrawn and resubmitted are processed in the same manner as newly submitted projects. No special priority or fees are applicable.

~~"Demolition" means the removal of at least seventy-five (75) percent of the linear distance of all existing (original) exterior building or structure walls.~~ "Demolition" means any act or process that destroys in part or in whole at least seventy-five (75) percent of an existing (original exterior building or structure walls, individual cultural resource or a cultural resource or other structure within a historic district or neighborhood, or cultural resource area

**Comment [3]:** Combined with definition from Section 17.108.010.

"Density bonus" means entitlement to build additional residential units above the maximum number of units permitted pursuant to the existing general plan, applicable specific plan and zoning designations. Density bonus units may be constructed only in the development where the units of affordable housing are located. Density bonus means a bonus of units awarded to a development pursuant to Government Code Section [65915](#) et seq.

"Density, Gross residential" means the average number of dwelling units on one (1) acre of land in a given area where the acreage is based on the total land area (including streets and easements)rights of way.

"Density, Net residential" means the average number of dwelling units on one (1) net acre of land used or available for residential purposes after excluding streets and rights-of-way.

"Developer" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks the city's approval of discretionary land use entitlements for all or part of a development project. "Developer" includes "owner."

"Development" means any activity related to the placement of any structure, grading, change in density or intensity of land use and including subdivision of land or air space, or a demolition, addition, repair or alteration of a structure or facility.

"Dwelling" means any building or portion thereof containing one (1) or more dwelling units designed or used exclusively as a residence or sleeping place for one (1) or more families, but not including a tent, cabin, boat, trailer, dormitory, labor camp, hotel or motel.

~~Dwelling, Guest.~~

~~"Dwelling, Guest-dwelling" means separate, accessory living quarters, having no kitchen facilities, attached to the main building or located in an accessory building situated on the same site as the main building, for temporary use by guests of the occupants of the main building and not rented or otherwise used as a separate dwelling.~~

"Dwelling unit" means one (1) room or suite of two (2) or more rooms designed for, intended for, or used by one (1) family, which family lives, sleeps, and cooks therein, and which unit has one (1) kitchen or kitchenette.

"Emergency vehicle" means a self-propelled vehicle or trailer used in the discharge of duties of public districts, agencies or departments, or privately owned public utilities responsible for medical services, fire prevention and control, policing, sanitation, sewerage, drainage, levee maintenance, flood control, public utility lines and all essential services.

"Environmental coordinator" means the director of community development or his or her designated representative.

~~Erect, to.~~

~~"To erect" means to locate, construct, attach, suspend, affix or paint a sign.~~

"Factory-built home" means a residential building constructed in conformance with the State of California Factory-Built Housing Code. A factory-built home shall not be deemed to include a mobilehome or manufactured home as defined in this section.

"Family" means one (1) or more persons occupying a dwelling unit and living as a single housekeeping unit, and distinguished from a group occupying a boarding house, lodging house, motel, hotel, or fraternity or sorority house.

~~"Farmworker" means the same as "agricultural employee" as defined in Section 1140.4(b) of the California Labor Code.~~

**Comment [4]:** Same definition as in Section 17.123.020.

~~"Farmworker dwelling unit" means a single-family residential unit occupied by a maximum of six farmworkers at any one time.~~

**Comment [5]:** Same definition as in Section 17.123.020.

~~"Farmworker housing" means a housing accommodation developed for and/or provided to farmworkers and shall consist of any living quarters, dwelling, boarding house, tent, barracks, bunkhouse, maintenance-of-way car, mobile home, manufactured home, recreational vehicle, travel trailer, or other housing accommodation maintained in one or more buildings and on one or more sites. Farmworker housing shall consist of either a farmworker dwelling unit or a farmworker housing complex.~~

**Comment [6]:** Same definition as in Section 17.123.020.

~~"Farmworker housing complex" means farmworker housing other than a farmworker dwelling unit that (1) contains a maximum of thirty-six (36) beds if the housing consists of any group living quarters, such as barracks or a bunkhouse, and is occupied exclusively by farmworkers; or (2) contains a maximum of twelve (12) residential units occupied exclusively by farmworkers and their households, if the housing does not consist of any group living quarters.~~

**Comment [7]:** Same definition as in Section 17.123.020.

"Fence" means any structural device forming a physical barrier by means of wood, mesh, metal, chain, brick, stakes of plastic or similar materials. It includes a wall or gate used as a fence.

"Floor area" means the gross floor area bounded on all sides by the outside surface of exterior walls of all floors of all buildings, including hallways, stairways, utility rooms, storage rooms, any portion of attic and basement space over seven (7) feet in height, restrooms and attached garages, but excluding detached accessory buildings of less than two-hundred (200) square feet.

"Floor Area Ratio" or "FAR" means the allowed ratio of floor area to net lot area.

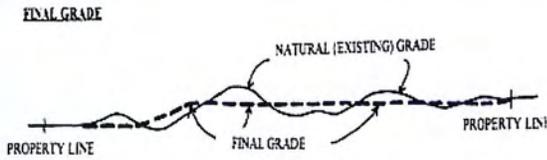
"Free-standing sign" means a sign which is independently supported in a fixed location and not attached to a building, fence or structure.

"Freeway" means a multi-lane divided highway for through-traffic with full control of access and with grade separations at all intersections and railroad crossings, and to which highway the owners of abutting lands have no right of easement or access to or from their abutting lands.

~~"Garage, PPrivate-garage"~~ means an accessory building or portion of a main building designed for the storage and minor repairs or maintenance of self-propelled passenger vehicles, camping trailers or boats belonging to the owners or occupants of the site and their guests, or an enclosed area for the same use as a private parking area.

"General plan" means the adopted general plan of the city of Winters.

"Final grade" means the elevation of the finished surface of the ground, paving or sidewalk at any particular point on a property where grading has occurred in conjunction with development regulated by this title. (See following diagram.)



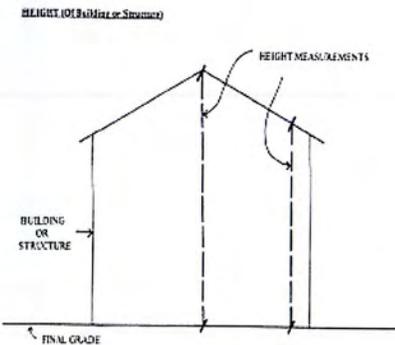
"Grading" means any activity related to the cutting, filling, compaction, storage or other movement of earth.

~~Guest House.~~

See "Dwelling, Guest."

**Comment [8]:** Phrase is not used anywhere in the Zoning Ordinance

"Height" means the vertical distance of a building measured between the point where the final grade intersects a building or its foundation to the highest point of the building directly above that point. (See following diagram.)



"Holiday decorations" means traditional outdoor decorations of a nonadvertising nature which celebrate a nationally recognized holiday.

"Home occupation" means a commercial enterprise which is clearly incidental and secondary to the residential use of a property.

"Improvement" means a structural addition or modification to an existing structure, or addition of a structure to a property.

"Incomplete" means the status of an application following the city's request for additional information in order to complete the application and make an environmental determination. This status may be used by the city to freeze mandatory CEQA time frames while the applicant

responds to the request for additional information. This determination is usually documented by correspondence to the applicant.

"Independent review" means city evaluation of accuracy and completeness of any information submitted by outside consultants. May involve preliminary assessment of adequacy and/or feasibility.

"Kitchen - kitchenette" means any space used or intended or designed to be used for the storage, preparation and cooking of food, whether the cooking unit is permanent or temporary and portable, in conjunction with the establishment or use of a dwelling unit.

"Landscaping" means the minimum required percentage of the total lot area which must be landscaped. Landscaping may consist of planting and maintaining some combination of trees, ground cover, shrubs, vines, flowers and lawn, and may include natural or constructed features if they are an integral element to the overall landscape plan.

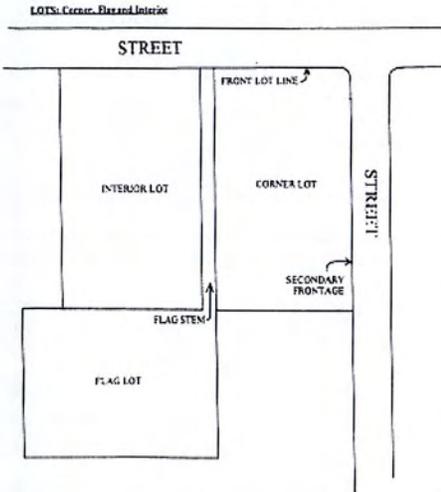
"Living quarters" means one or more rooms in a building designed for, intended for, or used by one or more individuals for living or sleeping purposes, with no cooking facilities.

"Loading space" means an off-street area which is suitable and usable for the temporary parking of commercial vehicles while loading or unloading merchandise or materials, which area abuts upon a street or alley or has other appropriate means of access to and from public roads, and which area is on the same lot as the building which the area serves or on a lot contiguous to a building or group of buildings which the site serves.

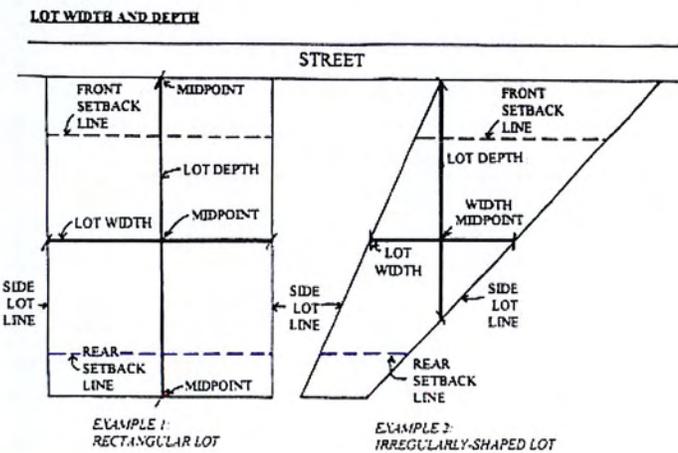
"Lot" means a site or parcel of land under single ownership which has been legally subdivided, resubdivided or merged.

Lot, Corner:

"Lot, Corner-lot" means a lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street, the streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. (See following diagram.)



“Lot depth” means the distance measured perpendicularly between the midpoint of the front property line and the rear property line. Where the configuration of a lot prevents measurement of the lot depth pursuant to this requirement, the lot depth shall be the longest possible straight-line distance measured perpendicular from a point on the front lot line towards the rear lot line. (See following diagram.)



**Lot, Flag-**

“**Lot, Flag-lot**” means an interior parcel not having direct frontage to a public road or street, except for a narrow portion capable of being used solely for access purposes. The flag stem

portion of the lot shall not be used for the purpose of meeting required yard setbacks or in the calculation of lot depth or net lot area. (See diagram under "Lot, Corner.")

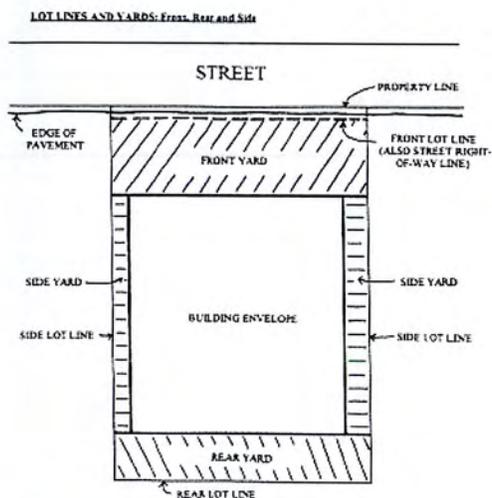
**Lot, Interior.**

"**Lot, Interior-lot**" means a lot, other than a corner lot, bounded by other lots and/or a street. (See diagram under "Lot, Corner.")

"Lot lines" means the property lines bounding a lot.

**Lot line, Front.**

"**Lot line, Front-lot line**" means, in the case of an interior lot, the lot line separating the lot from the street, edge of pavement or street right-of-way. In the case of a corner lot, the shorter street frontage shall constitute the front lot line, with the remaining portion of the lot with street frontage treated as secondary frontage for setback purposes. (See following diagram.)



**Lot Line, Rear.**

"**Lot line, Rear-lot line**" means the lot line typically and approximately parallel to and most distant from the front lot line. (See diagram under "Lot Line, Front.")

**Lot Line, Side.**

"**Lot line, Side-lot line**" means a lot line other than a front or rear lot line, typically and approximately perpendicular to a front and rear lot line. (See diagram under "Lot Line, Front.")

~~Lot, Net Area.~~

~~"Lot area, Net-lot-area"~~ means the total horizontal area included within lot lines, excluding streets, alleys and vehicular easements or rights-of-way.

~~Lot Size, Minimum.~~

~~"Minimum-lot size, Minimum"~~ means the minimum amount of net lot area required under this title.

~~Lot, Through.~~

~~"Lot, Through-lot"~~ means a lot having frontage on two (2) dedicated parallel or approximately parallel streets.

"Lot width" means the horizontal distance between the side lot lines measured perpendicular to the depth of the lot at a point midway in the building envelope (the area between the required front and rear yard setback lines). Where the configuration of a lot prevents measurement pursuant to this requirement, the community development director shall determine the lot width. (See diagram under "Lot depth.")

~~"Low income" means a household earning a gross income of more than fifty (50) percent and less than eighty (80) percent of the median income for Yolo County as determined by the U.S. Department of Housing and Urban Development.~~

**Comment [9]:** Similar definition as in Section 17.200.020.

"Manufactured home" means any structure transportable in one or more sections, which, in the traveling mode is eight (8) body feet or more in width, or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirement and with respect to which the manufacturer voluntarily files a certification and complies with the standards established in the Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C. Sec. 5401, et seq.).

"Marquee sign" means a sign which is suspended below a canopy or covered walkway and which projects perpendicular to the building or structure wall.

~~"Massage" means manipulation of tissues (as by rubbing, kneading or tapping) with the hand, body or other instrument.~~

**Comment [10]:** Moved to Section 17.100.010

"Medical marijuana" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended for use by medical cannabis patients in California

pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section [11362.5](#) of the Health and Safety Code. Cannabis as used in this definition shall have the meaning as set forth in subsection (f) of Section [19300.5](#) of the Business and Professions Code.

“Medical marijuana cooperative” involves two [\(2\)](#) or more persons collectively or cooperatively cultivating, using, transporting, possessing, administering, delivering, or giving away medical marijuana. It does not involve sale or gifts involving payment of money. Notwithstanding the prohibition in this code as to medical dispensaries, medical cannabis collectives and cooperatives formed in a manner consistent with California law and the California Attorney General’s Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August 2008 shall be permitted to operate, provided they do not sell, exchange, trade, distribute or cultivate medical cannabis in a manner prohibited herein.

“Medical marijuana dispensary” means any facility or location, whether fixed or mobile, where medical marijuana is made available to, distributed by, or distributed to one or more of the following: (1) a qualified patient, (2) a person with an identification card, or (3) a primary caregiver. All three of these terms are defined in strict accordance with California Health and Safety Code Section [11362.5](#) et seq. A medical marijuana dispensary is further defined as any place, location, building or establishment where medical cannabis is traded, exchanged, sold, or distributed which would otherwise require a business license, home occupation permit or any other use permit to conduct similar type activities. Unless otherwise regulated by this code or applicable law, a “medical marijuana dispensary” shall not include the following uses: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with both applicable federal or state law, including, but not limited to, Health and Safety Code Section [11362.5](#) et seq. Currently, medical marijuana dispensaries are prohibited from opening and operating within any zone in the city of Winters. At such time as both federal and state law change to allow the operation of medical marijuana dispensaries, such dispensaries shall be then allowed only in a zone district designated for medical offices and only if consistent with the applicable provisions of this code and federal and state law.

“Ministerial” means an action or decision by the city involving little or no personal judgment by city staff as to the wisdom or manner of carrying out a project. Approval of a ministerial project merely requires application of the law, usually involving fixed standards or objective measurements.

"Mitigation monitoring and reporting program (MMRP)" or "program" means a comprehensive program adopted by the approving body prior to project approval pursuant to Public Resources Code Section [21081.6](#) and this title to ensure compliance with adopted or required changes to mitigate or avoid significant environmental effects.

"Mobilehome" means any standard make of trailer constructed and equipped in such a manner as to permit permanent occupancy thereof as living quarters for a family unit. In general, any trailer over twenty-five (25) feet in length may be considered a mobilehome; provided, that such trailer complies with all applicable laws and regulations controlling the design, construction, equipment or occupancy thereto. Mobilehomes are considered structures for the purpose of this chapter when they are parked in a mobilehome park. Small mobilehomes or trailers are defined as being five hundred (500) square feet or less in size, average mobilehomes or trailers as being five hundred one (501) to one thousand (1,000) square feet in size, and large mobilehomes or trailers as being more than one thousand (1,000) square feet in size.

"Mobile sign" means a sign which is designed to be moved or capable of being moved and not intended for permanent installation.

~~"Moderate income" means a household earning a gross income of more than eighty (80) percent and less than one hundred twenty one (121) percent of the median income for Yolo County as determined by the U.S. Department of Housing and Urban Development.~~

**Comment [11]:** Similar definition as in Section 17.200.020.

"Monitoring" means the function of implementing the MMRP by the city through the environmental coordinator.

"Nonconforming sign" means a sign which was lawful when erected but which does not presently conform to this title.

"Nonconforming use" means any use of land, buildings or structures which was lawful when established but which does not conform to subsequently established zoning regulations.

"Off-premise sign" means a sign which provides directions to general places, destinations and collections of uses.

"Official plan line" or "future right-of-way" means an officially established line defining the outer boundaries within which a public road right-of-way may be widened, constructed or extended and within which the construction of structures may be prohibited.

"On-premise sign" means a sign located on the same site as the specific business, product, use, etc., it advertises.

"Open space" means land which is available for outdoor recreational activities, passively or actively, for public or private use.

"Outdoor storage" means the stocking, parking, stacking or holding of goods, materials or equipment in the open or in a partially closed structure.

"Owner" means the person or persons holding legal title to, or recorded contract of purchase of, the property in question.

~~Parking, Primary Use.~~

~~"Parking, Primary-use parking" means use of a parcel or lot exclusively for the temporary, daily or overnight off-street parking of passenger vehicles, whether as a public or private parking area, as necessary to serve some use on a separate legal parcel.~~

~~"Parking space" means an off-street covered or uncovered area for the parking of a motor vehicle.~~

~~"Paved" means an area which has been drained, graded, compacted, provided with adequate base and surfaced with asphaltic concrete at least two (2) inches thick, or equivalent, as determined by the city engineer, so as to provide a sufficient durable surface to render the area usable for the purpose specified under all normal weather conditions.~~

~~"Person" means any individual, firm association, partnership, joint venture, corporation or other entity, public or private in nature, including an instrumentality of this state or any political subdivisions of this state including the city; "person" shall also include any office, employee or agent of any of the foregoing.~~

~~"Planning commission" means a group of persons appointed or assigned by the city council to administer the general plan and the zoning ordinance; in this title the planning commission of Winters.~~

~~"Planning director" means the director of the community development and building department for the city.~~

~~Principal Permitted Use: "Principal residence" means the primary dwelling unit located on a residential lot that includes a secondary housing unit.~~

~~See "Use, Principal Permitted."~~

~~"Production housing" means construction of six (6) or more single-family residential units, where a set of base construction plans are utilized for more than one (1) residence.~~

~~"Program completion certificate" means a certificate issued by the environmental coordinator to certify completion of all or a designated phase of an adopted MMRP.~~

"Project" means any private or public agency project as defined in CEQA found at Public Resources Code Section [21000](#) et. seq.

"Projecting sign" means a sign, other than a wall or marquee sign, which is suspended from or supported by a building and which projects outward at a perpendicular angle.

"Recreational vehicle" means any trailer, motor home, camper or similar vehicle designed and intended for sleeping, traveling and recreational purposes.

"Remodel" means the alteration of all or a portion of an existing structure or building. Remodeling does not include the enclosure or construction of new building or structure square footage. (See also "Demolition.")

"Reporting" means the obligation of the applicant/developer to file periodic written reports on the status of mitigation/implementation under a project MMRP.

**Residential Density, Gross.**

~~"Gross residential density" means the average number of dwelling units on one acre of land in a given area where the acreage is based on the total land area (including streets and easements).~~

**Comment [12]:** Moved to after "Density bonus".

**Residential Density, Net.**

~~"Net residential density" means the average number of dwelling units on one net acre of land used or available for residential purposes after excluding streets and rights-of-way.~~

**Comment [13]:** Moved to after "Density, gross residential".

"Secondary housing (second residential unit)" means a dwelling unit attached or detached from principal permitted dwelling which provides complete and independent living facilities for a maximum of two [\(2\)](#) persons, including living, sleeping, eating, cooking and sanitation facilities, for rent but not for sale.

"Setback" means the required minimum distance that a building or structure must be located from a lot line, existing or proposed street or alley right-of-way or edge of pavement, whichever setback line may encroach furthest onto a lot.

**Setback, Front.**

~~"Setback, Front setback" means the minimum distance a building or structure must be set back from the front lot line.~~

"Setback line" means a line established by the provisions of this title to govern the placement of buildings or structures on a lot.

**Setback, Rear.**

~~"Setback, Rear setback"~~ means the minimum distance a building or structure must be set back from a rear lot line.

~~Setback, Side.~~

~~"Setback, Side setback"~~ means the minimum distance a building or structure must be set back from a side lot line.

"Sign" means a writing, graphic (including colored background, pictorial representation, logo, trademark, symbol or banner) or any other figure of whatever material which is used to identify, announce, direct attention to, advertise or communicate a message, including standardized corporate and franchise graphic. "Sign" includes a sign structure except that the structure is not measured for purposes of determining sign area or height.

"Sign area" means the area in square feet of the smallest rectangle enclosing the total exterior surface of a sign. A double-faced sign shall be considered as a single-face sign for the purposes of determining sign area.

"Sign height" means the greatest distance between the top of the actual sign face and the final grade directly below it.

~~"Single room occupancy" shall mean a facility providing dwelling units where each unit has a minimum floor area of one hundred fifty (150) feet and a maximum floor area of four hundred (400) square feet. These dwelling units may have kitchen or bathroom facilities and shall be offered on a monthly basis or longer.~~

**Comment [14]:** Same definition as in Section 17.122.020.

"Site coverage" means the percentage of a lot or site collectively covered by a roof, solid-surfaced deck or patio, paved driveway and parking areas, sports court/swimming pool or similar impervious improvements.

"Stable" means a detached accessory building for the shelter of horses or similar hooved animals.

"Street line (right-of-way)" means the boundary between an existing or proposed street right-of-way and abutting property.

"Structure" means anything constructed or erected, the use of which requires a location on the ground, excluding swimming pools, driveways, patios or decks (where the driveway, patio or deck is not more than thirty (30) inches above final grade at any point), fences not exceeding a height of six (6) feet and retaining walls which do not exceed a height of three (3) feet, measured from the bottom of the wall where it intersects final grade to the top of the wall. See also "Building."

~~“Supportive housing” shall mean housing with no limit on length of stay, that is occupied by the target population as defined in Health and Safety Code Section 50675.14, and that is linked to on-site or off-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.~~

**Comment [15]:** Same definition as in Section 17.124.020.

“Temporary sign” means a sign which conforms to this title and is intended only for a short period of use as specified in this title.

“Trailer,” including “camp trailer” or “travel trailer” means any vehicle constructed in such a manner as to permit temporary occupancy thereof as sleeping quarters, i.e., camp trailer, or the conduct of any business, trade or occupation, or use as a selling or advertising device, or use for storage or conveyance for tools, equipment or machinery, and so designed that it is mounted on wheels and may be used as a conveyance on highways and streets propelled or drawn by other motive power. Camp trailers are considered structures for the purposes of this chapter when they are parked in a trailer camp or park.

“Trailer camp,” “trailer park” or “mobilehome park” means any lot or part thereof, or any parcel of land, which is used or offered as a location for two (2) or more trailers or mobilehomes used for any of the residential purposes set forth under the definition of “Trailer” including “camp trailer” or “travel trailer.”

“Transient” means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement of whatever nature, for a period of thirty (30) consecutive calendar days, or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel/motel shall be deemed to be a transient if his or her actual total period of occupancy does not exceed thirty (30) days. Unless days of occupancy or entitlement are consecutive without break, then prior or subsequent periods of such occupancy or entitlement to occupancy shall not be counted when determining whether a period exceeds the stated thirty (30) calendar days.

~~“Transitional housing” shall mean buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months (Health and Safety Code Section 50675.2(h)).~~

**Comment [16]:** Same definition as in Section 17.125.020.

“Unreasonable delay” means the delay of thirty (30) days or more by the applicant in providing requested information and/or required submittals, or failure to meet any of the time periods specified herein, or any time period as set by staff.

“Use” means the purpose for which either land or structure thereon is designed, arranged or intended, or which the land or structure thereon is or may be occupied or maintained.

~~Use, Accessory. See "Accessory use."~~

**Comment [17]:** This term is not used in the Zoning Ordinance.

**Use, Conditional:**

"Use, Conditional use" means use of land or structures thereon which requires approval of a conditional use permit by the planning commission or zoning administrator as indicated on the land use/zoning matrix.

~~Use, Principal Permitted:~~

"Use, Principal permitted use" means the primary or main use of land or a main building, which use is compatible with the purpose of the zone. If a use is listed in a specific zone as a principal permitted use, it means that the owner, lessee or other person who has a legal right to use the land has a vested right to conduct the principal permitted use without securing special permission therein, as are generally applied to all uses in the zone.

**Utility Services, Major or Essential:**

1.—"Major utility services, Major" means large-scale public utilities typically requiring substantial commitment of land and/or having the potential of creating impacts on the surrounding area, such as sewer treatment plants, electrical substations and water storage/reservoirs.

2.—"Essential utility services, Essential" means the erection, construction, alteration or maintenance of minor public utilities such as minor underground or overhead gas, electrical, steam or other transmission or distribution systems or collection, communication, supply or disposal systems, including poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for furnishing adequate services by such public utilities or municipal or other governmental agencies, or for the public health, safety or general welfare.

~~"Very low income" means households earning a gross income of less than fifty (50) percent of the median income for Yolo County as determined by the U.S. Department of Housing and Urban Development.~~

**Comment [18]:** Similar definition as in Section 17.200.020.

"Wall sign" means a sign which is erected, printed, painted, incorporated into, suspended from or otherwise affixed to a wall, awning, canopy, overhang or covered walkway of a building or structure in an essentially flat position or with the exposed face of the sign in a location parallel to the plane of the wall.

"Window sign" means a sign erected on a building window or a sign located indoors and within three feet of a window or building opening which is clearly visible and readable from a street or public place.

"Withdrawn" means the status of an application after an unreasonable delay has occurred.

"Yard" means an open space on the same site with a building, created by minimum setback requirements or which open space is unoccupied and unobstructed by buildings or structures from the ground upward and excluding therefrom any portion of any street, alley or road right-of-way.

Yard, Front.

"Yard, Front-yard" means the area extending across the full width of the front of the lot measured from the front lot line, right-of-way line or edge of pavement (whichever encroaches furthest into a lot), to the required front yard setback line, measured perpendicular to the front lot line. The front yard of a corner lot means the yard adjacent to the shorter street frontage. (See diagram under "Lot Line, Front.")

Yard, Rear.

"Yard, Rear-yard" means the area extending across the full width of the rear of the lot measured from the rear lot line to the required rear yard setback line, measured perpendicular to the rear lot line. The rear yard of a corner lot shall extend only to the side yard adjacent to the street (also rear setback). (See diagram under "Lot Line, Front.")

Yard, Side-yard" means the area extending between the side lot line and the required side yard setback line, and located between the front yard and the rear yard of the lot. (See diagram under "Lot Line, Front.")

"Zone" means a portion of the territory in the city within which territory certain uniform regulations and requirements or various combination thereof, apply pursuant to this title. "Zone" includes the word "district."

b. Section 17.08.010 of the Municipal Code is hereby amended to read as follows:

**17.08.010 Purpose and applicability intent.**

A use classification describes a land use or activity that may be appropriately included within that use classification. The community development director may determine that a specific use is or is not within a use classification, whether or not it is named, and if its operational

characteristics are substantially compatible or incompatible with those uses named within the classification.

          c.          Section 17.20.010 of the Municipal Code is hereby amended to read as follows:

**17.20.010 Purpose and intent.**

The purpose of a use permit is to allow the proper integration into the community of uses which may be suitable only in specific locations in a zone or only if the uses are designed or arranged out on the site in a particular manner.

          d.          Section 17.24.010 of the Municipal Code is hereby amended to read as follows:

**17.24.010 Purpose and intent.**

The purpose of a variance is to allow relief from the strict application of the provisions of this title where special circumstances, typically pertaining to the physical characteristics or location of a site, are such that the literal enforcement of the requirements of this title would involve practical difficulties or would cause hardship, and therefore would not carry out the spirit and purposes of this title.

          e.          Section 17.32.010 of the Municipal Code is hereby amended to read as follows:

**17.32.010 Purpose and intent.**

The purpose of a temporary activity permit is to allow for specified temporary uses of land or buildings in a manner which would not detrimentally impact the immediate area or otherwise create a public nuisance.

          f.          Section 17.36.010 of the Municipal Code is hereby amended to read as follows:

**17.36.010 Purpose and intent.**

It is the policy of the city to preserve and enhance the small-town qualities of Winters, to improve property values and to conserve the overall visual character of the community. Further, the design review process is intended to ensure that the location and configuration of structures and corollary site improvements are visually harmonious with their site and that of surrounding sites and structures. To implement these policies, the city requires design review for certain types of development or when development occurs in certain locations. The design review process may include an analysis of proposed architectural styles, construction materials, colors,



R-R	N/A	N/A	30
R-1	N/A	50 for single story 45 two or more stories	30
R-2	N/A	50 for single story 45 two or more stories	30
R-3	N/A	60	35
R-4	N/A	70	45
C-1	.40	N/A	30
C-2	2.0 <sup>1</sup> /.60 <sup>2</sup>	N/A	45
C-H	.40	N/A	<a href="#">3045</a>
O-F	.40	N/A	35
BIP	.40	N/A	35
M-1	.40	N/A	40
M-2	.40	N/A	50
PQP	.50	N/A	40
P-R	.20	N/A	25
O-S	.05	N/A	25
P-D	Per PD Plan	Per PD Plan	Per PD Plan

Footnotes:

1. 2.0 FAR for office and commercial uses.
2. 0.60 FAR for non-office and non-commercial uses.

The F.A.R. number is the maximum allowed for any combination of uses in a given zone.

Building height exceptions/modifications appear in Section [17.56.020\(A\)](#).

\_\_\_\_\_ i. Section 17.58.010 of the Municipal Code is hereby amended to read as follows:

**17.58.010 Purpose and, intent, ~~and applicability~~.**

~~A. Chapter Purpose and Intent.~~ The purpose of this chapter is to establish unique allowed use and development standards for properties within the downtown master plan area of Winters. These standards are intended to help preserve and protect the existing, historic, and distinctive character of the downtown by requiring new construction and remodels and existing development to complement the existing built environment. Through the application of these standards, the downtown will continue to be the pedestrian-oriented shopping, dining, entertainment, and living center of the greater Winters area.

j. Section 17.58.015 of the Municipal Code is hereby amended to read as follows:

**17.58.015 Applicability.**

**BA.** Applicability of Standards and Entitlement Review. The downtown master plan area has been divided into downtown-A (D-A) and downtown-B (D-B). These districts are shown on the regulating plan (Figure 17.58-1). The standards of this chapter apply to all property zoned either downtown-A (D-A) or downtown-B (D-B). All qualifying projects under Section 17.36.020 (Requirements for design review) within the D-A or D-B zones shall be subject to design review prior to issuance of building permit. Additionally, those uses that require a conditional use permit as listed in Section 17.58.050 (Allowed use regulations) shall obtain a conditional use permit prior to establishment of the use.

The application of both the zoning district and the regulating plan (see Section 17.58.030 for definition) are described in more detail in Sections 17.58.020(A) (Defining the Form-Based Code for Downtown) and 17.58.040 (Regulating plan and street typologies and standards). Generally, the zoning district designation (D-A or D-B) defines the character and allowed use provisions for the subject site while the regulating plan defines the development standards (setbacks, building typology, street standards).

**CB.** Applicability of Regulating Plan Standards. Generally, the development standards applicable to a property shall be those for the respective zone (either D-A or D-B) and street frontage as reflected in the regulating plan. However, for those properties that face onto multiple street frontages (e.g., a corner lot or a double frontage lot), the following shall apply:

1. Site Development. The development standards applicable to the site shall be reflective of the individual sides of the lot. For instance, if a corner lot faces Street A and Street B, then that side of the lot facing Street A shall be developed consistent with the standards for Street A and the side facing Street B shall be developed consistent with the standards for Street B. At the corner, the design shall merge and unify the two (2) standards together such that:

a. The more restrictive setback requirement shall prevail on that side of the corner. For instance, if Street A has a five-foot build-to line and Street B has a zero (0)-foot build-to line, then that side facing Street A shall be located at the five (5)-foot build-to line and the side facing Street B shall be located at the zero (0)-foot build-to line (note: in this example, the building is not centered on the corner; this is consistent with the intent of this provision).

b. The more restrictive design standards shall prevail on that side of the corner, provided the two (2) standards are architecturally integrated together. For instance, if Street A allows for a stoop frontage and Street B does not, a stoop may be developed along the Street A frontage, but at the corner the design of the building must architecturally transition into a frontage type that is allowed along Street B. The same shall be true for allowed building types, storefront regulations, sign types, and landscaping. Only those features allowed on that frontage may be developed on said frontage.

2. Allowed Uses. The least restrictive use provisions shall apply to the entire lot; provided, that the primary entrance for the use either faces the street with the least restrictive use regulations or (preferred) faces the intersection/street corner. For instance, if a corner lot faces Street A and Street B and Street A allows a particular use by right and Street B requires a conditional use permit for the same use, then the use shall be allowed by right on that lot provided the primary entrance to the use is located facing Street A or (preferred) facing the intersection/at the corner.

3. Parking. Parking requirements are generally based on the use of the building; however, where there is a conflict based upon street frontages, the more restrictive/higher parking ratio shall prevail (e.g., one and three-quarters [1.75] spaces per unit are required, not one and one-half [1.5] spaces per unit) across the entire site.

k. Section 17.58.030 of the Municipal Code is hereby amended to read as follows:

**17.58.030 Form-based code for downtown dDefinitions.**

The following terms are used throughout the form-based code for downtown and are defined as follows:

“Build-to line (BTL)” means an urban setback dimension that delineates the maximum distance from the property line a front or street side building facade can be placed. Typically, build-to lines range from zero (0) feet to ten (10) feet.

“Building type” defines the type of structure based on massing, layout, and use. (See Section 17.58.060(D) for further discussion.)

"Bulkhead" means the portion of a commercial facade located between the ground and the bottom of the street level display windows. It is typically constructed of stone, brick, or concrete.

~~"Dwelling unit" means any room or group of connected rooms that have sleeping, cooking, eating, and bathroom facilities, and are intended for long-term occupation.~~ "Expression line" is an architectural embellishment that delineates the end of the ground floor and the start of the second floor of a building.

**Comment [19]:** Similar definition as in Section 17.04.140. Recommend deleting this definition and keeping the one in Section 17.04.140.

"Facade" means the architecturally finished side of a building, typically facing onto a public right-of-way or street.

"Form-based code (FBC)" means a development code emphasizing the regulation of building form, scale, and orientation, rather than zoning and land use.

"Frontage line" means a lot line fronting a street, public right-of-way, paseo, plaza, or park.

~~"Height" means the vertical distance of a building measured between the point where the final grade intersects a building or its foundation to the highest point of the building directly above that point.~~ "Regulating plan" designates building form and streetscape standards based on location, street hierarchy, and character. More specifically, it addresses how development interacts with the street and how the street is developed, and it defines the development standards (setbacks, building typology, street standards).

**Comment [20]:** Same definition as in Section 17.04.140. Recommend deleting this definition and keeping one in Section 17.04.140.

~~"Setback" means the required distance between a property line and a building or ancillary structure. (Ord. 2009-10 § 1 Exh. 1 (part))~~

**Comment [21]:** Similar definition as in Section 17.04.140. Recommend deleting this definition and keeping one in Section 17.04.140.

\_\_\_\_\_ l. Section 17.76.010 of the Municipal Code is hereby amended to read as follows:

#### **17.76.010 Purpose and intent.**

The purpose of this chapter is to prescribe standards for landscaping and irrigation for the conservation and protection of property, the assurance of safety and security, the enhancement of privacy, the control of dust, the abatement or attenuation of noise, and the improvement of the visual environment. All new development shall provide landscaping in conformance with the landscape standards contained in this chapter.

\_\_\_\_\_ m. Chapter 17.96 of the Municipal Code is hereby amended in its entirety to read as follows:

### **Chapter 17.96 ALCOHOLIC BEVERAGE ESTABLISHMENTS**

Sections:

- [17.96.010](#) Use permit required.
- [17.96.020](#) ~~Definitions~~[On-sale liquor establishments defined.](#)
- [17.96.030](#) Requirements for on-sale liquor establishments.
- [17.96.040](#) ~~Off sale liquor establishments defined.~~
- [17.96.0540](#) Minimum conditions for off-sale liquor establishments.
- [17.96.0650](#) Nonconforming establishments/improvements.
- [17.96.0760](#) Existing establishments selling alcoholic beverages (on-sale and/or off-sale).
- [17.96.0870](#) Revocation of use permit.
- [17.96.0980](#) One-day on-sale licenses.

**Comment [22]:** Since you are editing the numbering throughout this Chapter, you should just include the full chapter in the Ordinance, so the entire Chapter is replaced.

**17.96.010 Use permit required.**

- A. On or after the effective date of the ordinance codified in this title, a use permit must be obtained from the city for all on- and off-sale liquor establishments, with the exception of veterans clubs, listed fraternal organizations, and restaurants, as defined in Chapter [17.08](#). Existing on-sale and off-sale establishments not exempt from the provisions of this title must obtain a use permit before substantially changing their mode or character of operation or requesting a new, more permissive liquor license.
- B. A copy of the conditions of approval for the use permit must be kept on the premises of the establishment and posted in a place where it may readily be viewed by any member of the general public.
- C. In making any of the findings required pursuant to this title, the planning commission, or city council on appeal, shall consider whether the proposed use will adversely affect the health, safety or welfare of area residents or will result in an undue concentration in the area of establishments dispensing, for sale or other consideration, alcoholic beverages, including beer and wine.

The planning commission, or city council on appeal, shall also consider whether the proposed use will detrimentally affect nearby residentially zoned community neighborhoods in the area, after giving consideration to the distance of the proposed use from the following:

1. Residential buildings;
2. Churches, schools, hospitals, public playgrounds and parks, convalescent homes, and other similar uses; and
3. Other establishments dispensing for sale, or other consideration, alcoholic beverages including beer and wine.

**17.96.020 ~~Definitions~~[On-sale liquor establishments defined.](#)**

~~An~~ ~~"~~~~o~~~~n~~~~-~~~~s~~~~a~~~~l~~~~e~~~~"~~ ~~on-sale liquor establishment~~" means any establishment wherein alcoholic beverages are sold, served or given away for consumption on the premises including but not limited to any

facility which has obtained a California Department of Alcoholic Beverages Control license. Typical on-sale uses include, but are not limited to, the following establishments: bars, taverns, night clubs, wineries, wine tasting rooms, breweries or other private clubs. This definition shall not include restaurants as defined in Chapter [17.08](#), veterans' clubs, or the following fraternal organizations: Elks Club, Moose Club, Eagle Club, Lions Club, or Rotary Club. Fraternal organizations not listed may be exempt upon planning commission approval.

"Off-sale liquor establishment" means any establishment which is applying for or has obtained a liquor license from the California Department of Alcoholic Beverage Control, including Type 20 (off-sale beer and wine), Type 21 (off-sale general), for selling alcoholic beverages in an unopened container for the consumption off the premises. For purposes of this title, the definition of "off-sale liquor establishment" shall not include food markets, supermarkets, convenience markets, drugstores, or any establishment in which sales of alcoholic beverages constitute less than twenty (20) percent of total retail sales. Upon request, the owner/operator shall submit evidence of total retail sales to the accounting department of the city for the purpose of verifying compliance with this chapter.

**17.96.030 Requirements for on-sale liquor establishments.**

- A. No on-sale liquor establishments shall be authorized or maintained within five hundred (500) feet of sensitive uses. Sensitive uses include schools (public and private); established churches or places of worship; hospitals, clinics, or other health care facilities; public parks, or playgrounds or other park or recreational uses; or another on-sale liquor establishment. There shall be no separation requirement between on-sale liquor establishments and a sensitive use within the regulating plan area for the form-based code for downtown as defined in Chapter [17.58](#). For the purposes of this section, distance shall be measured from the nearest entrance used by patrons of such establishments along the shortest route intended and available for public passage to the entrance of other such establishments, or to the nearest property line of any other sensitive use. Veterans' clubs, fraternal organizations and restaurants are excluded from the separation requirement of this section.
- B. Exterior lighting of the parking areas shall be kept at an intensity of at least one [\(1\)](#) foot candle of light on the parking surface during the hours of darkness.
- C. All establishments shall be required to have a public telephone listing.
- D. Special security measures such as security guards, robbery and burglar alarm systems may be required.
- E. The noise levels generated by the operation of such establishment shall not exceed fifty (50) dba during daytime and forty-five (45) dba during nighttime, on adjoining properties zoned for residential purposes.

F. It shall be the responsibility of the applicant licensee to provide all staff with the training necessary to gain the knowledge and skills that will enable them to comply with their responsibilities under law. The knowledge and skills deemed necessary for responsible alcoholic beverage service include, but not limited to, the following topics and skills development:

1. State laws relating to alcoholic beverages, particularly ABC and penal provisions concerning sales to minors and intoxicated persons, driving under the influence, hours of legal operation, and penalties for violations of these laws;
2. The potential legal liabilities of owners and employees of businesses dispensing alcoholic beverages to patrons who may subsequently injure, harm or kill themselves or innocent victims as a result of the excessive consumption of alcoholic beverages;
3. The effects of alcohol on the body, and behavior, including how the effects of alcohol relate to the ability to operate a motor vehicle;
4. Methods for dealing with intoxicated customers and recognizing underaged customers. Methods for preventing customers from becoming intoxicated.

**17.96.040 Off-sale liquor establishments defined.**

~~An "off-sale liquor establishment" means any establishment which is applying for or has obtained a liquor license from the California Department of Alcoholic Beverage Control, including Type 20 (off-sale beer and wine), Type 21 (off-sale general), for selling alcoholic beverages in an unopened container for the consumption off the premises. For purposes of this title, the definition of "off-sale liquor establishment" shall not include food markets, supermarkets, convenience markets, drugstores, or any establishment in which sales of alcoholic beverages constitute less than twenty (20) percent of total retail sales. Upon request, the owner/operator shall submit evidence of total retail sales to the accounting department of the city for the purpose of verifying compliance with this chapter.~~

**Comment [23]:** Moved to Section 17.96.020 above.

**17.96.0540 Minimum conditions for off-sale liquor establishments.**

Off-sale liquor establishments shall not sell or store motor fuels on the same premises as alcoholic beverages, except upon the following conditions:

- A. No beer or wine shall be displayed within five (5) feet of the front door unless it is in a permanently affixed cooler.
- B. Exterior lighting of the parking lot shall be kept at an intensity of at least one (1) foot candle on the parking lot surface, so as to provide adequate lighting for patrons while not disturbing residential or commercial areas.

- C. Signs shall be posted both inside and outside the premises in conspicuous places, which state "It is unlawful for any person to sell, drink or consume beer, wine or other alcoholic beverage, as defined in Business and Professions Code Section [23004](#), in or upon the public streets, alley-ways or other public places in the city, including private parking lots held open to the public," Winters Municipal Code Section [9.08.010](#).
- D. No sale of alcoholic beverages shall be made from a drive-through window.
- E. No display or sale of alcoholic beverages shall be made from an ice tub, or similar container.
- F. Exterior public telephones that permit incoming calls may not be located on the premises.
- G. Adult magazines and all printed matter coming within the definition of Section [313](#) of the California Penal Code shall be located for sale only behind the counter and shall be stored in racks covered by modest panels.
- H. Litter and trash receptacles shall be located at convenient locations inside and outside the premises, and operators of such establishments shall remove trash and debris on a daily basis.
- I. Paper or plastic cups shall not be sold in quantities less than their usual and customary packaging.
- J. All establishments shall be required to have a public telephone listing.
- K. No off-sale liquor establishment shall be maintained within five hundred (500) feet of such consideration points as schools (public and private), established churches or other place of worship, hospitals, convalescent homes, public parks, and playgrounds and/or other similar uses. The distance of five hundred (500) feet shall be measured between the nearest entrances used by patrons of such establishments along the shortest route to other establishments, or to the nearest property line of any of the above referenced consideration points. The separation requirement shall be reduced to two hundred (200) feet for operations located within the central business district.
- L. The noise level generated by the operation of such establishments shall not exceed fifty (50) dba at daytime and forty-five (45) dba at nighttime on adjoining property zoned for residential purposes, and sixty-three (63) dba at daytime and forty-five (45) dba at nighttime for commercially zoned property.
- M. Hours of operation of off-sale establishments may be restricted upon showing of good cause.
- N. It shall be the responsibility of the applicant licensee to provide all staff with the training necessary to gain the knowledge and skills that will enable them to comply with their

responsibilities under law. The knowledge and skills deemed necessary for responsible alcoholic beverage service shall include, but not be limited to the following topics and skills development:

1. State laws relating to alcoholic beverages, particularly ABC and penal provisions concerning sales to minors and intoxicated persons, driving under the influence, hours of legal operation, and penalties for violations of these laws;
2. The potential legal liabilities of owners and employees of businesses dispensing alcoholic beverages to patrons who may subsequently injure, kill or harm themselves or innocent victims as a result of the excessive consumption of alcoholic beverages;
3. The effects of alcohol on the body, and behavior, including how the effects of alcohol affect the ability to operate a motor vehicle;
4. Methods for dealing with intoxicated customers and recognizing underaged customers.

**17.96.0650 Nonconforming establishments/improvements.**

Except as provided herein, establishments not conforming to the spatial requirements between establishment and referenced consideration points shall not be permitted to expand a structure or portion of structure as determined by the city's building and/or fire inspector. Ordinary repair and maintenance shall not be affected. Spatial requirements may be waived for establishments who wish to expand. Individual plans to expand a structure will be reviewed on a case-by-case basis by the planning commission, or city council on appeal, who will decide if the remodel or upgrade is in the best interest of the city.

**17.96.0760 Existing establishments selling alcoholic beverages (on-sale and/or off-sale).**

A. Any establishment lawfully existing prior to the effective date of this section and licensed by the state of California for the retail sale of alcoholic beverages for on-site consumption, excepting restaurants and veterans clubs, and/or off-site consumption within the definitions of Section [17.96.040](#), shall obtain a use permit when: (1) the existing establishment changes its type of liquor license within a license classification and/or (2) there is a substantial change in the mode or character of operation. For purposes of this title "substantial change of mode or character of operation" shall include, but not limited to, expansion, a pattern of conduct in violation of other laws or regulations, a period of closure greater than six (6) months, or increased square footage of alcoholic beverage sales or inventory.

B. Any establishment which becomes lawfully established on or after the effective date of this section and licensed by the state of California for retail sale of alcoholic beverages for on-site and/or off-site consumption, shall obtain a modification of use permit when: (1) the establishment changes its type of liquor license within a license classification and/or (2) there is a substantial change in the mode or character of operations.

**17.96.0870 Revocation of use permit.**

Use permits issued under this chapter shall be revocable pursuant to the terms of the zoning ordinance.

**17.96.0980 One-day on-sale licenses.**

This chapter shall not apply to applications for one-day on-sale licenses pursuant to Business and Professions Code Section [24045.1](#) and requirements for a temporary activity permit pursuant to this title.

n. Section 17.100.010 of the Municipal Code is hereby amended in its entirety to read as follows:

**17.100.010 Purpose and intent.**

The purpose of this chapter is to prevent community-wide adverse economic impacts, increased crime, decreased property values, and the deterioration of neighborhoods which can result from the concentration of adult-oriented businesses in close proximity to each other or proximity to other incompatible uses such as private and public educational facilities for minors, places of religious assembly or worship, public parks and recreation areas, and residentially zoned districts or uses. The City Council finds that it has been demonstrated in various communities that the concentration of adult-oriented businesses causes an increase in the number of transients in the area, an increase in crime and blight, and also causes other businesses and residents to move elsewhere. It is, therefore, the purpose of this chapter to establish reasonable and uniform regulations to prevent the concentration of adult-oriented businesses or their close proximity to incompatible uses, while permitting the location of adult-oriented businesses in certain areas.

o. Section 17.100.015 of the Municipal Code is hereby added to read as follows:

**17.100.0105 Definitions.**

For the purposes of this chapter, certain words and phrases used are defined as follows:

"Adult entertainment use" includes all of the following types of establishments:

"Adult bookstore" means a business which as a regular and substantial course of conduct offers for sale or rent books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes, slides or other visual representatives whose dominant or predominant character and theme is the depiction or description of specified sexual activity or specified anatomical areas, as defined in this chapter.

1. As defined in this subsection, "regular and substantial course of conduct" shall be construed with reference to all relevant factors, including but not limited to the following:

- a. The proportion of the business' merchandise which depicts or describes specified sexual activity, specified anatomical areas or is a nonprescription, noncontraceptive sex-incitement device; and
- b. The percentage of the business' revenues which are attributable to the sale or rental of merchandise which depicts or specifies sexual activity, specified anatomical areas or is a nonprescription, noncontraceptive sex-incitement device.

"Adult Entertainment Business": A means any business is an "adult entertainment business" where if any of the following conditions exist:

1. The business devotes or intends to devote more than twenty-five (25) percent of its retail inventory (not as measured by the number of items but rather by the cost to the business owner of the inventory) to merchandise whose dominant or predominant character and theme is specified sexual activities or specified anatomical areas, hereafter referred to as "sexually explicit".
2. The business devotes or intends to devote more than twenty-five (25) percent of the retail floor area to sexually explicit merchandise.
3. The business has not segregated or intends not to segregate in one (1) location in the store all sexually explicit merchandise offered for sale, rental and/or viewing from the non-sexually explicit merchandise.
4. The retail value of sexually explicit inventory offered for sale in each category: (a) books; (b) magazines; (c) Beta videotapes for sale; (d) VHS videotapes for sale; (e) DVDs for sale; (f) Beta videos for rental; (g) VHS videos for rental; (h) DVDs for rental; (i) novelties; (j) on-premises viewing of images, films and/or videos exceeds or is expected to exceed twenty-five (25) percent if the total retail value of inventory offered for sale in each category.
5. Gross revenue derived from sexually explicit inventory in any particular category (see subdivision 4 above) of inventory exceeds or is expected to exceed twenty-five (25) percent of the total gross revenue for that category.
6. The business advertises (either free or paid for advertisements) in a manner that identifies the business as having sexually explicit merchandise for sale, rental and/or viewing.

7. Any business which offers or advertises sexually explicit merchandise in any of the above categories (see subdivision 4 above), and which fails to make available to the city for inspection and copying all records of revenue on request after reasonable notice not less than twenty-four (24) hours.

8. Any business that is an adult entertainment use based on any of the above conditions may make an application for an exception. Such an application shall be made to the zoning administrator and shall specify all facts supporting the exception and shall have attached to it all supporting documentation.

"Adult hotel" means any hotel which as a regular and substantial course of conduct provides, through closed-circuit television or other media, material which is distinguished or characterized by an emphasis on matter depicting or describing specified sexual activity or specified anatomical areas, as defined in this chapter.

"Adult motion picture theater" means an enclosed building and/or drive-in motion picture theater which is open to the public and which, as a regular course of conduct, is used for presenting filmed or videotaped materials whose dominant or predominant character and theme are the depiction or display of specified sexual activity or specified anatomical areas, as defined in this chapter, for observation by six (6) or more patrons of such use at any one (1) time.

1. As defined in this subsection, "regular and substantial course of conduct" shall be construed with reference to all relevant factors, including but not limited to the following:

- a. The proportion of the theater's films which depict specified sexual activity or specified anatomical areas;
- b. The number of films depicting or displaying specified sexual activity or specified anatomical areas which are shown at the theater each week, each weekend or each month;
- c. The nature of the films which receive top billing on the theater's marquee or in its advertising; and
- d. The proportion of the theater's revenue which is attributable to the showing of films depicting or displaying specified sexual activity or anatomical areas.

"Adult picture arcade" means any business wherein, as a regular course of conduct, coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, television sets or other image producing devices are used to display images to five (5) or fewer persons per machine at any one (1) time, and which images have as a dominant or predominant character and theme the display or depiction of specified sexual activity or specified anatomical areas.

1. As defined in this subsection, "regular and substantial course of conduct" is construed with reference to a number of factors, including, but not limited to the following:

- a. The proportion of the business' movies, shows, pictures and images which have as their predominant theme the display or depiction of specified sexual activity or specified anatomical areas; and
- b. The proportion of the business' revenue which is attributable to the showing of pictures depicting or displaying specified sexual activity or specified anatomical areas.

"Bathhouse" means an establishment which as a regular and substantial course of conduct provides, for a fee or other consideration, access to any kind of bath facility, including showers, saunas and hot tubs. This definition does not include a bona fide athletic club, health club, school, gymnasium, reducing salon or similar establishment where baths or hydrotherapy are offered as incidental or accessory services.

"Massage" means manipulation of tissues (as by rubbing, kneading or tapping) with the hand, body or other instrument.

**Comment [24]:** Moved from Section 17.04.140.

"Massage parlor" means any establishment having a fixed place of business where any person engages in or carries on, or permits to be engaged in or carried on, any activity set forth in the definition of "massage" in Chapter 17.04. Any establishment engaged in, carrying on, or permitting any combination of massage and bathhouse shall be deemed a massage parlor.

"Modeling studio" means a business which provides as a regular and substantial course of conduct, for a fee or other consideration, figure models who display specified anatomical areas to be observed, sketched, photographed, painted, sculptured or otherwise depicted by persons paying such consideration. "Modeling studio" does not include schools maintained pursuant the standards set by the State Board of Education.

"Nude dancing theater" means and building or structure which as a regular and substantial course of conduct is used for the presentation of live dancing or modeling, the dominant or predominant character and theme of which are the display of specified sexual activity or specified anatomical areas, as defined in this chapter, and to which the public is permitted or invited.

"Sexual encounter center" means a business which as a regular and substantial course of conduct provides two (2) or more persons, for pecuniary compensation, consideration, hire or reward, with a place to assemble the purpose of engaging in specified sexual activity or displaying specified anatomical areas. "Sexual encounter center" does not include hotels or motels.

"Establishment of an adult entertainment use" means and includes the opening of such a business as a new business, the relocation of such a business or the conversion of an existing use to any adult entertainment use.

"Specified anatomical areas" means and includes, and is limited to, the following:

1. Less than completely and opaquely covered human genitalia, pubic region, buttocks and female breasts below the top of the areola; and/or
2. Human male genitalia in a discernibly turgid state, even if completely or opaquely covered.

"Specified sexual activity" means and includes, and is limited to the following:

1. Actual or simulated genital or anal sexual intercourse;
2. Oral copulation;
3. Bestiality;
4. Direct physical stimulation of unclothed genitals;
5. Masochism;
6. Erotic or sexually-oriented torture, beating or the infliction of pain; or
7. The use of excretory functions in the context of a sexual relationship.

\_\_\_\_\_ p. Section 17.108.010 of the Municipal Code is hereby amended to read as follows:

**17.108.010 Purpose and intent.**

The purpose and intent of this chapter is to help preserve and protect historic buildings and structures, cultural resources, landmarks, natural feature and other resources of historical significance through the application of the regulations contained in this chapter.

\_\_\_\_\_ q. Section 17.108.015 of the Municipal Code is hereby added to read as follows:

**17.108.0105 Definitions.**

"Alteration" means any exterior change or modification, through public or private action, of any cultural resource or of any property located within a historic district including, but not limited to, exterior changes to or modification of structure, architectural details or visual characteristics such as grading, surface paving, new structures, cutting or removal of trees and other natural features, disturbance of archeological sites or areas, and the placement or removal of any exterior objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings and landscape accessories affecting the exterior visual qualities of the property.

"Cultural resource" means improvements, buildings, structures, signs, features, sites, places, areas or other areas of scientific, aesthetic, educational, cultural, archeological, agricultural, religious, ethnic, architectural, or historical significance to the citizens of the city, or the state of California, or the nation.

~~"Demolition" means any act or process that destroys in part or in whole an individual cultural resource or a cultural resource or other structure within a historic district or neighborhood, or cultural resource area.~~

Comment [25]: Moved to Section 17.04.140.

"Designated site" (historic site, cultural resource site, landmark site) means a parcel or part thereof on which a cultural resource is situated, and any abutting parcel or part thereof constituting part of the premises on which the cultural resource is situated, and which has been deemed a designated site pursuant to this chapter.

"Designated structure" (landmark, cultural resource, historic structure) means any improvement that has special historical, cultural, aesthetic or architectural character, interest or value as part of the development, heritage or history of the city, the state of California, or the nation and that has been designated pursuant to this chapter.

"Exterior architectural feature" means the architectural elements embodying style, design, general arrangement and components of all of the outer surfaces of an improvement, including but not limited to the kind, color and texture of the building materials and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such improvement.

"Historic district" means any area containing improvements which have a special character, historical interest or aesthetic value or which represent one or more architectural periods or styles typical to the history of the city, and which improvements constitute a distinct section of the city that has been designated a historic district pursuant to this chapter.

"Improvement" means any building, structure, place, parking facility, fence, gate, wall, work of art or other object constituting a physical betterment of real property, or any part of such betterment.

"Natural feature" means any tree, plant life, geographical or geological site or feature subject to the provisions of this chapter.

"Object" means a material thing of functional, aesthetic, cultural, symbolic, archeological, religious, ethnic, agricultural or scientific value, usually by design or nature movable.

"Potential cultural resource" means an improvement, object or natural feature which may be nominated for consideration by the commission and may be designated under the condition that either: (1) more research becomes available regarding its eligibility; or (2) the resource is restored to its original condition; or (3) the resource is one of the few remaining examples in the city of its type.

"Preservation" means the identification, study, protection, restoration, rehabilitation or enhancement of cultural resources.

"Secretary of the Interior Standards for Rehabilitation" means the guidelines prepared by the National Park Service for Rehabilitating Historic Buildings and the Standards for Historic Preservation Projects prepared by the National Park Service with Guidelines for Applying the Standards.

"Significant feature" means the natural or man-made elements embodying style or type of cultural resource, design, or general arrangement and components of an improvement, including but not limited to, the kind, of the building materials and type and style of all windows, doors, lights, signs and other fixtures appurtenant to such improvement.

r. [Section 17.112.010 of the Municipal Code is hereby amended to read as follows:](#)

**17.112.010 Purpose and intent.**

This chapter shall provide for the conversion of projects where ownership of existing buildings is subdivided, whether such subdivision involves residential to commercial/industrial or commercial/industrial to commercial/industrial, and whether such conversion is to condominium, as defined in Section 1350 of the Civil Code, to community apartment projects, as defined in Section 11004 of the Business and Professions Code, or to stock cooperatives, as defined in Section 11003.2 of the Business and Professions Code.

This chapter recognizes that a conversion is different from new construction in that the owners of a unit in a conversion take responsibility for a building built under standards that may be less stringent than those that are currently required, and existing tenants may be displaced by a conversion. A conversion also differs from a leased or rental property in that the unit owner assumes long-term responsibility for the unit owned, for the common areas of the project, and the higher level of economic cost required to own instead of rent.

The intent of this chapter is to provide increased options for commercial development and business ownership opportunities. The further intent of this chapter is to mitigate the hardship caused by displacement of commercial tenants; and to assure that conversion projects maintain long-term economic value for the owner.

Therefore, such conversions shall be permitted, provided that they shall comply with the standards set forth in this chapter for the class of conversion proposed and all other applicable laws.

\_\_\_\_\_ s. [Section 17.112.020 of the Municipal Code is hereby amended to read as follows:](#)

**17.112.020 Definitions.**

The following definitions pertain to this chapter related to condominium conversions and new construction:

“Applicant” means the owner(s) or subdivider(s) with a controlling interest in the proposed project, and any successors in interest.

“Association” means the organization created to own, lease, manage, maintain, preserve and control the lots, parcels or areas of a project, or any portions thereof or interests therein owned in common by the owners of the separately owned condominium units.

“Commercial condominium project” means a commercial condominium project intended for commercial occupancy.

“Common area” means an entire condominium project excepting all units therein.

“Condominium” means and includes:

1. “Condominium” as defined by Section [783](#) of the Civil Code;
2. “Community apartment project” as defined by Section [11004](#) of the Business and Professions Code;
3. “Stock cooperative” as defined by Section [11003.2](#) of the Business and Professions Code; and
4. “Planned development” as defined by Section [11003](#) of the Business and Professions Code.

The term "condominium" specifically includes, but is not limited to, the conversion of any existing structure for sale pursuant to a method described in subsections 1 through 4 of this definition.

"Condominium conversion" or "conversion" means a change in the ownership of a parcel or parcels of property, together with structures thereon, whereby the parcel or parcels and structures previously used as rental units are changed to condominium ownership. Condominium conversion includes projects which have previously obtained final map approval, but have not proceeded to sell any of the units.

"Condominium project" or "project" includes the real property and any structures thereon, or any structures to be constructed thereon, which are to be divided into condominium ownership.

"Condominium unit" or "units" means the individual spaces within a condominium project owned as individual estates.

"Eligible tenant" means any tenant who was a resident of the condominium project proposed for conversion on the date notice of intent to convert is given as required by state law.

~~"Low income," when used by itself or as a modifier of a person or household or other term, means a household whose income does not exceed eighty (80) percent of the median income applicable to Yolo County, adjusted for family size as published and annually updated by the United States Department of Housing and Urban Development.~~

**Comment [26]:** Similar definition as in Section 17.200.020.

~~"Moderate income," when used by itself or as a modifier of a person or household or other term, means a household whose income is eighty one (81) to one hundred twenty (120) percent of the median income applicable to Yolo County, adjusted for family size as published and annually updated by the United States Department of Housing and Urban Development.~~

**Comment [27]:** Similar definition as in Section 17.200.020.

"Notice of intent to convert" means the notice required to be served upon tenants or prospective tenants pursuant to the requirements of Section 66427.1, 66452.8, 66452.9 or 66459 of the Subdivision Map Act. The definition includes both sixty (60) and one hundred eighty (180) day notices as further defined in the applicable section.

"Special category tenants" refers to persons or tenants who fall within one or more of the following categories:

1. "Elderly" means individuals sixty-two (62) years of age or older;
2. "Handicapped" or "permanently disabled" means as defined in Section [50072](#) of the California Health and Safety Code or 42 U.S.C. 423 and 24 CFR 8.3;
3. "Low income" or "very low income" means as defined in ~~this~~ Section [17.200.020](#).

t.          Section 17.116.010 of the Municipal Code is hereby amended to read as follows:

**17.116.010 Purpose and intent.**

The sidewalk cafe regulations as established in this chapter are intended to encourage the establishment of sidewalk cafes in the city of Winters, to provide for the creation of a more urban pedestrian environment, and to promote and protect the public health, safety, and general welfare. These goals include among others the following specific purposes:

- A. To encourage and promote sidewalk cafes as visual amenities which in turn intensify pedestrian activity and make street life more attractive;
- B. To enhance the character of the city of Winters; and
- C. To ensure adequate space for pedestrians on the sidewalk adjacent to sidewalk cafes.

          u.          Section 17.120.010 of the Municipal Code is hereby amended to read as follows:

**17.120.010 Purpose and intent—Scope.**

It is the purpose and intent of the Winters city council, through the adoption of this chapter, to establish an abandoned or vacant property registration program as a mechanism to protect neighborhoods and commercial areas from becoming blighted through the lack of adequate maintenance and security of abandoned and vacated properties.

          v.          Section 17.120.020 of the Municipal Code is hereby amended to read as follows:

**17.120.020 Definitions.**

For the purposes of this chapter, certain words and phrases used in this chapter are defined as follows:

"Abandoned" means a property that is vacant and is: (A) under a current notice of default; (B) under a current notice of trustee's sale; (C) pending a tax assessor's lien sale; (D) any property that has been the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure; and (E) any property transferred under a deed in lieu of foreclosure/sale.

"Accessible property" means a property that is accessible through a compromised/breached window, gate, fence, wall, etc.

"Accessible structure" means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

"Beneficiary" means a lender or holder of a note secured by a deed of trust.

"Beneficiary/trustee" means both the beneficiary and the trustee. When any act is required of the beneficiary/trustee by this chapter, both are responsible for performing such act and may be charged with a violation of this code for failure to act. However, it is sufficient if it is accomplished by either one. If information is required to be provided, then both must provide such information.

"Deed in lieu of foreclosure/sale" means a recorded document that transfers ownership of a property from the trustor to the holder of a deed of trust upon consent of the beneficiary of the deed of trust.

"Deed of trust" means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan and often used in California instead of a mortgage. This definition applies to any and all subsequent deeds of trust, i.e., second trust deed, third trust deed, etc.

"Distressed" means a property that is under a current notice of default and/or notice of trustee's sale and/or pending tax assessor's lien sale or has been foreclosed upon by the trustee or has been conveyed to the beneficiary/trustee via a deed in lieu of foreclosure/sale.

"Evidence of vacancy" means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant and not occupied by authorized persons. Such conditions include, but are not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, and statements by neighbors, passersby, delivery agents, or government employees that the property is vacant.

"Local" means within thirty (30) road/driving miles distant of the subject property.

"Notice of default" means a recorded notice that a default has occurred under a deed of trust and that the beneficiary intends to proceed with a trustee's sale.

"Out of area" means in excess of thirty (30) road/driving miles' distance of the subject property.

~~"Owner of record" means the person having title to the property at any given point in time the record is provided by the Yolo County recorder's office.~~ "Property" means any unimproved or

**Comment [28]:** This term is not used in this section. Similar definition as in Section 17.04,140.

improved real property, or portion thereof, situated in the city and includes the buildings or structures located on the property regardless of condition.

"Responsible person" means any person, partnership, association, corporation, or fiduciary having legal or equitable title to or any interest in any real property and includes trustees and beneficiaries of a deed of trust on the property and any other lien holder on the property.

"Securing" means such measures as may be directed by the director of community development, or his or her designee, that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining or padlocking of gates, or the repair or boarding of doors, windows and/or other openings. Boarding shall be completed to a minimum of the current HUD securing standards at the time the boarding is completed or required.

"Trustee" means the person, firm or corporation holding a deed of trust on a property.

"Trustor" means a borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.

"Vacant" means a building/structure that is not occupied by authorized persons.

\_\_\_\_\_ w. Section 17.122.020 of the Municipal Code is hereby amended to read as follows:

**17.122.020 Definitions.**

For the purposes of this chapter, the following word shall have the meaning respectively ascribed to it in this section.

"Single room occupancy" means a facility providing six (6) or more dwelling units where each unit has a minimum floor area of one hundred fifty (150) feet and a maximum floor area of four hundred (400) square feet. These dwelling units may have kitchen or bathroom facilities and shall be offered on a monthly basis or longer.

\_\_\_\_\_ x. Section 17.123.020 of the Municipal Code is hereby added to read as follows:

**17.123.020 Definitions.**

"Farmworker" means the same as "agricultural employee" as defined in Section [1140.4\(b\)](#) of the California Labor Code.

"Farmworker dwelling unit" means a single-family residential unit occupied by a maximum of six farmworkers at any one time.

"Farmworker housing" means a housing accommodation developed for and/or provided to farmworkers and shall consist of any living quarters, dwelling, boarding house, tent, barracks, bunkhouse, maintenance-of-way car, mobile home, manufactured home, recreational vehicle, travel trailer, or other housing accommodation maintained in one (1) or more buildings and on one (1) or more sites. Farmworker housing shall consist of either a farmworker dwelling unit or a farmworker housing complex.

"Farmworker housing complex" means farmworker housing other than a farmworker dwelling unit that (1) contains a maximum of thirty-six (36) beds if the housing consists of any group living quarters, such as barracks or a bunkhouse, and is occupied exclusively by farmworkers; or (2) contains a maximum of twelve (12) residential units occupied exclusively by farmworkers and their households, if the housing does not consist of any group living quarters.

## Chapter 17.124 SUPPORTIVE HOUSING

### Sections:

- [17.124.010](#) Purpose and intent.
- [17.124.020](#) Definitions.
- [17.124.030](#) Standards.

### **17.124.010 Purpose and intent.**

It is the purpose and intent of this chapter to regulate the development and operation of supportive housing land uses.

### **17.124.020 Definitions.**

"Supportive housing" shall mean housing with no limit on length of stay, that is occupied by the target population as defined in Health and Safety Code Section [50675.14](#), and that is linked to on-site or off-site services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

### **17.124.030 Standards.**

Supportive housing units are residential uses subject only to those requirements and restrictions that apply to other residential uses of the same type in the same zone. To encourage and

facilitate the development of supportive housing, the city may allow flexible application of development standards.

Comment [29]: I can't see any edits to this section

o. Section 17.200.020 of the Municipal Code is hereby amended to read as follows:

**17.200.020 Definitions.**

"Affordable housing" means affordable sales housing or affordable rental housing. Affordable housing focuses on moderate, low and very low income households as defined herein and by state statute.

Comment [30]: Copied from Section 17.04.140.

"Affordable housing steering committee" means an advisory committee appointed by the city council for the purpose of advising the city council, planning commission, community development agency and city staff on affordable housing policies and programs, use of redevelopment housing funds, proposed affordable housing projects, and other housing matters, at the request of the city council.

~~"Community development director" means the director of the community development department of the city, or his or her designee. "Developer" means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks the city's approval of discretionary land use entitlements for all or part of a development project. "Developer" includes "owner." "Development project" means any development project that contains residential units, including single family and multifamily units. "Inclusionary housing agreement" means an agreement between the developer and the city setting forth the manner in which the inclusionary housing requirements will be met in the development project.~~

Comment [31]: Similar definition as in Section 17.04.140.

Comment [32]: Moved to Section 17.04.140.

Comment [33]: Similar definition as in Section 17.04.140.

"Inclusionary housing plan" means the plan setting forth the manner in which the developer proposes to satisfy the inclusionary housing requirements of this chapter within the development project.

"Inclusionary housing requirement" means the inclusionary housing requirements as specified in this chapter.

"Inclusionary housing unit" or "inclusionary unit" means an ownership or rental unit developed or provided in satisfaction of the inclusionary housing requirements of a development project, as provided for in this chapter, and which is affordable to very low, low income or moderate income households.

"Low income household" means a household whose income does not exceed eighty (80) percent of median income applicable to Yolo County, adjusted for family size, as published and annually updated by the United States Department of Housing and Urban Development.

"Low income" means a household earning a gross income of more than fifty (50) percent and less than eighty (80) percent of the median income for Yolo County as determined by the U.S. Department of Housing and Urban Development.

Comment [34]: Copied from Section 17.04.140.

"Low income," when used by itself or as a modifier of a person or household or other term, means a household whose income does not exceed eighty (80) percent of the median income applicable to Yolo County, adjusted for family size as published and annually updated by the United States Department of Housing and Urban Development.

Comment [35]: Copied from Section 17.112.020.

"Moderate income household" means a household whose income does not exceed one hundred twenty (120) percent of median income applicable to Yolo County, adjusted for family size, as published and annually updated by the United States Department of Housing and Urban Development.

"Moderate income" means a household earning a gross income of more than eighty (80) percent and less than one hundred twenty-one (121) percent of the median income for Yolo County as determined by the U.S. Department of Housing and Urban Development.

Comment [36]: Copied from Section 17.04.140.

"Moderate income," when used by itself or as a modifier of a person or household or other term, means a household whose income is eighty-one (81) to one hundred twenty (120) percent of the median income applicable to Yolo County, adjusted for family size as published and annually updated by the United States Department of Housing and Urban Development.

Comment [37]: Copied from Section 17.112.020.

"Very low income household" means a household whose income does not exceed fifty (50) percent of the median income, adjusted for household size, applicable to Yolo County, as published and periodically updated by the United States Department of Housing and Urban Development. (Ord. 2009-18 § 2 (part))

"Very low income" means households earning a gross income of less than fifty (50) percent of the median income for Yolo County as determined by the U.S. Department of Housing and Urban Development.

Comment [38]: Copied from Section 17.04.140.

"Very low income," when used by itself or as a modifier of a person or household or other term, means a household whose income does not exceed fifty (50) percent of the median income applicable to Yolo County, adjusted for family size as published and annually updated by the United States Department of Housing and Urban Development.

Comment [39]: Copied from Section 17.112.020.

Comment [40]: Do you want to discuss which one of these you should use?

4. Severability. If any provision or clause of this ordinance or any application of it to any person, firm, organization, partnership or corporation is held invalid, such invalidity shall not affect other provisions of this ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are declared to be severable.

5. Effective Date and Notice. This ordinance shall take effect thirty (30) days after its adoption and, within fifteen (15) days after its passage, shall be published at least once in a newspaper of general circulation published and circulated within the City of Winters.

**INTRODUCED** at a regular meeting on the \_\_\_\_ day of \_\_\_\_\_, 2016 and **PASSED AND ADOPTED** at a regular meeting of the Winters City Council, County of Yolo, State of California, on the \_\_\_\_ day of \_\_\_\_\_, 2016 by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

\_\_\_\_\_  
Cecilia Aguiar-Curry, Mayor

\_\_\_\_\_  
Nanci G. Mills, City Clerk

ORDINANCE NO. 2016-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS  
AMENDING VARIOUS SECTIONS OF TITLE 17 (ZONING ORDINANCE) OF  
THE WINTERS MUNICIPAL CODE

The City Council of the City of Winters, State of California, does hereby ordain as follows:

1. Purpose. The purpose of this ordinance is to amend various sections of Title 17 involving mostly formatting, removal of duplicative language and amending Table 3A in Chapter 17.56 by increasing from 30 to 45 feet the maximum allowable structure height permitted in the Highway Service Commercial (C-H) Zoning District.

2. Authority. The City of Winters has authority to adopt this ordinance pursuant to the general police power granted to cities by Article 11, Section 7 of the California Constitution.

3. Amendments to Title 17 of the Municipal Code are hereby amended as follows:

a. Chapter 17.04 of the Municipal Code is hereby amended in its entirety to read as follows:

**Chapter 17.04**  
**INTRODUCTORY PROVISIONS AND DEFINITIONS**

**17.04.140 Definitions.**

B. Definitions.

“Abutting” or “contiguous” means land or zoning district boundaries having a common property line. Lands or district boundaries separated by an alley, street or right-of-way shall be considered abutting.

“Acceptance for filing” means receipt and continued processing of an application or submittal over the public counter or through the mail or other delivery service, based on a preliminary determination that all required components (e.g. fees, completed application, mailing lists, appropriate copies of maps, special notes or statements, etc.) are provided. If all required components are not provided, the application shall not be accepted and/or shall be returned. “Acceptance” for purposes of filing, routing, or processing, is to be distinguished from a determination that the application or submittal is “complete.”

“Access drive” or “driveway” means a private driveway connecting a street or alley with a parking or loading area with space and of sufficient width to permit safely the passage of all vehicles, equipment, machinery, trailers, mobilehomes, boats, and/or pedestrians, either self-propelled or transported, which may normally or reasonably be expected to seek access to the parking or loading area or space. Whenever the size, location, or use of the parking or loading

area is such as to reasonably necessitate the use of the drive by emergency vehicles, the drive shall be of adequate width and design to permit the passage of the emergency vehicles. An access drive or easement serving four (4) or fewer single-family residences shall not be counted for setback purposes.

“Accessory building or accessory structure” means a detached subordinate structure or building located on the same premises as the main building or buildings (or proposed for development concurrently with the main building or buildings), the use of which is customarily incidental to that of the main building or to the use of the land. Where any portion of a wall of an accessory building or structure is attached to the main building, or where an accessory structure is attached to the main building in a substantial manner by a roof or deck, the accessory building or structure shall be considered and treated as part of the main building.

“Accessory use” means a lawfully permitted use in the zone, unless otherwise noted in this title, which use is customarily incidental and subordinate to the principal use of the site or of a main building on the site and serving a purpose which does not change the character of the principal use, and which is compatible with other principal uses in the same zone and with the purpose of the zone.

“Adjoin” means the same as “abutting.”

“Administrative” means an internal, preliminary draft document submitted to the city for independent review for administrative purposes only. Administrative draft documents are not a part of the record of proceedings nor considered a “public document” for the purposes of the Public Records Act or the California Environmental Quality Act (CEQA). Administrative drafts are to be discarded or returned to the consultant, and shall not be retained in the project files.

“A-Frame sign” means a portable freestanding sign capable of standing without support or attachment.

“Agent of owner” means any person who can show certified written proof that he or she is acting for the property owner.

“Alley” or “lane” means a public or private way, other than a driveway, affording only secondary means of access to abutting property.

“Alter” means a physical change in a structure, including changes to bearing walls, columns and beams, or to the exterior appearance of a structure, other than painting.

“Animal, Exotic” means any wild animal not customarily confined or cultivated by man for domestic purposes, other than small or large domestic animals. This term includes llamas, peacocks, large reptiles.

“Animal, Large domestic” means domestic horses, burros and mules, domestic swine, domestic cattle, sheep, goats and similar livestock. The term shall also include the keeping of rabbits, pot-bellied pigs, hens, and geese.

“Animal, Small domestic” means dogs and cats over the age of ten (10) weeks.

“Apartment” means a multifamily dwelling consisting of three (3) or more dwelling units offered for rent or lease, under single ownership.

“Applicant” means the person, public or private, listed as the applicant on an application for a project and includes the record owner of the real property that is the subject of the project at the time of the application for the project.

“Approving body” means the city council of the city of Winters and/or the Winters planning commission, whichever takes final discretionary action on a project.

“Beginning of construction” means the incorporation of labor and materials at a construction site, commencing with grading or foundation construction, whichever occurs sooner.

“Block” means all property fronting on one (1) side of a street between intercepting streets or between a street and a waterway, dead-end street, major easement or right-of-way, or unsubdivided land. An intercepting street shall only determine the boundary of a block on the side of the street which it intercepts.

“Breezeway” means a roofed structure open on two (2) sides connecting two structures, such as a residence and a garage.

“Building” means any structure having a roof and supported by columns or walls, which is used or intended to be used for the shelter or enclosure of persons, animals or property.

“Building frontage” means the primary wall of a building facing a street (not including the freeway). If the building does not front on a street, the face of the building containing the main structure entry is the building frontage.

“Building materials” means any substance that can be used in construction of buildings, roadways or accessory structures.

“Building, Main” means a building in which is conducted the principal use of the building site on which the building is situated.

“Building, Nonconforming” means a building or portion thereof which was lawful when established but which does not conform to subsequently established zoning regulations.

“Carport” means a roofed structure with one (1) or more open sides for the parking of vehicles.

“Commercial marijuana cultivation” means cultivation of medical marijuana licensed by the state of California in accordance with the Medical Marijuana Regulation and Safety Act, California Business and Professions Code Section [19300](#) et seq., and contemplated by the definition of “commercial cannabis activity” set forth in California Business and Professions Code Section [19300.5\(k\)](#), as amended. Commercial marijuana cultivation is prohibited in the city. Pursuant to Section [11362.777](#) of the California Health and Safety Code, effective January 1, 2016, this definition is intended to regulate the cultivation of medical marijuana by prohibiting commercial marijuana cultivation within the city, and thereby expressly reserving any future local licensing authority granted to the city by that section. This definition shall not restrict cultivation of medical marijuana by a “primary caregiver” or “qualified patient,” as those terms are defined by Health and Safety Code Section [11362.7](#), or by a “medical marijuana cooperative,” as defined herein subject to the restrictions set forth in this section.

“Community development director” means the director of the community development and building department.

“Complete application” means an application or submittal determined to be complete pursuant to Section [65943](#) of the Government Code, upon receipt of adequate (sufficient) information and data describing the project and the project setting, to allow for an initial study to be conducted and the environmental determination to be made. This determination is usually documented by a letter of completeness.

“Cottage food operation” means any activity operated as a cottage food enterprise with not more than one (1) full-time equivalent cottage food employee, not including a family member or household member of the cottage food operator living in the home where the cottage food products are prepared or packaged for direct or indirect sale to consumers, as defined and may be amended by the California Department of Public Health, Section [113758](#) of the Health and Safety Code. Gross annual sales are regulated by the provisions of Section [113758](#) of Health and Safety Code.

“Cottage food products” means non-potentially-hazardous foods, including foods that are limited to and described in Section [114365.5](#) of the California Health and Safety Code and that are prepared for sale in the kitchen of a cottage food operation.

“Counter audit” means a preliminary evaluation of a submittal or application that occurs at the public counter, to determine whether it can be accepted for filing, routing, or processing, and to determine the applicability of CEQA.

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, trimming or processing of marijuana or any part thereof.

“Deemed withdrawn” means a determination by the city that an application is no longer valid. Applications that have been deemed withdrawn are to be physically returned to the applicant,

and no further processing is conducted. Processing fees that have not been expended, less administrative charges, are reimbursed or may be applied to resubmittal. Projects that are withdrawn and resubmitted are processed in the same manner as newly submitted projects. No special priority or fees are applicable.

“Demolition” means any act or process that destroys in part or in whole at least seventy-five (75) percent of an existing (original exterior building or structure walls, individual cultural resource or a cultural resource or other structure within a historic district or neighborhood, or cultural resource area

“Density bonus” means entitlement to build additional residential units above the maximum number of units permitted pursuant to the existing general plan, applicable specific plan and zoning designations. Density bonus units may be constructed only in the development where the units of affordable housing are located. Density bonus means a bonus of units awarded to a development pursuant to Government Code Section [65915](#) et seq.

“Density, Gross residential” means the average number of dwelling units on one (1) acre of land in a given area where the acreage is based on the total land area including streets and rights of way.

“Density, Net residential” means the average number of dwelling units on one (1) net acre of land used or available for residential purposes after excluding streets and rights-of-way.

“Developer” means any person, firm, partnership, association, joint venture, corporation, or any entity or combination of entities which seeks the city’s approval of discretionary land use entitlements for all or part of a development project. “Developer” includes “owner.”

“Development” means any activity related to the placement of any structure, grading, change in density or intensity of land use and including subdivision of land or air space, or a demolition, addition, repair or alteration of a structure or facility.

“Dwelling” means any building or portion thereof containing one (1) or more dwelling units designed or used exclusively as a residence or sleeping place for one (1) or more families, but not including a tent, cabin, boat, trailer, dormitory, labor camp, hotel or motel.

“Dwelling, Guest” means separate, accessory living quarters, having no kitchen facilities, attached to the main building or located in an accessory building situated on the same site as the main building, for temporary use by guests of the occupants of the main building and not rented or otherwise used as a separate dwelling.

“Dwelling unit” means one (1) room or suite of two (2) or more rooms designed for, intended for, or used by one (1) family, which family lives, sleeps, and cooks therein, and which unit has one (1) kitchen or kitchenette.

“Emergency vehicle” means a self-propelled vehicle or trailer used in the discharge of duties of public districts, agencies or departments, or privately owned public utilities responsible for medical services, fire prevention and control, policing, sanitation, sewerage, drainage, levee maintenance, flood control, public utility lines and all essential services.

“Environmental coordinator” means the director of community development or his or her designated representative.

“Erect” means to locate, construct, attach, suspend, affix or paint a sign.

“Factory-built home” means a residential building constructed in conformance with the State of California Factory-Built Housing Code. A factory-built home shall not be deemed to include a mobilehome or manufactured home as defined in this section.

“Family” means one (1) or more persons occupying a dwelling unit and living as a single housekeeping unit, and distinguished from a group occupying a boarding house, lodging house, motel, hotel, or fraternity or sorority house.

“Fence” means any structural device forming a physical barrier by means of wood, mesh, metal, chain, brick, stakes of plastic or similar materials. It includes a wall or gate used as a fence.

“Floor area” means the gross floor area bounded on all sides by the outside surface of exterior walls of all floors of all buildings, including hallways, stairways, utility rooms, storage rooms, any portion of attic and basement space over seven (7) feet in height, restrooms and attached garages, but excluding detached accessory buildings of less than two-hundred (200) square feet.

“Floor Area Ratio” or “FAR” means the allowed ratio of floor area to net lot area.

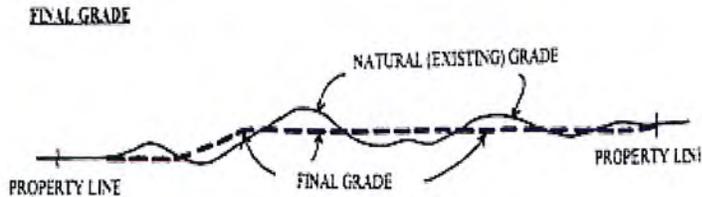
“Free-standing sign” means a sign which is independently supported in a fixed location and not attached to a building, fence or structure.

“Freeway” means a multi-lane divided highway for through-traffic with full control of access and with grade separations at all intersections and railroad crossings, and to which highway the owners of abutting lands have no right of easement or access to or from their abutting lands.

“Garage, Private” means an accessory building or portion of a main building designed for the storage and minor repairs or maintenance of self-propelled passenger vehicles, camping trailers or boats belonging to the owners or occupants of the site and their guests, or an enclosed area for the same use as a private parking area.

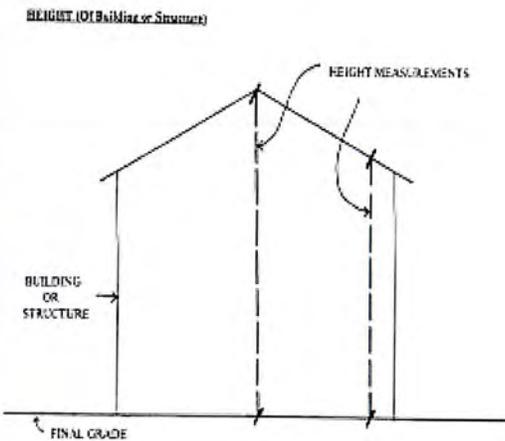
“General plan” means the adopted general plan of the city of Winters.

“Final grade” means the elevation of the finished surface of the ground, paving or sidewalk at any particular point on a property where grading has occurred in conjunction with development regulated by this title. (See following diagram.)



“Grading” means any activity related to the cutting, filling, compaction, storage or other movement of earth.

“Height” means the vertical distance of a building measured between the point where the final grade intersects a building or its foundation to the highest point of the building directly above that point. (See following diagram.)



“Holiday decorations” means traditional outdoor decorations of a nonadvertising nature which celebrate a nationally recognized holiday.

“Home occupation” means a commercial enterprise which is clearly incidental and secondary to the residential use of a property.

“Improvement” means a structural addition or modification to an existing structure, or addition of a structure to a property.

“Incomplete” means the status of an application following the city’s request for additional information in order to complete the application and make an environmental determination. This status may be used by the city to freeze mandatory CEQA time frames while the applicant

responds to the request for additional information. This determination is usually documented by correspondence to the applicant.

“Independent review” means city evaluation of accuracy and completeness of any information submitted by outside consultants. May involve preliminary assessment of adequacy and/or feasibility.

“Kitchen - kitchenette” means any space used or intended or designed to be used for the storage, preparation and cooking of food, whether the cooking unit is permanent or temporary and portable, in conjunction with the establishment or use of a dwelling unit.

“Landscaping” means the minimum required percentage of the total lot area which must be landscaped. Landscaping may consist of planting and maintaining some combination of trees, ground cover, shrubs, vines, flowers and lawn, and may include natural or constructed features if they are an integral element to the overall landscape plan.

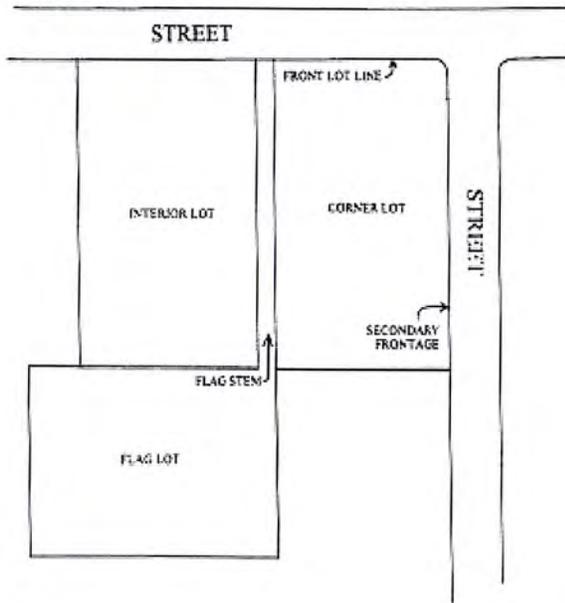
“Living quarters” means one or more rooms in a building designed for, intended for, or used by one or more individuals for living or sleeping purposes, with no cooking facilities.

“Loading space” means an off-street area which is suitable and usable for the temporary parking of commercial vehicles while loading or unloading merchandise or materials, which area abuts upon a street or alley or has other appropriate means of access to and from public roads, and which area is on the same lot as the building which the area serves or on a lot contiguous to a building or group of buildings which the site serves.

“Lot” means a site or parcel of land under single ownership which has been legally subdivided, resubdivided or merged.

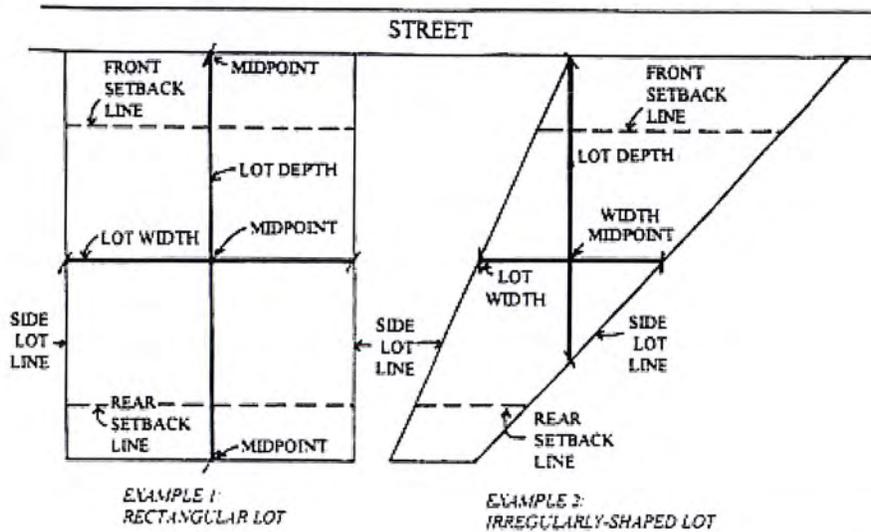
“Lot, Corner” means a lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street, the streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees. (See following diagram.)

**LOTS: Corner, Flag and Interior**



“Lot depth” means the distance measured perpendicularly between the midpoint of the front property line and the rear property line. Where the configuration of a lot prevents measurement of the lot depth pursuant to this requirement, the lot depth shall be the longest possible straight-line distance measured perpendicular from a point on the front lot line towards the rear lot line. (See following diagram.)

**LOT WIDTH AND DEPTH**



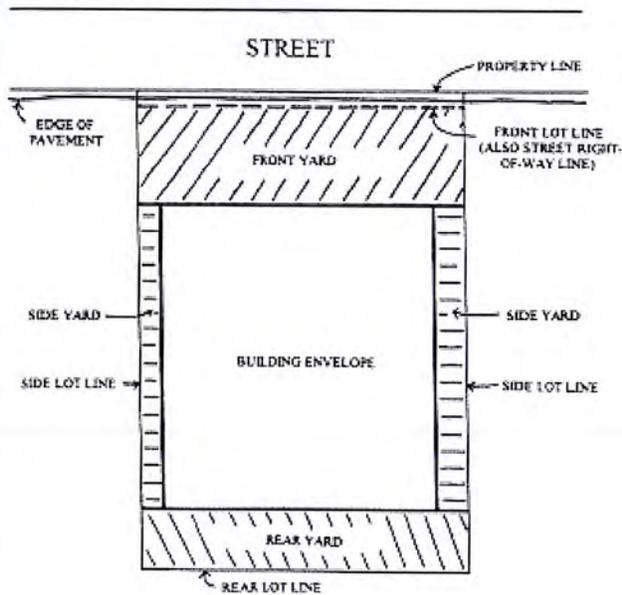
“Lot, Flag” means an interior parcel not having direct frontage to a public road or street, except for a narrow portion capable of being used solely for access purposes. The flag stem portion of the lot shall not be used for the purpose of meeting required yard setbacks or in the calculation of lot depth or net lot area. (See diagram under “Lot, Corner.”)

“Lot, Interior” means a lot, other than a corner lot, bounded by other lots and/or a street. (See diagram under “Lot, Corner.”)

“Lot lines” means the property lines bounding a lot.

“Lot line, Front” means, in the case of an interior lot, the lot line separating the lot from the street, edge of pavement or street right-of-way. In the case of a corner lot, the shorter street frontage shall constitute the front lot line, with the remaining portion of the lot with street frontage treated as secondary frontage for setback purposes. (See following diagram.)

LOT LINES AND YARDS: Front, Rear, and Side



“Lot line, Rear” means the lot line typically and approximately parallel to and most distant from the front lot line. (See diagram under “Lot Line, Front.”)

“Lot line, Side” means a lot line other than a front or rear lot line, typically and approximately perpendicular to a front and rear lot line. (See diagram under “Lot Line, Front.”)

“Lot area, Net” means the total horizontal area included within lot lines, excluding streets, alleys and vehicular easements or rights-of-way.

“Lot size, Minimum” means the minimum amount of net lot area required under this title.

“Lot, Through” means a lot having frontage on two (2) dedicated parallel or approximately parallel streets.

“Lot width” means the horizontal distance between the side lot lines measured perpendicular to the depth of the lot at a point midway in the building envelope (the area between the required front and rear yard setback lines). Where the configuration of a lot prevents measurement

pursuant to this requirement, the community development director shall determine the lot width. (See diagram under "Lot depth.")

"Manufactured home" means any structure transportable in one or more sections, which, in the traveling mode is eight (8) body feet or more in width, or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirement and with respect to which the manufacturer voluntarily files a certification and complies with the standards established in the Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C. Sec. 5401, et seq.).

"Marquee sign" means a sign which is suspended below a canopy or covered walkway and which projects perpendicular to the building or structure wall.

"Medical marijuana" means a product containing cannabis, including, but not limited to, concentrates and extractions, intended for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section [11362.5](#) of the Health and Safety Code. Cannabis as used in this definition shall have the meaning as set forth in subsection (f) of Section [19300.5](#) of the Business and Professions Code.

"Medical marijuana cooperative" involves two (2) or more persons collectively or cooperatively cultivating, using, transporting, possessing, administering, delivering, or giving away medical marijuana. It does not involve sale or gifts involving payment of money. Notwithstanding the prohibition in this code as to medical dispensaries, medical cannabis collectives and cooperatives formed in a manner consistent with California law and the California Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August 2008 shall be permitted to operate, provided they do not sell, exchange, trade, distribute or cultivate medical cannabis in a manner prohibited herein.

"Medical marijuana dispensary" means any facility or location, whether fixed or mobile, where medical marijuana is made available to, distributed by, or distributed to one or more of the following: (1) a qualified patient, (2) a person with an identification card, or (3) a primary caregiver. All three of these terms are defined in strict accordance with California Health and Safety Code Section [11362.5](#) et seq. A medical marijuana dispensary is further defined as any place, location, building or establishment where medical cannabis is traded, exchanged, sold, or distributed which would otherwise require a business license, home occupation permit or any other use permit to conduct similar type activities. Unless otherwise regulated by this code or applicable law, a "medical marijuana dispensary" shall not include the following uses: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility

licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with both applicable federal or state law, including, but not limited to, Health and Safety Code Section [11362.5](#) et seq. Currently, medical marijuana dispensaries are prohibited from opening and operating within any zone in the city of Winters. At such time as both federal and state law change to allow the operation of medical marijuana dispensaries, such dispensaries shall be then allowed only in a zone district designated for medical offices and only if consistent with the applicable provisions of this code and federal and state law.

“Ministerial” means an action or decision by the city involving little or no personal judgment by city staff as to the wisdom or manner of carrying out a project. Approval of a ministerial project merely requires application of the law, usually involving fixed standards or objective measurements.

“Mitigation monitoring and reporting program (MMRP)” or “program” means a comprehensive program adopted by the approving body prior to project approval pursuant to Public Resources Code Section [21081.6](#) and this title to ensure compliance with adopted or required changes to mitigate or avoid significant environmental effects.

“Mobilehome” means any standard make of trailer constructed and equipped in such a manner as to permit permanent occupancy thereof as living quarters for a family unit. In general, any trailer over twenty-five (25) feet in length may be considered a mobilehome; provided, that such trailer complies with all applicable laws and regulations controlling the design, construction, equipment or occupancy thereto. Mobilehomes are considered structures for the purpose of this chapter when they are parked in a mobilehome park. Small mobilehomes or trailers are defined as being five hundred (500) square feet or less in size, average mobilehomes or trailers as being five hundred one (501) to one thousand (1,000) square feet in size, and large mobilehomes or trailers as being more than one thousand (1,000) square feet in size.

“Mobile sign” means a sign which is designed to be moved or capable of being moved and not intended for permanent installation.

“Monitoring” means the function of implementing the MMRP by the city through the environmental coordinator.

“Nonconforming sign” means a sign which was lawful when erected but which does not presently conform to this title.

“Nonconforming use” means any use of land, buildings or structures which was lawful when established but which does not conform to subsequently established zoning regulations.

“Off-premise sign” means a sign which provides directions to general places, destinations and collections of uses.

“Official plan line” or “future right-of-way” means an officially established line defining the outer boundaries within which a public road right-of-way may be widened, constructed or extended and within which the construction of structures may be prohibited.

“On-premise sign” means a sign located on the same site as the specific business, product, use, etc., it advertises.

“Open space” means land which is available for outdoor recreational activities, passively or actively, for public or private use.

“Outdoor storage” means the stocking, parking, stacking or holding of goods, materials or equipment in the open or in a partially closed structure.

“Owner” means the person or persons holding legal title to, or recorded contract of purchase of, the property in question.

“Parking, Primary” means use of a parcel or lot exclusively for the temporary, daily or overnight off-street parking of passenger vehicles, whether as a public or private parking area, as necessary to serve some use on a separate legal parcel.

“Parking space” means an off-street covered or uncovered area for the parking of a motor vehicle.

“Paved” means an area which has been drained, graded, compacted, provided with adequate base and surfaced with asphaltic concrete at least two (2) inches thick, or equivalent, as determined by the city engineer, so as to provide a sufficient durable surface to render the area usable for the purpose specified under all normal weather conditions.

“Person” means any individual, firm association, partnership, joint venture, corporation or other entity, public or private in nature, including an instrumentality of this state or any political subdivisions of this state including the city; “person” shall also include any office, employee or agent of any of the foregoing.

“Planning commission” means a group of persons appointed or assigned by the city council to administer the general plan and the zoning ordinance; in this title the planning commission of Winters.

“Planning director” means the director of the community development and building department for the city.

“Principal residence” means the primary dwelling unit located on a residential lot that includes a secondary housing unit.

“Production housing” means construction of six (6) or more single-family residential units, where a set of base construction plans are utilized for more than one (1) residence.

“Program completion certificate” means a certificate issued by the environmental coordinator to certify completion of all or a designated phase of an adopted MMRP.

“Project” means any private or public agency project as defined in CEQA found at Public Resources Code Section [21000](#) et. seq.

“Projecting sign” means a sign, other than a wall or marquee sign, which is suspended from or supported by a building and which projects outward at a perpendicular angle.

“Recreational vehicle” means any trailer, motor home, camper or similar vehicle designed and intended for sleeping, traveling and recreational purposes.

“Remodel” means the alteration of all or a portion of an existing structure or building. Remodeling does not include the enclosure or construction of new building or structure square footage. (See also “Demolition.”)

“Reporting” means the obligation of the applicant/developer to file periodic written reports on the status of mitigation/implementation under a project MMRP.

“Secondary housing (second residential unit)” means a dwelling unit attached or detached from principal permitted dwelling which provides complete and independent living facilities for a maximum of two (2) persons, including living, sleeping, eating, cooking and sanitation facilities, for rent but not for sale.

“Setback” means the required minimum distance that a building or structure must be located from a lot line, existing or proposed street or alley right-of-way or edge of pavement, whichever setback line may encroach furthest onto a lot.

“Setback, Front” means the minimum distance a building or structure must be set back from the front lot line.

“Setback line” means a line established by the provisions of this title to govern the placement of buildings or structures on a lot.

“Setback, Rear” means the minimum distance a building or structure must be set back from a rear lot line.

“Setback, Side” means the minimum distance a building or structure must be set back from a side lot line.

“Sign” means a writing, graphic (including colored background, pictorial representation, logo, trademark, symbol or banner) or any other figure of whatever material which is used to identify, announce, direct attention to, advertise or communicate a message, including standardized corporate and franchise graphic. “Sign” includes a sign structure except that the structure is not measured for purposes of determining sign area or height.

“Sign area” means the area in square feet of the smallest rectangle enclosing the total exterior surface of a sign. A double-faced sign shall be considered as a single-face sign for the purposes of determining sign area.

“Sign height” means the greatest distance between the top of the actual sign face and the final grade directly below it.

“Site coverage” means the percentage of a lot or site collectively covered by a roof, solid-surfaced deck or patio, paved driveway and parking areas, sports court/swimming pool or similar impervious improvements.

“Stable” means a detached accessory building for the shelter of horses or similar hoofed animals.

“Street line (right-of-way)” means the boundary between an existing or proposed street right-of-way and abutting property.

“Structure” means anything constructed or erected, the use of which requires a location on the ground, excluding swimming pools, driveways, patios or decks (where the driveway, patio or deck is not more than thirty (30) inches above final grade at any point), fences not exceeding a height of six (6) feet and retaining walls which do not exceed a height of three (3) feet, measured from the bottom of the wall where it intersects final grade to the top of the wall. See also “Building.”

“Temporary sign” means a sign which conforms to this title and is intended only for a short period of use as specified in this title.

“Trailer,” including “camp trailer” or “travel trailer” means any vehicle constructed in such a manner as to permit temporary occupancy thereof as sleeping quarters, i.e., camp trailer, or the conduct of any business, trade or occupation, or use as a selling or advertising device, or use for storage or conveyance for tools, equipment or machinery, and so designed that it is mounted

on wheels and may be used as a conveyance on highways and streets propelled or drawn by other motive power. Camp trailers are considered structures for the purposes of this chapter when they are parked in a trailer camp or park.

“Trailer camp,” “trailer park” or “mobilehome park” means any lot or part thereof, or any parcel of land, which is used or offered as a location for two (2) or more trailers or mobilehomes used for any of the residential purposes set forth under the definition of “Trailer” including “camp trailer” or “travel trailer.”

“Transient” means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement of whatever nature, for a period of thirty (30) consecutive calendar days, or less, counting portions of calendar days as full days. Any such person so occupying space in a hotel/motel shall be deemed to be a transient if his or her actual total period of occupancy does not exceed thirty (30) days. Unless days of occupancy or entitlement are consecutive without break, then prior or subsequent periods of such occupancy or entitlement to occupancy shall not be counted when determining whether a period exceeds the stated thirty (30) calendar days.

“Unreasonable delay” means the delay of thirty (30) days or more by the applicant in providing requested information and/or required submittals, or failure to meet any of the time periods specified herein, or any time period as set by staff.

“Use” means the purpose for which either land or structure thereon is designed, arranged or intended, or which the land or structure thereon is or may be occupied or maintained.

“Use, Conditional” means use of land or structures thereon which requires approval of a conditional use permit by the planning commission or zoning administrator as indicated on the land use/zoning matrix.

“Use, Principal permitted” means the primary or main use of land or a main building, which use is compatible with the purpose of the zone. If a use is listed in a specific zone as a principal permitted use, it means that the owner, lessee or other person who has a legal right to use the land has a vested right to conduct the principal permitted use without securing special permission therein, as are generally applied to all uses in the zone.

“Utility services, Major” means large-scale public utilities typically requiring substantial commitment of land and/or having the potential of creating impacts on the surrounding area, such as sewer treatment plants, electrical substations and water storage/reservoirs.

Utility services, Essential” means the erection, construction, alteration or maintenance of minor public utilities such as minor underground or overhead gas, electrical, steam or other transmission or distribution systems or collection, communication, supply or disposal systems, including poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call

boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for furnishing adequate services by such public utilities or municipal or other governmental agencies, or for the public health, safety or general welfare.

“Wall sign” means a sign which is erected, printed, painted, incorporated into, suspended from or otherwise affixed to a wall, awning, canopy, overhang or covered walkway of a building or structure in an essentially flat position or with the exposed face of the sign in a location parallel to the plane of the wall.

“Window sign” means a sign erected on a building window or a sign located indoors and within three feet of a window or building opening which is clearly visible and readable from a street or public place.

“Withdrawn” means the status of an application after an unreasonable delay has occurred.

“Yard” means an open space on the same site with a building, created by minimum setback requirements or which open space is unoccupied and unobstructed by buildings or structures from the ground upward and excluding therefrom any portion of any street, alley or road right-of-way.

“Yard, Front” means the area extending across the full width of the front of the lot measured from the front lot line, right-of-way line or edge of pavement (whichever encroaches furthest into a lot), to the required front yard setback line, measured perpendicular to the front lot line. The front yard of a corner lot means the yard adjacent to the shorter street frontage. (See diagram under “Lot Line, Front.”)

“Yard, Rear” means the area extending across the full width of the rear of the lot measured from the rear lot line to the required rear yard setback line, measured perpendicular to the rear lot line. The rear yard of a corner lot shall extend only to the side yard adjacent to the street (also rear setback). (See diagram under “Lot Line, Front.”)

Yard, Side” means the area extending between the side lot line and the required side yard setback line, and located between the front yard and the rear yard of the lot. (See diagram under “Lot Line, Front.”)

“Zone” means a portion of the territory in the city within which territory certain uniform regulations and requirements or various combination thereof, apply pursuant to this title. “Zone” includes the word “district.”

b. Section 17.08.010 of the Municipal Code is hereby amended to read as follows:

**17.08.010 Purpose and intent.**

A use classification describes a land use or activity that may be appropriately included within that use classification. The community development director may determine that a specific use

is or is not within a use classification, whether or not it is named, and if its operational characteristics are substantially compatible or incompatible with those uses named within the classification.

c. Section 17.20.010 of the Municipal Code is hereby amended to read as follows:

**17.20.010 Purpose and intent.**

The purpose of a use permit is to allow the proper integration into the community of uses which may be suitable only in specific locations in a zone or only if the uses are designed or arranged out on the site in a particular manner.

d. Section 17.24.010 of the Municipal Code is hereby amended to read as follows:

**17.24.010 Purpose and intent.**

The purpose of a variance is to allow relief from the strict application of the provisions of this title where special circumstances, typically pertaining to the physical characteristics or location of a site, are such that the literal enforcement of the requirements of this title would involve practical difficulties or would cause hardship, and therefore would not carry out the spirit and purposes of this title.

e. Section 17.32.010 of the Municipal Code is hereby amended to read as follows:

**17.32.010 Purpose and intent.**

The purpose of a temporary activity permit is to allow for specified temporary uses of land or buildings in a manner which would not detrimentally impact the immediate area or otherwise create a public nuisance.

f. Section 17.36.010 of the Municipal Code is hereby amended to read as follows:

**17.36.010 Purpose and intent.**

It is the policy of the city to preserve and enhance the small-town qualities of Winters, to improve property values and to conserve the overall visual character of the community. Further, the design review process is intended to ensure that the location and configuration of structures and corollary site improvements are visually harmonious with their site and that of surrounding sites and structures. To implement these policies, the city requires design review for certain types of development or when development occurs in certain locations. The design review process may include an analysis of proposed architectural styles, construction materials, colors, site landscaping and similar development criteria. The Winters design guidelines shall be used as a basis for this review.

g. Section 17.48.010 of the Municipal Code is hereby amended to read as follows:

**17.48.010 Purpose and intent.**

In order to achieve the general plan goal “to promote the development of a cohesive and aesthetically pleasing urban structure for Winters,” the P-D overlay zone has been included within the scope of the zoning ordinance to allow for the maximum flexibility consistent with the minimum development standards within each underlying zone category.

h. Section 17.56.010 of the Municipal Code is hereby amended to read as follows:

**17.56.010 Generally.**

A. All buildings or structures or portions of structures developed or modified under the terms of this title shall comply with the development standards of Tables 3A, 3B and 4 (Lot Development Standards and Structure Setback Matrix).

B. Some developments within the city contain standards regulating issues such as building/structure height, yard setbacks, floor area ratio and fencing which may be less or more restrictive than the development standards contained within this section. Such individualized standards, typically prescribed by conditions of approval of the underlying subdivisions or planned developments, shall prevail over the standards contained within this section, except where, as determined by the community development director, application of standards unique to a particular development would be inconsistent with the general plan. In such cases, the community development director shall consult with the planning commission in determining if current standards from this title should be applied.

**Table 3A  
LOT DEVELOPMENT STANDARDS**

<b>ZONE</b>	<b>MAXIMUM FLOOR AREA RATIO</b>	<b>MAXIMUM SITE COVERAGE (%)</b>	<b>MAXIMUM STRUCTURE HEIGHT (In Feet)</b>
A-1	N/A	N/A	45 nonresidential/30 residential
R-R	N/A	N/A	30
R-1	N/A	50 for single story 45 two or more stories	30

R-2	N/A	50 for single story 45 two or more stories	30
R-3	N/A	60	35
R-4	N/A	70	45
C-1	.40	N/A	30
C-2	2.0 <sup>1</sup> /.60 <sup>2</sup>	N/A	45
C-H	.40	N/A	45
O-F	.40	N/A	35
BIP	.40	N/A	35
M-1	.40	N/A	40
M-2	.40	N/A	50
PQP	.50	N/A	40
P-R	.20	N/A	25
O-S	.05	N/A	25
P-D	Per PD Plan	Per PD Plan	Per PD Plan

Footnotes:

1. 2.0 FAR for office and commercial uses.
2. 0.60 FAR for non-office and non-commercial uses.

The F.A.R. number is the maximum allowed for any combination of uses in a given zone.

Building height exceptions/modifications appear in Section [17.56.020\(A\)](#).

i. Section 17.58.010 of the Municipal Code is hereby amended to read as follows:

**17.58.010 Purpose and intent.**

The purpose of this chapter is to establish unique allowed use and development standards for properties within the downtown master plan area of Winters. These standards are intended to help preserve and protect the existing, historic, and distinctive character of the downtown by requiring new construction and remodels and existing development to complement the existing built environment. Through the application of these standards, the downtown will continue to be

the pedestrian-oriented shopping, dining, entertainment, and living center of the greater Winters area.

j. Section 17.58.015 of the Municipal Code is hereby amended to read as follows:

**17.58.015 Applicability.**

A. **Applicability of Standards and Entitlement Review.** The downtown master plan area has been divided into downtown-A (D-A) and downtown-B (D-B). These districts are shown on the regulating plan (Figure 17.58-1). The standards of this chapter apply to all property zoned either downtown-A (D-A) or downtown-B (D-B). All qualifying projects under Section [17.36.020](#) (Requirements for design review) within the D-A or D-B zones shall be subject to design review prior to issuance of building permit. Additionally, those uses that require a conditional use permit as listed in Section [17.58.050](#) (Allowed use regulations) shall obtain a conditional use permit prior to establishment of the use.

The application of both the zoning district and the regulating plan (see Section [17.58.030](#) for definition) are described in more detail in Sections [17.58.020\(A\)](#) (Defining the Form-Based Code for Downtown) and [17.58.040](#) (Regulating plan and street typologies and standards). Generally, the zoning district designation (D-A or D-B) defines the character and allowed use provisions for the subject site while the regulating plan defines the development standards (setbacks, building typology, street standards).

B. **Applicability of Regulating Plan Standards.** Generally, the development standards applicable to a property shall be those for the respective zone (either D-A or D-B) and street frontage as reflected in the regulating plan. However, for those properties that face onto multiple street frontages (e.g., a corner lot or a double frontage lot), the following shall apply:

1. **Site Development.** The development standards applicable to the site shall be reflective of the individual sides of the lot. For instance, if a corner lot faces Street A and Street B, then that side of the lot facing Street A shall be developed consistent with the standards for Street A and the side facing Street B shall be developed consistent with the standards for Street B. At the corner, the design shall merge and unify the two (2) standards together such that:

a. The more restrictive setback requirement shall prevail on that side of the corner. For instance, if Street A has a five-foot build-to line and Street B has a zero (0)-foot build-to line, then that side facing Street A shall be located at the five (5)-foot build-to line and the side facing Street B shall be located at the zero (0)-foot build-to line (note: in this example, the building is not centered on the corner; this is consistent with the intent of this provision).

b. The more restrictive design standards shall prevail on that side of the corner, provided the two (2) standards are architecturally integrated together. For instance, if Street A allows for a stoop frontage and Street B does not, a stoop may be developed along the Street A frontage, but at the corner the design of the building must architecturally transition into a frontage type that is allowed along Street B. The same shall be true for allowed building types, storefront regulations, sign types, and landscaping. Only those features allowed on that frontage may be developed on said frontage.

2. Allowed Uses. The least restrictive use provisions shall apply to the entire lot; provided, that the primary entrance for the use either faces the street with the least restrictive use regulations or (preferred) faces the intersection/street corner. For instance, if a corner lot faces Street A and Street B and Street A allows a particular use by right and Street B requires a conditional use permit for the same use, then the use shall be allowed by right on that lot provided the primary entrance to the use is located facing Street A or (preferred) facing the intersection/at the corner.

3. Parking. Parking requirements are generally based on the use of the building; however, where there is a conflict based upon street frontages, the more restrictive/higher parking ratio shall prevail (e.g., one and three-quarters [1.75] spaces per unit are required, not one and one-half [1.5] spaces per unit) across the entire site.

k. Section 17.58.030 of the Municipal Code is hereby amended to read as follows:

**17.58.030 Definitions.**

The following terms are used throughout the form-based code for downtown and are defined as follows:

“Build-to line (BTL)” means an urban setback dimension that delineates the maximum distance from the property line a front or street side building facade can be placed. Typically, build-to lines range from zero (0) feet to ten (10) feet.

“Building type” defines the type of structure based on massing, layout, and use. (See Section [17.58.060\(D\)](#) for further discussion.)

“Bulkhead” means the portion of a commercial facade located between the ground and the bottom of the street level display windows. It is typically constructed of stone, brick, or concrete.

“Expression line” is an architectural embellishment that delineates the end of the ground floor and the start of the second floor of a building.

“Facade” means the architecturally finished side of a building, typically facing onto a public right-of-way or street.

“Form-based code (FBC)” means a development code emphasizing the regulation of building form, scale, and orientation, rather than zoning and land use.

“Frontage line” means a lot line fronting a street, public right-of-way, paseo, plaza, or park.

“Regulating plan” designates building form and streetscape standards based on location, street hierarchy, and character. More specifically, it addresses how development interacts with the street and how the street is developed, and it defines the development standards (setbacks, building typology, street standards).

I. Section 17.76.010 of the Municipal Code is hereby amended to read as follows:

**17.76.010 Purpose and intent.**

The purpose of this chapter is to prescribe standards for landscaping and irrigation for the conservation and protection of property, the assurance of safety and security, the enhancement of privacy, the control of dust, the abatement or attenuation of noise, and the improvement of the visual environment. All new development shall provide landscaping in conformance with the standards contained in this chapter.

m. Chapter 17.96 of the Municipal Code is hereby amended in its entirety to read as follows:

**Chapter 17.96  
ALCOHOLIC BEVERAGE ESTABLISHMENTS**

Sections:

- [17.96.010](#) Use permit required.
- [17.96.020](#) Definitions
- [17.96.030](#) Requirements for on-sale liquor establishments.
- [17.96.040](#) Minimum conditions for off-sale liquor establishments.
- [17.96.050](#) Nonconforming establishments/improvements.
- [17.96.060](#) Existing establishments selling alcoholic beverages (on-sale and/or off-sale).
- [17.96.070](#) Revocation of use permit.
- [17.96.080](#) One-day on-sale licenses.

**17.96.010 Use permit required.**

A. On or after the effective date of the ordinance codified in this title, a use permit must be obtained from the city for all on- and off-sale liquor establishments, with the exception of

veterans clubs, listed fraternal organizations, and restaurants, as defined in Chapter [17.08](#). Existing on-sale and off-sale establishments not exempt from the provisions of this title must obtain a use permit before substantially changing their mode or character of operation or requesting a new, more permissive liquor license.

B. A copy of the conditions of approval for the use permit must be kept on the premises of the establishment and posted in a place where it may readily be viewed by any member of the general public.

C. In making any of the findings required pursuant to this title, the planning commission, or city council on appeal, shall consider whether the proposed use will adversely affect the health, safety or welfare of area residents or will result in an undue concentration in the area of establishments dispensing, for sale or other consideration, alcoholic beverages, including beer and wine.

The planning commission, or city council on appeal, shall also consider whether the proposed use will detrimentally affect nearby residentially zoned community neighborhoods in the area, after giving consideration to the distance of the proposed use from the following:

1. Residential buildings;
2. Churches, schools, hospitals, public playgrounds and parks, convalescent homes, and other similar uses; and
3. Other establishments dispensing for sale, or other consideration, alcoholic beverages including beer and wine.

#### **17.96.020 Definitions.**

“On-sale liquor establishment” means any establishment wherein alcoholic beverages are sold, served or given away for consumption on the premises including but not limited to any facility which has obtained a California Department of Alcoholic Beverages Control license. Typical on-sale uses include, but are not limited to, the following establishments: bars, taverns, night clubs, wineries, wine tasting rooms, breweries or other private clubs. This definition shall not include restaurants as defined in Chapter [17.08](#), veterans’ clubs, or the following fraternal organizations: Elks Club, Moose Club, Eagle Club, Lions Club, or Rotary Club. Fraternal organizations not listed may be exempt upon planning commission approval.

“Off-sale liquor establishment” means any establishment which is applying for or has obtained a liquor license from the California Department of Alcoholic Beverage Control, including Type 20 (off-sale beer and wine), Type 21 (off-sale general), for selling alcoholic beverages in an unopened container for the consumption off the premises. For purposes of this title, the definition of “off-sale liquor establishment” shall not include food markets, supermarkets, convenience markets, drugstores, or any establishment in which sales of alcoholic beverages

constitute less than twenty (20) percent of total retail sales. Upon request, the owner/operator shall submit evidence of total retail sales to the accounting department of the city for the purpose of verifying compliance with this chapter.

**17.96.030 Requirements for on-sale liquor establishments.**

A. No on-sale liquor establishments shall be authorized or maintained within five hundred (500) feet of sensitive uses. Sensitive uses include schools (public and private); established churches or places of worship; hospitals, clinics, or other health care facilities; public parks, or playgrounds or other park or recreational uses; or another on-sale liquor establishment. There shall be no separation requirement between on-sale liquor establishments and a sensitive use within the regulating plan area for the form-based code for downtown as defined in Chapter [17.58](#). For the purposes of this section, distance shall be measured from the nearest entrance used by patrons of such establishments along the shortest route intended and available for public passage to the entrance of other such establishments, or to the nearest property line of any other sensitive use. Veterans' clubs, fraternal organizations and restaurants are excluded from the separation requirement of this section.

B. Exterior lighting of the parking areas shall be kept at an intensity of at least one (1) foot candle of light on the parking surface during the hours of darkness.

C. All establishments shall be required to have a public telephone listing.

D. Special security measures such as security guards, robbery and burglar alarm systems may be required.

E. The noise levels generated by the operation of such establishment shall not exceed fifty (50) dba during daytime and forty-five (45) dba during nighttime, on adjoining properties zoned for residential purposes.

F. It shall be the responsibility of the applicant licensee to provide all staff with the training necessary to gain the knowledge and skills that will enable them to comply with their responsibilities under law. The knowledge and skills deemed necessary for responsible alcoholic beverage service include, but not limited to, the following topics and skills development:

1. State laws relating to alcoholic beverages, particularly ABC and penal provisions concerning sales to minors and intoxicated persons, driving under the influence, hours of legal operation, and penalties for violations of these laws;
2. The potential legal liabilities of owners and employees of businesses dispensing alcoholic beverages to patrons who may subsequently injure, harm or kill themselves or innocent victims as a result of the excessive consumption of alcoholic beverages;

3. The effects of alcohol on the body, and behavior, including how the effects of alcohol relate to the ability to operate a motor vehicle;
4. Methods for dealing with intoxicated customers and recognizing underaged customers. Methods for preventing customers from becoming intoxicated.

**17.96.040 Minimum conditions for off-sale liquor establishments.**

Off-sale liquor establishments shall not sell or store motor fuels on the same premises as alcoholic beverages, except upon the following conditions:

- A. No beer or wine shall be displayed within five (5) feet of the front door unless it is in a permanently affixed cooler.
- B. Exterior lighting of the parking lot shall be kept at an intensity of at least one (1) foot candle on the parking lot surface, so as to provide adequate lighting for patrons while not disturbing residential or commercial areas.
- C. Signs shall be posted both inside and outside the premises in conspicuous places, which state "It is unlawful for any person to sell, drink or consume beer, wine or other alcoholic beverage, as defined in Business and Professions Code Section [23004](#), in or upon the public streets, alley-ways or other public places in the city, including private parking lots held open to the public," Winters Municipal Code Section [9.08.010](#).
- D. No sale of alcoholic beverages shall be made from a drive-through window.
- E. No display or sale of alcoholic beverages shall be made from an ice tub, or similar container.
- F. Exterior public telephones that permit incoming calls may not be located on the premises.
- G. Adult magazines and all printed matter coming within the definition of Section [313](#) of the California Penal Code shall be located for sale only behind the counter and shall be stored in racks covered by modest panels.
- H. Litter and trash receptacles shall be located at convenient locations inside and outside the premises, and operators of such establishments shall remove trash and debris on a daily basis.
- I. Paper or plastic cups shall not be sold in quantities less than their usual and customary packaging.
- J. All establishments shall be required to have a public telephone listing.
- K. No off-sale liquor establishment shall be maintained within five hundred (500) feet of such consideration points as schools (public and private), established churches or other place of

worship, hospitals, convalescent homes, public parks, and playgrounds and/or other similar uses. The distance of five hundred (500) feet shall be measured between the nearest entrances used by patrons of such establishments along the shortest route to other establishments, or to the nearest property line of any of the above referenced consideration points. The separation requirement shall be reduced to two hundred (200) feet for operations located within the central business district.

L. The noise level generated by the operation of such establishments shall not exceed fifty (50) dba at daytime and forty-five (45) dba at nighttime on adjoining property zoned for residential purposes, and sixty-three (63) dba at daytime and forty-five (45) dba at nighttime for commercially zoned property.

M. Hours of operation of off-sale establishments may be restricted upon showing of good cause.

N. It shall be the responsibility of the applicant licensee to provide all staff with the training necessary to gain the knowledge and skills that will enable them to comply with their responsibilities under law. The knowledge and skills deemed necessary for responsible alcoholic beverage service shall include, but not be limited to the following topics and skills development:

1. State laws relating to alcoholic beverages, particularly ABC and penal provisions concerning sales to minors and intoxicated persons, driving under the influence, hours of legal operation, and penalties for violations of these laws;
2. The potential legal liabilities of owners and employees of businesses dispensing alcoholic beverages to patrons who may subsequently injure, kill or harm themselves or innocent victims as a result of the excessive consumption of alcoholic beverages;
3. The effects of alcohol on the body, and behavior, including how the effects of alcohol affect the ability to operate a motor vehicle;
4. Methods for dealing with intoxicated customers and recognizing underaged customers.

**17.96.050 Nonconforming establishments/improvements.**

Except as provided herein, establishments not conforming to the spatial requirements between establishment and referenced consideration points shall not be permitted to expand a structure or portion of structure as determined by the city's building and/or fire inspector. Ordinary repair and maintenance shall not be affected. Spatial requirements may be waived for establishments who wish to expand. Individual plans to expand a structure will be reviewed on a case-by-case basis by the planning commission, or city council on appeal, who will decide if the remodel or upgrade is in the best interest of the city.

**17.96.060 Existing establishments selling alcoholic beverages (on-sale and/or off-sale).**

A. Any establishment lawfully existing prior to the effective date of this section and licensed by the state of California for the retail sale of alcoholic beverages for on-site consumption, excepting restaurants and veterans clubs, and/or off-site consumption within the definitions of Section [17.96.040](#), shall obtain a use permit when: (1) the existing establishment changes its type of liquor license within a license classification and/or (2) there is a substantial change in the mode or character of operation. For purposes of this title "substantial change of mode or character of operation" shall include, but not limited to, expansion, a pattern of conduct in violation of other laws or regulations, a period of closure greater than six (6) months, or increased square footage of alcoholic beverage sales or inventory.

B. Any establishment which becomes lawfully established on or after the effective date of this section and licensed by the state of California for retail sale of alcoholic beverages for on-site and/or off-site consumption, shall obtain a modification of use permit when: (1) the establishment changes its type of liquor license within a license classification and/or 2) there is a substantial change in the mode or character of operations.

**17.96.070 Revocation of use permit.**

Use permits issued under this chapter shall be revocable pursuant to the terms of the zoning ordinance.

**17.96.080 One-day on-sale licenses.**

This chapter shall not apply to applications for one-day on-sale licenses pursuant to Business and Professions Code Section [24045.1](#) and requirements for a temporary activity permit pursuant to this title.

n. Section 17.100.010 of the Municipal Code is hereby amended in its entirety to read as follows:

**17.100.010 Purpose and intent.**

The purpose of this chapter is to prevent community-wide adverse economic impacts, increased crime, decreased property values, and the deterioration of neighborhoods which can result from the concentration of adult-oriented businesses in close proximity to each other or proximity to other incompatible uses such as private and public educational facilities for minors, places of religious assembly or worship, public parks and recreation areas, and residentially zoned districts or uses. The City Council finds that it has been demonstrated in various communities that the concentration of adult-oriented businesses causes an increase in the number of transients in the area, an increase in crime and blight, and also causes other businesses and residents to move elsewhere. It is, therefore, the purpose of this chapter to establish reasonable and uniform regulations to prevent the concentration of adult-oriented businesses or their close proximity to incompatible uses, while permitting the location of adult-oriented businesses in certain areas.

o. Section 17.100.015 of the Municipal Code is hereby added to read as follows:

**17.100.015 Definitions.**

For the purposes of this chapter, certain words and phrases used are defined as follows:

“Adult entertainment use” includes all of the following types of establishments:

“Adult bookstore” means a business which as a regular and substantial course of conduct offers for sale or rent books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes, slides or other visual representatives whose dominant or predominant character and theme is the depiction or description of specified sexual activity or specified anatomical areas, as defined in this chapter.

1. As defined in this subsection, “regular and substantial course of conduct” shall be construed with reference to all relevant factors, including but not limited to the following:
  - a. The proportion of the business’ merchandise which depicts or describes specified sexual activity, specified anatomical areas or is a nonprescription, noncontraceptive sex-incitement device; and
  - b. The percentage of the business’ revenues which are attributable to the sale or rental of merchandise which depicts or specifies sexual activity, specified anatomical areas or is a nonprescription, noncontraceptive sex-incitement device.

“Adult entertainment business” means any business where any of the following conditions exist:

1. The business devotes or intends to devote more than twenty-five (25) percent of its retail inventory (not as measured by the number of items but rather by the cost to the business owner of the inventory) to merchandise whose dominant or predominant character and theme is specified sexual activities or specified anatomical areas, hereafter referred to as “sexually explicit”.
2. The business devotes or intends to devote more than twenty-five (25) percent of the retail floor area to sexually explicit merchandise.
3. The business has not segregated or intends not to segregate in one (1) location in the store all sexually explicit merchandise offered for sale, rental and/or viewing from the non-sexually explicit merchandise.
4. The retail value of sexually explicit inventory offered for sale in each category: (a) books; (b) magazines; (c) Beta videotapes for sale; (d) VHS videotapes for sale; (e) DVDs for sale; (f) Beta videos for rental; (g) VHS videos for rental; (h) DVDs for rental;

(i) novelties; (g) on-premises viewing of images, films and/or videos exceeds or is expected to exceed twenty-five (25) percent if the total retail value of inventory offered for sale in each category.

5. Gross revenue derived from sexually explicit inventory in any particular category (see subdivision 4 above) of inventory exceeds or is expected to exceed twenty-five (25) percent of the total gross revenue for that category.

6. The business advertises (either free or paid for advertisements) in a manner that identifies the business as having sexually explicit merchandise for sale, rental and/or viewing.

7. Any business which offers or advertises sexually explicit merchandise in any of the above categories (see subdivision 4 above), and which fails to make available to the city for inspection and copying all records of revenue on request after reasonable notice not less than twenty-four (24) hours.

8. Any business that is an adult entertainment use based on any of the above conditions may make an application for an exception. Such an application shall be made to the zoning administrator and shall specify all facts supporting the exception and shall have attached to it all supporting documentation.

“Adult hotel” means any hotel which as a regular and substantial course of conduct provides, through closed-circuit television or other media, material which is distinguished or characterized by an emphasis on matter depicting or describing specified sexual activity or specified anatomical areas, as defined in this chapter.

“Adult motion picture theater” means an enclosed building and/or drive-in motion picture theater which is open to the public and which, as a regular course of conduct, is used for presenting filmed or videotaped materials whose dominant or predominant character and theme are the depiction or display or specified sexual activity or specified anatomical areas, as defined in this chapter, for observation by six (6) or more patrons of such use at any one (1) time.

1. As defined in this subsection, “regular and substantial course of conduct” shall be construed with reference to all relevant factors, including but not limited to the following:

- a. The proportion of the theater’s films which depict specified sexual activity or specified anatomical areas;
- b. The number of films depicting or displaying specified sexual activity or specified anatomical areas which are shown at the theater each week, each weekend or each month;

- c. The nature of the films which receive top billing on the theater's marquee or in its advertising; and
- d. The proportion of the theater's revenue which is attributable to the showing of films depicting or displaying specified sexual activity or anatomical areas.

"Adult picture arcade" means any business wherein, as a regular course of conduct, coin or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, television sets or other image producing devices are used to display images to five (5) or fewer persons per machine at any one (1) time, and which images have as a dominant or predominant character and theme the display or depiction of specified sexual activity or specified anatomical areas.

- 1. As defined in this subsection, "regular and substantial course of conduct" is construed with reference to a number of factors, including, but not limited to the following:
  - a. The proportion of the business' movies, shows, pictures and images which have as their predominant theme the display or depiction of specified sexual activity or specified anatomical areas; and
  - b. The proportion of the business' revenue which is attributable to the showing of pictures depicting or displaying specified sexual activity or specified anatomical areas.

"Bathhouse" means an establishment which as a regular and substantial course of conduct provides, for a fee or other consideration, access to any kind of bath facility, including showers, saunas and hot tubs. This definition does not include a bona fide athletic club, health club, school, gymnasium, reducing salon or similar establishment where baths or hydrotherapy are offered as incidental or accessory services.

"Massage" means manipulation of tissues (as by rubbing, kneading or tapping) with the hand, body or other instrument.

"Massage parlor" means any establishment having a fixed place of business where any person engages in or carries on, or permits to be engaged in or carried on, any activity set forth in the definition of "massage" in Chapter [17.04](#). Any establishment engaged in, carrying on, or permitting any combination of massage and bathhouse shall be deemed a massage parlor.

"Modeling studio" means a business which provides as a regular and substantial course of conduct, for a fee or other consideration, figure models who display specified anatomical areas to be observed, sketched, photographed, painted, sculptured or otherwise depicted by persons

paying such consideration. "Modeling studio" does not include schools maintained pursuant the standards set by the State Board of Education.

"Nude dancing theater" means and building or structure which as a regular and substantial course of conduct is used for the presentation of live dancing or modeling, the dominant or predominant character and theme of which are the display of specified sexual activity or specified anatomical areas, as defined in this chapter, and to which the public is permitted or invited.

"Sexual encounter center" means a business which as a regular and substantial course of conduct provides two (2) or more persons, for pecuniary compensation, consideration, hire or reward, with a place to assemble the purpose of engaging in specified sexual activity or displaying specified anatomical areas. "Sexual encounter center" does not include hotels or motels.

"Establishment of an adult entertainment use" means and includes the opening of such a business as a new business, the relocation of such a business or the conversion of an existing use to any adult entertainment use.

"Specified anatomical areas" means and includes, and is limited to, the following:

1. Less than completely and opaquely covered human genitalia, pubic region, buttocks and female breasts below the top of the areola; and/or
2. Human male genitalia in a discernibly turgid state, even if completely or opaquely covered.

"Specified sexual activity" means and includes, and is limited to the following:

1. Actual or simulated genital or anal sexual intercourse;
2. Oral copulation;
3. Bestiality;
4. Direct physical stimulation of unclothed genitals;
5. Masochism;
6. Erotic or sexually-oriented torture, beating or the infliction of pain; or
7. The use of excretory functions in the context of a sexual relationship.

p. Section 17.108.010 of the Municipal Code is hereby amended to read as follows:

**17.108.010 Purpose and intent.**

The purpose and intent of this chapter is to help preserve and protect historic buildings and structures, cultural resources, landmarks, natural feature and other resources of historical significance through the application of the regulations contained in this chapter.

q. Section 17.108.015 of the Municipal Code is hereby added to read as follows:

**17.108.015 Definitions.**

“Alteration” means any exterior change or modification, through public or private action, of any cultural resource or of any property located within a historic district including, but not limited to, exterior changes to or modification of structure, architectural details or visual characteristics such as grading, surface paving, new structures, cutting or removal of trees and other natural features, disturbance of archeological sites or areas, and the placement or removal of any exterior objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings and landscape accessories affecting the exterior visual qualities of the property.

“Cultural resource” means improvements, buildings, structures, signs, features, sites, places, areas or other areas of scientific, aesthetic, educational, cultural, archeological, agricultural, religious, ethnic, architectural, or historical significance to the citizens of the city, or the state of California, or the nation.

“Designated site” (historic site, cultural resource site, landmark site) means a parcel or part thereof on which a cultural resource is situated, and any abutting parcel or part thereof constituting part of the premises on which the cultural resource is situated, and which has been deemed a designated site pursuant to this chapter.

“Designated structure” (landmark, cultural resource, historic structure) means any improvement that has special historical, cultural, aesthetic or architectural character, interest or value as part of the development, heritage or history of the city, the state of California, or the nation and that has been designated pursuant to this chapter.

“Exterior architectural feature” means the architectural elements embodying style, design, general arrangement and components of all of the outer surfaces of an improvement, including but not limited to the kind, color and texture of the building materials and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such improvement.

“Historic district” means any area containing improvements which have a special character, historical interest or aesthetic value or which represent one or more architectural periods or

styles typical to the history of the city, and which improvements constitute a distinct section of the city that has been designated a historic district pursuant to this chapter.

“Improvement” means any building, structure, place, parking facility, fence, gate, wall, work of art or other object constituting a physical betterment of real property, or any part of such betterment.

“Natural feature” means any tree, plant life, geographical or geological site or feature subject to the provisions of this chapter.

“Object” means a material thing of functional, aesthetic, cultural, symbolic, archeological, religious, ethnic, agricultural or scientific value, usually by design or nature movable.

“Potential cultural resource” means an improvement, object or natural feature which may be nominated for consideration by the commission and may be designated under the condition that either: (1) more research becomes available regarding its eligibility; or (2) the resource is restored to its original condition; or (3) the resource is one of the few remaining examples in the city of its type.

“Preservation” means the identification, study, protection, restoration, rehabilitation or enhancement of cultural resources.

“Secretary of the Interior Standards for Rehabilitation” means the guidelines prepared by the National Park Service for Rehabilitating Historic Buildings and the Standards for Historic Preservation Projects prepared by the National Park Service with Guidelines for Applying the Standards.

“Significant feature” means the natural or man-made elements embodying style or type of cultural resource, design, or general arrangement and components of an improvement, including but not limited to, the kind, of the building materials and type and style of all windows, doors, lights, signs and other fixtures appurtenant to such improvement.

r. Section 17.112.010 of the Municipal Code is hereby amended to read as follows:

**17.112.010 Purpose and intent.**

This chapter shall provide for the conversion of projects where ownership of existing buildings is subdivided, whether such subdivision involves residential to commercial/industrial or commercial/industrial to commercial/industrial, and whether such conversion is to condominium, as defined in Section 1350 of the Civil Code, to community apartment projects, as defined in Section 11004 of the Business and Professions Code, or to stock cooperatives, as defined in Section 11003.2 of the Business and Professions Code.

This chapter recognizes that a conversion is different from new construction in that the owners of a unit in a conversion take responsibility for a building built under standards that may be less stringent than those that are currently required, and existing tenants may be displaced by a conversion. A conversion also differs from a leased or rental property in that the unit owner assumes long-term responsibility for the unit owned, for the common areas of the project, and the higher level of economic cost required to own instead of rent.

The intent of this chapter is to provide increased options for commercial development and business ownership opportunities. The further intent of this chapter is to mitigate the hardship caused by displacement of commercial tenants; and to assure that conversion projects maintain long-term economic value for the owner.

Therefore, such conversions shall be permitted, provided that they shall comply with the standards set forth in this chapter for the class of conversion proposed and all other applicable laws.

s. Section 17.112.020 of the Municipal Code is hereby amended to read as follows:

**17.112.020 Definitions.**

The following definitions pertain to this chapter related to condominium conversions and new construction:

“Applicant” means the owner(s) or subdivider(s) with a controlling interest in the proposed project, and any successors in interest.

“Association” means the organization created to own, lease, manage, maintain, preserve and control the lots, parcels or areas of a project, or any portions thereof or interests therein owned in common by the owners of the separately owned condominium units.

“Commercial condominium project” means a commercial condominium project intended for commercial occupancy.

“Common area” means an entire condominium project excepting all units therein.

“Condominium” means and includes:

1. “Condominium” as defined by Section [783](#) of the Civil Code;
2. “Community apartment project” as defined by Section [11004](#) of the Business and Professions Code;

3. "Stock cooperative" as defined by Section [11003.2](#) of the Business and Professions Code; and

4. "Planned development" as defined by Section [11003](#) of the Business and Professions Code.

The term "condominium" specifically includes, but is not limited to, the conversion of any existing structure for sale pursuant to a method described in subsections 1 through 4 of this definition.

"Condominium conversion" or "conversion" means a change in the ownership of a parcel or parcels of property, together with structures thereon, whereby the parcel or parcels and structures previously used as rental units are changed to condominium ownership. Condominium conversion includes projects which have previously obtained final map approval, but have not proceeded to sell any of the units.

"Condominium project" or "project" includes the real property and any structures thereon, or any structures to be constructed thereon, which are to be divided into condominium ownership.

"Condominium unit" or "units" means the individual spaces within a condominium project owned as individual estates.

"Eligible tenant" means any tenant who was a resident of the condominium project proposed for conversion on the date notice of intent to convert is given as required by state law.

"Notice of intent to convert" means the notice required to be served upon tenants or prospective tenants pursuant to the requirements of Section 66427.1, 66452.8, 66452.9 or 66459 of the Subdivision Map Act. The definition includes both sixty (60) and one hundred eighty (180) day notices as further defined in the applicable section.

"Special category tenants" refers to persons or tenants who fall within one or more of the following categories:

1. "Elderly" means individuals sixty-two (62) years of age or older;
2. "Handicapped" or "permanently disabled" means as defined in Section [50072](#) of the California Health and Safety Code or 42 U.S.C. 423 and 24 CFR 8.3;
3. "Low income" or "very low income" means as defined in Section 17.200.020.

t. Section 17.116.010 of the Municipal Code is hereby amended to read as follows:

**17.116.010 Purpose and intent.**

The sidewalk cafe regulations as established in this chapter are intended to encourage the establishment of sidewalk cafes in the city of Winters, to provide for the creation of a more urban pedestrian environment, and to promote and protect the public health, safety, and general welfare. These goals include among others the following specific purposes:

- A. To encourage and promote sidewalk cafes as visual amenities which in turn intensify pedestrian activity and make street life more attractive;
- B. To enhance the character of the city of Winters; and
- C. To ensure adequate space for pedestrians on the sidewalk adjacent to sidewalk cafes.

u. Section 17.120.010 of the Municipal Code is hereby amended to read as follows:

**17.120.010 Purpose and intent.**

It is the purpose and intent of the Winters city council, through the adoption of this chapter, to establish an abandoned or vacant property registration program as a mechanism to protect neighborhoods and commercial areas from becoming blighted through the lack of adequate maintenance and security of abandoned and vacated properties.

v. Section 17.120.020 of the Municipal Code is hereby amended to read as follows:

**17.120.020 Definitions.**

For the purposes of this chapter, certain words and phrases used in this chapter are defined as follows:

“Abandoned” means a property that is vacant and is: (A) under a current notice of default; (B) under a current notice of trustee’s sale; (C) pending a tax assessor’s lien sale; (D) any property that has been the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure; and (E) any property transferred under a deed in lieu of foreclosure/sale.

“Accessible property” means a property that is accessible through a compromised/breached window, gate, fence, wall, etc.

“Accessible structure” means a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.

“Beneficiary” means a lender or holder of a note secured by a deed of trust.

“Beneficiary/trustee” means both the beneficiary and the trustee. When any act is required of the beneficiary/trustee by this chapter, both are responsible for performing such act and may be charged with a violation of this code for failure to act. However, it is sufficient if it is accomplished by either one. If information is required to be provided, then both must provide such information.

“Deed in lieu of foreclosure/sale” means a recorded document that transfers ownership of a property from the trustor to the holder of a deed of trust upon consent of the beneficiary of the deed of trust.

“Deed of trust” means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan and often used in California instead of a mortgage. This definition applies to any and all subsequent deeds of trust, i.e., second trust deed, third trust deed, etc.

“Distressed” means a property that is under a current notice of default and/or notice of trustee’s sale and/or pending tax assessor’s lien sale or has been foreclosed upon by the trustee or has been conveyed to the beneficiary/trustee via a deed in lieu of foreclosure/sale.

“Evidence of vacancy” means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant and not occupied by authorized persons. Such conditions include, but are not limited to, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, past due utility notices and/or disconnected utilities, accumulation of trash, junk and/or debris, the absence of window coverings such as curtains, blinds and/or shutters, the absence of furnishings and/or personal items consistent with residential habitation, and statements by neighbors, passersby, delivery agents, or government employees that the property is vacant.

“Local” means within thirty (30) road/driving miles distant of the subject property.

“Notice of default” means a recorded notice that a default has occurred under a deed of trust and that the beneficiary intends to proceed with a trustee’s sale.

“Out of area” means in excess of thirty (30) road/driving miles’ distance of the subject property.

“Property” means any unimproved or improved real property, or portion thereof, situated in the city and includes the buildings or structures located on the property regardless of condition.

“Responsible person” means any person, partnership, association, corporation, or fiduciary having legal or equitable title to or any interest in any real property and includes trustees and beneficiaries of a deed of trust on the property and any other lien holder on the property.

“Securing” means such measures as may be directed by the director of community development, or his or her designee, that assist in rendering the property inaccessible to unauthorized persons, including but not limited to the repairing of fences and walls, chaining or padlocking of gates, or the repair or boarding of doors, windows and/or other openings. Boarding shall be completed to a minimum of the current HUD securing standards at the time the boarding is completed or required.

“Trustee” means the person, firm or corporation holding a deed of trust on a property.

“Trustor” means a borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.

“Vacant” means a building/structure that is not occupied by authorized persons.

w. Section 17.122.020 of the Municipal Code is hereby amended to read as follows:

**17.122.020 Definitions.**

For the purposes of this chapter, the following word shall have the meaning respectively ascribed to it in this section.

“Single room occupancy” means a facility providing six (6) or more dwelling units where each unit has a minimum floor area of one hundred fifty (150) feet and a maximum floor area of four hundred (400) square feet. These dwelling units may have kitchen or bathroom facilities and shall be offered on a monthly basis or longer.

x. Section 17.123.020 of the Municipal Code is hereby added to read as follows:

**17.123.020 Definitions.**

“Farmworker” means the same as “agricultural employee” as defined in Section [1140.4\(b\)](#) of the California Labor Code.

“Farmworker dwelling unit” means a single-family residential unit occupied by a maximum of six farmworkers at any one time.

“Farmworker housing” means a housing accommodation developed for and/or provided to farmworkers and shall consist of any living quarters, dwelling, boarding house, tent, barracks, bunkhouse, maintenance-of-way car, mobile home, manufactured home, recreational vehicle, travel trailer, or other housing accommodation maintained in one (1) or more buildings and on one (1) or more sites. Farmworker housing shall consist of either a farmworker dwelling unit or a farmworker housing complex.

“Farmworker housing complex” means farmworker housing other than a farmworker dwelling unit that (1) contains a maximum of thirty-six (36) beds if the housing consists of any group living quarters, such as barracks or a bunkhouse, and is occupied exclusively by farmworkers; or (2) contains a maximum of twelve (12) residential units occupied exclusively by farmworkers and their households, if the housing does not consist of any group living quarters.

- o. Section 17.200.020 of the Municipal Code is hereby amended to read as follows:

**17.200.020 Definitions.**

“Affordable housing” means affordable sales housing or affordable rental housing. Affordable housing focuses on moderate, low and very low income households as defined herein and by state statute.

“Affordable housing steering committee” means an advisory committee appointed by the city council for the purpose of advising the city council, planning commission, community development agency and city staff on affordable housing policies and programs, use of redevelopment housing funds, proposed affordable housing projects, and other housing matters, at the request of the city council.

“Inclusionary housing agreement” means an agreement between the developer and the city setting forth the manner in which the inclusionary housing requirements will be met in the development project.

“Inclusionary housing plan” means the plan setting forth the manner in which the developer proposes to satisfy the inclusionary housing requirements of this chapter within the development project.

“Inclusionary housing requirement” means the inclusionary housing requirements as specified in this chapter.

“Inclusionary housing unit” or “inclusionary unit” means an ownership or rental unit developed or provided in satisfaction of the inclusionary housing requirements of a development project, as provided for in this chapter, and which is affordable to very low, low income or moderate income households.

“Low income household” means a household whose income does not exceed eighty (80) percent of median income applicable to Yolo County, adjusted for family size, as published and annually updated by the United States Department of Housing and Urban Development.

“Moderate income household” means a household whose income does not exceed one hundred twenty (120) percent of median income applicable to Yolo County, adjusted for family size, as

published and annually updated by the United States Department of Housing and Urban Development.

“Very low income household” means a household whose income does not exceed fifty (50) percent of the median income, adjusted for household size, applicable to Yolo County, as published and periodically updated by the United States Department of Housing and Urban Development.

4. Severability. If any provision or clause of this ordinance or any application of it to any person, firm, organization, partnership or corporation is held invalid, such invalidity shall not affect other provisions of this ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are declared to be severable.

5. Effective Date and Notice. This ordinance shall take effect thirty (30) days after its adoption and, within fifteen (15) days after its passage, shall be published at least once in a newspaper of general circulation published and circulated within the City of Winters.

**INTRODUCED** at a regular meeting on the \_\_\_\_ day of \_\_\_\_\_, 2016 and **PASSED AND ADOPTED** at a regular meeting of the Winters City Council, County of Yolo, State of California, on the \_\_\_\_ day of \_\_\_\_\_, 2016 by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Cecilia Aguiar-Curry, Mayor

ATTEST:

\_\_\_\_\_  
Nanci G. Mills, City Clerk

## NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City of Winters will conduct a Public Hearing by the Planning Commission on Tuesday, September 27, 2016 at 6:30 p.m. at the City Council Chambers located on the first floor of City Hall at 318 First Street, Winters, California to consider the following project.

**Various amendments to Title 17 (Zoning Ordinance)** of the Winters Municipal Code, which includes the following entitlements:

1. Increasing the maximum allowable height in a Highway Commercial (C-H) Zone from 30 to 45 feet, deleting duplicative definitions from various sections, and standardizing the formatting; and
2. Find the project Categorically Exempt from CEQA Section 15301, Existing Facilities; and
3. Recommending the City Council to approve an ordinance amending Title 17 (Zoning Ordinance) of the Municipal Code.

The purpose of the public hearing will be to provide citizens an opportunity to make their comments on the proposed project. If you are unable to attend the public hearing, you may direct written comments to the City of Winters, Community Development Department, 318 First Street, Winters, CA 95694 or to [dave.dowswell@cityofwinters.org](mailto:dave.dowswell@cityofwinters.org). In addition, the staff report will be available on the City's website on September 22, 2016.

In compliance with the Americans with Disabilities Act, if you are a disabled person and you need a disability-related modification or accommodation to participate in these hearings, please contact City Clerk Nanci Mills at (530) 795-4910, ext. 101. Please make your request as early as possible and at least one-full business day before the start of the hearing.

The City does not transcribe its hearings. If you wish to obtain a verbatim record of the proceedings, you must arrange for attendance by a court reporter or for some other means of recordation. Such arrangements will be at your sole expense.

If you wish to challenge the action taken on this matter in court, the challenge may be limited to raising only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission prior to the public hearing.

Availability of Documents: Copies of the Staff Report will be available on the City's website [www.cityofwinters.org](http://www.cityofwinters.org)

For more information regarding this project, please contact David Dowswell, Contract Planner – Planning, at (530) 794-6714.



**PLANNING COMMISSION  
STAFF REPORT**

**TO:** Chair and Planning Commissioners  
**DATE:** September 27, 2016  
**FROM:** David Dowswell, Community Development Department   
**SUBJECT:** Study Session – Discussion about adopting a new nuisance abatement ordinance amending Title 19, Code Enforcement, of the Winters Municipal Code.

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**RECOMMENDATION:** That the Planning Commission review the proposed amendments ask questions, take comments from the public and recommend any changes to the ordinance for the City Council to consider.

**BACKGROUND:** Recently the City had a code enforcement case involving a property on Niemann Street. During the abatement process staff became aware that the existing nuisance ordinance, which is part of Title/Chapter 19 (Code Enforcement) of the Winters Municipal Code (Code) (Attachment 1), has a number of deficiencies. The most significant deficiency is not having a definition of what constitutes a “nuisance”. Staff also realized the appeal hearing process is very cumbersome and needs revising and that most of the costs the city incurred to abate the case could not be recovered. Rather than amending the various sections of Chapter 19 the City Attorney prepared an entirely new Chapter 19 ordinance based on similar ordinances from other cities in the state.

**ANALYSIS:** The proposed nuisance abatement ordinance is not part of the Zoning Ordinance (Title 17) of the Code, and as such the Planning Commission is not directly responsible for its enforcement. However, a nuisance can involve a property where the Planning Commission may have been a part of the entitlement process. Staff is therefore bringing this ordinance to the Commission for review and comment.

The proposed nuisance ordinance (Attachment 2) is tailored to meet Winters needs and address recent changes in state law, specifically having to do with the use of marijuana. Added to the nuisance ordinance, which is not in the current Code, is a definition (Section 19.04.030) of what constitutes a “nuisance”, a section which allows the City to recover city

attorney and other costs incurred during the abatement process. The appeal hearing procedure has been simplified by having a dedicated person (city clerk) serve as a hearing officer rather than, as currently required, the community development director appointing or hiring an outside person to serve in this capacity. To maintain objectivity the hearing officer shall not have been responsible for or directly involved with the enforcement action. Also, a number of sections have been added describing the process by which the city can lien or assess a property for the costs incurred to abate the code violation if the property owner fails to abate the violation in a timely manner. Lastly, a section has been added that if the property owner is found guilty of a second violation (Section 19.06.100) within two years of a first offense the costs/fines may be tripled to abate the violation.

**PROJECT NOTIFICATION:** Prior to the City Council public hearing an eighth (1/8) of a page legal notice advertising for the public hearing on the proposed amendments will be prepared by the Community Development Department in accordance with notification procedures set forth in the City of Winters' Municipal Code and state planning law.

**RECOMMENDATION:** That the Planning Commission review the proposed amendments, ask questions, take comments from the public and recommended any changes to the ordinance for City Council consideration.

**ATTACHMENTS:**

- A. Existing Title/Chapter 19 Code Enforcement regulations
- B. Proposed new Title/Chapter 19 Nuisance Ordinance redline copy
- C. Proposed new Title/Chapter 19 Nuisance Ordinance clean copy

**Title 19**  
**CODE ENFORCEMENT**

**Chapters:**

- 19.04 Code Enforcement Generally**
- 19.08 Nuisance Abatement**
- 19.12 Administrative Citations**
- 19.16 Hearing Procedure**

**Chapter 19.04**  
**CODE ENFORCEMENT GENERALLY**

**Sections:**

- 19.04.010 Purpose and authority.
- 19.04.020 Definitions.
- 19.04.030 Code violations.
- 19.04.040 Duty to enforce.
- 19.04.050 Criminal enforcement.
- 19.04.060 Civil actions.
- 19.04.070 Public nuisance.
- 19.04.080 Administrative citations.
- 19.04.090 Reservation of rights.
- 19.04.100 Service procedures.
- 19.04.110 Authority to inspect property.
- 19.04.120 Authority to obtain records.

**19.04.010 Purpose and authority.**

The city council establishes the procedures set forth in this title for declaring and addressing violations of the Winters Municipal Code, pursuant to California Government Code Sections 36900 et seq., 38660, 38771 through 38775, inclusive, 53069.4, 54988, and all other statutes and laws referenced herein. The purpose of this title is to provide criminal, civil and administrative remedies, which shall be in addition to all other legal remedies that may be pursued by the city, to prevent, discourage, abate, or otherwise address any violation of this code. It is the policy of the city to first seek to address code violations through the least intrusive remedies available, including administrative remedies, prior to instituting such remedies as civil or criminal actions. (Ord. 2010-01 § 1 (part))

**19.04.020 Definitions.**

For the purposes of this title, the words and terms set forth in this section shall have the following definitions:

- A. "Affected property" means any real property or portions thereof within city boundaries, including any buildings or other improvements located on such property, where code violations allegedly exist or have previously existed.

- B. "Code" means the Winters Municipal Code, as it may be amended from time to time.
- C. "Code enforcement officer" means any person authorized or directed by the city manager to enforce any provision of this code.
- D. "Compliance" means all actions required to remove, alleviate, eliminate, halt, or mitigate a violation of this code in the manner and in the time frame prescribed by a code enforcement officer, hearing officer, or the director.
- E. "Day" and "days" mean calendar days.
- F. "Director" means the community development director.
- G. "Enforcement action" means any notice of violation, hearing, citation, investigation, complaint or petition, or any administrative or judicial order under authority of this title or any other legal authority.
- H. "Hearing officer" means any person appointed by the director to conduct a hearing pursuant to this title.
- I. "Responsible party" means any person, or parent or legal guardian of any person under eighteen (18) years of age, whose acts or omissions have caused or contributed to a violation of this code, and shall include any owner(s) or occupant(s) of the affected property. (Ord. 2010-01 § 1 (part))

**19.04.030 Code violations.**

It is unlawful for any person to violate any provision or fail to comply with any requirement of this code. Any responsible party (including, without limitation, any agent, employee, or contractor of the responsible party) violating or contributing to the violation of any code requirement or such term or condition may be subject to an enforcement action as provided in this title and in any other applicable law. The owner of any property, building, or structure within the city has the responsibility for keeping such property, building, or structure free of violations related to its use or condition. The owner of such property, building, or structure is separately liable for violations committed by occupants relative to the use or condition of the property.

- A. It is unlawful, and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the city to maintain a medical cannabis dispensary upon such premises or property.
- B. A medical cannabis dispensary is defined as any place, location, building or establishment where medical cannabis is traded, exchanged, sold, distributed or cultivated which would otherwise require a business license, home occupation permit, or any other use permit to conduct similar type activities.
- C. Notwithstanding the prohibition in subsection A of this section, medical cannabis collectives and cooperatives formed in a manner consistent with California law and the California Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August 2008 shall be permitted to operate

provided they do not sell, exchange, trade, distribute or cultivate medical marijuana in a manner prohibited by subsection A of this section, and that they do not exchange payment or gift in the form of money for such medical marijuana. (Ord. 2011-05 § 7; Ord. 2010-01 § 1 (part))

**19.04.040 Duty to enforce.**

Nothing in this title shall be construed as requiring the city to pursue the code enforcement remedies contained herein for every code violation that occurs within the city. The city envisions that this title will be enforced, in the city's prosecutorial discretion, as resources permit. Nothing in this section or the absence of any similar provisions from any other city law shall be construed to impose a duty on the city to enforce such other provision of law. This title is not intended to and shall not be construed or given effect in a manner that imposes upon the city or any officer or employee thereof a mandatory duty of care towards persons and property within or without the city so as to provide a basis of civil liability for damages, except as otherwise imposed by law. (Ord. 2010-01 § 1 (part))

**19.04.050 Criminal enforcement.**

In addition to the remedies set forth in this title, any violation of this code may be subject to criminal prosecution according to the procedures set forth in Chapter 1.16 of this code. Upon entry of a second or subsequent criminal judgment against the same owner or other responsible party within a two-year period for a condition of real property constituting a public nuisance (except for conditions abated pursuant to Health and Safety Code Section 17980), the court issuing the judgment may order said owner or other responsible party to pay treble the cost of the abatement, pursuant to Government Code Section 38773.7. (Ord. 2010-01 § 1 (part))

**19.04.060 Civil actions.**

In addition to the remedies set forth in this title, the city attorney, at the discretion of the city council, may institute an action in any court of competent jurisdiction to restrain, enjoin, or abate any violation of this code. The city in any such civil action shall be entitled to recovery of attorney's fees and costs incurred in such action. Upon entry of a second or subsequent civil judgment against the same owner or other responsible party within a two-year period for a condition of real property constituting a public nuisance (except for conditions abated pursuant to Health and Safety Code Section 17980), the court issuing the judgment may order said owner or other responsible party to pay treble the cost of the abatement, pursuant to Government Code Section 38773.7. (Ord. 2010-01 § 1 (part))

**19.04.070 Public nuisance.**

Any violation of this code is hereby declared to be a public nuisance. In addition to the remedies set forth in this title, any public nuisance may be abated by the city according to the procedure set forth in Chapter 19.08, except as otherwise provided in Chapter 8.08 (Abandoned Vehicles), Chapter 8.12 (Weed and Rubbish Abatement), Chapter 12.08 (Trees), and Chapter 15.56 (Alternate Procedures for the Abatement of Dangerous and Unsafe Buildings). (Ord. 2010-01 § 1 (part))

**19.04.080 Administrative citations.**

In addition to the remedies set forth in this title, any violation of this code may be subject to the administrative citation process according to the procedures set forth in Chapter 19.16. (Ord. 2010-01 § 1 (part))

**19.04.090 Reservation of rights.**

In addition to the remedies provided in this title, the city expressly reserves the right to utilize enforcement remedies available under any applicable state or federal statute or pursuant to any other lawful power the city may possess. The election of remedies provided by this title or other applicable law shall be at the sole discretion of city officials. (Ord. 2010-01 § 1 (part))

**19.04.100 Service procedures.**

A. Whenever notice or other document is required to be given under this title, it shall be personally served or served by mail pursuant to the provisions of Section 1.04.110 of this code. In the case of personal service, service shall be deemed complete at the time of such delivery. In the case of mail, service shall be deemed complete as provided in Section 1.04.110 of this code.

B. Where service of a notice of violation, first offense warning, or administrative citation is by mail, a copy of the notice of violation, first offense warning, or administrative citation shall also be conspicuously posted at the affected property.

C. Proof of service of any notice or other document required to be given under this title shall be certified by a written declaration under penalty of perjury executed by the person effecting service, declaring the date, time and manner of service, and the place of posting, if applicable. The declaration shall be affixed to a copy of the notice or other document and retained by the code enforcement officer.

D. The failure of a responsible party to receive any notice or other document served in accordance with this section shall not affect the validity of any proceedings taken under this title. (Ord. 2010-01 § 1 (part))

**19.04.110 Authority to inspect property.**

A. A code enforcement officer may enter and inspect any affected property pursuant to the provisions of Chapter 1.12 of this code to perform any duty imposed upon him or her by this title whenever the code enforcement officer has cause to believe a violation is occurring. Notwithstanding the foregoing, any individual or occupant of any property within the city has the right to deny entry to a code enforcement officer requesting entry for inspection purposes.

1. If entry is denied, pursuant to Section 1.12.010, the code enforcement officer may seek a court-ordered inspection warrant pursuant to the Code of Civil Procedure Section 1822.50 et seq. Upon issuance of an inspection warrant, the code enforcement officer shall cause such warrant to be executed in accordance with the procedures set forth in Code of Civil Procedure Section 1822.56.

2. If entry and inspection pursuant to a court-ordered inspection warrant are denied, the code enforcement officer shall have recourse to every remedy provided by law to secure entry.

B. Inspections performed pursuant to Chapter 1.12 and/or an inspection warrant may include, but not be limited to, the taking of photographs, samples, measurements, surveys, or obtaining other physical evidence, and/or conferring with any person(s) present at the affected property, as permitted by law and consistent with legally recognized privacy rights. (Ord. 2010-01 § 1 (part))

**19.04.120 Authority to obtain records.**

The city shall have the right and authority to request and review records from the responsible party or any third party that is, or may be, related to the subject matter of the enforcement action, and to make copies of the same at the expense of the city, in any manner authorized by law. (Ord. 2010-01 § 1 (part))

## **Chapter 19.08 NUISANCE ABATEMENT**

**Sections:**

- 19.08.010 Nuisance abatement (nonemergency).
- 19.08.020 Summary abatement (emergency).
- 19.08.030 Notice of violation—Stop work order.
- 19.08.040 Time allowed for abatement by the responsible party.
- 19.08.050 Violation disputes.
- 19.08.060 Abatement hearing.
- 19.08.070 Abatement order and abatement warrant.
- 19.08.080 Appeal of an abatement order.
- 19.08.090 Recovery of abatement costs.
- 19.08.100 Report and confirmation of abatement costs.

**19.08.010 Nuisance abatement (nonemergency).**

Whenever a code enforcement officer determines that a code violation exists, the code enforcement officer may pursue the abatement of such violation according to the procedures provided in this chapter. (Ord. 2010-01 § 1 (part))

**19.08.020 Summary abatement (emergency).**

Notwithstanding any other provision of this code, whenever, in the reasonable discretion of the code enforcement officer, the existence or continuance of any violation poses an imminent or immediate threat of harm to persons or property, or to public health, welfare or safety, a code enforcement officer may act immediately and without prior notice or hearing to abate or cause the abatement of such violation on behalf of the city pursuant to this section. Notwithstanding the foregoing, a reasonable effort shall be made to notify the owner of the premises in advance of abatement.

The city's director of financial management shall keep an itemized account of the costs incurred by the city in abating the violation and shall submit a report of the abatement costs to the director in accordance with Section 19.08.100. The report of abatement costs shall also be served on the responsible party and shall include

notice of the time and place when a hearing will be conducted in which the responsible party may contest the validity of the summary abatement and the costs incurred by the city in abating the violation pursuant to the procedures in Section 19.08.100. Such costs may be recovered to the same extent and in the same manner that abatement costs are recovered pursuant to Section 19.16.060. (Ord. 2010-01 § 1 (part))

**19.08.030 Notice of violation—Stop work order.**

A. A notice of violation serves as a written warning of responsibility and requires action by the responsible party to cease and abate the violation. A notice of violation is not required if the code enforcement officer determines that summary abatement is necessary pursuant to Section 19.08.020.

B. The notice of violation shall include the following information:

1. The date, approximate time and location of the violation, including the address or other description of the location where the violation occurred or is occurring;
2. The name(s) of the responsible party(ies), if known;
3. The code section(s) violated and a description of the violation(s);
4. An order prohibiting the continuation or repeated occurrence of the violation;
5. A description of the action necessary to abate the violation;
6. A period of time during which the action necessary to abate the violation shall be commenced and completed, which shall be determined pursuant to Section 19.08.040;
7. A statement that the period of time during which the action necessary to abate the violation shall be commenced and completed may be extended pursuant to the procedure set forth in Section 19.08.040;
8. A statement informing the responsible party that he or she may dispute the violation by contacting the city clerk to set up a meeting with the director to discuss the matter within ten (10) days of receiving the notice of violation;
9. An order requiring the responsible party to appear at an abatement hearing upon the expiration of the period of time to abate the violation or any extension of that time period granted by the director pursuant to Section 19.08.040 in the event that the responsible party fails to abate the violation;
10. The time, date and place for the abatement hearing;
11. A description of the abatement process, including the types of evidence that may be submitted at the abatement hearing; and

12. The name and signature of the code enforcement officer, city contact information (address, telephone number) for additional information and, if possible, the signature of the responsible party.

C. If the violation is related to a permit, license, or other city approval of a project, the notice of violation may be accompanied by a stop work order which orders the responsible party to immediately stop any and all work on the project that is subject to the permit, license or approval until the violation is corrected. (Ord. 2010-01 § 1 (part))

**19.08.040 Time allowed for abatement by the responsible party.**

A. Any notice of violation issued pursuant to Section 19.08.030 or abatement order issued pursuant to Section 19.16.040 shall provide a reasonable time during which the action necessary to abate the violation shall be commenced and completed based upon the circumstances of the particular violation, taking into consideration the following factors:

1. The means required to abate the violation;
2. The period of time that the violation has existed; and
3. The potential threat to public health and safety created by the violation.

B. If a violation pertains to building, plumbing, electrical, mechanical, or other similar structural or zoning issues and does not pose an imminent threat of harm to persons or property, or to the public health, welfare, or safety, the responsible party shall be provided an appropriate amount of time to abate the violation as determined by the code enforcement officer, but in no event shall that amount of time be less than seven days.

C. Any responsible party receiving a notice of violation may file a written request for extension with the city clerk for consideration by the director for an extension of time to abate the violation identified in the notice of violation; provided, that the written request is received before the end of the period set forth in the notice of violation to abate the violation. The director may grant an extension of time to abate the violation if the person requesting the extension of time has supplied sufficient evidence showing that the abatement cannot reasonably be made within the period set forth in the notice of violation. (Ord. 2010-01 § 1 (part))

**19.08.050 Violation disputes.**

If a person designated as the responsible party in the notice of violation wishes to dispute the alleged code violation, he or she may contact the city clerk to set up a meeting with the director to discuss and seek resolution of the matter within ten (10) days of receiving the notice of violation. If the concerns of the person designated as the responsible party in the notice of violation are not satisfactorily addressed in this meeting, he or she will be entitled to present those concerns at an abatement hearing as described in this title. (Ord. 2010-01 § 1 (part))

**19.08.060 Abatement hearing.**

All abatement hearings shall be conducted pursuant to the procedures set forth in Chapter 19.16 and shall be subject to all of the provisions of this title. (Ord. 2010-01 § 1 (part))

**19.08.070 Abatement order and abatement warrant.**

A. An abatement order issued pursuant to Section 19.16.040 may include any combination of the following remedies:

1. Issue a cease and desist order requiring the responsible party to immediately stop the violation.
2. Require the responsible party to abate the violation according to a proposed schedule to abate the violation within a reasonable time as determined according to Section 19.08.040.
3. Require the responsible party to restore a site or location that has been damaged or disturbed as a result of the violation to a previolation condition.
4. Require the responsible party to mitigate any damage or disturbance to protected or environmentally sensitive areas as a result of any violation, including, without limitation, off-site replacement of damaged or destroyed natural resources where on-site restoration or mitigation is not feasible, as determined by the city.
5. Impose conditions that restrict or regulate the development of, use of, or activity on real property where a nexus exists between the violation and the development, use, or activity. Conditions may be imposed until the violation is fully abated. Restrictions and regulations on current or future development, use, or activity may include site restoration and/or the suspension or revocation of any entitlements issued by the city.
6. Authorize the city to abate or cause the abatement of the violation where the responsible party has refused or otherwise neglected to abate the violation or is unable to take steps to abate the violation. The abatement order shall specify that if the city undertakes the abatement of the violation, the city shall be entitled to recover all costs of abatement incurred in performing such work and other costs necessary to enforce the order. Any abatement costs incurred as a result of the city actions to abate a violation pursuant to an abatement order may be recovered by the city as a personal obligation and/or through a lien or a special assessment on the affected property pursuant to Section 19.16.060.
7. Any other order or remedy that serves the interests of justice.

B. If an abatement order is issued pursuant to Section 19.16.040 authorizing the city to abate a violation, an authorized representative of the city may petition a court of competent jurisdiction for an abatement warrant authorizing a code enforcement officer or any employee, authorized agent, representative, or contractor of the city to enter onto any affected property to abate the violation. An abatement warrant, as contemplated in this section, shall be requested in the same manner, and be in

substantially the same form, as an inspection warrant pursuant to Code of Civil Procedure Section 1822.50 et seq. The city shall seek the written consent of the responsible party to allow the city to perform the necessary work prior to seeking an abatement warrant from a court. Upon issuance of an abatement warrant, as described in this section, the code enforcement officer shall cause such warrant to be executed in accordance with the procedures set forth in Code of Civil Procedure Section 1822.56. (Ord. 2010-01 § 1 (part))

**19.08.080 Appeal of an abatement order.**

An abatement order issued pursuant to Section 19.16.040 may be appealed to the city manager pursuant to Section 19.16.050. (Ord. 2010-01 § 1 (part))

**19.08.090 Recovery of abatement costs.**

The city may elect to recover its costs to abate a violation, including, without limitation, the costs of any abatement hearing (including staff time necessary to prepare for and attend an abatement hearing), any costs incurred by the city in performing or contracting for work required to achieve compliance with an abatement order, any reinspections required to determine or confirm that compliance has been achieved, production of all staff reports, environmental tests or measurements that are deemed necessary or appropriate by the code enforcement officer, third party inspection(s) or consultant services as deemed necessary by the city and any attorneys' fees incurred in pursuing enforcement. Any abatement costs incurred may be recovered even if the nuisance is abated by the responsible party. If the city elects at the initiation of an administrative enforcement action or proceeding to seek recovery of attorneys' fees, pursuant to Government Code Section 38773.5, the prevailing party shall be entitled to recover attorneys' fees in an amount not to exceed the amount of attorneys' fees incurred by the city in such action. (Ord. 2010-01 § 1 (part))

**19.08.100 Report and confirmation of abatement costs.**

- A. The city's director of financial management shall keep an accounting of all abatement costs as described in Section 19.08.090.
- B. The city's director of financial management shall submit an itemized report of the abatement costs to the director for confirmation.
- C. The city clerk shall serve a copy of such report upon the responsible party pursuant to Section 19.04.100. The report of abatement costs shall be accompanied by a notice of the time and place when a hearing will be conducted by the director to consider confirmation of such report. The report and notice shall be served upon the responsible party at least ten (10) days prior to the scheduled date of the hearing.
- D. At the time and place fixed in the notice of the confirmation hearing, the director shall consider the report of abatement costs submitted by the city's director of financial management and hear any protests or objections thereto by the responsible party or any other interested persons. The hearing may be continued from time to time without further written notice.

E. Upon the conclusion of the hearing, the director shall make such revisions, corrections, or modifications to the report as may be necessary or appropriate, based upon the evidence presented at the hearing, and shall thereafter confirm the report as submitted or modified by issuing an order for collection of the abatement costs pursuant to Section 19.16.060. The decision of the director shall be final and conclusive, unless timely appealed to the city council in accordance with the procedures provided in Chapter 2.44 of this code. (Ord. 2010-01 § 1 (part))

## **Chapter 19.12 ADMINISTRATIVE CITATIONS**

### Sections:

- 19.12.010 First offense warning.
- 19.12.020 Violation disputes.
- 19.12.030 Administrative citation.
- 19.12.040 Administrative fines.
- 19.12.050 Payment of fines—Late payment charges.
- 19.12.060 Hearing contesting an administrative citation.

### **19.12.010 First offense warning.**

- A. Whenever a code enforcement officer determines that a violation of this code exists, the code enforcement officer may serve a first offense warning to the responsible party. The first offense warning shall be served as a prerequisite to the issuance of a first administrative citation and serves as a written warning of responsibility.
- B. The first offense warning shall include the following information:
1. The date, approximate time and location of the violation, including the address or other description of the location where the violation occurred or is occurring;
  2. The name(s) of the responsible party(ies), if known;
  3. The code section(s) violated and a description of the violation(s);
  4. An order prohibiting the continuation or repeated occurrence of the violation;
  5. A description of the action necessary to abate the violation;
  6. A period of time during which the action necessary to abate the violation shall be commenced and completed, which shall be determined pursuant to Section 19.08.040;
  7. A statement that the period of time during which the action necessary to abate the violation shall be commenced and completed may be extended pursuant to the procedure set forth in Section 19.08.040;
  8. A statement that an administrative citation shall be issued to the responsible party upon the expiration of the period of time during which the action necessary

to abate the violation shall be commenced and completed or any extension of that time period granted by the director pursuant to Section 19.08.040 in the event that the responsible party fails to abate the violation;

9. The amount of the administrative citation in the event that an administrative citation is issued for the violation;

10. The name and signature of the code enforcement officer, city contact information (address, telephone number) for additional information and, if possible, the signature of the responsible party; and

11. A statement informing the responsible party that he or she may dispute the violation by contacting the city clerk to set up a meeting with the director to discuss the matter within ten (10) days of receiving the notice of violation. (Ord. 2010-01 § 1 (part))

**19.12.020 Violation disputes.**

If a person designated as the responsible party in the first offense warning wishes to dispute the alleged code violation, he or she may contact the city clerk to set up a meeting with the director to discuss and seek resolution of the matter within ten (10) days of receiving the first offense warning. (Ord. 2010-01 § 1 (part))

**19.12.030 Administrative citation.**

A. In the event that the responsible party fails to abate the violation upon the expiration of the period of time identified in the first offense warning during which the action necessary to abate the violation shall be commenced and completed or any extension of that time period granted by the director pursuant to Section 19.08.040, the code enforcement officer shall have the authority to issue an administrative citation to the responsible party for the violation.

B. Each administrative citation shall include the following:

1. The date, approximate time and location of the violation, including the address or other description of the location where the violation occurred or is occurring and a brief description of the conditions observed that constitute a violation;
2. The name(s) of the responsible party(ies), if known;
3. The code section(s) violated and a description of the violation(s);
4. The amount of the fine for the code violation;
5. A description of the fine payment process, including a description of the time within which and the place to which the fine must be paid;
6. An order prohibiting the continuation or repeated occurrence of the violation of this code;

7. A description of the administrative citation process, including the time within which the administrative citation may be appealed and the procedure for requesting an appeal hearing;
8. A description of the waiver of deposit process set forth in Section 19.16.020, including the time within which a written request for a deposit waiver may be made; and
9. The name and signature of the enforcement officer, city contact information (address, telephone number) for additional information and, if possible, the signature of the responsible party. (Ord. 2010-01 § 1 (part))

**19.12.040 Administrative fines.**

- A. The amounts of fines that may be imposed for a violation shall be set forth in a schedule of fines established by resolution of the city council. The amount of such fines shall not exceed:
  1. The amount of any fine that may be imposed for a violation that would otherwise be an infraction shall not exceed the amounts set forth in Government Code Section 36900, as amended from time to time.
  2. The amount of any fine that may be imposed for a violation that would otherwise be a misdemeanor shall not exceed one thousand dollars (\$1,000.00).
- B. A separate violation shall be deemed committed on each day a violation of this code occurs or continues for purposes of setting the amount of a fine to be imposed. Any fine imposed will accrue on a daily basis from the date the fine becomes effective until the violation is corrected. Any condition of real property that constitutes a violation where the same, or substantially similar, violation has been the subject of two or more enforcement actions within any three-month period is deemed a continuing violation. (Ord. 2010-01 § 1 (part))

**19.12.050 Payment of fines—Late payment charges.**

- A. Fines shall be paid directly to the city within thirty (30) days from the date of the administrative citation.
- B. Payment of a fine under this section shall not excuse or discharge any continuation or repeated occurrence of the violation that is the subject of the administrative citation.
- C. Fines that remain unpaid thirty (30) days after the due date shall be subject to a late payment penalty of ten (10) percent plus interest at the rate of one percent per month on the outstanding balance, which shall be added to the fine amount from the date that payment is due. (Ord. 2010-01 § 1 (part))

**19.12.060 Hearing contesting an administrative citation.**

- A. Any person issued an administrative citation may contest the administrative citation by filing a written request for a hearing with the city clerk within thirty (30) days of the date of the administrative citation. The fine issued by the administrative citation shall be deposited with the written request for a hearing or a written request

for a waiver of the deposit shall be filed with the written request for a hearing. A hearing to contest the administrative citation shall be conducted pursuant to the procedures set forth in Chapter 19.16 and shall be subject to all of the provisions of this title. A hearing to contest the administrative citation shall not be held unless and until the fine has been deposited or a waiver of the deposit has been granted pursuant to Section 19.16.020. If the fine or written request for a waiver of the deposit is not filed with the written request for a hearing, the hearing request shall not be considered timely submitted.

B. When a written request for hearing is filed with the city clerk to contest an administrative citation, the city clerk shall set the time and place for the hearing and shall serve a notice of hearing on the requesting party. A hearing to contest the administrative citation shall be conducted pursuant to the procedures set forth in Chapter 19.16. (Ord. 2010-01 § 1 (part))

### **Chapter 19.16 HEARING PROCEDURE**

Sections:

- 19.16.010 Preservation of the status quo pending hearing.
- 19.16.020 Waiver of deposits and fees.
- 19.16.030 Administrative hearing.
- 19.16.040 Decision of the hearing officer.
- 19.16.050 Appeal of hearing officer decision.
- 19.16.060 Collection of fines and costs.
- 19.16.070 Requirement to exhaust administrative remedies.
- 19.16.080 Judicial review.

**19.16.010 Preservation of the status quo pending hearing.**

If a timely request for any hearing is filed, any compliance obligations that may be imposed shall be stayed until a final decision is rendered, unless an emergency situation exists requiring summary abatement pursuant to Section 19.08.020. (Ord. 2010-01 § 1 (part))

**19.16.020 Waiver of deposits and fees.**

A. Any person who is financially unable to make the deposit required by Section 19.12.060 or the fee required by Section 19.16.050 may seek a waiver from such payment.

B. In order to seek a waiver from a deposit or fee, a written request for a waiver shall be filed with the city clerk. The written request for a waiver shall be filed with any written request for a hearing for which the deposit or fee is required as required by Sections 19.12.060 and 19.16.050. The request for a waiver shall be submitted with any supporting documents demonstrating to the satisfaction of the city clerk that the person is financially unable to deposit the full amount of the fine in advance of the hearing or pay the full amount of the fee.

C. If the city clerk denies the request for a waiver, the city clerk shall provide the requesting party a written determination of facts and findings supporting the

determination to not issue the waiver. If the request for a waiver is denied, the person shall submit the required deposit or fee to the city clerk within ten (10) days of service of the city clerk's determination, or may appeal the determination of the city clerk to the city council in accordance with the procedures provided in Chapter 2.44 of this code. (Ord. 2010-01 § 1 (part))

**19.16.030 Administrative hearing.**

A. The hearing shall be set for a date not less than ten (10) days from the date of service of the notice of violation, and not more than sixty (60) days from the date a written request for a hearing to contest the administrative citation is filed with the city clerk, unless the code enforcement officer determines that the matter is urgent or that good cause exists for an extension of time based on the circumstances of the particular situation, in which case the hearing date may be shortened or extended.

B. If the code enforcement officer submits a written report concerning the notice of violation or administrative citation to the hearing officer for consideration at the hearing, then a copy of the report shall be served on the person issued the notice of violation or administrative citation at least five days before the hearing.

C. At the place and time set forth in the notice of hearing or the notice of violation, the hearing officer shall conduct a hearing on the alleged violation(s). Any responsible party or other interested person(s) may appear and offer written or oral testimony or other evidence as to whether a violation has occurred and/or whether the violation continues to exist, whether the person served the notice of violation or the administrative citation is the responsible party for any such violation, whether an administrative fine or the fine amount is warranted, and/or any other matter pertaining thereto. Evidence presented by the code enforcement officer or other official of the city tending to show that a violation occurred and that the person served the notice of violation or administrative citation is the responsible party shall establish a prima facie case that a violation, as charged, actually existed and that the person served the notice of violation or administrative citation is the responsible party for the violation. The burden of proof shall then be on the responsible party to refute such evidence. The standard to be applied for meeting such burden shall be a preponderance of the evidence.

D. The hearing officer shall consider all written and oral testimony and other evidence regarding the violation presented by the responsible party, the owner, the occupant, any officer, employee, or agent of the city, and any other interested party. Evidence offered during a hearing must be credible and relevant in the estimation of the hearing officer, but formal rules governing the presentation and consideration of evidence shall not apply.

E. The hearing officer shall conduct the hearing, order the presentation of evidence and make any rulings or determinations necessary to address procedural issues presented during the course of the hearing. (Ord. 2010-01 § 1 (part))

**19.16.040 Decision of the hearing officer.**

A. After considering all of the written and oral testimony and other evidence presented at the hearing, the hearing officer shall, within ten (10) days following the

conclusion of the hearing, issue a written decision. The written decision of the hearing officer and any abatement order shall be served upon the responsible party and any interested party requesting a copy pursuant to Section 19.04.100.

B. If the hearing officer's written decision addresses an administrative citation, the hearing officer may uphold the administrative citation, uphold the administrative citation and modify the amount of the fine, or cancel the administrative citation. The written decision shall state the reasons for the decision. If the hearing officer modifies the amount of the fine or cancels the administrative citation, the city shall promptly refund any amount of the fine deposited.

C. If the hearing officer's written decision addresses a notice of violation and/or stop work order, the hearing officer may uphold, modify, or cancel the notice of violation and/or stop work order. The written decision shall state the reasons for the decision. If the hearing officer upholds or modifies the notice of violation and/or stop work order, the hearing officer shall issue a written abatement order in accordance with Section 19.08.070. The city may seek to enforce any abatement order by confirmation from a court of competent jurisdiction. Any abatement order that is judicially confirmed may be enforced through all applicable judicial enforcement measures, including, without limitation, contempt proceedings upon a subsequent violation of such order. (Ord. 2010-01 § 1 (part))

**19.16.050 Appeal of hearing officer decision.**

A. The responsible party may appeal any decision of the hearing officer to the city manager by filing a written request for appeal stating the grounds for the appeal with the city clerk within seven days after the date on which the decision or determination is rendered by the hearing officer. The written request for an appeal hearing shall include payment of the appeal processing fee set forth by resolution of the city council or a request for waiver of the fee pursuant to Section 19.16.020. An appeal hearing shall not be held unless and until the appeal processing fee has been paid or a waiver of the fee has been granted pursuant to Section 19.16.020.

B. The city clerk shall serve, pursuant to Section 19.04.100, notice of the time and place when the hearing will be conducted by the city manager to consider the hearing officer's decision upon the responsible party at least ten (10) days prior to the scheduled date of the hearing. The hearing may be continued to a later date, at the discretion of the city manager.

C. The city manager may uphold, modify, or cancel the decision of the hearing officer. Any determination by the city manager shall be in writing and served to the appellant pursuant to Section 19.04.100 within ten (10) days of the conclusion of the hearing. The decision of the city manager may be appealed to the city council in accordance with the procedures provided in Chapter 2.44 of this code. (Ord. 2010-01 § 1 (part))

**19.16.060 Collection of fines and costs.**

The city may pursue any and all legal and equitable remedies for unpaid administrative fines, late payment charges, abatement costs and/or other costs, including, but not limited to, a lien as prescribed by Government Code Section

38773.1 or a special assessment as prescribed by Government Code Section 38773.5. (Ord. 2010-01 § 1 (part))

**19.16.070 Requirement to exhaust administrative remedies.**

The failure of any person to do the following shall constitute a failure to exhaust administrative remedies and shall preclude the person from obtaining judicial review of the validity of the administrative citation or abatement order:

- A. Failure to timely file a written request for a hearing to contest an administrative citation pursuant to Section 19.12.060.
- B. Failure to timely file a written request for appeal of a decision by a hearing officer pursuant to Section 19.16.050. (Ord. 2010-01 § 1 (part))

**19.16.080 Judicial review.**

Any responsible party who is aggrieved by a decision of the city council and who has exhausted the administrative remedies provided by this code, or any other applicable law, shall have the right to seek judicial review of such decision by filing a petition for writ of mandate in accordance with Code of Civil Procedure Sections 1094.5 and 1094.6 and Government Code Section 53069.4. (Ord. 2010-01 § 1 (part))

Title 19

**NUISANCE ABATEMENT**

**Sections:**

Chapter 19.04. Nuisance Abatement in General

Sections

- 19.04.010 Short title.
- 19.04.020 Definitions.
- 19.04.030 Nuisance and nuisance conditions defined.
- 19.04.040 Nuisance unlawful.
- 19.04.050 Property owner responsibilities.
- 19.04.060 Relationship of parts of chapter.
- 19.04.070 Relationship to uniform codes.
- 19.04.080 Relationship to remainder of City Code.
- 19.04.090 Attorneys' fees.
- 19.04.100 Severability.

Chapter 19.06. Nuisance Abatement Procedure

- 19.06.010 Notice to abate nuisance conditions.
- 19.06.020 Manner of conducting abatement hearing.
- 19.06.030 Issuance of decision findings and order.
- 19.06.040 Appeal of decision.
- 19.06.050 Abatement by enforcement officer if nuisance is not abated.
- 19.06.060 Abatement by owner/responsible party.
- 19.06.070 Liability for administrative costs.
- 19.06.080 Report of abatement costs.
- 19.06.090 Appeal of abatement costs.
- 19.06.100 Manner of conducting the appeal hearing of abatement costs before the hearing officer.
- 19.06.110 Hearing officer's decision of appeal hearing of abatement costs.
- 19.06.120 Assessment of abatement costs.
- 19.06.130 Manner of collection of notice of lien.

Chapter 19.08. Summary Abatement

- 19.08.010 Summary abatement.

Chapter 19.10. Administrative Citations

- 19.10.010 Title of article and authority.
- 19.10.020 Applicability.
- 19.10.030 Entry and inspection.
- 19.10.040 First offense warning.
- 19.10.050 Administrative citation.
- 19.10.060 Amount of fines.
- 19.10.070 Payment of the fine.
- 19.10.080 Hearing request.
- 19.10.090 Deposit waiver.
- 19.10.100 Hearing procedure.
- 19.10.110 Hearing officer's decision.
- 19.10.120 Late payment penalties and interest.
- 19.10.130 Recovery of administrative citation fines and costs.
- 19.10.140 Right to judicial review.

19.10.150 Notices.

### **Chapter 19.12. Judicial Review**

19.12.010 Right of judicial review.

### **Chapter 19.04. Nuisance Abatement in General**

#### **19.04.010 Short title.**

This chapter may be cited as “the nuisance abatement ordinance.”

#### **19.04.020 Definitions.**

Except as otherwise provided in the other articles of this chapter, the following words, terms and phrases used in this chapter are defined as set forth in this section:

“Abate” means, but is not limited to, modifying, repairing, replacing, removing, securing, locking, demolishing, or otherwise remedying the condition in question by such means and to such extent as necessary.

“Building” means any structure (including but not limited to any house, garage, duplex, apartment, condominium, stock cooperative, mobile home or other residential buildings or associated accessory structures) and any commercial, industrial or other establishment, warehouse, kiosk, sign or other structure affixed to or upon real property used as a dwelling or for the purpose of conducting a business, storage or any other activity.

“Building Code” means the California Building Code, adopted by reference by the City as modified pursuant to Chapter 15.08 of the Winters Municipal Code.

“City” means the City of Winters.

“City Council” means the City Council of the City.

“Code” means –the Winters Municipal Code.

“Compliance date” means the date requested for correction of the violation(s) prior to the imposition of any administrative fines or penalties.

“Day” means calendar day.

“Enforcement officer” means either the Building Official, City Engineer, Community Development Director, Public Works Director, Fire Chief or Police Chief of the City, or their designees, or the Code Compliance Technician when such persons have been delegated in writing the authority to enforce and administer the particular provisions of this chapter at issue in a particular matter.

“Fire Code” means both the California Fire Code adopted by reference by the City as modified pursuant to Chapter 15.20 of the Winters Municipal Code.

“Garbage” means and includes kitchen and table refuse, offal, swill and also every accumulation of animal and vegetable refuse, and other matter that attends the preparation, consumption, decay or dealing in or storage of meats, fish, fowl, birds, fruits or vegetables. Food slops or liquids, when placed in a plastic liner within the garbage container, shall be considered as garbage waste. Garbage waste shall also include cans, bottles, containers, wrappings and packaging materials soiled with foods and waste material. It also includes crockery, bottles, tin vessels, ashes and all refuse, save and excepting as defined as rubbish.

“Graffiti” means the unauthorized letters, words, symbols, figures and marks placed on buildings and objects on private property, public property or the public right-of-way by using paint or marking with ink, chalk, crayon, dye or other similar substances, or by cutting or scraping with any tool or instrument.

“Habitable” means that a building, premises or property is suitable for occupancy per the standards set forth in the codes referenced in this chapter and/or those codes utilized by the City in the normal course of government operations.

“Hearing officer” means a hearing officer appointed by the City ~~has contracted~~ to conduct hearings pursuant to this chapter. 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 this chapter and shall not have had any personal involvement in the proceeding to be heard within the past twelve (12) months or possess any disqualifying interest in the outcome of the proceeding. No hearing officer shall be compensated or evaluated, directly or indirectly, based upon the outcomes of any hearing.

“Industrial waste” means all liquid or solid waste substances, except sewage, from any production, manufacturing, processing or packaging operation.

“Inoperative” means any vehicle that (1) cannot be immediately started and driven under its own power on the streets and highways, (2) is in an unsafe condition, or (3) is in any other condition specified in the California Vehicle Code which prohibits its placement and/or movement on the public streets or highways. This includes any vehicles, including trailers or vessels, not currently registered for operation on the public streets, highways or waterways.

“Lodging house” means any building or portion thereof containing not more than five (5) guest rooms where rent is paid in money, goods, labor or otherwise. For the purposes of this chapter a single-family dwelling unit may contain one (1) or two (2) guest rooms and not be classified as a lodging house; provided, such dwelling meets all of the following criteria: (1) the dwelling contains only one (1) kitchen; (2) no food preparation appliances, including stoves, ovens, hotplates, refrigerators or sinks, are installed or located in the guest rooms; (3) doors to guest rooms do not contain dead bolt locks and such doors only open into the interior of the dwelling unit; (4) the parcel on which the dwelling is located has only one (1) address and one (1) mailbox; and (5) all vehicles owned, operated or controlled by occupants of the dwelling and stored for any length of time on or in proximity of the parcel on which the dwelling is located have space available for and are capable of simultaneously legally parking on the parcel.

“Owner” means any person, his/her heirs, executors, administrators or assigns, agent, firm, partnership or corporation having or claiming any legal or equitable interest in the property in question as listed on the last available equalized tax assessment roll for Yolo County.

“Premises” means every house, dwelling, building, structure, enclosure, business establishment, lot, yard, location, place, alley, parkway, right-of-way, sidewalk, street, and every vehicle.

“Property” means all residential, industrial, commercial, agricultural, open space and other real property, including but not limited to front yards, side yards, driveways, walkways, alleys and sidewalks, and shall include any building or other structure, whether fixed or movable, located on such property.

“Putrescible” means a substance that is or is liable to become putrid or rotten.

“Refuse” and “rubbish” mean all putrescible and/or nonputrescible solid or liquid wastes, except sewage, whether combustible or noncombustible.

“Responsible party” means the owner, agent, manager, lessee, tenant or any other person having control or possession of the property.

“Sewage” means effluent or waste matter which is required to be disposed of through or should pass through sewers and the wastewater treatment plant and is composed of human or animal feces, urine, toilet paper and any other such waste materials.

**19.04.030 Nuisance and nuisance conditions defined.**

For the purposes of this chapter, “nuisance” and/or “nuisance condition” means any condition or use of premises or property which is either: (A) detrimental to the premises or property of others; (B) which poses an immediate or potential health, safety or fire hazard; or (C) which violates any provision of this code or other codes adopted by the City. “Nuisance” includes, but is not limited to, any of the following:

A. Storing, keeping or maintaining: vehicle parts; scrap metal; bottles; cans; wire; firewood; boxes; containers; wood and building materials no longer usable for their intended purpose; tools; machinery; equipment or parts thereof; or abandoned, discarded or unused household furniture or appliances;

B. Storing, keeping or maintaining: rubbish; refuse; trash; junk; garbage; and other waste or discarded material, including but not limited to the accumulation of asphalt, concrete, plaster, tile, rocks, bricks, crates, cartons, boxes, dirt, sand or gravel;

C. The existence of any condition which constitutes a fire hazard as defined in the Winters Fire Code, and any condition related to fire protection as defined in the California Health and Safety Code;

D. The existence of any building construction project which is abandoned, partially destroyed or left in a state of partial construction for an unreasonable period of time. A "state of partial construction for an unreasonable period of time" exists if the project has been under construction for more than one (1) year, its appearance from the public street or neighboring properties substantially detracts from the appearance of the immediate neighborhood, and there is no valid and active building permit authorizing the construction work;

E. The existence of any dwelling, dwelling unit or lodging house which has not been used for its legal and intended purpose for a three hundred sixty-five (365) day period. Uses that occur within any three hundred sixty-five (365) day period and are of a duration of less than thirty (30) days shall, for the purpose of this chapter, not qualify as meeting the use requirements of this section. Time during which the dwelling is either being actively remodeled, or marketed for either sale or rental, shall not be included in determining the period of nonuse;

F. The existence of any dangerous building as defined in the Uniform Code for the Abatement of Dangerous Buildings as adopted by the City or any building having any or all of the conditions or defects hereinafter described:

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

2. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.

3. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half (1.5) times the working stress or stresses allowed in the Winters Building Code for new buildings of similar structure, purpose or location.

4. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Winters Building Code for new buildings of similar structure, purpose or location.

5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

6. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof, is not of sufficient strength or stability, or is not so anchored, attached or fastened in place, so as to be capable of resisting a wind pressure of one-half of that specified in the Winters Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Winters Building Code for such buildings.

7. Whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

8. Whenever the building or structure, or any portion thereof, because of: (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.

9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used or is intended to be used.

10. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

11. Whenever the building or structure, exclusive of the foundation, shows thirty-three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.

12. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood or has become so dilapidated or deteriorated as to become: (a) an attractive nuisance to children; (b) a harbor for vagrants, criminals or immoral persons; or as to (c) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

13. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of the City, as specified in the Winters Building Code, Winters Housing Code, or any law or ordinance of this State or the City relating to the condition, location or structure of buildings.

14. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than fifty percent (50%), or in any supporting part, member or portion less than sixty-six (66%) percent, of the (a) strength, (b) fire-resisting qualities or characteristics, or (c) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

15. Whenever a building or a structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the Building Official to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.

16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Building Official or Fire Chief to be a fire hazard.

17. The presence of electrical wiring and/or equipment that was installed in violation of code requirements in effect at the time of installation, or not installed in accordance with generally accepted construction practices if no codes were in effect, or that has not been maintained in good condition or that is not being used in a safe manner.

18. The presence of plumbing piping and/or fixtures that were installed in violation of code requirements in effect at the time of installation, or not installed in accordance with generally accepted construction practices if no codes were in effect, or that have not been maintained in good condition or that are not being used in a safe manner.

19. The presence of mechanical equipment that was installed in violation of code requirements in effect at the time of installation, or not installed in accordance with generally accepted construction practices if no codes were in effect, or that has not been maintained in good condition or that is not being used in a safe manner.

20. Whenever the horizontal and/or vertical weather protection of a structure, because of obsolescence, dilapidated condition, deterioration, damage, lack of painted surfaces, faulty construction or other cause, allows moisture to enter the structure.

21. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence;

G. The existence of any building or portion thereof used as a dwelling, dwelling unit, apartment, guest room or lodging house defined as having any or all of the conditions or defects described in the Winters Housing Code or any of the following defects:

1. Lack of or nonfunctioning water closet in a dwelling unit or lodging house.

2. Lack of or nonfunctioning kitchen sink, including lack of hot and cold running water to sink in a dwelling unit or lodging house.
3. Lack of or nonfunctioning bathtub or shower in a dwelling unit or lodging house, including lack of hot and cold running water to bathtub or shower.
4. Lack of or nonfunctioning lavatory in a dwelling unit or lodging house, including lack of hot and cold running water to lavatory.
5. Lack of or nonfunctioning heating system in a dwelling unit or lodging house capable of heating all habitable spaces to seventy (70) degrees Fahrenheit at a point three (3) feet above the floor.
6. Lack of or improper operation of habitable space ventilation equipment.
7. Lack of minimum amounts of ventilation in a dwelling unit or lodging house in bathrooms and habitable spaces. Minimums shall be those amounts required by the code under which the structure was built or current code if installation or modification occurred without permits or inspections.
8. Lack of minimum amounts of natural light in a dwelling unit or lodging house in habitable spaces. Minimums shall be those amounts required by the code under which the structure was built or current code if installation or modification occurred without permits or inspections.
9. Lack of or nonfunctioning permanent light fixture in a dwelling unit or lodging house in each bathroom, kitchen and hall.
10. Lack of or nonfunctioning of a single electrical receptacle in a dwelling unit or lodging house in each bathroom, laundry room and habitable space.
11. Infestation of insects, vermin or rodents as determined by the Health Officer or Building Official.
12. General dilapidation or improper maintenance.
13. Lack of functioning connection to required sewage disposal system.
14. Presence of any condition that can be described as a dangerous building.
15. Presence of any plumbing fixture which is cracked, chipped or does not function.
16. Presence of any plumbing drain pipe which leaks, is blocked or does not convey sanitary waste to a required sewage disposal system.
17. Presence of any potable water supply pipe which leaks, is blocked or allows rust to enter the water supply.
18. Lack of or nonfunctioning cooking appliance in a dwelling unit. The meaning of "functioning" shall include, but not be limited to: all burners and heating elements operate correctly at all settings; all knobs and controls are present and operating; and all utility connections are in compliance with current codes.
19. Lack of or nonfunctioning refrigerator in a dwelling unit. The meaning of "functioning" shall include, but not be limited to: doors are gasketed and open, close, and latch properly; unit can maintain a minimum temperature of forty-five (45) degrees Fahrenheit.
20. Presence of a refrigerator or freezer with a door which cannot be opened from the inside.
21. Lack of or nonfunctioning or expired required fire extinguisher.
22. Presence of a mounted and displayed nonfunctioning or expired fire extinguisher in a commercial, industrial, hotel, motel, or apartment building (excluding the interior of individual dwelling units).
23. Lack of or nonfunctioning code-required smoke and/or heat [alarmsdetectors](#).

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24. Lack of or the nonfunctioning of at least one (1) smoke ~~alarm~~detector in a dwelling unit or lodging house located in the hallway leading to the sleeping rooms.

25. Presence of any window in a dwelling unit or lodging house which does not open and close completely when designed to do so, has missing or cracked glazing, has defective or missing security latches, or has missing or nonfunctioning insect screens.

26. Presence of any exterior door in a dwelling unit or lodging house which does not open and close properly, is missing locks or a locking device which does not function to secure the dwelling, or which lacks adequate weather stripping.

27. Lack of or nonfunctioning water heater in a dwelling unit or lodging house. "Nonfunctioning" means: does not heat water to one hundred ten (110) degrees Fahrenheit, lacks or has a nonfunctioning temperature and pressure relief valve, leaks gas or water, or has insufficient combustion air.

28. Presence of floor coverings in a dwelling unit or lodging house with holes, tears, or rips, or which are not attached to the floor structure and/or pose a tripping hazard.

29. Presence of interior walls in a dwelling unit or lodging house which have holes in drywall or loose wall materials.

30. Presence of electrical fixtures, switches, or receptacles which are missing cover plates.

31. Presence of mold, mildew, or fungus;

H. The existence of any structure, building, or a portion thereof which is open or maintained for the use, storage, manufacture, or distribution of "controlled substances" as defined in the California Health and Safety Code;

I. Any vehicle or portion thereof and/or any equipment located on private or public property or in the public right-of-way, or any nonresidential building or structure, being used for living or sleeping purposes except for travel trailers being used on property properly zoned for such use;

J. The existence of any condition dangerous to children or others, including but not limited to unsecured structures; fences or portions of fences in disrepair, leaning and/or partially down; abandoned, broken, unprotected and/or unsecured equipment, machinery or household appliances; or unprotected, unfenced and/or unsecured pools, ponds, or excavations;

K. The existence of any condition or use which unlawfully obstructs, injures, or interferes with the free passage or use in the customary manner of property, any public park, street, highway, sidewalk, and any other portion of the public right-of-way;

L. The existence of any body of stagnant water or other liquid in which mosquitoes or other insects may breed, or which may or does generate noxious or offensive gases or odors;

M. The existence of any improperly contained accumulation of manure, human or animal feces, garbage or refuse which may serve as a breeding ground for flies, mosquitoes, rodents or other vermin, or which may or does generate noxious or offensive odors;

N. The existence of sewage, chemical, petroleum, commercial or industrial waste which has the potential to leak into the groundwater or may or does generate noxious or offensive odors;

O. The existence of any barbed wire, razor ribbon, glass, nails or other sharp objects on, in, or affixed to any fence or wall, or any electric fences in or adjacent to a residential zoning district or property used for residential uses;

P. The existence of any sign, banner, balloon, flags (other than those of the United States of America and the State of California), inflated advertising device and/or the display of retail or manufactured products on private property or in the public right-of-way, which is not in compliance with this code;

Q. The existence of graffiti on any building, fence, wall, equipment, motor vehicle, trailer, sign or other object on private or public property or in the public right-of-way;

R. The existence of a use, business or activity in any zoning district that does not conform with the requirements of that zoning district in which it is located as set forth in this code; or which does not conform with any discretionary permit or review approval by the Planning Commission or City Council; or which does not conform with any law, ordinance or regulations adopted by the City applicable to the property;

S. The existence of smoke, fumes, gas, dust, soot, cinders, or other particulate matter in such quantities as to render the occupancy or use of property uncomfortable to a person or persons;

T. The existence of any condition or use which poses a threat to the public health or safety;

U. Storing, parking, keeping, or maintaining of operative vehicles, boats, vessels, trailers, or camper shells on any portion of a required front yard area other than the driveway or immediately adjacent paved driveway extension;

V. Storing, keeping, or maintaining trash cans, refuse cans, recyclable containers and/or other such containers in the front yard area or other visible yard area at times other than the day of collection or prior to 6:00 p.m. of the day prior to the day of collection;

W. The existence of any building, or a portion thereof, used by members of a criminal street gang for the purpose of the commission of: robbery; unlawful homicide or manslaughter; the sale, possession for sale, transportation, manufacture, offer for sale or offer to manufacture controlled substances; shooting at an inhabited dwelling or occupied motor vehicle; discharging or permitting the discharge of a firearm from a motor vehicle; arson; the intimidation of witnesses and victims; grand theft; burglary; rape; looting; money laundering; kidnapping; mayhem; aggravated mayhem; torture; felony extortion; felony vandalism; carjacking; or sale, delivery or transfer of a firearm. As used in this chapter, "criminal street gang" means any ongoing organization, association or group of three (3) or more persons, whether formal or informal, having as one (1) of its primary activities the commission of one (1) or more of the criminal acts enumerated above, having a common name or common identifying sign or symbols, and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity;

X. Making or emitting any noise uncomfortable to or annoying to a reasonable person;

Y. Maintenance of any tree, shrub, or other vegetation such that it impairs passage along a public sidewalk, impairs the ability of drivers to see any traffic sign, impairs the ability of drivers to see other traffic, or blocks any street light;

Z. Maintenance of any sidewalk with a crack or hole of over one (1) inch displacement or otherwise in a condition preventing safe passage of pedestrians, wheelchairs or strollers.

AA. It is unlawful, and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the city to maintain a medical cannabis dispensary upon such premises or property.

—1. A medical cannabis dispensary is defined as any place, location, building or establishment where medical cannabis is traded, exchanged, sold, distributed or cultivated which would otherwise require a business license, home occupation permit, or any other use permit to conduct similar type activities.

—2. Notwithstanding the prohibition in subparagraph 1 of this subsection, medical cannabis collectives and cooperatives formed in a manner consistent with California law and the California Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August 2008 shall be permitted to operate provided they do not sell, exchange, trade, distribute or cultivate medical marijuana in a manner prohibited by subsection A of this section, and that they do not exchange payment or gift in the form of money for such medical marijuana.

#### **19.04.040 Nuisance unlawful.**

Every nuisance condition found to exist on any premises is declared to be unlawful. In addition to all other remedies available to the City, whether criminal, civil, at law or in equity, any nuisance may be abated by the enforcement

officer, Police or Fire Department personnel, or any other appropriate City staff as designated by the City Manager in the manner provided in this chapter or in any other manner provided by law.

**19.04.050 Property owner responsibilities.**

It shall be the duty of the owner, and of the responsible party occupying or having charge or control of any parcel of land, improved or unimproved, to maintain such parcel of land free of any nuisance and/or nuisance conditions at all times. The same responsibility extends to the public rights-of-way or public land, related to any vehicle, vessel, structure, machinery, container, refuse, debris or other item found to be or having been under the charge or control of a property owner, responsible party, or last registered or documented owner. Any owner or responsible party shall be responsible for the removal or correction of any nuisance or nuisance conditions and the costs for such removal or correction.

**19.04.060 Relationship of parts of chapter.**

The remedies provided in this chapter are cumulative to each other. However, in the discretion of the enforcement officer, the procedures of [Chapter 8.08](#) of this [Code](#) may be utilized to abate abandoned vehicles and the procedures of [Chapter 8.12](#) of this [Code](#) may be used to abate weeds. In the discretion of the enforcement officer, the administrative citation procedure [included in](#) this chapter may be used either in addition to, or in lieu of, the other provisions of this chapter.

**19.04.070 Relationship to uniform codes.**

The remedies provided in this chapter are cumulative to those provided by the Winters uniform codes. They are in addition to any remedies or "notice and order" which may be issued under any of the Winters uniform codes (including, without limitation by reason of enumeration, the Winters Housing Code, the Winters Fire Code, the Winters Building Code [and the Uniform Code for the Abatement of Dangerous Buildings](#)).

**19.04.080 Relationship to remainder of City Code.**

The remedies provided in this chapter are cumulative and in addition to any other remedy provided in this code, by law, or in equity.

**19.04.090 Attorneys' fees.**

A. Notwithstanding anything in this code to the contrary, the city may only recover its attorneys' fees in any administrative proceeding or special proceeding commenced by the city to abate a public nuisance, to enjoin violation of any provision of this code, including its adopted codes, or to collect a civil debt owing to the city, if the city elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. In these cases, the prevailing party shall be entitled to recover all costs incurred therein, including reasonable attorneys' fees and costs of suit. 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.

B. The city shall be considered a prevailing party entitled to attorneys' fees under subsection A when it can demonstrate that:

1. Its lawsuit was the catalyst motivating the defendant to provide the primary relief sought;
2. The lawsuit was meritorious and achieved its result by "threat of victory;" and
3. The city reasonably attempted to settle the litigation before filing the lawsuit.

**19.04.100 Severability.**

If any part, section, subsection, sentence, clause, phrase or portion of this chapter is, for any reason, held to be invalid, ineffective or unconstitutional by the decisions of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have adopted this chapter, and any part, section, subsection, sentence, clause, phrase or portion of this chapter, irrespective of the fact that any one (1) or more parts, sections, subsections, sentences, clauses, phrases or portions of this chapter are judicially determined to be invalid, ineffective or unconstitutional.

**Chapter 19.06. Nuisance Abatement Procedure**

**19.06.010 Notice to abate nuisance conditions.**

A. When the enforcement officer finds that a nuisance condition exists upon any premises in the City, he/she may, or upon the direction of the City [Council](#) shall, serve a notice to abate upon the owner or responsible party in possession

or having control of the premises upon which the condition exists, directing him/her to abate or cause the nuisance condition(s) upon the premises to be abated on or before a specified compliance date. The notice shall also state that the responsible party may file a written request for a hearing with the city clerk to dispute the alleged conditions within fifteen (15) days of the notice.

B. The enforcement officer shall post one (1) copy of the notice in a conspicuous place on the property in question and shall deliver one (1) copy of the notice to the owner or responsible party in possession or control of the property upon which the nuisance condition exists either in person or by certified mail, with a return receipt requested.

C. The failure of the owner or responsible party to actually receive the notice shall not affect in any manner the validity of any proceedings pursuant to this chapter.

D. The notice shall be posted and delivered as set forth in subsection B of this section, at least ten (10) calendar days before the time and date of the hearing scheduled within the notice if personally delivered, or fifteen (15) calendar days if mailed.

E. In the event the responsible party fails to appeal the notice, the nuisance conditions shall be deemed confirmed. Such failure shall also constitute a failure to exhaust available administrative remedies.

**19.06.020 Manner of conducting abatement hearing.**

In the event a hearing is timely requested pursuant to Section 19.06.010, the hearing shall be conducted pursuant to the following procedures:

A. At the time and place designated in the notice of hearing, the hearing officer shall hear and consider all relevant evidence, including but not limited to applicable staff reports, oral evidence, physical evidence and documentary evidence regarding the alleged nuisance, and proposed method of abatement. The hearing may be continued from time to time.

B. Failure of the owner or responsible party to appear at the hearing after notice has been served shall be deemed a waiver of the right to a hearing and an admission by the owner or responsible party of the existence of the nuisance condition charged. In the event of such failure to appear, the hearing officer may order that the nuisance condition be abated by the enforcement officer. Such failure to appear shall also constitute a failure to exhaust available administrative remedies.

C. The City shall bear the burden of proof to demonstrate, by a preponderance of the evidence, that a nuisance exists and that the proposed mechanism for abatement is appropriate. The City need not demonstrate that the proposed mechanism for abatement is either the most appropriate or least expensive.

D. The hearing shall not be conducted according to the formal rules of evidence. Any relevant evidence shall be admitted if it is the type of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this State. However, irrelevant or unduly repetitious evidence may be excluded.

E. Prior to conclusion of the hearing, if the owner or responsible party is present, the hearing officer may request the owner or responsible party to sign a consent to enter and perform work. The permission given shall be used only if the nuisance condition is determined to exist and is not abated by the schedule of correction specified in the hearing officer's decision.

F. If the owner or responsible party does not provide written consent, entry onto the property may be made by obtaining verbal permission from the owner or a responsible party, or by means of an inspection warrant, or by any other lawful manner.

**19.06.030 Issuance of decision findings and order.**

A. Within ten (10) days after the conclusion of the hearing, the hearing officer shall issue a written decision. The decision shall set forth the factual findings made by the hearing officer, a conclusion as to whether a nuisance condition exists, the manner of abatement, including an order that such nuisance (if one is found to exist) be abated by

the City, the amount of administrative costs imposed, if any, and a schedule of correction or the date by which the abatement shall be completed.

B. If the hearing officer determines that a nuisance exists which has not been corrected within the time period specified in the notice to abate nuisance conditions, the hearing officer shall so find in the decision, and may include in the decision any or all of the following:

1. An order to correct, including a schedule of correction where appropriate;
2. An order to pay administrative costs as provided in [Section 19.06.060](#).

C. Failure to issue a decision in ten (10) days shall not affect the validity of such decision.

D. The decision shall be mailed by certified mail with return receipt requested to the owner and shall be mailed to the enforcement officer. A copy of a summary of the decision and any order it contains shall also be posted on the property by the enforcement officer in a conspicuous location.

**19.06.040 Abatement by enforcement officer if nuisance is not abated.**

Upon receipt of the hearing officer's decision (or following an appeal if an appeal has been taken from the hearing officer's decision) if (A) no schedule of correction has been issued or (B) upon the failure of the property owner to comply with such schedule if a schedule was included, if the nuisance condition has not been abated the enforcement officer shall forthwith abate, or cause to be abated, the nuisance condition upon the premises. The enforcement officer is authorized to enter upon private property for this purpose, consistent with the provisions of the U.S. Constitution.

The cost of abatement shall become a personal obligation of the property owner and responsible party and may be collected in any legal manner, expressly including as a lien or special assessment pursuant to the procedures set forth in this chapter.

**19.06.050 Abatement by owner/responsible party.**

A. Any owner or responsible party may, at his/her own expense and prior to the scheduled abatement hearing, abate a declared nuisance condition in accordance with the provisions of the notice sent by the enforcement officer; provided, that all necessary permits are first obtained. If the enforcement officer determines that the nuisance condition has been abated prior to the hearing, the hearing proceedings shall be terminated.

B. Any owner or responsible party may request the City to abate a declared nuisance condition on his/her property. However, the owner or responsible party making the request shall be responsible for the payment of all abatement costs incurred by the City. The request for the City to perform the abatement shall be in writing and include a written consent to enter and perform work. Any such request shall be deemed an agreement to pay for the costs of such abatement and an agreement that such costs may be collected as a lien upon the property. The abatement hearing proceedings shall thereafter be terminated.

**19.06.060 Liability for abatement costs.**

A. In addition to liability for the costs of abatement itself pursuant to [Section 19.06.060](#), the owner and/or responsible party shall also be liable for any expenses and administrative costs incurred by the City, County or any related agency incurred subsequent to the initial inspection and identification of the nuisance.

B. The administrative costs may include any and all costs incurred by the City in connection with the matter before the hearing officer, including but not limited to costs of investigation, staffing costs incurred in preparation for the hearing and for the hearing itself, and costs for all reinspections necessary to enforce the notice to abate nuisance conditions.

C. In the event that the city is entitled to recover its attorneys' fees and costs pursuant to Section 19.04.080, such fees and costs shall be collected at the same time and pursuant to the same procedures as administrative costs pursuant to this section.

D. The enforcement officer or other authorized city official shall keep an itemized report of the costs incurred by the city in the abatement of any public nuisance in addition to any accrued fees and penalties due. The responsible party may be invoiced for the total. If payment is not received, the itemized report shall be submitted in writing to the city clerk no sooner than twenty (20) days of the invoice date. Any such report may include the abatement costs, fees and

penalties for any number of properties and abatements, whether or not such properties are contiguous. In the event, the invoice is not paid within thirty (30) days, the City may collect all such costs, penalties and interest through a lien or special assessment under sections 19.06.080 and 19.06.090.

**19.06.070 Report of abatement costs.**

A. In the event a nuisance is abated by the enforcement officer (either utilizing City forces or by contracting with a third person), the enforcement officer shall keep an itemized list of costs including but not limited to hearing costs, reinspection fees, posting of notices, and costs for equipment, material, City staff time and contractor's costs incurred by the City from the time of initial inspection and identification of the nuisance condition until completion of the abatement by the City or by the owner or responsible party. Once the abatement is completed, the enforcement officer shall provide a report of the total abatement costs to the Finance Department. The total abatement costs shall include those costs ordered to be paid by the hearing officer but remaining unpaid.

B. The Finance Department shall mail to the owner or responsible party an itemized invoice indicating the total abatement costs due.

C. The owner or responsible party for the property shall pay the abatement costs within thirty (30) calendar days from the date on the invoice unless an extension of time in which to pay has been granted by the City Manager in writing.

**19.06.080 Lien procedure.**

In the event the City decides to collect abatement costs as a lien, it shall impose such lien pursuant to this section:

A. Upon receipt of the itemized report, the city clerk, or his or her designee, shall serve notice of the lien in the same manner as summons in a civil action in accordance with Code of Civil Procedure section 415.10 *et seq.* If the owner of record, after diligent search cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten (10) days and publication thereof in a newspaper of general circulation in Yolo County. The period of notice commences upon the first day of publication and terminates at the end of the tenth day, including therein the first day. Publication shall be made on each day on which the newspaper is published during the ten (10) day period.

B. The notice shall inform the owner of the pending lien and inform the property owner of the public hearing where the city council will consider imposing the itemized report as a lien against the property. The hearing shall be conducted no less than ten (10) days from service of the notice.

C. At the hearing and after considering the relevant evidence, the city council may adopt a resolution confirming the itemized report and directing the city clerk to record a lien against the property in the Yolo County recorder's office and, from the date of recording, shall have the force, effect and priority of a judgment lien.

D. The lien shall identify:

1. The amount of the lien;
2. The city as the agency on whose behalf the lien is imposed;
3. The date of the abatement order or citation;
4. The street address, legal description and assessor's parcel number of the parcel on which the lien is imposed; and
5. The name and address of the recorded owner of the parcel.

E. In the event that the lien is discharged, released or satisfied, through either payment or foreclosure, notice of the discharge containing the information specified in subsection D shall be recorded by the city clerk.

F. A lien may be foreclosed by an action brought by the city for a money judgment.

G. The city may recover from the property owner any costs incurred in the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.

**19.06.090 Special assessment procedure.**

In the event the City decides to collect abatement costs as a special assessment, it shall impose such special assessment pursuant to this section:

A. The enforcement officer or other authorized city official shall keep an itemized report of the costs incurred by the city in the abatement of any public nuisance in addition to any accrued fees and penalties due. The property owner may be invoiced for the total. If payment is not received, the itemized report shall be submitted in writing to the city clerk no sooner than fifteen (15) days of the invoice date. Any such report may include the abatement costs, fees and penalties for any number of properties and abatements, whether or not such properties are contiguous.

B. If the invoice is not timely paid, the city clerk shall provide written notice to the property owner by certified mail, if the property owner's identity can be determined from the county assessor's or county recorder's records. The notice shall inform the owner of the pending special assessment, including the information set forth in subsection C, and the date, time and location of the public hearing where the city council will consider imposing the itemized report as a special assessment against the property. The hearing shall be conducted no less than ten (10) days from service of the notice.

C. At the hearing and after considering the relevant evidence, the city council may adopt a resolution confirming the itemized report and assessing the report as a special assessment against the property. The city clerk shall then provide all documentation necessary to the county to enter such assessment. After entry, the assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. The

property may be sold after three years by the tax collector for unpaid delinquent assessments. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

D. Subject to the requirements applicable to the sale of property pursuant to Section 3691 of the Revenue and Taxation Code, the city may conduct a sale of vacant residential developed property for which the payment of that assessment is delinquent.

E. Notices or instruments relating to the special assessment shall be entitled to recordation.

#### **19.06.100 Order for treble costs of abatement.**

Upon entry of a second or subsequent civil or criminal judgment within a two-year period finding that an owner of property is responsible for a condition that may be abated in accordance with the provisions of this chapter, except for conditions abated pursuant to section 17980 of the Health & Safety Code, relating to abandoned buildings, the court may order the owner to pay treble the costs of the abatement, as authorized by Government Code section 38773.7. Costs of abatement shall include, without limitation by reason of enumeration, all administrative costs of the city.

### **Chapter 19.08. Summary Abatement**

#### **19.08.010 Summary abatement.**

A. Any nuisance which the Building Official, or Fire Chief, determines is immediately or potentially dangerous to the life, health or safety of the occupants of the property or to the public may be summarily abated in accordance with the procedures set forth in this article.

B. Actions taken to abate immediately or potentially dangerous nuisances may include, but are not limited to, repair or removal of the condition creating the danger and/or the restriction from use or occupancy of the property on which the condition exists or any other abatement action determined by the Building Official or Fire Chief to be necessary. Where a residential rental property is involved, this may require the moving and relocation of the occupants by the owner and/or responsible party to other habitable temporary or permanent accommodations. Any temporary accommodations will be maintained by the owner and/or responsible party until the corrections are done to the vacated residential property so that it is habitable and the occupants are returned.

C. When summary abatement is deemed necessary by Building Official or Fire Chief, it may be ordered only if the abatement order is confirmed by the City Manager.

D. Notice of the summary abatement shall be provided to the owner or responsible party as provided for in this chapter the same day or as soon as practical. Such notice shall include a provision authorizing the owner or responsible party to dispute the existence of the nuisance conditions before the hearing officer. Any request for an appeal shall be filed in writing with the city clerk within fifteen (15) days of the notice and shall be conducted in the same manner as all applicable procedures under Chapter 19.06.

E. The costs and expenses for summary abatement, if not paid by the property owner within thirty (30) days of the date of the invoice, shall be made a lien on the property by the City Council and shall be collected pursuant to the procedures set forth in Article H section 19.06.060 of this chapter for the assessment and collection of liens.

### **Chapter 19.10. Administrative Citations**

#### **19.10.010 Title of article and authority.**

This article shall be known as the "administrative citations ordinance." It is adopted pursuant to Cal. Gov't Code § 53069.4 authorizing local agencies, by ordinance, to make violation of any ordinance of the agency subject to administrative fine or penalty.

| **19.10.020** **Applicability.**

Administrative citations shall be in addition to all other remedies, whether criminal, civil or equitable, which may be pursued by the City to address any violation of this code.

| **19.10.030** **Entry and inspection.**

An enforcement officer may enter and inspect any property or premises at all times to perform any duty imposed upon him or her by this article whenever the enforcement officer has cause to believe a violation of this code is occurring; provided, that:

A. The enforcement officer shall present proper credentials, state the reason for entry and request entry from the owner or occupant.

B. If entry is denied, the enforcement officer may seek a court ordered inspection warrant if cause exists pursuant to Cal. Civ. Proc. Code § 1822.50 et seq.

C. If entry is denied, the enforcement officer shall have recourse to every remedy provided by law to secure entry.

D. The enforcement officer shall make a reasonable effort to locate the owner of unoccupied property or premises, inform the owner of the reasons for entry and request entry.

E. The enforcement officer shall not enter any property or premises in the absence of permission to enter, unless an inspection warrant has been issued by a court of competent jurisdiction.

| **19.10.040** **First offense warning.**

A. Whenever an enforcement officer determines that a violation of any section of this code has occurred, the enforcement officer may issue a first offense warning to any person responsible for the violation. The first offense warning shall be served as a prerequisite to the issuance of a first administrative citation and serves as a written warning of responsibility. The first offense warning requires immediate action by the person responsible for the violation to correct the violation.

B. The first offense warning shall include the following:

1. The code section(s) violated.

2. How the violation can be corrected.

3. A date by which the violation can reasonably be corrected, after which an administrative citation may be issued if the violation is not fully corrected.

C. In accordance with Cal. Gov't Code § 53069.4, no person will be assessed a fine under this article for a continuing violation pertaining to a building, plumbing, electrical or similar structural or zoning issue that does not create an immediate danger to the public health or safety without first receiving a first offense warning and a reasonable opportunity to correct or otherwise remedy the violation. In such circumstances, the stated period available to correct the violation prior to the issuance of an administrative citation must be appropriate to the violation as determined by the enforcement officer, but in no event less than seven (7) days. If, after expiration of the correction period stated in the first offense warning, the violation is not corrected, the enforcement officer may issue an administrative citation.

D. Any person receiving a first offense warning for a continuing violation may file a written petition with the City Clerk for consideration by the City Manager for an extension of time to correct the violation; provided that the written petition is received before the end of the correction period set forth in the first offense warning. The City Manager may grant an extension of time to correct the violation if the person requesting the extension of time has supplied sufficient evidence showing that the correction cannot reasonably be made within the correction period set forth in the first offense warning.

E. The requirement of a reasonable opportunity to correct a violation does not apply in instances where, in the discretion of the City Manager, a violation poses an immediate danger to the public health or safety.

**19.10.050 Administrative citation.**

A. Whenever an enforcement officer charged with the enforcement of a provision of this code (including those uniform codes adopted herein by reference) determines that a violation of that provision has occurred, the enforcement officer shall have the authority to issue an administrative citation to the person or entity responsible for the violation.

B. Each administrative citation shall contain the following information:

1. The date of the violation;
2. The address or a definite description of the location where the violation occurred;
3. The code section violated and a description of the violation;
4. The amount of the fine for the code violation;
5. A description of the fine payment process, including a description of the time within which and the place to which the fine must be paid;
6. An order prohibiting the continuation or repeated occurrence of the ordinance violation described in the administrative citation;
7. A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for hearing form may be obtained;
8. The name and signature of the citing enforcement officer and the date the administrative citation is issued;
9. A description of the deposit waiver process, including the time within which a request for deposit waiver may be made and the place from which the request for hearing form may be obtained.

**19.10.0560 Amount of fines.**

A. The amounts of the fines for each code violation shall be as set forth in a schedule of fines established by resolution of the City Council.

B. The schedule of fines may specify any increased fines for repeat violations of the same code provision by the same person within thirty-six (36) months from the date of a prior administrative citation.

C. The schedule of fines shall specify the amount of any late payment charge imposed for the payment of a fine after its due date.

**19.10.0670 Payment of the fine.**

A. The fine shall be paid to the City of Winters within thirty (30) days from the date of the administrative citation.

B. Any administrative citation fine paid pursuant to subsection A of this section shall be refunded in accordance with Section 19.10.1100(D) if it is determined, after a hearing, that the person charged in the administrative citation either was not responsible for the violation or that there was no violation as charged in the administrative citation.

**19.10.0780 Hearing request.**

A. Any recipient of an administrative citation may contest either or both that there was a violation as stated in the administrative citation or that he or she is the responsible party by completing a request for hearing form and returning it to the City Clerk within thirty (30) days from the date of the administrative citation, together with either an advance deposit of the fine or an approved request for a deposit waiver.

B. A request for hearing form may be obtained from the City Clerk.

C. The person requesting the hearing shall be notified by the City Clerk of the time and place set for the hearing at least ten (10) days prior to the date of the hearing.

D. If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer, for consideration at the hearing, then a copy of this report also shall be served on the person requesting the hearing, at least five (5) days prior to the date of the hearing.

**19.10.0890 Deposit waiver.**

A. Any person who requests a hearing who is financially unable to make the advance deposit of the fine as required in Section 19.10.0780(A) may file a request for deposit waiver.

B. The request shall be filed with the Finance Director within ten (10) days of the date of the administrative citation on a deposit waiver application form available from the City Clerk. The Finance Director shall either issue or decline to issue the deposit waiver within five (5) days.

C. The Finance Director shall issue the deposit waiver if the cited party submits to the Finance Director a sworn affidavit, or declaration under penalty of perjury, together with any supporting documents or materials, demonstrating to the satisfaction of the Finance Director the person's actual financial inability to deposit with the City of Winters the full amount of the fine in advance of the hearing.

D. The Finance Director shall issue a written determination listing the reasons for his or her determination to issue or not issue the deposit waiver. The written determination of the Finance Director shall be final, and shall be served upon the person who applied for the deposit waiver, the enforcement officer and the City Clerk.

**19.10.1090 Hearing procedure.**

A. No hearing to contest an administrative citation shall be held unless the fine has been deposited in advance in accordance with Section 19.10.0780(A) or a deposit waiver has been issued in accordance with Section 19.10.0890.

B. The hearing shall be set by the City Clerk for a date that is not less than fifteen (15) days and not more than sixty (60) days from the date that the request for hearing is filed in accordance with the provisions of this chapter.

C. The hearing officer may continue the hearing and request additional information from the enforcement officer or the recipient of the administrative citation prior to issuing a written decision. The hearing officer shall ensure an adequate record of the hearing is made.

D. The City shall bear the burden of proof, by a preponderance of the evidence, that the violation occurred as charged and that the person to whom an administrative citation was issued is responsible for the violation. The City may be represented by the enforcement officer or be represented by counsel.

E. The recipient of the administrative citation may cross-examine the enforcement officer or any other witness against him or her, and may present such evidence as he or she may have. The recipient of the administrative citation may be represented by counsel.

F. The formal rules of evidence shall not apply. The hearing officer may rely upon such evidence as he or she believes reasonable persons would rely upon in the conduct of their affairs. Any witnesses, including the enforcement officer and the recipient of the administrative citation, shall testify under oath.

G. The administrative citation and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained on those documents.

**19.10.1100 Hearing officer's decision.**

A. After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or cancel the administrative citation and shall list in the decision the reasons for that decision. The decision of the hearing officer shall be final.

B. If the hearing officer determines that the administrative citations should be upheld, then the fine amount on deposit with the City shall be retained by the City.

C. If the hearing officer determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the hearing officer shall set forth in the decision a payment schedule for the fine.

D. If the hearing officer determines that the administrative citation should be canceled or reduced and the fine was deposited with the City, then the City shall promptly refund the amount of the deposited fine or excess, as the case may be, together with interest at the average rate earned on the City's investment portfolio for the period of time that the fine amount was held by the City.

E. The recipient of the administrative citation shall be served with a copy of the hearing officer's written decision.

**19.10.1420 Late payment penalties and interest.**

Any person who fails to pay any fine imposed pursuant to the provisions of this article on or before the date that fine is due also shall be liable for the payment of a late payment penalty in the amount of ten percent (10%) of the fine. Thereafter, the amount of the fine, and the penalty, shall accrue interest at ten percent (10%) per annum until paid.

**19.10.1230 Recovery of administrative citation fines and costs.**

The City may collect any past due administrative citation fine or late payment penalty and interest by use of all available legal means. Without limiting the generality of the foregoing, all such fines or late payments shall constitute civil debts and may be recovered in an action at law, or, where the violation relates to or occurred upon real property owned by the person to whom an administrative citation was issued, a lien may be filed by the City against such real property.

**19.10.1340 Right to judicial review.**

A. The failure of the party contesting the administrative citation to appear at the administrative citation hearing shall result in a forfeiture of the fine and shall constitute a failure to exhaust administrative remedies.

B. Subject to the provisions of subsection A of this section, any person aggrieved by an administrative decision of a hearing officer on an administrative citation may obtain review of the administrative decision by filing an appeal in a court of competent jurisdiction within twenty (20) days after service of the decision in accordance with the provisions of Cal. Gov't Code § 53069.4(b)(2).

**19.10.1450 Notices.**

A. The administrative citation and all notices required to be given by this article shall be served on the responsible party as follows:

1. The citation and any notices may be served upon the responsible party in person by either the enforcement officer, the City Clerk or any police officer of the City of Winters.
2. The citation and notices may be served by depositing same in the United States Postal Service mail, first class mail, postage prepaid, at Winters, California, and addressed to party to be cited at the address of that party known to the enforcement officer or the City Clerk, or, if that address is not known, as that address appears on the last equalized assessment roll of Yolo County if the party to be served with the citation or notice is the owner of real property within the City and that real property is the situs of the ordinance violation charged in the citation.

B. Failure to receive any notice in this article does not affect the validity of proceedings conducted hereunder.

**Chapter 19.12. Judicial Review**

**19.12.010 Right of judicial review.**

A. Except as otherwise provided in this title or by law, any person aggrieved by any administrative decision of a hearing officer pursuant to this chapter may obtain judicial review of the administrative decision in the Superior Court by filing with the court a petition for writ of mandate pursuant to Cal. Civ. Proc. Code § 1094.6.

B. This section does not apply to decisions of the hearing officer relating to administrative fines pursuant to Chapter 19.10 of this title. Such decisions may be appealed pursuant to Section 8.32.692 and Cal. Gov't Code § 53069.4.

## Title 19

### NUISANCE ABATEMENT

#### Chapter 19.04. Nuisance Abatement in General

##### Sections

- 19.04.010 Short title.
- 19.04.020 Definitions.
- 19.04.030 Nuisance and nuisance conditions defined.
- 19.04.040 Nuisance unlawful.
- 19.04.050 Property owner responsibilities.
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- 19.06.010 Notice to abate nuisance conditions.
- 19.06.020 Manner of conducting abatement hearing.
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- 19.06.060 Abatement by owner/responsible party.
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- 19.06.110 Hearing officer's decision of appeal hearing of abatement costs.
- 19.06.120 Assessment of abatement costs.
- 19.06.130 Manner of collection of notice of lien.

#### Chapter 19.08. Summary Abatement

- 19.08.010 Summary abatement.

#### Chapter 19.10. Administrative Citations

- 19.10.010 Title of article and authority.
- 19.10.020 Applicability.
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- 19.10.040 First offense warning.
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- 19.10.140 Right to judicial review.
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## Chapter 19.12. Judicial Review

19.12.010 Right of judicial review.

## Chapter 19.04. Nuisance Abatement in General

### 19.04.010 Short title.

This chapter may be cited as “the nuisance abatement ordinance.”

### 19.04.020 Definitions.

Except as otherwise provided in the other articles of this chapter, the following words, terms and phrases used in this chapter are defined as set forth in this section:

“Abate” means, but is not limited to, modifying, repairing, replacing, removing, securing, locking, demolishing, or otherwise remedying the condition in question by such means and to such extent as necessary.

“Building” means any structure (including but not limited to any house, garage, duplex, apartment, condominium, stock cooperative, mobile home or other residential buildings or associated accessory structures) and any commercial, industrial or other establishment, warehouse, kiosk, sign or other structure affixed to or upon real property used as a dwelling or for the purpose of conducting a business, storage or any other activity.

“Building Code” means the California Building Code, adopted by reference by the City as modified pursuant to Chapter 15.08 of the Winters Municipal Code.

“City” means the City of Winters.

“City Council” means the City Council of the City.

“Code” means the Winters Municipal Code.

“Compliance date” means the date requested for correction of the violation(s) prior to the imposition of any administrative fines or penalties.

“Day” means calendar day.

“Enforcement officer” means either the Building Official, City Engineer, Community Development Director, Public Works Director, Fire Chief or Police Chief of the City, or their designees, or the Code Compliance Technician when such persons have been delegated in writing the authority to enforce and administer the particular provisions of this chapter at issue in a particular matter.

“Fire Code” means both the California Fire Code adopted by reference by the City as modified pursuant to Chapter 15.20 of the Winters Municipal Code.

“Garbage” means and includes kitchen and table refuse, offal, swill and also every accumulation of animal and vegetable refuse, and other matter that attends the preparation, consumption, decay or dealing in or storage of meats, fish, fowl, birds, fruits or vegetables. Food slops or liquids, when placed in a plastic liner within the garbage container, shall be considered as garbage waste. Garbage waste shall also include cans, bottles, containers, wrappings and packaging materials soiled with foods and waste material. It also includes crockery, bottles, tin vessels, ashes and all refuse, save and excepting as defined as rubbish.

“Graffiti” means the unauthorized letters, words, symbols, figures and marks placed on buildings and objects on private property, public property or the public right-of-way by using paint or marking with ink, chalk, crayon, dye or other similar substances, or by cutting or scraping with any tool or instrument.

“Habitable” means that a building, premises or property is suitable for occupancy per the standards set forth in the codes referenced in this chapter and/or those codes utilized by the City in the normal course of government operations.

“Hearing officer” means a hearing officer appointed by the City to conduct hearings pursuant to this chapter. 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 this chapter and shall not have had any personal involvement in the proceeding to be heard within the past twelve (12) months or possess any disqualifying interest in the outcome of the proceeding. No hearing officer shall be compensated or evaluated, directly or indirectly, based upon the outcomes of any hearing.

“Industrial waste” means all liquid or solid waste substances, except sewage, from any production, manufacturing, processing or packaging operation.

“Inoperative” means any vehicle that (1) cannot be immediately started and driven under its own power on the streets and highways, (2) is in an unsafe condition, or (3) is in any other condition specified in the California Vehicle Code which prohibits its placement and/or movement on the public streets or highways. This includes any vehicles, including trailers or vessels, not currently registered for operation on the public streets, highways or waterways.

“Lodging house” means any building or portion thereof containing not more than five (5) guest rooms where rent is paid in money, goods, labor or otherwise. For the purposes of this chapter a single-family dwelling unit may contain one (1) or two (2) guest rooms and not be classified as a lodging house; provided, such dwelling meets all of the following criteria: (1) the dwelling contains only one (1) kitchen; (2) no food preparation appliances, including stoves, ovens, hotplates, refrigerators or sinks, are installed or located in the guest rooms; (3) doors to guest rooms do not contain dead bolt locks and such doors only open into the interior of the dwelling unit; (4) the parcel on which the dwelling is located has only one (1) address and one (1) mailbox; and (5) all vehicles owned, operated or controlled by occupants of the dwelling and stored for any length of time on or in proximity of the parcel on which the dwelling is located have space available for and are capable of simultaneously legally parking on the parcel.

“Owner” means any person, his/her heirs, executors, administrators or assigns, agent, firm, partnership or corporation having or claiming any legal or equitable interest in the property in question as listed on the last available equalized tax assessment roll for Yolo County.

“Premises” means every house, dwelling, building, structure, enclosure, business establishment, lot, yard, location, place, alley, parkway, right-of-way, sidewalk, street, and every vehicle.

“Property” means all residential, industrial, commercial, agricultural, open space and other real property, including but not limited to front yards, side yards, driveways, walkways, alleys and sidewalks, and shall include any building or other structure, whether fixed or movable, located on such property.

“Putrescible” means a substance that is or is liable to become putrid or rotten.

“Refuse” and “rubbish” mean all putrescible and/or nonputrescible solid or liquid wastes, except sewage, whether combustible or noncombustible.

“Responsible party” means the owner, agent, manager, lessee, tenant or any other person having control or possession of the property.

“Sewage” means effluent or waste matter which is required to be disposed of through or should pass through sewers and the wastewater treatment plant and is composed of human or animal feces, urine, toilet paper and any other such waste materials.

#### **19.04.030 Nuisance and nuisance conditions defined.**

For the purposes of this chapter, “nuisance” and/or “nuisance condition” means any condition or use of premises or property which is either: (A) detrimental to the premises or property of others; (B) which poses an immediate or potential health, safety or fire hazard; or (C) which violates any provision of this code or other codes adopted by the City. “Nuisance” includes, but is not limited to, any of the following:

A. Storing, keeping or maintaining: vehicle parts; scrap metal; bottles; cans; wire; firewood; boxes; containers; wood and building materials no longer usable for their intended purpose; tools; machinery; equipment or parts thereof; or abandoned, discarded or unused household furniture or appliances;

B. Storing, keeping or maintaining: rubbish; refuse; trash; junk; garbage; and other waste or discarded material, including but not limited to the accumulation of asphalt, concrete, plaster, tile, rocks, bricks, crates, cartons, boxes, dirt, sand or gravel;

C. The existence of any condition which constitutes a fire hazard as defined in the Winters Fire Code, and any condition related to fire protection as defined in the California Health and Safety Code;

D. The existence of any building construction project which is abandoned, partially destroyed or left in a state of partial construction for an unreasonable period of time. A "state of partial construction for an unreasonable period of time" exists if the project has been under construction for more than one (1) year, its appearance from the public street or neighboring properties substantially detracts from the appearance of the immediate neighborhood, and there is no valid and active building permit authorizing the construction work;

E. The existence of any dwelling, dwelling unit or lodging house which has not been used for its legal and intended purpose for a three hundred sixty-five (365) day period. Uses that occur within any three hundred sixty-five (365) day period and are of a duration of less than thirty (30) days shall, for the purpose of this chapter, not qualify as meeting the use requirements of this section. Time during which the dwelling is either being actively remodeled, or marketed for either sale or rental, shall not be included in determining the period of nonuse;

F. The existence of any dangerous building as defined in the Uniform Code for the Abatement of Dangerous Buildings as adopted by the City or any building having any or all of the conditions or defects hereinafter described:

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

2. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.

3. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one-half (1.5) times the working stress or stresses allowed in the Winters Building Code for new buildings of similar structure, purpose or location.

4. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Winters Building Code for new buildings of similar structure, purpose or location.

5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

6. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof, is not of sufficient strength or stability, or is not so anchored, attached or fastened in place, so as to be capable of resisting a wind pressure of one-half of that specified in the Winters Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Winters Building Code for such buildings.

7. Whenever any portion thereof has cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

8. Whenever the building or structure, or any portion thereof, because of: (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.

9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used or is intended to be used.

10. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

11. Whenever the building or structure, exclusive of the foundation, shows thirty-three percent (33%) or more damage or deterioration of its supporting member or members, or fifty percent (50%) damage or deterioration of its nonsupporting members, enclosing or outside walls or coverings.

12. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood or has become so dilapidated or deteriorated as to become: (a) an attractive nuisance to children; (b) a harbor for vagrants, criminals or immoral persons; or as to (c) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

13. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of the City, as specified in the Winters Building Code, Winters Housing Code, or any law or ordinance of this State or the City relating to the condition, location or structure of buildings.

14. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than fifty percent (50%), or in any supporting part, member or portion less than sixty-six (66%) percent, of the (a) strength, (b) fire-resisting qualities or characteristics, or (c) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

15. Whenever a building or a structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the Building Official to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.

16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Building Official or Fire Chief to be a fire hazard.

17. The presence of electrical wiring and/or equipment that was installed in violation of code requirements in effect at the time of installation, or not installed in accordance with generally accepted construction practices if no codes were in effect, or that has not been maintained in good condition or that is not being used in a safe manner.

18. The presence of plumbing piping and/or fixtures that were installed in violation of code requirements in effect at the time of installation, or not installed in accordance with generally accepted construction practices if no codes were in effect, or that have not been maintained in good condition or that are not being used in a safe manner.

19. The presence of mechanical equipment that was installed in violation of code requirements in effect at the time of installation, or not installed in accordance with generally accepted construction practices if no codes were in effect, or that has not been maintained in good condition or that is not being used in a safe manner.

20. Whenever the horizontal and/or vertical weather protection of a structure, because of obsolescence, dilapidated condition, deterioration, damage, lack of painted surfaces, faulty construction or other cause, allows moisture to enter the structure.

21. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence;

G. The existence of any building or portion thereof used as a dwelling, dwelling unit, apartment, guest room or lodging house defined as having any or all of the conditions or defects described in the Winters Housing Code or any of the following defects:

1. Lack of or nonfunctioning water closet in a dwelling unit or lodging house.

2. Lack of or nonfunctioning kitchen sink, including lack of hot and cold running water to sink in a dwelling unit or lodging house.
3. Lack of or nonfunctioning bathtub or shower in a dwelling unit or lodging house, including lack of hot and cold running water to bathtub or shower.
4. Lack of or nonfunctioning lavatory in a dwelling unit or lodging house, including lack of hot and cold running water to lavatory.
5. Lack of or nonfunctioning heating system in a dwelling unit or lodging house capable of heating all habitable spaces to seventy (70) degrees Fahrenheit at a point three (3) feet above the floor.
6. Lack of or improper operation of habitable space ventilation equipment.
7. Lack of minimum amounts of ventilation in a dwelling unit or lodging house in bathrooms and habitable spaces. Minimums shall be those amounts required by the code under which the structure was built or current code if installation or modification occurred without permits or inspections.
8. Lack of minimum amounts of natural light in a dwelling unit or lodging house in habitable spaces. Minimums shall be those amounts required by the code under which the structure was built or current code if installation or modification occurred without permits or inspections.
9. Lack of or nonfunctioning permanent light fixture in a dwelling unit or lodging house in each bathroom, kitchen and hall.
10. Lack of or nonfunctioning of a single electrical receptacle in a dwelling unit or lodging house in each bathroom, laundry room and habitable space.
11. Infestation of insects, vermin or rodents as determined by the Health Officer or Building Official.
12. General dilapidation or improper maintenance.
13. Lack of functioning connection to required sewage disposal system.
14. Presence of any condition that can be described as a dangerous building.
15. Presence of any plumbing fixture which is cracked, chipped or does not function.
16. Presence of any plumbing drain pipe which leaks, is blocked or does not convey sanitary waste to a required sewage disposal system.
17. Presence of any potable water supply pipe which leaks, is blocked or allows rust to enter the water supply.
18. Lack of or nonfunctioning cooking appliance in a dwelling unit. The meaning of "functioning" shall include, but not be limited to: all burners and heating elements operate correctly at all settings; all knobs and controls are present and operating; and all utility connections are in compliance with current codes.
19. Lack of or nonfunctioning refrigerator in a dwelling unit. The meaning of "functioning" shall include, but not be limited to: doors are gasketed and open, close, and latch properly; unit can maintain a minimum temperature of forty-five (45) degrees Fahrenheit.
20. Presence of a refrigerator or freezer with a door which cannot be opened from the inside.
21. Lack of or nonfunctioning or expired required fire extinguisher.
22. Presence of a mounted and displayed nonfunctioning or expired fire extinguisher in a commercial, industrial, hotel, motel, or apartment building (excluding the interior of individual dwelling units).
23. Lack of or nonfunctioning code-required smoke and/or heat alarms.

24. Lack of or the nonfunctioning of at least one (1) smoke alarm in a dwelling unit or lodging house located in the hallway leading to the sleeping rooms.

25. Presence of any window in a dwelling unit or lodging house which does not open and close completely when designed to do so, has missing or cracked glazing, has defective or missing security latches, or has missing or nonfunctioning insect screens.

26. Presence of any exterior door in a dwelling unit or lodging house which does not open and close properly, is missing locks or a locking device which does not function to secure the dwelling, or which lacks adequate weather stripping.

27. Lack of or nonfunctioning water heater in a dwelling unit or lodging house. "Nonfunctioning" means: does not heat water to one hundred ten (110) degrees Fahrenheit, lacks or has a nonfunctioning temperature and pressure relief valve, leaks gas or water, or has insufficient combustion air.

28. Presence of floor coverings in a dwelling unit or lodging house with holes, tears, or rips, or which are not attached to the floor structure and/or pose a tripping hazard.

29. Presence of interior walls in a dwelling unit or lodging house which have holes in drywall or loose wall materials.

30. Presence of electrical fixtures, switches, or receptacles which are missing cover plates.

31. Presence of mold, mildew, or fungus;

H. The existence of any structure, building, or a portion thereof which is open or maintained for the use, storage, manufacture, or distribution of "controlled substances" as defined in the California Health and Safety Code;

I. Any vehicle or portion thereof and/or any equipment located on private or public property or in the public right-of-way, or any nonresidential building or structure, being used for living or sleeping purposes except for travel trailers being used on property properly zoned for such use;

J. The existence of any condition dangerous to children or others, including but not limited to unsecured structures; fences or portions of fences in disrepair, leaning and/or partially down; abandoned, broken, unprotected and/or unsecured equipment, machinery or household appliances; or unprotected, unfenced and/or unsecured pools, ponds, or excavations;

K. The existence of any condition or use which unlawfully obstructs, injures, or interferes with the free passage or use in the customary manner of property, any public park, street, highway, sidewalk, and any other portion of the public right-of-way;

L. The existence of any body of stagnant water or other liquid in which mosquitoes or other insects may breed, or which may or does generate noxious or offensive gases or odors;

M. The existence of any improperly contained accumulation of manure, human or animal feces, garbage or refuse which may serve as a breeding ground for flies, mosquitoes, rodents or other vermin, or which may or does generate noxious or offensive odors;

N. The existence of sewage, chemical, petroleum, commercial or industrial waste which has the potential to leak into the groundwater or may or does generate noxious or offensive odors;

O. The existence of any barbed wire, razor ribbon, glass, nails or other sharp objects on, in, or affixed to any fence or wall, or any electric fences in or adjacent to a residential zoning district or property used for residential uses;

P. The existence of any sign, banner, balloon, flags (other than those of the United States of America and the State of California), inflated advertising device and/or the display of retail or manufactured products on private property or in the public right-of-way, which is not in compliance with this code;

Q. The existence of graffiti on any building, fence, wall, equipment, motor vehicle, trailer, sign or other object on private or public property or in the public right-of-way;

R. The existence of a use, business or activity in any zoning district that does not conform with the requirements of that zoning district in which it is located as set forth in this code; or which does not conform with any discretionary permit or review approval by the Planning Commission or City Council; or which does not conform with any law, ordinance or regulations adopted by the City applicable to the property;

S. The existence of smoke, fumes, gas, dust, soot, cinders, or other particulate matter in such quantities as to render the occupancy or use of property uncomfortable to a person or persons;

T. The existence of any condition or use which poses a threat to the public health or safety;

U. Storing, parking, keeping, or maintaining of operative vehicles, boats, vessels, trailers, or camper shells on any portion of a required front yard area other than the driveway or immediately adjacent paved driveway extension;

V. Storing, keeping, or maintaining trash cans, refuse cans, recyclable containers and/or other such containers in the front yard area or other visible yard area at times other than the day of collection or prior to 6:00 p.m. of the day prior to the day of collection;

W. The existence of any building, or a portion thereof, used by members of a criminal street gang for the purpose of the commission of: robbery; unlawful homicide or manslaughter; the sale, possession for sale, transportation, manufacture, offer for sale or offer to manufacture controlled substances; shooting at an inhabited dwelling or occupied motor vehicle; discharging or permitting the discharge of a firearm from a motor vehicle; arson; the intimidation of witnesses and victims; grand theft; burglary; rape; looting; money laundering; kidnapping; mayhem; aggravated mayhem; torture; felony extortion; felony vandalism; carjacking; or sale, delivery or transfer of a firearm. As used in this chapter, "criminal street gang" means any ongoing organization, association or group of three (3) or more persons, whether formal or informal, having as one (1) of its primary activities the commission of one (1) or more of the criminal acts enumerated above, having a common name or common identifying sign or symbols, and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity;

X. Making or emitting any noise uncomfortable to or annoying to a reasonable person;

Y. Maintenance of any tree, shrub, or other vegetation such that it impairs passage along a public sidewalk, impairs the ability of drivers to see any traffic sign, impairs the ability of drivers to see other traffic, or blocks any street light;

Z. Maintenance of any sidewalk with a crack or hole of over one (1) inch displacement or otherwise in a condition preventing safe passage of pedestrians, wheelchairs or strollers.

AA. It is unlawful, and it shall be a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises or property in the city to maintain a medical cannabis dispensary upon such premises or property.

1. A medical cannabis dispensary is defined as any place, location, building or establishment where medical cannabis is traded, exchanged, sold, distributed or cultivated which would otherwise require a business license, home occupation permit, or any other use permit to conduct similar type activities.

2. Notwithstanding the prohibition in subparagraph 1 of this subsection, medical cannabis collectives and cooperatives formed in a manner consistent with California law and the California Attorney General's Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use issued in August 2008 shall be permitted to operate provided they do not sell, exchange, trade, distribute or cultivate medical marijuana in a manner prohibited by subsection A of this section, and that they do not exchange payment or gift in the form of money for such medical marijuana.

**19.04.040 Nuisance unlawful.**

Every nuisance condition found to exist on any premises is declared to be unlawful. In addition to all other remedies available to the City, whether criminal, civil, at law or in equity, any nuisance may be abated by the enforcement

officer, Police or Fire Department personnel, or any other appropriate City staff as designated by the City Manager in the manner provided in this chapter or in any other manner provided by law.

**19.04.050 Property owner responsibilities.**

It shall be the duty of the owner, and of the responsible party occupying or having charge or control of any parcel of land, improved or unimproved, to maintain such parcel of land free of any nuisance and/or nuisance conditions at all times. The same responsibility extends to the public rights-of-way or public land, related to any vehicle, vessel, structure, machinery, container, refuse, debris or other item found to be or having been under the charge or control of a property owner, responsible party, or last registered or documented owner. Any owner or responsible party shall be responsible for the removal or correction of any nuisance or nuisance conditions and the costs for such removal or correction.

**19.04.060 Relationship of parts of chapter.**

The remedies provided in this chapter are cumulative to each other. However, in the discretion of the enforcement officer, the procedures of Chapter 8.08 of this Code may be utilized to abate abandoned vehicles and the procedures of Chapter 8.12 of this Code may be used to abate weeds. In the discretion of the enforcement officer, the administrative citation procedure included in this chapter may be used either in addition to, or in lieu of, the other provisions of this chapter.

**19.04.070 Relationship to uniform codes.**

The remedies provided in this chapter are cumulative to those provided by the Winters uniform codes. They are in addition to any remedies or "notice and order" which may be issued under any of the Winters uniform codes (including, without limitation by reason of enumeration, the Winters Housing Code, the Winters Fire Code, the Winters Building Code and the Uniform Code for the Abatement of Dangerous Buildings).

**19.04.080 Relationship to remainder of City Code.**

The remedies provided in this chapter are cumulative and in addition to any other remedy provided in this code, by law, or in equity.

**19.04.090 Attorneys' fees.**

A. Notwithstanding anything in this code to the contrary, the city may only recover its attorneys' fees in any administrative proceeding or special proceeding commenced by the city to abate a public nuisance, to enjoin violation of any provision of this code, including its adopted codes, or to collect a civil debt owing to the city, if the city elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. In these cases, the prevailing party shall be entitled to recover all costs incurred therein, including reasonable attorneys' fees and costs of suit. 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.

B. The city shall be considered a prevailing party entitled to attorneys' fees under subsection A when it can demonstrate that:

1. Its lawsuit was the catalyst motivating the defendant to provide the primary relief sought;
2. The lawsuit was meritorious and achieved its result by "threat of victory;" and
3. The city reasonably attempted to settle the litigation before filing the lawsuit.

**19.04.100 Severability.**

If any part, section, subsection, sentence, clause, phrase or portion of this chapter is, for any reason, held to be invalid, ineffective or unconstitutional by the decisions of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have adopted this chapter, and any part, section, subsection, sentence, clause, phrase or portion of this chapter, irrespective of the fact that any one (1) or more parts, sections, subsections, sentences, clauses, phrases or portions of this chapter are judicially determined to be invalid, ineffective or unconstitutional.

**Chapter 19.06. Nuisance Abatement Procedure**

**19.06.010 Notice to abate nuisance conditions.**

A. When the enforcement officer finds that a nuisance condition exists upon any premises in the City, he/she may, or upon the direction of the City Council shall, serve a notice to abate upon the owner or responsible party in possession

or having control of the premises upon which the condition exists, directing him/her to abate or cause the nuisance condition(s) upon the premises to be abated on or before a specified compliance date. The notice shall also state that the responsible party may file a written request for a hearing with the city clerk to dispute the alleged conditions within fifteen (15) days of the notice.

B. The enforcement officer shall post one (1) copy of the notice in a conspicuous place on the property in question and shall deliver one (1) copy of the notice to the owner or responsible party in possession or control of the property upon which the nuisance condition exists either in person or by certified mail, with a return receipt requested.

C. The failure of the owner or responsible party to actually receive the notice shall not affect in any manner the validity of any proceedings pursuant to this chapter.

D. The notice shall be posted and delivered as set forth in subsection B of this section, at least ten (10) calendar days before the time and date of the hearing scheduled within the notice if personally delivered, or fifteen (15) calendar days if mailed.

E. In the event the responsible party fails to appeal the notice, the nuisance conditions shall be deemed confirmed. Such failure shall also constitute a failure to exhaust available administrative remedies.

**19.06.020 Manner of conducting abatement hearing.**

In the event a hearing is timely requested pursuant to Section 19.06.010, the hearing shall be conducted pursuant to the following procedures:

A. At the time and place designated in the notice of hearing, the hearing officer shall hear and consider all relevant evidence, including but not limited to applicable staff reports, oral evidence, physical evidence and documentary evidence regarding the alleged nuisance, and proposed method of abatement. The hearing may be continued from time to time.

B. Failure of the owner or responsible party to appear at the hearing after notice has been served shall be deemed a waiver of the right to a hearing and an admission by the owner or responsible party of the existence of the nuisance condition charged. In the event of such failure to appear, the hearing officer may order that the nuisance condition be abated by the enforcement officer. Such failure to appear shall also constitute a failure to exhaust available administrative remedies.

C. The City shall bear the burden of proof to demonstrate, by a preponderance of the evidence, that a nuisance exists and that the proposed mechanism for abatement is appropriate. The City need not demonstrate that the proposed mechanism for abatement is either the most appropriate or least expensive.

D. The hearing shall not be conducted according to the formal rules of evidence. Any relevant evidence shall be admitted if it is the type of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this State. However, irrelevant or unduly repetitious evidence may be excluded.

E. Prior to conclusion of the hearing, if the owner or responsible party is present, the hearing officer may request the owner or responsible party to sign a consent to enter and perform work. The permission given shall be used only if the nuisance condition is determined to exist and is not abated by the schedule of correction specified in the hearing officer's decision.

F. If the owner or responsible party does not provide written consent, entry onto the property may be made by obtaining verbal permission from the owner or a responsible party, or by means of an inspection warrant, or by any other lawful manner.

**19.06.030 Issuance of decision findings and order.**

A. Within ten (10) days after the conclusion of the hearing, the hearing officer shall issue a written decision. The decision shall set forth the factual findings made by the hearing officer, a conclusion as to whether a nuisance condition exists, the manner of abatement, including an order that such nuisance (if one is found to exist) be abated by

the City, the amount of administrative costs imposed, if any, and a schedule of correction or the date by which the abatement shall be completed.

B. If the hearing officer determines that a nuisance exists which has not been corrected within the time period specified in the notice to abate nuisance conditions, the hearing officer shall so find in the decision, and may include in the decision any or all of the following:

1. An order to correct, including a schedule of correction where appropriate;
2. An order to pay administrative costs as provided in Section 19.06.060.

C. Failure to issue a decision in ten (10) days shall not affect the validity of such decision.

D. The decision shall be mailed by certified mail with return receipt requested to the owner and shall be mailed to the enforcement officer. A copy of a summary of the decision and any order it contains shall also be posted on the property by the enforcement officer in a conspicuous location.

**19.06.040 Abatement by enforcement officer if nuisance is not abated.**

Upon receipt of the hearing officer's decision (or following an appeal if an appeal has been taken from the hearing officer's decision) if (A) no schedule of correction has been issued or (B) upon the failure of the property owner to comply with such schedule if a schedule was included, if the nuisance condition has not been abated the enforcement officer shall forthwith abate, or cause to be abated, the nuisance condition upon the premises. The enforcement officer is authorized to enter upon private property for this purpose, consistent with the provisions of the U.S. Constitution.

The cost of abatement shall become a personal obligation of the property owner and responsible party and may be collected in any legal manner, expressly including as a lien or special assessment pursuant to the procedures set forth in this chapter.

**19.06.050 Abatement by owner/responsible party.**

A. Any owner or responsible party may, at his/her own expense and prior to the scheduled abatement hearing, abate a declared nuisance condition in accordance with the provisions of the notice sent by the enforcement officer; provided, that all necessary permits are first obtained. If the enforcement officer determines that the nuisance condition has been abated prior to the hearing, the hearing proceedings shall be terminated.

B. Any owner or responsible party may request the City to abate a declared nuisance condition on his/her property. However, the owner or responsible party making the request shall be responsible for the payment of all abatement costs incurred by the City. The request for the City to perform the abatement shall be in writing and include a written consent to enter and perform work. Any such request shall be deemed an agreement to pay for the costs of such abatement and an agreement that such costs may be collected as a lien upon the property. The abatement hearing proceedings shall thereafter be terminated.

**19.06.060 Liability for abatement costs.**

A. In addition to liability for the costs of abatement itself pursuant to Section 19.06.060, the owner and/or responsible party shall also be liable for any expenses and administrative costs incurred by the City, County or any related agency incurred subsequent to the initial inspection and identification of the nuisance.

B. The administrative costs may include any and all costs incurred by the City in connection with the matter before the hearing officer, including but not limited to costs of investigation, staffing costs incurred in preparation for the hearing and for the hearing itself, and costs for all reinspections necessary to enforce the notice to abate nuisance conditions.

C. In the event that the city is entitled to recover its attorneys' fees and costs pursuant to Section 19.04.080, such fees and costs shall be collected at the same time and pursuant to the same procedures as administrative costs pursuant to this section.

D. The enforcement officer or other authorized city official shall keep an itemized report of the costs incurred by the city in the abatement of any public nuisance in addition to any accrued fees and penalties due. The responsible party may be invoiced for the total. If payment is not received, the itemized report shall be submitted in writing to the city clerk no sooner than twenty (20) days of the invoice date. Any such report may include the abatement costs, fees and

penalties for any number of properties and abatements, whether or not such properties are contiguous. In the event, the invoice is not paid within thirty (30) days, the City may collect all such costs, penalties and interest through a lien or special assessment under sections 19.06.080 and 19.06.090.

**19.06.070 Report of abatement costs.**

A. In the event a nuisance is abated by the enforcement officer (either utilizing City forces or by contracting with a third person), the enforcement officer shall keep an itemized list of costs including but not limited to hearing costs, reinspection fees, posting of notices, and costs for equipment, material, City staff time and contractor's costs incurred by the City from the time of initial inspection and identification of the nuisance condition until completion of the abatement by the City or by the owner or responsible party. Once the abatement is completed, the enforcement officer shall provide a report of the total abatement costs to the Finance Department. The total abatement costs shall include those costs ordered to be paid by the hearing officer but remaining unpaid.

B. The Finance Department shall mail to the owner or responsible party an itemized invoice indicating the total abatement costs due.

C. The owner or responsible party for the property shall pay the abatement costs within thirty (30) calendar days from the date on the invoice unless an extension of time in which to pay has been granted by the City Manager in writing.

**19.06.080 Lien procedure.**

In the event the City decides to collect abatement costs as a lien, it shall impose such lien pursuant to this section:

A. Upon receipt of the itemized report, the city clerk, or his or her designee, shall serve notice of the lien in the same manner as summons in a civil action in accordance with Code of Civil Procedure section 415.10 *et seq.* If the owner of record, after diligent search cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten (10) days and publication thereof in a newspaper of general circulation in Yolo County. The period of notice commences upon the first day of publication and terminates at the end of the tenth day, including therein the first day. Publication shall be made on each day on which the newspaper is published during the ten (10) day period.

B. The notice shall inform the owner of the pending lien and inform the property owner of the public hearing where the city council will consider imposing the itemized report as a lien against the property. The hearing shall be conducted no less than ten (10) days from service of the notice.

C. At the hearing and after considering the relevant evidence, the city council may adopt a resolution confirming the itemized report and directing the city clerk to record a lien against the property in the Yolo County recorder's office and, from the date of recording, shall have the force, effect and priority of a judgment lien.

D. The lien shall identify:

1. The amount of the lien;
2. The city as the agency on whose behalf the lien is imposed;
3. The date of the abatement order or citation;
4. The street address, legal description and assessor's parcel number of the parcel on which the lien is imposed; and
5. The name and address of the recorded owner of the parcel.

E. In the event that the lien is discharged, released or satisfied, through either payment or foreclosure, notice of the discharge containing the information specified in subsection D shall be recorded by the city clerk.

F. A lien may be foreclosed by an action brought by the city for a money judgment.

G. The city may recover from the property owner any costs incurred in the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.

**19.06.090 Special assessment procedure.**

In the event the City decides to collect abatement costs as a special assessment, it shall impose such special assessment pursuant to this section:

A. The enforcement officer or other authorized city official shall keep an itemized report of the costs incurred by the city in the abatement of any public nuisance in addition to any accrued fees and penalties due. The property owner may be invoiced for the total. If payment is not received, the itemized report shall be submitted in writing to the city clerk no sooner than fifteen (15) days of the invoice date. Any such report may include the abatement costs, fees and penalties for any number of properties and abatements, whether or not such properties are contiguous.

B. If the invoice is not timely paid, the city clerk shall provide written notice to the property owner by certified mail, if the property owner's identity can be determined from the county assessor's or county recorder's records. The notice shall inform the owner of the pending special assessment, including the information set forth in subsection C, and the date, time and location of the public hearing where the city council will consider imposing the itemized report as a special assessment against the property. The hearing shall be conducted no less than ten (10) days from service of the notice.

C. At the hearing and after considering the relevant evidence, the city council may adopt a resolution confirming the itemized report and assessing the report as a special assessment against the property. The city clerk shall then provide all documentation necessary to the county to enter such assessment. After entry, the assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. The

property may be sold after three years by the tax collector for unpaid delinquent assessments. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

D. Subject to the requirements applicable to the sale of property pursuant to Section 3691 of the Revenue and Taxation Code, the city may conduct a sale of vacant residential developed property for which the payment of that assessment is delinquent.

E. Notices or instruments relating to the special assessment shall be entitled to recordation.

**19.06.100 Order for treble costs of abatement.**

Upon entry of a second or subsequent civil or criminal judgment within a two-year period finding that an owner of property is responsible for a condition that may be abated in accordance with the provisions of this chapter, except for conditions abated pursuant to section 17980 of the Health & Safety Code, relating to abandoned buildings, the court may order the owner to pay treble the costs of the abatement, as authorized by Government Code section 38773.7. Costs of abatement shall include, without limitation by reason of enumeration, all administrative costs of the city.

**Chapter 19.08. Summary Abatement**

**19.08.010 Summary abatement.**

A. Any nuisance which the Building Official, or Fire Chief, determines is immediately or potentially dangerous to the life, health or safety of the occupants of the property or to the public may be summarily abated in accordance with the procedures set forth in this article.

B. Actions taken to abate immediately or potentially dangerous nuisances may include, but are not limited to, repair or removal of the condition creating the danger and/or the restriction from use or occupancy of the property on which the condition exists or any other abatement action determined by the Building Official or Fire Chief to be necessary. Where a residential rental property is involved, this may require the moving and relocation of the occupants by the owner and/or responsible party to other habitable temporary or permanent accommodations. Any temporary accommodations will be maintained by the owner and/or responsible party until the corrections are done to the vacated residential property so that it is habitable and the occupants are returned.

C. When summary abatement is deemed necessary by Building Official or Fire Chief, it may be ordered only if the abatement order is confirmed by the City Manager.

D. Notice of the summary abatement shall be provided to the owner or responsible party as provided for in this chapter the same day or as soon as practical. Such notice shall include a provision authorizing the owner or responsible party to dispute the existence of the nuisance conditions before the hearing officer. Any request for an appeal shall be filed in writing with the city clerk within fifteen (15) days of the notice and shall be conducted in the same manner as all applicable procedures under Chapter 19.06.

E. The costs and expenses for summary abatement, if not paid by the property owner within thirty (30) days of the date of the invoice, shall be made a lien on the property by the City Council and shall be collected pursuant to the procedures set forth in section 19.06.060 of this chapter for the assessment and collection of liens.

**Chapter 19.10. Administrative Citations**

**19.10.010 Title of article and authority.**

This article shall be known as the "administrative citations ordinance." It is adopted pursuant to Cal. Gov't Code § 53069.4 authorizing local agencies, by ordinance, to make violation of any ordinance of the agency subject to administrative fine or penalty.

**19.10.020 Applicability.**

Administrative citations shall be in addition to all other remedies, whether criminal, civil or equitable, which may be pursued by the City to address any violation of this code.

**19.10.030 Entry and inspection.**

An enforcement officer may enter and inspect any property or premises at all times to perform any duty imposed upon him or her by this article whenever the enforcement officer has cause to believe a violation of this code is occurring; provided, that:

A. The enforcement officer shall present proper credentials, state the reason for entry and request entry from the owner or occupant.

B. If entry is denied, the enforcement officer may seek a court ordered inspection warrant if cause exists pursuant to Cal. Civ. Proc. Code § 1822.50 et seq.

C. If entry is denied, the enforcement officer shall have recourse to every remedy provided by law to secure entry.

D. The enforcement officer shall make a reasonable effort to locate the owner of unoccupied property or premises, inform the owner of the reasons for entry and request entry.

E. The enforcement officer shall not enter any property or premises in the absence of permission to enter, unless an inspection warrant has been issued by a court of competent jurisdiction.

**19.10.040 First offense warning.**

A. Whenever an enforcement officer determines that a violation of any section of this code has occurred, the enforcement officer may issue a first offense warning to any person responsible for the violation. The first offense warning shall be served as a prerequisite to the issuance of a first administrative citation and serves as a written warning of responsibility. The first offense warning requires immediate action by the person responsible for the violation to correct the violation.

B. The first offense warning shall include the following:

1. The code section(s) violated.

2. How the violation can be corrected.

3. A date by which the violation can reasonably be corrected, after which an administrative citation may be issued if the violation is not fully corrected.

C. In accordance with Cal. Gov't Code § 53069.4, no person will be assessed a fine under this article for a continuing violation pertaining to a building, plumbing, electrical or similar structural or zoning issue that does not create an immediate danger to the public health or safety without first receiving a first offense warning and a reasonable opportunity to correct or otherwise remedy the violation. In such circumstances, the stated period available to correct the violation prior to the issuance of an administrative citation must be appropriate to the violation as determined by the enforcement officer, but in no event less than seven (7) days. If, after expiration of the correction period stated in the first offense warning, the violation is not corrected, the enforcement officer may issue an administrative citation.

D. Any person receiving a first offense warning for a continuing violation may file a written petition with the City Clerk for consideration by the City Manager for an extension of time to correct the violation; provided that the written petition is received before the end of the correction period set forth in the first offense warning. The City Manager may grant an extension of time to correct the violation if the person requesting the extension of time has supplied sufficient evidence showing that the correction cannot reasonably be made within the correction period set forth in the first offense warning.

E. The requirement of a reasonable opportunity to correct a violation does not apply in instances where, in the discretion of the City Manager, a violation poses an immediate danger to the public health or safety.

**19.10.050 Administrative citation.**

A. Whenever an enforcement officer charged with the enforcement of a provision of this code (including those uniform codes adopted herein by reference) determines that a violation of that provision has occurred, the enforcement officer shall have the authority to issue an administrative citation to the person or entity responsible for the violation.

B. Each administrative citation shall contain the following information:

1. The date of the violation;
2. The address or a definite description of the location where the violation occurred;
3. The code section violated and a description of the violation;
4. The amount of the fine for the code violation;
5. A description of the fine payment process, including a description of the time within which and the place to which the fine must be paid;
6. An order prohibiting the continuation or repeated occurrence of the ordinance violation described in the administrative citation;
7. A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for hearing form may be obtained;
8. The name and signature of the citing enforcement officer and the date the administrative citation is issued;
9. A description of the deposit waiver process, including the time within which a request for deposit waiver may be made and the place from which the request for hearing form may be obtained.

**19.10.060 Amount of fines.**

A. The amounts of the fines for each code violation shall be as set forth in a schedule of fines established by resolution of the City Council.

B. The schedule of fines may specify any increased fines for repeat violations of the same code provision by the same person within thirty-six (36) months from the date of a prior administrative citation.

C. The schedule of fines shall specify the amount of any late payment charge imposed for the payment of a fine after its due date.

**19.10.070 Payment of the fine.**

A. The fine shall be paid to the City of Winters within thirty (30) days from the date of the administrative citation.

B. Any administrative citation fine paid pursuant to subsection A of this section shall be refunded in accordance with Section 19.10.110(D) if it is determined, after a hearing, that the person charged in the administrative citation either was not responsible for the violation or that there was no violation as charged in the administrative citation.

**19.10.080 Hearing request.**

A. Any recipient of an administrative citation may contest either or both that there was a violation as stated in the administrative citation or that he or she is the responsible party by completing a request for hearing form and returning it to the City Clerk within thirty (30) days from the date of the administrative citation, together with either an advance deposit of the fine or an approved request for a deposit waiver.

B. A request for hearing form may be obtained from the City Clerk.

C. The person requesting the hearing shall be notified by the City Clerk of the time and place set for the hearing at least ten (10) days prior to the date of the hearing.

D. If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer, for consideration at the hearing, then a copy of this report also shall be served on the person requesting the hearing, at least five (5) days prior to the date of the hearing.

**19.10.090 Deposit waiver.**

A. Any person who requests a hearing who is financially unable to make the advance deposit of the fine as required in Section 19.10.080(A) may file a request for deposit waiver.

B. The request shall be filed with the Finance Director within ten (10) days of the date of the administrative citation on a deposit waiver application form available from the City Clerk. The Finance Director shall either issue or decline to issue the deposit waiver within five (5) days.

C. The Finance Director shall issue the deposit waiver if the cited party submits to the Finance Director a sworn affidavit, or declaration under penalty of perjury, together with any supporting documents or materials, demonstrating to the satisfaction of the Finance Director the person's actual financial inability to deposit with the City of Winters the full amount of the fine in advance of the hearing.

D. The Finance Director shall issue a written determination listing the reasons for his or her determination to issue or not issue the deposit waiver. The written determination of the Finance Director shall be final, and shall be served upon the person who applied for the deposit waiver, the enforcement officer and the City Clerk.

**19.10.100 Hearing procedure.**

A. No hearing to contest an administrative citation shall be held unless the fine has been deposited in advance in accordance with Section 19.10.080(A) or a deposit waiver has been issued in accordance with Section 19.10.090.

B. The hearing shall be set by the City Clerk for a date that is not less than fifteen (15) days and not more than sixty (60) days from the date that the request for hearing is filed in accordance with the provisions of this chapter.

C. The hearing officer may continue the hearing and request additional information from the enforcement officer or the recipient of the administrative citation prior to issuing a written decision. The hearing officer shall ensure an adequate record of the hearing is made.

D. The City shall bear the burden of proof, by a preponderance of the evidence, that the violation occurred as charged and that the person to whom an administrative citation was issued is responsible for the violation. The City may be represented by the enforcement officer or be represented by counsel.

E. The recipient of the administrative citation may cross-examine the enforcement officer or any other witness against him or her, and may present such evidence as he or she may have. The recipient of the administrative citation may be represented by counsel.

F. The formal rules of evidence shall not apply. The hearing officer may rely upon such evidence as he or she believes reasonable persons would rely upon in the conduct of their affairs. Any witnesses, including the enforcement officer and the recipient of the administrative citation, shall testify under oath.

G. The administrative citation and any additional report submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained on those documents.

**19.10.110 Hearing officer's decision.**

A. After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold or cancel the administrative citation and shall list in the decision the reasons for that decision. The decision of the hearing officer shall be final.

B. If the hearing officer determines that the administrative citations should be upheld, then the fine amount on deposit with the City shall be retained by the City.

C. If the hearing officer determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the hearing officer shall set forth in the decision a payment schedule for the fine.

D. If the hearing officer determines that the administrative citation should be canceled or reduced and the fine was deposited with the City, then the City shall promptly refund the amount of the deposited fine or excess, as the case may be, together with interest at the average rate earned on the City's investment portfolio for the period of time that the fine amount was held by the City.

E. The recipient of the administrative citation shall be served with a copy of the hearing officer's written decision.

**19.10.120 Late payment penalties and interest.**

Any person who fails to pay any fine imposed pursuant to the provisions of this article on or before the date that fine is due also shall be liable for the payment of a late payment penalty in the amount of ten percent (10%) of the fine. Thereafter, the amount of the fine, and the penalty, shall accrue interest at ten percent (10%) per annum until paid.

**19.10.130 Recovery of administrative citation fines and costs.**

The City may collect any past due administrative citation fine or late payment penalty and interest by use of all available legal means. Without limiting the generality of the foregoing, all such fines or late payments shall constitute civil debts and may be recovered in an action at law, or, where the violation relates to or occurred upon real property owned by the person to whom an administrative citation was issued, a lien may be filed by the City against such real property.

**19.10.140 Right to judicial review.**

A. The failure of the party contesting the administrative citation to appear at the administrative citation hearing shall result in a forfeiture of the fine and shall constitute a failure to exhaust administrative remedies.

B. Subject to the provisions of subsection A of this section, any person aggrieved by an administrative decision of a hearing officer on an administrative citation may obtain review of the administrative decision by filing an appeal in a court of competent jurisdiction within twenty (20) days after service of the decision in accordance with the provisions of Cal. Gov't Code § 53069.4(b)(2).

**19.10.150 Notices.**

A. The administrative citation and all notices required to be given by this article shall be served on the responsible party as follows:

1. The citation and any notices may be served upon the responsible party in person by either the enforcement officer, the City Clerk or any police officer of the City of Winters.

2. The citation and notices may be served by depositing same in the United States Postal Service mail, first class mail, postage prepaid, at Winters, California, and addressed to party to be cited at the address of that party known to the enforcement officer or the City Clerk, or, if that address is not known, as that address appears on the last equalized assessment roll of Yolo County if the party to be served with the citation or notice is the owner of real property within the City and that real property is the situs of the ordinance violation charged in the citation.

B. Failure to receive any notice in this article does not affect the validity of proceedings conducted hereunder.

**Chapter 19.12. Judicial Review**

**19.12.010 Right of judicial review.**

A. Except as otherwise provided in this title or by law, any person aggrieved by any administrative decision of a hearing officer pursuant to this chapter may obtain judicial review of the administrative decision in the Superior Court by filing with the court a petition for writ of mandate pursuant to Cal. Civ. Proc. Code § 1094.6.

B. This section does not apply to decisions of the hearing officer relating to administrative fines pursuant to Chapter 19.10 of this title. Such decisions may be appealed pursuant to Section 8.32.692 and Cal. Gov't Code § 53069.4.



**PLANNING COMMISSION  
STAFF REPORT**

**TO:** Vice Chair and Planning Commissioners  
**DATE:** September 27, 2016  
**FROM:** David Dowswell, Community Development Department   
**SUBJECT:** Appointment of Chair of the Winters Planning Commission

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**RECOMMENDATIONS:** Staff recommends that the Planning Commission appoint a Commissioner to serve as Chair of the Winters Planning Commission.

**BACKGROUND:** On July 5, 2016 Bill Biasi, former chair of the Winters Planning Commission, was sworn in as a newly elected member of the Winters City Council. At the September 6, 2016 meeting of the Winters City Council voted to appoint Gregory Contreras to a full term (July 1, 2015 to June 30, 2019).

With newly appointed Commissioner Contreras joining Commissioners Riley, Neal, Baker, Adams, and Myers and vice chair Frazier the Winters Planning Commission now has a full seven members with the position of chair vacant.

To facilitate the efficient conduct of meetings and bringing the commission to the point of decision while encouraging fairness, the free flow of ideas and discussion amongst commissioners and the gathering of input from staff, applicants and members of the public it is recommended that the Planning Commission select a new chair for the meetings.

**RECOMMENDATION:** Staff recommends the Commission select a commissioner to serve as chair through June 2017.

**ATTACHMENTS:**  
None