



ORDINANCE NO. 28272

1 AN ORDINANCE relating to the Hearing Examiner; amending Chapters 1.23, 2.01,
2 8.23, 8.30, and 8.122 of the Tacoma Municipal Code to align all appeal rights
3 under the jurisdiction of the Hearing Examiner relating to public nuisance
4 vehicles, public nuisances, noise enforcement, and the Minimum Building
5 and Structures Code.

6 WHEREAS the Community Services Division, Code Compliance Section,
7 ensures compliance with various chapters of the Tacoma Municipal Code (“TMC”),
8 and

9 WHEREAS part of the compliance process is the issuance of a Notice of
10 Violation, which outlines specific Code violations for responsible parties, and

11 WHEREAS responsible parties are given the right to appeal the Notice and
12 subsequent penalties, and TMC Chapters 8.23, 8.30, 8.122, and 2.01 outline
13 appeal rights and direct such appeals to the Hearing Officer, and

14 WHEREAS the term “Hearing Officer” is defined differently in
15 TMC Chapters 8.23, 8.30 and 2.01, and is not defined in TMC 8.122, and the
16 varying definitions add confusion to the process for those wishing to appeal, and

17 WHEREAS, in order to provide a clear and consistent process for appeals,
18 Community Services staff is recommending that these chapters be amended to
19 have all appeals heard through the Hearing Examiner, and

20 WHEREAS this amendment would include changes to TMC 1.23, to expand
21 the jurisdiction of the Hearing Examiner; Now, Therefore,
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BE IT ORDAINED BY THE CITY OF TACOMA:

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Section 1. That Section 1.23.050 of the Tacoma Municipal Code is hereby amended as set forth in the attached Exhibit "A."

Section 2. That Chapter 2.01 of the Tacoma Municipal Code is hereby amended as set forth in the attached Exhibit "B."

Section 3. That Chapter 8.23 of the Tacoma Municipal Code is hereby amended as set forth in the attached Exhibit "C."

Section 4. That Chapter 8.30 of the Tacoma Municipal Code is hereby amended as set forth in the attached Exhibit "D."

Section 5. That Section 8.122.150 of the Tacoma Municipal Code is hereby amended as set forth in the attached Exhibit "E."

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney



EXHIBIT "A"

**Chapter 1.23
HEARING EXAMINER**

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Sections:

- 1.23.010 Creation and purpose.
- 1.23.020 Hearing Examiner, Deputy Hearing Examiner, and Hearing Examiners Pro Tempore – Appointment and terms.
- 1.23.030 Hearing Examiner, Deputy Hearing Examiner, and Hearing Examiners Pro Tempore – Qualifications.
- 1.23.040 Hearing Examiner – Conflict of interest, appearance of fairness and freedom from improper influence.
- 1.23.050 Areas of jurisdiction.
- 1.23.060 Scope and standard of review.
- 1.23.070 Burden of proof.
- 1.23.080 Prehearing conference.
- 1.23.090 Report by Department.
- 1.23.100 Conduct of proceedings.
- 1.23.105 Hearing Examiner subpoenas.
- 1.23.110 Examiner's decision and recommendation – Time limits for land use matters.
- 1.23.120 Consolidated review of multiple permit applications and of environmental appeals with the underlying land use action.
- 1.23.130 Conditioning land use approvals.
- 1.23.140 Reconsideration of Hearing Examiner decisions and recommendation.
- 1.23.150 Appeal of Examiner recommendations.
- 1.23.160 Appeal of Hearing Examiner decisions.
- 1.23.170 Jurisdiction.

* * *

1.23.050 Areas of jurisdiction.

A. The Examiner shall receive and examine relevant information, conduct public hearings, maintain a record thereof, and enter findings of fact, conclusions of law, and recommendations to the City Council or other order, as appropriate, in the following matters:

- 1. Applications for rezoning of property (Chapter 13.05);
- 2. Formation of Local Improvement Districts (Chapter 10.04);
- 3. Approval of Local Improvement District assessments (Chapter 10.04);
- 4. Dangerous sidewalks proceedings (Chapter 10.18);
- 5. Petitions for street and alley vacations (Chapter 9.22);
- 6. Appeals of administrative determinations of the City Council (Section 1.06.820);
- 7. Appeals from the decision of the Landmarks Preservation Commission regarding certificates of approval (Section 42.080); and
- 8. Appeals of a decision of the City Council to remove a member of a City board, commission, committee, task force, or other multi-member body from office (Chapter 1.46).

B. In regard to the matters set forth below, the Examiner shall conduct adjudicative proceedings, maintain a record thereof, and enter findings of fact, conclusions of law, and a final decision or other order, as appropriate:

- 1. Applications for preliminary plat approval for subdivisions exceeding nine lots (Chapter 13.04);



- 1 2. Appeals from decisions of the Director of Planning and Development Services (Chapters 13.05 and 13.06);
- 2 3. Appeals from decisions of the City Engineer regarding removal of or pruning trees on City-owned property (Chapter 9.20);
- 3 4. Appeals from the decisions or order of the Health Officer regarding violations of the Infectious Waste Management Code (Section 5.04.170);
- 4 5. Appeals from the Health Officer's denial of a permit to operate a swimming pool under Chapter 5.50 (Section 5.50.030);
- 5 6. Appeals from denial or revocation of a permit for sidewalk vending (Section 6.81.120);
- 6 7. Appeals regarding determinations of unlawful discriminatory practice under the Human Rights Commission chapter (Chapter 1.29);
- 7 8. Appeals from determinations of the Chief of Police, or his or her designee, regarding Potentially Dangerous Dogs and Dangerous Dogs (Chapter 17.04);
- 8 9. Appeals arising out of the Tax and License Code (Title 6);
- 9 10. Appeals arising out of the City Environmental Code, Chapter 13.12 (Section 13.12.680);
- 10 11. Appeals arising under the City's commute trip reduction ordinance (Chapter 13.15);
- 11 12. Actions brought under the City's Whistle Blower Policy;
- 12 13. Appeals from the film production coordinator's decisions regarding productions of motion pictures within the City (Section 11.10.140);
- 13 14. Appeals from denial of special permits regarding solid waste recycling (Section 12.09.070);
- 14 15. Matters referred for adjudication by the Civil Service Board under its rules of procedure (Charter Section 6.11(c));
- 15 16. Appeals arising under the City's concurrency management ordinance (Chapter 13.16);
- 16 17. Hearing of violations of the City's Ethics Code (Chapter 1.46);
- 17 18. Appeals from the Public Works Director's determination of civil penalties or any other charge, order, requirement, decision, or determination issued by the Director or his or her staff pursuant to the sewage disposal and drainage regulations ordinance (Chapter 12.08);
- 18 19. Appeals from the Public Works Director's determination of civil penalties for violations of the solid waste ordinance and appeals arising out of the imposition by the Director, or his or her staff, of solid waste utility charges; provided, that the Hearing Examiner shall not adjudicate claims with respect to any rate set by the City Council in a rate ordinance nor hear any challenge to the rate-making process (Chapter 12.09);
- 20 20. Appeals from the decision of the Community and Economic Development Department Director denying or canceling a final Certificate of Tax Exemption under Tacoma's Mixed-Use Center Development ordinance (Chapter 13.17);
- 21 21. Appeals arising from the imposition of charges for service issued by the Department of Public Utilities, as well as those arising from disputes concerning utility service, use of watershed or other Department property, and termination of any use; provided, that the Hearing Examiner shall not adjudicate claims with respect to any rate set by the City Council in a rate ordinance nor hear any challenge to the rate-making process (Chapters 12.06 and 12.10);
- 22 23. Appeals arising out of the City's Minimum Building and Structures Code ~~for Substandard or Derelict~~ [properties](#) (Chapter 2.01);
- 24 25. Appeals from sign enforcement (Section 13.05.105);
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- 24. Applications for projects that require land use permits from the City of Tacoma as well as from a neighboring jurisdiction transferred to the jurisdiction of the Hearing Examiner in accordance with Section 13.05.040.F;
- 25. Appeals from Chronic Nuisance Code enforcement (Section 8.30A.080);
- 26. Appeals arising from a decision to deny a special street use permit, pursuant to Subtitle 16B;
- 27. Appeals arising from a decision to deny a telecommunications system franchise, pursuant to Subtitle 16B;
- 28. Appeals arising from a decision to deny a telecommunications system license, pursuant to Subtitle 16B;
- 29. Appeals arising from the establishment of a reimbursement assessment area and levying of a reimbursement assessment upon benefited property owners, pursuant to Chapter 35.72 RCW and applicable City ordinances;
- 30. Appeals from the decision of the Landmarks Preservation Commission regarding certificates of approval and decisions on demolition applications (Section 13.07.160);
- 31. Applications for wetland and stream development permits, wetland and stream assessments, and wetland delineation verifications in conjunction with a preliminary plat approval or reclassification.
- 32. Appeals regarding overpayment of wages (Section 1.12.071);
- 33. Administrative hearings related to the breach or termination of cable television franchises granted, pursuant to Subtitle 16A;
- 34. Applications for Conditional Use Permits (Table "G" of Section 13.05.020.G, Chapter 13.06);
- 35. Appeals from Poultry and Pigeons enforcement (Section 5.30.040);
- 36. Appeals from determinations related to certification and enforcement of violations for Small Business Enterprise (Chapter 1.07).
- [37. Appeals arising out of the Nuisance Code \(Section 8.30\).](#)
- [38. Appeals arising out of the Public Nuisance Vehicle Code \(Section 8.23\).](#)
- [39. Appeals arising out of the Noise Code \(Section 8.122\).](#)



EXHIBIT "B"

**Chapter 2.01
MINIMUM BUILDING AND STRUCTURES CODE**

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Sections:

- 2.01.010 Purpose.
- 2.01.020 Scope.
- 2.01.030 Additions, Alterations, and Change of Use.
- 2.01.040 Definitions.
- 2.01.050 Administration and Process.
- 2.01.060 Minimum Building Requirements and Repair Standards.
- 2.01.070 Unoccupied, Vacant, or Partially Secured Building Standards.

* * *

2.01.040 Definitions.

For purposes of this subsection, terms shall be construed as listed herein. Terms not specifically defined in this chapter shall be defined as in the Building Code, including future amendments. In the event of a conflict between this chapter and the Building Code, the definitions provided in the Building Code shall control.

- A. "Accessory structure" is any structure which is incidental and subordinate to the main building(s) and is located on the same property as the main building. Accessory structures may be attached to or detached from the main structure. Examples of accessory structures include garages, carports, sheds, and other similar buildings; decks, awnings, heat pumps, fences, trellises, flag poles, tanks, towers, exterior stairs and walkways, and other exterior structures on the property.
- B. "Apartment house" is any building, or portion thereof, which contains three or more dwelling units and, for the purpose of this chapter, includes condominiums.
- C. "Bathroom" is a room used for personal hygiene and which contains a water closet, a lavatory, and either a bathtub or a shower.
- D. "Building" is any structure used or intended for supporting or sheltering any use or occupancy.
- E. "Building, existing" is a building erected prior to the adoption of this chapter, and one for which a legal building permit has been issued.
- F. "Building Code" shall mean the Building Code as adopted and amended by Chapter 2.02 of the Tacoma Municipal Code.
- G. "Building Official" shall mean the individual authorized by the Director of the Planning and Development Services Department of the City of Tacoma, charged with the administration and enforcement of the Building Code, or a duly authorized representatives.
- H. "Carbon monoxide alarm" is a single- or multiple-station alarm intended for the purpose of detecting carbon monoxide gas and alerting occupants by a distinct audible signal.
- I. "Ceiling height" shall be the clear vertical distance from the finished floor to the finished ceiling.
- J. "Certificate of Complaint" is a document filed with the Pierce County Auditor, stating the property is in violation of Chapter 2.01 of the Tacoma Municipal Code.
- K. "City landmark" is a property that has been individually listed on the Tacoma Register of Historic Places, or that is a contributing property within a Historic Special Review or Conservation District as defined in Chapter 13.05 of the Tacoma Municipal Code.
- L. "Court" is a space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls of a building.



1 M. “Derelict building or structure” means any building or structure not approved for human occupancy based on the violations outlined in Table B.

2 N. “Efficiency dwelling unit” is a dwelling unit containing only one habitable room.

3 O. “Exit” is a continuous and unobstructed means of egress to a public way and shall include, but is not limited to, intervening aisles, doors, doorways, gates, corridors, exterior exit balconies, ramps, stairways, pressurized enclosures, horizontal exits, exit passageways, exit courts, and yards.

4 P. “Exterior property area” is the open space on the premises and on public property abutting the premises under the control of the owner or on-site manager of such premises.

5 Q. “Fire Chief” is the head of the Tacoma Fire Department or a duly authorized representative.

6 R. “Fire Code” shall mean the Fire Prevention Code as adopted and amended by Chapter 3.02 of the Tacoma Municipal Code.

7 S. “Floor area” is the area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building or portion thereof not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.

8 T. “Grade” (adjacent ground level) is the lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line or, when the property line is more than five feet from the building, between the building and a line five feet from the building.

9 U. “Graffiti” is any unauthorized writing, painting, drawing, inscription, figure, etching or scratching, or mark of any type that has been placed upon any property through the use of paint, ink, chalk, dye markers, objects, or any other substance capable of marking property.

10 V. “Guest room” is any room or rooms used, or intended to be used, by a guest for sleeping purposes. Every 100 square feet of superficial floor area in a dormitory is a guest room.

11 W. “Habitable space” or “habitable room” is space in a structure for living, sleeping, eating, or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas, are not considered habitable space.

12 ~~X. “Hearing Officer” is the Director of the Planning and Development Services Department, or a duly authorized representative.~~

13 ~~YX.~~ “Historic resource” is any property that has been determined to be eligible by the City Historic Preservation Officer or Washington State Department of Archaeology and Historic Preservation staff for listing in the Tacoma Register of Historic Places, the Washington State Heritage Register, or the National Register of Historic Places, or any property that appears to be eligible by preliminary assessment for such listing by virtue of its age, exterior condition, or known historical associations, or inclusion in the City Historic Building Inventories.

14 ~~ZY.~~ “Hotel” or “motel” shall mean any building containing six or more guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied, or which are occupied, for sleeping purposes by guests. It does not include any jail, hospital, asylum, sanitarium, orphanage, prison, detention home, or other institution in which human beings are housed and detained under legal restraint.

15 ~~AAZ.~~ “IEBC” is the International Existing Building Code, as adopted and amended by the City in Chapter 2.02 of the Tacoma Municipal Code.

16 ~~BBAA.~~ “Infestation” is the presence of insects, rodents, vermin, or other pests to a degree that is harmful to the building, its occupants, or to neighboring properties and/or their occupants.

17 ~~CEBB.~~ “Kitchen” shall mean a room used, or designed to be used, for the preparation of food.

18 ~~DDCC.~~ “Maintenance” means keeping property in proper condition.

19 ~~EEDD.~~ “Nuisance” is a public nuisance as defined in Chapter 8.30 of the Tacoma Municipal Code.



1 ~~FFEE~~. "Occupancy" is the lawful purpose for which a building or part of a building is used or intended to be used.

2 ~~GGFF~~. "Owner" is any person, including any natural person, joint venture, partnership, association, club, company, corporation, business trust, or organization, or the manager, lessee, agent or officer, or having an interest in the real estate in question as indicated in the records of the office of the Pierce County Assessor, or whose ownership interest is otherwise established,

3 ~~HHGG~~. "Partially Secured" means a portion of the building sealed to the weather or unauthorized third-party entry.

4 ~~HHH~~. "Person" is a natural person, his or her heirs, executors, administrators, or assigns, and also includes a firm, partnership, or corporation, their successors or assigns, or the agent of any of the aforesaid.

5 ~~IIII~~. "Plumbing" or "plumbing fixture" is any water heating facilities, water pipes, vent pipes, garbage or disposal units, lavatories, water closets, urinals, bathtubs, shower baths, installed clothes-washing machines or other similar equipment, catch basins, sanitary waste systems, storm sewer systems, vents, or other similarly supplied fixtures, together with all connections to water, gas, sewer, or vent lines.

6 ~~KKJJ~~. "Premises" means a lot or parcel of land, easement, or public way, including any structures thereon.

7 ~~LLKK~~. "Public right-of-way" includes the area of land, the right of possession of which is secured by the City for right-of-way purposes, and includes the traveled portion of the public streets and alleys as well as the border area, which includes, but is not limited to, sidewalks, driveway approaches, planting strips, traffic circles, parkways or medians, or the area between the sidewalk and curb line.

8 ~~MMLL~~. "Recreational vehicle" is a vehicle constructed to be licensed for operation on streets, highways, and waterways and is designed to provide accommodations for sleeping, and may have cooking facilities, water closets, sinks, lavatories, showers, and similar plumbing facilities. The four classifications of recreational vehicles include, but are not limited to:

- 9 1. Motor Home. A self-motorized recreational vehicle.
- 10 2. Residential or Travel Trailer. A recreational vehicle designed to be towed by a motorized vehicle, including fifth-wheel trailers, tent trailers, or similar types of vehicles.
- 11 3. Campers. A recreational unit designed to be installed in and used while in the bed of a truck.
- 12 4. Boats on Trailers.

13 ~~NNMM~~. "Resident" is a person who lives or dwells in a residential structure or similar buildings, including, but not limited to, dwelling units, apartments, congregate care homes, state-licensed care facilities, hotels, motels, convalescent homes, and nursing homes.

14 ~~OO NN~~. "Residential property" is any property zoned exclusively for residential use or any property containing a residential structure.

15 ~~POOO~~. "Restoration" means to return a building or structure to a state of utility through alterations and/or repairs. As applied to historic structures, it includes the preservation of those portions or features that are of historical, architectural, and cultural value.

16 ~~QQPP~~. "Roof" is an exterior element of a building, sloped less than 60 degrees from the horizontal, which provides weather protection to the spaces below.

17 ~~RRQQ~~. "Secured" refers to a building which is sealed to unauthorized third-party entry.

18 ~~SSRR~~. "Sleeping room" is any room designed, built, or intended to be used for sleeping purposes.

19 ~~TTSS~~. "Smoke alarm" is a single- or multiple-station alarm responsive to smoke.

20 ~~UUUU~~. "Solid-fuel-burning device" means any device for burning wood, coal, or any other non-gaseous and non-liquid fuel.



VVUU. “Substandard Property” means any building or structure with a minimum of 50 points based on violations outlined in Tables A.

WWVV. “Unfit building or structure” means any building or structure having conditions or defects which endanger the health, safety or welfare and its occupants or the public based on the violations listed in Table C.

XXWW. “Unoccupied” is the condition where a building is not being used at present, but there is the general appearance of an intent to reoccupy the building in the future. Furnishings may or may not have been removed.

YYXX. “Vacant” is the condition where a building is not being used at present, and there is a general appearance of abandonment.

ZZYY. “Walls” shall be defined as follows:

1. “Bearing wall” is any wall meeting either of the following classifications:

a. Any metal or wood stud wall which supports more than 100 pounds per lineal foot of superimposed load.

b. Any masonry or concrete wall which supports more than 200 pounds per lineal foot superimposed load, or any such wall supporting its own weight for more than one story.

2. “Faced wall” is a wall in which the masonry facing and backing are so bonded as to exert a common action under load.

3. “Nonbearing wall” is any wall that is not a bearing wall.

4. “Parapet wall” is that part of any wall entirely above the roof line.

5. “Retaining wall” is a wall designed to resist the lateral displacement of soil or other materials.

AAAZZ. “Window” shall mean a glazed opening, including glazed doors, which opens upon a yard, court, or a vent shaft open and unobstructed to the sky.

BBBAAA. “Window well” is a soil-retaining structure at a window having a sill height lower than the adjacent ground elevation.

2.01.050 Administration and Process.

- A. Initiation of Enforcement.
- B. Inspection and Evaluation of Buildings and Property.
- C. Classification of Buildings or Structures.
- D. Substandard and Derelict Building Enforcement Procedures.
- E. Derelict Building Registration.
- F. Unfit Buildings or Structures Enforcement Procedures.
- G. Recovery of Costs and Expenses.
- H. Posting of Buildings.
- I. Utility Restraints.
- J. Emergency Cases.
- K. Permits.
- L. Repeat Offenders
- M. Severability.

A. Initiation of Enforcement.

Initial enforcement may be undertaken against buildings or properties, whenever:

1. The Building Official, Director of any City of Tacoma Department, Director of the Tacoma-Pierce County Health Department, Police Chief, or Fire Chief, or their duly authorized representatives, have reason to believe that a violation of this Code exists.

2. A complaint is filed with the City of Tacoma by any person. Complaints may be received either verbally or in writing, and may be anonymous. Where complaints have been filed by tenants, the tenant first must exhaust all remedies provided through the Washington State Landlord Tenant Act.



B. Inspection and Evaluation of Buildings and Property.

1 During the initial inspection, the Building Official shall evaluate the property in accordance with Tables A, B,
2 and C. Any violations noted will determine the classification of the building for purposes of enforcement.
3 Groups of buildings on the same property may be processed under a single complaint process.

C. Classifications of Buildings or Structures.

1. Non-Standard Property.

4 A building or structure which receives 25 to 49 violation points, as indicated on Table A, may be considered a
5 "non-standard" property. The owner may be sent a letter describing the conditions and the appropriate actions
6 for mitigating these conditions. The owner may be advised, in writing, that the property is in a declining state,
7 and that if conditions worsen, more formal mitigating actions may be undertaken.

2. Substandard Building or Structures.

7 "Substandard Building or Structures" means any building or structure, whether residential or commercial, with
8 a minimum of 50 points based on violations as outlined in Table A. By definition, Substandard Buildings or
9 Structures are fit for human occupancy. Substandard Buildings or Structures are hereby declared a nuisance
10 under Chapter 8.30.

3. Derelict Buildings or Structures.

11 a. "Derelict Buildings or Structures" means any building or structure, whether residential or commercial,
12 which is not approved for human occupancy based on one or more of the violations outlined in Table B.

13 b. Derelict Buildings or Structures shall be posted "MUST NOT BE OCCUPIED." See Subsection H, Posting
14 of Buildings. Utility restraints may be placed on such buildings or structures. See Subsection I, Utility
15 Restraints. Derelict Buildings which are posted shall not be occupied for any purpose until repaired. The
16 Derelict Building shall only be authorized to be entered for preparing a repair plan and schedule to be
17 submitted to the Neighborhood and Community Services Department for approval. Upon approval of the
18 repair plan and schedule, the owner, or his or her representative, will be authorized to enter the building to
19 effect repairs. No other entry or occupancy of the building shall be permitted unless approved by the Building
20 Official.

EXCEPTION: If the Derelict Building is occupied, the Building Official may grant an extension as to when the
21 building will be vacated and whether a posting or utility restraint is required.

4. Unfit Buildings or Structures.

22 a. "Unfit Buildings or Structures" means any building or structure, whether residential or commercial, having
23 conditions or defects which endanger the health, safety, or welfare and its occupants or the public based on the
24 one or more of the violations listed in Table C.

25 b. Unfit Buildings or Structures shall be posted "MUST NOT BE OCCUPIED." See Subsection H, Posting of
26 Buildings. Utility restraints shall be placed on such buildings or structures. See Subsection I, Utility Restraints.
Unfit Buildings which are posted shall not be occupied for any purpose until repaired. The building shall only
be authorized to be entered for preparing a repair plan and schedule to be submitted to the Neighborhood and
Community Services Department for approval. Upon approval of the repair plan and schedule, the owner, or
his or her representative, will be authorized to enter the building to perform the repairs. No other entry or
occupancy of the building shall be permitted until the repairs are completed and approved by the Building
Official.

D. Substandard and Derelict Building Enforcement Procedures.

1. Owner Notification.

a. When any property has been classified as being "Substandard" or "Derelict," the owner shall be notified by
first-class mail, describing the violations. The owner shall be given 21 calendar days from the date of the
notice to respond to the Building Official to negotiate a repair plan and schedule as outlined in subsection D.2.



1 b. If the building is classified as “Derelict,” the owner may be given ten calendar days from the date of the
2 notice to secure the building in accordance with Section 2.01.070, Unoccupied or Vacant or Partially Secured
3 Building Standards. In addition, such notification will state that either an Eminent Domain Condemnation
4 Proceeding, Unfit Building Proceeding or a Derelict Building Property Registration may be initiated as
5 authorized by this chapter.

6 c. The owner shall also be given 21 calendar days from the date of the notice to respond to the Building
7 Official to negotiate a repair plan and schedule as outlined in section D.2 below.

8 d. When a building or structure, or any aspect of a building or structure, is declared Substandard or Derelict, it
9 shall be repaired to the minimum building requirements set forth in Section 2.01.060.

10 2. Response to Notification.

11 The response to the City shall be the development of a repair plan and schedule for the building repairs, agreed
12 upon by the owner and the City. The schedule shall include:

13 a. Time for submitting acceptable construction plans, specifications, and calculations when required for the
14 repair of the building or structure.

15 b. Time for repairing the building or structure once a building permit has been issued. Once the plans and
16 specifications have been approved for permitting, the permit shall be obtained within seven calendar days of
17 notification that the permit is ready.

18 c. If permits are not required, the repair plan and schedule shall outline when the violations identified in the
19 Substandard or Derelict Property Report will be corrected.

20 EXCEPTION:

21 The Building Official may grant extensions to the repair plan and schedule or agree to an alternative repair
22 plan and schedule for sufficient reasons, upon written request. Such requests must be filed with the Building
23 Official prior to the deadlines set for the completion of the construction.

24 3. Penalties and Certificate of Complaint.

25 a. In the event a valid response to the first notice is not timely received, a civil penalty in the amount of \$250
26 may be assessed. These penalties are intended to be only for remedial purposes. A new letter stating the
assessment of penalties shall be sent by first-class mail. The owner shall be given ten calendar days from the
date of the second letter to respond and to negotiate a repair plan and schedule with the Neighborhood and
Community Services Department for correcting the violations.

b. The process described above may be repeated and a civil penalty may be assessed every day until such time
as there is a valid response. In the event that no response is received and assessed penalties are equal or exceed
\$500, the City may file a Certificate of Complaint with the Pierce County Auditor to be attached to the title of
the property. A copy of the Certificate of Complaint shall be sent to the property owner.

c. Penalties shall be billed to the owner. Penalties unpaid after 60 calendar days may be referred to a collection
agency for collection.

d. Each day that a property or person is not in compliance with the provisions of this chapter may constitute a
separate violation of this chapter.

e. Reinspection and Penalties. Once a valid response is received and a schedule is set, the property shall be
reinspected upon request by the owner to assess that progress is being made in correcting the violations and
adhering to the agreed-upon schedule. If progress, in accordance to the schedule, is not being made to the
satisfaction of the Building Official, or the owner has not scheduled a required inspection, penalties may be
issued up to \$250 per day.

f. The Building Official may also issue penalties in the amount of \$250 per day if, after the initial contact, any
of the following occur:

i. the owner fails to submit a repair plan and schedule; or



- ii. the owner and the City cannot agree upon a repair plan and schedule, or extension thereto, or
- iii. the owner fails to adhere to the repair plan and schedule.

g. This penalty procedure shall be repeated in accordance with this section until satisfactory progress is made.

4. Violations Corrected.

Once the building, structure, and property violations have been corrected to the satisfaction of the Building Official, the case shall be closed and any Certificates of Complaint filed with the Pierce County Auditor against the title of the property shall be removed by the City upon payment of any assessed penalties and any costs incurred by the City for securing the property. The costs related to a Derelict Building case, where the building or structure is not approved for occupancy, shall be recovered pursuant to Revised Code of Washington ("RCW") 35.80.030(1)(h) and subsection G.

5. Reviews by the Building Official.

a. General. Any person who receives a Notice of Violation for a Substandard or Derelict Building(s) or a civil penalty may request an administrative review of the notice or penalty.

An appeal of a civil penalty shall be limited to assessing any progress which the property owner has made in correcting the violations identified in the first notice, or the property owner's compliance with the repair plan and schedule that led to the issuance of the civil penalty.

b. How to Request Administrative Review. A person may request an administrative review by the Building Official by filing a written request with the Neighborhood and Community Services Department within:

- i. 21 calendar days of the first notification date of violations for a Notice of Violation for substandard building or property, or
- ii. ten calendar days of a Notice of Violation for a derelict building or property.
- iii. ten calendar days of a notice of a civil penalty.

In any appeal, the request must include all reasons and supporting documentation as to why the notice should be overturned and/or modified.

c. Decision of the Building Official. After considering all of the information provided, including information from the code compliance officer and the owner, the Building Official shall affirm or modify the Notice of Violation for the Substandard or Derelict Building(s), or the amount of any monetary penalty assessed. The Building Official's decision shall be delivered in writing to the appellant by first-class mail.

6. Appeals of the Decision of the Building Official to the Hearing Examiner.

Appeals of the decision resulting from the Building Official's review shall be made to the Hearing Examiner within 21 calendar days from the date of the Building Official's decision. Proceedings in regard to appeals filed with the Hearings Examiner shall be conducted in accordance with the requirements of Tacoma Municipal Code 1.23 and the Office of the Hearing Examiner Rules of Procedure for Hearings.

7. Alternate Procedures.

a. Where Substandard Building proceedings undertaken against a property have extended over a period of time to where it is necessary to file a Certificate of Complaint with the Pierce County Auditor and when the owner has not otherwise complied with this chapter, the Building Official may remove or correct the violations through a means of abatement.

i. Using any lawful means, the City may enter unsecured property and may remove or correct a violation which is subject to abatement as a public nuisance. If the person in control of the premises does not consent to entry, the City may seek judicial process in Pierce County Superior Court to effect the removal or correction of such violations.



1 ii. Abatement undertaken on properties regulated under Tacoma Municipal Code 13.07 shall be reviewed and approved by the Tacoma Landmarks Preservation Commission in accordance with the provisions of Tacoma Municipal Code 13.07 prior to abatement.

2 iii. The City may recover costs of abating Substandard Property. An invoice for abatement costs shall be mailed to the owner of the property over which a Substandard Notice of Violation has been directed and/or the party identified in the Notice of Violation, and shall become due and payable to the City of Tacoma within 30 calendar days of said invoice. An owner may appeal an invoice for abatement and shall follow the procedures outlined in Section 2.01.050.D.5. Any debt shall be collectible in the same manner as any other debt owed to the City, and the City may pursue collection of the costs of any abatement proceedings under this chapter by any other means, including, but not limited to, referral to a collection agency.

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5 b. Where Derelict Building proceedings undertaken against a property have extended over a period of time to where it is necessary to file a Certificate of Complaint with the Pierce County Auditor, the Building Official may undertake one or more of the following procedures to mitigate the derelict status of the building:

6
7 i. The Building Official may obtain the property through eminent domain pursuant to the provisions of the RCW 35.80A.

8
9 ii. The Building Official may initiate Unfit Building Proceedings pursuant to Tacoma Municipal Code 2.01.050.F and Table C.

10 iii. The Building Official shall require the property to be registered with the City as outlined in the registration requirements in Section E.

11 E. Derelict Building Registration.

12 1. The owner of a Derelict Building with a Certificate of Complaint filed with the Pierce County Auditor must register the building within ten calendar days of the date of the Certificate of Complaint. The Derelict Building will be considered to be registered on the date the City receives a properly completed form signed by the owner. The form, provided by the Building Official, shall contain the following information:

13
14 a. The street address and tax parcel number of the Derelict Building.

15 b. The name, address, and daytime and evening telephone numbers of the owner or a responsible person for the property, including other parties of interest;

16 c. The period of time the property is expected to remain vacant;

17 d. Any other information requested by the Building Official for the administration of this chapter.

18 e. A statement which acknowledges the building is a Derelict Building subject to the provisions of this chapter, including the vacant building standards as outlined in Section 2.01.070, and that the property must remain nuisance-free at all times.

19 2. For every registered Derelict Building, the owner must record a notice with the Pierce County Auditor that the Derelict Building is registered with the City. The City shall provide the form of the notice. A copy of the recorded notice must be received by the City no later than 30 days from the date the Derelict Building is registered.

20 3. The owner must submit the annual renewal application to the City on forms provided by the Building Official.

21 4. Upon satisfactory proof to the Building Official that the Derelict Building is repaired, the building will be unregistered.

22 5. The owner shall pay a registration fee for each registered Derelict Building. The owner must pay the annual fee to the City at the time the Derelict Building is registered and on the annual anniversary date of the initial registration. The fee will be based on the duration of the vacancy as determined by the following scale:

23
24 a. \$250 for the initial registration;

25
26 b. \$500 on the annual anniversary date;



1 6. If the owner fails to timely pay the registration fee, the City is authorized to collect the registration fee, including turning the matter over to a collection agency, in which case costs incurred by the City as a result of the collection process will be assessed to the owner.

2 7. The owner of any registered Derelict Building shall advise the Building Official, in writing, of any changes to the contact information on the registration form within 30 calendar days of the occurrence of the change.

3 F. Unfit Buildings or Structures Enforcement Procedures.

4 1. Owner Notification. The owner shall be notified that the building, structure, or property has been found to be in violation of this chapter and is unfit. The owner may be given ten calendar days from the date of the notice to secure the building in accordance with Section 2.01.070, Unoccupied, Vacant, or Partially Secured Building Standards. The notice shall include the standards for securing a vacant building. Where there is an imminent danger to life or property, the building can be secured by the order of the Building Official, Police Chief, Fire Chief, or Director of the Tacoma-Pierce County Health Department, or their duly authorized representative. The costs related to the Unfit Building action will be assessed to the owner in accordance with the provisions of RCW 35.80.030(1)(h), and Subsection G.

8 2. Response to Notification. The owner shall be given 21 calendar days from the date of the notice to respond to the Building Official to negotiate a repair or demolition plan and schedule. The schedule shall include:

9 a. Time for submitting acceptable construction plans, specifications, and calculations when required for the repair or demolition of the building or structure.

10 b. Time for actually repairing or demolishing the building or structure once a building permit has been issued. Once acceptable construction plans, specifications, and calculations for the repair or demolition of the building or structure have been submitted to the City and have been approved for permit, the permit shall be obtained within seven calendar days of notification that the permit is ready.

13 The Building Official may agree for sufficient reason to accept an alternate time schedule for the repair or demolition of the building.

14 The Building Official may grant extensions to the time schedule for sufficient reasons, upon written request. Such requests must be filed with the Building Official prior to the deadlines set for the completion of the repairs or demolition.

16 3. Unfit Building Complaint. In the event of any of the following, the City may prepare an Unfit Building Complaint against the building and property:

17 a. The owner does not respond to the notification.

18 b. An agreement between the owner and the City for the schedule of repairs or demolition cannot be reached.

19 c. The owner does not comply with the time schedule for obtaining the necessary permits and beginning construction or demolition; or

20 d. The owner, once having started construction or demolition, does not adhere to the agreed-upon schedule.

21 4. Violations Corrected. Once the building, structure and property violations have been corrected, the case shall be closed and, if appropriate, any Unfit Building Complaints, Findings of Fact and Orders, or general tax liens filed with the Pierce County Auditor against the title of the property shall be removed by the City upon payment of any assessed penalties and any costs incurred by the City for securing the property or processing the Unfit Building Action.

23 5. Contents of Unfit Building Complaints.

24 a. The Unfit Building Complaint issued by the Building Official must be in writing and shall be posted on the property and sent by first-class mail and by certified mail, return receipt requested, to all persons having any interest in the property, as shown by the records of the Pierce County Auditor. If, in the exercise of reasonable diligence, the whereabouts of any of such persons is unknown and the same cannot be ascertained by the Building Official, and the Building Official makes an affidavit to that effect, the serving of such complaint upon such persons may be made by sending a copy of the notice by first-class mail and by certified mail,



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return receipt requested, to each person at the address of the taxpayer of the property as shown on the last equalized tax assessment roll of Pierce County. If the address of the building involved in the proceeding is different from the address of the taxpayer listed on the tax assessment roll and the whereabouts of any person in interest is unknown, then a copy of the complaint shall also be mailed by first-class mail and certified mail, return receipt requested, to such person or persons.

b. The complaint shall contain, among other things, the following information:

- i. Name of the owner and other interested persons, as provided herein above.
- ii. Street address and legal description of the property on which said building is located.
- iii. General description of type of building, wall, or structure deemed unfit.
- iv. A complete itemized statement or list of particulars which caused the building or structure, or portion thereof, to be classified as an unfit building or structure.
- v. That said building should be vacated by its occupants.
- vi. Whether or not the list of violations can be removed or repaired.
- vii. Whether or not the building constitutes a fire hazard.
- viii. Whether it is reasonable to repair the building or whether the building should be demolished.
- ix. If the building is a City landmark or is within a Historic Special Review or Conservation District, the complaint shall provide the procedural requirements of the Landmark Preservation Commission for repair or demolition.
- x. A notice that a hearing shall be held before the ~~Hearing Officer~~[Hearing Examiner](#) not less than ten calendar days nor more than 30 calendar days after the mailing of such complaint on all interested parties, as recorded by the Pierce County Auditor, and posted in a conspicuous place on the property. The notice shall also state that all parties in interest shall be given the right to file an answer to the complaint, to appear in person or otherwise, and to give testimony at the time of the hearing.
- xi. That a copy of such complaint shall also be filed with the Pierce County Auditor, which filing shall have the same force and effect as other lis pendens notices provided by law.



6. Unfit Building Hearing.

1 a. The ~~Hearing Officer~~Hearing Examiner shall convene the hearing at the time specified in the Unfit Building
2 Complaint or soon thereafter. The hearing shall be conducted in accordance with 1.23 TMC and the Hearing
3 Examiner's rules. The City shall present its case through the City Attorney, or his or her duly authorized
4 representative, who shall be authorized to call witnesses and conduct cross-examinations. The building or
5 property owner, or his or her legal representative, may present his or her case and is authorized to present
6 witnesses and conduct cross-examinations.

7 b. The ~~Hearing Officer~~Hearing Examiner shall issue a Findings of Fact and Order. The Findings of Fact and
8 Order shall contain the following:

9 i. Name of owner or other interested parties, as listed by the Pierce County Auditor.

10 ii. Street address and legal description of the property on which the building is located.

11 iii. General description of type of building, wall, or structure deemed unfit or substandard.

12 iv. A complete itemized statement of the violations in Table C which resulted in the classification of the
13 building or structure as unfit.

14 v. Whether or not the violations as outlined in Table C structure can be removed or repaired.

15 vi. Whether or not the building constitutes a fire hazard.

16 vii. A statement that the City of Tacoma has incurred costs in processing the Unfit Building Abatement action
17 and that pursuant to RCW 35.80.030(1)(h), all costs incurred by the City for this purpose, including
18 demolition, if necessary, shall be assessed against the property and shall be collected thereafter by the County
19 Treasurer as a part of the general taxes.

20 viii. Whether the building is a City landmark or is within a Historic Special Review or Conservation District
21 and the procedures required by the Landmarks Preservation Commission.

22 ix. In the event the building is a City landmark or is within a Historic Special Review or Conservation District,
23 the time schedule shall include Landmark Preservation Commission procedures defined in Tacoma Municipal
24 Code 13.05.045, unless an emergency condition has been declared by the Building Official. In addition, a
25 building, structure, or property that is declared unfit may be required to comply with the requirements set forth
26 in Title 13 of the Tacoma Municipal Code. There may be reason to negotiate repairs due to the historic
significance of the property. If a building is a City landmark or located within a Historic Special Review or
Conservation District, or is determined to be a historic resource by the Landmarks Preservation Commission or
Historic Preservation Office, the repair requirements may be waived by the Building Official.

x. A requirement that the property shall be nuisance-free at all times.

xi. The order shall provide specific instructions on whether the building or structure is to be demolished,
repaired, or maintained, and a timeframe for doing so. When it is determined that a building or structure, or
any aspect of a building or structure, is unfit, such building or structure shall be:

(a) Demolished, or

(b) Those aspects which were declared unfit shall be repaired to the minimum building requirements set forth
in Section 2.01.060 of this chapter, and the following items shall be complied with, whether or not they are
addressed in the Unfit Building Complaint:

(1) Exiting facilities, including doors, corridors, stairs, exit enclosures, and smoke-proof enclosures, shall be
brought into full compliance with the Building Code. Stairways with risers not exceeding 7-1/2 inches in
height and treads not less than 10 inches in depth, which are in good condition and otherwise meet the
Building Code's requirements, do not have to be rebuilt.

(2) The fire resistance of all building elements, in regard to the required type of construction, shall be brought
into full compliance with the Building Code; provided that, in buildings which have full sprinkler systems, the
outside fire-resistive membrane on exterior walls may not be required.



(3) If required by the Building Code or by the Fire Prevention Code, automatic fire sprinkler systems shall be installed.

1 (4) If required by the Building Code or by the Fire Prevention Code, as adopted and amended by the City, fire
2 alarm systems shall be installed and shall meet all requirements of the Building Code and the Fire Prevention
Code.

3 (5) The building shall be brought into structural compliance with the Building Code, except that the building
4 shall be considered as complying with the seismic structural requirements if it can withstand the forces
specified by the IEBC, as adopted and amended in the Building Code.

5 (6) The building shall be brought into compliance with provisions of the Building Code related to accessibility
for new construction.

6 (7) The building shall be brought into compliance with the Washington State Energy Code, as adopted by the
7 City in Title 2, except that existing ceiling, wall, or floor cavities exposed during construction must be filled
with the required insulation. Two-by-four (2x4) framed walls shall be insulated to a minimum of R-15 and 2x6
8 framed walls shall be insulated to a minimum of R-21 as required by Title 2.

9 a. The recommendation to repair or demolish shall be based on the estimated costs of repair in relation to the
existing value of the building, as determined by the Pierce County Assessor. The Pierce County Assessor shall
10 be requested to make an assessment of the value of the building specifically for the Unfit Building action. If
the cost of repairs exceeds 50 percent of the assessed value of the building, the [Hearing Officer/Hearing
Examiner](#) may recommend that the building be demolished.

11 b. The Findings of Fact and Order shall be sent to all interested parties, as listed by the Pierce County Auditor
as having interest in the property, by both first-class mail, and by certified mail, return receipt requested, and
12 posted in a conspicuous place on the property.

13 c. Appeals to the Board of Building Appeals. The Findings of Fact and Order shall also state that appeal of the
Findings of Fact and Order issued by the [Hearing Officer/Hearing Examiner](#) shall be made to the Board of
14 Building Appeals, as established and governed by Chapter 2.17 of the Tacoma Municipal Code. Appeals shall
be filed within 30 calendar days from the date of the Findings of Fact and Order. Any appeal of the Findings
15 and Order shall be governed by Chapter 2.17 of the Tacoma Municipal Code.

16 G. Recovery of Costs and Expenses.

The costs incurred by the City relating to the enforcement of derelict and unfit structures in
17 Sections 2.01.060.D and .F may be recovered against the owner of the property as authorized in
RCW 35.80.030(1)(h), and shall become due no later than 30 calendar days from the date of the invoice.
18 "Costs" include, but are not limited to, personnel costs, both direct and indirect, including attorney's fees; costs
to secure the building; costs incurred in documenting the violations; hauling, storage and disposal expenses;
19 filing fees and actual expenses in costs of the City in preparing notices, specifications, and contracts in
accomplishing and/or contracting and inspecting the work; the costs of any required printing or mailing; and
20 any and all costs of collection.

21 H. Posting of Buildings.

If a building is determined to be in violation of this chapter to an extent that it fails to provide the amenities
22 which are essential to decent living or the building is unsafe, unsanitary, or structurally unsound, the building
shall be posted for non-occupancy.

23 The notice posted on the building shall state that the building "MUST NOT BE OCCUPIED" and shall be
affixed to the main door facing the address street or any other accessible doors, if needed. The "MUST NOT
24 BE OCCUPIED" portion of the notice shall be of letters of sufficient size to be read from the public way.

25 I. Utility Restraints.

26 Unfit Buildings or structures and Derelict Buildings or structures which are not occupiable and are posted
"MUST NOT BE OCCUPIED" may have utility restraints placed on them, restraining utility providers from
providing utilities to the building. The utility restraint shall be recorded with the Tacoma Public Utilities



1 Department or other utility providers. The utility restraint shall not be released until the building is repaired or
2 demolished. Once the building has been repaired or demolished, the Building Official shall record with the
3 Tacoma Public Utilities Department, or other utility providers, a release granting utility service to the building
4 or property. The utility restraint shall not interfere with any Code enforcement action taken by the Tacoma
5 Public Utilities Department or other utility providers.

6 EXCEPTION: Limited utilities may be permitted to be supplied to the property for facilitating the repairs or
7 for maintaining other vital systems, such as fire protection, at the discretion of the Building Official.

8 J. Emergency Cases.

9 1. Where, in the opinion of the Building Official, it appears there is an imminent danger to the life or safety of
10 any person occupying or being admitted to a building or structure, or to the public, the Building Official shall
11 immediately vacate the building, in whole or in part, as is necessary to mitigate the danger to life. The Building
12 Official shall also order any of the following remedies as necessary to protect the public:

- 13 a. barricade of public rights-of-way to secure the building from unauthorized entry, or
- 14 b. cause the immediate bracing or repair of the building, or
- 15 c. require maintenance or restoration of essential utilities, the absence of which constitute a significant threat to
16 the adjacent properties and/or the public.

17 If the preceding remedies are not possible, the Building Official may have the building or structure
18 demolished.

19 2. For buildings that are City landmarks located within a Historic Special Review or Conservation District, or
20 are identified as "historic resources," the Historic Preservation Officer, at the direction of the Building Official,
21 shall actively pursue feasible intermediate alternatives to total demolition within the timeframe determined by
22 the Building Official that will remediate emergency condition and/or retain the building or its historic features.
23 If an alternative to demolition is identified, then it may be pursued as the preferred action.

24 3. The costs of emergency vacation, bracing, repair, or demolition of such building or structure as described in
25 this subsection shall be assessed to the owner in accordance with the provisions of RCW 35.80.030(1)(h).

26 K. Permits.

No person, firm, or corporation shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, or
demolish any building or structure, or cause or permit the same to be done, without first obtaining all permits
required by the Tacoma Municipal Code and the laws of the state of Washington. The owner or their agent
shall obtain all required permits prior to the work being performed. The timeframe of the permits may be
conditioned in accordance with the timeframes agreed upon in the negotiated repair schedule.

L. Repeat Offenders.

A repeat offender is defined as a property owner who has a confirmed non-compliance history, including any
identical or similar violations of this chapter at the same site or on a different tax parcel under the same
ownership, two times within a 12-month period. If an owner is found to be a repeat offender, he or she may be
subject to an inspection fee equivalent to a reinspection fee as defined in Chapter 2.09 of the Tacoma
Municipal Code. Owners may appeal a reinspection fee pursuant to Section 2.01.050.D.5 of the Tacoma
Municipal Code.

M. Severability.

If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or
unconstitutional by any court of competent jurisdiction, such portion shall be deemed a distinct and
independent provision, and such holdings shall not affect the validity of the remaining portions hereof.



EXHIBIT "C"

**Chapter 8.23
PUBLIC NUISANCE VEHICLES**

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Sections:

- 8.23.010 Purpose and intent.
- 8.23.020 Definitions.
- 8.23.030 Enforcement authority.
- 8.23.040 Declaration of nuisance.
- 8.23.050 Impoundment of unauthorized Public Nuisance Vehicle – Public property.
- 8.23.060 Notice of Violation and Abatement – Private property.
- 8.23.070 Notice of Appeal – Private property.
- 8.23.080 Hearing – Private property.
- 8.23.090 Order of the ~~Hearing Officer~~Hearing Examiner – Private property.
- 8.23.100 Appeal of the decision of the ~~Hearing Officer~~Hearing Examiner – Private property.
- 8.23.110 Removal and disposal – Costs – Liens – Private property.
- 8.23.111 Entry – Private property.
- 8.23.112 Severability.

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8.23.020 Definitions.

For purposes of this chapter, certain terms, phrases, and words, and their derivatives, shall have specific meanings, as defined in this section. Terms, phrases, and words used in the singular shall also apply to the plural; terms, phrases, and words used in the plural shall also apply to the singular.

A. "Apparently Inoperable" means:

- 1. that the Vehicle does not appear to comply with requirements for safe and legal operation on public streets or highways with regard to licensing, brakes, lights, tires, safety glass, or other safety equipment; or
- 2. a Vehicle that has been determined by the Tacoma-Pierce County Health Department to be unfit for use due to contamination from methamphetamine or other substances, which are harmful to human health or the environment; or
- 3. other circumstances or conditions that are evidence that the Vehicle is not currently operable, including, but not limited to, a Vehicle having its passenger compartment filled with trash or debris, vegetation growing inside, around, or on the vehicle, or other evidence that the vehicle has not been moved for an extended period of time.

B. "Extensively Damaged" means such damage including, but not limited to, any of the following: a broken window or windshield or missing wheels, tires, motor, or transmission.

~~C. "Hearing Officer" shall mean the City Manager, or his or her designated representative.~~

~~DC.~~ "Landowner" means the owner of the property, as shown in the records of the Pierce County Assessor.

~~ED.~~ "Law Enforcement Officer" means, for purposes of this chapter, any commissioned police officer and any person holding a limited commission to enforce this chapter or chapter 46.55 RCW.

~~FE.~~ "Public Nuisance Vehicle" is a Vehicle, or the parts of a Vehicle, which meets three of the following criteria: (1) is Extensively Damaged; (2) is Apparently Inoperable; (3) is three years old or older; and (4) has an approximate fair market value equal to the scrap value; provided, that the following shall be exempt from the foregoing definition:

- 1. The Vehicle, or parts thereof, is completely enclosed within a building; or



2. The Vehicle, or parts thereof, is stored or parked in a lawful manner on private property in connection with the legal business of a licensed dismantler; motor vehicle wrecker; licensed vehicle dealer; junk, salvage, or wrecking yard; provided, that the business is in compliance with the provisions of the Tacoma Municipal Code and the property is fenced, as required by RCW 46.80.130.

GE. “Public Official” means any official designated by the City Manager, or his or her designee, authorized to enforce this chapter, including, but not limited to, officials of the Police Department, Fire Department, Public Works Department, Finance Department, or the Tacoma-Pierce County Health Department charged with the enforcement of a particular portion of this chapter.

HG. “Vehicle” shall include, but not be limited to, automobiles, motorcycles, trucks, buses, motorized recreational vehicles, campers, travel trailers, boat trailers, utility trailers, or other similar devices capable of moving or being moved on the public right-of-way, and shall also include parts of vehicles.

* * *

8.23.060 Notice of Violation and Abatement – Private property.

A. A Public Official is authorized to issue a Notice of Violation and Abatement upon reasonable belief that a condition prohibited by this chapter exists.

B. The Notice of Violation and Abatement shall be issued to the Landowner, as shown by the records of the Pierce County Assessor, and to the last registered owner of record of the Vehicle, if that person can be determined.

C. The Notice of Violation and Abatement shall be served by mailing a copy of said notice to the Landowner and to the last registered owner of record of the Vehicle, if that person can be determined, by first-class and certified mail.

D. The Notice of Violation and Abatement shall contain substantially the following information if it is reasonably obtainable:

1. The name and address of the person to whom the notice is issued;
2. The location of the subject property by address or other description sufficient for identification of the subject property;
3. A description of the Vehicle and its location and the reasons for which the City deems it to be a public nuisance in violation of this chapter;
4. A description of the corrective action necessary to eliminate the violation;
5. The date by which the corrective action must be completed;
6. A statement that if any of the persons to whom the Notice of Violation and Abatement is issued wish to appeal said notice, they may submit a written Notice of Appeal to the City Clerk to request a hearing before the ~~Hearing Officer~~[Hearing Examiner](#).
7. A statement that if the persons to whom the Notice of Violation and Abatement is issued fail to submit a Notice of Appeal within 10 calendar days of the date of the Notice or fail to voluntarily abate the nuisance within 18 calendar days of the date of the Notice, the City will abate the nuisance by removing and disposing of the Vehicle and will assess all costs of administration and removal against the Landowner.

* * *

8.23.080 Hearing – Private property.

A. The appeal of a Notice of Violation and Abatement shall be heard by the ~~Hearing Officer~~[Hearing Examiner](#).

B. The ~~Hearing Officer~~[Hearing Examiner](#), will conduct the hearing required by this chapter no more than 18 calendar days after the Public Official issues the Notice of Hearing.

C. The hearing will address the grounds of appeal allowed in TMC 8.23.060, which were stated in the Notice of Appeal. If the ~~Hearing Officer~~[Hearing Examiner](#), determines that multiple parties share responsibility for



the nuisance, the ~~Hearing Officer~~Hearing Examiner, will allocate the assessment of costs of administration, removal, and disposal among the responsible parties.

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D. ~~The hearing shall be conducted in accordance with 1.23 TMC and the Hearing Examiner rules. An appellant may appear in person at the hearing or present a written statement to explain the grounds for appeal, which were stated in the Notice of Appeal. The Hearing Officer~~Hearing Examiner must receive the written statement in time for consideration at the hearing.

E. The City shall have the burden of proof to establish by a preponderance of the evidence that a violation has occurred and that the required corrective action is reasonable.

F. The ~~Hearing Officer~~Hearing Examiner shall determine whether the City has established, by a preponderance of the evidence that a violation has occurred and that the required corrective action is reasonable and shall affirm, modify, or vacate the Public Official’s decisions regarding the alleged violation and/or the required corrective action.

8.23.090 Order of the ~~Hearing Officer~~Hearing Examiner – Private property.

A. If affirming the Public Official’s Notice of Violation and Abatement, the ~~Hearing Officer~~Hearing Examiner may assess administrative costs or costs related to the abatement of the violator’s Vehicle. The ~~Hearing Officer~~Hearing Examiner may also order the refund of hearings fees to parties deemed not responsible for the violation.

B. If it is determined at the hearing that the Vehicle was placed on the land without the consent of the Landowner and that he or she has not subsequently acquiesced in its presence, then the ~~Hearing Officer~~Hearing Examiner order shall not assess costs of administration or removal of the Vehicle against the property upon which the Vehicle is located or otherwise attempt to collect the cost from the Landowner.

8.23.100 Appeal of the decision of the ~~Hearing Officer~~Hearing Examiner – Private property.

The decision of the ~~Hearing Officer~~Hearing Examiner shall be considered final, unless a written Notice of Appeal is filed with a court of competent jurisdiction no later than ten days after issuance of the Order of the ~~Hearing Officer~~Hearing Examiner.

8.23.110 Removal and disposal – Costs – Liens – Private property.

A. Commencing 18 calendar days after the date of the Notice of Violation and Abatement, if no appeal had been filed, or 15 calendar days after the issuance of an Order from the ~~Hearing Officer~~Hearing Examiner resulting in authority to remove the Vehicle, the Public Official shall cause the removal and disposal of the Vehicle, or part thereof, as soon as practicable. The Public Official will provide notice to the Washington State Patrol and the Washington State Department of Licensing that the Vehicle has been processed in accordance with the laws of the state of Washington. The Vehicle shall only be disposed of as scrap.

B. The City may file a lien for the cost of any abatement proceedings under this chapter and all other related costs against the real property on which the monetary penalty was imposed or any of the work of abatement was performed, except no lien shall attach to the real property if the Landowner was found not responsible in the Order issued by the ~~Hearing Officer~~Hearing Examiner. The lien shall run with the land, but shall be subordinate to all previously existing special assessment liens imposed on the same property and shall be superior to all other liens, except for state and county taxes, with which it shall be in parity. Any claim of lien shall contain sufficient information regarding the Notice of Violation and Abatement, a description of the property to be charged with the lien and the owner of record, and the total amount of the lien.

C. In addition to a lien, the City may pursue collection of the cost of any abatement proceedings under this chapter by any other lawful means, including referral to a collection agency.

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EXHIBIT “D”

**Chapter 8.30
PUBLIC NUISANCES**

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Sections:

- 8.30.010 Purpose and intent.
- 8.30.020 Definitions.
- 8.30.030 Public nuisance defined.
- 8.30.040 Specific public nuisances declared.
- 8.30.045 Cannabis.
- 8.30.050 Parking of vehicles on residential property.
- 8.30.055 Abandoned property in the right-of-way.
- 8.30.060 Penalty for violation.
- 8.30.070 Emergency actions.
- 8.30.080 Notice of Violation and Abatement.
- 8.30.090 Alternative Process – Notice of Violation, civil penalty, and abatement.
- 8.30.100 Hearing by the ~~Hearing Officer~~[Hearing Examiner](#).
- 8.30.110 Abatement process.
- 8.30.120 Recovery of costs and expenses.
- 8.30.130 Hearing regarding cost of abatement.
- 8.30.140 Additional relief.
- 8.30.150 Repeat offenders.
- 8.30.160 Severability.

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8.30.020 Definitions.

Unless otherwise specified, for purposes of this chapter, certain terms, phrases, words, and their derivatives shall be construed, as specified in this section. Terms, phrases, and words used in the singular include the plural and the plural the singular. Where terms, phrases, and words are not defined herein within this chapter, they shall have their ordinary accepted meaning within the context in which they are used.

A. “Abate” means to repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a violation of this chapter by such means and in such a manner and to such an extent as the Public Official determines is necessary in the interest of the public health, safety, and welfare of the community.

B. “Act” shall mean anything done, being done, or to be done; performance; deed.

C. “Apparently Inoperable Vehicle” means:

- 1. that the vehicle does not appear to comply with requirements for safe and legal operation on public streets or highways with regard to licensing, brakes, lights, tires, safety glass, or other safety equipment; or
- 2. a vehicle that has been determined by the Tacoma-Pierce County Health Department to be unfit for use due to contamination from methamphetamine or other substances, which are harmful to human health or the environment; or
- 3. other circumstances or conditions that are evidence that the vehicle is not currently operable, including, but not limited to, a vehicle having its passenger compartment filled with trash or debris; vegetation growing inside, around, or on the vehicle; or other evidence that the vehicle has not been moved for an extended period of time.

D. “Attractive nuisance” shall mean any object or condition which can reasonably constitute a hazard or danger and which is accessible to unauthorized persons.

E. “Certificate of Complaint,” for purposes of this chapter, is a document filed with the Pierce County Auditor, stating that the property has been determined to be in violation of TMC 8.30.



F. "Control" means the ability to regulate, restrain, dominate, counteract, or govern property or conduct that occurs on a property.

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~~G. "Hearing Officer" shall mean the City Manager, or his or her designated representative.~~

HG. "Litter" shall include, but is not limited to, debris in the form of cans, bottles, glass, ashes, plastic materials, garbage, wastepaper, packing material, scrap iron, wire, metal articles, discarded furniture and appliances, junk, broken stone or cement, scrap wood, pallets, tires, discarded building materials, inoperable bicycles, or bicycle parts, rags, boxes, crates, packing cases, mattresses, bedding, tree and vegetation trimmings, and all other trash, including abandoned inflammable materials, which are a fire hazard or a menace to the public health, safety, or welfare.

HI. "Owner" means any person, including any natural person, joint venture, partnership, association, club, company, corporation, business trust, or organization, or the manager, lessee, agent, officer, or employee of any of them, having any interest in the real estate in question as indicated in the records of the office of the Pierce County Assessor, or who establishes, under this chapter, his or her ownership interest therein.

IJ. "Premises" and "property" may be used by this chapter interchangeably and means any building, lot, tax parcel, dwelling, rental unit, real estate, or land, or portion thereof, including, but not limited to, property used as residential or commercial property and may include the adjacent "public right-of-way" as defined herein.

KL. "Public Official" means any official designated by the City Manager, or his or her designee, authorized to enforce this chapter, including, but not limited to, officials of the City of Tacoma, Police Department, Fire Department, Public Works Department, Finance Department, Community and Economic Development Department, or the Tacoma-Pierce County Health Department charged with the enforcement of a particular portion of this chapter.

LK. "Public right-of-way" includes the area of land, the right of possession of which is secured by the City for right-of-way purposes and includes the traveled portion of the public streets and alleys, as well as the border area, which includes, but is not limited to, any sidewalks, driveway approaches, planting strips, traffic circles, parkways, or medians, or that area between the sidewalk and the curb line.

ML. "Screening," for the purposes of this chapter, shall include, but not be limited to, solid wood fencing, chain link fencing with slats, and/or solid landscaping capable of concealing storage from sight by standing individuals at or near the property lines; however, such screening must be at least six feet in height.

NM. "Vehicle," except as otherwise specifically defined herein, shall include, but not be limited to, automobiles, motorcycles, trucks, motorized recreational vehicles, campers, travel trailers, boats on or off trailers, or utility trailers.

ON. "Vegetation" shall include, but not be limited to, all grass, weeds, blackberry vines, brush, shrubs, bushes, or trees, either growing or which has died.

* * *

8.30.080 Notice of Violation and Abatement.

A. A Public Official, if he or she has a reasonable belief that a public nuisance exists in violation of this chapter, may issue a Notice of Violation and Abatement to the Owner of the property. Said Notice of Violation and Abatement shall contain the following:

1. The street address or a description of the building, structure, premises, or land, in terms reasonably sufficient to identify its location;
2. A description of the violation and a reference to the provisions of the Tacoma Municipal Code which have been violated;
3. A description of the action required to abate the public nuisance which may include corrections, repairs, demolition, removal, or any other appropriate action;



1 4. A statement that the required action must be taken within 18 calendar days from the date of the Notice of Violation and Abatement after which the City may abate the public nuisance in accordance with the provisions of this chapter;

2 5. A statement that the owner to whom a Notice of Violation and Abatement is directed may request a hearing by the ~~Hearing Officer~~Hearing Examiner. Such notice must be in writing and must be received by the City Clerk, no later than 10 calendar days after the Notice of Violation and Abatement has been issued;

3 6. A statement that if the owner to whom the Notice of Violation and Abatement is issued fails to submit a Notice of Appeal within 10 calendar days of issuance or fails to voluntarily abate the nuisance within 4 18 calendar days of issuance, the City may abate the nuisance and may assess all costs of abatement against the Owner of the property.

5 7. A statement that the costs and expenses of abatement incurred by the City may be assessed against the owner named in the Notice of Violation and Abatement and further that failure to pay said costs may result in a lien against the property.

6 8. The appropriate department and/or division investigating the case and the contact person.

7 B. The Notice of Violation and Abatement shall be served by any one or any combination of the following methods:

8 1. By first class mail to the address of the Owner as indicated in the records of the Pierce County Assessor; or

9 2. By posting the Notice of Violation and Abatement in a prominent location on the premises in a conspicuous manner which is reasonably likely to be discovered; or

10 3. By personal service upon the Owner of the property.

11 **8.30.090 Alternative Process – Notice of Violation, civil penalty, and abatement.**

12 A. Any owner who violates any of the provisions of this chapter, in the discretion of the Public Official, may be assessed monetary penalties before the City initiates the abatement process referenced in this chapter. If the Public Official determines that this alternative process will more likely result in voluntary compliance, the Public Official may send a Notice of Violation, followed by civil penalties and abatement if appropriate.

13 B. The Notice of Violation shall contain the following:

14 1. The street address or a description of the building, structure, premises, or land, in terms reasonably sufficient to identify its location;

15 2. A description of the violation and a reference to the provisions of the Tacoma Municipal Code which have been violated;

16 3. A description of the action required to abate the public nuisance which may include corrections, repairs, demolition, removal, or any other appropriate action;

17 4. A statement that the required action must be taken within 18 calendar days from the date of the Notice of Violation after which the City may impose a civil penalty in accordance with the provisions of this chapter;

18 5. The abatement procedure that may be implemented if civil penalties reach more than \$1,000;

19 6. The appropriate department and/or division investigating the case and the contact person;

20 7. A statement that the owner to whom a Notice of Violation is directed may request a hearing by the ~~Hearing Officer~~Hearing Examiner. Such notice must be in writing and must be received by the City Clerk, no later than 10 calendar days after the Notice of Violation and Abatement has been issued;

21 8. A statement that the costs and expenses of abatement incurred by the City may be assessed against the owner named in the Notice of Violation and further that failure to pay said costs may result in a lien against the property.

22 C. The Notice of Violation will be sent in the same manner as outlined in TMC 8.30.080.B;



1 D. Civil penalty. At the end of the specified timeframe, the site will be reinspected to see if the condition has been corrected. If the condition has been corrected, the case will be closed. If the condition has not been corrected, a civil penalty in the amount of \$250 may be sent.

2 E. Any person who violates any of the provisions of this chapter, in the discretion of the Public Official, may be assessed monetary penalties as an alternative to the abatement process referenced in this chapter, upon a determination that a public nuisance exists.

3 F. The civil penalty shall be served in accordance with TMC 8.30.080.B.

4 G. The civil penalty should contain the following:

5 1. A specified timeframe for correcting the violation or submitting an acceptable work schedule;

6 2. The address of the site;

7 3. The citation penalties that may be imposed in the event that the condition is not corrected within the timeframe indicated;

8 4. The abatement procedure that may be implemented if civil penalties in excess of \$1,000 are assessed in trying to correct the condition; and

9 5. The appropriate department and/or division investigating the case and the contact person.

10 H. At the end of the specified timeframe, the site will be reinspected to see if the condition has been corrected. If the condition has been corrected, the case will be closed. If the condition has not been corrected, a second and/or subsequent civil penalty in the amount of \$250 shall be sent or delivered in accordance with TMC 8.30.080.B.

11 I. A person to whom a civil penalty is directed may request a hearing by the ~~Hearing Officer~~[Hearing Examiner](#). Such notice must be in writing and must be received by the City Clerk no later than 10 calendar days after the civil penalty has been issued;

12 J. Civil penalties will continue to accumulate until the condition is corrected or, if the total assessed penalty exceeds \$1,000, an abatement proceeding may be initiated. At such time that the assessed penalty exceeds \$1,000, a Certificate of Complaint may be filed with the Pierce County Auditor to be attached to the title of the property. A copy of the Certificate of Complaint shall be sent to the owner and parties of interest if determined.

13 K. Each day that a property is not in compliance with the provisions of this chapter may constitute a separate violation of this chapter.

14 **8.30.100 Hearing by the ~~Hearing Officer~~[Hearing Examiner](#).**

15 A. A person to whom a Notice of Violation and Abatement or civil penalty has been issued, or any other person with a legal or equitable interest in the property, may request a hearing by filing the request with the City Clerk no later than 10 calendar days after said Notice of Violation and Abatement or civil penalty is issued. Each request for hearing shall contain the address and telephone number of the person requesting the hearing and the name and/or the name and address of any person who will be present to represent him or her. Each request for hearing shall set out the basis for the appeal.

16 B. If a hearing is requested, the ~~Hearing Officer~~[Hearing Examiner](#), will conduct the hearing required by this chapter no more than 18 calendar days after the Public Official issues the Notice of Hearing, unless the ~~Hearing Officer~~[Hearing Examiner](#) or Public Official finds good cause to continue the matter to another date.

17 C. If a request for a hearing is received, the Public Official shall mail a notice giving the time, location, and date of the hearing, by first class mail to whom the Notice of Violation and Abatement or civil penalty was directed.

18 D. The ~~Hearing Officer~~[Hearing Examiner](#) shall conduct a hearing. [The hearing shall be conducted in accordance with 1.23 TMC and the Hearing Examiner's rules.](#) ~~The Public Official, as well as the person to whom the Notice of Violation and Abatement or civil penalty was directed, may participate as parties in the~~



~~hearing and each party may call witnesses.~~ The City shall have the burden of proof to establish, by a preponderance of the evidence, that a violation of this chapter has occurred and that the required corrective action is reasonable, or that the civil penalty was assessed for noncompliance with this chapter.

E. The ~~Hearing Officer~~Hearing Examiner shall determine whether the City has established, by a preponderance of the evidence, that a violation of this chapter has occurred and that the required corrective action is reasonable, or that the civil penalty was reasonable, and shall affirm, modify, or vacate the Public Official’s decisions regarding the alleged violation, the required corrective action, and/or civil penalty with or without written conditions.

F. The ~~Hearing Officer~~Hearing Examiner shall issue a final Order which contains the following information:

1. The decision regarding the alleged violation including findings of facts and conclusion based thereon;
2. The required corrective action, if any;
3. The date by which the correction must be completed;
4. The date after which the City may proceed with abatement, as outlined in TMC 8.30.110, if the required corrective action is not completed;
5. A statement that the civil penalty is affirmed, modified, or waived;
6. A statement of any appeal remedies;
7. A notice that if the City proceeds with abatement, a lien for the costs of said abatement may be assessed against the property if the costs of abatement are not paid in accordance with the provisions of this chapter.

G. If the person to whom the Notice of Violation and Abatement or civil penalty was directed fails to appear or submit something in writing at the scheduled hearing, the ~~Hearing Officer~~Hearing Examiner will enter an Order finding that the violation has occurred, or the civil penalty was reasonable, and that abatement may proceed.

H. The Order shall be served on the person by one of the methods stated in TMC 8.30.080, ~~(B) of this chapter.~~

I. A final Order of the ~~Hearing Officer~~Hearing Examiner may be appealed to a court of competent jurisdiction no more than twenty-one (21) calendar days of its issuance.

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8.30.120 Recovery of costs and expenses.

A. The costs, including incidental expenses, for correcting the violation may be billed to the owner to which a Notice of Violation and Abatement has been directed, and shall become due and payable to the City of Tacoma no later than 30 calendar days from the date of the invoice. The term “incidental expense” includes, but is not limited to, personnel costs, both direct and indirect, including attorney’s fees; costs incurred in documenting the violation; hauling, storage, and disposal expenses; filing fees; and actual expenses and costs of the City in preparing notices, specifications, and contracts, and in accomplishing and/or contracting and inspecting the work; the costs of any required, printing or mailing; and any and all costs of collection.

B. If the person responsible for the costs of abatement fails to remit in a timely manner, the City may file a lien against the real property for the cost of any abatement proceedings under this chapter, except no lien shall attach to the real property if the Owner was found not responsible in the Order issued by the ~~Hearing Officer~~Hearing Examiner. A notice of the City’s lien specifying the expenses incurred in abating the nuisance and giving the legal description of the premises sought to be charged shall be filed with the county auditor within 90 days from the date of the abatement. Such lien may at any time thereafter be collected in the manner provided for foreclosure of mechanic’s liens under the laws of the State of Washington.

C. In addition to a lien, the debt shall be collectible in the same manner as any other civil debt owing to the City, and the City may pursue collection of the costs of any abatement proceedings under this chapter by any other lawful means, including, but not limited to, referral to a collection agency.



D. Any unpaid amounts for the cost of collection, removal, and disposal of solid waste by the City, under TMC 8.30.110.B. may be collected in any lawful manner authorized for the collection of utility bills.

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8.30.130 Hearing regarding cost of abatement.

A. Any person sent an invoice for the costs due for the abatement of a nuisance may request a hearing to determine if the costs should be assessed, reduced, or waived.

B. A request for a hearing shall be made in writing and filed with the City Clerk no later than ten (10) calendar days from the date of the invoice.

C. Each request for hearing shall contain the address and telephone number of the person requesting the hearing and the name and/or the name and address of any person who will be present to represent him or her.

D. Each request for hearing shall set out the basis for the appeal.

E. Failure to request a hearing within ten (10) calendar days from the date of the invoice shall be a waiver of the right to contest the validity of the costs incurred in abatement of the violation.

F. If a hearing is requested, the ~~Hearing Officer~~Hearing Examiner will conduct the hearing no more than 18 calendar days after the Public Official issues the Notice of Hearing, unless the ~~Hearing Officer~~Hearing Examiner or Public Official finds good cause to continue the matter to another date.

G. If a hearing is requested, the Public Official shall mail a notice giving the time, location, and date of the hearing, by first class mail, to the person or persons to whom the invoice for the costs of abatement was directed.

H. The ~~Hearing Officer~~Hearing Examiner shall conduct a hearing. ~~The Public Official, as well as the person to whom the invoice for abatement costs was directed, may participate as parties in the hearing and each party may call witnesses. The hearing shall be conducted in accordance with 1.23 TMC and the Hearing Examiner's rules.~~ The City shall have the burden of proof to establish, by a preponderance of the evidence, that the abatement costs were reasonable.

I. The ~~Hearing Officer~~Hearing Examiner shall issue an order and determine whether the costs of abatement were reasonable and necessary. The ~~Hearing Officer~~Hearing Examiner may uphold the amount billed for the costs of abatement, reduce the amount billed, or waive the costs.

J. The order of the ~~Hearing Officer~~Hearing Examiner is the final administrative decision. Such decision may be appealed in accordance with TMC 8.30.100.I.

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EXHIBIT "E"

Chapter 8.122
NOISE ENFORCEMENT

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Sections:

- 8.122.010 General definitions.
- 8.122.020 General powers of the Director.
- 8.122.030 Testing by order of the Director.
- 8.122.040 Inspection.
- 8.122.050 Procedures for the determination of sound levels.
- 8.122.060 Nuisance regulations not prohibited.
- 8.122.070 Exemptions.
- 8.122.080 General prohibitions.
- 8.122.090 Construction.
- 8.122.100 Commercial music.
- 8.122.110 Variances.
- 8.122.120 Noise control plan.
- 8.122.130 Penalty for violation.
- 8.122.140 Notice of Violation and civil penalty.
- 8.122.150 Hearing by the ~~Hearing Officer~~Hearing Examiner.

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8.122.150 Hearing by the ~~Hearing Officer~~Hearing Examiner.

A. A person to whom a Notice of Violation or civil penalty is issued may request a hearing by filing the request with the City Clerk no later than ten (10) calendar days after said Notice of Violation or civil penalty is issued.

B. If a hearing is requested, the ~~Hearing Officer~~Hearing Examiner, or his or her designee, will conduct the hearing required by this chapter no more than 18 calendar days after the Director issues the Notice of Hearing.

C. If a request for a hearing is received, the Director shall mail a notice giving the time, location, and date of the hearing, by first class mail to person or persons to whom the Notice of Violation or civil penalty was directed.

D. The ~~Hearing Officer~~Hearing Examiner, or his or her designee, shall conduct a hearing on the Notice of Violation or civil penalty. The hearing shall be conducted in accordance with 1.23 TMC and the Hearing Examiner's rules. ~~The Director, as well as the person to whom the Notice of Violation or civil penalty was directed, may participate as parties in the hearing, and each party may call witnesses.~~ The City shall have the burden of proof to establish, by a preponderance of the evidence, that a violation has occurred and that the required corrective action is reasonable.

E. The ~~Hearing Officer~~Hearing Examiner shall determine whether the City has established, by a preponderance of the evidence, that a violation has occurred and that the required corrective action is reasonable and shall affirm, modify, or vacate the Director's decisions regarding the alleged violation, civil penalty, and/or the required corrective action, with or without written conditions.

F. The ~~Hearing Officer~~Hearing Examiner shall issue a final Order that contains the following information:

- 1. The decision regarding the alleged violation including findings of facts and conclusion based thereon;
- 2. The required corrective action, if any;
- 3. The date and time by which the correction must be completed;
- 4. A statement of any appeal remedies;



5. A notice that a lien may be assessed against the property if the civil penalties are not paid in accordance with the provisions of this chapter.

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G. If the person to whom the Notice of Violation or civil penalty was directed fails to appear at the scheduled hearing, the ~~Hearing Officer~~Hearing Examiner will enter an Order finding that the violation has occurred.

H. The Order shall be served on the person in the same manner as a Notice of Violation as provided for in ~~Section 8.122.140~~.B.

I. A final Order of the ~~Hearing Officer~~Hearing Examiner may be appealed to a court of competent jurisdiction no more than 21 calendar days of its issuance.