



LOS ALAMOS COUNTY CHAPTER 18 NUISANCE CODE UPDATE

Council Presentation 8.30.2022



Agenda

- Code Update Overview
 - Code Structure
 - Key Updates
 - Public Input Received
- Discussion
- Next steps

Code Structure

- Rearranged content
- Clarified language

Chapter 18 ENVIRONMENT

ARTICLE I. NUISANCES

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 Sec 18-1 Purpose.....

 Sec 18-2 Scope.....

 Sec 18-3 —18-29 Reserved.....

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 Sec 18-31 Obstructive vegetation.....

 Sec 18-32 Accumulation of litter, garbage and refuse.....

 Sec 18-33 Outdoor furniture.....

 Sec 18-34 Outdoor storage.....

 Sec 18-35 Rodent harborage.....

 Sec 18-36 Exhaust vents.....

 Sec 18-37 Accessory structures.....

 Sec 18-38 Inoperable or abandoned vehicles.....

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 Sec 18-51 Exterior surfaces protective treatment.....

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DIVISION 5. DEFINITIONS

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 Sec. 18-34. Definitions.....

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 Sec. 18-42. Weeds, brush piles, refuse and rubbish.....

 Sec. 18-43. Outdoor furniture restriction.....

 Sec. 18-44. Outdoor storage of materials.....

 Sec. 18-45. Rodent harborage.....

 Sec. 18-46. Exhaust vents.....

 Sec. 18-47. Accessory structures.....

 Sec. 18-48. Swimming pools, spas, hot tubs.....

 Sec. 18-49. Refrigerators.....

DIVISION 3. REGULATION OF EXTERIOR STRUCTURE.....

 Sec. 18-50. General.....

 Sec. 18-51. Unsafe conditions.....

 Sec. 18-52. Protective treatment.....

 Sec. 18-53. Premises identification.....

 Sec. 18-54. Structural members.....

 Sec. 18-55. Foundation walls.....

 Sec. 18-56. Exterior walls.....

 Sec. 18-57. Roofs and drainage.....

 Sec. 18-58. Decorative features.....

 Sec. 18-59. Overhang extensions.....

 Sec. 18-60. Stairways, decks, porches and balconies.....

 Sec. 18-61. Chimneys and towers.....

 Sec. 18-62. Handrails and guards.....

 Sec. 18-63. Window, skylight and door frames.....

 Sec. 18-64. Doors.....

 Sec. 18-65. Building security.....

 Sec. 18-66. Enforcement.....

 Secs. 18-67—18-70. Reserved.....

Updated

Existing

Public Comments

LAC Chapter 18 Nuisance Code Update: Public Comment Matrix

Topic	Applicable Section	Comment	Revision	Response
Inoperable vehicles - Alternative for Personal Auto and Hobby Repair	Sec 18-38 Inoperable or abandoned vehicles	Would either of you mind explaining how automotive maintenance falls under the tenets of the nuisance code? Requiring all work to be completed in a fenced area or a garage is a safety hazard for many residences in the county and regardless of that - this work does not fall under the premises outlined by the code itself. Is there a reason this new code section was added? Why does the county believe it has the authority to regulate what hobbies or maintenance are performed in a safe manner in driveways throughout the county?	<p>2 potential revisions are outlined below:</p> <p>Option 1: Remove the content under the heading of Alternative for Personal Auto and Hobby Repair on page 5.</p> <p>Option 2: Revise language as follows: "This section shall not apply in an area where an activity is within the contemplated purposes of a duly licensed business with the appropriate zoning or permitted as part of a Special Use and complies with all use requirements of the district and any conditions imposed by the approving bodies, or where any number of inoperable vehicles are kept in an enclosed structure, the routine or minor vehicle maintenance and repairs, such as oil changes, brake replacement, etc. or when vehicles are actively being restored, as defined by this Article, by the owner or tenant of the premises. Any dismantled or inoperative vehicles, or parts thereof, actively being restored are permitted to be stored on the property for a period not to exceed six months, provided the motor vehicle is registered in the resident's name and fully covered with an opaque cover designed to fit the motor vehicle if stored in a front yard."</p> <p>Alternative for Personal Auto and Hobby Repair: 15- Repair, maintenance or hobby activities performed on personal vehicles owned by the owner(s) or occupant of the property will be done in a manner which minimizes the impact to the neighborhood and, shall be performed within the garage or behind fenced areas which are not readily visible from public rights-of-way.</p> <p>Add definition of actively restored to Division 5 to read: "Actively Restored means the owner has spent at least ten hours of labor in repairing, rebuilding or reconstruction of the motor vehicle within the last 30 days. The burden shall be on the owner of the vehicle to prove that it is being actively restored which may include receipts for the purchase of parts and supplies during the last 6 months which have been installed on the vehicle."</p>	This is an issue that was brought up related to inoperable vehicles being stored in public view for extended time periods for the sake of personal hobby repair. It was an issue that the project team was asked to consider during one of the CDAB presentations. This language was only intended to apply to the repair of inoperable vehicles.

Public Comments

Major concerns related mostly pertained to Division 2: Exterior Property Areas, particularly:

- Sec 18-30 Maintenance responsibilities of sidewalks
- Sec 18-31 Obstructive Vegetation, specifically if weeds should be regulated aside from hazardous vegetative obstructions
- Sec 18-33/34 Outdoor Storage / Furniture creating too onerous outdoor storage requirements
- Sec 18-38 Storage of Inoperable Vehicles and alternative language regarding hobby maintenance being too onerous

Public comments and concerns indicated in red text throughout presentation

Purpose

The purpose of this Article is to promote the public's health, safety, and welfare by establishing minimum standards governing the conditions and maintenance of property and structures to prevent the creation and continuation of public nuisances, as defined by this Article, and to provide a means for abatement.

- Concerns about the word welfare, alternative term “quality of life” suggested in public comment.

Aesthetics Vs. Safety

- Concerns being raised on both sides;
 - Desire for more aesthetic concerns like weeds or outdoor storage to be regulated,
 - Concerns that more aesthetic standards for requirements for screening of outdoor storage from public view being too onerous
- Various communities draw the line differently
- Theories about property care & maintenance helping to reduce crime & violence
- **CDAB / Council direction needed on the extent of more aesthetic regulations**

Table 7 Topics Addressed in Nuisance Regulations

Topics	Globe, AZ	Alamogordo, NM	Golden, CO	Ruidoso, NM	Los Alamos County	IMPC
General Property Maintenance	X		X	X	X	X
Unsanitary conditions	X	X	X	X	X	X
Weeds	X	x	X	X	X	X
Plant overgrowth obstructing sidewalks or roads		X	X	X	X	X
Brush piles					X	
Unsecured or unmaintained pools	X		X	X	X	X
Graffiti	x	X		X	Addressed in Section 28-144	X
Dangerous or substandard structures	X	X	X	X	X	X
Accessory structure deterioration			X	X	X	X
Construction related nuisances such as litter, noise, and dust		X	X		X	
Inoperable vehicles parked on private property/ Abandoned or Junk vehicles	X	X	X	X	Addressed in Section 16-281	X
Inappropriate storage of items such as interior furniture or appliances outdoors				X	X	
Outdoor furniture				X	X	
Refuse and rubbish/ Litter	X	X	X	X	X	X
Fences and walls in disrepair	X			X	X	X
Rodent harborage	X			X	X	X
Hazardous trees or limbs		X	X	X	X	
Geologic Hazard aggravation			X			
Waterway Pollution			X			
Grading and Drainage						X
Exhaust Vents					X	X

An X in a cell indicates that the code in question regulates the indicated topic.

Exterior Property Areas

- Rearranged content
- Clarified language

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Sidewalks and driveways

Sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair and maintained in a safe and passable condition, free from obstructions and hazardous conditions. The owners or occupant of property where these features are located shall be responsible to maintain these areas and to repair defects and hazards located thereon. The obligation of maintenance shall include but not be limited to maintenance to conform to the Public Works Design and Construction standards to the extent practicable of a constant grade, repair of substantial holes, cracks or spalling, and removal of rubbish, debris or vegetation impeding into a required clear path or sight triangle per Section 16-(C)(IV) of the Development Code.

Sidewalks and driveways

- **Concerns regarding private maintenance requirements of public facilities**
- Current draft language requiring property owner maintenance is consistent with regional and precedent community practices.
 - Rio Rancho includes responsibility for sidewalk and landscape strip maintenance for property owners within Nuisance Code.
 - Santa Fe, Albuquerque, Alamogordo, Globe AZ, and Golden CO place responsibility for sidewalk maintenance and repairs on property owner within Streets/Public Improvements section of their codes.
 - Las Cruces places sidewalk repair responsibility on the municipality and includes procedures for repair cost recovery from property owners.
- NMSA includes procedures for sidewalk repairs, including the required notice to the owner of the land contiguous to the sidewalk, procedures for owners to file written objections to the required repair, enforcement and lien procedures, and liability for any injury occurring on the sidewalk in need of repair.

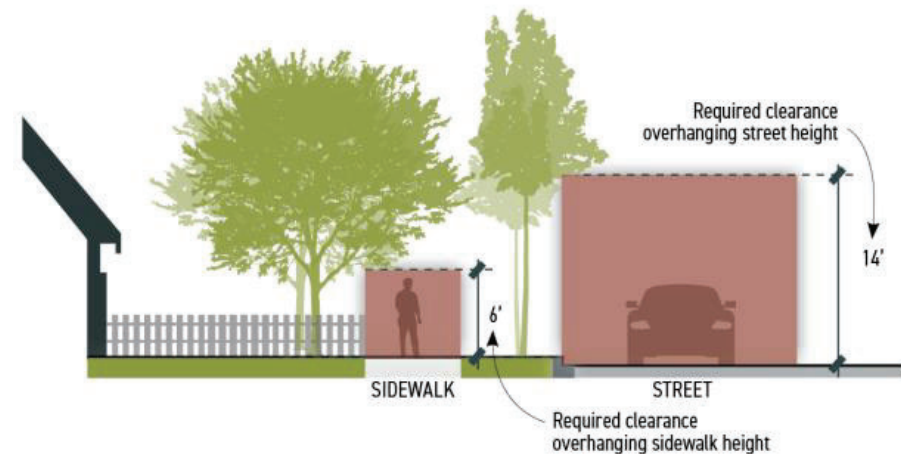
Sidewalks and driveways

Alternatives:

1. Strike property owner repair requirement
2. Retain existing language
3. Address sidewalk and maintenance repair in a different code section with more detailed procedures and defined responsibilities for property owners and the County.

Obstructive Vegetation

The owner or occupant of any property shall ~~destroy,~~ ~~remove or~~ trim or remove all trees, plants, shrubs or vegetation, or any parts thereof, which overhang or extrude into any abutting sidewalk, public right-of-way, planting strip, clear sight triangle per Section 16-4-2(C)(IV) or adjacent property in such manner as to obstruct or impair the free and full use of the sidewalk or street, including the interruption or interference with the clear vision of pedestrians, bicycles, or persons operating vehicles thereon, and including interference with traffic signs, poles, wires, pipes, fixtures or any other part of any public utility situated in the street or public rights of way. Vegetation shall be ~~removed or~~ trimmed or removed to maintain a minimum clearance of ~~86~~ feet overhanging sidewalk height and 14 feet overhanging street height.



- Concerns 6' wasn't high enough to accommodate the subset of the population over 6' in height; increased to 8'

Obstructive Vegetation

- Concerns that weeds are not addressed in the draft
- Other comments supporting the avoidance of the term weeds
- CDAB / Council guidance needed on whether to regulate weeds outside of public areas

Accumulation of litter, garbage and refuse

All exterior property and premises, whether improved or vacant, shall be free from any excessive accumulation of litter, garbage, refuse, or vegetative debris which causes or creates a fire, health, safety, or welfare hazard, except in approved receptacles for collection. Every property owner or occupant shall dispose of all litter, garbage, refuse, or vegetative debris in a clean and sanitary manner by placing such materials in approved receptacles for collection, or by taking it to an approved disposal facility. Dumpsters and similar large receptacles shall be shielded from the public view per the requirements outlined in Section 16-4-4(E)(IV) of the Development Code. Compost piles shall be screened from public view and shall be kept covered, except while turning to ensure contents are not windblown. All other such receptacles shall be kept in orderly manner and may only be moved to the curb no earlier than 5:00 pm the day prior to the day of collection as determined by the collections schedule set forth by the County.

No person shall dump, deposit, place or dispose of any trash, debris, junk, or other matter on public rights-of-way, public property or upon the property of another without permission from the property owner of record.

Accumulation of litter, garbage and refuse

- Concerns about how accumulation is defined so property owners are not in violation for small items, such as refuse blown onto a property.
- Concerns about ADA accommodations for moving trash receptacles.
- Revised language regarding when receptacles may be moved to the curb to match existing standards in Chapter 32 Waste Management

Outdoor Furniture

Furniture, other than outdoor furniture as defined by this Article, shall be prohibited on any yard, unenclosed porch, deck, balcony, or other exterior areas of any premise.

- Concerns this is too onerous, does not support the purpose statement, and is focused on aesthetics.
- Outdoor furniture language is not including all precedent codes, but where it is the requirements similar
- **Alternative to strike this language and rely on the accumulation of litter, garbage, and refuse section to address furniture on the exterior areas of the property; by adding junk**

Outdoor Storage

Outdoor storage or accumulation of items in residential zoning districts consisting of but not limited to junk, building or construction materials not in use for construction on the property, heavy equipment, household appliances, salvage materials, tires or vehicle parts, or similar items that are not manufactured or intended for storage or use on any residentially zoned property shall be prohibited unless otherwise allowed by this Code, within any yard, unenclosed porch, carport, other partially enclosed structure, deck or balcony that are visible from any public street, sidewalk, alley or from the ground level of abutting properties. The storage of such materials within a garage or other fully enclosed structure shall not be considered outdoor storage for the purposes of this provision.

Outdoor Storage

- Concerns this is too onerous, does not relate to health and safety, and is focused on aesthetics.
- Concerns about including restrictions on storage of trailers and storage within carports
- Concerns that trailers are covered in the definition of outdoor storage and should be removed.

Alternatives

- Strike Outdoor Storage section and rely on Accumulation of litter, garbage, and refuse section; add junk to this section
- Create exceptions for properties without garages
- Include time limit to accommodate special circumstances, such as moving and renovations
- Allow for storage within carports

Rodent Harborage

All buildings, structures or lots shall be kept free from rodent harborage and infestation, as defined in this Chapter. It shall be unlawful for any person to place, leave, dump, or permit to accumulate any water, garbage, rubbish, or trash in any structure or premises so that the same may afford food or harborage for rodents or pests. When any structure or premises is so infested or subject to infestation, the property owner or occupant shall be responsible for the prompt extermination by processes that ~~which~~ will not be injurious to human health.

Movable or temporary storage structures

Tents or canopies used for storage or metal storage or moving containers shall not be permitted in areas visible from the public rights-of-way unless specifically approved and permitted through a Temporary Use Permit and in compliance with all standards of Section 16-3-2(E)(X) Temporary Storage of the Development Code.

- 1 CDAB board members expressed concerns that this section would prohibit temporary outdoor carports which might be desired by many residents
- Alternative – to explicitly state that temporary tent like carport structures are exempt from this required.

Inoperable or Abandoned Vehicles

Storage or encroachment of inoperable vehicles, as defined by this Chapter, in the public right-of-way is prohibited. Storage of inoperable vehicles within a front yard is prohibited, except if the lot, because of topography, shape, or the location of the structures, cannot reasonably accommodate the location of inoperable vehicles in areas other than the front yard, and there is no safety hazard, then one (1) inoperable vehicle may be stored in a front yard; provided that it is covered with an opaque cover that completely encloses the vehicle, except for the tires~~designed to fit the motor vehicle~~. No more than three (3) inoperable vehicles may be stored in a combination of the rear yard and side yard; provided that they are enclosed with a fence or wall or each is covered with an opaque cover designed to fit the motor vehicle such that the vehicle is not a safety hazard or publicly visible ~~from adjoining or surrounding property or from view of a public right-of-way~~.

This section shall not apply in an area where an activity is within the contemplated purposes of a duly licensed business with the appropriate zoning or permitted as part of a Special Use and complies with all use requirements of the district and any conditions imposed by the approving bodies, or where any number of inoperable vehicles are kept in an enclosed structure.

Alternative Language for Personal Auto and Hobby Repair

Repair, maintenance or hobby activities performed on personal vehicles owned by the owner(s) or occupant of the property will be done in a manner which minimizes the impact to the neighborhood and, shall be performed within the garage or behind fenced areas which are not readily visible from public rights-of-way.

Alternative Language for Personal Auto and Hobby Repair

Public Comments:

- Distinguish major auto work from standard maintenance tasks that can be performed in the front yard/without screening.
- Safety hazard associated with auto repairs in an enclosed area
- Many houses do not have garages in certain neighborhoods
- Establish a time limit for hobby repairs without screening to accommodate routine vehicle maintenance tasks
- Conflicts with NMSA 1878 Article 11 Vehicles of Historic and Special Significance

Alternative Language for Personal Auto and Hobby Repair – Alternatives

1. Strike this language
2. Revise language as follows:

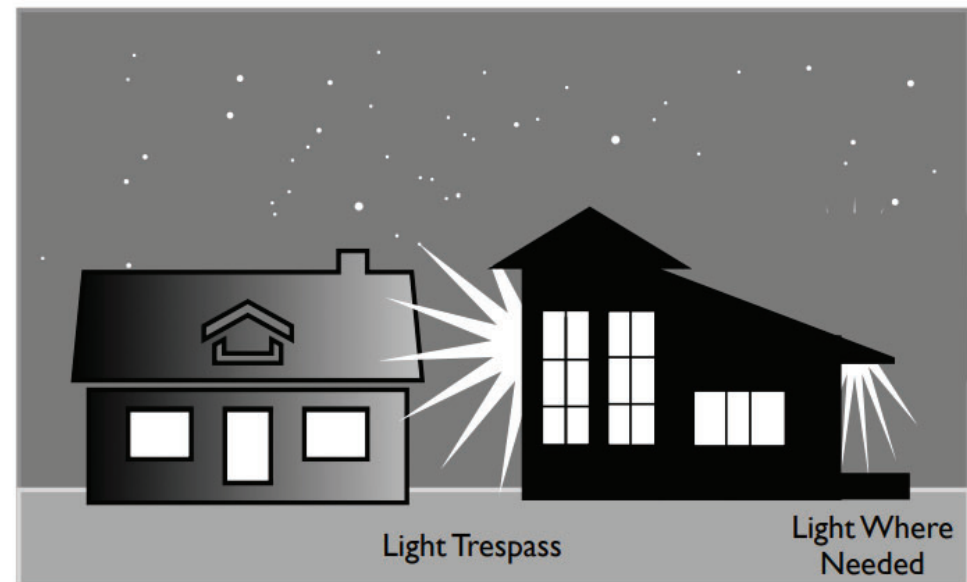
“This section shall not apply in an area where an activity is within the contemplated purposes of a duly licensed business with the appropriate zoning or permitted as part of a Special Use and complies with all use requirements of the district and any conditions imposed by the approving bodies, ~~or~~ where any number of inoperable vehicles are kept in an enclosed structure, the routine or minor vehicle maintenance and repairs, such as oil changes, brake replacement, etc. or when vehicles are actively being restored, as defined by this Article, by the owner or tenant of the premises. Any dismantled or inoperative vehicles, or parts thereof, actively being restored are permitted to be stored on the property for a period not to exceed six months, provided the motor vehicle is registered in the resident’s name and fully covered with an opaque cover designed to fit the motor vehicle if stored in a front yard”

Add definition of actively restored to Division 5 to read:

“Actively Restored means the owner has spent at least ten hours of labor in repairing, rebuilding or reconstruction of the motor vehicle within the last 30 days. The burden shall be on the owner of the vehicle to prove that it is being actively restored which may include receipts for the purchase of parts and supplies during the last 6 months which have been installed on the vehicle.”

Light Trespass

- Request to address light trespass, i.e. artificial light falls beyond the property it is intended to illuminate, within the code
- Not commonly regulated in Nuisance Codes; not in IMPC, Bernalillo County does address it within areas deemed rural
- Council guidance needed one where they want to incorporate code language on light trespass



Regulation of Exterior Structure

- Clarified existing language
- Reorganized content
- No new content

DIVISION 3. REGULATION OF EXTERIOR STRUCTURE 7

 Sec 18-50 General..... 7

 Sec 18-51 Exterior surfaces protective treatment..... 7

 Sec 18-52 Unsafe conditions..... 7

Sec. 18-50 General

The exterior of all structures shall be maintained in good repair, in a structurally sound condition, in a safe condition, and sanitary so as not to pose a threat to the public health, safety, or welfare.

Sec 18-51 Exterior surfaces protective treatment

Exterior surfaces, including but not limited to doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good repair. Exposed exterior metal and wood surfaces shall be protected from the elements, rust, corrosion, and decay by painting or other weather-coating protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated, and surfaces repainted. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors, and skylights, shall be maintained weather resistant and watertight

Sec 18-51 Exterior surfaces protective treatment

- Concerns about these standards failing to provide objective measures that require subjective judgement by a code inspector. Standards for aesthetic judgment alone and should be eliminated.
- Language based on the International Property Maintenance Code

Alternative

Revise language to read “Exterior surfaces, including but not limited to doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good repair. Exposed exterior ~~metal and wood~~ surfaces shall be rated for exterior use to ensure that they retain their quality over time and are protected from the elements, rust, corrosion, and decay by painting or other weather-coating protective covering or treatment. ~~Peeling, flaking and chipped paint shall be eliminated, and surfaces repainted. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.~~ All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors, and skylights, shall be maintained weather resistant and watertight.”

Administration and Enforcement

- Clarified existing language to be consistent with State Statutes and the IMPC
- Reorganized content

DIVISION 4. ADMINISTRATION AND ENFORCEMENT 9

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Sec 18-71 Violations 9

Sec 18-72 Responsibility of enforcement 9

Sec 18-73 Administration and enforcement procedures..... 10

Sec 18-74 Authority to Enter..... 11

Sec 18-75 Notice 11

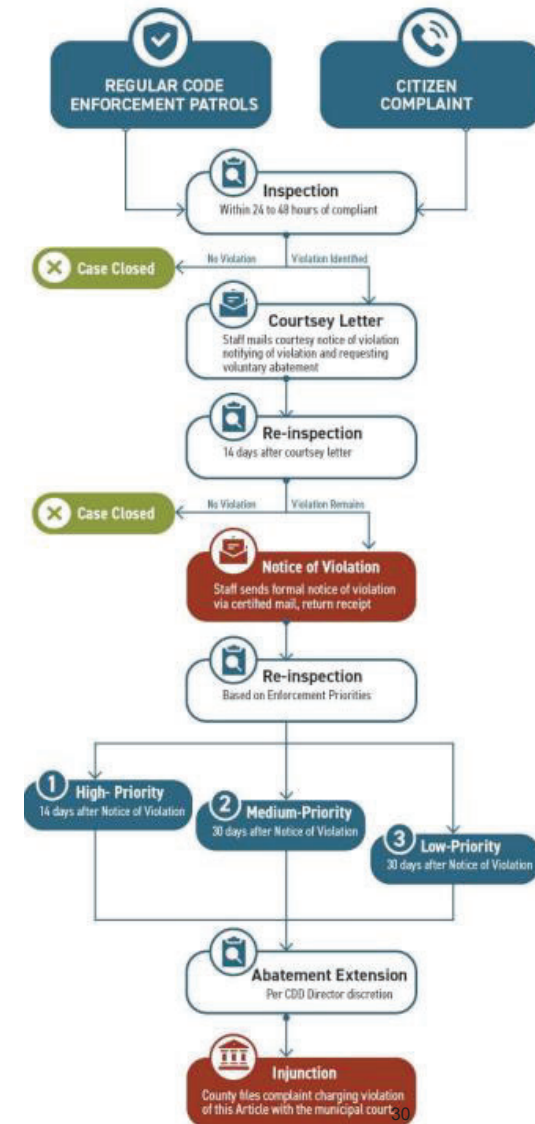
Sec 18-76 Complaints 12

Sec 18-77 Penalties for violation of division 12

Sec 18-78 —18-89. Reserved..... 12

Administration and Enforcement

- Draft carries forward a hybrid enforcement approach of patrols and complaints
- More clearly outlines enforcements procedures and codifies current practice of “Courtesy Letters” prior to violations



Administration and Enforcement

Notice

- c) In the event that re-inspection of the property after the 14-day period finds that violation was not abated, the Code Compliance Officer or Code Official may issue a Notice of Violation to the owner of record of the property as identified in the records of the County Tax Assessor and the property address in violation, if different from the owner of record on which the violation exists to abate the violation. The content of the notice shall contain:
- i. A description of the violation, including the location of the violation in question;
 - ii. A description of all corrective action required to abate the violation;
 - iii. A time limit by which the owner(s) must complete all corrective action. A Notice of Violation shall be served on the owner(s) personally or by certified mail. In the event the owner of the property cannot be determined, or the owner does not respond to the Notice of Violation Order, such notice may be served by posting a copy of the written notice in a conspicuous location upon the premises.
 - iv. **The date and time of the next Community Development Advisory Board Meeting.**

Definitions

DIVISION 5. DEFINITIONS12

- Definitions provides new terms for relevant items like inoperable vehicles, junk, etc.
- Attempted to clarify language and remove vague terminology; **public comments revealed further improvements are needed**
- Existing definitions were clarified as necessary

Inoperable Vehicles Definition

Inoperable vehicles means any vehicle meeting at least three (3) of the following conditions existing for more than 30 consecutive days:

- (a) does not have current state registration;
- (b) is extensively damaged (such damage including but not limited to any of the following: shattered or missing ~~broken~~ windows or windshield or missing wheels, tires, motor, or transmission);
- (c) is not capable of travel under its own power in its existing mechanical condition; or
- (d) is on blocks or similar devices;
- (e) is ~~partially or wholly~~ dismantled.

Definitions

- Publicly visible or public view means anything that can be seen by a person with normal vision from any sidewalk, or street, ~~alley, or other public place, or from any building situated on an adjoining property.~~
- Pest means any organism that spreads disease, causes destruction, or may otherwise create a potential health hazard.
- CDAB asked us to consider adding a new definition of front, side, rear yard.

Definitions

Junk means **new, used, or secondhand materials of any kind which is not presently being used** and that is demolished, discarded, dismantled, or in such a condition as to be generally unusable and/or inoperable in its existing state including but not limited to: scrap metal and alloys, **bones**, rags, cloth, clothing, paper, rubber pieces, rope, tinfoil, tires, bottles, tools, fixtures, utensils, lumber, boxes, crates, pipe or pipe fittings, furniture, refrigerators, freezers and all other appliances, machinery, used motor vehicles or the parts thereof or therefrom, any apparatuses or contrivances and parts thereof which are no longer in use, any used building material, boards or other lumber, cement blocks, bricks, or other secondhand building material.

- **Concerns about the definition going against environmental sustainability and not correlating to public health / safety concerns**

Sections needing Council Guidance

- Sec 18-30 Maintenance responsibilities of sidewalks
- Sec 18-31 Obstructive Vegetation,
- Sec 18-33/34 Outdoor Storage / Furniture
- Sec 18-38 Storage of Inoperable Vehicles and alternative language regarding hobby maintenance
- Ask for Light Trespass to be addressed within the draft

Next Steps

- Public comments accepted through September 2nd, 2022. Submit comments via email to Jessica Lawlis at JessicaL@dpsdesign.org or Sobia Sayeda at Sobia.Sayeda@lacnm.us
- Revised version, incorporating public comments, anticipated September 2022
- Formal review/adoption process to begin October 2022