

ATTACHMENT 1

ORDINANCE NO. ■■■

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA, AMENDING ARTICLE 1 (PUBLIC NUISANCE) OF CHAPTER 6.14 (NUISANCES, GENERAL) OF TITLE 6 (HEALTH AND SANITATION) AND SECTION 1.01.250 OF THE LAKE FOREST MUNICIPAL CODE TO PROVIDE FOR SUMMARY NUISANCE ABATEMENT PROCEDURES, RECOVERY OF EXPENSES; AND MODIFYING THE PROCESS FOR NOTICE, HEARING, AND APPEALS REGARDING INVOLUNTARY ABATEMENT OF A NUISANCE; AND DETERMINING THE ORDINANCE TO BE EXEMPT FROM CEQA

WHEREAS, the City of Lake Forest ("City") is authorized by California Constitution, Article XI, Section 7 to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, the City Council believes that enforcement of the Lake Forest Municipal Code is a matter of local concern and serves important public purposes; and

WHEREAS, Government Code sections 38773.1 and 38773.5 provide that a city may, by ordinance, provide for the recovery of nuisance abatement costs, including attorneys' fees, in any action, administrative proceeding, or special proceeding to abate a nuisance; and

WHEREAS, the City places a high value on protecting community character, land values, and the general public, health, safety and welfare, and has previously adopted numerous ordinances to help ensure such protection; and

WHEREAS, public nuisances, as designated by the Lake Forest Municipal Code, occur regularly and require the City to take abatement action at significant cost and expense; and

WHEREAS, the City's attorneys' fees incurred to abate public nuisances can be substantial and should be borne by the violator; and

WHEREAS, the City provides in Article 1 of Chapter 6.14 of Title 6 and Section 1.01.250 of the Lake Forest Municipal Code certain nuisance abatement procedures for providing notice to property owners, for administrative abatement, for summary abatement, for hearings and appeals, and for cost recovery; and

WHEREAS, these nuisance abatement and cost recovery provisions have not been updated by the City since 2007; and

WHEREAS, the City desires to update Article 1 of Chapter 6.14 of Title 6 and Section 1.01.250 of the Lake Forest Municipal Code, described particularly in this Ordinance No. [REDACTED]; and

WHEREAS, this Ordinance amends Article 1 of Chapter 6.14 and Section 1.01.250 as it relates to the procedures for providing notice to property owners, for administrative abatement, for summary abatement, for hearings and appeals, and for recovery of costs; and

WHEREAS, the purpose of this Ordinance is to generally enhance the clarity, simplicity, and user-friendliness of Article 1 of Chapter 6.14 and Section 1.01.250 in order to make the City's code enforcement efforts more efficient and effective; and

WHEREAS, the purpose of this Ordinance is to further modernize the code enforcement and nuisance abatement tools to help protect the public health, safety and welfare, and to ensure cost recovery to the fullest extent as authorized by law; and

WHEREAS, the City Council finds that the adoption and implementation of the procedures and standards set forth below for the identification and abatement of public nuisances, whether or not posing an immediate threat to public health and safety, is within the City's power and authority to protect the public health, safety, and welfare of the City's residents; and

WHEREAS, all other legal prerequisites to the adoption of this Ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE FOREST DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council hereby finds and determines that the Recitals above are true and correct and incorporated herein.

SECTION 2. The City Council finds that Ordinance No. [REDACTED] is not subject to the California Environmental Quality Act (CEQA) because the Ordinance is not a CEQA “project” pursuant to State CEQA Guidelines section 15378(b)(5), which provides that organizational and administrative activities of governments that will not result in physical environmental impacts are not CEQA projects, and here the proposed amendments refine and clarify Municipal Code provisions and correct clerical errors. Further, the City Council finds that State CEQA Guidelines section 15061(b)(3) exempts those activities for which it can be seen with certainty that there is no potential to result in significant environmental effects. The Ordinance has no potential to result in physical change to the environment, directly or indirectly, as the Ordinance only provides for summary abatement procedures for nuisances and does not propose nor authorize any action that would have the potential to cause a physical change in the environment, directly or indirectly. Further, the Ordinance has no potential to result in physical change to the environment, directly or indirectly, as the Ordinance merely removes the current requirement under the Municipal Code that involuntary abatement procedures have an automatic hearing. The City Council directs staff to file a notice of exemption within five days of the adoption of this Ordinance.

SECTION 3. Attached as Exhibit “A” to this Ordinance are the amendments provided herein displayed by Municipal Code section in underline (for additions) and ~~striketrough~~ (for deletions) format.

SECTION 4. Article 250 (Nuisances – Recovery of abatement expenses) of Chapter 1.01 (General Provisions) of Title 1 (General Provisions) of the Lake Forest Municipal Code is hereby amended as set forth below:

“Section 1.01.250 Nuisances—Recovery of abatement expenses.

A. Whenever any person creating, causing, committing, or maintaining a public nuisance, as referred to in Section 1.01.240 of this chapter, or other public nuisance, as defined under State law or other ordinances or regulations, has been given notice, by or on behalf of the City Attorney or by any other City officer, employee, or policing agent authorized to give such notice, to abate such nuisance or cease and desist from continuing such nuisance or violation of law, and such person fails, refuses, or neglects to comply with the notice within the time specified therein, or if such a time is not specified, then within a time reasonably sufficient to enable such compliance, such noncomplying person shall be liable to the City for any and all costs and expenses to the City involved in thereafter abating the nuisance and in obtaining compliance with or enforcing the law as referred to or encompassed within said notice.

B. Costs and expenses, as referred to in subsection A of this section, may include, but are not limited to, any and all direct costs and expenses related to such things as personnel salaries and benefits, operational overhead, rent, interest, fees for experts or consultants, legal costs or expenses, including attorneys’ fees, claims

against the City arising as a consequence of the nuisance or violation, and procedures associated with collecting moneys due hereunder.

C. The provisions of subsection A of this section shall also apply to any person who received a notice, as specified therein, abated the nuisance or violation, but subsequently allowed or was responsible for a recurrence of the nuisance or violation.

D. The liability of any person for the payment of the costs and expenses provided for in subsection A of this section may be waived in whole or in part by the City Attorney in any case wherein he or she determines, in his or her sole discretion, that the failure or refusal of such persons to comply with the notice therein involved was based upon a good faith and bona fide issue of law or fact specially involved in the circumstances of the case. Any determination or decision of the City Attorney in this regard shall be final and conclusive and shall not be subject to appeal as prescribed in Chapter 2.04 of Title 2 of this Code.

E. Money due to the City pursuant to this section, including unpaid attorney fees, may be recovered in an appropriate civil action, or by making of the cost of abatement of a public nuisance which exists on a parcel of land a special assessment or lien against that parcel pursuant to Government Code Sections 38773 et seq. and 54988, and Article XI, Section 7 of the California Constitution.

F. A prevailing party in any judicial action, administrative proceeding, or special proceeding to abate, or cause the abatement of, a violation of this code or any public nuisance, or in any appeal or other judicial action arising therefrom, is entitled to recover reasonable attorney fees. Attorney fees are not recoverable by any party as a prevailing party unless the City elects in writing to seek recovery of the City's attorney fees at the initiation of that individual action or proceeding. Failure to make such an election precludes any entitlement to, or award of, attorney fees in favor of any party."

SECTION 5. Article 1 (Public Nuisance) of Chapter 6.14 (Nuisances, General) of Title 6 (Health and Sanitation) of the Lake Forest Municipal Code is hereby amended as set forth below:

"Title 6 HEALTH AND SANITATION Chapter 6.14 NUISANCES, GENERAL

Article I. Public Nuisance

6.14.001 Purposes.

6.14.002 Public nuisances designated.

6.14.003 Responsibility for commencement of abatement proceedings.

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- 6.14.015 Owner responsibility.
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6.14.001 Purposes.

A. In order to further the stated goals of the City and to protect its citizens and their property from conditions which are offensive or annoying to the senses, detrimental to property values and community appearance, or hazardous or injurious to the health, safety or welfare of the general public, the City Council has determined that this chapter pertaining to nuisance abatement is necessary to effectively abate or prevent the development of such conditions in the City of Lake Forest.

B. It is the intention of the City Council, in adopting the chapter codified herein, to set forth guidelines for determining what conditions constitute a public nuisance; to establish methods for giving notice of the conditions and an opportunity to correct them; and finally, in the event the public nuisance is not abated or corrected voluntarily or through alternative enforcement means, to provide a procedure for a hearing and determination of the facts and manner in which the conditions shall be corrected or removed.

C. It is the purpose of this chapter to provide a just, equitable, and practical method, in addition to any other remedy available at law or equity, whereby lands or buildings which are dilapidated, unsafe, dangerous, unsanitary, cluttered with weeds, debris, abandoned vehicles, machinery or equipment, or are a menace, or hazard to life, limb, safety, health, morals, property values, aesthetic standards, or the general welfare of the City, may be required to be repaired, renovated, vacated, demolished, made safe, or cleaned up by removal of offensive conditions.

D. It is the purpose of this chapter to provide a program for removal of graffiti from walls and structures on both public and private property and to provide regulations designed to prevent and control the further spread of graffiti within the City.

E. It is the purpose of this chapter to provide a program for the removal and/or abatement as public nuisances of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof from private or public property.

F. In addition to the abatement procedures provided herein, this chapter declares certain conditions to be public nuisances and that maintenance of such conditions shall be a misdemeanor.

G. This chapter is not intended to enforce conditions, covenants and restrictions ("CC&Rs") on property, nor to supersede them. This chapter will be enforced uniformly within the City regardless of CC&Rs. Therefore, this chapter does not abrogate the right of any homeowner's association or private citizen to take action, legal or as otherwise provided in the CC&Rs, to force compliance with the CC&Rs applicable to their tract or association even though the CC&R provisions may be the same, more restrictive, or may not be covered by this chapter.

6.14.002 Public nuisances designated.

It is unlawful and declared to be a public nuisance for any person owning, leasing, occupying, or having charge or possession of any property within the City, to cause, permit, allow, or maintain the property in such a manner that any of the following conditions are found to exist thereon:

A. Any violation of any section of the Lake Forest Municipal Code, including any code adopted by reference;

B. Land, the topography or configuration of which, in any man-made state, whether as a result of grading operations, excavations, fill, or other alteration, interferes with the established drainage pattern over the property or from adjoining or other properties which does or may result in erosion, subsidence, or surface water drainage programs of such magnitude as to be injurious to public health, safety, and welfare or to neighboring properties;

C. Buildings or structures which are partially destroyed, boarded up abandoned or permitted to remain in a state of partial construction for more than six (6) months, or during any period of extension, after the expiration of a building permit;

D. The failure to secure and maintain from public access all doorways, windows and other openings into vacant or abandoned (not occupied or in use for any purpose, no maintenance applied to the structure or grounds) buildings or structures;

E. Painted buildings that require re-painting, and walls, retaining walls, fences or structures, or buildings, walls, fences or structures upon which the condition of the paint has become so deteriorated as to permit decay, excessive cracking, peeling, chalking, dry rot, warping or termite infestation;

F. Any building or structure, wall, fence, pavement, or walkway upon which any graffiti as defined in Section 6.14.101 of this Code, is allowed to remain for more than twenty-four (24) hours;

G. Broken windows;

H. Overgrown, dead, decayed or hazardous vegetation which:

1. May harbor rats, vermin, or other disease carriers;

2. Is maintained so as to cause an obstruction to the public right-of-way, the vision of motorists or a hazardous condition to property, pedestrians or vehicle traffic;
3. Constitutes an unsightly appearance, or
4. Creates a danger or attractive nuisance to the public;

I. Building exterior, roofs, grounds, walls, retaining and crib walls, fences, sidewalks or walkways which are maintained in such condition so as to become defective, unsightly or no longer viable, including through having a roof area covered with a tarpaulin or other temporary covering for a period of more than thirty (30) days;

J. The accumulation of dirt, litter, feces or debris in doorways, adjoining sidewalks, parking lots, landscaped or other private outdoor areas visible to the public right-of-way;

K. Except where construction is occurring under a valid permit, lumber, junk, trash, garbage, salvage materials, rubbish, hazardous waste, refuse, rubble, broken asphalt or concrete, containers, commercial storage containers, broken or neglected machinery, furniture, appliances, sinks, fixtures or equipment, scrap metals, machinery parts, or other such material stored or deposited on property such that they are visible from a public street, alley, or neighboring property at or about the same grade;

L. Deteriorated driveways and parking lots, including those containing potholes, cracks or other deteriorated conditions;

M. Property in a condition of deterioration or disrepair, including the following:

1. abandoned, broken, unused objects or neglected equipment and machinery (e.g., refrigerators or other appliances, motor vehicles, any unsound structure, skateboard ramps, accumulated lumber, debris, trash, garbage).
3. any swimming pool, pond, spa, abandoned wells or other body of water, which is abandoned, unattended, or unfiltered.
4. unsecured and abandoned excavations, shafts, basements or other holes,
5. hoarding conditions in either the interior or the exterior of the property.
6. any conditions in this section which may be an attractive nuisance and dangerous to children;

N. Except where construction is occurring under a valid permit, storage or parking of the following upon any property exterior within a residential zone:

1. Construction equipment, supplies, materials, or machinery, or equipment, supplies, or materials of any type or description; or
2. Buses, tow trucks, dump trucks, flatbed trucks, grading equipment, tractors, tractor trailers, truck trailers, or any other commercial vehicle

over twenty-two (22) feet long or seven (7) feet in height or ninety (90) inches wide;

3. For purposes of this section:

a. "Commercial vehicle" shall be defined as any motorized or non-motorized vehicle used or maintained to transport property or goods for profit, or persons for hire or compensation. Any commercial vehicle, when used as the primary source of transportation by the person owning, leasing, occupying or having charge of any such vehicle, shall be excluded from the provisions of this subsection,

b. "Property exterior" shall be defined as the unenclosed exterior of private property adjacent to the public right-of-way, including, but not limited to, driveways and carports. Property exterior does not include the public street, highway, or any other public right-of-way;

O. Construction debris storage bins stored in excess of fifteen (15) days on a public street or any front or side yard setback area without the expressed approval of the Director of Community Development and/or the City Engineer;

P. Refuse or trash or receptacles for refuse or trash placed so as to be visible from neighboring properties or streets, except for those times scheduled for collection, in accordance with the City's adopted solid waste ordinance;

Q. Any property with accumulations of grease, oil or other hazardous material on paved or unpaved surfaces, driveways, buildings, walls, or fences, or from which any such material flows or seeps on to any public street or other public or private property;

R. Any front yard, parkway, or landscaped setback area which lacks turf, other planted material, decorative rock, bark, or planted ground cover or covering;

S. All structures, or portions thereof, occupied for cooking, dining, living, or sleeping, that were not designed or intended to be used for occupancy;

T. Use of parked or stored recreational vehicles, as defined in Section 12.16.040 of this Municipal Code, as temporary or permanent living space;

U. Animals, livestock, poultry or bees kept, bred or maintained for any purpose and in violation of any provision of this Code, or any "pest breeding hazard" as that term is defined in Section 6.28.010 of this Code;

V. Any habitation which is overcrowded, as defined by the Uniform Housing Code and/or any local amendments thereto adopted by the City, or which lacks adequate ventilation, sanitation or plumbing facilities, or which constitutes a fire hazard;

W. Except where construction is occurring under a valid permit, the placing, depositing, or dumping of rocks, dirt, or waste matter in or upon any public or private highway or road, including any portion of the right-of-way thereof, or in or

upon any private property into or upon which the public is admitted by easement or license, or upon any private property without the consent of the owner, or in or upon any public park or any public property other than property designated or set aside for that purpose by the governing board or body having charge of that property;

X. Any other condition declared by any State, County or City statute, code or regulation to be a public nuisance;

Y. Trailers, campers, boats or motor vehicles parked or stored on vacant property or in front yards of developed lots other than on an approved driveway;

Z. Any business or other activity not consistent with all of the terms and conditions of all applicable zoning approvals and approved plans granted by the City; or

AA. Graffiti

6.14.003 Responsibility for commencement of abatement proceedings.

Whenever the Director of Community Development or his or her designee (hereinafter, "Director") reasonably believes a public nuisance exists, he or she may commence abatement proceedings. The Director shall have responsibility for administering and enforcing this chapter, abating such nuisances on any private property, and causing a written notice to be issued to abate such nuisance.

6.14.004 Method of service.

A. Where any provision of this section requires the service of any document, unless different provisions herein are otherwise specifically made, such notice may be given either by personal delivery to the person to be notified or by first-class mail, in a sealed envelope, postage prepaid, addressed to such person to be notified at his or her last known business or residence address as it appears in the public records or other records pertaining to the matter to which such notice is directed. Service by mail is deemed to have been completed at the time of deposit in the mail.

B. Failure of any person to receive a notice shall not affect the validity of any proceedings under this chapter.

6.14.0054 Voluntary abatement.

The responsible party may abate a nuisance at any time by rehabilitation, repair, removal or demolition. The Director must be advised of the abatement so the Director may inspect the premises to ensure that the nuisance has in fact been abated.

6.14.0065 Notice to abate.

A. When the Director determines that a violation of any provision of this chapter is occurring or exists, he or she may issue a written notice to any person responsible for the violation. Any notice to abate issued pursuant to this section must contain the following information:

1. The date and location of the violation;
2. The code section violated ~~or~~ and a description of the violation;
3. A description of actions required to correct the violation;
4. A reasonable compliance period in which to complete the nuisance abatement actions (with all required City approvals, permits and inspections, when applicable);
5. An explanation of the potential consequences of noncompliance with the notice; and
6. A statement of the period and manner in which an aggrieved party may contest the notice to abate as set forth in Section 6.14.007.

B. When the Director intends to abate a public nuisance by demolition of a building or structure, the City must comply with the following additional requirements:

1. The notice to abate must contain a statement that the City intends to abate the nuisance with City personnel or contractors by demolition of a building or structure if the nuisance conditions are not repaired, rehabilitated, removed, terminated, or demolished within the compliance deadline;
2. The City shall serve the notice to abate on all secured lienholders of record with the Orange County Recorder's Office.

C. The notice to abate must be served on each responsible party in the manner required under Section 6.14.004.

D. The provisions of this section do not apply in cases involving emergency abatement.

6.14.0076 ~~Form of notice~~ Right to appeal a notice to abate.

A. An aggrieved party may contest a notice to abate by filing a written request for an appeal with the City Clerk's office within 10 calendar days of service of the notice to abate. For the purposes of this chapter, "aggrieved party" means any person whose personal, pecuniary or property right or interest is directly and adversely affected, or upon whom a substantial burden or obligation is imposed by the action or decision appealed from.

B. A written request for an appeal must contain the following information:

1. Name, address, and telephone number of each responsible person who is appealing the compliance order (hereinafter, "appellant");
2. Address of the real property;
3. Date of notice being appealed;
4. The specific action, decision, or issue being appealed;

5. Grounds for appeal in sufficient detail to enable the hearing officer to understand the nature of the controversy; and
6. The signature of the appellant.

C. Failure of the appellant to file a timely, proper appeal is a waiver of the right to appeal the compliance order or other notice issued under this chapter and is a waiver of the right to seek judicial review. In this event, the notice to abate is final and binding.

6.14.008 Hearing procedures.

A. The hearing on an appeal of a notice issued under this chapter will be conducted by a hearing officer in accordance with the procedures set forth in Chapter 1.12 of this Code.

B. At the hearing, the hearing officer will consider all relevant evidence from the City and appellant. The City bears the burden of proof to establish a nuisance exists by a preponderance of evidence. The issuance of a notice to abate constitutes prima facie evidence of the existence of a violation. Based upon the evidence so presented, the hearing officer must determine whether a public nuisance within the meaning of this chapter exists.

C. If the appellant fails to appear, the hearing officer may cancel the hearing. A cancellation of a hearing due to non-appearance of the appellant constitutes the appellant's waiver of the right to appeal and a failure to exhaust all administrative remedies. In such instances, the notice to abate is final and binding.

D. Where an appeal is filed as provided in this chapter, the compliance deadline set forth in the notice to abate is suspended pending the review of the determination by the hearing officer in the manner set forth in this chapter.

6.14.009 Notice of decision.

A. The decision of the hearing officer is final and conclusive.

B. The hearing officer must, within five (5) working days, send a copy of the written notice of decision to the appellant and City determining whether any nuisance condition exists at the subject property. If the hearing officer determines that each nuisance condition described in the notice to abate is nonexistent, the notice to abate is deemed cancelled. If a public nuisance is determined to exist, then the hearing officer must issue a written notice of decision that contains the following:

1. A finding and description of each nuisance condition existing at the subject property;
2. The required corrective action for each unabated nuisance condition;
3. An order to complete the required corrective action, including a compliance deadline;
4. Any other finding, determination or requirement that is relevant or related to the subject matter of the appeal;

5. A statement that if the nuisance is not abated, it may be removed and abated by the City; and

6. The statement: "The decision of the hearing officer is final and binding. Judicial review of this decision is subject to the provisions and time limits set forth in California Code of Civil Procedure section 1094.6 et seq."

C. The administrative order of the hearing officer is conclusive and is the final administrative decision of the City regarding the notice to abate. The notice of decision must be served in the manner required under Section 6.14.004.

6.14.010 Abatement of nuisance by City.

If the nuisance is not completely abated by the date specified in the notice to abate or in the hearing officer's order in the event of an appeal, then the Director may immediately cause the same to be abated by City personnel or under private contract. The City and its agents are expressly authorized to enter the premises for this purpose. A warrant or other order issued by a court of competent jurisdiction must be obtained before any entry if the nuisance cannot be inspected or abated without an intrusion into privacy.

6.14.011 Emergency abatement of nuisance by City.

A. Notwithstanding any other provision of this chapter with reference to the abatement of public nuisance, the Director has the authority to immediately cause the abatement of any public nuisance if it is determined that the nuisance presents an immediate threat to public health or safety, or an imminent hazard to real or personal property, in his or her sole discretion. Any such abatement activity may be conducted without observance of any notice requirements described in this chapter. The City is entitled to recover all abatement costs incurred in the abatement of an imminent threat or hazard as set forth in this chapter.

B. Within 10 business days, or as soon as reasonably possible under the circumstances, following any summary abatement action by the City to abate an immediate threat to public health or safety, or imminent hazard to real or personal property, the City must provide the owner and any other responsible party with a notice of summary abatement.

C. The notice of summary abatement must be served in accordance with Section 6.14.004 and contain the following information:

1. A brief description of the condition and reasons why it constituted an imminent threat or hazard;
2. A brief description of the law prohibiting or pertaining to the imminent threat or hazard;
3. A brief description of the actions the City took to abate the imminent threat or hazard; and
4. A statement of the period and manner in which an aggrieved party may contest the notice.

D. An aggrieved party may appeal the notice in accordance with the procedures set forth in Section 6.14.007 and Chapter 1.12, except that scope of the appeal is limited to whether the public nuisance constituted an imminent threat or hazard.

6.14.012 Notice of abatement costs

A. The owner of the premises and any other responsible party shall be liable to the City for all costs incurred by the City in abating a public nuisance or seeking to abate a public nuisance. City personnel must keep an account of all costs, including incidental expenses, of incurred by the City in connection with the abatement of a public nuisance by City personnel or private contract. For the purposes of this section, the terms “costs” and “incidental costs” include, but are not limited to, to the actual expenses and costs of the City in preparation of notices, specifications, and contracts, inspection of the work, and the cost of printing and mailings required under this chapter, and any attorney fees expended in the abatement of the nuisance, through civil action or otherwise.

B. The City must serve a written, itemized report of the nuisance abatement costs upon each person with a recorded interest in the subject property and any other responsible party providing notice of the costs and demanding payment. The notice of abatement costs must contain the following:

1. A demand for timely, full payment of the costs to the City within 45 calendar days of the date of service;
2. A statement that any unpaid amounts may become a lien and special assessment against the property; and
3. A statement that the person so charged may file an appeal with the City Clerk, within 10 days as set forth in Section 1.12.060.

C. The person so charged may file an appeal with the City Clerk, as set forth in Chapter 1.12. If the notice of abatement costs is appealed, the same procedures as specified in Chapter 1.12 apply, except that scope of the appeal is limited to the appropriateness of the amount of the abatement costs, and the hearing officer's decision, may only confirming, discharge or modifying the amount of costs. The confirmed abatement costs must be tendered to the City within 30 calendar days of the date of service of the hearing officer's decision. The City may thereafter proceed to collect its abatement costs in any manner allowed by law. The failure of any person who has been properly served with notice pursuant to this section to is a waiver of the right to contest the report, a waiver of the right to a hearing, a failure to exhaust administrative remedies, and a bar to any further challenge to the City's invoice and nuisance abatement costs.

6.14.013 Collection of costs as nuisance abatement lien.

A. Pursuant to Section 38773.1 of the Government Code, the City may recover its abatement and related administrative costs by a nuisance abatement lien against the property on which the nuisance was abated. If the nuisance abatement costs are upheld, in full or in part, by the hearing officer, or if the time for requesting a hearing has elapsed and the itemized report of abatement costs has not been paid in full

within the time designated by this chapter, then the City may record a lien against the nuisance property for any unpaid amount.

B. Before recording a lien, the City must serve notice of the lien in the manner required under Section 6.14.004 on all persons with a recorded interest in the subject property. In addition, the owner of record must be served in accordance with Government Code section 38773.1(b).

C. The nuisance abatement lien must be recorded in the office of the Orange County, Recorder; and from the date of recording, the nuisance abatement lien shall have the force, effect, and priority of a judgment lien, and shall continue in effect until discharged by the City. The lien may carry such additional administrative charges as set forth by resolution of the City Council.

D. The nuisance abatement lien recorded pursuant to this subsection shall identify the City as the agency for whose benefit the lien is established, the amount of the lien, the date of the order for abatement of the nuisance the address, legal description, and assessor's parcel number of the property on which the lien is imposed, and the name and address of the recorded owner of the property.

E. The nuisance abatement lien may be foreclosed by an action brought by the City for a money judgment. All costs and expenses relating to the processing, recording and enforcement of the abatement lien, including recording fees, noticing costs and attorney fees shall be added to the amount of the lien and shall be secured thereby.

F. Upon payment or other satisfaction of the abatement lien, a notice of release must be prepared and recorded by the City Clerk. **6.14.014 Collection of costs as special assessment.**

A. As an alternative to any other lien described in this section or authorized by law, pursuant to Section 38773.5 of the Government Code, if the nuisance abatement costs are upheld, in full or in part, by the hearing officer, or if the time for requesting a hearing has elapsed and the itemized report of abatement costs has not been paid in full within the time designated by this chapter, the City may levy a special assessment against the real property on which the violation occurred.

B. Before levying a special assessment, a notice of special assessment must be served upon all persons or entities with a recorded interest in the subject property in the manner required under Section 6.14.004 at the time the assessment is imposed the owner of the property if the property owner's identity can be determined from the County Assessor's or County Recorder's records, by certified mail not less than ten (10) days prior to the time set for hearing. In addition, the owner of record must be served in accordance with Government Code section 38773.5. The notice must specify that the property may be sold after three years by the Tax Collector for unpaid delinquent assessments.

C. The notice of special assessment is entitled to recordation with the Orange County Recorder's Office. A copy of the notice of special assessment must be transmitted to the County Tax Assessor and Tax Collector, whereupon the Tax Assessor and Tax Collector shall add the amount of the special assessment on the

next regular bill for real estate taxes levied against the property identified in the notice of special assessment. Thereafter, the special assessment shall be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as provided by law for ordinary municipal taxes. After recordation, the special assessment may be foreclosed on as a lien in the manner and means provided by law.

6.14.015 Owner responsibility.

The owner of any premises within the City has the primary responsibility for keeping said premises free of public nuisances. Tenants and occupants of the premises, for the purposes of this chapter, shall be deemed to be the agents of the owner.

6.14.016 Alternate actions.

Nothing in this chapter shall be deemed to prevent the City from commencing a civil or criminal proceeding to abate a public nuisance or from pursuing any other means or remedies available to it under provisions of applicable ordinances, State law, or equity to correct hazards or deficiencies in real property in addition to or as alternatives to the proceedings set forth herein.

SECTION 6. Section 1.01.250 (Nuisances—Recovery of Abatement Expenses) of Chapter 1.01 (General Provision) of Title 1 (General Provisions) of the Lake Forest Municipal Code is hereby amended as set forth below:

“Section 1.01.250 Nuisances—Recovery of abatement expenses.

A. Whenever any person creating, causing, committing, or maintaining a public nuisance, as referred to in Section 1.01.240 of this chapter, or other public nuisance, as defined under State law or other ordinances or regulations, has been given notice, by or on behalf of the City Attorney or by any other City officer, employee, or policing agent authorized to give such notice, to abate such nuisance or cease and desist from continuing such nuisance or violation of law, and such person fails, refuses, or neglects to comply with the notice within the time specified therein, or if such a time is not specified, then within a time reasonably sufficient to enable such compliance, such noncomplying person shall be liable to the City for any and all costs and expenses to the City involved in thereafter abating the nuisance and in obtaining compliance with or enforcing the law as referred to or encompassed within said notice.

B. Costs and expenses, as referred to in subsection A of this section, may include, but are not limited to, any and all direct costs and expenses related to such things as personnel salaries and benefits, operational overhead, rent, interest, fees for experts or consultants, legal costs or expenses, including attorneys’ fees, claims against the City arising as a consequence of the nuisance or violation, and procedures associated with collecting moneys due hereunder.

C. The provisions of subsection A of this section shall also apply to any person who received a notice, as specified therein, abated the nuisance or violation, but subsequently allowed or was responsible for a recurrence of the nuisance or violation.

D. The liability of any person for the payment of the costs and expenses provided for in subsection A of this section may be waived in whole or in part by the City Attorney in any case wherein he or she determines, in his or her sole discretion, that the failure or refusal of such persons to comply with the notice therein involved was based upon a good faith and bona fide issue of law or fact specially involved in the circumstances of the case. Any determination or decision of the City Attorney in this regard shall be final and conclusive and shall not be subject to appeal as prescribed in Chapter 2.04 of Title 2 of this Code.

E. Money due to the City pursuant to this section, including unpaid attorney fees, may be recovered in an appropriate civil action, or by making of the cost of abatement of a public nuisance which exists on a parcel of land a special assessment or lien against that parcel pursuant to Government Code Sections 38773 et seq. and 54988, and Article XI, Section 7 of the California Constitution.

F. A prevailing party in any judicial action, administrative proceeding, or special proceeding to abate, or cause the abatement of, a violation of this code or any public nuisance, or in any appeal or other judicial action arising therefrom, is entitled to recover reasonable attorney fees. Attorney fees are not recoverable by any party as a prevailing party unless the City elects in writing to seek recovery of the City's attorney fees at the initiation of that individual action or proceeding. Failure to make such an election precludes any entitlement to, or award of, attorney fees in favor of any party."

SECTION 7. The City Council's actions are made upon review of the Staff Report, all oral and written comments, and the documentary evidence presented on the Ordinance. All existing provisions of the Lake Forest Municipal Code that are repeated herein are repeated only to aid decision-makers and the public in understanding the effect of the proposed changes. Restatement of existing provisions does not constitute a new enactment.

SECTION 8. If any section, subdivision, sentence, clause, phrase, or portion of this Ordinance for any reason is held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subdivision, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

SECTION 9. The documents and materials associated with this Ordinance that constitute the record of proceedings on which the City Council's findings and

determinations are based are located at Lake Forest City Hall, 100 Civic Center Drive, Lake Forest, California 92630. The City Clerk is the custodian of the record of proceedings.

SECTION 10. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of the adoption and shall post a Certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2022.

ROBERT PEQUEÑO
MAYOR

ATTEST:

LISA BERGLUND, MPA
CITY CLERK

APPROVED AS TO FORM:

MATTHEW E. RICHARDSON
CITY ATTORNEY

COUNTY OF ORANGE) SS
CITY OF LAKE FOREST)

I, Lisa Berglund, City Clerk of the City of Lake Forest, California, do hereby certify that the foregoing Ordinance No. [REDACTED] was duly introduced and placed upon its first reading at a regular meeting of the City Council on the [REDACTED] day of [REDACTED], 2022, and thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the [REDACTED] day of [REDACTED], 2022, by the following vote, to wit:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

LISA BERGLUND, MPA
CITY CLERK

EXHIBIT “A”

REDLINE OF LAKE FOREST MUNICIPAL CODE UPDATES

(continued on next page)

Section 1.01.250

“Section 1.01.250 Nuisances—Recovery of abatement expenses.

G. Whenever any person creating, causing, committing, or maintaining a public nuisance, as referred to in Section 1.01.240 of this chapter, or other public nuisance, as defined under State law or other ordinances or regulations, has been given notice, by or on behalf of the City Attorney or by any other City officer, employee, or policing agent authorized to give such notice, to abate such nuisance or cease and desist from continuing such nuisance or violation of law, and such person fails, refuses, or neglects to comply with the notice within the time specified therein, or if such a time is not specified, then within a time reasonably sufficient to enable such compliance, such noncomplying person shall be liable to the City for any and all costs and expenses to the City involved in thereafter abating the nuisance and in obtaining compliance with or enforcing the law as referred to or encompassed within said notice.

H. Costs and expenses, as referred to in subsection A of this section, may include, but are not limited to, any and all direct costs and expenses related to such things as personnel salaries and benefits, operational overhead, rent, interest, fees for experts or consultants, legal costs or expenses, including attorneys' fees, claims against the City arising as a consequence of the nuisance or violation, and procedures associated with collecting moneys due hereunder.

I. The provisions of subsection A of this section shall also apply to any person who received a notice, as specified therein, abated the nuisance or violation, but subsequently allowed or was responsible for a recurrence of the nuisance or violation.

J. The liability of any person for the payment of the costs and expenses provided for in subsection A of this section may be waived in whole or in part by the City Attorney in any case wherein he or she determines, in his or her sole discretion, that the failure or refusal of such persons to comply with the notice therein involved was based upon a good faith and bona fide issue of law or fact specially involved in the circumstances of the case. Any determination or decision of the City Attorney in this regard shall be final and conclusive and shall not be subject to appeal as prescribed in Chapter 2.04 of Title 2 of this Code.

K. Money due to the City pursuant to this section, including unpaid attorney fees, may be recovered in an appropriate civil action, or by making of the cost of abatement of a public nuisance which exists on a parcel of land a special assessment or lien against that parcel pursuant to Government Code Sections 38773 et seq. and 54988, and Article XI, Section 7 of the California Constitution.

L. A prevailing party in any judicial action, administrative proceeding, or special proceeding to abate, or cause the abatement of, a violation of this code or any public nuisance, or in any appeal or other judicial action arising therefrom, is entitled to recover reasonable attorney fees. Attorney fees are not recoverable by any party as a prevailing party unless the City elects in writing to seek recovery of the City's attorney fees at the initiation of that individual action or proceeding. Failure to

make such an election precludes any entitlement to, or award of, attorney fees in favor of any party.”

Title 6, Chapter 6.14, Article 1

Article 1 of Chapter 6.14 of Title 6 of the Lake Forest Municipal Code is hereby amended as set forth below:

“Title 6 HEALTH AND SANITATION Chapter 6.14 NUISANCES, GENERAL

Article I. Public Nuisance

6.14.001 Purposes.

6.14.002 Public nuisances designated.

6.14.003 Responsibility for commencement of abatement proceedings.

6.14.004 Method of service.

6.14.004~~5~~ Voluntary abatement.

6.14.005~~6~~ Involuntary abatement Notice to abate.

6.14.006~~7~~ Right to appeal a notice to abate ~~Form of notice.~~

6.14.007~~8~~ Hearing procedures.

6.14.008~~9~~ Order of abatement Notice of decision.

6.14.010 Abatement of nuisance by City.

6.14.011 Emergency abatement of nuisance by City ~~Cost accounting—
Notification.~~

6.14.012 ~~Assessment lien~~ Notice of abatement costs.

6.14.013 Collection of costs as nuisance abatement lien ~~Owner
responsibility.~~

6.14.014 Collection of costs as special assessment ~~Alternate actions.~~

6.14.015 Owner responsibility.

6.14.016 Alternate actions.

6.14.001 Purposes.

A. In order to further the stated goals of the City and to protect its citizens and their property from conditions which are offensive or annoying to the senses, detrimental to property values and community appearance, or hazardous or injurious to the health, safety or welfare of the general public, the City Council has determined that this chapter pertaining to nuisance abatement is necessary to effectively abate or prevent the development of such conditions in the City of Lake Forest.

B. It is the intention of the City Council, in adopting the chapter codified herein, to set forth guidelines for determining what conditions constitute a public nuisance;

to establish methods for giving notice of the conditions and an opportunity to correct them; and finally, in the event the public nuisance is not abated or corrected voluntarily or through alternative enforcement means, to provide a procedure for a hearing and determination of the facts and manner in which the conditions shall be corrected or removed.

C. It is the purpose of this chapter to provide a just, equitable, and practical method, in addition to any other remedy available at law or equity, whereby lands or buildings which are dilapidated, unsafe, dangerous, unsanitary, cluttered with weeds, debris, abandoned vehicles, machinery or equipment, or are a menace, or hazard to life, limb, safety, health, morals, property values, aesthetic standards, or the general welfare of the City, may be required to be repaired, renovated, vacated, demolished, made safe, or cleaned up by removal of offensive conditions.

D. It is the purpose of this chapter to provide a program for removal of graffiti from walls and structures on both public and private property and to provide regulations designed to prevent and control the further spread of graffiti within the City.

E. It is the purpose of this chapter to provide a program for the removal and/or abatement as public nuisances of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof from private or public property.

F. In addition to the abatement procedures provided herein, this chapter declares certain conditions to be public nuisances and that maintenance of such conditions shall be a misdemeanor.

G. This chapter is not intended to enforce conditions, covenants and restrictions ("CC&Rs") on property, nor to supersede them. This chapter will be enforced uniformly within the City regardless of CC&Rs. Therefore, this chapter does not abrogate the right of any homeowner's association or private citizen to take action, legal or as otherwise provided in the CC&Rs, to force compliance with the CC&Rs applicable to their tract or association even though the CC&R provisions may be the same, more restrictive, or may not be covered by this chapter.

6.14.002 Public nuisances designated.

It is unlawful and ~~a misdemeanor subject to punishment in accordance with Section 1.01.200 of this Code~~, and it is declared to be a public nuisance, for any person owning, leasing, occupying, or having charge or possession of any property within the City, to cause, permit, allow, or maintain such the property in such a manner that any of the following conditions are found to exist thereon:

A. Any violation of any section of the Lake Forest Municipal Code, including any code adopted by reference;

B. Land, the topography or configuration of which, in any man-made state, whether as a result of grading operations, excavations, fill, or other alteration, interferes with the established drainage pattern over the property or from adjoining or other properties which does or may result in erosion, subsidence, or surface water drainage programs of such magnitude as to be injurious to public health, safety, and welfare or to neighboring properties;

C. Buildings or structures which are partially destroyed, boarded up abandoned or permitted to remain in a state of partial construction for more than six (6) months, or during any period of extension, after the expiration of a building permit;

D. The failure to secure and maintain from public access all doorways, windows and other openings into vacant or abandoned (not occupied or in use for any purpose, no maintenance applied to the structure or grounds) buildings or structures;

E. Painted buildings that require re-painting, and walls, retaining walls, fences or structures, or buildings, walls, fences or structures upon which the condition of the paint has become so deteriorated as to permit decay, excessive cracking, peeling, chalking, dry rot, warping or termite infestation;

F. Any building or structure, wall, fence, pavement, or walkway upon which any graffiti as defined in Section 6.14.101 of this Code, is allowed to remain for more than twenty-four (24) hours;

G. Broken windows;

H. Overgrown, dead, decayed or hazardous vegetation which:

1. May harbor rats, vermin, or other disease carriers;
2. Is maintained so as to cause an obstruction to the public right-of-way, the vision of motorists or a hazardous condition to property, pedestrians or vehicle traffic;
3. Constitutes an unsightly appearance; or
4. Creates a danger or attractive nuisance to the public;

I. Building exterior, roofs, , grounds, walls, retaining and crib walls, fences, sidewalks or walkways which are maintained in such condition so as to become defective, unsightly or no longer viable, including through having a roof area covered with a tarpaulin or other temporary covering for a period of more than thirty (30) days;

J. The accumulation of dirt, litter, feces or debris in doorways, adjoining sidewalks, parking lots, landscaped or other private outdoor areas visible to the public right-of-way;

K. Except where construction is occurring under a valid permit, lumber, junk, trash, garbage, salvage materials, rubbish, hazardous waste, refuse, rubble, broken asphalt or concrete, containers, commercial storage containers, broken or neglected machinery, furniture, appliances, sinks, fixtures or equipment, scrap metals, machinery parts, or other such material stored or deposited on property such that they are visible from a public street, alley, or neighboring property at or about the same grade;

L. Deteriorated driveways and parking lots, including those containing pot holes, cracks or other deteriorated conditions;

M. Property in a condition of deterioration or disrepair, including the following:

1. abandoned, broken, unused objects or neglected equipment and machinery(e.g., refrigerators or other appliances, motor vehicles, any unsound structure, skateboard ramps, accumulated lumber, debris, trash, garbage.
3. any swimming pool, pond, spa, abandoned wells or other body of water, which is abandoned, unattended, or unfiltered.
4. unsecured and abandoned excavations, shafts, basements or other holes,
5. hoarding conditions in either the interior or the exterior of the property.
6. any conditions in this section which may be an attractive nuisance and dangerous to children;

N. Except where construction is occurring under a valid permit, storage or parking of the following upon any property exterior within a residential zone:

1. Construction equipment, supplies, materials, or machinery, or equipment, supplies, or materials of any type or description; or
2. Buses, tow trucks, dump trucks, flatbed trucks, grading equipment, tractors, tractor trailers, truck trailers, or any other commercial vehicle over twenty-two (22) feet long or seven (7) feet in height or ninety (90) inches wide;
3. For purposes of this section:
 - a. "Commercial vehicle" shall be defined as any motorized or non-motorized vehicle used or maintained to transport property or goods for profit, or persons for hire or compensation. Any commercial vehicle, when used as the primary source of transportation by the person owning, leasing, occupying or having charge of any such vehicle, shall be excluded from the provisions of this subsection,
 - b. "Property exterior" shall be defined as the unenclosed exterior of private property adjacent to the public right-of-way, including, but not limited to, driveways and carports. Property exterior does not include the public street, highway, or any other public right-of-way;

O. Construction debris storage bins stored in excess of fifteen (15) days on a public street or any front or ~~sideyard~~ side yard setback area without the expressed approval of the Director of Community Development and/or the City Engineer;

P. Refuse or trash or receptacles for refuse or trash placed so as to be visible from neighboring properties or streets, except for those times scheduled for collection, in accordance with the City's adopted solid waste ordinance;

Q. Any property with accumulations of grease, oil or other hazardous material on paved or unpaved surfaces, driveways, buildings, walls, or fences, or from which

any such material flows or seeps on to any public street or other public or private property;

R. Any front yard, parkway, or landscaped setback area which lacks turf, other planted material, decorative rock, bark, or planted ground cover or covering;

S. All structures, or portions thereof, occupied for cooking, dining, living, or sleeping, that were not designed or intended to be used for occupancy;

T. Use of parked or stored recreational vehicles, as defined in Section 12.16.040 of this Municipal Code, as temporary or permanent living space;

U. Animals, livestock, poultry or bees kept, bred or maintained for any purpose and in violation of any provision of this Code, or any "pest breeding hazard" as that term is defined in Section 6.28.010 of this Code;

V. Any habitation which is overcrowded, as defined by the Uniform Housing Code and/or any local amendments thereto adopted by the City, or which lacks adequate ventilation, sanitation or plumbing facilities, or which constitutes a fire hazard;

W. Except where construction is occurring under a valid permit, the placing, depositing, or dumping of rocks, dirt, or waste matter in or upon any public or private highway or road, including any portion of the right-of-way thereof, or in or upon any private property into or upon which the public is admitted by easement or license, or upon any private property without the consent of the owner, or in or upon any public park or any public property other than property designated or set aside for that purpose by the governing board or body having charge of that property;

X. Any other condition declared by any State, County or City statute, code or regulation to be a public nuisance;

Y. Trailers, campers, boats or motor vehicles parked or stored on vacant property or in front yards of developed lots other than on an approved driveway;

Z. Any business or other activity not consistent with all of the terms and conditions of all applicable zoning approvals and approved plans granted by the city;

AA. Graffiti.

6.14.003 Responsibility for Commencement of abatement proceedings.

Whenever the Director of Community Development or his or her designee (hereinafter, "Ddirector") ~~or duly authorized agent or representative~~ reasonably believes a public nuisance exists, he or she may commence abatement proceedings. The Director shall have responsibility for administrating and enforcing this chapter, abating such nuisances on any private property, and causing a written notice to be issued to abate such nuisance.

~~A. The notice shall contain a description of the property in general terms reasonably sufficient to identify the location of the property. It shall refer to this section and the violations) of this Code at issue, and shall direct compliance by removal or correction of the condition which is in violation of the provisions of this Code within a minimum of seven (7) calendar days and a maximum of thirty (30) calendar days from~~

~~the date of the notice. The notice shall further describe the consequences of failure to comply as prescribed in this section. The notice shall be served on the owner or agent and the person in possession of the property by registered or certified mail, return receipt requested. Delivery by first-class mail shall be used when delivery by registered or certified mail is refused. Such notice by mail shall be sufficient for purposes of this chapter.~~

~~B. Failure of any person to receive a notice shall not affect the validity of any proceedings under this chapter.~~

6.14.004 Method of service.

C. Where any provision of this section requires the service of any document, unless different provisions herein are otherwise specifically made, such notice may be given either by personal delivery to the person to be notified or by first-class mail, in a sealed envelope, postage prepaid, addressed to such person to be notified at his or her last known business or residence address as it appears in the public records or other records pertaining to the matter to which such notice is directed. Service by mail is deemed to have been completed at the time of deposit in the mail.

~~D. Failure of any person to receive a notice shall not affect the validity of any proceedings under this chapter.~~

6.14.0054 Voluntary abatement.

~~The owner, lease holder, tenant or occupant having charge of any building, structure or property alleged to be a public nuisance as set forth above, responsible party may abate said a nuisance at any time within the abatement period by rehabilitation, repair, removal or demolition. The Director/designee must shall be advised of the abatement and shall so the Director may inspect the premises to ensure that the nuisance has in fact been abated.~~

6.14.0065 Involuntary abatement Notice to abate.

~~Upon failure of the owner or his/her agent or the person in possession of the property to remove or correct the conditions described in the notice by the date specified, the Director shall cause a hearing to be held to determine whether said building, structure or property is being maintained in such a manner so as to constitute a public nuisance. The Director shall give not less than seven (7) days' written notice of the hearing to the owner(s) of the affected properties as shown on the latest equalized tax assessment roll by mailing the same to the addresses as indicated thereon, to any persons holding permits to the applicable property, building, or structure, and further, within the same time period, by conspicuously posting on the affected property, building, or structure a copy of the notice. Notice may also be served on the holder of any mortgage or deed of trust or other lien or encumbrance of record; the owner or holder of any lease of record; and the holder of any other state of legal interest of record of the building or structure, or the land on which it is located.~~

~~B. When the Director determines that a violation of any provision of this chapter is occurring or exists, he or she may issue a written notice to abate , a cease and desist order, or such other order to any person responsible for the violation The~~

~~notice shall indicate the nature of the alleged public nuisance, a description of the property involved, and the designation of the time and place of the hearing to determine whether the same constitutes a public nuisance, and the manner of the proposed abatement if the same is found to be a public nuisance. Any notice to abate issued pursuant to this section must contain the following information:~~

- ~~7. The date and location of the violation;~~
- ~~8. The code section violated or and a description of the violation;~~
- ~~9. A description of actions required to correct the violation;~~
- ~~10. A reasonable compliance period in which to complete the nuisance abatement actions (with all required City approvals, permits and inspections, when applicable);~~
- ~~11. An explanation of the potential consequences of noncompliance with the notice; and~~
- ~~12. A statement of the period and manner in which an aggrieved party may contest the notice to abate as set forth in Section 6.14.007.~~

~~E. When the Director intends to abate a public nuisance by demolition of a building or structure, the City must comply with the following additional requirements:~~

- ~~1. The notice to abate must contain a statement that the City intends to abate the nuisance with City personnel or contractors by demolition of a building or structure if the nuisance conditions are not repaired, rehabilitated, removed, terminated, or demolished within the compliance deadline;~~
- ~~2. The City shall serve the notice to abate on all secured lienholders of record with the Orange County Recorder's Office.~~

~~F. The notice and order of abatement to abate shall must be served on each responsible party on every party by registered or certified mail. Delivery by first-class mail shall be used when delivery by registered or certified mail is refused in the manner required under Section 6.14.004.~~

~~G. The provisions of this section do not apply in cases involving emergency abatement.~~

~~B. The failure of any person to receive this notice shall not affect the validity of any proceedings under this chapter.~~

~~Nothing hereby shall prevent any property owner or other interested person from abating the nuisance prior to the time of the hearing and notifying the City of the same. Upon confirmation by the City that the nuisance has been abated, the need for the hearing shall be deemed terminated~~

6.14.0076 Form of notice Right to appeal a notice to abate.

~~D. An aggrieved party may contest a notice to abate by filing a written request for an appeal with the City Clerk's office within 10 calendar days of service of the notice to abate. For the purposes of this chapter, "aggrieved party" means any person~~

whose personal, pecuniary or property right or interest is directly and adversely affected, or upon whom a substantial burden or obligation is imposed by the action or decision appealed from.

E. A written request for an appeal must contain the following information:

1. Name, address, and telephone number of each responsible person who is appealing the compliance order (hereinafter, "appellant");
2. Address of the real property;
3. Date of notice being appealed;
4. The specific action, decision, or issue being appealed;
5. Grounds for appeal in sufficient detail to enable the hearing officer to understand the nature of the controversy; and
6. The signature of the appellant.

F. Failure of the appellant to file a timely, proper appeal is a waiver of the right to appeal the compliance order or other notice issued under this chapter and is a waiver of the right to seek judicial review. In this event, the notice to abate is final and binding.

~~The notice given shall be provided in substantially the following format:~~

~~NOTICE OF HEARING ON ABATEMENT OF PUBLIC NUISANCE~~

~~A hearing will be held at City Hall, 100 Civic Center Drive, Lake Forest, CA 92630, before the City of Lake Forest Hearing Officer, to determine whether the premises at _____ constitutes a public nuisance.~~

~~The conditions asserted to constitute a public nuisance include the following:~~

~~A hearing may be avoided if the following corrections are made at least two (2) calendar days before the date set for the hearing:~~

~~If it is determined that the conditions on the property constitute a public nuisance, the following abatement action may be taken by the City if the owner has not taken corrective action within five (5) days after the hearing officer's determination:~~

~~If abatement action is taken by the City, all costs of the abatement will be assessed against the property and will attach as a lien against the property until paid. All persons having an interest in this matter may attend the hearing and give testimony and evidence, which will be given due consideration by the hearing officer. Call (949) 461-3400 for questions regarding this notice.~~

6.14.0087 Hearing procedures.

E. The hearing to determine whether a public nuisance exists shall on an appeal of a notice issued under this chapter will be conducted by a hHearing oOfficer in accordance with the procedures set forth in Chapter 1.12 of this Code.

F. At the hearing, the hHearing oOfficer shall will consider all relevant evidence from the City and appellant, including but not limited to applicable staff

~~reports. The City bears the burden of proof to establish a nuisance exists by a preponderance of evidence. The issuance of a notice to abate constitutes prima facie evidence of the existence of a violation. He/she shall give any interested person the reasonable opportunity to be heard in conjunction therewith. Based upon the evidence so presented, the hHearing oOfficer shall must determine whether a public nuisance within the meaning of this chapter exists.~~

~~G. If the appellant fails to appear, the hearing officer may cancel the hearing. A cancellation of a hearing due to non-appearance of the appellant constitutes the appellant's waiver of the right to appeal and a failure to exhaust all administrative remedies. In such instances, the notice to abate is final and binding.~~

~~H. Where an appeal is filed as provided in this chapter, the compliance deadline set forth in the notice to abate is suspended pending the review of the determination by the hearing officer in the manner set forth in this chapter.~~

6.14.0098 Order of abatement Notice of decision.

~~D. The decision of the hHearing oOfficer shall be is final and conclusive.~~

~~E. The hHearing oOfficer shall must, within five (5) working days, send a copy of the written notice of decision by certified or registered mail to the owner, by regular first-class mail to all other persons and entities who received notice of the original hearing, and to any other person requesting the same appellant and City determining whether any nuisance condition exists at the subject property. If the hearing officer determines that each nuisance condition described in the notice to abate is nonexistent, the notice to abate is deemed cancelled. If a public nuisance is determined to exist, Tthen the hearing officer must issue a written notice of decision that contains the following: shall contain an order of abatement, if a public nuisance is determined to exist, directed to the owner of the affected property or the person in control and/or charge of the property, and shall set forth the nature of the nuisance, its location and the time and manner for its abatement.~~

- ~~1. A finding and description of each nuisance condition existing at the subject property;~~
- ~~2. The required corrective action for each unabated nuisance condition;~~
- ~~3. An order to complete the required corrective action, including a compliance deadline;~~
- ~~4. Any other finding, determination or requirement that is relevant or related to the subject matter of the appeal;~~
- ~~5. A statement that if the nuisance is not abated, it may be removed and abated by the City; and~~
- ~~6. The statement: "The decision of the hearing officer is final and binding. Judicial review of this decision is subject to the provisions and time limits set forth in California Code of Civil Procedure section 1094.6 et seq."~~

F. The administrative order of the hearing officer is conclusive and is the final administrative decision of the City regarding the notice to abate. The notice of decision must be served in the manner required under Section 6.14.004. Where an appeal is filed as provided in this chapter, the order of abatement shall be suspended pending the review of the determination in the manner set forth in this chapter.

6.14.010 Abatement of nuisance by City.

If the nuisance is not completely abated by the date specified in the notice to abate or in the Hearing Officer's order in the event of an appeal, as appropriate, then the City Manager/Director may immediately cause the same to be abated by City personnel or under private contract. The City and its agents are expressly authorized to enter the premises for this purpose. A warrant or other order issued by a court of competent jurisdiction must be obtained before any entry if the nuisance cannot be inspected or abated without an intrusion into privacy.

6.14.011 Emergency abatement of nuisance by City.

E. Notwithstanding any other provision of this chapter with reference to the abatement of public nuisance, the Director has the authority to immediately cause the abatement of any public nuisance if it is determined that the nuisance presents an immediate threat to public health or safety, or an imminent hazard to real or personal property, in his or her sole discretion. Any such abatement activity may be conducted without observance of any notice requirements described in this chapter. The City is entitled to recover all abatement costs incurred in the abatement of an imminent threat or hazard as set forth in this chapter.

F. Within 10 business days, or as soon as reasonably possible under the circumstances, following any summary abatement action by the City to abate an immediate threat to public health or safety, or imminent hazard to real or personal property, the City must provide the owner and any other responsible party with a notice of summary abatement.

G. The notice of summary abatement must be served in accordance with Section 6.14.004 and contain the following information:

1. A brief description of the condition and reasons why it constituted an imminent threat or hazard;
2. A brief description of the law prohibiting or pertaining to the imminent threat or hazard;
3. A brief description of the actions the City took to abate the imminent threat or hazard; and
4. A statement of the period and manner in which an aggrieved party may contest the notice.

H. An aggrieved party may appeal the notice in accordance with the procedures set forth in Section 6.14.007 and Chapter 1.12, except that scope of the appeal is limited to whether the public nuisance constituted an imminent threat or hazard. The Hearing Officer is authorized to grant reasonable extensions on the time period for abatement based on a proper showing by the property owner of

~~extenuating circumstances, made before the date of City abatement. The owner of the premises shall be liable to the City for all costs of such abatement, including attorneys' fees incurred by the City in connection with abatement of the nuisance~~

6.14.0124 Notice of abatement costs ~~Cost accounting—Notification.~~

~~D. The owner of the premises and any other responsible party shall be liable to the City for all costs of such abatement incurred by the City in abating a public nuisance or seeking to abate a public nuisance, including attorneys' fees incurred by the City in connection with abatement of the nuisance. City personnel, or any private contractor authorized to abate the nuisance, shall~~ must keep an account of the all costs, including incidental expenses, of incurred by the City in connection with the abatement of a public nuisance by City personnel or private contract. For the purposes of this section, the terms "costs" and "incidental costs" include, but are not limited to, to the actual expenses and costs of the City in preparation of notices, specifications, and contracts, inspection of the work, and the cost of printing and mailings required under this chapter, and any attorney fees expended in the abatement of the nuisance, through civil action or otherwise.

~~E. The City all abatement work performed on each separate lot or parcel of land where work is done and shall~~ must server ~~ender an~~ written, itemized report in writing of the nuisance abatement costs to upon each person with a recorded interest in the subject property the and any other responsible party providing notice of the costs and demanding payment City Council showing the total cost of abatement by rehabilitation, demolition, or repair of the property, buildings, or structure, including any salvage value relating thereto. The notice of abatement costs must contain the following:

1. A demand for timely, full payment of the costs to the City within 45 calendar days of the date of service;
2. A statement that any unpaid amounts may become a lien and special assessment against the property; and
3. A statement that the person so charged may file an protest appeal with the City Clerk, within 10 days as set forth in Section 1.12.060.

~~F. The person so charged may file an protest appeal with the City Clerk, as set forth in Chapter 1.12. If the notice of abatement costs is appealed, the same procedures as specified in Chapter 1.12 apply, except that scope of the appeal is limited to the appropriateness of the amount of the abatement costs, and The hearing Board officer's decision, after the hearing, may only adopt a statement confirming, discharging or modifying the amount of costs. The confirmed abatement costs must be tendered to the City within 30 calendar days of the date of service of the hearing officer's decision. The City may thereafter proceed to collect its abatement costs in any manner allowed by law. The failure of any person who has been properly served with notice pursuant to this section to appear at the protest hearing shall file an appeal constitute is a waiver of the right to contest the report, a waiver of the right to a hearing, a failure to exhaust administrative remedies, and a bar to any further challenge to the City's invoice and nuisance abatement costs. A~~

copy of the report shall be posted at the City Hall or other official location for posting City notices for at least five (5) days before it is considered by the City Council. Proof of posting shall be made by affidavit of the City Clerk or Deputy City Clerk. The term "incidental expenses" includes but is not limited to the actual expenses and costs of the City in preparation of notices, specifications, and contracts, inspection of the work, and the cost of printing and mailings required under this chapter, and any attorney fees expended in the abatement of the nuisance, through civil action or otherwise. The City Attorney shall be responsible for keeping an accounting of attorney fees and costs and transmitting the same to the Director.

6.14.0132 Assessment Collection of costs as nuisance abatement lien.

G. Pursuant to Section 38773.1 of the Government Code, the City may recover its abatement and related administrative costs by a nuisance abatement lien against the property on which the nuisance was abated. The total cost for abatement of the nuisance, as confirmed by the City Council, shall constitute a special assessment against the lot or parcel of land to which it relates and, upon recordation in the office of the County recorder of the County of Orange of a notice of lien, shall constitute a lien on the property for the amount of the assessment. If the nuisance abatement costs are upheld, in full or in part, by the hearing officer, or if the time for requesting a hearing has elapsed and the itemized report of abatement costs has not been paid in full within the time designated by this chapter, then the City may record a lien against the nuisance property for any unpaid amount.

H. Before recording a lien, the City must serve notice of the lien in the manner required under Section 6.14.004 on all persons with a recorded interest in the subject property. In addition, the owner of record must be served in accordance with Government Code section 38773.1(b).

I. The nuisance abatement lien must be recorded in the office of the Orange County, Recorder; and from the date of recording, the nuisance abatement lien shall have the force, effect, and priority of a judgment lien, and shall continue in effect until discharged by the City. The lien may carry such additional administrative charges as set forth by resolution of the City Council.

J. The nuisance abatement lien recorded pursuant to this subsection shall identify the City as the agency for whose benefit the lien is established, the amount of the lien, the date of the order for abatement of the nuisance, the date of the order for collection of abatement costs, the address, legal description, and assessor's parcel number of the property on which the lien is imposed, and the name and address of the recorded owner of the property.

K. The nuisance abatement lien may be foreclosed by an action brought by the City for a money judgment. All costs and expenses relating to the processing, recording and enforcement of the abatement lien, including recording fees, noticing costs and attorney fees shall be added to the amount of the lien and shall be secured thereby.

L. Upon payment or other satisfaction of the abatement lien, a notice of release must be prepared and recorded by the City Clerk. After confirmation and

~~recording, a copy of the notice of lien may be turned over to the Tax Collector to add the amounts of the assessments to the next regular tax bill levied against the respective lots and parcels of land. Thereafter the assessment amounts shall be collected at the same time and in the same manner as ordinary property taxes are collected and shall be subject to the same penalties and the same procedure for foreclosure and sale in case of delinquency as provided for ordinary property taxes. After recording, the lien may be foreclosed by judicial or other sale in the manner and means provided by law. The notice of lien for recording shall be in a form substantially as follows:~~

M. NOTICE OF LIEN

N. Claim of the City of Lake Forest

~~O. Pursuant to the authority vested by Chapter 6.14 of the Lake Forest Municipal Code, the City of Lake Forest's hearing officer [City Council] did on or about the _____ day of _____, 20____, cause the property hereinafter described to be declared a public nuisance and order the same abated. The City Council of the City of Lake Forest, did on the _____ day of _____, 20____, assess the cost of such abatement upon the property and the same has not been paid nor any part thereof. The City of Lake Forest does hereby claim a lien for such abatement in the amount of the assessment, to wit: the sum of \$, and the same shall be a lien upon the real property until paid in full and discharged of record.~~

~~P. The real property hereinabove mentioned, and upon which a lien is claimed, is that certain parcel of land lying and being entirely with the City of Lake Forest, County of Orange, State of California, particularly described as follows:~~

~~Q. (legal description)~~

~~R. Dated: This _____ day of _____, 20____.~~

~~S. City Manager, City of Lake Forest~~

6.14.014 Collection of costs as special assessment.

D. As an alternative to any other lien described in this section or authorized by law, pursuant to Section 38773.5 of the Government Code, if the nuisance abatement costs are upheld, in full or in part, by the hearing officer, or if the time for requesting a hearing has elapsed and the itemized report of abatement costs has not been paid in full within the time designated by this chapter, the City may an administrative order for the collection of abatement costs or penalties may be levied by the City Council as the City may levy a special assessment against the real property on which the violation occurred.

E. Before levying a special assessment, notice of intent to record such lien shall a notice of special assessment must be served upon be sent to all persons or entities with a recorded interest in the subject property in the manner required under Section 6.14.004 at the time the assessment is imposed the owner of the property if the property owner's identity can be determined from the County Assessor's or County Recorder's records, by certified mail not less than ten (10) days prior to the time set for hearing. In addition, the owner of record must be served in accordance with Government Code section 38773.5. The notice must specify that the property

may be sold after three (3)– years by the Tax Collector for unpaid delinquent assessments.

F. The notice of special assessment is entitled to recordation with the Orange County Recorder's Office. A certified copy of the notice of special assessment resolution imposing the lien must be transmitted to the County Tax Assessor and Tax Collector, whereupon the Tax Assessor and Tax Collector shall add the amount of the lien as a special assessment on the next regular bill for real estate taxes levied against the property identified in the notice of special assessment resolution. Thereafter, the special assessment shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as provided by law for ordinary municipal taxes. After recordation, the special assessment may be foreclosed on as a lien in the manner and means provided by law.

6.14.0153 Owner responsibility.

The owner of any premises within the City has the primary responsibility for keeping said premises free of public nuisances. Tenants and occupants of the premises, for the purposes of this chapter, shall be deemed to be the agents of the owner.

6.14.0164 Alternate actions.

Nothing in this chapter shall be deemed to prevent the City from commencing a civil or criminal proceeding to abate a public nuisance or from pursuing any other means or remedies available to it under provisions of applicable ordinances, State law, or equity to correct hazards or deficiencies in real property in addition to or as alternatives to the proceedings set forth herein.