

Chapter 7-04

NUISANCES*

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* Prior history: Ord. 2001-5; OCC §§ 3-14-101—3-14-103 and prior code §§ 3-01.005—3-01.120.

7-04.010 Purpose and authority.

The purpose of this chapter is to provide for the abatement of conditions which are offensive or annoying to the sense, detrimental to property values, aesthetics and community appearance, and are injurious to public health, safety or welfare of the general public in such ways as to constitute a public nuisance. The procedure set forth in this chapter for the abatement of nuisances and for making the cost of abatement of a nuisance on a parcel of land a special assessment against that parcel is adopted pursuant to Government Code Section 38773 et seq. and Article 11, Section 7 of the California Constitution. (Ord. 2005-4 § 2 (Exh. A (part)))

7-04.020 Procedure not exclusive.

The procedure provided in this chapter is in addition to any other procedure or procedures provided by city ordinance or by state law for the abatement of any of the conditions described in this chapter. Nothing in this article shall be deemed to prevent the city from commencing a civil or criminal action to abate a public nuisance, or from pursuing any other means available to it under applicable ordinances or state law to correct hazards or deficiencies in real property, in addition to or as alternatives to the procedure set forth in this article. (Ord. 2005-4 § 2 (Exh. A (part)))

7-04.030 Definitions.

As used in this chapter, the following terms shall have meanings as set forth below.

“Abandoned” means and refers to any item which has ceased to be used for its designed and intended purpose. The following factors, among others, will be considered in determining whether or not an item has been abandoned:

1. Present operability and functional utility;
2. The date of last effective use;
3. The condition of disrepair or damage;
4. The last time an effort was made to repair or rehabilitate the item;
5. The status of registration or licensing of the item;
6. The age and degree of obsolescence;
7. The cost of rehabilitation or repair of the item versus its market value;
8. The nature of the area and location of the item.

“Abate” means to repair, replace, remove, destroy, or otherwise remedy the condition in question by such means and in such manner and to such an extent as the City Council in its judgment shall determine is necessary in the interest of the general health, safety, and welfare of the community.

“Premises” means any building, lot, parcel, real estate, or land, or portion of land whether improved or unimproved, including adjacent streets, sidewalks, parkways, and parking strips. (Ord. 2005-4 § 2 (Exh. A (part)))

7.04.040 Declaration of nuisance.

Each of the following conditions is declared to constitute a public nuisance. Whenever the City Council determines that any such conditions exist upon any premises it may require or provide for the abatement thereof pursuant to this chapter and make the costs of abatement a lien upon the property:

- A. Any public nuisance known in law or in equity;
- B. Buildings which are abandoned, partially destroyed or unsafe as defined in the adopted Uniform Building Code, or left in an unreasonable state of partial construction. An “unreasonable state of partial construction” is defined as any unfinished building or structure which has been in the course of construction one year or more, and where the appearance and other conditions of the unfinished building or structure substantially detracts from the appearance of the immediate neighborhood or reduces the property values in the immediate neighborhood; and where completion of construction is not being diligently pursued;
- C. Unpainted buildings and those having dry rot, warping or termite infestation. Buildings on which the condi-

tion of the paint has become so deteriorated as to permit decay, excessive checking, cracking, peeling, chalking, dry rot, warping or termite infestation so as to render the buildings unsightly and in a state of disrepair;

- D. Broken windows constituting hazardous conditions and inviting trespassers and malicious mischief;
- E. Building exteriors, walls, fences, driveways which are not maintained as to prevent deterioration and are in a state of disrepair;
- F. The accumulation of dirt, litter, equipment or debris in vestibules, doorways or on the adjoining sidewalks or driveways;
- G. Lumber, junk, trash, garbage, salvage materials, rubbish, refuse, rubble, broken asphalt, concrete, containers, scrap metal or other debris stored or deposited for a period of more than seventy-two (72) hours on a property such that they are visible from a public street, alley or adjoining property. Building materials for use on the same premises may be stored on the parcel during the time that a valid building permit is in effect;
- H. Attractive nuisances dangerous to individuals, including abandoned, broken or neglected equipment and machinery; hazardous pools, ponds and excavations; abandoned refrigerators or motor vehicles; any structurally unsound fence or structure; or any other lumber, trash, garbage, rubbish, refuse, debris or vegetation which may prove a hazard;
- I. Abandoned, discarded or unused furniture, stoves, sinks, toilets, cabinets or other household appliances or fixtures or equipment stored so as to be visible at ground level from a public street or alley or from an adjoining property for more than seventy-two (72) hours;
- J. Improper maintenance of signs relating to use(s) no longer conducted or products no longer sold on the property. Plastic or canvas tarps may not be placed on signs that are no longer in use. Walls, where tenant signs have been removed, must be repaired so the wall is free of any holes, wires, or dirt and repainted to match the existing building;
- K. Maintenance of property that is so out of harmony or conformity with the maintenance standards of adjacent properties as to cause substantial diminution of the use or enjoyment of adjacent properties;
- L. Maintenance of property in such condition as to be detrimental to the public health, safety or general welfare or in such manner as to constitute a public nuisance as defined in California Civil Code Section 3479 and 3480, including, but not limited to, anything dangerous to human life or detrimental to human health, or that lacks adequate ventilation, sanitation or plumbing facilities, or that constitutes a fire hazard;
- M. Any dry or dead, shrub, tree, combustible refuse, or waste, or growing material which by reason of its size, manner of growth and location, constitutes a fire hazard to a structure, crop or other property;
- N. Outdoor storage of inoperative, abandoned, wrecked or dismantled vehicles present on any property, for a consecutive period of more than seventy-two (72) hours, excepting vehicle or parts thereof which are completely enclosed within a building. "Vehicle" as used in this section shall be defined as set forth in Section 670 of the California Vehicle Code.
- O. Dead, decayed, diseased, overgrown, or hazardous trees, weeds, and vegetation, cultivated or uncultivated, which is likely to harbor rodents or vermin, or constitute an unsightly appearance, or is detrimental to neighboring properties;
- P. Any property with pooled oil accumulation, oil, or other hazardous material flowing onto public rights-of-way, or excessive accumulations of grease, oil, or other hazardous material on paved or unpaved surfaces, buildings, walls, or fences, or on any public street or property;
- Q. Any yard or landscaped area which contains excessive weeds, debris, uncultivated dirt, or other condition which creates an unkempt appearance or which lacks appropriate decorative healthy planted matter or required landscaping;
- R. Any condition of vegetation overgrowth or any imperious object which encroaches into, over, or upon any public right-of-way including, but not limited to, streets, alleys, or sidewalks, so as to constitute either a danger to the public safety or property or an impediment to public travel;
- S. Any violation of the zoning code of the city;
- T. A swimming pool, pond, or other body of water which is unfiltered or not otherwise maintained, resulting in the water becoming polluted. "Polluted water" means water which contains bacterial growth, algae, insects, animal life, rubbish, refuse, dirt, debris, papers, chemicals, or other matter or material which, because of its magnitude, nature or location, constitutes an unhealthy or unsafe condition;
- U. Unsafe Buildings and Other Structures. Existence in any building or other structure of any of the following conditions or defect to a significant degree for a period in excess of thirty (30) calendar days:
 - 1. Any door, aisle, passageway, stairway, or other means of exit is not of sufficient width or size, or

- is not so arranged as to provide safe and adequate means of exit,
2. Any portion thereof which has been damaged by earthquake, wind, flood, or by any other cause, in such a manner that the structural strength or stability thereof is appreciably less than the minimum requirements of the building code for a new building or similar structure,
 3. Any portion or member or appurtenance thereof is likely to fall, or to become detached or dislodged, or to collapse and thereby injure persons or damage property,
 4. Any member, appurtenance, or ornamentation on the exterior thereof which is not of sufficient strength or stability or is not so anchored, attached, or fastened in place so as to be capable of resisting wind pressure, earthquake forces, live-load, or dead-load as specified in the building code, without exceeding the working stresses permitted in the building code,
 5. The building or structure, or any portion thereof, because of dilapidation, deterioration, decay, faulty construction, or because of the removal or movement of some portion of the ground necessary for the purpose of supporting such building or portion thereof, or some other cause, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give way,
 6. The building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is used,
 7. The building or structure has been so damaged by fire, wind, earthquake, or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play therein to their danger, or as to afford a harbor for vagrants or criminals, or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful or immoral acts,
 8. The building or structure is used or intended to be used for dwelling purposes and, because of dilapidation, decay, damage or faulty construction or arrangement, or otherwise, is unsanitary or unfit for human habitation or is in a condition that is likely to cause sickness or disease when so determined by the Health Officer, or is likely to cause injury to the health, safety or general welfare of those living within,
 9. Any building or structure used for dwelling purposes which has light, air, and sanitation facilities

inadequate to protect the health, safety, or general welfare of persons living within,

10. Any building or structure, which by reason of obsolescence, dilapidated condition, deterioration, damage, electric wiring, gas connections, heating apparatus, or other cause, is in such condition as to be a fire hazard and is so situated as to endanger life or other buildings or property in the vicinity or provide a ready fuel supply to augment the spread and intensity of fire arising from any cause,

11. Any building which meets the definition of substandard buildings in Chapter 10, Uniform Housing Code.

(Ord. 2005-4 § 2 (Exh. A (part)))

7-04.050 Initiation of proceedings.

Whenever the City Council finds, based upon the recommendation of the Director of Community Development, Parks and Recreation Director, Fire Chief, Building Official, Code Enforcement Officer, or other appropriate city official, that any premises within the city are being maintained in such a way as to constitute a public nuisance as declared herein, then the City Council may, by resolution, declare an intention to conduct a public hearing to ascertain whether the same constitutes a public nuisance, the abatement of which is appropriate under the police power of the city. The resolution shall describe the premises involved by street address, referring to the street by the name under which it is officially or commonly known, or shall describe the property by assessor's parcel number or a legal description thereof; shall give a brief description of the conditions which constitute the nuisance; and shall provide a brief statement of the method of abatement recommended. (Ord. 2005-4 § 2 (Exh. A (part)))

7-04.060 Notice of public hearing.

Within thirty (30) days after the adoption of such resolution by the City Council, the City Clerk shall cause to be served upon the owner of the affected premises, a certified copy of the resolution, and notice of a public hearing before the City Council. Such service shall be made by registered or certified mail, addressed to the owner at the last known address of the owner as shown upon any current records of the city or the last equalized assessment roll, whichever appears to be the more reliable address. The City Clerk shall also cause to be conspicuously posted on the premises a copy of the notice of the hearing before the City Council. Such notice and resolution shall be served and the notice posted at least ten days before the time fixed

for the hearing. The notice shall be in substantially the following form:

NOTICE OF PUBLIC HEARING ON
ABATEMENT OF NUISANCE

A hearing will be held at _____ on _____
at City Hall, before the City Council to determine if the
premises at _____
constitute a public nuisance.

The conditions constituting the public nuisance include the following:

_____ .

A public hearing may be avoided if the following corrections are made at least two days before the date set for the hearing:

_____ .

If it is determined that the premises constitutes a public nuisance, the following abatement action may be taken by the city if the owner has not taken corrective action:

_____ .

If abatement action is taken by the City, the costs of the abatement will be assessed against the premises and will attach as a lien 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.
(Ord. 2005-4 § 2 (Exh. A (part)))

7-04.070 Public hearing.

At the time, place, and date stated in the notice, the City Council shall hear and consider all relevant evidence, objections, or protests and shall receive testimony from owners, witnesses, city personnel, and interested persons relative to such alleged nuisance and to the proposed rehabilitation, repair, or demolition of such premises. The hearing may be continued from time to time. Upon the conclusion of the hearing, the City Council shall, based upon such hearing, determine whether the premises or any part

thereof, as maintained, constitutes a public nuisance as defined in this article. If the City Council finds that such a nuisance exists and that there is sufficient cause to abate it by rehabilitation, demolition, or repair, the City Council may, by resolution, declare such premises to be a public nuisance and order the abatement of the same by the property owner within a time specified by the City Council. Such resolution shall contain a detailed list of needed corrections and abatement methods. (Ord. 2005-4 § 2 (Exh. A (part)))

7-04.080 Opportunity for owner to abate nuisance.

A copy of the resolution of the City Council ordering the abatement of the nuisance shall be served upon the owner of the property. Such service shall be made by registered or certified mail, addressed to the owner at the last known address as determined under Section 7-04.060 of this chapter. The owner shall have the right to have the nuisance abated in accordance with the resolution, at the owner's sole expense, provided the same is completed prior to the expiration of the time period specified for the abatement. The City Council may extend the time for performance upon written request being presented to the City Council prior to the date scheduled for abatement. Upon such abatement in full by the owner, the proceedings hereunder shall terminate. (Ord. 2005-4 § 2 (Exh. A (part)))

7-04.090 Abatement of nuisance by city.

If such nuisance is not completely abated by the owner within the abatement period, the city shall immediately cause the same to be abated by city personnel or private contract and such personnel or persons under contract are expressly authorized to enter upon said premises for such purposes. The owner of said premises shall be liable to the city for all costs of such abatement, including all administrative costs. (Ord. 2005-4 § 2 (Exh. A (part)))

7-04.100 Assessment of cost against property.

A. The personnel or persons who abate the nuisance shall keep an account of the costs of abatement. Such personnel or persons shall submit to the City Council for confirmation, an itemized written report showing such costs. The City Council may modify the report if it is deemed necessary, and shall then confirm the report by resolution. The City Clerk shall post on the premises and shall also mail to the owner a copy of the resolution showing the assessment of the costs of abatement. The resolution shall be accompanied by notice to the owner that the assessment may be protested by submitting a written request for a hearing to

the City Council within ten calendar days after the date of service of the resolution by mail. If the assessment is not protested within ten calendar days after service, it shall be deemed final.

If the owner requests a hearing, the hearing shall be scheduled at the next regular City Council meeting where at least ten calendar days' notice to the owner may be given. At the time fixed for the hearing on the assessment of the costs of abatement, the City Council shall consider the statements and protests or objections raised by the person liable to be assessed for the cost of the abatement. The City Council may revise, correct, or modify the assessment and thereafter shall confirm the amount by resolution, which assessment shall be deemed final.

- B. The City Clerk shall provide written notice to the owner of the final assessment and an opportunity to pay city within thirty (30) days of the date of the notice. The notice shall state that unless the full amount of the assessment is paid by the date due, a lien will be recorded by the city against the property on which the nuisance was located.
- C. Pursuant to Government Code Section 38773.5 and Section 25845, the total costs of abatement, shall constitute a special assessment against the parcel on which the nuisance was located. After the assessment is final, it shall constitute a lien on the parcel upon recordation in the office of the County Recorder a notice of lien. The notice of lien shall be substantially in the following form:

NOTICE OF LIEN

Claim of the City of Laguna Hills

Pursuant to the authority vested by the provisions Chapter 7-04 of the City of Laguna Hills Municipal Code, the City Council did on or about the _____ day of _____, 20____, cause the property hereinafter described to be declared a nuisance and the nuisance conditions thereon abated. On the _____ day of _____, 20____, the City Council assessed the final cost of such abatement upon the property and the same has not been paid nor any part thereof. The City of Laguna Hills does hereby claim a lien for such abatement in the amount of the assessment, which is \$ _____; the same shall be a lien upon the property until paid in full and discharged of record.

The real property hereinabove mentioned, and upon which a lien is claimed, is that certain parcel of land

lying and being in the City of Laguna Hills, County of Orange, State of California, particularly described as follows:

[legal description]

Dated this _____ day of _____, 20____.

City Manager, City of Laguna Hills

- D. Such 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 procedures and sale in case of delinquency as provided for ordinary municipal taxes. (Ord. 2005-4 § 2 (Exh. A (part)))

7-04.110 Owner to maintain premises free of public nuisance.

The owner of any premises in the city has the primary responsibility to keep such premises free of public nuisances. Any tenants or occupants of premises shall, for the purpose of this article, be deemed to be the agents of the owner. (Ord. 2005-4 § 2 (Exh. A (part)))

7-04.120 Violation—Penalty.

- A. Any person who owns, leases, or otherwise controls any premises on which there exists any public nuisance defined in this section, or who violates any order of abatement, is guilty of a misdemeanor and shall be punishable as set forth in Chapter 1-32. Each person shall be guilty of a separate offense for each and every day during any portion or which any violation of any provision of this article is committed, continued or permitted by such person and shall be punishable accordingly.
- B. Notwithstanding subsection A of this section, any such violation constituting a misdemeanor may, in the discretion of the City Attorney, be charged and prosecuted as an infraction.
- C. Upon entry of a second or subsequent civil or criminal judgment within a two-year period finding that an owner of property is responsible for a condition that may be abated in accordance with this article, except for conditions abated pursuant to Section 17980 of the Health and Safety Code, the court may order the owner to pay triple the costs of the abatement. (Ord. 2005-4 § 2 (Exh. A (part)))

7-04.130 Enforcement.

The City Manager, and such of his or her subordinates as he or she may designate, shall be charged with enforcement of the provisions of this article. In accordance with Penal Code Section 836.5, the City Manager and his or her designated subordinates are authorized to arrest any person whom they have reasonable cause to believe has committed a violation of this article in their presence. (Ord. 2005-4 § 2 (Exh. A (part)))