LIVERMORE
CALIFORNIA

NEIGHBORHOOD NUISANCE ABATEMENT
Chapter 8-14

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Article I. General Provisions

8-14-010 Definitions.

The following words and phrases, wherever used in this chapter, shall be construed as follows, unless the context indicates otherwise:

A. "Building" means any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals or property.
B. "City Manager" means the city Manager or his/her duly authorized representative.

C. “Enforcement Officer” means the Chief Building Inspector, Chief of Police, Director of Planning, Fire Marshal, their designees, or other enforcement official designated by the City Manager.
D. “Hearing Officer” means the Zoning Administrator of his/her designee.
E. “Owner” means any person owning property, as shown on the last equalized assessment roll for city taxes or the lessee, tenant or other person having control or possession of the property.
F. “Person” means any individual, partnership, corporation, association, or other organization, however formed.
G. “Property” means any real property, or improvements thereon, as the case may be. (Ord. 1261, 1, 1988)

Article II. Nuisances

8-14-020 Unlawful property nuisance.
It is unlawful for any person owning, leasing, renting, occupying or having charge or possession of any property in the city to maintain or to allow to be maintained such property in such manner that any of the following conditions are found to exist thereon, except as may be allowed by this code:
A. The following, if visible from a public street:
1. The accumulation of litter or debris;
2. Overflowing trash, garbage or refuse cans or bins, boxes or other such containers stored in the front or side yards;
3. Packing boxes, lumber, junk, trash salvage materials or other debris.
B. Nuisances dangerous to children and visible from a public street including abandoned, broken or neglected equipment, machinery, refrigerators, freezers, hazardous pools or ponds and excavations;
C. Broken or discarded furniture, household equipment and furnishings or shopping carts stored on the property for unreasonable periods and visible from a public street;
D. Overgrown vegetation likely to harbor rats, or vermin, dead or hazardous trees, weeds or other vegetation constituting unsightly appearance, dangerous to public safety and welfare or detrimental to neighboring properties or property values and visible from a public street.
E. Graffiti or other works, letters or drawings which remain on the exterior of any building or fence for an unreasonable period and are visible from a public street;
F. Boats, trailers, vehicle parts or other articles of personal property which are abandoned or left in a state of partial construction or repair for an unreasonable period of time in front yards, side yards, driveways, sidewalks or walkways and are visible from a public street;
G. Camper shells which are left for an unreasonable period of time in front yards, driveways, side yards, sidewalks or walkways and are visible from a public street; and
H. Buildings which are abandoned, boarded up, partially destroyed, or left in a state of partial construction for an unreasonable period of time and such buildings which are unpainted or where the paint on the building exterior is mostly worn off. (Ord. 1261 – 1, 1988)

8-14-030 Declaration of public nuisance.
Any property found to be maintained in violation of the foregoing section is declared to be a public nuisance and shall be abated by rehabilitation, removal, demolition, or repair pursuant to the procedures set forth herein. The procedures for abatement set forth herein shall not be

exclusive and shall not in any manner limit or restrict the city from enforcing other city ordinances or abating public nuisances in any other manner provided by law. (Ord. 1261 – 1, 1988)

Article III. Abatement Procedure

8-14-040 Notification of nuisance.

Whenever an enforcement officer determines that any property within the city is being maintained contrary to one or more of the provisions of LMC 8.14.020, he shall give written notice ("Notice to Abate") to the owner of said property specifying the section(s) being violated. Such notice shall set forth a reasonable time limit, in no event less than 10 working days, for correcting the violation(s). Such notice shall be served upon the owner in accordance with LMC 8.14.060 covering service in person or by mail. (Ord.1261 – 1, 1988)

8-14-050 Administrative hearing to abate nuisance.

In the event said owner shall fail to comply with the "Notice to Abate", the hearing officer shall conduct an administrative hearing to ascertain whether said violation constitutes a public nuisance. (Ord. 1261 – 1, 1988)

8-14-060 Notice of hearing.

Notice of said hearing shall be served upon the owner not less than 10 working days before the time set for the hearing. Notice of hearing shall be served in person or by certified mail to the owner's last known address. In addition, a copy of the notice shall be posted on the property. Service shall be deemed complete at the time notice is personally served or deposited in the mail. Failure of any person to receive notice shall not affect the validity of any proceeding hereunder. The notice shall contain:

A. The street address and other description as is required to identify the premises;
B. A description of the nuisance;
C. An order to appear before the enforcement officer at a stated time and place;
D. A statement advising the owner that if his property is found to constitute a public nuisance, and is not promptly abated by the owner, such nuisance may be abated by municipal authorities, and the cost of such abatement plus interest will be assessed upon the property and will constitute a lien upon such property until paid. He may also be cited for violation of this code and subject to a fine. (Ord. 1261 – 1, 1988)

8-14-070 Administrative hearing by Hearing Officer.

At the time stated in the notice, the hearing officer shall hear and consider all relevant evidence, objections or protests, and shall receive testimony under oath relative to such alleged public nuisance and to proposed rehabilitation, repair, removal or demolition of such property. Said hearing may be continued at the discretion of the hearing officer.

If the hearing officer finds that such public nuisance does exist and that there is sufficient cause to rehabilitate, demolish, remove or repair the same, the hearing officer shall prepare findings, and an order, which shall specify the nature of the nuisance, the method(s) of abatement and the time within which the work shall be commenced and completed. The hearing officer's determination of sufficient cause to rehabilitate, demolish, remove and repair such public nuisance shall be based in part upon the ability of the owner to pay for the costs of abatement of that public nuisance.

The order shall include reference to the right to appeal set forth in LMC 8.14.090. A copy of the findings and order shall be served on all owners of the subject property and posted on the property in accordance with LMC 8.14.040. (Ord. 1261 – 1, 1988)

8-14-080 Procedure in absence of appeal.

In the absence of any appeal, the property shall be rehabilitated, repaired, removed or demolished in the manner and means specifically set forth in the findings and order of the hearing officer. In the event the owner fails to abate the nuisance as ordered, the hearing officer shall cause same to be abated by city employees or private contract. The costs of such abatement shall be billed to the owner as specified in LMC 8.14.160. The hearing officer is expressly authorized to enter upon the property for such purposes. (Ord.1261 – 1, 1988)

8-14-090 Appeal procedure – Hearing by City Manager.

The owner may appeal the hearing officer's findings and order to the city manager by filing an appeal with the city manager within seven calendar days of the date of service of the hearing officer's decision. The appeal shall contain:

A. A specific identification of the property;
B. The names and addresses of all appellants;
C. A statement of each appellant's legal interest in the property;
D. A statement specifying the grounds for the appeal together with all material facts in support thereof;
E. The signature of each appellant and the date of execution of the appeal document; and
F. The verification of at least one appellant as to the truth of the matter stated in the appeal.

As soon as practicable after receiving the appeal, the city manager shall set a date to hear the appeal. Said date shall be not less than seven nor more than 30 calendar days from the date the appeal was filed. Each appellant shall be given written notice of the time and place of the hearing at least five calendar days prior to the date of the hearing. Notice shall be given in the same manner as in LMC 8.14.040. the hearing may be continued at the discretion of the city manager. (Ord.1261 – 1, 1988)

8-14-100 Decision by City Manager.

Upon conclusion of the hearing, the city manager shall determine whether the property or any part thereof, as maintained, constitutes a public nuisance to be abated. If the city manager so finds, he shall prepare a written order declaring the property to be a public nuisance, setting forth his findings and ordering the abatement of the nuisance by having the property rehabilitated, repaired, removed or demolished in the manner and means specified in the order. The city manager's decision to abate such public nuisance shall be based in part upon the ability of the owner to pay for the costs of abatement of that public nuisance. The order shall set forth the time in which such work shall be completed by the owner; in no event shall this time be less than 30 days. A copy of the city manager's order shall be served upon the appellant(s) in accordance with LMC 8.14.040. Upon abatement in full of the nuisance, the proceedings under this chapter shall terminate. (Ord.1261 – 1, 1988)

8-14-110 Hearing procedure before Hearing Officer and City Manager.

All hearings shall be tape recorded. Hearings need not be conducted according to the technical rules of evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it

would be admissible over objection in civil actions in courts of competent jurisdiction in this state. Any relevant evidence shall be admitted if it is the type of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state. Oral evidence shall be taken only on oath or affirmation. Irrelevant and unduly repetitious evidence shall be excluded. (Ord.1261 – 1, 1988)

8-14-120 Abatement by city.

If such nuisance is not abated as ordered by the city manager within said abatement period, the hearing officer shall cause the same to be abated by city employees or private contract. The hearing officer is expressly authorized to enter upon said property for such purposes. The cost, including incidental expenses, of abating the nuisance shall be billed to the owner shall become due and payable 30 days thereafter. The term “incidental expenses” shall include, but not be limited to: personnel costs, both direct and indirect; costs incurred in documenting the nuisance; the actual expenses and costs of the city in the preparation of notices, specifications and contracts, and in inspecting the work; and the costs of printing and mailing required hereunder. (Ord.1261 – 1, 1988)

8-14-130 Limitation of filing judicial action.

Any action appealing the city manager’s decision and order shall be commenced within 30 calendar days of the date of service of the decision. (Ord.1261 – 1, 1988)

8-14-140 Demolition.

No property shall be found to be a public nuisance under LMC 8.14.070 and ordered demolished unless the order is based on competent sworn testimony and it is found that in fairness and in justice there is no way other than demolition reasonably to correct such nuisance. (Ord.1261 – 1, 1988)

8-14-150 Notice of intent to demolish.

A copy of any order or resolution requiring abatement by demolition under LMC 8.14.070 shall be forthwith recorded with the county recorder. (Ord.1261 – 1, 1988)

8-14-160 Record of cost of abatement.

The hearing officer shall keep an account of the cost, including incidental expenses, of abating such nuisance on each separate lot or parcel of land where the work is done by the city and shall render an itemized report in writing to the city council showing the cost of abatement, including any salvage value relating thereto; provided, that before said report is submitted to the city council, a copy of the same shall be posted for at least five days upon such property, together with a notice of the time when said report shall be heard by the city council for confirmation. A copy of said report and notice shall be served upon the owners of said property in accordance with the provisions of LMC 8.14.040 at least five calendar days prior to submitting the same to the city council. Proof of said posting and service shall be made by affidavit filed with the city clerk. (Ord.1261 – 1, 1988)

Article IV. Lien Procedure

8-14-170 Assessment lien.

The total cost for abating such nuisance, as so confirmed by the city council, shall constitute a special assessment against the respective lot or parcel of land to which it relates, and upon recordation in the office of the county recorder of a notice of lien, as so made and confirmed, shall constitute a lien, as so made and confirmed, shall constitute a lien on said property for the amount of such assessment.

After such confirmation and recordation, a certified copy of the council's decision shall be filed with the county auditor-controller on or before August 1st of each year, whereupon it shall be the duty of said auditor-controller to add the amounts of the respective assessments to the next regular tax bills levied against said respective lots and parcel of land for municipal purposes and thereafter said amounts 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 case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such special assessment.

In the alternative, after such recordation, such lien may be foreclosed by judicial or other sale in the manner and means provided by law.

Such notice of lien for recordation shall be in form substantially as follows:

Notice of Lien

(Claim of City of Livermore)

Pursuant to the authority vested by the provisions of Chapter 8.14 LMC, a hearing Officer of the City of Livermore did on or about the _____ day of ____, 19___, cause The property hereinafter described to be rehabilitated or the building or structure on the property hereinafter described, to be repaired or demolished in order to abate a public nuisance on said real property; and the City Council of the City of Livermore did on the _ day of, 19__, assess the cost of such rehabilitation, repair or demolition upon the real property hereinafter described; and the same has not been paid nor any part thereof; and that said city of Livermore does hereby claim a lien on such rehabilitation, repair, or demolition in the amount of said assessment, to wit: the sum of $_____; and the same, shall be a lien upon said real property until the same has been 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 Livermore, County of Alameda, State of California, and particularly described as follows:

(DESCRIPTION)

Dated this _____ day of _____, 19_____

_____ Hearing Officer

City of Livermore

(Ord.1261 – 1, 1988)

8-14-180 Alternative actions available-Violation an infraction.

Nothing in this chapter shall be deemed to prevent the council from ordering the commencement of a civil proceeding to abate a public nuisance pursuant to the applicable law or from pursuing any other remedy available under applicable law. Violation of the provisions of this chapter constitutes an infraction, as set forth in Chapter 1.16 LMC. The city manager is designated as the enforcement authority. (Ord.1261 – 1, 1988)