

ORDINANCE NUMBER 2758 (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MONICA AMENDING SANTA MONICA MUNICIPAL CODE CREATING ARTICLE 13, NEIGHBORHOOD PRESERVATION, AND CHAPTER 13.02, PROPERTY MAINTENANCE, AND CHAPTER 13.04, VACANT PROPERTIES, AMENDING SECTION 1.08.010 TO ADD ARTICLE 13 TO THE LIST OF VIOLATIONS SUBJECT TO ADMINISTRATIVE FINES AND PENALTIES, AND MOVING LANGUAGE FOUND IN CHAPTER 8.96, ABATEMENT OF NUISANCES, TO NEW CHAPTER 13.06, ABATEMENT OF NUISANCES, AND RETITLING CHAPTER 8.96 TO RESERVED.

WHEREAS, Article XI, Section 7 of the California Constitution authorizes the City to enact, amend, and enforce ordinances to promote social, economic, or aesthetic considerations and/or that regulate conditions which may be public nuisances or create health hazards. The City has determined that many of the existing provisions of the Santa Monica Municipal Code (SMMC) that address unmaintained and vacant properties are in need of amendment in order to provide City staff with greater enforcement flexibility and address emerging and evolving problems within the community; and

WHEREAS, Government Code Section 38771 permits cities to identify public nuisances by ordinance; and

WHEREAS, on March 7, 2017, the Santa Monica City Council adopted Ordinance 2335 (CCS) which amended Chapter 8.96 of the Santa Monica Municipal Code by adding language which established maintenance and security provisions for vacant properties; and

WHEREAS, on March 11, 2023, the City Council reiterated its support for the Clean and Safe Santa Monica initiative, which creates an atmosphere marked by clean and safe public spaces and neighborhoods; and

WHEREAS, the amendments to Chapter 8.96, and the addition of Chapters 13.02, 13.04, and 13.06 are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA guidelines. Section 15061(b)(3) states the CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this case, the proposed municipal code amendments will create updated standards for properties to prevent negative impacts on neighborhoods. Additionally, many of the provisions and requirements already exist and are being located and strengthened to Article 13 of the SMMC. Preserving neighborhoods and residential quality of life will result in no environmental impacts and will maintain the environmental status quo.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 1.08.010 of the Santa Monica Municipal Code is hereby amended to read as follows:

1.08.010 Violations, penalty options.

(a) **Criminal Sanctions.** It shall be unlawful for any person to violate any provision, or to fail to comply with any of the requirements of this Code. Any person violating any of the provisions or failing to comply with any of the mandasitory requirements of this Code,

shall be guilty of a misdemeanor, unless otherwise provided. Any person convicted of a misdemeanor under the provisions of this Code, shall be punishable by a fine of not more than five hundred dollars, or by imprisonment in the City or County Jail for a period not exceeding six months, or by both such fine and imprisonment. Any offense which would otherwise be an infraction is a misdemeanor if the defendant has been convicted of the same offense three or more times within the twelve month period immediately preceding the commission of the offense and the convictions are alleged in the accusatory pleading. For this purpose, a bail forfeiture shall be deemed to be a conviction of the offense charged. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued or permitted by such person and shall be punishable accordingly.

(b) **Civil Actions.** The City Attorney may bring an action in a court of competent jurisdiction to enjoin a violation of any provisions of this Code or any other ordinance of the City, or to enforce administrative penalties or fines imposed.

(c) **Administrative Fines and Penalties.** The City may impose administrative fines or penalties for any of the following acts or omissions:

(1) All violations of Articles 3, 4, 5, 6, 7, 8, 9, and 13 of this Code.

(2) Failing to comply with any condition or requirement imposed on or by any entitlement, permit, contract or environmental document issued or approved by the City. Administrative fines may be imposed, enforced, collected, and reviewed in accordance with the provisions of Chapter 1.09. Administrative penalties may be imposed, enforced, collected and reviewed in compliance with the provisions of Chapter 1.10.

(d) **Nuisance Abatement.** In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be, by this City, abated as such, and each day such condition continues shall be regarded as a new and separate offense.

(e) **Alternative Remedy.** Nothing in this Section shall prevent the City from using one or more other remedies to address violations as established by this Code.

SECTION 2. Santa Monica Municipal Code is hereby amended by adding new Article 13 to read as follows:

ARTICLE 13 NEIGHBORHOOD PRESERVATION

CHAPTER 13.02 PROPERTY MAINTENANCE

13.02.010 Purpose.

The purpose of this Chapter is:

(a) To set forth and enforce minimum standards relating to the management of activities conducted or conditions on real property to protect the public health, safety, and welfare; and

(b) To put in place remedies which will permit the City to take effective, efficient administrative or other legal action against property owners and other responsible parties who cause, permit, or suffer nuisance creating behaviors or conditions to occur on their properties on a continuing basis, in order to compel such parties to abate the nuisance; and.

(c) The provisions of this Chapter are complementary, cumulative, supplementary, and additional to any other legal remedies available, whether found in this Code, State or Federal laws, regulations, or case law.

13.02.020 Application.

The provisions of this Chapter shall apply to all real property throughout the City wherein any of the conditions hereinafter specified are found to exist; provided, however, that any condition which would constitute a violation of this Chapter, but which is duly authorized under any other City, State or Federal law, shall not constitute a violation.

13.02.030 Definitions.

If a word is not defined in this Chapter, then the applicable definitions in Article 9 or other specific cited Code section shall apply. If a word is not defined, then the most common dictionary definition is presumed to be correct:

- (a) “Attractive nuisance” means any condition or item that is left unprotected and accessible, including any unsecured or unsanitary pools and abandoned or broken equipment or machinery, and any other condition which may reasonably be expected to attract young children under the age of 13 to the premises who would be at risk for injury by playing with, in, or on it, and thereby dangerous to young children by reason or their inability to appreciate the peril therein.
- (b) “Conveyance” means any elevator, dumbwaiter, escalator, moving platform lift, stairway chairlift, material lift or dumbwaiter with automatic transfer device, automated people mover, or other similar equipment.
- (c) “Director” means the Director of Community Development, or designee.
- (d) “Dwelling unit” means the same as this term is defined in Chapter 9.52 of this Code.

(e) “Enforcement Officer” means the same as this term is defined in Chapter 1.09 of this Code.

(f) “Graffiti” means any writing, printing, symbol, figure, design, painting, marking, inscription, or other defacement that is written, sprayed, painted, scratched, etched, engraved, drawn, marked, or otherwise applied to any exterior surface of a building, wall, window, fence, tree, sidewalk, curb, or other structure without the prior consent of the owner or person in possession.

(g) “Habitable room” or “habitable space” means any space in a building intended for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable rooms.

(h) “Hardscape” means the man-made features used in landscape architecture, e.g. paths or walls, as contrasted with vegetation. This term includes, but is not limited to, paved areas, driveways, retaining walls, sleeper walls, stairs, walkways, and any other landscaping made up of hard-wearing materials such as wood, stone, and concrete.

(i) “Improvement” means any structure that is located on real property.

(j) “Inoperable vehicle” means any motor vehicle that is mechanically incapable of being driven or prohibited from being operated on a public street or highway pursuant to the provisions of the California Vehicle Code.

(k) “Landscape” means an area set aside from structures and parking/driveway uses, which is developed to include predominately living, thriving, trees, vines, shrubs, flowers, grasses, and other plants. Porous materials, such as rock, mulch, decomposed granite, and synthetic turf, can be used in conjunction with living plant

materials; however, landscaped areas must be predominantly of living materials and in compliance with Article 9 of this Code.

(l) “Materials of construction” means any man-made or natural material which is used in the construction of and contributes to the structural integrity of any building or structure.

(m) “Multiple-Unit Dwelling” means the same as this term is defined in Section 9.51.020 of this Code.

(n) “Operator system” means any device which assists the opening, closing, or locking or unlocking of a door, garage door, or gate. This includes, but is not limited to, call boxes, door phones, intercom systems, and remote entry systems for Multiple-Unit Dwelling properties.

(o) “Owner” means the same as defined in Section 1.12.220 of this Code.

(p) “Parkway” means all that area exclusive of sidewalk lying between a property line and any curb.

(q) “Premises” means any real property or improvements thereon.

(r) “Property” includes real property and means any land, and anything growing on, permanently affixed to, or built upon the land.

(s) “Responsible person” or “responsible party” shall mean any individual or entity who is responsible for causing or maintaining a violation of this Code, or applicable state codes. The terms “person,” “responsible person” or “responsible party” include, but are not limited to, a property owner, tenant, person with a legal interest in real property or person in possession of real property, the president or other head of a

corporation or a person authorized by a corporation to receive service of process in a civil action, a business owner or manager of a business.

(t) “Structure” means anything constructed or erected, regardless of permitting status, the use of which requires attachment to the ground or attachment to something located on the ground. For the purposes of this Chapter, the term “structure” includes “buildings.”

(u) “Structure exterior” means any exterior wall, wall covering, foundation, roof, or other exterior portion of any structure. This definition only applies to exterior decks if the deck was required to be built with a building permit or if it is physically attached to the main structure.

(v) “Structure interior” means any interior wall, floor, ceiling, roof, or other portion of any structure that is structurally related. This definition shall not apply to items including, but not limited to, floor covering, kitchen or bathroom cabinetry, sinks, toilets, and light fixtures.

(w) “Substantial deterioration” means serious neglect in maintaining or repairing a building or structure that results in a noticeable decline in the physical quality of the building façade, building features, structural or non-structural elements and weatherproofing.

(x) “Weeds” means any plant that is growing where it is not wanted.

13.02.040 Responsibility for maintenance

(a) Every owner, occupant, lessee, or holder of any possessor interest of real property within the City is required to maintain such property so as not to violate the provisions of this Chapter. The owner of the property shall remain liable for violations hereof regardless

of any contract or agreement with any third party regarding such property or the occupation of the property by any third party.

(b) It shall be unlawful for any owner, occupant, lessee or holder of any possessor interest of real property within the City to create or maintain a violation on such property.

13.02.050 Violations Generally.

Anything that is detrimental or injurious to health; obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property; or obstructs the free passage or use in the customary manner of any public park, sidewalk, parkway, street or highway is a violation of this Chapter.

13.02.060 Specific Violations.

It is unlawful and it is declared to be a violation of this Chapter for any person owning, renting, leasing, occupying, managing, or having charge or possession of any property within the City to maintain such property in such a manner that any of the conditions listed below are found to exist. This section is not the exclusive definition or designation of what constitutes a violation within this City. It supplements and is in addition to other regulatory codes, statutes, and ordinances enacted by the City, State, or any other legal entity or agency having jurisdiction. Violations of this Chapter include the following:

(a) Any imminent life safety hazard which creates a present and immediate danger to life, property, health, or public safety.

(b) The storing or allowing the storage of any abandoned or broken appliances and equipment or neglected machinery on private property or the parkway for more than 48 hours including, but not limited to any condition which constitutes an attractive

nuisance whether within a structure or on the premises. Any appliances, equipment, machinery, or accumulation of materials shall be removed immediately upon notification by the Director. Appliances left unsecured outside for disposal shall have all doors removed.

(c) *Deteriorating and Defective Structures.* Any and all improvements located on any property shall be presumed to be in violation of this section if any of the following conditions exist:

(1) Peeling paint in excess of an aggregate total of four-square feet of the entire façade (i.e., any exterior side) of a structure;

(2) Excessive cracked, crumbling, loose, or broken stucco or other exterior wall coverings or interior covering as determined by the Director;

(3) Structure exteriors that are improperly maintained, neglected, or damaged, or in need of repairs (e.g., weatherproofing, insect extermination or water intrusion);

(4) Any floor covering, including carpet, tile, and wood flooring, that presents a trip and fall hazard due to being improperly maintained, missing, or damaged;

(5) Any structure that is in a state of substantial deterioration which is visible from the public right-of-way;

(6) Broken, cracked, or missing windows or doors;

(7) Damaged, poorly fitting, or missing window screens, or screens covering vent areas (under floors, in ceilings), or damaged, poorly fitting screens for entrance or balcony doors, or deteriorated metal security doors;

(8) Roofs missing shingles, tile, or other material used as roof composition or the material is loose, damaged, substantially deteriorated, or unstable;

(9) Roof and flashing that is not sound, tight and weatherproof. Roof drainage that fails to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts that are not maintained in good repair and free from obstructions. Roof water that is discharged in a manner that creates a public nuisance;

(10) Improperly maintained awnings, canopies, sunshades, sills, trellises, and other similar architectural features that are damaged, deteriorated and/or in disrepair;

(11) Fences, walls, posts, cross-members, slats, and gates that are not plumb and true, not in good repair, rotted, fire damaged, have peeling paint, broken bricks, broken mortar, cracked or broken stucco, or are not constructed of materials treated in a uniform manner;

(12) Exterior gates, gate assemblies, operator systems if provided, hardware, and latches that are not maintained in good repair or proper operating condition;

(13) Fences, walls, and hedges not maintained according to the standards set forth in Section 9.21.050 of this Code;

(14) Unpainted structures experiencing dry rot, termite infestation, or warping;

(15) Any decoration, design, device, fence, structure, or clothesline which is deteriorated or in disrepair and unsightly by reason of its condition and is out of harmony or conformity with the maintenance standards of adjacent or surrounding properties so as to cause a diminution of the enjoyment, use or property values of such proximal

properties, or its inappropriate location as determined by the Director or a designated City official;

(16) Graffiti on private property that is visible from the public right-of-way or any adjacent property;

(17) Any building or structure which meets the definition of an unsafe building or structure as provided in the California Building Code, or any successor provision, adopted pursuant to Santa Monica Municipal Code Section 8.08.010;

(18) Any building or structure left in a state of incomplete construction, partial demolition, or left damaged by vandalism, fire, earthquake, or other similar acts, for a period of six consecutive months, excluding such time when work is in progress pursuant to a valid building or other construction permit;

(19) Any building or structure which meets the definition of a dangerous building as provided in Section 302 of the Uniform Code for the Abatement of Dangerous Buildings, or any successor provision, adopted pursuant to Article VIII of the Santa Monica Municipal Code;

(20) Any building or structure which meets the definition of a substandard building as provided in Section 17920.3 of the Health and Safety Code, or any successor provision;

(21) A conveyance in any Multiple-Unit Dwelling, mixed use, or commercial building that is found to be inoperable, or not maintained in a proper, safe, and good working condition;

(22) Faulty materials of construction in any improvements including those materials which are not allowed or approved by the Building Code as adopted by the

City and as reported to the Director by the Building Official, or which have not been maintained in a good and safe condition; or

(23) Buildings and structures, or portions of buildings and structures, that do not conform to applicable laws in effect at the time of installation or which has not been maintained in good condition and used in a safe manner;

(d) *Rodent, Insect, Pest Infestation.* Harborage and infestation of rodents, insects, and pests. When found, these conditions shall be exterminated by a licensed professional in a manner that is not injurious to human health. After extermination, documentation of treatment by a licensed professional shall be provided to the Director, and proper precautions and measures shall be taken to prevent future harborage and infestation.

(e) *Fire Hazard.*

(1) All violations of applicable conditions of the Fire Code as adopted by the City in Santa Monica Municipal Code Section 8.40.010, and as reported to the Director by the Santa Monica Fire Department.

(2) Failure to install or properly maintain any required carbon monoxide detector.

(3) Failure to install or maintain any fire or smoke alarm or fire suppression system in good working order.

(4) All dry, dead shrubs, dead trees, combustible refuse and waste, or any material growing or found upon public or private property, which by reason of their size, condition, manner of growth, or location endangers the public safety by creating

a fire hazard to any structure, improvements, crops, or other property, or when dry will, in reasonable probability, create a fire hazard.

(5) Any condition which poses a fire hazard.

(f) *Hazardous and Unsanitary Conditions.*

(1) Discharging, releasing, or allowing the accumulation of any human or animal waste material or substances, stagnant water, or any combustible or hazardous materials or substances, fluid or solid on any part of or in any structure on real property.

(2) The presence of any visible mold or mold-like substance, as determined by a health officer or code enforcement officer in any habitable room, or a non-minor level of mold in any non-habitable room. Odor is an indicator of the presence of mold, but not a diagnostic; if a musty odor is detected, visual confirmation of a "mold-like substance" is required.

(A) This section shall not apply to:

(i) Conditions that are caused or perpetuated by the actions or inactions of the inhabitants of the dwelling unit, including sanitary or housekeeping practices; or

(ii) the presence of minor mold that is found on surfaces that can accumulate moisture as part of their functioning and intended use; or

(iii) the presence of mold or mold-like substance if observed on household items (e.g., clothing, upholstery, food).

(3) Any condition which renders air, food, or drink unwholesome, unsanitary, or detrimental to health.

(4) All violations of applicable conditions of the Health Code as adopted by the City in SMMC Section 5.08.370, and as reported to the Director by the Los Angeles County Department of Public Health, or any similar agency providing services to the City under the Health Code.

(g) *Improper Parking or Storage of Goods, Equipment, and Vehicles.*

(1) Any violation of SMMC Chapter 9.28 Parking, Loading and Circulation or any other Zoning Ordinance provisions pertaining to parking or storing vehicles and equipment on private or public property.

(2) Using or allowing use of any hardscape area for parking which prevents or hinders access to elevators, entrances, exits, or trash receptacles or blocks access to any structure for emergency vehicles or personnel.

(3) The keeping, storage, depositing or accumulation on the premises for an unreasonable period of time of any personal property including, but not limited to, abandoned, wrecked, dismantled or inoperative vehicles, abandoned, wrecked, dismantled, or unseaworthy boats or vessels, automotive parts and equipment, appliances, furniture, containers, packing materials, scrap metal, wood, building materials, junk, rubbish, debris, dirt, sand, gravel, concrete or other similar materials which is within the view of persons on adjacent or nearby real property or the public right-of-way and which is detrimental to the public health, safety and general welfare. However, building materials being used or to be used for a project of repair or renovation for which a building permit has been obtained may be stored for such period of time as is necessary expeditiously to complete the project.

(4) Outdoor storage in violation of SMMC Section 9.21.100.

(h) *Inadequate or Faulty Mechanical Equipment.*

(1) Lack of safe, adequate heating facilities in any dwelling unit or units, hotel, or motel.

(2) Heating and Ventilation

(A) Minimum Heat Requirements in Residential Rental Units.

(i) Every occupied residential unit, as established in SMMC Section 9.51.020, shall be provided with heating facilities capable of maintaining a minimum room temperature of 70 degrees Fahrenheit at a point three feet above the floor in all habitable rooms. All individual heating facilities must be fixed and permanently attached and properly wired. Wiring for heaters shall conform to the California Electrical Code.

(ii) Such heating facilities shall be installed and maintained in a safe condition and in accordance with the Building Code and all other applicable laws.

(B) Buildings in which the heating system is not under the control of the tenant or occupant shall comply with Section 11.20.470 of the Los Angeles County Code.

(C) The use of space heaters as the primary source of heat shall not be permitted without prior written consent from the Building Official and Fire Marshall.

(3) Mechanical equipment and required screening, including vents, that does not conform with all applicable laws in effect at the time of installation, or which have not been maintained in good and safe condition.

(4) All violations of applicable conditions of the Mechanical Code as adopted by the City in SMMC Section 8.28.010 and as reported to the Director or designated City official by the Building Official.

(i) *Inadequate or Faulty Plumbing.*

(1) Lack of plumbing fixtures required by the Building Code as adopted by the City, as reported to the Director by the Building Official.

(2) All violations of applicable conditions of the Plumbing Code as adopted by the City in SMMC Section 8.32.010, and as reported to the Director by the Building Official.

(3) Plumbing which does not conform with applicable laws in effect at the time of installation or which has not been maintained in good condition and free of cross connections.

(4) Every plumbing stack, vent, waste, and sewer line shall function properly and be kept free from obstructions, leaks, and defects.

(5) Grease interceptors and automatic grease removal devices shall be maintained in accordance with this Code and the manufacturer's installation instructions. Grease interceptors and automatic grease removal devices shall be regularly serviced and cleaned to prevent the discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system or the sewage treatment plant or processes. Records of maintenance, cleaning and repairs shall be available for inspection by the Director upon request.

(j) *Inadequate or Hazardous Electrical Supply, Lighting, and Wiring.*

(1) Lack of required or improperly maintained electrical lighting or convenience outlets in existing residential or commercial occupancies as reported to the Director by the Building Official.

(2) Lack of maintenance and repair of lighting fixtures inside dwelling units and in common areas of residential and commercial structures, including courtyards, garages, hallways, lobbies, parking areas and lots, public bathrooms, and walkways.

(3) Missing, broken, or improperly installed, or improperly maintained electrical outlets, switches, or wall plates.

(4) Broken, malfunctioning, or improperly installed or maintained building entry and intercom systems.

(5) All violations of applicable conditions of the Electrical Code as adopted by the city in SMMC Section 8.24.010, and as reported to the Director by the Building Official.

(6) Wiring or electrical systems and components that do not conform to applicable laws in effect at the time of installation or which has not been maintained in good condition and used in a safe manner.

(k) *Inadequate Sanitation and Ventilation.*

(1) Lack of hot or cold running water to plumbing fixtures.

(2) Lack of the minimum amounts of natural light and ventilation required by the Building Code as adopted by the City, in SMMC Section 8.12.010.

(3) Room and space dimensions less than required by the Building Code as adopted by the City.

(4) Dampness in habitable rooms or excessive dampness in non-habitable rooms as determined by the Building Official. This section shall not apply to conditions that are caused or perpetuated by the actions or inactions of the inhabitants of the dwelling unit, including sanitary or housekeeping practices.

(l) *Non-Maintenance of Landscape and Hardscape.*

(1) A violation of Santa Monica Municipal Code Sections 5.08.070 (Sidewalks, cleanliness), 5.08.080 (Premises, cleanliness), 7.48.070 (Owner to maintain premises free of litter), 9.21.190 (Unexcavated Yard Areas), 9.26.040 (General Landscaping Standards), 9.21.080 and (Lighting), or any other Zoning Ordinance provisions or permit conditions pertaining to the installation and upkeep of landscaped or hardscaped areas located on private property or abutting parkways.

(2) Persons owning or occupying property shall keep the sidewalk, parkway, gutter, and alley in front of or adjacent to the side or rear of their property free of litter in accordance with Section 7.48.050 of this Code.

(3) The owner or person in control of any private property shall at all times maintain the premises free of litter in accordance with Section 7.48.070 of this Code.

(4) Maintaining or allowing the maintenance of private property or parkway with a lack of adequate landscaping or approved ground cover material, as defined in Santa Monica Municipal Code Section 9.26.060, sufficient to prevent blowing dust or erosion, or allowing the landscaping on private property or in a parkway to cause a hazard or inconvenience to pedestrians using the public sidewalk.

(5) Maintaining or allowing the maintenance of any paved areas for vehicle parking and access, porches, steps, or walkways in a hazardous condition due to cracked, raised, or missing surface materials.

(6) Any driveway on private property that is damaged in such a way as to be hazardous to persons using said driveway.

(m) *Overgrown, Dying or Dead Vegetation.* Overgrown, dying, or dead vegetation on private property or within parkway areas. The following additional requirement shall apply to all vegetation on private property and within parkway areas:

(1) Any dead, decayed, diseased or hazardous tree on private property or within a parkway that presents a danger to public safety.

(2) Encroaching Hedges. The owner of a hedge shall maintain the hedge in accordance with Section 9.21.050 of this Code.

(3) Vegetation that:

(A) Harbors the presence of rats or vermin;

(B) Overhangs or grows onto or into any public property, including, but not limited to, any public alley, highway, land, sidewalk, street, or other right-of-way, so as to cause an obstruction to any person or vehicle using such public property; or

(C) Constitutes an attractive nuisance, a fire hazard, or otherwise creates a danger to public health or safety.

(4) Groundcover and similar vegetation shall not be permitted to grow taller than six inches.

(5) The premises shall be maintained free of weeds.

(6) Dead or fallen branches, palm fronds, or similar vegetation shall be promptly removed from the ground or plant.

(7) Fallen leaves or other yard waste shall not be permitted to accumulate on any paved surface. Use of leaves as mulch in dirt areas is exempt from this requirement.

(8) Vegetation shall be continuously trimmed back to ensure that it does not grow within three feet of overhead power or utility lines.

(9) Vegetation, excluding street trees, shall not be permitted to encroach on or obstruct any portion of the street, alley, or sidewalk.

(10) Notwithstanding Section 9.21.180 of this Code, vegetation shall not be permitted to grow in a manner that:

(A) Blocks, obstructs, or interferes with public improvements, streetlights, or signage to any degree as determined by the Director;

(B) Obscures or blocks the visibility, to any degree, of approaching or nearby pedestrians or vehicles on public property;

(C) Obscures or blocks the visibility of any person's view, to any degree, of signs or traffic lights on public property; or

(D) Obstructs access to, or use of, a sidewalk, street or highway, or a public easement or dedication to any degree.

(11) A determination that vegetation on private property or on an adjoining parkway is dead or dying may include, without limitation, consideration of the following factors: any physical characteristic of appearance evidencing a lack of proper watering or feeding; the creation or promotion of a fire hazard by reason

therefor; the existence of an infestation of any kind that is injurious to such vegetation; or when diseased or dying vegetation does not substantially respond to remedial care. The City shall require replacement of dead or dying vegetation and the abatement of such a condition. In this event, a responsible person shall first obtain applicable permits and comply with all applicable landscape regulations and requirements in the Municipal Code.

(n) *Polluted Water.* A pond, spa, swimming pool, fountain, or other body of water which is abandoned, unattended, unfiltered, or not otherwise properly maintained, resulting in polluted or stagnant water. Such structures shall be covered or filled with soil to prevent the accumulation of water. Standing water shall be immediately drained or removed.

(o) *Refuse and Waste.* Refuse and waste material which by reason of its location or character may constitute a fire hazard or threat to the health, safety, and general welfare, including aesthetic impacts, of the surrounding residential area. This includes maintaining or allowing to be maintained refuse and waste materials on private or public property. Compost piles are not considered refuse and waste.

(p) *Structural Hazards.*

(1) Deteriorated, damaged, or inadequate foundations.

(2) Defective, deteriorated, or inadequate size flooring or floor supports.

(3) Defective, deteriorated, or inadequate size members of partitions, walls, or other vertical supports.

(4) Defective, deteriorated, damaged, or inadequate size ceiling, roof, or other horizontal supports.

(5) Defective, damaged, or inadequately constructed fireplace or chimney.

(6) Damaged, defective, or deteriorated common area stairways or staircases including risers, runs, landings, and handrails.

(7) Damaged, defective, or deteriorated common area walkways including handrails and guardrails.

(q) *Substandard Housing Conditions.* To the extent not otherwise articulated above, for residential property and dwellings, any condition of a substandard building listed in California Health and Safety Code Section 17920.3.

(r) *Uninhabitable Buildings or Dwelling Units.* Buildings or dwelling units may be deemed uninhabitable if any of the following conditions exist:

(1) Any building or structure which meets the definition of a dangerous building as provided in Section 302 of the Uniform Code for the Abatement of Dangerous Buildings, or any successor provision, adopted pursuant to Article VIII of the Santa Monica Municipal Code.

(2) Any building or structure which meets the definition of a substandard building as provided in Section 17920.3 of the Health and Safety Code, or any successor provision.

(3) Any substandard building condition listed in the California Health and Safety Code Section 17920.3 where the condition exists to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof, or are severe enough to be unsafe for human habitation as determined by the Building Official.

- (s) *Vacant Properties.* Vacant properties shall be maintained in compliance with all requirements found in this Chapter and in Chapter 13.04 of the Municipal Code.
- (t) Any violation of Article 9 of the Santa Monica Municipal Code relating to the City's planning and zoning laws and regulations.
- (u) *Other Provisions of the Municipal Code.* A violation of any other provision of the Municipal Code or Title 24 of the California Code of Regulations, as adopted by the City, that pertains to real property, structures, or which otherwise concerns the public health, safety, and general welfare.
- (v) *Impact on Viability of Surrounding Area.* To maintain or fail to maintain property, or any structure on it, in a way that its condition contributes to the establishment of a prevalence of depreciated values, impaired investments, and social and economic maladjustments to the extent that the capacity to pay taxes is reduced and tax receipts are inadequate for the cost of public services rendered.

13.02.070 Correction of Violations.

The correction of any conditions described in this Chapter shall be performed in a way that conforms to the minimum standards of the building codes, maintenance practices and aesthetic standards of the surrounding neighborhood, maintains the value and enjoyment of surrounding properties, and promotes the public health, safety, and general welfare of the City.

- (a) *Code and Ordinance Compliance.* Corrections of violations and repairs shall comply with all applicable Building, Electrical, Mechanical, and Plumbing Codes as adopted by the City, and City Zoning Ordinance requirements, including all required permits and inspections.

(b) *Manner of Repair.* Corrections and repairs of violations shall be performed in accordance with manufacturer's standards and, where applicable, in compliance with the standards of workmanship of acknowledged trades and as deemed acceptable by the Building Official or Director.

(c) *Conformity with Existing Materials.* Exterior repairs and corrections of violations shall conform with the materials and colors of the complete structures being brought into compliance with the City's Planning Department and Architectural Review Board procedures and guidelines, unless otherwise approved by the Director.

(d) *Content.* Colors, forms, materials, and shapes used as design elements for any exterior repairs or corrections of violations shall be uniform in content and in compliance with the Architectural Review Board procedures and guidelines.

(e) *Drought-Resistant Plantings.* Landscaping that is installed or replaced shall use in whole or in part, drought-resistant plantings and, where applicable, shall comply with the design standards and guidelines in Chapter 9.26 Landscaping.

13.02.080 Violations and Penalties.

(a) Any person (whether an individual, corporation, partnership, joint venture, or other entity) who violates any of the provisions of this Chapter or who does not correct violations in compliance with the requirements of this Chapter, is subject to the administrative citation provisions of Municipal Code Chapter 1.09. Each day or portion thereof wherein the violation is committed, continued, or permitted constitutes a separate and distinct violation.

(b) The City's authority to prosecute violations of this Chapter shall be in addition to its authority to pursue other remedies under Code Chapter 13.06 (Abatement of Nuisances), or any other local or State laws.

13.02.090 Environmental Testing, Remediation, and Reporting.

When violations of this Chapter are found to exist, the Building Officer or Code Enforcement Manager may require the responsible party to obtain and submit, at the sole expense of the responsible party, environmental testing reports from a qualified, licensed testing professional for mold, excessive moisture, or other conditions prior to and/or after repairs have been made. Failure to submit the required testing shall be deemed a violation of this Chapter and is subject to the same penalties as other violations of this chapter.

CHAPTER 13.04 VACANT PROPERTIES

13.04.010 Purpose

All vacant property shall be maintained in a non-blighted, safe, and secure condition, consistent with the requirements of this Chapter. It is the purpose and intent of the Council, through the adoption of this Chapter, to establish a vacant property maintenance program as a mechanism to protect the Santa Monica community from becoming blighted through the lack of adequate maintenance and security of vacant properties.

13.04.020 Applicability

This Chapter shall apply to all vacant or substantially vacant real properties located within the boundaries of the City of Santa Monica, regardless of zoning designation. This chapter shall not apply to a property or building that is actively being sold or offered for rent provided it is maintained in strict compliance with the provisions found in Chapter 13.02 of this Code.

13.04.030 Definitions.

If a word is not defined in this Chapter or other specific provisions of the Santa Monica Municipal Code, the most common dictionary definition is presumed to be correct:

(a) “Groundcover” means any low plant that conceals the bare ground and protects the topsoil from erosion or drought. Examples include, but are not limited to, grass, moss, thyme, and clover.

(b) “Hardscape” means any non-vegetative feature or manmade material that is incorporated into a landscape. Examples include, but are not limited to, pavers, stone, bricks, wood chips, and decomposed granite.

(c) “Multiple-Unit Dwelling” means the same as defined in Section 9.51.020 of this code.

(d) “Sheeting material” or “sheeting” means a minimum of one-quarter-inch thick clear or semi-clear shatter-proof polycarbonate material with strength capable of sustaining impact without breaking or shattering, absent excessive force.

(e) “Softscape” means any live vegetation that is incorporated into landscaped areas.

(f) “Substantially vacant” means any property where fewer than thirty-five percent of the units are occupied.

(g) “Vacant property” means any property that is substantially vacant, unoccupied, or abandoned for more than ninety days, or where construction, pursuant to an active building permit, is not taking place or where an inspection by the Building and Safety Division, pursuant to an active building permit, has not been conducted within the previous ninety days.

13.04.040 General Vacant Property Standards.

(a) Every person who owns, possesses, or has control of a vacant property, shall maintain and secure said property in accordance with all provisions in Chapter 13.02, and in such a way that it will not become a public nuisance.

(b) A valid Trespass Arrest Authorization shall be kept on file with the Santa Monica Police Department empowering the Police Department to remove all unauthorized persons from the property. The Trespass Arrest Authorization shall be kept current and effective during the period of vacancy.

(c) *General Maintenance Requirements.* Vacant properties shall be actively maintained, monitored and secured in compliance with all property maintenance provisions found in Chapter 13.02, and all of the following standards:

(1) The property shall be inspected weekly by the property owner, property manager, or their designee.

(2) *Landscaping:*

(A) The property shall be kept cleaned, watered and free of weeds;

(B) Dead or dying plant material shall be removed;

(C) Groundcover vegetation shall not be permitted to grow taller than six inches;

(D) Groundcover, hardscape, or softscape shall be installed and maintained on all vacant property throughout the duration of the vacancy. Such landscaping is subject to the approval from the Community Development Director, or designee, and shall comply with the following:

(i) Plants used for groundcover shall not be allowed to grow taller than six inches; and

(ii) Irrigation, adequate for the health and growth of groundcover plants, shall be provided and maintained throughout the duration of vacancy.

(E) Landscaping that contributes to an unsafe condition on the property shall be eliminated or trimmed to the satisfaction of the Director.

(3) Notwithstanding Section 9.21.050 of the Code, for Vacant Properties, all hedges, bushes, and shrubs shall be maintained no higher than forty-two inches to allow for a clear view from the public right-of-way to the entire interior of the property.

(4) Trees shall be pruned and maintained regularly to remove any overgrowth, or dead or dying branches and leaves. Adequate irrigation shall be provided to ensure the continued health and growth of all hedges, bushes, shrubs, and trees.

(5) *Drainage*. All premises shall be maintained so as to prevent the accumulation of stagnant water when such water causes a hazardous or unhealthy condition, becomes a breeding area for insects, or which is causing soil erosion or damage to foundation walls.

(6) All trash, debris, rubbish, discarded furniture or defective or discarded equipment or appliances or items of similar nature shall be removed from the property.

(7) "No Trespassing" signs shall be posted and displayed along all street or alley facing property frontages and visible to the public. The sign must be no smaller than 17 by 22 inches in size, with lettering no smaller than 1 inch in height.

(8) Additional signage may be required by the Director to include the name and phone number of an individual that can promptly respond to complaints regarding the property.

(9) As determined by the Director, any vacant property may be required to be enclosed by a six feet tall and non-view-obscuring fence that is made of wood, wrought iron, or similar materials. This provides for clear and open visibility of the vacant property while providing an additional measure of security. The fence must be self-supporting and may not be attached to any part of adjacent property without the adjacent owner's written permission. The fence's location, type, and method of installation is subject to the approval of the Director or their designee, before installation; provided, however, that in no event shall the fence be a temporary fence made of chain-link, unless the property is actively being developed pursuant to a current and valid building permit.

(A) Fences shall be safe, structurally sound, and uniform or compatible in color and structure; they shall be maintained so that they do not constitute a hazard, blight, or condition of disrepair. Examples of hazards, blight or conditions of disrepair include but are not limited to, leaning fences or walls, fences or walls that are missing slats or blocks, that exhibit rot, damage, graffiti, peeling paint, or deterioration of paint or materials. All unauthorized postings and graffiti shall be immediately removed or painted over.

(B) Missing or damaged fencing shall be repaired or replaced within seventy-two hours of such damage occurring.

(C) All gates or entrances to vacant property shall be equipped with a combination lock. The current combination shall be provided to the Santa Monica Police Department on the Trespass Arrest Authorization Form.

(10) *Exterior insect, rodent and animal control.* All premises shall be kept free from insect and rodent infestation and other noxious pests. This provision shall not require action to disturb the natural or cultivated activity of bees, rabbits, or other insects and animals where such activity is not a danger or nuisance to any resident or residents of the area, and where other applicable legal requirements are met. Pest and rodent infestation shall be abated on the property and documentation shall be provided verifying the abatement from a licensed professional.

(11) The property shall be kept free of parked, abandoned, or inoperable vehicles except where a parking permit or other appropriate approval has been obtained from the city.

(12) Utility services, including gas, water, and electricity, shall be disconnected upon the property becoming vacant.

(13) Any swimming pool on a vacant property shall be drained, kept free of standing water, and comply with following:

(A) Filled-in with soil or any other fill approved and to the satisfaction of the Director; or

(B) Covered in such a way that water cannot collect in the swimming pool or on top the cover.

(14) Motion-activated security lighting in accordance with SMMC Section 9.21.080 (Lighting) may be required to be installed and maintained in working condition at all

entrances and exits of the property to the satisfaction of the Director from dusk until dawn.

(15) Motion-activated video surveillance cameras may be required to be installed and maintained in working condition that provide two-way communication and mobile live-view video to the satisfaction of the Director.

(16) Additional building locks and entry control including bars on windows shall be installed and maintained as determined by the Director to prevent unauthorized access to the property and any structure.

(17) Documentation shall be provided that adequate security is provided by onsite security personnel, roaming security patrol, or some other means; and twenty-four hours seven day a week security may be required as determined by the Director. All curtains, blinds, and window coverings shall be removed from all windows located on the ground level of a structure allowing for a clear view to the interior of vacant buildings and units.

(18) The property shall be inspected each week and these inspections documented and submitted in writing to the satisfaction of the Director. These reports shall include the dates of the inspections, a list of any issues that were found and needed to be corrected, and time and date stamped photos of the property showing the overall conditions of the entirety of the property.

(19) The Director may require increased frequency of inspections if it is determined that doing so is necessary to safeguard the community from impacts that are injurious to public health, safety, and general welfare, or where the property becomes attractive to unauthorized persons and trespassers.

(20) All furniture and personal property shall be removed from the interior of vacant buildings.

(21) Approved address numbers shall be provided for all vacant properties and buildings in such a manner as to be plainly visible and legible from the street or road fronting the property.

(d) Securing of any or all structures by boarding unsecure windows, doors, and other openings with sheeting material shall be done in accordance with this section. All buildings and structures upon the property shall be secured, locked, and closed as determined and approved by the Director and the Building Official. With the exception of the exterior access door required in subsection 1 below, all first-story doors and windows facing any street or alley shall be secured using sheeting material. First-floor doors and windows not facing any street or alley may be secured using plywood that meet the specifications found in subsection 2 below. As used herein, "sheeting material" or "sheeting" means a minimum of one-quarter-inch thick clear or semi-clear shatter-proof polycarbonate material with strength capable of sustaining impact without breaking or shattering, absent excessive force.

(1) Exterior Access Door. At least one exterior door shall allow authorized persons access to the interior of the residential property. Such exterior access door may be secured by using:

(A) A solid core wood or steel door with no windows or other openings in the door; or

(B) Hinged sheeting material or three-quarter-inch plywood attached to the door entry with three case hardened strap hinges of the type specified by

the Building Official and the sheeting material or plywood shall be secured by at least two case-hardened steel hasps and minimum two-inch case-hardened padlock also of the type specified by the Building Official.

(2) Use of Plywood.

(A) Plywood may only be used to secure doors and windows not facing a street or alley and shall be painted in a color consistent with the exterior of the dwelling unit. Plywood may be used for no more than thirty days to repair damage or vandalism to street and alley-facing doors and windows. After thirty days, sheeting material shall be installed.

(B) Plywood used to secure vacant properties shall be of unsanded CDX grade and shall have a minimum thickness of one-half inch for window openings, five-eighths inch for door openings and three-quarter inch for sliding door and French door openings.

(C) Unless otherwise granted a variance by the Director from strict compliance herewith, materials such as oriented strand board (OSB), medium density fiberboard (MDF), particle board, wafer board, Masonite³⁴, or other similar material shall not be used to secure vacant or abandoned buildings or structures.

(D) Plywood used to secure vacant properties shall be installed in accordance with presently applicable FHA-standards or as determined by the Building Official.

(3) Property that remains vacant for more than ninety days shall secure all windows, doors, and other openings in accordance with this section.

(4) Sheeting material shall be installed in a manner intended to provide an appearance approximating glass in the window casings, and consistent in appearance with the surrounding surface in the case of all other openings that require securing.

(5) Security bars, laminate, or other methods approved by the Director and Building Official shall be installed on all windows.

(6) Only exterior-grade screws and round-head plated carriage bolts shall be used to secure a vacant property. Nails shall not be used.

(e) A unit that is vacant in a substantially vacant Multiple-Unit Dwelling property and is not currently being offered for use as a residence shall be secured and locked, or otherwise made inaccessible in accordance with this section.

13.04.050 Violations and Penalties.

(a) Any person (whether an individual, corporation, partnership, joint venture, or other entity) who violates any of the provisions of this Chapter is subject to the administrative citation provisions of Municipal Code Chapter 1.09. Each day or portion thereof wherein the violation is committed, continued, or permitted constitutes a separate and distinct violation.

(b) The City's authority to prosecute violations of this Chapter shall be in addition to its authority to pursue remedies under Municipal Code Chapter 13.06 (Abatement of Nuisances) and shall be entitled to recover any costs from the property owner associated with monitoring, inspecting, and securing the subject property to meet the requirements of this Chapter.

13.04.060 Community Safety and Protection.

The Director is authorized to waive or modify any standard or condition found in this chapter if it is determined that, under the particular factual circumstances, the change is warranted to safeguard the property or the surrounding community from impacts that are injurious to public health, safety and general welfare or to the stability of real property so as to interfere with the comfortable enjoyment of life or property, nor become attractive to unauthorized persons, including, but not limited to, juveniles and transients, nor constitute a health, fire or safety hazard. Requests for such waivers and modifications shall be submitted on a form provided by the City.

In making this determination, the Director shall consider:

- (a) The history of unlawful activity and calls for service at this property;
- (b) The overall condition of the property and structures;
- (c) The willingness of the property owner to comply with City requests;
- (d) The likelihood that the change will result in improved protection of the property and the public writ large; and
- (e) Any other evidence pertaining to the property and its owners, or the effects of the proposed change.

Chapter 13.06 ABATEMENT OF NUISANCES

13.06.010 Purpose.

- (a) The intent of this Chapter is to provide a comprehensive mechanism for the identification and abatement of public nuisances within the City.
- (b) The remedies provided for in this Chapter are supplemental and complementary to all of the provisions of this Code, State law, and any law

cognizable at common law or in equity; and nothing herein shall be read, interpreted or construed in any manner to limit any existing right or power of the City to abate any and all public nuisances.

(c) The procedures for abatement of substandard buildings contained in this Chapter are deemed equivalent for the purpose intended under Article 6, Actions and Proceedings of the California Code of Regulations, Title 25, Division 1, Chapter 1, Sub-Chapter 1.

13.06.020 Application.

The provisions of this Chapter shall apply to all property throughout the City wherein any of the conditions hereinafter specified are found to exist; provided, however, that any condition which would constitute a violation of this Chapter, but which is duly authorized under any other City, State or Federal law, shall not constitute a violation.

13.06.030 Responsibility for maintenance.

(a) Every owner, occupant, lessee or holder of any possessor interest of real property within the City is required to maintain such property so as not to violate the provisions of this Chapter. The owner of the property shall remain liable for violations hereof regardless of any contract or agreement with any third party regarding such property or the occupation of the property by any third party.

(b) It shall be unlawful for any owner, occupant, lessee, or holder of any possessor interest of real property within the City to create or maintain a public nuisance on such property.

13.06.040 Definitions.

(a) “Cost of abatement” means the total cost incurred by the City in connection with abating a public nuisance including, but not limited to:

(1) Any cost incurred in removing or remedying a public nuisance; and

(2) A service fee for services rendered by the City in connection with inspection, notification, prosecution, and abatement procedures authorized by this Chapter, which fee will be calculated based on all services rendered by the City from initial inspection of the property for the purpose of documenting a violation of this Chapter until the violation is corrected; and

(3) Any expense incurred by the City in collecting the costs enumerated in this subsection.

(b) “Graffiti” shall mean any writing, printing, symbol, figure, design, painting, marking, inscription, or other defacement that is written, sprayed, painted, scratched, etched, engraved, drawn, marked, or otherwise applied to any exterior surface of a building, wall, window, fence, tree, sidewalk, curb, or other structure without the prior consent of the owner or person in possession.

(c) “Minor automotive repair and service” shall include replacement of wiper blades, fuses, radiator caps, lamps, and other minor accessories, changing oil and transmission fluid, patching or mounting of tires and similar repairs and services.

“Person” means any natural person, firm, association, club, organization, corporation, partnership, business trust, company or any other entity which is recognized by law as having rights and duties.

(d) “Owner” means the owner of record of real property.

(e) "Premises" means any real property or improvements thereon.

(f) "Public nuisance" means any nuisance designated in Section 13.06.050 of this Chapter.

13.06.050 Public nuisances.

The following are declared to be public nuisances:

(a) Any building or place which has been operated or maintained in a manner that has resulted in repeated disruptive activities including, but not limited to, disturbances of the peace, public drunkenness, drinking in public, harassment of passerby, sale of stolen goods, public urination, assaults, batteries, acts of vandalism, excessive littering, illegal parking, loud noises (particularly in late night or early morning hours), or curfew violations.

(b) Any condition in violation of Chapter 4.04 of this Code (Animals).

(c) Every building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing or giving away any controlled substance (as defined in Division 10 of the California Health and Safety Code) and every building or place wherein or upon which those acts take place.

(d) Every building or place used for the purpose of unlawfully selling, serving, or giving away alcoholic beverages and every building or place in or upon which alcoholic beverages are unlawfully sold, served, or given away.

(e) Every building or place used for the purpose of illegal gambling as defined by State or local law, lewdness or prostitution, and every building or place in or upon which such activities are held or occur.

(f) Any public telephone or other device that transmits or receives voice or electronic messages which is used as an instrumentality for or contributes substantially by its presence to any of the following:

(1) Illegally selling or giving away controlled substances (as defined in Division 10 of the California Health and Safety Code);

(2) Soliciting, agreeing to engage in, or engaging in any act of prostitution or other criminal activity;

(3) Consumption of alcoholic beverages on nearby outdoor public or private property except where outdoor consumption of alcoholic beverages is specifically authorized pursuant to a license issued by the Department of Alcoholic Beverage Control;

(4) Blockage of streets, alleys, or private driveways; or

(5) Excessive noise.

(g) Parking of vehicles, vessels, or similar mobile equipment on the grass, dirt, or other landscaped areas surrounding a residential property.

(h) Repair and/or disassembling any vehicle or vessel in a residential zone and on residential property, where such activity is visible from the public right-of-way except:

(1) Minor automotive repair and service, performed on motor vehicles owned by and registered to the occupants of the dwelling, performed on a driveway, in a carport, or other legally paved surface on private property;

(2) The work does not involve repetitive testing of an engine;

(3) No more than one motor vehicle, as viewed from the public right-of-way, is being worked on at any point in time; and

(4) The work complies with the City's Noise Ordinance.

(i) Any violation of Chapters 13.02 and 13.04 of this Code.

(j) Any public nuisance as defined in Civil Code Sections 3479 and 3480 and Penal Code Sections 370 and 371 or otherwise recognized in law or in equity as constituting a public nuisance.

13.06.170 Emergency procedures.

(a) Notwithstanding any other provision of this Chapter, whenever the condition giving rise to the public nuisance is an imminent threat to life, property, health, or public safety requiring immediate action, the City shall have immediate jurisdiction to abate the public nuisance and may order or take such action as is necessary to immediately abate the public nuisance.

(b) The City shall only pursue such remedial actions as are reasonably necessary to eliminate the immediacy of the hazard. The costs of such abatement, to the extent that they are not part of any regularly provided City service, shall be recoverable against the property owner and/or responsible persons through the steps outlined in this Chapter or any other methods authorized by law.

13.06.180 Summary abatement of graffiti.

(a) The City Council finds that proliferation of graffiti presents an imminent danger to the public safety and welfare. Law enforcement officials and other experts agree that immediate removal of gang-related graffiti is necessary to reduce the risk of violent and other criminal activities associated with gangs and gang territories. The

presence of graffiti which is not abated immediately encourages the creation of additional graffiti, resulting in neighborhood blight and increased costs of abatement.

(b) The City is authorized to summarily abate graffiti. The abatement may be undertaken by City staff or by outside contractors.

(c) The City shall provide the owner of the property subject to abatement action under this Section with written notice specifying the date that the City will abate the graffiti. This notice shall be mailed to the owner by certified mail, return receipt requested, at least five days prior to the scheduled City abatement. It shall inform the owner that the City will not undertake the abatement if the owner notifies the City in writing that the owner will abate the graffiti by a date specific acceptable to the City. The cost of abatement performed by the City shall be recovered in accordance with Section 13.06.190 except the accounting requirements of Section 13.06.190(b) may be undertaken by the Director of Public Works.

13.06.190 Lien, special assessment and other remedies.

(a) The cost of abating a public nuisance shall either be a lien on the property, a special assessment against the property, or the personal obligation of owner and/or the person responsible for creating, causing, committing, or maintaining the public nuisance.

(b) The Director shall keep an itemized account of the expenses incurred by the City in abating nuisances under the provisions of this Chapter, including all administrative costs. Upon the completion of the work of abatement, the Building Officer, shall prepare and file with the City Council a report specifying the abatement measures undertaken, the itemized and total cost of the abatement, a

description of the real property on which the abatement was done, and the names and addresses of the persons entitled to notice pursuant to Section 13.06.100, Service of order to abate public nuisance. This report shall be verified by the City official in charge of the abatement work.

(c) The City shall cause notice of the cost of abatement to be given in the same manner as a summons in a civil action in accordance with Code of Civil Procedure Section 415.10 et seq. If the owner of record after diligent search cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten days and publication thereof in a newspaper of general circulation published in Los Angeles County pursuant to Government Code Section 6062. The City shall also cause notice of the hearing to be served by certified mail, postage prepaid, addressed to the persons entitled. Such notices shall be given at least ten days prior to the date set for hearing and shall specify the day, hour, and place when the City Council will hear and pass upon the report of the Building Officer. The notice shall specify that the property may be sold after three years by the tax collector for unpaid delinquent assessments.

(d) At the time fixed for the hearing, the City Council shall hear and pass upon the report, together with any objections or protests which may be raised by any property owner liable to be assessed for the abatement work. The protests heard by the City Council pursuant to this subsection shall relate only to the charge to be made for abatement. No protest shall be heard concerning the underlying enforcement action in ordering the abatement of the nuisance, unless such abatement order was issued as a result of an emergency. Written protests may also

be filed with the City Clerk at any time prior to the time set for the hearing on the report. Each written protest or objection must contain the property address and the grounds for such protest or objection. After hearing all oral protests and reviewing all written protests, the City Council may make such revisions, corrections, or modifications to the report as it may deem just, after which, by resolution, the report, as submitted, revised, corrected, or modified, shall be confirmed. The City Council may adjourn the hearings from time to time. The decisions of the City Council on all protests and objections which may be made shall be final and conclusive.

(e) Pursuant to Government Code Section 38773.1, the cost of abatement of a public nuisance under this Chapter can be a lien on the property or against the owner of the property as provided in subsection (g) of this Section.

(f) Alternatively, pursuant to Government Code Section 38773.5, the cost of abatement of a public nuisance under this Chapter can be a special assessment against the property as provided in subsection of this Section.

(g) If the cost of abatement is not paid within ten days after its confirmation by the City Council, the City may file in the Office of the County Recorder a certificate in substantially the following form:

NOTICE OF LIEN

On the day of , 20 , the City of Santa Monica caused a public nuisance to be abated on the real property hereinafter described pursuant to an abatement order dated, 20 .

The City of Santa Monica did on the day of , 20 , by action duly recorded in its official minutes, assess the cost of such abatement and

related administrative costs, and determined that the same have not been paid. The City of Santa Monica hereby claims a lien on said real property for the net expense of the doing of said work plus related administrative costs in the sum of \$, and the same shall be a lien on said property until said sum, with interest at the rate of 7% per annum, from the day of , 20

(date of confirmation of statement), has been paid in full and discharged of record. The real property herein before mentioned, and upon which a lien is claimed, is that certain piece or parcel of land lying and being in the City of Santa Monica, County of Los Angeles, State of California, and particularly described as follows:

(Description of Property)

Street Address

Legal Description

Parcel Numbers

(Name of owner and address)

Dated: _____

Building Officer

(h) From and after the date of recording the notice of lien, all persons shall be deemed to have had notice of the contents thereof. If any such lien is not paid, the City may file and maintain an action to foreclose such lien or take any other action as provided by law.

(i) As an alternative to the procedure authorized in subsection (d) of this Section and pursuant to Government Code Section 38773.5, the cost of

abatement, if not paid within ten days after its confirmation by the City Council, may constitute a special assessment against that parcel of property which shall be recorded as follows:

(1) After the City Council determines that the charge will be assessed against the property, the City shall record a notice describing the abatement action and the total costs with the County Recorder.

(2) After confirmation of the report prepared pursuant to subsection (b) of this Section and recordation of the notice, certified copies of the report and the City Council resolution shall be given to the County Auditor or Assessor who shall add the amount of the assessment to the next regular tax bill levied against the parcel in the same manner as ordinary municipal taxes.

(3) The amount of the assessment shall be collected at the same time and in the same manner as ordinary municipal taxes and shall be subject to the same penalties and procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such assessment.

(4) The assessment liens shall be subordinate to all existing special assessment liens previously imposed upon the same property and paramount to all other liens except State, County, and municipal taxes with which it shall be on parity. The lien shall continue until the assessment and all interest due and payable thereon has been paid.

(j) The City Council may also order that the cost for the abatement be made a personal obligation of the property owner and/or the person responsible for causing,

committing, or maintaining the public nuisance. The City Council shall then direct the City Attorney and the Finance Department to collect the cost of abatement.

(k) The City Council may direct the City Attorney to institute a lawsuit to collect any amounts due by reason of the abatement of a nuisance by the City and to foreclose any existing liens for such amounts. Notwithstanding the provisions of this Chapter, the City Attorney may bring any appropriate civil and criminal action for abatement of any nuisance within the City pursuant to any other provision of the law. Upon entry of a second or subsequent civil or criminal judgment within a two-year period, finding that the owner or possessor of a property, place or area is responsible for a condition that may be abated in accordance with this Chapter, except for conditions abated pursuant to Section 17980 of the Health and Safety Code, the court may order the owner or possessor to pay treble the costs of the abatement to the City.

(l) All monies recovered by payment of the charge, obligation, assessment, or lien shall be paid to the City Treasurer who shall credit the same to the Nuisance Abatement Fund.

13.06.200 Violation.

(a) Any person violating any provision of this Chapter shall be guilty of an infraction, which shall be punishable by a fine not exceeding two hundred fifty dollars, or a misdemeanor, which shall be punishable by a fine not exceeding five hundred dollars, or by imprisonment in the County Jail for a period not exceeding six months or by both such fine and imprisonment.

(b) Any person found to be in violation of this Chapter in a civil case brought by a law enforcement agency shall be ordered to reimburse, as restitution, the City and other participating law enforcement agencies their full investigative costs and costs of abatement.

(c) Any person who violates any provision of this Chapter shall be subject to administrative fines and administrative penalties pursuant to Chapter 1.09 and Chapter 1.10 of this Code.

(d) Any interested person may seek an injunction or other relief to prevent or remedy violations of this Chapter.

(e) The remedies provided in this Section are not exclusive, and nothing in this Section shall preclude the use or application of any other remedies, penalties or procedures established by law.

13.06.210 Nuisance Abatement Fund.

The Finance Director is authorized to establish a revolving fund to be known as the Nuisance Abatement Fund which shall be used to defray costs of administrative and judicial abatement of public nuisances. The fund shall be reimbursed by collection from the property or property owner, or any responsible person, as specified in this Chapter and by the courts. This fund may be operated and used in conjunction with procedures ordered or authorized under this or any other abatement provision of this Code.

SECTION 3. Santa Monica Municipal Code is hereby amended Chapter 8.96 to read as follows:

Chapter 8.96 RESERVED

SECTION 3. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to the extent necessary to effect the provisions of this Ordinance.

SECTION 4. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a 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 passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

APPROVED AS TO FORM:

DocuSigned by:
DOUGLAS SLOAN
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Douglas Sloan, City Attorney

Approved and adopted this 26th day of September, 2023.

DocuSigned by:
Gleam Davis
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Gleam Davis, Mayor

State of California)
County of Los Angeles) ss.
City of Santa Monica)

I, Nikima Newsome, Assistant City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2758 (CCS) had its introduction on August 22, 2023 and was adopted at the Santa Monica City Council meeting held on September 26, 2023, by the following vote:

AYES: Councilmembers Zwick, Parra, Brock, Torosis, de la Torre
 Mayor Davis, Mayor Pro Tem Negrete

NOES: None

ABSENT: None

ATTEST:

DocuSigned by:
Nikima Newsome
7032651F371E430...

Nikima Newsome, Assistant City Clerk

10/4/2023
Date

A summary of Ordinance No. 2758 (CCS) was duly published pursuant to California Government Code Section 40806.