

Chapter 4.60 - MISCELLANEOUS OFFENSES—DANGEROUS AND DEFECTIVE CONDITIONS

Sections:

4.60.010 - Purpose.

In adopting this chapter the Council is mindful of the fact that in the past dangerous and defective conditions of properties have resulted in great injury and damage to persons and property and in many instances to the loss of lives, and the Council is desirous of eliminating from the City all dangerous and defective conditions, so far as reasonably possible; and the Council further realize that in every metropolitan community many dangerous situations may exist and be developed in the lawful pursuit of industry and of commercial activity and in the possession, ownership and enjoyment of property, but the Council also feels that in all such cases due and adequate steps, precautions and provisions should be provided, established, taken and maintained to effectively guard against accidents, injuries and damages due to such conditions. The Council feels any failure to take such steps, precautions and provisions should be construed as constituting wilfulness on the part of the parties responsible therefor, or who own, possess or control the property upon which such conditions exist, and that such parties should be liable to and for the penalties prescribed by this Code.

(§ 2, Ord. 648)

4.60.020 - Unlawful conditions.

It shall be unlawful for any person, whether as principal, agent, employee, servant, representative or otherwise, owning, possessing or controlling any real property within the City to wilfully create, maintain, permit or allow to exist, be in or upon any property so owned, possessed or controlled by him any dangerous or defective structure, accumulation, pile or arrangement of any material, excavation, growth, instrumentality, condition or means of any kind, which by reason of its existence, location, accessibility, nature, concealment, construction, weakness, arrangement, position or character is apt or liable to cause injury or damage to persons or property, or which constitutes a then present menace or threat to life or property.

(§ 1, Ord. 648)

4.60.030 - Public nuisance.

The Council, pursuant to the power and authority vested in it so to do under the provisions of Section 38771 of the Government Code of the State, does hereby find and declare that any dangerous or defective structure, accumulation, pile or arrangement of any material, excavation, growth, instrumentality, condition or means of any kind, which by reason of its existence, location, accessibility, nature, concealment, construction, weakness, arrangement, position or character, is apt or liable to cause injury or damage to persons or property, or which constitutes a then present menace or threat to life or property, constitutes and is a nuisance and shall be subject to abatement as such by civil action or summarily as provided by law.

(§ 3, Ord. 648)

Chapter 9.68 - PUBLIC NUISANCES—PREMISES

Sections:

9.68.010 - Property maintenance—Nuisance.

It shall be unlawful for any person owning, leasing, occupying or having charge of any property in the City to maintain such premises in such a manner that any of the following conditions are found to exist thereon:

- A. Buildings which are partially destroyed, or permitted to remain in a state of partial construction, for more than twelve (12) months; provided, however, where a building permit has been issued for the repair, construction or reconstruction of the building, it shall be a violation of this section for the building to be partially destroyed, or permitted to remain in a state of partial construction, for one (1) month following the expiration of such building permit;
- B. A topographical condition wherein lack of a physical barrier permits the sand or soil on the premises to encroach on the public way;
- C. The failure to secure and maintain from public access any doorways, windows and other openings into vacant structures;
- D. Improper occupancy of any building or portions thereof occupied or used for any purpose for which it was not built;
- E. Vegetation on property which harbors rats, vermin, or other disease carriers; or
- F. Trees, weeds or other vegetation on property which are dead, decayed, diseased or hazardous;
- G. Camper shells, cargo containers or other mobile equipment stored for more than seventy-two (72) consecutive hours in a front or side yard visible from the public right of way;
- H. Inoperable or abandoned motor vehicles, trailers or boats visible from the public right of way;
- I. Abandoned or broken, machinery or equipment, or dismantled machinery or auto parts, visible from the public right of way;
- J. Broken or discarded furniture, household equipment or appliances on the premises, visible from the public right of way;
- K. Packing boxes, lumber, litter, trash or debris which is visible from the public right of way; provided, however, building materials may be maintained on the premises during construction or reconstruction on the premises pursuant to a valid building permit;
- L. Deteriorated parking lots which have pot holes, cracks or ridges which constitute a safety hazard to the public;
- M. Fences which are in a state of disrepair and create a safety hazard, including, but not limited to the following conditions:
 1. Broken, rotted or defective fence support posts or other structural members; and
 2. Chain link fence material which is damaged or broken;

(§ 2, Ord. 1266, eff. March 2, 1972; Ord. No. 1885, Rep&ReEn, 09/16/93)

9.68.020 - Declaration of nuisance.

On any premises within the City on which there exists any of the conditions declared unlawful pursuant to Section 9.68.010 of this chapter, such a condition shall be deemed and is hereby declared to be a public nuisance.

(§ 2, Ord. 1266, eff. March 2, 1972; Ord. No. 1885, Rep&ReEn, 09/16/93)

9.68.030 - Notice of nuisance.

Whenever the Director of Community Development finds, upon the recommendation of a duly authorized representative of the Community Development Department, that a nuisance, as defined by sections 9.68.010 and 9.68.020 of this chapter, exists on any premises located in the City, the Director or an authorized representative shall advise the property owner, lessee or occupant of the nuisance and direct such individual to abate the nuisance. The owner, lessee or occupant shall be notified of the existence of the nuisance in writing. The notification shall detail the violation and establish a reasonable abatement period not to exceed thirty (30) days from the date of the notice.

(§ 2, Ord. 1266, eff. March 2, 1972; Ord. No. 1885, Rep&ReEn, 09/16/93)

9.68.040 - Voluntary abatement of nuisances.

The owner, lessee or occupant of any property found to contain a nuisance under the provisions of this chapter, may abate the nuisance at any time within the abatement period by rehabilitation, repair, removal or demolition. The Community Development Department shall be advised of the abatement and shall inspect the premises to insure that the nuisance has in fact been abated.

(§ 2, Ord. 1266, eff. March 2, 1972, as amended by § 1, Ord. 1590, eff. November 6, 1980; Ord. No. 1885, Rep&ReEn, 09/16/93)

9.68.050 - Failure to abate a declared nuisance voluntarily.

If a nuisance is not properly abated within the period established under the provisions of section 9.68.030, the City Council shall hold a public hearing to determine if the declared nuisance should be abated pursuant to the police powers of the City.

(§ 2, Ord. 1266, eff. March 2, 1972, as amended by § 2, Ord. 1590, eff. November 6, 1980; Ord. No. 1885, Rep&ReEn, 09/16/93)

9.68.060 - Notice of public hearing.

A written notice of public hearing, substantially in the form contained in section 9.68.070, shall be personally served on the property owner at least fifteen (15) days prior to the date set for the City Council public hearing. In lieu of personal service, service may be given at least twenty (20) days prior to the date set for the City Council public hearing by certified or registered mail to the address shown on the latest assessor's parcel rolls. If there is no known address for the owner, the notice shall be sent to the owner, in care of the property address. "Owner," as used herein, shall mean any person(s) shown as the property owner on the latest equalized property tax assessment rolls, and any person having, or claiming to have, any legal or equitable interest in or to the fee relating to said premises. In addition, notice of said hearing shall be published in a newspaper of general circulation in the City at least ten (10) calendar days before the hearing. The failure of any person to receive such notice shall not affect the validity of the proceedings.

(§ 2, Ord. 1266, eff. March 2, 1972, as amended by § 3, Ord. 1590, eff. November 6, 1980; Ord. No. 1885, Rep&ReEn, 09/16/93)

9.68.070 - Form of notice of public hearing.

Notice substantially in the following form shall be given as provided in section 9.68.060:

**NOTICE OF PUBLIC HEARING TO DETERMINE EXISTENCE OF PUBLIC NUISANCE AND TO ABATE
IN WHOLE OR IN PART**

Notice is hereby given that the City Council of the City of Manhattan Beach will hold a public hearing at the City Council Chambers, to ascertain whether certain premises situated in the City of Manhattan Beach, State of California, known as and designated as _____ constitutes a

public nuisance subject to abatement by the rehabilitation of such premises or by the repair or demolition of buildings or structures situated thereon. If said premises, in whole or part, are found to constitute a public nuisance as defined by Manhattan Beach Municipal Code Sections 9.68.010 and 9.68.020 and if the same are not promptly abated by the owner, such nuisance may be abated by municipal authority, in which case the cost of such rehabilitation, repair or demolition will be assessed upon such premises and such cost will constitute a lien upon such land until paid.

Said violations consist of the following: _____

Said methods of abatement available are: _____

All persons having any objection to or interest in said matters are hereby notified to attend the hearing before the City Council to be held on the _____ day of _____, 20_____ at the hour of _____ m. when their testimony and evidence will be heard and given due consideration.

Dated: _____ / _____ / _____, 20_____.

City Clerk

(§ 2, Ord. 1266, eff. March 2, 1972, as amended by § 4, Ord. 1590, eff. November 6, 1980; Ord. No. 1885, Rep&ReEn, 09/16/93)

9.68.080 - Hearing by the City Council.

At the time and place stated in the notice of the public hearing, the City Council shall hear and consider all relevant evidence, objections or protests, and shall receive testimony of owners, witnesses, city personnel and interested persons relative to such alleged public nuisance and to proposed abatement measures. Each party shall be accorded procedural due process. The hearing may be continued from time to time.

(§ 2, Ord. 1266, eff. March 2, 1972; Ord. No. 1885, Rep&ReEn, 09/16/93)

9.68.090 - Decision of the City Council.

Following the public hearing, the City Council shall consider all evidence and determine whether the premises, or any part of the premises, constitute a public nuisance as alleged. If the City Council finds that a public nuisance does exist and that there is sufficient cause to abate the nuisance, the City Council shall make a written order, setting forth the findings and ordering the owner or other person having charge or control of the premises to abate the nuisance by rehabilitation, repair, or demolition in the manner and by the means specifically set forth in the City Council order. The order shall set forth the time within which the work shall be commenced and completed.

(§ 2, Ord. 1266, eff. March 2, 1972; Ord. No. 1885, Rep&ReEn, 09/16/93)

9.68.100 - Service of the abatement order.

Within ten (10) days following the City Council decision, the property owner or the person having charge or control of the premise, or both where applicable, shall be personally served with a copy of the written order of the City Council. In lieu of personal service, service may be given by certified or registered mail to the address shown on the latest assessor's parcel rolls.

(§ 2, Ord. 1266, eff. March 2, 1972; Ord. No. 1885, Rep&ReEn, 09/16/93)

9.68.110 - Abatement by property owner.

The property owner or person having charge or control of the property may at his or her own expense, abate the nuisance as prescribed by the order of the City Council prior to the expiration of the

compliance dates set forth in the abatement order. If the nuisance has been inspected by the Department of Community Development and has been abated in accordance with the order, proceedings shall be terminated.

(§ 2, Ord. 1266, eff. March 2, 1972; Ord. No. 1885, Rep&ReEn, 09/16/93)

9.68.120 - Abatement by the City.

If a declared nuisance is not completely abated by the owner or person having charge or control of the property within the time prescribed in the City Council order, the Director of Community Development is authorized and directed to cause the nuisance to be abated, pursuant to a valid warrant issued by a court of competent jurisdiction, if required. Such abatement may be conducted by city forces or private contract. In furtherance of this section, the Director of Community Development, or designated representative, is expressly authorized to enter upon the premises for the purposes of abating the nuisance, pursuant to a valid warrant issued by a court of competent jurisdiction, if required.

(§ 2, Ord. 1266, eff. March 2, 1972; Ord. No. 1885, Rep&ReEn, 09/16/93)

9.68.130 - Record of cost for abatement by City.

- A. The Finance Director, or such other city official as may be designated, shall keep an account of costs (including incidental expenses) of abating such nuisance on each separate lot or parcel of land where the work is done and shall render an itemized written report to the City Council showing the cost of abatement and the rehabilitation, demolition or repair of said premises, buildings or structures, including any salvage value relating thereto. A copy of the report, and notice of the time when said report will be heard by the City Council for confirmation, shall be personally served on the property owner at least fifteen (15) days prior to the City Council meeting at which the report shall be heard by the City Council for confirmation. In lieu of personal service, service may be given at least twenty (20) days prior to the City Council meeting at which the report shall be heard by the City Council for confirmation by certified or registered mail to the address shown on the latest assessor's parcel rolls.
- B. The City Council shall set the matter for hearing to determine the correctness or reasonableness, or both, of such costs.
- C. Proof of service of the report on the property owner shall be made by declaration under penalty of perjury filed with the City Clerk.
- D. The term "incidental expenses" shall include, but not be limited to, 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.

(§ 2, Ord. 1266, eff. March 2, 1972; Ord. No. 1885, Rep&ReEn, 09/16/93)

9.68.140 - Report of cost-hearing and proceedings.

At the time and place fixed for receiving and considering said report, the City Council shall hear and pass upon the report of such cost of abatement, together with any objections or protests. Following the hearing the City Council may make such revision, correction or modification in the report as it may deem just, after which, by motion, the report as submitted, or as revised, corrected or modified, shall be adopted. The decision of the City Council on all protests and objections which may be made shall be final and conclusive. The resolution of adoption and the report shall be served upon the property owner by personal service or by certified or registered mail to the address shown on the latest assessor's parcel rolls.

(§ 2, Ord. 1266, eff. March 2, 1972; Ord. No. 1885, Rep&ReEn, 09/16/93)

9.68.150 - Assessment of costs against property—Lien.

The total cost for abating such nuisance, as adopted 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 adopted, shall constitute a lien on said property for the amount of such assessment.

- A. After such confirmation and recordation, a copy may be turned over to the tax collector for the city, whereupon it shall be the duty of said tax collector to add the amounts of the respective assessments for municipal purposes to the next regular tax bill levied against said respective lots and parcels of land, 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 procedures under foreclosure and sale, in case of delinquency as provided for ordinary municipal taxes; or
- B. After such recordation, such lien may be foreclosed by judicial or other sale in the manner and means provided by law.
- C. Such notice of lien for recordation shall be in form substantially as follows:

NOTICE OF LIEN

(Claim of City of Manhattan Beach)

Pursuant to the authority vested by the provisions of Section 9.68.120 of the Manhattan Beach Municipal Code, the Director of Community Development of the City of Manhattan Beach did on or about the _____ day of _____, 20_____ cause the premises 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 Manhattan Beach did on the _____ day of _____, 20_____ 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 said City of Manhattan Beach 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 hereinbefore mentioned, and upon which a lien is claimed, is that certain parcel of land lying and being in the City of Manhattan Beach, County of Los Angeles, State of California, and particularly described as follows:

(Description)

DATED: This _____ day of _____, 20_____.

Director of Community Development
of the City of Manhattan Beach

(ACKNOWLEDGEMENT)

(Ord. No. 1885, Enacted, 09/16/93)

9.68.160 - Violations.

- A. The owner or other person having charge or control of any such buildings or premises who maintains any public nuisance defined in this chapter, or who violates any order of abatement served as provided in section 9.68.100, is guilty of a misdemeanor.

- B. Any occupant or lessee in possession of any such building or structure who fails to vacate said building or structure in accordance with an order given as provided in this chapter is guilty of a misdemeanor.
- C. Any person who removes any notice or order posted as required in this chapter, for the purpose of interfering with the enforcement of the provisions of this chapter, is guilty of a misdemeanor.
- D. Any person who obstructs, impedes or interferes with any representative of the City Council or with any representative of a Manhattan Beach City Department or with any person who owns or holds any estate or interest in a building which has been ordered to be vacated, repaired, rehabilitated, or demolished or with any person to whom any such building has been lawfully sold pursuant to the provisions of this chapter when any of the aforementioned individuals are lawfully engaged in proceedings involving the abatement of a nuisance is guilty of a misdemeanor.

(Ord. No. 1885, Enacted, 09/16/93)

9.68.170 - Alternatives.

Nothing in the foregoing sections shall prevent the City Attorney and City Prosecutor from commencing a civil or criminal proceeding to abate a public nuisance under applicable provisions of the California Civil Code or Penal Code as an alternative to the proceedings set forth herein.

(Ord. No. 1885, Enacted, 09/16/93)