

Article 8 Administrative Procedures

Contents of Article

Chapter 8.18.1.10

Introduction to Article 8
Purpose of this Article

Chapter 8.2 Land Use and Development Applications

8.2.10	Purpose of this Chapter
8.2.20	Land Use and Development Applications
8.2.30	Land Use and Development Applications Process and Procedures
8.2.40	Land Use and Development Applications Deemed Approved
8.2.50	Performance Guarantees
8.2.60	Time Limits and Extensions of Entitlements
8.2.70	Changes to an Approved Project
8.2.80	Land Use and Development Entitlement Runs With the Land

Chapter 8.3 Other Permit Applications

8.3.10	Purpose of this Chapter
8.3.20	Permit Application Process and Procedures
8.3.30	Effective Date of Permits
8.3.40	Performance Guarantees
8.3.50	Time Limits and Extensions of Permits

Chapter 8.4 Public Hearing and Notice Procedures

8.4.10	Purpose of this Chapter
8.4.20	Notice of Hearing

Chapter 8.5 Reserved

Chapter 8.6 Appeals Procedures/Calls for Review

8.6.10	Purpose of this Chapter
8.6.20	Appeals/Call for Review Procedures

Chapter 8.7 Enforcement Procedures 8.7.10 Purpose of this Chapter

. an pool of this office.
Violations
Remedies are Cumulative
Legal Remedies
Recovery of Costs

Chapter 8.8 Abatement Procedures

8.8.10	Purpose of this Chapter
8.8.20	Penalty
8.8.30	Abatement of Public Nuisances
8.8.40	Continuing Obligation of Responsible Persons to Abatement a Public Nuisance
8.8.50	Procedures for the City to Establish the Right to Enter Private Real Property to Abate a
	Public Nuisance
8.8.60	Additional Requirements For Demolition of Buildings or Structures
8.8.70	Service of Notice of Abatement
8.8.80	Right of Appeal From a Notice of Abatement
8.8.90	Sample Notice of Abatement
	·





8.8.100	Consequence of an Untimely Appeal
8.8.110	Abatement by Responsible Person Prior to Hearing
8.8.120	Review by Hearing Officer
8.8.130	Decision and Notice by Hearing Officer
8.8.140	Abatement of Nuisance by Responsible Persons Prior to City Abatement Actions
8.8.150	Emergency Action to Abate an Imminent Hazard
8.8.160	Combination of Notices
8.8.170	Establishment of Costs of Abatement
8.8.180	Collection of Costs of Abatement by Special Assessment
8.8.190	Collection of Costs of Abatement by Nuisance Abatement Lien
8.8.200	Treble the Costs of Abatement
8.8.210	Recordation of Substandard Notice
8.8.220	Code Enforcement Fees
8.8.230	Recovery of Attorney's Fees
8.8.240	Applicability of Other Laws
8.8.250	Severability
Chapter 8.9	Administrative Citation Provisions
8.9.10	Purpose of this Chapter
8.9.20	General Enforcement Authority
8.9.30	Notice of Violation
8.9.40	Issuance of Notice of Violation
8.9.50	Authority to Inspect
8.9.60	Notice of Pending Administrative Enforcement
8.9.70	Administrative Fines and Penalties
8.9.80	Administrative Citations

8.9.100 Consideration in Other Proceedings
8.9.110 Issuance of Administrative Citations
8.9.120 Amount of Administrative Fines and Penalties

8.9.130 Payment of Fine
8.9.140 Preliminary Review
8.9.150 Administrative Hearing
8.9.160 Hearing Procedures
8.9.170 Judicial Review

8.9.180 Collection of Delinquent Fines and Penalties and Other Remedies



Chapter 8.1 Introduction to Article 8

8.1.10 Purpose of this Article

The purpose of this Article is to establish procedures for the implementation and enforcement of the City of La Habra Heights Municipal Code including notice, consideration and issuance of permits, entitlements, approvals and citations.



Chapter 8.2 Land Use and Development Applications

8.2.10 Purpose of this Chapter

The purpose of this Chapter is to prescribe procedures for the submission, consideration, processing and issuance of land use and development applications specified in Article 7 of this Municipal Code or by state law.

8.2.20 Land Use and Development Applications

The provisions of this Chapter apply to all land use and development applications including, but not limited to, Municipal Code Amendments, General Plan Amendments, Zoning Code Amendments, Conditional Use Permits, Variances, Standards Modifications, Lot Line Adjustments and Tree Removal Permits.

8.2.30 Land Use and Development Application Process and Procedures

This Section provides the procedures for submittal and processing of land use and development applications.

- A. **Eligibility for Filing.** Applications must be completed either by the owner, or designated agent, of the property for which the application is requested.
- B. Application Submittal. Land use and development applications shall be filed with the individual or department specified in the Municipal Code or, if none is specified, with the Community Development Director. Land use and development applications must be submitted on forms prescribed by the Community Development Director and contain all required information. The following procedures govern this process:
 - The completed application form, all required fees and any other information required for the processing of the land use and development application must be submitted for the application to be considered complete.
 - 2. Whenever more than one approval under Article 7 or 9 is required, all applications shall be filed and processed concurrently.
 - 3. Whenever an application or portion of an application has been denied with prejudice, or revoked, and the denial or revocation becomes final, no new application for the same or substantially similar request may be accepted within one (1) year of the date of the denial.
- C. Pre-Application Conference. The applicant or agent is strongly encouraged to request a pre-application conference with the appropriate City Department prior to completion of project design and the formal submittal of the application. The purpose of this conference is to inform the applicant of City requirements as they apply to the proposed project, review the procedures outlined in this Municipal Code, explore possible alternatives or modifications to the project and to identify any technical studies that may be necessary before the application is filed. The pre-file application review does not result in any official recommendation or final decision with respect to the application
- D. **General Application Requirements.** All project applications must include property information including title report, legal description and details of all existing development and uses of the site. Depending upon the proposed project, other required information may



include, but not be limited to, neighborhood location detail and neighbor notification list, property line survey, view impact analysis, setback and privacy analysis, site selection analysis, landscape analysis, geo-hazards analysis, storm water runoff analysis, engineering analyses and traffic impact analysis. These requirements are conceptual and are not intended to constitute or be a substitute for final, detailed engineering or technical documents. Nothing in this Chapter shall be construed as eliminating or reducing the requirements that must be met prior to any construction are identified in Articles 5 and 6 of this Municipal Code.

- 1. A complete project description must be submitted that includes written detail of all components of the project including, but not limited to, what is to be built, what is to be removed or modified, what exists on the site, what alteration of the site is planned and a description of the detailed use of all components of development.
- 2. Every application shall include site information:
 - A site description including an explanation of the reasons for selection of the particular development areas of the site as compared to other areas and the relative impacts of each;
 - b. Topographic detail sufficient to evaluate the project;
 - c. Identification of all existing storm water drainage channels on or across the site;
 - d. Proof of property line locations where there is any reasonable possibility that the proposed development would be within thirty-five (35) feet of a property line;
 - e. Identification of all existing development on the site;
 - f. Identification of all existing legal non-conforming structures and uses on the site;
 - Identification of the location of the project development with respect to neighboring development;
 - h. Identification of all property owners to be notified regarding the project;
 - Appropriate reports from licensed engineers and/or geologists if the project is located in any geo-hazards area including the Alquist-Priolo Zone, or on any site known to have existing faults, landslides or other identified adverse geologic conditions; and
 - Information sufficient to establish that any required SUSMP mitigation or compliance can be accomplished.
- 3. All planned development information must be presented to the Planning Division in the degree of detail prescribed in the specific application materials. The detail provided must be adequate to identify the impact of the project upon the neighbors' views and privacy and upon community character. Typically this will require complete presentation of structural plan and elevation views of any structures or structural modifications, often including three-dimensional renderings from viewpoints of potentially affected neighbors and of the public.

Any alteration of existing topography must be thoroughly identified as to location limits of grading, depths of cuts and fills and height and length of retaining walls and provisions for maintenance of existing drainage characteristics. Any trees to be removed or drainage patterns to be altered must be identified.



The final architectural and precise grading plans subsequently submitted to the Engineering Division must conform to the materials upon which the approval was based or the project will require re-submittal.

Article 7 of this Municipal Code provides all of the Development Standards that apply to the planned development. The Applicant will certify that the project meets all of those standards except those for which a Standards Modification or Variance has been requested.

Development detail must also address the mitigation of any impacts of the project, either direct or cumulative. Typical mitigation detail includes conceptual landscape plans evidencing capability to screen the development without causing view impairment. Cumulative impacts include the impact of new development when added to the impacts of existing development on the site. Address of cumulative impacts may require mitigation of existing impacts.

- 4. At the time of submittal, the Planning Division may require additional information to determine the environmental impact of the project or to assess feasible alternatives or mitigation measures for such impacts as required by the California Environmental Quality Act (CEQA) and the La Habra Heights CEQA Guidelines.
- 5. The Findings provided in Article 7 of this Municipal Code must be made for any approval to be granted. The application must include specific address of the methods employed to ensure that each of the Findings can be made.
- E. **Application Fees.** The City Council has established a schedule of fees and deposits for the processing of land use and development applications established by this Municipal Code. The processing fees are cumulative. For example, if an applicant requests two approvals, fees and deposits for both will be charged. Processing shall not commence on any application until all required fees or deposits have been paid and processing may be halted if fee deposit levels fall below specified amounts.
- F. **Determination of Application Completeness.** Land use and development applications submitted to the Planning Division will be reviewed to determine completeness. This process generally includes review by a variety of individuals and agencies to determine whether additional information is necessary to process the application through the final decision.

The Planning Division shall make a written determination of application completeness within thirty (30) days of submittal of all required information. If the application is deemed complete, City staff shall continue to process the request. If the application is deemed incomplete, the applicant shall be informed in writing what additional information must be provided.

- G. Inspections. An applicant shall allow the City access to any premises or property that is the subject of, or used in connection with, the application under consideration. If the application approval is granted, the owner or applicant shall allow the City continued access to the premises to determine compliance with any Conditions of Approval. H.
- H. **Discretionary Review Authorities.** The reviewing authorities associated with the various land use and development applications are provided in Table 8-1.



Table 8-1 Discretionary Review and Approval Authorities			
Application	Staff	Planning Commission	City Council
General Plan Amendment	Analysis/Advice	Recommendation	Decision
Zone Change or Zone Text Amendment	Analysis/Advice	Recommendation	Decision
Variance	Analysis/Advice	Recommendation	Decision
Conditional Use Permit	Analysis/Advice	Decision	Appeal/Call for Review
Standards Modification	Analysis/Advice	Decision	Appeal/Call for Review
Standards Modification, Administrative	Decision	Appeal/Call for Review	Appeal/Call for Review

8.2.40 Land Use and Development Applications Deemed Approved

Approvals issued pursuant to this Chapter become effective on the eleventh (11th) day following the date the application was approved provided that no Appeal of the action has been filed in compliance with this Article. Any land use and development application deemed approved shall nonetheless be subject to all applicable provisions of this Municipal Code which shall be satisfied by the applicant before any construction permit is issued, or a land use not requiring a construction permit is established.

8.2.50 Performance Guarantees

Where an applicant is required to provide adequate security to guarantee the faithful performance, proper completion and /or maintenance of any approved work and/or compliance with Conditions of Approval, the following provisions apply:

- A. **Form and Amount of Security**. The required security shall be in the form of a cash or equivalent deposit to the City Treasurer. Where approved by the City Manager, a certificate of deposit, instrument or letter of credit, with the City named as beneficiary, may be used as security. The amount of security shall be determined by the City Manager as the amount necessary to insure proper completion and maintenance of the work and/or compliance with Conditions of Approval.
- B. **Duration of Security.** Required security shall be retained for the time period specified in the Conditions of Approval of the project. Where no such period is specified, required security shall be retained until either the City Manager determines the work, including ongoing maintenance obligations, has been completed or one (1) year after the date of final inspection, whichever is sooner. In certain cases, a longer duration of security may be required by conditions of the project.
- C. Release or Forfeit of Security. Upon satisfactory completion of work and the approval of a final inspection (or after the end of the required time for security maintenance), the improvement and/or maintenance security shall be released. However, failure to complete the



work, failure to comply with all of the terms of any applicable approval or failure of the completed improvements to function properly shall entitle the City to recourse to the security. The City will collect from the applicant or security all costs incurred by the City, including the costs of completing any of the work and all administrative and inspection costs. Any unused portion of the deposit shall be refunded to the applicant.

8.2.60 Time limits and Extensions of Entitlements

This section establishes time limits for approved land use and development implementation.

- A. **Time Limits.** Unless Conditions of Approval or other provisions of this Municipal Code establish a different time limit, any entitlement not exercised within one (1) year of approval shall expire and become void. The entitlement shall not be deemed exercised until the applicant has actually obtained a building permit and commenced construction or has actually commenced the permitted use in compliance with the Conditions of Approval.
- B. Extensions of Time by Community Development Director. Upon request by the applicant, the Community Development Director may extend the time for a land use or development approval for an additional period of up to one-year unless the terms of approval of the entitlement state otherwise. The applicant shall submit a written request and applicable fees for an extension at least ten (10) days prior to the expiration of the entitlement. The Community Development Director shall then determine whether the entitlement holder has made a good faith attempt to comply with the conditions of the entitlement. The burden of proof is on the entitlement holder to establish that the entitlement should not expire.
- C. Extensions of Time by Issuing Authority. Upon request by the applicant, the body that issued the approval may extend the time for a land use or development approval for an additional period of up to two-years. The applicant shall submit a written request and applicable fees for an extension at least ten (10) days prior to the expiration of the entitlement. The issuing authority shall then determine whether the entitlement holder has made a good faith attempt to comply with the conditions of the approval. The reviewing authority may also consider whether the findings upon which the original approval was based can still be made and whether the proposed extension is in furtherance of the goals and policies of the General Plan. The burden of proof is on the entitlement holder to establish that the entitlement should not expire.
- D. **Appeal or Call for Review.** Decisions of the Community Development Director pursuant to subsections B and C may be appealed or called for review.

8.2.70 Changes to an Approved Project

Changes to a project may be requested either before or after construction or establishment and operation of the approved use.

- A. Changes by the Community Development Director. The Community Development Director may authorize changes to an approved site plan, architecture or the nature of the approved use if the changes meet all of the conditions listed below:
 - 1. The changes are consistent with all applicable provisions of this Chapter.
 - 2. The changes do not involve a feature of the project that was specifically addressed or was a basis for Findings in a negative declaration or environmental impact report for the project.



- The changes do not involve a feature of the project that was specifically addressed or was a basis for Conditions of Approval for the project or that was a specific consideration by the review authority in the approval of the permit.
- 4. The changes do not result in a significant expansion of the use.
- 5. The changes do not violate other provisions of the Code or allow other discretionary approvals.
- 6. The project remains in substantial conformance to the project as originally approved.
- B. **Project Amendment**. The authority that issued an approval may, after receipt of a written application using the form provided by the City, approve an amendment to that approval upon a determination that the proposed amendment would not alter the findings that were required for that approval and that the goals and policies of the General Plan would be furthered by allowing the amendment. The same notice, hearing and processing requirements apply to a request for amendment as applied to the original approval.
- C. **Other Changes**. Other changes shall require a new application processed in compliance with this Code.

8.2.80 Land Use and Development Entitlement Runs with the Land

A land use and development entitlement granted in compliance with this Article shall run with the land and continue to be valid upon a change of ownership of the site, business, service, use or structure that was the subject of the application. All terms and conditions of the entitlement shall be binding upon the new owners, whether or not recorded against title.



Chapter 8.3 Other Permit Applications

8.3.10 Purpose of this Chapter

The purpose of this Chapter is to prescribe procedures and requirements for the preparation, filing and processing of *permit applications* or approvals provided for in this Municipal Code other than land use and development applications. This Chapter shall also govern the processing of permits required pursuant to Articles 5 and 6.

8.3.20 Permit Application Process and Procedures

Applications for permits shall comply with the following submittal and processing procedures:

- A. **Application Submittal.** Applications shall be filed with the individual or department specified in the Municipal Code or, if none is specified, with the Building Division. Applications must be submitted on the official City of La Habra Heights application form, where provided.
 - 1. The completed application form, all required fees and any other information required for the processing of the permit application must be submitted for the application to be considered complete. Applicants are encouraged to contact the appropriate City Department before submitting an application to verify which materials are necessary.
 - 2. Whenever more than one permit or approval is required for a proposed project or activity, all applications shall be filed and processed concurrently.
 - 3. Whenever an application or portion of an application has been denied with prejudice, or revoked, and the denial or revocation becomes final, no new application for the same or substantially similar request may be accepted within one (1) year of the date of the denial.
- B. **Eligibility for Filing.** Applications must be completed by the owner, or designated agent, of the property or business for which the permit is requested, or by the responsible party for permits not related to a specific property or business.
- C. Pre-Application Conference. A permit applicant is strongly encouraged to request a preapplication conference with the appropriate City Department prior to completion of project design and submittal of a permit application. The purpose of this conference is to inform the applicant of pertinent City requirements.
- D. **Application Fees.** The schedule of fees required for each permit will be as established by the City Council.
- E. **Inspections.** An applicant seeking a permit required by this Municipal Code shall allow the City access to any premises or property that is the subject of, or used in connection with, the permit. If the permit is granted, the owner or applicant shall allow City continued access to the premises to determine compliance with any permit Conditions of Approval.

8.3.30 Effective Date of Permits

The permits regulated by this Municipal Code become effective on the eleventh (11^{th)} day following the date the application was approved provided that no Appeal of the action has been filed in compliance with this Article.



8.3.40 Performance Guarantees

An applicant may be required, depending on the permit, to provide adequate security to guarantee the faithful performance, proper completion and/or maintenance of any approved work and/or compliance with the permit requirements.

- A. **Form and Amount of Security**. The required security shall be in the form of a cash or equivalent deposit to the City Treasurer. Where approved by the City Manager, a certificate of deposit, instrument or letter of credit, with the City named as beneficiary, may be used as security. The amount of security shall be determined by the City Manager as the amount necessary to insure proper completion of the work and/or compliance with Conditions of Approval.
- B. **Security for Maintenance**. The City Manager may determine and require adequate security for the maintenance of the work.
- C. Duration of Security. Required security shall be retained for the time period specified in the Conditions of Approval of the permit. Where no such period is specified, required security shall be retained until either the City Manager determines the work, including ongoing maintenance obligations, has been completed or one (1) year after the date of final inspection, whichever is sooner. In certain cases, a longer duration of security may be required by conditions of the project.
- D. Release or Forfeit of Security. Upon satisfactory completion of the work, or completion of the activity, and the approval of a final inspection (or after the end of the required duration of maintenance security), the maintenance security shall be released. However, failure to complete the work, failure to comply with all of the terms of any applicable permit or failure of the completed improvements to properly function shall entitle the City to recourse to the security. The City will collect from the permittee or security all costs incurred by the City, including the costs of completing any of the work and all administrative and inspection costs. Any unused portion of the deposit shall be refunded to the permittee.

8.3.50 Time Limits and Extensions of Permits

This section establishes time limits for Permits and process for extension thereof.

- A. Time Limits. Unless Conditions of Approval or other provisions of this Municipal Code establish a shorter or longer time limit, any permit not exercised within one (1) year of approval shall expire and become void.
- B. **Extensions of Time.** Upon request by the applicant, the City Manager, or the Community Development Director may extend the time for an approved permit for an additional period of up to one-year unless the terms of approval of the permit state otherwise. The applicant shall submit a written request and applicable fees for an extension at least ten (10) days prior to the expiration of the permit. The City Manager or Community Development Director shall then determine whether the permittee has made a good faith attempt to comply with the conditions of the permit. The burden of proof is on the permittee to establish that the permit should not expire.



Chapter 8.4 Public Hearing and Notice Procedures

8.4.10 Purpose of this Chapter

The purpose of this Chapter is to establish procedures for providing public notice of Public Hearings before the Community Development Director, Planning Commission or City Council. Public notice shall be as provided herein and in applicable provisions of state law.

8.4.20 Notice of Hearing

- A. **Notice.** The public shall be provided notice of hearings, land use and development applications to be decided administratively, decisions or other meetings concerning a permit or application that require notice in compliance with State law and as provided herein:
 - 1. At least ten (10) calendar days before the public hearing, a notice shall be given of the time, date and place of the hearing including a general explanation of the matter to be considered and a general description of the area affected, and the street address, if any, of the property involved. If a proposed Negative Declaration or Environmental Impact Report has been prepared for the project, the hearing notice shall include a statement whether the hearing body will be considering only the environmental document or approval of the project as well.
 - 2. Notice shall be posted at least ten (10) days prior to a public hearing in at least the three (3) public places in the City identified by resolution of the council for posting of notices.
 - 3. In the event that the application is for a project or activity to take place on a particular property, notice shall be given by mail or delivery to all persons, including businesses, corporations or other public or private entities, shown on the last equalized assessment roll as owning real property within five hundred (500) feet of the subject of the proposed application.
 - 4. In the event that the application is for a project or activity to take place on a particular property and has been submitted by a person other than the property owner shown on the last equalized assessment roll, the City shall also give mailed notice to the owner of the property as shown on the last equalized assessment roll.
 - 5. In addition, notice shall be given by first class mail to any person who has filed a written request with the Secretary of the Planning Commission for notice. The request may be submitted at any time during the calendar year and shall apply for the balance of the calendar year. The City may impose a reasonable fee on persons requesting the notice for the purpose of recovering the cost of the mailing.
 - 6. Substantial compliance with these provisions for notice shall be sufficient and a technical failure to comply shall not affect the validity of any action taken according to the procedures in the article.
 - B. Additional Notice. Where the City determines that the notice required by Subsection A of this section will not be sufficient, it may also require that notice of the hearing shall be posted in a conspicuous place with a notice/sign of conspicuous size, at least ten days prior to the hearing. The City may also provide any additional notice that it determines is necessary or desirable to inform interested persons of the application under consideration.



C. Responsibility for and Cost of Providing Notice. The property owner or applicant shall bear the costs of providing notice and shall be responsible for ensuring that adequate notice is provided.



Chapter 8.5 Reserved



Chapter 8.6 Appeals Procedures/Calls for Review

8.6.10 Purpose of this Chapter

The purpose of this Chapter is to specify procedures for appeal of certain discretionary determinations or actions of the city staff or the Planning Commission.

8.6.20 Appeals/Calls for Review Procedures

With respect to Planning Commission, or Community Development Director as allowed, decisions on Conditional Use Permits, Standards Modifications, Variances or other discretionary land use and development matters or any other decision for which an Appeal is expressly provided under this Code, a decision shall become final at five p.m. on the 11th business day next succeeding the date of the decision unless, prior to that hour, an *Appeal* to or *Call for Review* by the City Council or Planning Commission, as appropriate, is filed in writing in the office of the City Clerk.

- A. Appeals. Appeals may be initiated by:
 - 1. The applicant;
 - 2. An owner of real property, any part of which is located within five hundred (500) feet of the external boundaries of the subject property;
 - 3. An individual or organization that presented objections or testimony to the reviewing authority in writing or at a Public Hearing for the subject approval.
- B. **Calls for Review.** As an additional safeguard to avoid results inconsistent with the purposes of this code, any discretionary order, requirement, decision, determination, interpretation or ruling of the Planning Commission or CDD may be called up for review to the City Council or Planning Commission, respectively, upon the written request of any two (2) City Council members or Planning Commissioners, respectively. A decision on an Appeal to the Planning Commission may be appealed or Called for Review to or by the City Council.
- C. Filing of Appeals. A Notice of Appeal shall be in writing and shall be filed in duplicate in the office of the City Clerk upon forms provided by the City. An Appeal from any order, requirement, decision, determination or interpretation by the Planning Commission or Community Development Director in the administration or enforcement of the provisions of this Code must set forth specifically where there was an error or abuse of discretion or where an application did meet or failed to meet, as the case may be, those qualifications or standards set forth in this Code as prerequisite to the granting of any application.
- D. **Filing of Calls for Review.** A Call for Review shall be filed in writing with the City Clerk and shall not state that the Planning Commission or Community Development Director has committed error or otherwise suggest that the member(s) seeking review have predetermined the matter to be heard.
- E. **Effect on Decisions.** Decisions that are timely appealed or called up for review shall not become effective until the Appeal or review is resolved.
- F. **Action and Findings of Appeal Body**. The *appeal body* may adopt additional Conditions of Approval that may address other issues or concerns than the subject of the Appeal.
- G. **Judicial Review.** Judicial review of any final decision must be sought within the time prescribed by the California Code of Civil Procedure Section 1094.6.



- H. Withdrawal of Appeal. Once an Appeal has been filed, it shall not be withdrawn except with the consent of the body to consider the Appeal (i.e., the City Council or Planning Commission).
- I. Time for Filing Appeals. Appeals shall be filed within 10 business days after decision.
- J. Time for Filing Calls for Review. Calls for Review shall be filed within 10 business days after decision.
- K. Filing Fees for Appeals. A filing fee as set by the City Council shall be submitted with the application for Appeal.
- L. Filing Fees for Calls for Review. No fee shall be required for a Call for Review.
- M. **Procedures for Appeals and Calls for Review.** The following scheduling and noticing procedures apply to Appeals and Calls for Review.
 - 1. Within ten (10) days after the decision to be appealed, the City Council or Planning Commission shall schedule the Appeal or Call for Review for hearing and decision and give notice of the date, time and place thereof to the applicant, the Planning Commission and the appellant, if any. Prior to the hearing, the Community Development Director shall transmit to the City Clerk a report of the Findings of the Planning Commission, or to the Planning Commission a report of the Findings of the Community Development Director, and the Community Development Director shall present at the hearing all exhibits, notices, petitions and other papers and documents on file. The hearing shall be held within forty-five (45) days after the decision to be appealed.
 - 2. An Appeal or Call for Review shall be a Public Hearing if the decision being appealed or reviewed required a Public Hearing. Notice shall be given in the manner required for the decision being appealed or reviewed.
 - a. The hearing shall be *de novo*. At the Public Hearing, all pertinent material shall be considered, including all documents constituting the administrative record.
 - b. At the Public Hearing, any party or person may appear in person or by agent or attorney to provide testimony.
 - 3. Following an appeal or review hearing, the hearing body may remand the matter for further consideration or may affirm (in whole or in part), modify, or reverse the decision appealed or reviewed. If the hearing body does not remand the matter, it shall make the Findings prescribed by this Municipal Code for the matter at issue. The decision shall be made within thirty (30) days of the hearing date. The City Clerk shall mail notice of the City Council decision, or the Secretary of the Planning Commission notice of the Planning Commission decision, to the applicant and to the appellant, if any, within five (5) working days after the date of the decision.



Chapter 8.7 Enforcement Procedures

8.7.10 Purpose of this Chapter

The purpose of this Chapter is to establish enforcement procedures to ensure compliance with the requirements of this Municipal Code and for the protection of the public health, safety and welfare.

8.7.20 Violations

In addition to the violations noted elsewhere in this Municipal Code, the following are also considered to be violations:

- Any structure or use which is established, operated, erected, moved, altered, enlarged or maintained, contrary to the provisions of this Municipal Code or any applicable condition of approval, is declared to be unlawful and a public nuisance and shall be subject to the remedies and penalties specified in this Article.
- 2. Except where otherwise provided by this Municipal Code, any person, partnership, firm or corporation, whether as principal, agent, employee or otherwise, violating or failing to comply with any provision(s) of this Municipal Code or any condition imposed on any entitlement, development approval, permit, map or license, shall be guilty of an infraction on each separate day the violation or failure to comply exists. Further, any person responsible for these violations and who has previously been convicted two or more times during any twelve-month period for any other violation(s) of this Municipal Code shall be guilty of a misdemeanor.
- 3. Any construction in violation of this Municipal Code or of any condition(s) imposed by a permit shall be subject to the issuance of a *Stop Work Order*. Any violation of a Stop Work Order shall constitute a misdemeanor.

8.7.30 Remedies are Cumulative

All remedies of violations or enforcement of the provisions of this Municipal Code shall be cumulative and not exclusive of any other applicable provisions of City, county or state law. Should a person be found guilty and convicted of a misdemeanor or infraction for the violation of any provision of this Municipal Code, the conviction shall not prevent the City from pursuing any other available remedy to correct the violation.

8.7.40 Legal Remedies

The City may choose to undertake any applicable legal action under law to correct and/or abate nuisances or violations of this Municipal Code, including the following:

- A. **Revocations**. After a noticed hearing, an approval or permit may be revoked by the authority that issued it under the following conditions:
 - 1. There has been a material violation of the terms or conditions of any approval or permit granted under this Municipal Code.
 - 2. The approval or permit was obtained by deception or fraud.
 - 3. The use represents a public nuisance.
 - 4. The use subject to the approval no longer exists.



- 5. The permit or approval has not been activated in accordance with the terms of this Chapter.
- B. Civil Actions. The following civil actions may be undertaken:
 - 1. At the request of the Community Development Director, the District_Attorney or City Attorney may apply to the Superior Court for injunctive relief to terminate a violation of this Municipal Code.
 - 2. Where any person, firm or corporation fails to abate a violation after being provided a notice of violation and the opportunity to correct or end the violation, the Community Development Director may request the City Attorney or District Attorney to apply to the Superior Court for an order authorizing the City to undertake actions necessary to abate the violation and requiring the violator to pay for the cost of the actions.
 - 3. The City may pursue nuisance abatement in compliance with this Municipal Code.
- C. **Civil Remedies and Penalties.** The following Civil remedies and imposition of penalties may be initiated:
 - 1. Any person who willfully violates the provisions of this Municipal Code or any permit issued in compliance with this Municipal Code shall be liable for a civil penalty not to exceed one thousand dollars (\$1,000.00) for each day that the violation continues to exist.
 - 2. Any person violating any provisions of this Municipal Code or permits or other discretionary entitlements issued in compliance with this Municipal Code shall be liable to the City for the costs incurred and the damages suffered by the City, its agents, and agencies as a direct result of the violations.
 - 3. In determining the amount of the civil penalty to impose, the City shall provide the court all relevant circumstances including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of the conduct, the length of time over which the conduct occurred, the assets, liabilities and net worth of the defendant, whether corporate or individual, and any corrective action taken by defendant.
- D. Criminal Actions and Penalties. The following criminal action and penalties may apply:
 - Any person who violates any provision of this Municipal Code, or who fails to comply with any obligation or requirement of this Municipal Code, is guilty of a misdemeanor unless otherwise provided, or unless the offense is charged as an infraction by a prosecuting attorney.
 - 2. Each person shall be guilty of a separate offense for each and every day, or part thereof, during which a violation of this Municipal Code, or of any law or regulation referenced in this Municipal Code, is allowed, committed, continued, maintained or permitted by such person, and shall be punishable accordingly.

8.7.50 Recovery of Costs

This Section establishes procedures for the recovery of administrative costs, including staff time, expended on the enforcement of the provisions of this Municipal Code.



- A. **Record of Costs.** The Community Development Department shall maintain records of all administrative costs incurred by responsible city departments associated with the processing of violations and enforcement of this Municipal Code. Staff time shall be calculated at an hourly rate as established and revised from time to time by the City Council.
- B. **Notice.** Upon investigation and determination that a violation of any of the provisions of this Municipal Code exists, the Community Development Director shall notify the record owner or any person responsible for the violation, by mail, of the existence of the violation, the City's intent to charge for all administrative costs associated with enforcement, and of the violator's right to a hearing on any objections they may have. The notice shall be in a form approved by the City Attorney.
- C. Summary of Costs and Notice. At the conclusion of the case, the Community Development Director shall send a summary of costs associated with enforcement to the responsible party by mail. The summary shall include a notice in a form approved by the City Attorney, advising the responsible party of their right to request a hearing on the charges within ten (10) days of the date of the notice and that, if no such request for hearing is filed, the responsible party will be held liable for the charges. In the event that no request for hearing is timely filed, or after a hearing, the responsible party shall be liable to the City in the amount stated in the summary. These costs shall be recoverable in a civil action in the name of the City in any court of competent jurisdiction.
- D. **Request for Hearing on Costs.** Any person who receives a summary of costs shall have the right to a hearing of their objections to the proposed costs.
 - 1. A request for hearing shall be filed with the Community Development Department within ten (10) days of the service by mail of the summary of costs.
 - 2. Within thirty (30) days of the filing of the request, and on ten (10) days written notice to the defendant, the Community Development Director shall hold a hearing on the defendant's objections to determine validity of the costs.
 - 3. In determining the validity of the costs, the Community Development Director shall consider whether total costs are reasonable in the circumstances of the case. Factors to be considered include, but are not limited to, whether the defendant created the violation; whether there is a present ability to correct the violation; whether the defendant moved promptly to correct the violation; the degree of cooperation provided by the defendant; and whether reasonable minds can differ as to whether a violation exists.
 - 4. The Community Development Director's decision can be appealed to the City Council per this Article
- E. Additional Permit Processing Fees. Any person who establishes a land use or erects, constructs, alters, enlarges, moves or maintains any structure, or engages in any activity without first obtaining any permit or other entitlement required by this Municipal Code, shall pay the additional application or permit fees established by the City Council for the correction of the violations, before being granted the required approval.
- F. Recovery of Costs Related to Disturbance of the Peace. If it is established that there was reasonable cause for law enforcement personnel to have issued a notice and warning as set forth below to any person or persons for actions in violation of Penal Code Section 415 and/or Section 407, that such person or persons received such a notice and warning, that within six months of the time set forth in the notice and warning such person or persons were found in



violation of such sections and arrested or given a citation therefore for further such acts at or near the location set forth in the notice and warning, and that the person or persons were found guilty of one or more of the violations of Penal Code Section 415 and/or Section 407 for which they were arrested or given a citation, or found guilty of one or more violations of Penal Code Section 272 wherein an act or omission caused, encouraged, persuaded or induced a minor to commit an offense as defined in Penal Code Section 415 and/or Section 407; then

- 1. The court imposing sentence on such person may, as a condition of probation, order such person to pay the reasonable costs necessarily incurred by the City for law enforcement officers' return to the location of the incident which led to the conviction. In doing so the court shall follow the procedures set forth in Penal Code Section 1203.11, treating such costs as if they are the costs of an emergency response; or
- 2. The reasonable costs necessarily incurred by the City for law enforcement officers' return to the location of the incident that led to a conviction shall be a charge against the person or persons convicted. The charge constitutes a debt of such person or persons and is collectible by the City in the same manner as in the case of an obligation under a contract. Prior to initiating an action to collect any such debt the City shall provide such person or persons a bill itemizing the charges and afford them at least 60 days to pay the bill.
- 3. At the time of the initial contact at the location, the law enforcement officer shall take any such actions and give such direction as necessary to abate the violation or condition and shall advise the responsible person in writing that, if additional law enforcement personnel are required to return to abate a continued or subsequent condition, the responsible person and owner or occupant of the property shall be held liable for the cost of providing such services. If personnel do return to the location following the warning and a conviction does result, then the cost of the services, shall be reimbursed to the county as provided in this section.
- 4. The form of the written notice and warning shall be in English and in Spanish and shall be substantially as follows:

NOTICE AND WARNING

On (date) at	(time) a.m./p.m. at	
were warned by	(name of enforcement officer) that y	our actions were in
violation of Penal Code Section	on 415 and/or Section 407 and that i	f, within six (6) months
of the time set forth above, yo	ou were found in violation of such se	ctions and arrested or
given a citation for further suc	ch acts at or near the location set for	th above you may be
required to pay the reasonabl	le costs necessarily incurred by the (City of La Habra Heights
for law enforcement officers' i	return to the location which led to yo	ur arrest or citation.



Chapter 8.8 Abatement Procedures

8.8.10 Purpose of this Chapter

The purpose and intent of this Chapter is to provide regulations that will promote the sound maintenance of property and enhance conditions of appearance, habitability, occupancy, use and safety of all structures and premises in the City.

This Chapter shall not be applied, construed or given effect in a manner that imposes upon the City, or upon any officer or employee thereof, any duty towards persons or property within the City or outside of the City that creates a basis for civil liability for damages, except as otherwise imposed by law.

8.8.20 Penalty

Any person who violates any provision of this Code, or who fails to comply with any obligation or requirement of this Code, is guilty of a misdemeanor unless otherwise provided, or unless the offense is charged as an infraction by a prosecuting attorney. Further, each person shall be guilty of a separate offense for each and every day, or part thereof, during which a violation of this Code, or of any law or regulation referenced in this Code, is allowed, committed, continued, maintained or permitted by such person, and shall be punishable accordingly.

8.8.30 Abatement of Public Nuisances

All conditions or uses that constitute a public nuisance as defined in Article 4 of this Code, or that are contrary to, or in violation of, any other provision or requirement of this Municipal Code, or of any applicable county or state law, or regulation thereof, which shall also constitute a public nuisance, shall be abated by rehabilitation, demolition or repair, removal or termination. The procedures for abatement in this part shall not be exclusive and shall not limit or restrict the City from pursuing any other remedies available at law, whether civil, equitable or criminal, or from enforcing City codes and adopted ordinances, or from abating or causing abatement of public nuisances, in any other manner provided by law.

8.8.40 Continuing Obligation of Responsible Persons to Abatement a Public Nuisance

Responsible persons shall not allow, cause, create, maintain or permit a public nuisance to exist on their premises. If public nuisances do arise or occur, responsible persons shall promptly abate them by rehabilitation, demolition or repair, removal or termination with all required City approvals, permits and inspections, when applicable.

The City may exercise its administrative, civil/injunctive and criminal remedies, or any one or combination of these remedies, to compel responsible persons to abate a public nuisance when, in its judgment, such persons have not completed nuisance abatement actions in a timely or proper manner, or when responsible persons have failed to prevent an occurrence or recurrence of a public nuisance.

8.8.50 Procedures for the City to Establish the Right to Enter Private Real Property to Abate a Public Nuisance

A. **Notice of Abatement**. Whenever a code enforcement officer or other public official determines that City employees, representatives or contract agents (hereafter "City



Personnel") may need to abate a public nuisance, he or she shall give a written "Notice of Public Nuisance and Intention to Abate with City Personnel" (hereafter in this section and in subsequent sections of this Chapter, the "Notice of Abatement") to the responsible person(s). Such notice shall contain the following provisions:

- 1. The address of the real property on which the nuisance condition(s) exist(s).
- 2. A description of the nuisance condition(s).
- 3. A reference to the law prohibiting or pertaining to the nuisance condition(s).
- 4. A brief description of the required corrective action(s).
- 5. A time period and/or schedule in which to complete the nuisance abatement actions (with all required City approvals, permits and inspections, when applicable).
- 6. The period and manner in which a responsible person may contest the Notice of Abatement pursuant to this Chapter. No such right shall exist when the City is not seeking to establish the right to abate a public nuisance with City Personnel.
- 7. Omission of any of these provisions, whether in whole or in part, excepting the required information in this Section, or the failure of a responsible person to receive a Notice of Abatement, shall not render it defective or render any proceeding or action pursuant to this Chapter invalid.
- 8. A statement that the City may record a Notice of Substandard Property with the Los Angeles County Recorder's Office against the premises if the public nuisance is not fully abated or corrected (with all required approvals, permits and inspections), as determined by the City, within a thirty (30) day period after service of the Notice of Abatement and provided that a timely Appeal there from has not been made.
- B. **Imminent Hazards Exception**. The procedure in Subsection A shall not apply to public nuisances constituting an imminent hazard. In such instances, the provisions in this Chapter shall be followed.
- C. **Consequence of Issue Notice**. The City's election to issue a Notice of Abatement pursuant to this section shall not excuse responsible persons from their continuing obligation to abate a public nuisance in accordance with all applicable laws, regulations and legal requirements. Furthermore, the issuance of this notice shall obligate the City to abate a public nuisance.

8.8.60 Additional Requirements For Demolition of Buildings or Structures

The City shall, excepting in cases involving an imminent hazard, provide responsible persons with a reasonable period to elect between options of demolition or repair, as well as a reasonable period of time to complete either option, before City Personnel abate a public nuisance by demolishing a building or structure pursuant to this Chapter.

The City shall, excepting in cases involving an imminent hazard, serve a Notice of Abatement on all secured lien holders of record with the Los Angeles County Recorder's Office in the event abatement actions include demolition of a building or structure.

8.8.70 Service of Notice of Abatement



Notices of Abatement may be personally given to any responsible person or they may be served by mail. The date a Notice of Abatement is placed in a U.S. Postal Service mail receptacle shall be the date of service. Failure of any responsible person to receive a Notice of Abatement by mail shall not invalidate any action or proceeding pursuant to this Chapter.

The official issuing a Notice of Abatement to an owner of real property may rely on that person's mailing address according to the last equalized assessment roll of the Los Angeles County Assessor's Office in determining a service address for the Notice of Abatement. Failure of any owner to receive a Notice of Abatement by mail shall not invalidate any action or proceeding pursuant to this Chapter.

8.8.80 Right of Appeal From a Notice of Abatement

A responsible person may contest a Notice of Abatement by filing an Appeal in the manner required by this Municipal Code. Failure of the City Clerk to receive a timely Appeal constitutes a waiver of the right to contest a Notice of Abatement. In this event, the Notice of Abatement is final and binding.

8.8.90 Sample Notice of Abatement

The Notice of Abatement shall be written in a form that is substantially consistent with the following:

Notice of Public Nuisance(s) and Intention to Abate with City Personnel

[Date]		
	[Responsible Person(s)] [Mailing Address] [City, State and Zip Code]	
Re:	Real Property at,	
	is hereby given that the following public nuisance conditions or activities exist on emises described above:	
(1) county	[Describe condition or activities] in violation of the La Habra Heights Municipal Code [as well as and state laws, if applicable], Section(s)	
(a)	Required Corrective Action(s): (with all required permits, approvals and inspections).	
(b) Required Completion Date: [Repeat (1 a-b) for each additional public nuisance to be included in this notice]		
	pregoing public nuisance conditions are subject to abatement by rehabilitation, tion, repair, removal or termination.	
	e Take Further Notice that City Personnel may abate these public nuisance ons or activities in the manner contained in this document if you do not perform the	



required corrective or preventative actions in a timely or proper manner with all required approvals, permits and inspections of the City and other appropriate public agencies. In such instances, the City shall seek recovery of all abatement costs, fees and expenses as allowed by this Chapter, or by applicable state laws, in any manner allowed by law.

as allowed by this	onapter, or by applicat	ole state laws, in any	manner allowed by law.
Intention to Abate the City Clerk's of within ten (10) cale an Appeal. Failure your right to any fu	with City Personnel by fice (located at and ar days of service of the City Clerk to a	y filing an Appeal or , La of this notice. No fee receive a timely App opeal and renders th	ce of Public Nuisance and a City approved form we Habra Heights, Californ shall be due for the filing peal constitutes a waiver e Notice of Public Nuisan
and a timely Apperent representatives or this notice. On such those stated in Se	eal is not made, such contract agents (here ch occasions, all costs ection of the responsible person	nuisance may be after "City Personne of the abatement, i ne La Habra Height	ted within the time specifi abated by City employed el"), in the manner stated including, but not limited as Municipal Code, shall to property, as a lien, or as
with the Los Ang nuisance is not fi inspections), as de	eles County Recorde ully abated or correctermined by the City, v	er's Office against ted (with all requin vithin a thirty (30) da	ce of Substandard Prope the premises if the pub ed approvals, permits a ay period after service of t rom has not been made.
personal property	constituting a public public property and c	nuisance may be	nent by City Personnel, removed from the subject of, without regard to
Dated: This	day of	, 20 .	

Dated: This ______ day of ______, 20___.

Public Official [Name and Title]

The provisions in this section only apply to instances to where the City has elected to establish the right, but not the obligation, to abate public nuisances with City Personnel. In no event does this Chapter limit the right of City officials to issue alternative written or oral notices of code violations to responsible persons or to cause the abatement of public nuisances in a different manner, including without limitation, by court orders arising from the City's exercise of its criminal or civil remedies. In such instances, a responsible person shall receive a right to hearing and other due process rights in court.

8.8.100 Consequence of an Untimely Appeal

If a *timely* Appeal is not received by the City Clerk, the right to Appeal is waived and the Notice of Abatement is final and binding. In such instances the City may, without any administrative hearing, cause the abatement, with City forces, of any or all of the nuisance conditions or activities stated in the

[End of Form]



Notice of Abatement. Entry on improved private real property shall, excepting instances of an imminent hazard, be with an abatement warrant from the superior court. The City shall follow the procedures stated in this Chapter for recovery of all abatement costs, fees and expenses.

Nothing contained in this Chapter shall obligate the City to undertake abatement actions pursuant to a Notice of Abatement, whether or not there is a timely Appeal.

8.8.110 Abatement by Responsible Person Prior to Hearing

Any responsible person shall have the right to abate a nuisance in accordance with the Notice of Abatement at his or her own expense, provided all corrective actions are completed with all required City permits, approvals and inspections, prior to the date the matter is set for a hearing.

A hearing shall be cancelled if all nuisance conditions or activities are, as determined by the City, fully and lawfully abated prior thereto.

8.8.120 Review by Hearing Officer

- 1. Any responsible person who contests a Notice of Abatement shall, subject to filing a timely Appeal, obtain review thereof before a hearing officer.
- 2. At the place and time set forth in the notification of Appeal hearing, the hearing officer shall hear the testimony of the appealing person(s), the issuing officer, and/or their witnesses, as well as any documentary evidence presented by these persons concerning the alleged public nuisance(s).
- 3. Appeal hearings are informal, and formal rules of evidence and discovery do not apply. The City bears the burden of proof to establish a nuisance exists by a preponderance of evidence. The appellant, and the enforcement officer issuing the Notice, as well as all other interested persons, shall have the opportunity to present evidence and to cross-examine witnesses. The appellant, or other interested persons, may represent himself/herself/themselves or be represented by anyone of his/her/their choice. The appellant, or other interested persons, may bring an interpreter to the hearing at his/ her/their sole expense.
- 4. If the appellant fails, or other interested persons fail, to appear, the hearing officer shall cancel the hearing and send a notice thereof to the responsible person(s) by first class mail to the address(es) stated on the Appeal form. A cancellation of a hearing due to non-appearance of the appellant shall constitute the appellant's waiver of the right to Appeal. In such instances the Notice of Abatement is final and binding.

8.8.130 Decision and Notice by Hearing Officer

- A. **Determinations After Hearing**. Within a reasonable time, not to exceed fifteen (15) calendar days following conclusion of the hearing, the hearing officer shall make any one or more of the following determinations in a written decision:
 - A finding and description of each nuisance condition at the subject property, or the non-existence thereof. In the latter instance, the hearing officer shall cancel the Notice.
 - 2. The name of each person responsible for a nuisance condition, or conditions, at the subject property, as well as the name of any appellant who lacks responsibility



therefore.

- 3. The required corrective action and completion date for each unabated nuisance condition. Such provisions in the decision may be referred to as an "Order of Abatement."
- 4. Any other finding, determination or requirement that is relevant or related to the subject matter of the Appeal.
- B. Decision is Final. The decision of the hearing officer is final and conclusive. The decision shall also contain the following statement: Judicial review of the Hearing Officer's decision is subject to the time limits set forth in California Code of Civil Procedure, Section 1094.6."
- C. Service of Decision. A copy of the decision shall be served on all responsible persons who contested the Notice of Abatement by first class mail to the address(es) stated on the Appeal form. Failure of a responsible person to receive a properly addressed decision shall not invalidate any action or proceeding by the City pursuant to this chapter.

8.8.140 Abatement of Nuisance by Responsible Persons Prior to City Abatement Actions

Any responsible person shall have the right to fully abate a nuisance in accordance with the Hearing Officer's decision prior to the date of entry of City forces or agents upon the subject real property, provided that all corrective actions are completed prior to that date. In such instances, all administrative proceedings shall be cancelled.

However, once the City enters a subject real property to abate a public nuisance, it shall have the right to complete this action. No person shall obstruct, impede, or interfere with City Personnel in the performance of any act that is carried out in complying with an Order of Abatement pursuant to this article. All personal property that is removed by City Personnel from premises in the abatement of a nuisance shall be lawfully disposed of or destroyed without regard to its actual or salvage value.

8.8.150 Emergency Action to Abate an Imminent Hazard

- A. **Declaration of Imminent Hazard.** Notwithstanding any provision of this Municipal Code to the contrary, the Sheriff, the Fire Chief, or the Building Official, or any of their designees, may cause a public nuisance to be summarily abated if it is determined that the nuisance creates an imminent hazard to a person or persons, or to other real or personal property. Prior to abating the nuisance, the City Manager may attempt to notify a responsible person by telephone or in writing of the imminent hazard and request its abatement by said person. A public official may, in his or her discretion, dispense with an attempt of prior notification of a responsible person if the nature or severity of the hazard justifies such inaction.
- B. **City Abatement of Hazard**. If, in the sole discretion of the public official declaring an imminent hazard, the responsible person(s) fail(s) to take immediate and meaningful steps to abate the imminent hazard, the City may abate the nuisance with City Personnel, and charge the costs and fees thereof to the responsible person(s).
- C. **Notice of Emergency Abatement.** Within ten (10) business days following emergency actions of City Personnel to abate an imminent hazard, the City shall serve any responsible person with a Notice of Emergency Abatement by City Personnel of an Imminent Hazard by first class mail. The City may, if a responsible person is a property owner, rely on that person's



mailing address according to the last equalized assessment roll of the Los Angeles County Assessor's Office in determining a service address for this notice. Failure of any responsible person to receive a Notice of Emergency Abatement by City Personnel of an Imminent Hazard by mail shall not invalidate any action or proceeding pursuant to this Chapter.

- D. **Content of Notice**. A Notice of Emergency Abatement by City Personnel of an Imminent Hazard shall contain the following provisions:
 - 1. The name of a known responsible person who is being served with the Notice of Emergency Abatement by City Personnel of an Imminent Hazard and the address of the real property on which the imminent hazard was present.
 - 2. A brief description of the condition(s) and reasons why it constitutes an imminent hazard.
 - 3. A brief description of the law prohibiting or pertaining to the imminent hazard.
 - 4. A brief description of the actions City Personnel took to abate the imminent hazard.
- E. Omissions in Notice not Consequential. Omission of any of the foregoing provisions in a Notice of Emergency Abatement by City Personnel of an Imminent Hazard, whether in whole or in part, or the failure of a responsible person to receive this document, shall not render it defective or render any proceeding or action pursuant to this Chapter invalid.
- F. **Notice of Substandard Property**. Emergency abatement of an imminent hazard by City Personnel shall not preclude the City from recording a Notice of Substandard Property in accordance with the provisions of this Chapter, if conditions thereafter remain at the premises that constitute a violation of law or a public nuisance.
- G. Cost Recovery by City. The City shall be entitled to recover its fees and costs for the abatement of an imminent hazard. In such instances, the City shall follow the procedures set forth in this Chapter.

8.8.160 Combination of Notices

The notices that are authorized by this Chapter may be combined in the discretion of the City.

8.8.170 Establishment of Costs of Abatement

The following procedures will be followed in establishing and collecting costs of abating a public nuisance.

- 1. The City shall keep an accounting of the costs, fees and expenses (collectively hereafter, the "Costs") of abating a public nuisance.
- 2. The City shall serve a Statement of Abatement Costs on the responsible persons within twenty (20) calendar days of the City's completion of nuisance abatement actions. Service of this statement may be made in the manner provided for in this Chapter.
- 3. A responsible person shall tender the Costs in U.S. currency to the City within ten (10) calendar days of the date of service of the Statement of Abatement Costs. Alternatively, a responsible person may contest the statement in the manner provided for in Subsection D.



- 4. A responsible person has the right to contest a Statement of Abatement Costs by filing an Appeal on a City approved form with the City Clerk's office within ten (10) calendar days of service of the Notice of Abatement. No fee shall be due for the filing of an Appeal. Failure of the City Clerk to receive a timely Appeal constitutes a waiver of the right to contest a Statement of Abatement Costs. In this event, the Statement of Abatement Costs is final and binding.
- 5. The City may proceed to collect its Costs as contained in a final Statement of Abatement Costs in any manner allowed by law.
- 6. If a timely Appeal is received by the City Clerk, a hearing shall be set before the City Council. A notice of the date, time and location of the hearing shall be served on all responsible persons who contested the Statement of Abatement Costs by first class mail to the address(es) stated on the Appeal form at least ten (10) calendar days prior to the hearing. Failure of a person to receive a properly addressed notice shall not invalidate any action or proceeding by the City pursuant to this Chapter.
- 7. At the time and place fixed for receiving and considering the Statement of Abatement Costs, the City Council shall hear and pass upon the evidence submitted by City Personnel, together with any objections or protests raised by responsible persons liable for said costs. Thereupon, the City Council may make such revision, correction or modification to the statement as it may deem just, after which the statement, as it is submitted, or as revised, corrected or modified, shall be confirmed. The hearing may be continued from time to time.
- 8. The decision of the City Council is final.
- 9. The City Clerk shall cause a confirmed Statement of Abatement Costs to be served upon all responsible persons who contested the original statement by first class mail to the address(es) stated on the Appeal form. This document shall also contain the following statement: Judicial review of the City's Council's decision is subject to the time limits set forth in California Code of Civil Procedure, Section 1094.6." Failure of a person to receive a properly addressed confirmed statement shall not invalidate any action or proceeding by the City pursuant to this Chapter.
- 10. A responsible person shall tender the Costs in U.S. Currency to the City within ten (10) calendar days of the date of service of the confirmed Statement of Abatement Costs. The City may thereafter proceed to collect its Costs as contained in the confirmed Statement of Abatement Costs in any manner allowed by law.

8.8.180 Collection of Costs of Abatement by Special Assessment

The City may cause a special assessment to be made upon real property upon which a public nuisance was abated pursuant to California Government Code, Section 38773.5, and future amendments thereto, in the event a Statement of Abatement Costs or a confirmed Statement of Abatement Costs is not paid in a timely manner.

A Notice of Special Assessment shall be sent to the owner(s) of the subject real property by certified mail at the time the assessment is the imposed which shall contain the following recitals: The property may be sold after three years by the tax collector for unpaid delinquent assessments. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice. The assessment may be collected at the same time and in the same manner as ordinary municipal



taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

The City Attorney or City Prosecutor shall establish the Notice of Special Assessment form for use, or consideration by, the Tax Collector in collecting a special assessment. The Notice of Special Assessment shall be entitled to recordation with the Los Angles County Recorder's Office. The amount of a Special Assessment shall also constitute a personal obligation of the property owners of land upon which the nuisance was abated.

8.8.190 Collection of Costs of Abatement by Nuisance Abatement Lien

- As an alternative procedure for recovery of costs, the City may cause a nuisance abatement lien to be recorded upon real property upon which a public nuisance was abated pursuant to California Government Code, Section 38773.1, and future amendments thereto, in the event a Statement of Abatement Costs or a confirmed Statement of Abatement Costs is not paid in a timely manner.
- 2. A lien shall not be recorded prior to serving the owner of record of the parcel of land on which the public nuisance is maintained, with a notice. This document shall be served in the same manner as a summons in a civil action in accordance with Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. 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 10 days and publication thereof in a newspaper of general circulation published in the county in which the property is located pursuant to Section 6062 of the Government Code.
- The nuisance abatement lien shall be recorded in the Los Angeles County Recorder's office in the county in which the parcel of land is located and from the date of recording shall have the force, effect, and priority of a judgment lien.
- 4. A nuisance abatement lien authorized by this section shall specify the amount of the lien for the City of La Habra Heights, the name of the City department on whose behalf the lien is imposed, the date of the abatement actions, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the parcel.
- 5. In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified above shall be recorded by the City. A nuisance abatement lien and the release of the lien shall be indexed in the grantor-grantee index.
- 6. A nuisance abatement lien may be foreclosed by an action brought by the City for a money judgment.
- 7. The City may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure



action to enforce the lien.

8. The amount of a Nuisance Abatement Lien shall also constitute a personal obligation of the property owners of land upon which the nuisance was abated.

8.8.200 Treble the Costs of Abatement

Upon entry of a second or subsequent civil or criminal judgment within a two-year period finding that an owner of property is responsible for a public nuisance pursuant to this Chapter, the court may order that person to pay treble the costs of the abatement.

8.8.210.1 Recordation of Substandard Notice

The following provisions describe the process for recordation of a Substandard Property Notice.

- 1. Notwithstanding any provision of this Municipal Code to the contrary, if the City determines that any property, building or structure, or any part thereof, is in violation of any provision of this Municipal Code and said violation has not been fully abated or corrected, as determined by the City, within a thirty (30) day period after written notice to a responsible person, then the City, in its sole discretion, may record a Notice of Substandard Property with the Los Angeles County Recorder's Office against said premises. As used herein, "fully abated or corrected" includes the procurement of all required City approvals, permits, licenses and the passage of all City required inspections.
- 2. The City may record a Notice of Substandard Property without the issuance of a Notice of Abatement pursuant to this Chapter, provided that a notice of correction or a notice of violation to a responsible person previously disclosed that a Substandard Notice may be recorded against a property if a violation is not fully abated or corrected in a period of thirty (30) days.
- 3. A Notice of Substandard Property may be recorded thirty days after service of a Notice of Abatement provided that: (i) the notice contained this disclosure, (ii) the public nuisance was not fully abated or corrected within that period, and (iii) a timely and proper Appeal to the Notice of Abatement was not made.
- 4. The form that constitutes a Notice of Substandard Property shall be approved by the City Attorney or the City Prosecutor.
- 5. The City shall record a Notice of Rescission of Substandard Property with the Los Angeles County Recorder's Office within ten (10) business days of its determination that a violation or a public nuisance has been fully abated or corrected.
- 6. The City shall cause copies of recorded Notices of Substandard Property and Notices of Rescission of Substandard Property to be served on all persons having an ownership interest in the subject real property as shown in the last equalized assessment roll of the Los Angeles County Assessor's Office. Service thereof shall be by first class mail. Failure of any person to receive such notices shall not invalidate any action or proceeding pursuant to this Chapter.

8.8.220.1 Code Enforcement Fees

Fees levied pursuant to code enforcement activities are established and collected as described following.



- 1. Pursuant to California Health and Safety Code Section 17951, and any successor statute thereto, responsible persons, who cause, allow or maintain a violation in, or upon, residential properties, shall be charged fees (hereafter *Code Enforcement Fees*) by the City to defray its costs of code enforcement actions, as hereafter defined. Such fees shall not exceed the amount reasonably required to achieve this objective and are chargeable whether the City's code enforcement actions occur in the absence of formal administrative or judicial proceedings, as well as prior to, during, or subsequent to, the initiation of such proceedings.
- 2. The amount(s) or rate(s) of Code Enforcement Fees for City Personnel time and other resources that are used for code enforcement actions shall be established, and may thereafter be amended, by the City Council.
- 3. The City Manager is authorized to adopt regulations for the uniform imposition of Code Enforcement Fees, and for related administrative actions pertaining to such fees.
- 4. The fees imposed pursuant to this section shall be in addition to any other fees or charges that responsible persons may owe in accordance with any other provision of this Municipal Code, or which are imposed pursuant to county, state or federal laws or regulations.
- 5. Code Enforcement Fees shall be recoverable in conjunction with any civil, administrative or criminal action to abate, cause the abatement, or cessation of, or otherwise remove a violation or a public nuisance.
- Failure to pay Code Enforcement Fees shall constitute a debt that is collectible in any manner allowed by law.

8.8.230 Recovery of Attorney's Fees

A prevailing party in any administrative, civil or equitable judicial action to abate, or cause the abatement of a public nuisance, or in any Appeal or other judicial action arising therefrom, may recover reasonable attorney's fees in accordance with the following:

- Attorney's fees are not recoverable by any person as a prevailing party unless the City
 Manager, or an attorney for, and on behalf of, the City, elects in writing to seek recovery of the
 City's attorney's fees at the initiation of that individual action or proceeding. Failure to make
 such an election precludes any entitlement to, or award of, attorney's fees in favor of any
 person or the City.
- 2. The City is the prevailing party when an administrative or judicial determination is made or affirmed by which a person is found to be responsible for one or more conditions or activities that constitute a public nuisance. A person is the prevailing party only when a final administrative or judicial determination completely absolves that person of responsibility for all conditions or activities that were alleged, in that action or proceeding, to constitute a public nuisance. An administrative or judicial determination that results in findings of responsibility and non-responsibility on the part of a person for conditions or activities that were alleged in that action or proceeding to constitute a public nuisance, shall nevertheless result in the City being the prevailing party.

Provided that the City has made an election to seek attorney's fees, an award of attorney's fees to a person shall not exceed the amount of reasonable attorney's fees incurred by the City in that action or proceeding.



8.8.240 Applicability of Other Laws.

This chapter does not exclusively regulate the conditions and use of property within the city. This chapter shall supplement other provisions of this code and other statutes, ordinances or regulations now existing or subsequently enacted by the city, the state or any other entity or agency having jurisdiction.

The procedures for abatement set forth in this chapter are not exclusive and are in addition to any other provisions set forth in this code or by state law for the abatement of public nuisances.

8.8.250 Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this chapter is declared by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this chapter. The City Council declares that it would have adopted this chapter, and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases, or portions be declared invalid or unconstitutional.



Chapter 8.9 Administrative Citations

8.9.10 Purpose of this Chapter

This chapter prescribes an alternate Code Enforcement procedure.

8.9.20 General Enforcement Authority.

The City Manager has the power under this Administrative Citation Ordinance to issue notices of violation and citations, inspect public and private property as authorized under the Fourth Amendment of the United States Constitution and other law, and use whatever judicial and administrative remedies are available under this Code and other law.

8.9.30 Notice of Violation.

The City Manager may issue a notice of violation to any responsible persons when it is determined that a violation that a violation of this code exists. The notice of violation will include the following:

- 1. The Code section(s) violated.
- A description of the condition creating the violation(s).
- 3. The address where the violation(s) occurs.
- 4. The name of the responsible person and any other involved persons.
- 5. The date and, if relevant, time at which the violation was observed.
- 6. If applicable, a list of any corrections to bring the property into compliance.
- 7. A deadline or specific date to correct the violations.
- 8. The signature of the enforcement officer issuing the notice of violation.
- 9. The date of issuance of the notice of violation.

8.9.40 Issuance of Notice of Violation.

A notice of violation may be issued as follows:

- 1. An enforcement officer may personally serve the notice of violation on the responsible person.
- 2. An enforcement officer may mail the notice of violation to the responsible person by first-class mail.
- An enforcement officer may post a copy of the notice of violation on the subject property in a
 conspicuous place for a property related code violation and, in which case, the enforcement
 officer shall also mail a copy of the notice of violation to the responsible person at the address
 where the violation occurred.

8.9.50 Authority to Inspect.



Enforcement officers may enter upon any property or premises within the City as allowed by law to ascertain whether the provisions of the Municipal Code are being obeyed, and to make any examination and surveys as may be necessary in the performance of their enforcement duties. These inspections may include the taking of photographs, samples, or other physical evidence.

8.9.60 Notice of Pending Administrative Enforcement.

The City Manager may record with the Registrar-Recorder/County Clerk a notice against a property that is the subject of enforcement. A notice of pending administration action shall be on a form approved by the City Manager and shall describe the nature of the administrative action and refer to the Code provision governing the pending administrative action.

8.9.70 Administrative Fines and Penalties.

Any violation of a provision of this Code, any code it adopts by reference, or other applicable law, may be subject to an administrative fine or penalty pursuant to this chapter. This also includes any violation of any condition imposed upon the issuance of any permit, license, or other approval (e.g., subdivision map, special use permit, variance, zoning clearance) pursuant to this Code.

- 1. Each and every responsible person regarding a code violation(s) is joint and severally liable for all fines or penalties imposed for the violation(s).
- A violation that exists for more than one day shall be considered a separate and distinct violation for each day that it exists. Each daily violation may be subject to the maximum fine or penalty permitted under this chapter.
- 3. An Administrative Citation may charge a code violation for one or more days on which a violation exists and for violation of one or more code sections.
- 4. The administrative fines and penalties prescribed in this chapter are in addition to, and do not preclude imposition of, any other remedies, criminal, civil, or administrative, available to the City. Imposition of administrative fines or penalties shall be at the sole discretion of the City.

8.9.80 Administrative Citations.

If a responsible person(s) already received a notice of violation or some comparable notice, and failed to correct the violation within the time prescribed in the notice, an enforcement officer may issue an Administrative Citation to each and every responsible party previously notified. The Administrative Citation provides notice of the administrative fines or penalties imposed pursuant to this chapter.

8.9.90 Contents of Administrative Citation

An Administrative Citation shall include the following:

- 1. A description of the condition creating the violation(s).
- 2. The address where the violation(s) occurs.
- 3. The name of the responsible person(s) and any other involved persons.
- 4. The date and, if relevant, time at which the violation was observed.



- 5. The amount and due date of the fine or penalty.
- 6. A description of the procedure to pay the fine.
- 7. A description of the procedure for requesting the preliminary review, waiver of fine deposit, and hearing to contest the Administrative Citation.
- 8. If applicable, a list of any corrections to bring the property into compliance.
- 9. A statement that any unpaid fines or penalties may be placed as a special assessment or lien against the property where a violation occurs.
- 10. Signature of the enforcement officer issuing the Administrative Citation.
- 11. The date of issuance.
- 12. Any other information deemed necessary for enforcement or collection of the administrative fines.

8.9.100 Consideration in Other Proceedings.

The City Council, Planning Commission or other similar body, or City staff may consider the fact that a person has been issued an Administrative Citation when determining whether to grant, suspend, revoke, or deny any permit, license, or other approval, regarding a matter related to the condition causing the code violation, to that person, and may consider that such Administrative Citation to be evidence that the person has committed acts that threaten the health, safety, and welfare of the general public.

8.9.110 Issuance of Administrative Citations

An Administrative Citation may be issued in one or more of the following ways:

- 1. An enforcement officer may personally serve the citation on the responsible person. The responsible person is required to sign a copy of the Administrative Citation showing his or her receipt, but his or her failure to do so shall have no effect on the enforcement of the citation.
- 2. An enforcement officer may mail the Administrative Citation to the responsible person by mail.
- 3. An enforcement officer may post a copy of the Administrative Citation on the subject property in a conspicuous place for a property related code violation and, in which case, the enforcement officer shall also mail a copy of the administrative violation to the responsible person at the address where the violation occurred.

8.9.120 Amount of Administrative Fines and Penalties.

The administrative fines for violations of this Code, as specified in this chapter, are established by the City Council. The schedule of fines may include escalating fine amounts for repeated code violations within specific periods of time. Administrative fines not paid prior to their due date shall result in the imposition of a penalty and interest for every day of delinquency, as set forth in resolution.

8.9.130 Payment of Fines.



All fines are due on the day specified in the Administrative Citation and shall be paid to the City.

- 1. Payment may be made by mailing the fine amount paid by check or money order. Cash payments may be made only in person at City Hall.
- Payment of a fine or penalty pursuant to this chapter shall not excuse or discharge any continued or repeated violation of this Code.
- 3. Pending a hearing by the hearing authority, payment of a fine may be stayed if the preliminary reviewing authority determines, pursuant to Section 8.9.140, that a responsible person is unable to pay the fine.

8.9.140 Preliminary Review.

A cited person may request a preliminary review. Such request must be made within ten (10) calendar days of the date that an Administrative Citation is issued. Failure to request a preliminary review before the deadline constitutes a waiver to any preliminary review. A request for a preliminary review shall be made in writing and filed with the City and shall include all information that the responsible person desires the preliminary reviewing authority to consider in his or her preliminary review of the citation. A request for preliminary review may include a request for waiver of the fine deposit. A responsible person requesting a waiver of fine deposit bears the burden to establish by substantial evidence, including a sworn affidavit, that he or she is unable to deposit the fine imposed by the Administrative Citation.

The preliminary review shall be conducted by the preliminary reviewing authority. The preliminary review shall include a review of the Administrative Citation, the written request for a preliminary review, and any evidence the responsible person may submit with the written request. The cited person shall be notified of the results of the preliminary review within ten (10) working days of filing a written request for preliminary review. The decision on a preliminary review is not a final disposition of an Administrative Citation and therefore is not subject to judicial review.

A request for preliminary review shall not extend any time period for compliance, the due date of any fine imposed, or the time to request an administrative hearing. If the preliminary reviewing authority concludes that no code violation occurred or that the responsible person was not responsible for the code violation, then he or she shall dismiss the Administrative Citation, without prejudice to the issuance of a further Administrative Citation should additional evidence be developed. The preliminary reviewing authority shall also rule whether the responsible person qualifies for waiver of the fine deposit, if such a request has been made.

8.9.150 Administrative Hearing.

A cited person may request an administrative hearing. Such request must be filed within ten (10) calendar days of the issuance of the Administrative Citation. Failure to request a hearing before the deadline, or failure to comply with all the terms for requesting a hearing, constitutes an abandonment of a request and a failure to exhaust administrative remedies. A request for an administrative hearing shall be made in writing and filed with the City, and shall include any grounds that the responsible person wishes the City to consider. Unless waived upon preliminary review, the request shall be accompanied by a deposit of the fine imposed by the Administrative Citation, in the event the fine has not yet been paid.

A cited person may request one continuance of a hearing provided he or she does so in writing before the date of the hearing and states a reasonable basis for the request. Unless the City issues a written



notice of continuance, the hearing shall take place on the date, time and location specified in the notice of hearing transmitted to the cited person. A cited person's failure to attend a hearing shall constitute an abandonment of the request for the hearing and a failure to exhaust administrative remedies.

8.9.160 Hearing Procedures.

The hearing shall be conducted by the hearing authority on the date, time, and location specified in the notice of hearing transmitted to the cited person. An Administrative Citation and other reports prepared by an enforcement officer concerning a code violation shall be accepted by the hearing authority as prima facie evidence of the facts stated in such documents. The hearing authority shall allow the cited person an opportunity to testify at the hearing and to present evidence about any code violation specified in the Administrative Citation. The enforcement officer or other representatives of the City may, but is not required to, attend the hearing.

The hearing authority may continue a hearing from time to time and allow a responsible person additional time to remedy a violation. In addition, the hearing authority may request additional information or evidence from the cited person.

All hearings shall be recorded on a video or audio device, unless the City elects to use a court reporter. If a court reporter is not used, the City need not provide transcriptions of any hearings but, within fifteen (15) calendar days after payment of reasonable duplication fee, shall make the video and audio recordings available to the responsible person. If a court reporter is used, a recipient of the Administrative Citation may obtain a copy of the transcript upon payment of any applicable fees or costs.

A hearing need not be conducted in accordance with the technical rules of evidence. Any relevant evidence may be admitted if it is evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might consider such admission improper in a civil action. Irrelevant or unduly repetitious evidence shall be excluded.

After considering all testimony and evidence submitted at the hearing, the hearing authority shall issue a written decision to affirm, modify or dismiss the Administrative Citation. The decision shall include the hearing authority's findings, as well as information regarding the cited person's right to seek judicial review of the decision and the time in which to do so. The City shall issue the cited person a copy of the hearing authority's written decision (the "notice of decision"). The decision of the hearing authority shall be final. If the hearing authority determines that the Administrative Citation should be affirmed, the fine and/or penalty amount on deposit with the City shall be retained by the City.

8.9.170 Judicial Review.

A cited person may seek judicial review of the hearing authority's decision by filing a petition for review with the Superior Court, pursuant to Government Code section 53069.4, within twenty (20) calendar days after he or she receives a copy of the notice of decision.

8.9.180 Collection of Delinquent Fines and Penalties and Other Remedies.

Failure to pay a fine or penalty before the time set forth in the Administrative Citation shall result in imposition of interest and penalties as established by the City Council. The City may pursue any and all legal and equitable remedies for the collection of fines, including interest and penalties.





Delinquent fines, interest and penalties may be recorded as a lien or special assessment against the property on which the code violation occurred. Prior to recording a lien or special assessment, the City shall prepare a cost report itemizing the amount owed by the responsible person. The City shall comply with the State Franchise Tax Board or any other state or county law pertaining to the recording of any delinquent fines, interest, and penalties as a lien on the property, or as a special assessment.

The Administrative Citation process described in this chapter does not preclude the City from recovering any code violation abatement costs incurred by the City in performing its code enforcement efforts.