

ORDINANCE NO. 2949

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL MONTE, CALIFORNIA, AMENDING CHAPTERS 1.19, 8.44, 8.59, AND 9.08 OF THE EL MONTE MUNICIPAL CODE TO STREAMLINE THE CITY'S FINE AND COST RECOVERY EFFORTS FOR NUISANCE ABATEMENT ACTIONS AND ADDING CHAPTER 8.80 (VACANT PROPERTIES) TO THE EL MONTE MUNICIPAL CODE

WHEREAS, California Constitution, Article XI, Section 7, authorizes the City of El Monte ("City") to adopt and enforce local police, sanitary, and other ordinances and regulations that are not in conflict with general laws; and

WHEREAS, Government Code Sections 36901, 38771, 38773.1, and 38773.5 authorize the City to enact ordinances establishing what constitute public nuisances, procedures for abating nuisance conditions, procedures for recovery of all costs and attorneys' fees related to abatement of nuisances, and procedures for collection of civil penalties; and

WHEREAS, violations of the El Monte Municipal Code ("EMMC") threaten the health, safety, and welfare of the public, burden scarce City resources, and diminish the quality of life in the City, and therefore constitute public nuisances; and

WHEREAS, the City recognizes that responding to and abating public nuisances and other violations of law, including the EMMC, is costly, time-consuming, burdensome, and diminishes the City's resources available to provide and maintain public property, parks, and amenities; and

WHEREAS, the City finds that effective code enforcement requires comprehensive fine and cost recovery tools and procedures; and

WHEREAS, recovery of fines and costs from parties responsible for violating applicable laws and maintaining public nuisances enables the City to replenish resources needed to meet the increasing demands on code enforcement and public services; and

WHEREAS, the City has previously adopted EMMC Chapter 1.19 (Enforcement) to create and implement a comprehensive program that provides the City useful tools and procedures to recover costs incurred by the City in nuisance abatement actions, including recording liens and special assessments on nuisance properties when responsible parties have failed to pay nuisance abatement costs after being provided adequate notice; and

WHEREAS, the City now desires to amend Chapter 1.19, as well as other sections related to cost recovery, of the EMMC to streamline the City's cost recovery program and processes; and

WHEREAS, the City finds and determines that there are vacant properties within the City that are undeveloped, poorly maintained, and open to the public by reason of the owner's failure to adequately secure and maintain the properties. These properties are often overgrown with weeds, and contain dangerous and blighted structures that have been damaged beyond repair by fire and/or years of neglect. These properties also become attractive locations for vandals, homeless transients and other trespassers resulting in the accumulation of trash, debris, and human waste. All of these conditions constitute a public nuisance that adversely affects the public health, safety and general welfare; contribute to the decay of surrounding commercial and residential areas; discourage development of the properties; and hinder civic improvements; and

WHEREAS, it is in the public interest for the City to take appropriate actions to protect citizens and their property from conditions that threaten public health, safety, and welfare including, without limitation, matters that devalue real property; and

WHEREAS, in addition to the foregoing amendments, the City seeks to add Chapter 8.80 (Vacant Properties) to the EMMC, which sets requirements and provisions for vacant properties, in order to protect the public health, safety, and welfare by requiring the maintenance of vacant properties found within the City's jurisdiction.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL MONTE HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein.

SECTION 2. Chapter 1.19 (Enforcement) of the EMMC is hereby amended in its entirety and shall now state the following:

Chapter 1.19

ENFORCEMENT

Sections:

- 1.19.010 Enforcement.**
- 1.19.020 Recovery of Nuisance Abatement Costs and Defined Terms.**
- 1.19.030 Recovery of Attorneys' Fees.**
- 1.19.031 Administrative Procedure for Recovering Nuisance Abatement Costs.**
- 1.19.032 Nuisance Abatement Costs Hearing.**
- 1.19.035 Service.**
- 1.19.040 Uniform Lien Procedures.**
- 1.19.050 Uniform Special Assessment Procedures.**

1.19.010 Enforcement.

In addition to those public officers and employees authorized by State law, this Code and any other ordinances of the City may be enforced by the police department of the City, City personnel designated by job description as being responsible for enforcement of this Code, and the City Manager or designee thereof. The remedies and procedures for the recovery of cities costs as set forth under this chapter are in addition to those procedures set forth under Chapter 8.44 of this Code addressing the underlying public nuisance violations addressed under Chapter 8.44.

1.19.020 Recovery of Nuisance Abatement Costs.

The City Council finds and declares as follows:

- A. Pursuant to California Government Code Sections 36901, 38771, 38773.1, 38773.5, 54988, the El Monte building code, and any other applicable local, State, or federal laws, as well as by the City's police powers as authorized by the California Constitution, responsible persons, who cause, allow, permit, suffer, or maintain a violation of this Code upon any real property located within the City, shall be charged by City for City's Nuisance Abatement Costs, defined below. Nuisance Abatement Costs as assessed or payable by a responsible person shall not exceed the amount reasonably required to correct a violation of this Code. Nuisance Abatement Costs are chargeable to responsible persons 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.*
- B. As used in this Chapter, the words and phrases below shall have the following definitions:*

1. As used herein, “responsible person” means and includes any person that causes, creates, allows, permits, suffers, or maintains a public nuisance to exist or continue within the City, by any act or the omission of any act or duty, including, but not limited to, any person having legal title to, or who leases, rents, occupies or has charge, control or possession of, any real property in the City, including all persons shown as owners on the last equalized assessment roll of the Los Angeles County Assessor’s Office. A responsible person shall also include, but shall not be limited to, employees, principals, joint venturers, officers, agents, and other persons acting in concert with, or at the direction of, or with the knowledge or consent of the owner or occupant of the property, building or structure on, or in, which a public nuisance or violation exists or existed, as well as any person with power of attorney, executors of estates, trustees, or who are court-appointed administrators, conservators, guardians or receivers. “Responsible person,” with regard to personal property, shall be any person who has legal title, charge, control, or possession of such property. The action or inaction of a responsible person’s agent, employee, representative, or contractor may be attributed to that responsible person.
2. “Public nuisance” or “nuisance” means anything which is, or is likely to become, injurious or detrimental to health, safety, or welfare, or is offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or that unlawfully obstructs the free passage or use, in the customary manner, of any public sidewalk, public park, square, street, or highway. Any condition, use, or activity that violates or is otherwise contrary to any provision of this Code or any approval, license, permit, or other entitlement issued pursuant to or in accordance with this Code, or that violates or is contrary to any applicable County, State, or federal law or regulation, shall also constitute a public nuisance.
3. As used herein, “violation” means and includes any prohibited activity, condition, or use on land or in connection with a building or a structure that is caused, allowed to exist, or maintained (whether due to an affirmative act, inaction, or omission) by a responsible person in disregard of, or nonconformity with, any other provision, regulation, prohibition, or requirement of this Code, or any applicable County, State, or federal laws or regulations. Any such violation shall also constitute an unlawful public nuisance for each and every day or part thereof during which it is allowed, committed, continued, maintained, or permitted by a responsible person.
4. As used herein, “Nuisance Abatement Costs” shall mean all costs, expenses, fees, and attorneys’ fees as provided under Section 1.19.030, below, incurred and imposed by the City to defray its costs of code enforcement actions, pursuant to California Government Code Sections 36901, 38771, 38773.1, 38773.5, and 54988, the El Monte Building Code, and any other applicable local, State, or federal laws, as well as by the City’s police powers as authorized by the California Constitution, including, but not limited to, the time and other resources of public officials and City consultants expended by them in identifying, inspecting, investigating, seeking, or causing the abatement of a violation of this Code on real property. Examples of code enforcement actions include, but are not limited to, site inspections, drafting reports, taking photographs, procuring other evidence, engaging in meetings with other officials of the city or other agencies, engaging in conferences and communications with responsible persons, their agents or representatives, concerning a violation, as well as with

attorneys for the city at any time, and appearances before judicial officers or reviewing authorities during the commencement or pendency of a judicial or administrative hearing. The time and resources that public officials and City consultants further expend to confirm that a real property remains free of a violation while a responsible person is on probation to a court or when a matter concerning a property remains pending in an administrative action shall also constitute code enforcement actions. Nuisance Abatement Costs shall not include salary, fees, and hourly rate paid to attorneys, law enforcement, and inspectors for hours spent either investigating or enforcing a charged crime in relation to any criminal investigation, criminal prosecution, or criminal appeal in a criminal action pursuant to Penal Code Section 688.5, unless specifically authorized by statute or ordered by a court.

5. "Decision" means the written decision of the Hearing Officer at the conclusion of an administrative hearing held in accordance with this Chapter.
 6. "Hearing Costs" means and includes all cost, expense, Hearing Officer fees, and attorneys' fees related to any administrative hearing held pursuant to this Chapter.
 7. "Hearing Officer" means the neutral and impartial hearing officer appointed to hold and conduct a hearing and issue a Decision in accordance with this Chapter.
 8. "Interested Party" or "Interested Parties" means and includes each person or entity with a legal interest in the real property that is the subject of a nuisance abatement action. An Interested Party may also be a responsible person for purposes of correcting a violation of this Code or complying with an order or ruling of the Hearing Officer or paying for Nuisance Abatement Costs assessed or payable to the City by a responsible person.
 9. "Invoice" means the invoice prepared by the City which contains a suitable detailed description of Nuisance Abatement Costs associated with one or more violations of this Code or a particular parcel of land that the City is entitled to recover related to a nuisance abatement action.
 10. "Requesting Party" means and includes any responsible person or Interested Party who has delivered a timely written request to the City as required by this Chapter seeking to review the basis for the City's issuance of an Invoice or the amount of Nuisance Abatement Costs payable or assessed to the responsible person or parcel of property.
- C. The amounts or rates for Nuisance Abatement Costs for City personnel time and other resources that are used for code enforcement actions shall be established, and may thereafter be amended, by resolution of the City Council.
- D. The City Manager, or a designee thereof, is authorized to adopt regulations for the uniform imposition of Nuisance Abatement Costs, and for related administrative actions pertaining to such costs.
- E. Nuisance Abatement Costs as authorized by this Chapter shall be in addition to any other fines, fees, or charges that responsible persons may owe in accordance with any other provision of this Code, or which are imposed pursuant to County, State, or federal laws or regulations.

- F. Nuisance Abatement Costs shall be recoverable with any civil or administrative action to abate, cause the abatement or cessation of, or otherwise remove a violation.
- G. Nuisance Abatement Costs may only be recoverable in criminal actions to enforce this Code or abate nuisances to the extent permitted by law.
- H. In every instance where an owner or a responsible person or other Interested Person is required to obtain a separate permit, approval, license, or entitlement under any provision of this Code in connection with the abatement of a violation, the City may condition the issuance of such a permit, approval, license, or entitlement on the payment to the City of all Nuisance Abatement Costs.
- I. Unpaid Nuisance Abatement Costs shall constitute a debt that is collectible by the City in any manner allowed by law, including, but not limited to: (1) the filing of a civil action in the Los Angeles Superior Court; (2) the recordation of a lien with the Los Angeles County Recorder's Office provided the responsible person has a legal interest in the property on which the violation was located; (3) by means of a special assessment provided the responsible person has a legal interest in the property on which the violation was located; (4) by means of collecting the debt using the California Franchise Tax Board "Inter-Agency Offset Program" (pursuant to Section 12419.10 of the California Government Code); and (5) by denying the issuance or renewal of any City approval, license, entitlement, or permit to any responsible person until such time as Nuisance Abatement Costs imposed pursuant to this Code have been paid to the City. These remedies may be concurrently used to collect unpaid Nuisance Abatement Costs.

1.19.030 Recovery of Attorneys' Fees.

- A. A prevailing party in any action, administrative proceeding, or special proceeding to abate, or cause the abatement of, a violation of this Code or any public nuisance, or in any appeal or other judicial action arising therefrom, shall be entitled to recover reasonable attorneys' fees from any non-prevailing party. Attorneys' fees are not recoverable by any person as a prevailing party unless the City Manager, or a designee thereof, or an attorney for, and on behalf of, the City, elects in writing to seek recovery of the City's attorneys' fees at the initiation of that individual action or proceeding. Failure to make such an election precludes any entitlement to, or award of, attorneys' fees in favor of any person or the City.
- B. Provided that the City has made an election to seek attorneys' fees, an award of attorneys' fees to a person shall not exceed the amount of reasonable attorneys' fees incurred by the City in that action or proceeding.
- C. Unpaid attorneys' fees shall constitute a debt that is collectible in any manner allowed by law.

1.19.031 Administrative Procedure for Recovering Nuisance Abatement Costs.

- A. The administrative cost recovery procedures provided in this Chapter are in addition to any other remedies or cost recovery option available to the City by law or in equity arising from a violation of this Code.
- B. The City shall prepare and serve upon the owner of the property on which a violation of this Code has been found to have occurred and on each responsible person identified by the City an Invoice identifying all Nuisance Abatement Costs related to a nuisance abatement action.
- C. Any person to whom an Invoice has been issued shall have 45 calendar days from the date of the Invoice to remit full payment of the Invoice to the

City. Payment shall be made to the City as specified in the Invoice. The Invoice shall further indicate that any unpaid amounts may become a lien and special assessment against the real property described in the Invoice.

- D. Any person to whom an Invoice has been issued may, within 15 calendar days from the date of the Invoice, request a hearing on the amount of Nuisance Abatement Costs. A request for hearing must be made in writing to the City Clerk and contain the following information:*
- 1. The Requesting Party's full legal name and the name or names of each responsible party if different from the Requesting Party; and*
 - 2. The Requesting Party's mailing address for service; and*
 - 3. The Requesting Party's phone number; and*
 - 4. The amount of Nuisance Abatement Costs disputed.*
 - 5. The specific legal and factual grounds for all disputes of the Invoice and Nuisance Abatement Costs.*
- E. The failure of any person to properly and timely request a hearing on the Invoice shall constitute a waiver of the right of such person to contest the Invoice and the Nuisance Abatement Costs, a waiver of the right to a hearing, a failure to exhaust administrative remedies, and a bar of such person to any further challenge to the Invoice and Nuisance Abatement Costs.*

1.19.032 Nuisance Abatement Costs Hearing.

- A. If a hearing is timely and properly requested, the City Manager or designee shall appoint a neutral and impartial Hearing Officer to hold and conduct an administrative hearing in accordance with this Chapter. The employment, performance evaluation, compensation, and benefits of the Hearing Officer, if any, shall not be directly or indirectly conditioned upon the Decision of the Hearing Officer.*
- B. The City shall endeavor to set a hearing to take place before the Hearing Officer within 60 calendar days from the date that a timely and proper hearing request is filed. The City shall provide notice of the date, time, and location of the hearing to each Requesting Party at least 10 calendar days prior to the hearing. The hearing notice shall specify that failure to appear at the hearing will constitute a waiver of the right to contest the Invoice and the Nuisance Abatement Costs, a waiver of the right to a hearing, a failure to exhaust administrative remedies, and a bar to any further challenge to the Invoice and the Nuisance Abatement Costs.*
- C. The Hearing Officer shall conduct the administrative hearing. Formal rules of evidence shall not apply to this hearing; however, there shall be an opportunity to present testimony, documentary evidence, and other evidence to the Hearing Officer, and to cross-examine witnesses. Only the Requesting Parties and the City may participate in the hearing.*
- D. The Hearing Officer may continue the hearing from time to time and request additional information as is reasonable and necessary.*
- E. At the conclusion of the hearing, or within five (5) days thereafter, the Hearing Officer shall issue a Decision approving, denying, or modifying the amount of the Nuisance Abatement Costs that the City is entitled to recover. The Hearing Officer's Decision shall be final. The City shall serve notice of the Hearing Officer's Decision in accordance with this Chapter.*

- F. *The Hearing Costs shall be advanced by the City; however, the non-prevailing parties shall be ultimately liable for the Hearing Costs. If any cost recovery is upheld, even in part, the City shall be the prevailing party, and the Requesting Parties shall be liable to the City for the Hearing Costs in proportion to the amount of Nuisance Abatement Costs upheld by the Hearing Officer. If cost recovery is entirely denied, the Requesting Parties shall be the prevailing parties and shall not be liable to the City for the Hearing Costs.*
- G. *If the City is the prevailing party, the Hearing Officer's Decision shall order the responsible persons to pay the confirmed Nuisance Abatement Costs to the City within 30 calendar days following the date of the Decision, and shall specify that any confirmed Nuisance Abatement Costs not paid within such period of time shall become a lien and special assessment against the real property subject of the City's nuisance abatement action.*

1.19.035 Service.

- A. *All notices and documents required to be served under this Chapter may be personally served or served by U.S. first-class mail.*
- B. *Service shall be deemed effective on the date personally served or the date of mailing.*
- C. *The failure of a responsible party to receive any notice or document properly served pursuant to this Chapter shall not affect the validity of the notice or document, the validity of its service, or the City's cost recovery rights.*
- D. *Unless otherwise provided in the Invoice, all notices and documents required to be served by a responsible person or a Requesting Party on the City pursuant to this Chapter must be personally served or served by certified mail with return receipt requested to the City Clerk's office. The notice or document must be received by the City within the time specified for service.*

1.19.040 Uniform Lien Procedures.

- A. *Unless the City chooses a different procedure authorized elsewhere in this Code or under applicable law, where the Code authorizes the City to record a lien for any unpaid fee, cost, charge, or other monies, including unpaid Nuisance Abatement Costs, the following procedures shall apply:*
 - 1. *If the Nuisance Abatement Costs are upheld, in full or in part, by the Hearing Officer, or if the time for requesting a hearing has elapsed and the Invoice has not been paid in full within the time designated by this Chapter, the City may record a lien against the real property described in the Invoice subject of the City's nuisance abatement action for any unpaid amount. Each City lien shall specify the amount of the lien for the City, the name of the City department or division on whose behalf the lien is imposed, the date upon which the lien was created, 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 record owner of the particular parcel to whom the property tax bill for the parcel is transmitted by U.S. first-class mail by the Los Angeles County Tax Collector.*
 - 2. *Each Invoice shall contain a written advisement in plain language of the City's intent to record a lien if the fee, cost, charge, or other monies were not paid within 45 calendar days to the City, the amount of the proposed lien, a description of the basis for the amounts comprising the lien, and an opportunity to appear before a*

neutral and impartial Hearing Officer appointed by the City Manager's designee and to be heard regarding the amount of the proposed lien.

3. *At least ten (10) days prior to recording a lien, the City shall serve notice of the lien to the record owner of the particular parcel at issue ("Nuisance Property") by U.S. first-class mail addressed to the person who receives the property bill for the parcel according to the most current record of the Los Angeles County Tax Collector. In addition, the owner of record shall be served with notice of the lien at the property tax mail address provided in the last equalized assessment roll or the supplemental roll for the Nuisance Property, according to the most current record of the Los Angeles County Tax Collector, whichever is more current, in the same manner as a summons in a civil action in accordance with Code of Civil Procedure, part 2, title 5, chapter 4, article 3 (commencing with Section 415.10). If an owner of record cannot be found after diligent search, the notice of the lien may be served on such owner by posting a copy of the notice in a conspicuous place upon the Nuisance Property for a period of ten (10) days, and publication of the notice in a newspaper of general circulation published in Los Angeles County for ten (10) days (the period of notice commences upon the first day of publication and terminates at the end of the tenth day, including therein the first day, and publication shall be made on each day on which the newspaper is published during that period).*
4. *The lien shall be recorded in the Los Angeles County Recorder's Office and, from the date of recording, shall have the force, effect, and priority of a judgment lien.*
5. *In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure by the City, separate written notice of the discharge of such lien shall be recorded by the City.*
6. *A lien may be foreclosed by an action brought by the City for a money judgment.*
7. *Separate and cumulative with the payment of the lien amount, the City may recover as part of its lien foreclosure proceedings actual and reasonable costs of the City in the processing and recording of the lien, providing notice to the property owners, and pursuing a foreclosure action to enforce the lien.*
8. *The lien shall be in the form substantially as follows:*

NOTICE OF LIEN

(Claim of City of El Monte [CITY DEPARTMENT OR DIVISION])

Pursuant to El Monte Municipal Code ("EMMC") Chapter 1.19, on or about [MONTH] [DAY], [YEAR], the City of El Monte ("City") instituted a nuisance abatement action against the herein described parcel of real property intended to cause or compel compliance with the EMMC. The City has incurred costs, expenses, fees, and attorneys' fees that have not been reimbursed by the responsible parties. Accordingly, the City is entitled to, and hereby claims, a lien against the nuisance property in the amount of \$[AMOUNT], plus interest, until this amount has been paid in full and discharged of record. The record owners of the nuisance property are [RECORD OWNERS NAMES]. The address of the record owners of the nuisance property are: [RECORD OWNERS STREET ADDRESSES]. The nuisance property is the parcel of real property located in the City of El Monte, County of Los Angeles, State of California at [STREET ADDRESS], El Monte, California [ZIP], Assessor's Parcel Number [APN]. The legal description for the nuisance property is:

[LEGAL DESCRIPTION]

Dated: [MONTH] [DAY], [YEAR]

[TITLE]

City of El Monte, California

1.19.050 Uniform Special Assessment Procedures.

A. *Unless the City elects to utilize a different procedure authorized elsewhere in this Code, where the Code authorizes the City to impose a special assessment for the collection of any unpaid fee, cost, charge, or other monies, including unpaid Nuisance Abatement Costs as part of the annual levy and collection of ad valorem property taxes, the following procedures shall apply:*

1. *If the Nuisance Abatement Costs are upheld, in full or in part, by the Hearing Officer, or if the time for requesting a hearing has elapsed and the Invoice has not been paid in full within the time designated by this Chapter, the City may levy a special assessment as provided in this Section 1.19.050 against the real property described in the Invoice for any unpaid amount due and payable under such Invoice.*
2. *Each special assessment may be collected at the same time and in the same manner as property taxes are collected. All laws applicable to the levy, collection, and enforcement of ad valorem taxes shall be applicable to the special assessment authorized by this Section 1.19.050, except that if any real property to which the special assessment would otherwise attach has been transferred or conveyed to a bona fide purchaser for value following the time of the notice described in Section 1.19.050(A)(3), or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the next installment of property taxes would become delinquent following the levy of the special assessment by the City, then the assessment that would otherwise be imposed by this Section shall not attach to the real property identified the notice described in Section 1.19.050(A)(3), and instead the amount of such special assessment shall be transferred to the unsecured roll for collection.*
3. *A notice of special assessment shall be sent to all persons or entities with a recorded interest in the subject real property by certified mail at the time the assessment is imposed, which shall contain the following recitals:*

The property may be sold after three (3) 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 owners 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.

4. *The city attorney or city prosecutor shall establish the notice of special assessment form for use, or consideration, by the tax collector for the City in collecting a special assessment.*
5. *The notice of special assessment shall also be entitled to recordation with the Los Angeles County Recorder's Office.*

6. *It shall be the duty of the City Manager (or designee thereof) to add the amounts of the assessment, or assessments, to the next regular bills for taxes levied against the respective real property in accordance with the policies and procedures established by the Los Angeles County department of auditor-controller. Failure of the property owners to receive the Notice of Special Assessment shall not invalidate these proceedings.*

7. *The amount of a special assessment shall also constitute a personal obligation of the owners' of the subject property.*

SECTION 3. Section 8.44.140(D) (Assessment of Costs Against Property—Lien) of the EMMC is hereby added, and is to read in its entirety as follows:

8.44.140 Assessment of Costs Against Property—Lien.

D. The procedures provided in this Chapter are in addition to all other remedies and cost recovery options available to the City by law or in equity, including, but not limited to, those provided in Chapter 1.19 of this Code.

SECTION 4. Section 8.44.170 (Alternatives) of the EMMC is hereby amended, and is to read in its entirety as follows:

8.44.170 Alternatives.

Nothing in the foregoing sections shall be deemed to prevent the City from commencing any administrative, civil, criminal, or any other action authorized by law to abate a public nuisance.

SECTION 5. Section 8.59.070 (Enforcement) of the EMMC is hereby amended, and is to read in its entirety as follows:

8.59.070 Enforcement.

A. A violation of this Chapter may be enforced by any means as authorized in Chapters 1.18, 1.19 and/or 1.24 of this Code.

B. The City shall be entitled to recover any fees, costs, fines, or penalties, without limitation, incurred by the City with respect to any action taken pursuant to this Chapter as provided by Chapter 1.19 of this Code or as otherwise authorized by law.

SECTION 6. Chapter 8.80 (Vacant Properties) shall be added to Title 8 of the EMMC to read as follows:

8.80.010 Purpose.

The purpose of this Chapter is to regulate vacant properties in the City in order to protect residential and commercial areas from becoming blighted due to the lack of adequate maintenance and security, and to establish minimum standards of accountability on the responsible parties of vacant properties in order to protect the health, welfare, and safety of the community.

8.80.020 Applicability.

Use of this Chapter shall be at the sole discretion of the City. This Chapter may be used as a supplement to other chapters of this Code or this Chapter may be used in conjunction with other chapters of this Code.

8.80.030 Definitions.

For the purposes of this Chapter, certain words and phrases used in this Chapter are defined as follows:

"Responsible Party" means and includes any person having legal title to, or who leases, rents, occupies or has charge, control or possession of, any real property in the City, including all persons shown as owners on the last equalized assessment roll of the Los Angeles County Assessor's Office. Responsible parties include persons with powers of attorney, executors of estates, trustees, or who are court appointed administrators, conservators, guardians or receivers. A responsible party of personal property shall be any person who has legal title, charge, control, or possession of, such property.

"Vacant Property" means any property that is either:

- (1) Unimproved; or
- (2) Improved with an existing building or structure that is abandoned, vacant and/or unoccupied for more than thirty (30) days.

8.80.040 City Standards.

A. Unimproved Vacant Properties.

1. Landscaping.

a. The responsible party of a vacant property that was never developed or became vacant after pre-existing buildings, structures, or impervious surfaces were removed, shall provide a vacant property landscape and irrigation plan, along with the appropriate City fees, to the Community and Economic Development Department for review and approval.

b. Upon approval of a vacant property landscape and irrigation plan, vacant properties shall be improved and maintained at all times in accordance with the approved plan and the following provisions:

i. A minimum ten-foot wide landscape area shall be maintained on all perimeters of a vacant property located adjacent to all streets, alleys, or other public rights-of-way.

ii. Landscaped areas shall be planted with natural, drought-tolerant vegetation consisting of a combination of trees, shrubs, and groundcover, subject to approval of the Community and Economic Development Department.

iii. The vacant property shall be improved with an operable automatic irrigation system for the ground cover, which shall be installed and maintained in good condition by the responsible party at all times.

iv. Any dead or dying vegetation, as well as any broken, malfunctioning irrigation components, on the property shall be replaced by the responsible party or designee, within seventy-two (72) hours of discovery or notification by the City. The responsible party or designee, shall inspect the property at reasonable intervals and take other steps to reasonably ensure that there are no dead or dying vegetation nor any broken, malfunctioning irrigation components on the property.

2. *Fencing.* A five-foot high with anti-graffiti coating (if feasible) white rail fence approved by the Community and Economic Development Department shall be located behind all required perimeter landscaping. All fencing shall be provided with a gate to allow access to the vacant property for emergency access. As deemed necessary by staff for health, safety, or general welfare reasons, a security fence of a maximum of six feet per approval by the Community and Economic Development Director may be required around vacant properties.

3. *Maintenance.*

a. *The vacant property shall be maintained free of on-site loitering, litter, weeds, graffiti, debris, and the stockpiling of any material at all times. The responsible party, or designee, shall inspect the property at reasonable intervals and take other steps to reasonably ensure that no litter, weeds, graffiti, debris or materials stockpiling collects or is maintained on the property.*

b. *All fencing shall be maintained in good condition at all times by the responsible party or designee. Any on-site graffiti shall be removed by the responsible party or designee, within twenty-four (24) hours of discovery or notification by the City. The responsible party or designee, shall inspect the property at reasonable intervals for any on-site graffiti and take other steps to reasonably ensure that there is no on-site graffiti.*

B. *Improved Vacant Properties.*

1. *Vacant properties improved with existing on-site buildings or structures that are vacant, abandoned, or unoccupied for more than thirty (30) days, as determined by the Community and Economic Development Director, shall be improved and maintained at all times in the same manner as set forth in the "Unimproved Vacant Properties" subsection of this section, however, the Community and Economic Development Director may modify the landscaping requirements if the landscaping requirements are deemed unnecessary or unsuitable for an improved vacant property.*

2. *In addition, such vacant properties shall be maintained as follows:*

a. *All on-site buildings or structures shall be maintained in good condition at all times. Damage to any on-site buildings or structures shall be abated within ten (10) days by the responsible party or designee upon discovery or City notification. An alternative abatement period may be granted if deemed necessary by the Community and Economic Development Director, if the responsible party:*

i. *Demonstrates that physical improvements towards remedying the site or buildings/structures reasonably require more than ten (10) days; and*

ii. *Submits a written request to the Community and Economic Development Director justifying the requested time extension and detailing the scope of work to be completed within such time.*

b. The vacant property shall be adequately secured at all times to prevent illegal dumping, criminal activity, vandalism, graffiti, on-site loitering, and any and all other attractive nuisances to the satisfaction of the Community and Economic Development Director.

C. Vacant Properties in Conjunction with an Approved Project. Before the City issues a demolition permit on any property in which the construction of a new building, structure, parking property, or impervious surface is not scheduled to commence within thirty (30) days after demolition, the responsible party or designee must submit a Vacant Property Landscape and Irrigation Plan for review and approval by the Community and Economic Development Department, along with the appropriate City fees. The Community and Economic Development Department may impose any conditions of approval on the Vacant Property Landscape and Irrigation Plan to ensure that the property will be adequately maintained during the time that it is vacant. Upon approval of the plan, the landscape and irrigation improvements to the vacant property, as specified on the approved plan, must be completed to the satisfaction of the Community and Economic Development Department, within thirty (30) days after approval of the plans.

8.80.050 Implementation.

A. All vacant properties, regardless of how they became vacant, that are existing at the time this section becomes effective must comply with this section within sixty (60) days after the City provides notice alerting the responsible party or operator of the requirements of this section. For purposes of this section, the responsible party or operator is deemed to have been provided notice five (5) days after such notice be mailed by first class and certified mail to the owner(s) shown on the last assessment roll of the county. The failure of any person to receive this notice does not affect the validity of any proceedings under this section. A thirty-day time extension may be granted by the Community and Economic Development Director for good cause as determined by the Community and Economic Development Director.

B. The responsible party shall complete and submit a vacant property registration application on a form made available by the Community and Economic Development Department within sixty (60) days after the property becomes vacant or within sixty (60) days after the effective date of this section, whichever is later. At the time of registration, an annual fee, as established by resolution of the City Council, shall be paid to defray the cost of administering this section. The Community and Economic Development Director shall have the authority to make specific fee exemptions in a case where the responsible party has agreed to allow the property to be used and operated for a specific community serving use and specific timeframe approved by the City.

8.80.060 Monitoring Fee for Vacant Nuisance Properties.

Any vacant property that also constitutes a public nuisance, as defined under this code or as declared to be a public nuisance by the City Council or by the City Attorney in a manner permitted by other applicable law, shall be subject to a monthly monitoring fee and enforcement response fee to recover the city's regulatory costs to monitor and respond to the vacant property. The separate monthly monitoring fee and enforcement response fee as authorized under this section shall be in an amount set by resolution of the City Council and payable by the responsible party. The monitoring fee shall be applicable even in the absence of any action, administrative or otherwise, by the city pursuant to any other provision of the city code. The monitoring fee shall be imposed upon the initial determination that the vacant property constitutes a public nuisance. The fee

shall thereafter be imposed during each thirty (30) day period following the imposition of the initial monitoring fee. On properties requiring more than one involuntary city enforcement response within any thirty (30) day period, an additional and separate enforcement response fee shall be imposed upon the responsible party for each response. Monitoring fees shall be imposed as long as the vacant property remains a public nuisance as provided in this section.

Any monitoring fee imposed pursuant to this section may be appealed by the responsible party in the same manner as is specified in Chapter 1.18 of this code.

8.80.070 Noncompliance Declared Nuisance.

A. Failure to comply with any of the applicable requirements in this Chapter shall constitute a public nuisance and abatement proceedings may proceed to gain compliance in accordance with the provisions of this Chapter.

B. Failure to comply with the City Standards or any other applicable requirements in this Chapter may result in any combination of the following actions by the City:

1. The City may take action to bring the property into compliance, as set forth in this Chapter, which may include, but is not limited to, maintaining the cleanliness of the property, installing fencing, installing landscaping and/or rehabilitating the existing landscaping. The responsible party or designee shall submit full payment to the City for the cost of all work completed by the City. The amount of such payment will be provided on an invoice to the responsible party by the City.

2. Any fees or costs not paid when due may be specially assessed against the property involved. If the fee or invoice amount is specially assessed against the property, said assessment may be collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency, as provided for ordinary real property taxes. All laws applicable to the levy, collection, and enforcement of real property taxes are applicable to the special assessment.

3. The City may cause a notice of lien to be recorded against the property. The notice of lien shall, at minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, a description of the real property subject to the lien, and the amount of the fees or costs assessed against the property.

C. The City may pursue any other remedies or enforcement action(s) provided in this Code.

8.80.080 Exemption.

Any vacant property that is undergoing construction under a valid building permit is exempt from the requirements of this Chapter. This exemption does not apply to any extensions, modifications, or changes to a building permit that extend the building permit beyond the initial expiration period provided by this Code.

SECTION 7. Section 9.08.120 (Violations—Civil Remedies Available) of the EMMC is hereby amended, and is to read in its entirety as follows:

9.08.120 Violations—Civil Remedies Available.

A violation of any provision of this Chapter shall constitute a nuisance and may be abated by the City through civil process by means of a restraining order, preliminary or permanent injunction, or in any manner provided by law for the abatement of such nuisance. The procedures provided in this Chapter are in addition to all other remedies and cost recovery options available to the City by law or in equity, including, but not limited to, those provided in Chapter 1.19 of this Code.

SECTION 8. Subsection (C) of Section 5.102.160 (Manner of Charging Offense; Public Nuisance; Pursuit of Delinquent Sums) of Chapter 5.102 (Alarm Systems, False Alarms and Penalties) of Title 5 (Business Licenses and Regulations) of this Code is hereby amended in its entirety to state the following:

C. Any alarm system installed or maintained in violation of this chapter is declared to be a public nuisance pursuant to Civil Code Section 3479 and shall be abated as provided by law, including this Code.

SECTION 9. The paragraph entitled "(Claim of City of El Monte)" set forth under subsection (C) of Section 8.44.140 (Assessments of Costs Against Property – Lien) of Chapter 8.44 (Property Maintenance) of Title 8 (Health and Safety) of this Code is hereby amended by the deletion of the typographical error that appears as " **120rrule;;** " which appears in the first sentence of said paragraph.

SECTION 10. Subsection (II) of Section 8.44.030 (Public Nuisances Designated) of Chapter 8.44 (Property Maintenance) of Title 8 (Health and Safety) of this Code which is currently designated as "(Reserved)" is hereby amended in its entirety to now state the following:

II. Any act, omission, condition, circumstance or occurrence declared a public nuisance under any other chapter of this Code shall constitute a public nuisance within the meaning of this chapter. Unless otherwise provided under this Code the abatement of such public nuisances shall be subject to the procedures of this chapter.

SECTION 11. Subsection (B) of Section 8.44.040 (Abatement procedure) of Chapter 8.44 (Property Maintenance) of Title 8 (Health and Safety) of this Code is hereby amended in its entirety to state the following:

B. Inspection. Upon being granted permission by the occupant or owner, or after having obtained an appropriate warrant upon the occupant's or owner's refusal to consent to an inspection, the Code Enforcement Supervisor or his or her authorized agent shall cause any premises, building or structure to be inspected for the purpose of determining whether or not it is a public nuisance within the meaning of Section 8.44.030 of this chapter in any of the following events:

- 1. Whenever the Code Enforcement Supervisor in his or her reasonable discretion shall determine such inspection is necessary; or*
- 2. Whenever any person files with the Code Enforcement Supervisor a verified complaint wherefrom there is in the opinion of the Code Enforcement Supervisor probable cause to believe that the premises, building or structure is a public nuisance; or*
- 3. Whenever the Health Officer of the county or any officer or employee of the city transmits to the Code Enforcement Supervisor a written report from the facts of which there is in the opinion of the Code Enforcement Supervisor*

probable cause to believe that the premises, building or structure is a public nuisance within the meaning of this chapter.

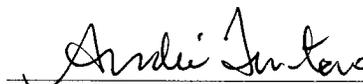
SECTION 12. SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 13. CEQA. This Ordinance and the actions contemplated herein do not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") codified as 21000 et seq. of the California Public Resources Code because they will not result in a direct or reasonably foreseeable indirect physical change in the environment nor do they involve any commitment to any specific project that may result in a potentially significant physical impact on the environment.

SECTION 14. EFFECTIVE DATE. This Ordinance shall take effect 30 days after its final passage.

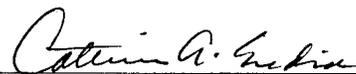
SECTION 15. The City Clerk shall certify the adoption of this Ordinance and shall cause the same to be published pursuant to Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of El Monte at the regular meeting of this 2nd day of July, 2019.



Andre Quintero, Mayor
City of El Monte

ATTEST:



Catherine A. Eredia, City Clerk
City of El Monte

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)
CITY OF EL MONTE) SS:

I, Catherine A. Eredia, City Clerk of the City of El Monte, hereby certify that the foregoing Ordinance No. 2949 was introduced for a first reading on the 17th day of June, 2019 and approved for a second reading and adopted by said Council at its regular meeting held on the 2nd day of July, 2019 by the following vote, to-wit:

AYES: Mayor Quintero, Mayor Pro Tem Velasco, Councilmembers Ancona,
 Martinez Muela and Morales

NOES: None

ABSTAIN: None

ABSENT: None



Catherine A. Eredia, City Clerk
City of El Monte