

ORDINANCE NO. 13-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA REPEALING CHAPTER I (IN GENERAL) AND REPLACING IT WITH CHAPTERS I (IN GENERAL), II (PROPERTY MAINTENANCE STANDARDS) AND III (PUBLIC NUISANCE ABATEMENT) OF TITLE 20 (PROPERTY MAINTENANCE) OF THE COSTA MESA MUNICIPAL CODE RELATING TO THE ABATEMENT OF PUBLIC NUISANCES

WHEREAS, the city of Costa Mesa has the authority, under its police power, to enact regulations for the public peace, morals, and welfare of the city, Cal. Const. art. XI, § 7; and

WHEREAS, the City Council of the City of Costa Mesa finds that certain conditions constitute a public nuisance and are a threat to the public peace, safety and welfare of the city; and

WHEREAS, the City Council find that the City of Costa Mesa's municipal code does not provide an adequate administrative remedy for properties harboring conditions that constitute a public nuisance; and

WHEREAS, the City Council has an interest in maintaining the City of Costa Mesa in an orderly and esthetically pleasing condition, to keep property values in line with neighboring communities and to improve the quality of life for its residents, businesses, and visitors; and

WHEREAS, Sections 36901, 38771 and 38773.5(a) of the California Government Code authorize the City of Costa Mesa to enact ordinances declaring what constitutes a nuisance, the procedures for abating nuisance conditions, providing for the recovery of costs and attorney fees to abate the nuisance, providing for the collection of civil penalties; and

WHEREAS, Section 2929.3 of the California Civil Code authorizes the City of Costa Mesa to abate a public nuisance existing at residential properties acquired through foreclosure or a deed of trust and to charge fines for noncompliance; and

WHEREAS, Chapter 13 of Part 2 of Division 3 of Title 4 of the California Government Code authorizes local procedures for weed abatement; and

WHEREAS, Section 22660 of the California Vehicle provides that the City of Costa Mesa has the authority to enact provisions for the abatement of inoperative vehicles and to recover administrative and abatement costs thereof.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES ORDAIN AS FOLLOWS:

Section 1: Chapter I (In General) of Title 20 (Property Maintenance) is hereby repealed and replaced with the following:

Chapter I -- IN GENERAL

Article 1. - GENERAL

20-1. Purpose and intent.

In accordance with the provisions of California Government Code Section 38773.5, it is the intent of the city council, by the adoption of this title, to provide property maintenance standards, and to provide a procedure for the abatement of public nuisances within the city in order to effectively combat hazards to the public health, safety and welfare.

20-2. Definitions.

The following words and phrases shall, for the purposes of this title, be defined as follows, except where the context clearly indicates a different meaning.

- (a) *Building official* means the Building Official of the City of Costa Mesa, and shall include his/her designee.
- ~~(b) *Board of appeals* shall mean the Public Nuisance Abatement Board of Appeals, comprised of one city council member, one planning commissioner and an independent hearing officer.~~
- (b) *City* shall mean the City of Costa Mesa, and shall include its agents and employees.
- (c) *City clerk* shall mean the City Clerk of the City of Costa Mesa, and shall include his/her designee.
- (d) *City council* shall mean the City Council of the City of Costa Mesa.
- (e) *City manager* shall have the same meaning as Section 2-97 of this Code, and shall include his or her designee.
- (f) *Collection of solid waste* means the operation of gathering together and transporting of solid waste to the point of disposal by a solid waste hauler permittee pursuant to Title 8 of this Code.
- (g) *Commercial vehicle* means any motorized or non-motorized vehicle used or maintained to transport property or goods for profit or persons for hire or compensation.
- (h) *Department* means the Development Services Department of the City of Costa Mesa.

- (i) *Director* means the Director of Development Services of the City of Costa Mesa, and shall include his or her designee.
- (j) *DMV* means the California Department of Motor Vehicles.
- (k) *Finance director* shall mean the Director of Finance of the City of Costa Mesa, and shall include his/her designee.
- (l) *Fire chief* means the Chief of the Costa Mesa Fire Department, and shall include his or her designee.
- (m) *Hoarding or hoarding conditions* means the excessive collection of items, along with the inability to discard them. Hoarding often creates such cramped conditions that homes or yards may be filled to capacity, with only narrow pathways winding through stacks of clutter. Hoarding also includes the hoarding of animals, often resulting in dozens or hundreds of pets kept in unsanitary conditions.
- (n) *Leaf blower* means portable power equipment powered by fuel or electricity and used in any landscape maintenance, construction, property repair, or property maintenance for the purpose of blowing, dispersing or redistributing dust, dirt, leaves, grass clippings, cuttings, and trimmings from trees and shrubs and other debris.
- (o) *Inoperable vehicle* means a vehicle is ~~no~~ inoperable+if it is:
 - 1. Mechanically incapable of being driven; or
 - 2. Prohibited from being operated on a public street or highway pursuant to the provisions of Vehicle Code Sections 4000, 5202, 24002, or 40001, concerning license plates, registration, equipment, safety and related matters.
- (p) *On or in front of real property* includes all areas of the real property including but not limited to the rear, side, or front yard areas, parkways, sidewalks, or on abutting streets in all zones in the city except for items contained within a receptacle for collection of solid waste pursuant to Chapter IV of Title 8 of this Code.
- (q) *Owner of the vehicle* means the last registered owner and the legal owner of record.
- (r) *Parkway* means the area between any real property line and the edge of the pavement of a public street.

- (s) *Person* means an individual or entity, and includes but is not limited to associations, partnerships, corporations, nonprofit entities, groups, and governmental agencies.
- (t) *Planning commissioner* means a Planning Commissioner for the City of Costa Mesa.
- (u) *Public property* means land, buildings, structures, or fixtures that are owned by a public agency. For the purposes of this title, public property does not include streets.
- (v) *Recreational vehicle* means any travel trailer, camper, motor home, or trailer (as defined in State Vehicle Code Sections 242, 243, and 630, respectively), or any camper shell or boat.
- (w) *Residential use* means any property zoned for residential use as provided for in Title 13 of this Code. Sidewalks, parkways, and streets adjacent to residential property shall be considered a residential area for purposes of this title.
- (x) *Residentially-developed property* means any property developed with a conforming dwelling unit or legal nonconforming dwelling unit.
- (y) *Responsible person* means any of the following: (1) a person who causes a violation to occur, or who allows a violation to continue by his/her action or failure to act; (2) a person whose agent or employee causes or maintains a violation; (3) the owner of the property, which may include the property manager and/or tenant; and/or (4) a person who is the beneficiary under a deed of trust for the property.
- (z) *Rubbish* means all waste which includes but is not limited to:
1. Animal or human offal, asphalt, inoperative bicycles and parts, boards, inoperative boats and parts, bottles, boxes, bricks, cans, cartons, cement, cinder blocks, concrete, containers, crates, dirt, doors, equipment, glass, gravel, hoses, lumber, machinery, metal, paint, pallets, paper, pipe, plaster, rebar, rocks, rubber, sand, siding boards, stucco, tile, windows, wire, wood, and other similar material.
 2. Trimmings, clippings and cuttings from lawns, shrubs and trees, and all dead or uprooted grass, sod, shrubs, trees, vegetables and dirt, and firewood piles.
 3. Rugs, bedding, furniture, utensils, clothing, toys, appliances, household supplies and equipment.
 4. Vehicle bodies, motors, tires, parts and accessories.

5. Any other similar item and material of residential, commercial or industrial nature existing in an unusable, inoperative, discarded or abandoned condition.
- (aa) *Street* shall have the same meaning as Sections 360, 590, 591 and 592 of the California Vehicle Code.
 - (bb) *Vacant real property* means any vacant parcel of land, building or structure on real property in all zones in the city where the responsible person has intentionally left such property vacant and unoccupied for a period of time exceeding thirty (30) calendar days.
 - (cc) *Vehicle* shall have the same meaning as Section 670 of the California Vehicle Code.
 - (dd) *Weed abatement official* means the fire chief and shall include his or her designee.
 - (ee) *Weeds* means plant material that is noxious or dangerous, and/or dry grass, stubble, brush, or other flammable material that creates a fire hazard.
 - (ff) *Wrecked and/or dismantled vehicle means* any vehicle that meets the criteria of a total salvage vehicle or nonrepairable vehicle, as defined by the California Vehicle Code.

20-3. Exemptions.

The provisions of this title shall not apply to the following:

- (a) Construction activities. Any material currently in use in the course of lawful construction, demolition or landscaping on the site; provided, however, that when the construction, demolition, or landscaping on the site exceeds thirty (30) calendar days a permit shall be obtained pursuant to Title 5 of this Code which shall specify the time for completion of such work.
- (b) Stored materials. Any material contained within a fully enclosed structure or lawfully constructed solid, opaque wall, or fence, and such material is not in a condition as to be detrimental to the health, safety, or welfare of the inhabitants of such real property, the public, or any adjoining property.
- (c) Vehicles. The parking and storage of vehicles are subject to the provisions in Table 20-8(c).
- (d) Nothing in this section shall be construed as authorizing the maintenance of a public or private nuisance.

20-4. Nonexclusive remedy.

This title is not the exclusive means for public nuisance abatement within the City of Costa Mesa. The remedies set forth pursuant to this section shall be in addition to any other existing remedies for nuisance abatement actions, including but not limited to, administrative citations, criminal prosecution, or any action at law or equity.

20-5. Compliance responsibility.

Compliance with the standards contained in this title shall be the sole responsibility and at the sole cost of the responsible person and shall not limit the remedies or recovery of costs for the abatement of any premises or property found to be in violation of this title.

Chapter II – PROPERTY MAINTENANCE STANDARDS

ARTICLE 1. – PROPERTY MAINTENANCE STANDARDS

20-6. Property maintenance standards.

All developed real property in the city shall be maintained at a level not less than the following standards.

- (a) Condition of structures. Structures shall not be partially destroyed, abandoned, unsecured, or permitted to remain in a state of partial construction for more than thirty (30) days. Buildings or structures shall not be boarded up for a period in excess of ten (10) days without a valid demolition or building permit on file, except in compliance with Section 20-7.
- (b) Building exteriors and roofs. Exterior building surfaces and roofs shall be maintained free of significant surface cracks, missing materials, warping, dry rot which either threaten the structural integrity, or result in a dilapidated, decaying, disfigured, or partially ruined appearance.
- (c) Use of tarps. Tarps for roof and building repairs shall be prohibited, except for emergency repairs. Additionally, the use of tarps for vehicle covers, or temporary canopies, enclosures, and/or awnings is prohibited in any outdoor area visible from any public right-of-way.
- (d) Paint. Painted surfaces on buildings, trash enclosures, walls, retaining walls, fences, and structures shall be maintained in order to prevent decay, excessive checking, cracking, peeling, chalking, dry rot, warping, or termite infestation.
- (e) Graffiti. All structures, equipment, walls, and fencing on the property shall be maintained free of graffiti pursuant to Chapter VII½ of Title 11.
- (f) Lighting. All exterior light fixtures shall be maintained in good working order free of broken lamps, lens, and light bulbs. Furthermore, the structural integrity of all supporting poles and mounting fixtures shall be maintained. All insulation and connections shall be intact and free of exposed wire.
- (g) Windows. Broken windows and glass doors and the use of materials other than glass as a replacement or covering of windowpanes are prohibited.
- (h) Window screens. All window and glass door screens shall be maintained free of tears, rips, and holes. On residential rental properties, window screens are required on all windows.

(i) Trash bins.

1. Trash bins or dumpsters shall be kept within a trash enclosure, or screened from public view to the maximum extent feasible. Trash bins shall also be maintained free of graffiti.
2. Overflowing trash bins or dumpsters due to an inadequate number of bins and/or request for service from the trash hauler are prohibited. Use of commercial trash bins for residential uses in the R-1 zone is prohibited, except for the purpose of removing construction and demolition materials pursuant to Section 20-3(a), construction activities.
3. Exception: All existing trash dumpsters shall be affixed with a lid and screened from public view by a trash enclosure or other acceptable manner under the direction of the planning division. The provision of a trash enclosure or screen may result in the loss of required parking spaces, landscaping, and/or open space without approval of a variance from development standards in Title 13, Planning, Zoning and Development. The zoning administrator may waive this requirement, if he/she determines that the loss of onsite parking shall create a hardship for the site, subject to review pursuant to Chapter IX of Title 2. The location of any trash enclosure or screen on the site as required by this section shall be approved by the planning division.

(j) Walls, fences, and trash enclosures. All walls, retaining and crib walls, and fences abutting public rights-of-way (including alleys), and trash enclosures, shall be maintained free of significant surface cracks, dry rot, warping, deterioration, leaning, missing panels or blocks, which either threaten the structural integrity or result in a dilapidated, decaying, disfigured, or partially ruined appearance. In residential zones, including planned development, chain link fencing visible from a public street shall be removed or screened with plant materials that have been approved by the department. Chain link fences and landscaping that are located adjacent to street corners and driveways shall conform to the city's walls, fences, and landscaping standards in Title 13 of the Costa Mesa Municipal Code regarding maximum height and location.

(k) Parking areas, sidewalks. Parking areas, private alleys, driveways, sidewalks, and walkways shall be maintained free of potholes, cracks, breaks, lifting, and other deteriorated conditions.

(l) Signs. All signs shall be maintained in order to prevent deterioration, disrepair, and unsightliness.

(m) Excavations. Excavations, abandoned wells, shafts, basements, and other holes shall be properly secured to prevent access by unauthorized persons.

(n) Landscaping. With the exception of R-1 properties, all landscaping on the property shall be maintained pursuant to section 13-108, landscape maintenance

of this Code. For R-1 properties, all unpaved areas visible from the public right-of-way shall be landscaped and the landscaping shall be maintained in a healthy condition free of dying, dead, diseased, decayed, discarded and/or overgrown vegetation.

- (o) Parkway landscaping. ~~In residential areas,~~ The public parkway shall be landscaped and maintained by the adjacent property owner(s). The landscaping shall be maintained in a healthy condition free of dying, dead, diseased, decayed, discarded and/or overgrown vegetation.
- (p) Drainage. Onsite drainage improvements shall be maintained in order to prevent deterioration, disrepair, and ineffectiveness.
- (q) Rodent and vermin control. All property, including landscaped areas, buildings, and structures, shall be maintained free of rodents and other vermin (including but not limited to, bed bugs, roaches, lice, fleas, and ticks).
- (r) Outdoor drying. In all residential zones or residential developments, the outdoor airing and/or drying of laundry, clothes, other household linens, or food is permitted only in rear or side yards, provided that the items are not visible from public rights-of-way.
- (s) Pools. Barrier fencing and gates for swimming pools and spas shall be maintained as required by the California Building Code. Swimming pools and spas shall not contain unfiltered or stagnant water.
- (t) Address numerals. Street address numerals shall be maintained pursuant to following:
 1. Single-family units. Street addresses shall be visible from the public street and may be displayed either on the front door, on the fascia adjacent to the main entrance, or on another prominent location. When the property has alley access, address numerals shall be displayed in a prominent location visible from the alley. Numerals shall be a minimum four (4) inches in height with not less than one-quarter-inch (1/4+) stroke and shall contrast sharply with the background.
 2. Multifamily units. Street addresses shall be visible from the public street and shall be displayed on the complex identification sign. If there is no complex identification sign, the street address may be displayed on the fascia adjacent to the main entrance or on another prominent location. When the property has alley access, address numerals shall be displayed in a prominent location visible from the alley. Street address numerals shall be a minimum six (6) inches in height with not less than one-half-inch (1/2+) stroke and shall contrast sharply with the background. Identification of individual units shall be provided adjacent to the unit entrances. Letters or numerals shall be four (4) inches in height with not less than one-fourth-inch (1/4+) stroke and shall contrast sharply with the background.

3. Nonresidential properties. Street addresses shall be visible from the public street and shall be displayed on the freestanding sign. If there is no freestanding sign, the street address may be displayed on the fascia adjacent to the main entrance or on another prominent location. When the property has alley access, address numerals shall be displayed in a prominent location visible from the alley. Numerals shall be a minimum twelve inches (12+) in height with not less than three-fourth-inch (3/4+) stroke and shall contrast sharply with the background. Identification of individual units shall be provided adjacent to the unit entrances. Letters or numerals shall be four inches (4+) in height with not less than one-fourth-inch (1/4+) stroke and shall contrast sharply with the background.

20-7. Standards for vacant real property.

- (a) Mandatory standards. All vacant real property in the city shall be secured and maintained at a level not less than the following standards during the time period that such property remains vacant:
 1. Graffiti. All structures, equipment, walls, and fencing on the property shall be maintained free of graffiti pursuant to Chapter VII $\frac{1}{2}$ of Title 11.
 2. Rubbish, litter and weeds. All landscaped, concrete, dirt, or paved open areas on the real property and adjoining public parkway shall be kept clear of rubbish, litter, and weeds.
 3. Temporary fencing. Unless required by subsection (b)(2), the installation of temporary fencing is not mandated. A building permit is required for any temporary fencing installed by a responsible person. The planning division shall review the fence location and material(s), and chain link fencing shall only be used in conjunction with an opaque screening material. The responsible person shall maintain the fence in good repair and condition. If the fence is not maintained properly, the building official or fire chief may order its removal and replacement. The fence may be properly posted with no trespassing signs, and the fence shall be kept clear of all other signs, except lawfully installed signs.
- (b) Additional standards. When deemed necessary by the fire chief or director, and/or in order to maintain the safety of persons or property, the following standards may also be imposed:
 1. Access points. All windows, doors, and other open access features to the structures on the real property shall be boarded up and secured in compliance with the standard attached as Exhibit A to the ordinance adopting this title. All boards visible from the building's exterior shall be painted to match the building's exterior.

2. Temporary fencing. The property shall be fenced on all sides along the property line with a chain link fence or other type of secure fencing at a minimum height of six feet (6') from grade. The fire chief or building official may determine a greater fence height is necessary. The temporary fence shall require a building permit and shall be subject to the standards in subsection (a)(3).

3. Security lighting. All structures which could be used for human habitation shall have an operable and effective exterior security lighting system. The front and rear yards shall each be illuminated with a minimum of one (1) light. The lighting shall be capable of illuminating the structure's exterior so as to be visible from the street or alley from dusk to dawn. However, the lights shall be shielded to avoid lighting adjacent properties.

Article 2. – VEHICLE STORAGE AND PARKING REGULATIONS

20-8. Inoperative vehicles

Except as provided in Section 20-3 Exemptions, it shall be unlawful for any responsible person having charge or possession of any real property in the city to:

- (a) Keep, store, or maintain upon any premises under his/her control any abandoned, wrecked, dismantled, or inoperative vehicle, or part thereof, except as permitted by Table 20-8(c).
- (b) Keep, store, or maintain upon any premises under his/her control any vehicle or recreational vehicle, except as permitted by Table 20-8(c).

Table 20-8(c)
VEHICLE STORAGE AND PARKING REGULATIONS

Parking and Storage Options	RESIDENTIAL ZONES AND RESIDENTIALLY-DEVELOPED PROPERTY			NONRESIDENTIAL ZONES (EXCLUDING RESIDENTIALLY-DEVELOPED PROPERTY)		
	Vehicle and Recreational Vehicles	Inoperative vehicles	Wrecked or dismantled vehicles, or part thereof	Vehicle and Recreational Vehicles	Inoperative vehicles	Wrecked or dismantled vehicles, or part thereof
1. Interior storage. Enclosed completely within a building in a lawful manner where it is not visible from the street or other public or private property	P	P	P	P		P
2. Licensed vehicle dealer. Stored or parked in a lawful manner in connection with the business of a licensed vehicle dealer.	•	•	•	P		P
3. Other lawful business. Stored or parked on a lot pursuant to zoning approval granted by the City of Costa Mesa for that purpose, in connection with the operation of a lawfully-conducted business.	•	•	•	P		P
4. Other residential storage options. Stored or parked on a paved area that meets the following criteria: a. A screened paved surface that is not within the required building setback area abutting a public street excluding alleys; and, b. The screening shall consist of a 6-foot high permanent, solid, opaque fence or wall. The fence or wall shall be constructed and maintained in accordance with applicable development standards for fences and walls contained in the City of Costa Mesa Zoning Code. A building may also serve to screen the storage area. c. The exceptions to subparagraphs a. and b. above are that vehicles and recreational vehicles may also be stored or parked as follows: i. On a paved driveway connecting a garage or carport with a public or private street or alley; or ii. On a paved parking space which is accessible from the alley for properties developed with a single family detached residence.	P ¹ P ¹ P ¹	P ¹ P ¹ •	P ¹ P ¹ •	Not applicable		Not applicable

Table 20-8(c)
VEHICLE STORAGE AND PARKING REGULATIONS

Parking and Storage Options	RESIDENTIAL ZONES AND RESIDENTIALLY-DEVELOPED PROPERTY			NONRESIDENTIAL ZONES (EXCLUDING RESIDENTIALLY-DEVELOPED PROPERTY)		
	Vehicle and Recreational Vehicles	Inoperative vehicles	Wrecked or dismantled vehicles, or part thereof	Vehicle and Recreational Vehicles	Inoperative vehicles	Wrecked or dismantled vehicles, or part thereof
<p>5. Other Nonresidential storage options. Stored or parked on a paved area that meets the following criteria:</p> <ul style="list-style-type: none"> a. A paved area that is not within the required building setback area abutting a public street, excluding alleys; and, b. Screened by a 6-foot high permanent, solid, opaque fence or wall. The fence or wall shall be constructed and maintained in accordance with applicable development standards for fences and walls contained in the City of Costa Mesa Zoning Code. A building may also serve to screen the storage area. 	Not applicable	Not applicable		P	•	•
6. Stored or parked on any unpaved surface, except as permitted above.	•		•	•		•

P = Permitted
• = Prohibited

1. Excludes buses, tow trucks, dump trucks, flatbed trucks, tractors, tractor trailers, truck trailers; or any other commercial vehicle over 25-feet long or 8 feet in height or 90-inches wide, except as allowed in Section 20-3(a).

Article 3. – CANOPIES

20-9. Use of canopies.

The use of canopies is limited to residential properties and commercial zones or uses as specified herein. A conditional use permit is required for any use not designated in this section. For the purposes of this provision, a canopy is defined as a canvas covering or other durable fabric such as denim or polyvinyl, that is designed for use or custom fitted over a metal frame or a frame constructed from some other sturdy material, excluding umbrellas, and used for protection, shade, or shelter from the elements and open on at least one side.

(a) Nonresidential properties:

1. Car washes and motor vehicle detailing businesses. A maximum of one (1) canopy is allowed on the same premises and in conjunction with a legally established car wash or motor vehicle detailing business provided it complies with all of the following standards:
 - A. The canopy shall not exceed twenty-five (25) feet by fifty (50) feet in dimension and fifteen (15) feet in height.
 - B. The canopy shall not be located in any required street or landscape setback area or interfere with the parking lot access and/or vehicular circulation.
 - C. The canopy shall cover no more than five (5) standard size parking spaces, as defined in Title 13 of this Code.
 - D. No signage, decals, logos or advertising of any nature shall be allowed on the canopy.
 - E. The frame of the canopy shall be safely secured to the ground in accordance with the manufacturer's installation instructions.
 - F. No electrical wiring and/or lighting, whether permanent or portable, shall be attached to the canopy.
 - G. The area under the canopy shall only be used for motor vehicle detailing and the temporary parking of operative motor vehicles for services associated with either the car wash or detailing business.
 - H. The canopy shall be maintained in good condition, and shall be removed, cleaned, or replaced if torn, faded, or dirty.
 - I. Canopies covering an area of four hundred (400) square feet or larger require issuance of a fire permit.
2. New and/or used motor vehicle dealerships. A maximum of two (2) canopies are allowed in conjunction with a legally established new and/or used motor vehicle dealership, provided the canopy(s) complies with all of the following standards:
 - A. The canopy(s) shall not exceed fifty (50) feet by one hundred (100) feet in dimension, with an aggregate total of five thousand (5,000)

square feet in area and shall not exceed twenty-five (25) feet in height.

- B. The canopy(s) shall be located within the automobile sales display or service area, and the canopy(s) shall not be located in any required street or landscape setback area or interfere with the parking lot access and/or vehicular circulation.
- C. No signage, decals, logos, or advertising of any nature shall be allowed on the canopy.
- D. The area under the canopy shall only be used for the temporary parking of operative motor vehicles that are on the premises in conjunction with the business.
- E. The frame of the canopy shall be safely secured to the ground in accordance with the manufacturer's installation instructions.
- F. Any attached electrical wiring and/or lighting, whether permanent or temporary, shall comply with all applicable provisions of the Uniform Electrical Code.
- G. Automobile mechanical repair is prohibited under a canopy or on any open parking area. Motor vehicle detailing, not including mechanical repair, is an acceptable use under a canopy.
- H. The canopy shall be maintained in good condition, and shall be removed, cleaned, or replaced if torn, faded, or dirty.
- I. Canopies covering an area of four hundred (400) square feet or larger require issuance of a fire permit.

- (b) Residential properties: Any canopy located on a residential property shall be partially or wholly screened from the public right-of-way by either a building and/or solid, opaque wall or fence that is a minimum six (6) feet in height. The canopy shall be maintained in good condition and shall be removed, cleaned, or replaced if torn, faded or dirty.

Article 4. – LEAF BLOWERS

20-9. Leaf blowers.

- (a) Residential areas. In residential areas, or within fifty (50) feet thereof, the use of leaf blowers is prohibited except during the hours of 7:00 a.m. to 5:00 p.m., Monday through Friday, 9:00 a.m. to 5:00 p.m. on Saturdays; and 12:00 noon to 5:00 p.m. on Sundays and legal holidays.
- (b) Maximum noise levels. Notwithstanding provisions of Chapter XIII Noise Control of Title 13 of this Code, the maximum noise level emitted by leaf blowers shall not exceed sixty-five (65) decibels and shall not exceed fifty-five (55) decibels for more than a total of fifteen (15) minutes at any given location. The noise level shall be measured at a distance of fifty (50) feet from the leaf blower.
- (c) Dirt, dust, debris. Leaf blower operations shall not cause dirt, dust, debris, leaves, grass clippings, cuttings or trimmings from trees or shrubs to be blown or deposited on any adjacent street or property, or upon the property on which the leaf blower is being operated. Deposits of dirt, dust, leaves, grass clippings, debris, cuttings or trimmings from trees or shrubs shall be removed and disposed of in a sanitary manner, to prevent dispersment by wind, vandalism, or similar means.
- (d) Windows and other openings. Leaf blowers shall not be operated within a horizontal distance of ten (10) feet of any operable window, door or mechanical air intake opening or duct.
- (e) Identification required. Each leaf blower shall have the business name, address, and telephone number affixed to it in a clear, identifiable manner.

CHAPTER III – PUBLIC NUISANCE ABATEMENT

Article 1. -- DECLARATION OF PUBLIC NUISANCE.

20-10. Declaration of public nuisance

- (a) It is hereby declared a public nuisance for any person owning, leasing, occupying, or having charge or possession of any premises in the city to maintain the premises in a manner that any of the conditions identified below are found to exist.
- (b) A condition shall not be declared a nuisance unless: (1) the nuisance can be readily identified, observed or heard without entry onto the property; (2) it can be observed and established pursuant to a consent physical entry upon the property involved; or (3) it can be observed and established during an entry onto the property under the authority of a judicial warrant issued by a court of competent jurisdiction.

20-11. Conditions or Uses Qualifying as a Public Nuisance.

Conditions which qualify as a public nuisance, include, but are not limited to, the following:

- (a) Any structure or property, or a portion thereof, that is determined to be unsafe pursuant to the California Building Code and other applicable technical codes, constitutes a fire hazard, is in violation of any of the provisions of Section 20-7, is determined to be unsafe or that is otherwise dangerous to the public safety, health and welfare.
- (b) Structural hazards in occupied or vacant structures, including the following:
 - 1. Deteriorated or inadequate foundations,
 - 2. Defective or deteriorated flooring or floor supports,
 - 3. Fireplaces or chimneys that bulge, list, or settle due to defective material or deterioration,
 - 4. Flooring or floor supports of insufficient size to carry imposed loads with safety,
 - 5. Members of ceilings, roofs, ceilings and roof supports, or other horizontal members that buckle, sag, or split due to defective material or deterioration,
 - 6. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety,
 - 7. Members of walls, partitions, or other vertical supports that buckle, lean, list, or split due to defective material or deterioration,
 - 8. Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.

- (c) Land, the geology, topography or configuration of which, whether in a natural state or as a result of grading operations, causes erosion, subsidence, or surface water drainage problems of a magnitude deemed to be injurious or potentially injurious to the public health, safety, and general welfare or to adjacent properties.
- (d) Structures that are abandoned, boarded up, partially destroyed, or left in a state of partial construction.
- (e) Keeping, storing, or maintaining on or in front of any real property, or in or on any vehicle upon the real property any litter, rubbish or weeds, when such material is open to view at street level from a parkway, street, or adjoining property, or in such a condition as to be detrimental to the health, safety and welfare of the inhabitants of such real property or any adjoining property.
- (f) Dead, decaying or overgrown vegetation that is:
 - 1. Likely to harbor rats, vermin (including but not limited to bed bugs, roaches, lice, fleas, and ticks), and other nuisances, or
 - 2. Dead, decayed, diseased, or hazardous trees dangerous to public safety; or
 - 3. Landscaping not in compliance with Chapter VII (Landscaping Standards) of Title 13 (Planning, Zoning and Development).
- (g) Attractive nuisances dangerous to children in the form of:
 - 1. Abandoned and broken equipment,
 - 2. Abandoned structures,
 - 3. Hazardous excavations, ponds, or pools, or
 - 4. Neglected machinery.
- (h) Any swimming pool, pond, spa, or other body of water or excavation which is abandoned, unattended, or unfiltered.
- (i) The disposal or storage of oil, grease, other petroleum products, noxious chemical, pesticides, or any gaseous, liquid, or solid waste in such a manner to constitute a health or fire hazard.
- (j) Operating a leaf blower inconsistent with Section 20-9 of this Code.
- (k) Keep, store, or maintain upon any premises any vehicle or recreational vehicle, except as permitted by Table 20-8(c).
- (l) Keeping, storing, or maintaining a canopy upon any premises, except as permitted in Section 20-9 of this Code.

- (m) Use of any parked or stored vehicle or recreational vehicle, operative or not, as temporary or permanent living space, except in designated recreational vehicle/mobile home parks.
- (n) Use of a garage, or any portion thereof, as a temporary or permanent living space or as a meeting room.
- (o) Keeping, storing, or maintaining in any residential zone or on any residentially-developed property any of the following:
 - 1. Construction equipment and materials, except those that are specifically allowed pursuant to a city building or demolition permit, and which have been adequately maintained in good and safe condition.
 - 2. Buses, tow trucks, dump trucks, flatbed trucks, tractors, tractor trailers, truck trailers; or
 - 3. Any other commercial vehicle over twenty-five (25) feet long or eight (8) feet in height or ninety (90) inches wide.
- (p) Keeping, storing, or maintaining any materials, equipment or objects, including, but not limited to, appliances, furniture, barbeques, plants, toys, or other household items of any kind (except for roof-mounted mechanical equipment with a valid building permit) on rooftops of structures, including, but not limited to, carports and patio covers.
- (q) Installing, constructing, or maintaining any fencing or screening on, about, around, or projecting above rooftops of structures, including, but not limited to, carports and patio covers, without a valid building permit and zoning approval.
- (r) Inadequate sanitation including the following:
 - 1. Infestation of insects (including but not limited to bed bugs, roaches, lice, fleas, and ticks), rodents, or vermin, ~~as determined by the county's health officer or by the county's vector control,~~
 - 2. Lack of adequate garbage and rubbish storage and removal facilities, ~~as determined by the county's health officer or by the county's vector control,~~
 - 3. Lack of connection to a required sewage disposal system.
- (s) All wiring, except that which conforms to all applicable laws in effect at the time of installation; if currently in good and safe condition and working properly.
- (t) All plumbing, except that which conforms with all applicable laws in effect at the time of installation and which has been maintained in good condition, or which may not have conformed with all applicable laws in effect at the time of

installation but is currently in good and safe condition and working properly, and which is free of cross connections and siphonage between fixtures.

- (u) All mechanical equipment, including vents, except that which conforms with all applicable laws in effect at the time of installation and which has been maintained in good and safe condition, or which may not have conformed with all applicable laws in effect at the time of installation but is currently in good and safe condition and working properly.
- (v) Faulty weather protection, which shall include the following:
 1. Crumbling, deteriorated, or loose plaster, stucco or other exterior material;
 2. Deteriorated or ineffective waterproofing of exterior floors, foundations, roof, or walls including broken doors or windows,
 3. Defective or lack of protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering,
 4. Broken, buckled, rotted, or split exterior wall coverings or roof coverings.
- (w) Any structure, or portions thereof, apparatus, device, equipment, combustible waste, or vegetation which, in the opinion of the fire chief is in a condition so as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.
- (x) All structures, or portions thereof, not provided with adequate exit facilities as required by the building code, except those structures, or portions thereof, whose exit facilities conformed with all applicable laws at the time of their construction and which have been adequately maintained and increased in relation to any increase in occupant load, addition or alteration, or any change in occupancy. When an unsafe condition exists through a lack of, or improper location of, exits, additional exits may be required to be installed.
- (y) All structures, or portions thereof, which are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by the building code, except those structures, or portions thereof, which conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, addition or alteration, or any change in occupancy.
- (z) All structures, or portions thereof, occupied for cooking, dining, living, or sleeping, that were not designed or intended to be used for occupancy.
- (aa) Property in a condition of deterioration or disrepair-. This includes the keeping or depositing on, or the scattering over the premises of, any of the following:

1. Debris, junk, lumber, or trash;
 2. Abandoned, disregarded, or unused objects or equipment (e.g., cans, containers, freezers, furniture, refrigerators, or stoves);
 3. Stagnant water;
 4. Hoarding conditions in either the interior or the exterior of the property.
- (bb) A vacant parcel that is not planted with continuously maintained landscaping materials to prevent dust and erosion, or that is not continuously maintained free from trash, litter, and other debris.
- (cc) A vacant structure that is not maintained in weatherproof condition, that is not maintained to the same extent and appearance as if it were occupied, and/or is not secured to prevent entry by unauthorized persons at all times.
- (dd) Failure to maintain a residential property acquired through foreclosure or deed of trust. Failure to maintain+includes but is not limited to: excessive foliage growth; failure to prevent trespassers or squatters from remaining on the property; failure to prevent mosquito larvae; or the existence of any condition that constitutes a public nuisance under state or local law.
- (ee) Any property that generates an unusually high number of calls for police, code enforcement and/or fire service due to illegal activity and/or public nuisance conditions, or where an unusual amount of criminal activity takes place as demonstrated by police calls and/or reports. An unusual number of calls for service, or an unusual amount of criminal activity, may be determined in part by comparing similar or neighboring properties in similar zones or within the same or a similar neighborhood within the city.
- (ff) Any property where any person willfully makes or continues, or causes to be made or continued, any excessive or unreasonable noise, which disturbs the peace or quiet of any property within the city or which causes discomfort or annoyance to any reasonable person of normal sensitivities residing in the area.

Irrespective of whether the noise originates within the city or outside the city, the standard that may be considered in determining whether excessive noise exists may include, but not be limited to, the following:

1. Whether the noise can be heard over one hundred (100) feet from the property line where the source of the noise is located;
2. The level of the noise;
3. Whether the nature of the noise is usual or unusual;
4. Whether the origin of the noise is natural or unnatural;
5. The level and intensity of the background noise, if any;
6. The proximity of the noise to residential sleeping facilities;
7. The nature and zoning of the area within which the noise emanates;
8. The density of the inhabitation of the area within which the noise emanates or is heard in;

9. The time of the day and night the noise occurs;
 10. The duration of the noise, including whether it is of a temporary or short-term nature;
 11. Whether the noise is recurrent, intermittent, or constant; and
 12. Whether the noise is produced by a commercial or noncommercial activity.
 13. Any noise in violation of the provisions of Chapter XIII (Noise Control) of Title 13 (Planning, Zoning and Development) of this Code.
- (gg) Any property or use that generates an unusual and significant amount of foot, bicycle, or vehicular traffic and/or parking shortages, noise, second hand smoke, trash in the streets, yards and/or on the sidewalks and parkways, blocks driveways or any other disturbance which interferes with other residents or business owners' quiet enjoyment of their property.
- (hh) Any business activity conducted without a business tax registration certificate.
- (ii) Any business or other activity not consistent with all of the terms and conditions of all applicable zoning approvals and approved plans granted by the city.
- (jj) Any use of property conducted without a valid certificate of occupancy, or which has a certificate of occupancy inconsistent with the actual occupancy of the property.
- (kk) Maintaining or permitting any condition to occur, or conducting any use of property that conflicts with California or with Federal law.
- (ll) Any violation of the City of Costa Mesa's zoning code.

20-12. Civil penalties.

- (a) Commencing the day following the expiration of the period provided in the notice to abate, a fine of up to \$1000 (one thousand dollars) may be imposed until the violation is corrected. Fines shall be set by city council resolution.
- (b) Unpaid fines shall be collected pursuant to Section 1-48 of this code.
- (c) Any fines collected for failure to maintain a property acquired through foreclosure or deed of trust shall be solely directed to the city's nuisance abatement program.

Article 2. – PUBLIC NUISANCE ABATEMENT PROCEDURES, APPEALS AND COST RECOVERY

20-13. Right of entry.

- (a) The director may use all lawful means to enter upon any property in the city for the purpose of inspecting the property for a public nuisance and/or for the removal of any public nuisance from the property.
- (b) If a property owner or occupant refuses to allow the director entry upon the property for inspection or abatement of a public nuisance, the director shall apply to a judge of a court of competent jurisdiction for a warrant authorizing the entrance upon such property to perform an inspection or abatement of such nuisance.

20-14. Notice to abate – Form and content.

- (a) Whenever the director finds that any premises or property within the city is maintained contrary to the provisions of this chapter, the director shall give notice to the responsible person, as reflected in the most recent Orange County Assessor's parcel roll.
- (b) The notice to abate provided for in this section shall be headed ~~%~~NOTICE OF PUBLIC NUISANCE+ in letters not less than one (1) inch in height and which shall, in legible characters, direct the abatement of the nuisance, referring to this chapter for particulars.
- (c) The notice shall indicate the nature of the alleged nuisance, the assessor's parcel number and street address, if any, of the property involved, and shall contain a description of the property in general terms reasonably sufficient to identify the location and extent of the nuisance.
- (d) The notice shall set forth a reasonable time limit for correction of the violation(s) and of the public nuisance, and may set forth suggested methods for correcting the public nuisance.
- (e) Any notice to abate issued pursuant to a failure to maintain a residential property acquired through foreclosure shall provide notice of intent to abate pursuant to Section 2929.3 of the California Civil Code.

20-15. Notice to abate – Service.

- (a) The notice, in form and content as required by Section 20-14 shall be served by the following method:
 - 1. By posting the notice at a conspicuous place on the land, or upon the premises, or upon any structure thereon, or upon the abutting public right-of-way; and

2. By sending a copy of the notice by certified or registered mail addressed to the owner or other person in charge or control of the property, at the address shown on the last available assessment roll. The notice shall be placed in the United States Mail, postage prepaid, and shall be deemed served upon ~~placing in the United States Mail, postage prepaid~~verification of receipt.

(b) Failure of the owner or other person in charge of or control of the property to actually receive such notice shall not affect the validity of any proceedings under this chapter.

20-16. Appeal procedure.

Appeals pursuant to this chapter shall be heard by the ~~the~~ city council. The responsible person, owner, occupant or any person claiming any legal or equitable interest in the affected property shall have the right of appeal the director's decision.

(a) The appeal shall be filed with the director within ten (10) calendar days following the service of the notice of abatement on the responsible person. The appeal shall be in writing and shall state the grounds for the appeal. The appeal shall be accompanied by the fee required for the taking of any such appeal, which fee shall be set by city council resolution. ~~The city council shall have the discretion to waive or modify the appeal fee if the responsible person demonstrates that no public nuisance existed at the time the notice to abate was issued.~~

(b) The director shall set the matter for a *de novo* hearing before the city council at a date and time not less than ten (10), nor more than forty-five (45) calendar days following the filing of the appeal. The director shall then notify the appellant, adjacent property owners and any other persons as may be deemed appropriate by the director by mail of the date and time of the hearing on appeal. The ~~board of appeals~~city council may, in its discretion, continue the hearing date for good cause.

~~(c) The appellant may opt to have the appeal heard by the board of appeals, at a time and date convenient to the appellant. All the provisions of the Sections 20-17 through 20-19 shall apply to an appeal before the board of appeals.~~

20-17. City council action.

(a) At the time and place set for the appeal, the city council shall hold a *de novo* hearing and shall afford the appellant and other interested parties a reasonable opportunity to be heard in connection therewith.

(b) To allow appellants the opportunity to fully present their arguments, the formal rules of evidence shall not apply and all relevant evidence may be considered. However, ~~the~~ city council has the discretion to exclude irrelevant evidence, i.e.,

evidence that does not pertain to the issue(s) on appeal. The city council also has the discretion to exclude evidence it deems needlessly repetitive.

- (c) If the city council finds from the relevant evidence that a public nuisance exists and the notice of abatement was in conformance with the provisions of this chapter, it shall require the responsible person to comply with the order of abatement within thirty (30) calendar days after the date of mailing of the city council's decision to the responsible person, unless a longer period of time to abate the nuisance is specifically authorized by the city council's order.
- (d) If the nuisance is not abated within the thirty (30) day period, or within such longer period as the city council may provide, the director is expressly authorized and directed to obtain the proper legal authorization to enter upon the premises for the purpose of abating the nuisance, and/or request the city attorney to file a criminal complaint against the subject property owner and/or occupant.

20-18. Notice of city council decision.

The director shall mail [by certified or registered U.S. Mail](#) a copy of the city council's decision to the responsible person, and to any other person requesting the same within five (5) working days after the adoption thereof. The city council's decision shall be final, and shall specify that any action to review its decision shall be commenced no later than the time period set forth in the California Code of Civil Procedure Sections 1094.5 and 1094.6.

20-19. Costs of abatement—Reports—Notice of hearing.

- (a) Whenever the director is required to cause the abatement of a public nuisance in accordance with the provisions of this chapter, the director shall keep an accounting of the costs thereof, including incidental expenses concerning such abatement. The term "incidental expenses" shall include, but not be limited to, the actual expenses and costs to the city in the preparation of notices, specifications and contracts, inspection of the abatement work, the costs of printing and mailing required under this chapter, and shall include the costs of attorneys' fees.
- (b) Within 180 (one hundred eighty) days of the abatement of the nuisance, the director shall cause to be prepared an itemized statement of costs and set the same for a hearing before the director. Upon receipt of the report itemizing the costs and expenses incurred in abating the nuisance, including incidental expenses, the director shall cause a notice of hearing to be issued, which form of notice shall be headed in letters not less than one (1) inch in height as follows: "NOTICE OF COSTS OF ABATEMENT AND HEARING." The date and time for the cost of abatement hearing shall be within forty-five (45) days of the issuance of the itemized statement. The notice shall otherwise be in form and content as set forth in Section 20-14 and shall be served upon the responsible person in the manner set forth in Section 20-15, but in no event no later than ten (10) days prior to the date of the hearing.

20-20. Costs of abatement—Hearing before director.

- (a) At the time, date and place set for the hearing on the costs of abatement, which hearing shall be at least seven (7) business days after the date of the giving of the notice as set forth in Section 20-15, the director shall conduct a hearing on the report. The responsible person shall be afforded an opportunity to be heard with respect to the costs and expenses set forth in the report. Any objections or protests raised by any of the persons liable to be assessed for the costs of abating the nuisance may be submitted orally or in writing.
- (b) Upon conclusion of the hearing, the director shall make such revisions, corrections or modifications to the report as may be deemed appropriate, after which the report shall be confirmed as submitted, or as revised, corrected or modified. The hearing on the costs of the abatement may be continued upon good cause shown.
- (c) The director shall give notice in accordance with the provisions of Section 20-15 to the responsible person within five (5) days after the conclusion of the hearing as to the director's final determination regarding the costs of abatement.
- (d) Upon issuance of the report, the director shall set a hearing before the city council to receive and consider the report.

20-21. Costs of abatements—city council resolution.

- (a) At the time and place fixed for receiving and considering the report, the city council shall hear and pass upon the statement of costs, together with any objections or protests raised by any of the persons liable to be assessed for the cost of abating the nuisance. Thereupon, the city council shall make such revision, correction and modification to the statement as it may deem just, after which the statement is submitted, or as revised, corrected or modified shall be conformed.
- (b) The city council shall adopt a resolution making its findings and determinations with respect to the amounts to be assessed with respect to the costs of abating the nuisance. The amounts so approved by the city council shall be a special assessment upon the property as that property is shown upon the last available assessment roll.
- (c) The city clerk shall give notice in accordance with the provisions of Section 20-15 to the responsible person within five (5) days after the adoption of the city council's resolution regarding the costs of abatement. The city council's decision shall be final, and shall specify that any action to review the decision shall be commenced no later than the time period set forth in the California Code of Civil Procedure Sections 1094.5 and 1094.6.

20-22. Costs of abatement—Recording of resolution.

The director shall provide the director of finance a certified copy of the resolution. The director of finance shall file the certified copy of the resolution and the amounts approved in the resolution with the county auditor. The assessment contained therein shall be filed in the form and manner required by the county auditor.

20-23. Costs of abatement—Payment prior to hearing.

Any person liable for the costs of abatement may pay such costs of abatement at any time prior to the hearing before the director or the city council, as the case may be.

20-24. Assessment of costs against the property.

The total cost for abating the nuisance shall constitute a special assessment against the parcel of land to which it relates.

- (a) Recordation of Notice. A notice of the special assessment shall be recorded in the Orange County Recorder's Office.
- (b) Manner of Collection. After recordation, the special 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, before the date on which the first installment of the taxes would become delinquent, 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.
- (c) Form of Notice. The notice of special assessment shall be in a form substantially as follows:

NOTICE OF SPECIAL ASSESSMENT FOR NUISANCE ABATEMENT

(Claim of the City of Costa Mesa)

In compliance with to the authority of the provisions of Article 2 of Chapter III of Title 20 (Public Nuisance Abatement Procedures, Appeals and Cost Recovery) of the Costa Mesa Municipal Code, the Director of Development Services of the City of Costa Mesa did on or about the ____ day of _____, 20____, cause the premises hereinafter described to be rehabilitated or the structure(s) or improvement(s) on the property to be demolished or repaired in order to abate a public nuisance on the real property; and the abatement was conducted in compliance with an order of abatement dated the ____ day

of _____, 20____; and the City Council of the City of Costa Mesa did on the ____ day of _____, 20____, assess the cost of the demolition, rehabilitation, or repair upon the real property; and the same has not been paid nor any part thereof; and that the City of Costa Mesa does hereby declare the costs of the demolition, rehabilitation, or repair in the amount so assessed, to with the sum of _____ dollars (\$_____), to be a special assessment against the real property.

The special assessment shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection, and enforcement of municipal taxes shall be applicable to 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, before the date on which the first installment of the taxes would become delinquent, 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 real property hereinbefore mentioned, and upon which the special assessment is levied, is that certain parcel of land lying and being in the City of Costa Mesa, County of Orange, State of California, commonly known as [street address], and more particularly described as follows:

[Legal description, including assessor's parcel number]

The owner of record of the parcel of land is:

[Name and address of recorded owner of the parcel]

20-25. Other remedies not excluded—Recovery of costs.

- (a) The procedure for abatement set forth in this chapter is an alternative procedure to any other procedure permitted by state or local law and shall neither prohibit the use of any other lawful abatement procedure nor be deemed to prevent the city council from ordering the commencement of any civil action to abate a nuisance as an alternative to or in conjunction with the proceedings set forth in this chapter. In addition thereto, any nuisance that is defined as a misdemeanor by any provision of any city code may be abated by criminal prosecution.
- (b) The prevailing party in any action, administrative proceeding, or special proceeding to abate a nuisance pursuant to this chapter shall be entitled to its reasonable attorneys' fees if: (1) the city elected to seek recovery of its own attorneys' fees at the initiation of the action, administrative proceeding, or special proceeding; and (2) the award of attorneys' fees does not exceed the amount of reasonable attorneys' fees incurred by the city in the action or proceeding.

- (c) Notwithstanding any other provision of this chapter, the costs of abatement, including incidental expenses, as confirmed either by the director or the planning commission after appeal, may be assessed against the owner(s) of the property subject to abatement as a debt personal to the owner(s) and as a lien on the property. In the event the director or the city council assesses the costs of abatement against the owner(s) personally, the assessment shall be due and payable within twenty (20) days after service thereof in accordance with Section 20-15. In the event such assessment is not paid with twenty (20) days, the city may commence any legal proceeding available to it including, but not limited to, suit in small claims court, municipal court or superior court to recover the costs of abatement, or may permit the lien to be assessed against the property, or both. Any determination as to the method of collection shall not operate or be construed as an election of remedies.

20-26. Removal of tax benefit.

If, after declaration of public nuisance, the director finds the subject property to contain substandard housing and this housing is generating revenue income, he may file a notice of noncompliance with the State Franchise Tax Board pursuant to Section 24436.5 of the Revenue and Taxation Code to eliminate tax benefits generated by the property from the owner's California tax return.

20-27. Emergency abatement.

- (a) Notwithstanding any other provisions of this chapter with reference to the abatement of public nuisances, whenever the city manager determines that a property, a building or structure is structurally unsafe, or constitutes a fire hazard, or is otherwise dangerous to human life, and such condition constitutes an immediate hazard or danger, he may, without observing the provisions of this chapter with reference to abatement procedures, immediately and forthwith abate the existing public nuisance.
- (b) Any abatement pursuant to this section shall be limited to the actions necessary to neutralize the immediate danger only. A post-abatement hearing shall be provided to the responsible person.

20-28. Relocation assistance.

- (a) In the event any structure which is rented or occupied for habitable dwelling purposes is determined to be a public nuisance and abated by the city due to unsafe or hazardous living conditions under the provisions of Titles 1 or 5 of the Costa Mesa Municipal Code, or due to illegal use or occupancy of the structure for habitable dwelling purposes, any tenant evicted as a result of such abatement, or notice of such abatement, who is not then in arrears or default of rent, and who has not caused or substantially contributed to the condition giving rise to the abatement, shall be entitled to receive from the property owner relocation assistance upon vacating the structure. For purposes of this section, relocation

assistance shall consist of two months' rent and refund of any security deposit pursuant to Civil Code Section 1950.5, or other arrangements agreeable to the tenant as evidenced by a written agreement between the tenant and the property owner.

- (b) If the property owner is required to evict the tenants with less than thirty (30) days' notice due to the condition of the structure, the owner shall provide the tenant with alternate, safe and legal housing for thirty (30) days after notice of eviction. This requirement for alternate housing shall be in addition to relocation assistance provided for in subdivision (a) of this Section.

20-29. Relocation assistance -- Tenant compliance.

The tenant's entitlement to relocation assistance provided by this chapter is conditioned upon the tenant's compliance with the eviction notice.

20-30. Relocation assistance -- Exception.

The property owner is not required to pay relocation assistance to tenants evicted from residential units that become unsafe or hazardous resulting from earthquake, flood, or other natural disaster except where such condition remains unrepaired for more than three years after the disaster, or from recent events that are beyond the control of the property owner, including, but not limited to, damage caused by tenants.

20-31. Relocation assistance -- Costs.

- (a) In the event the property owner fails, neglects or refuses to pay to the tenant upon vacating such structure the relocation assistance as defined in Section 20-28, the city may cause the payment of such relocation assistance, including any security deposit and alternate housing costs, and charge the costs thereof against the property or its owner.
- (b) The cost of such relocation assistance, if provided, shall be paid from a reimbursable fund and may be made a special assessment against the property involved, and may be made a personal obligation of the property owner.

20-32. Relocation assistance -- Reimbursable fund.

- (a) The city council shall establish a special reimbursable fund to be designated for abatement relocation assistance for evicted tenants. Payments shall be made out of said fund upon the demand of the director or the building official to defray the costs and expenses which may be incurred by the city in causing the payment or relocation assistance to evicted tenants of abated structures.
- (b) Maintenance of Reimbursable Fund. The city council may at any time transfer to the reimbursable fund, out of any money in the general fund of the city, such sums as it may deem necessary in order to expedite the performance of the

abatement, and any sum so transferred shall be deemed a loan to the reimbursable fund and shall be repaid out of the proceeds of the collection thereof. All funds recovered from the property owner shall be paid to the finance director, who shall credit the same to the reimbursable fund.

Article 3. – PUBLIC NUISANCE ABATEMENT – ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLES

20-33. Notice.

A ten (10) day notice of intention to abate and remove the vehicle, or part thereof, as a public nuisance shall be mailed by registered mail to the owner of the property on which the vehicle is located and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. The notices of intention shall be in substantially the following forms:

NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED, WRECKED, DISMANTLED, OR INOPERATIVE VEHICLE OR PART THEREOF AS A PUBLIC NUISANCE.

[Name and address of owner of the property on which the vehicle is located.]

As owner shown on the last equalized assessment roll of the land located at (address), you are hereby notified that the undersigned pursuant to Title 20, Costa Mesa Municipal Code) has determined that there exists upon said land an (or part of an) abandoned, wrecked, dismantled or inoperative vehicle registered to _____, license number _____, which constitutes a public nuisance. You are hereby notified to abate said nuisance by the removal of said vehicle (or said part of a vehicle) within 10-days from the date of mailing of this notice, and upon your failure to do so the same will be abated and removed by the City of Costa Mesa, and the costs thereof, together with administrative costs, assessed to you as responsible person on which said vehicle (or said part of a vehicle) is located.

As responsible person on which said vehicle (or said part of a vehicle) is located, you are hereby notified that you may, within ten (10) days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the city council within the 10-day period, the City of Costa Mesa shall have the authority to abate and remove said vehicle (or said part of a vehicle) as a public nuisance and assess the costs as aforesaid without a public hearing. You may submit a sworn written statement within such 10-day period denying responsibility for the presence of said vehicle (or said part of a vehicle) on said land, with your reasons for denial, and such statement shall be construed as a request for hearing at which your presence is not required. You may appear in person at any hearing requested by you or the owner of the vehicle or, in lieu thereof, may present a sworn written statement as aforesaid in time for consideration at such hearing.

Notice Mailed
(Date) _____ CITY OF COSTA MESA By _____
Development Services
Director

**NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED,
WRECKED, DISMANTLED OR INOPERATIVE VEHICLE OR PART
THEREOF AS A PUBLIC NUISANCE.**

[Name and address of last registered and legal owner(s) of record of vehicle- notice should be given to both if different.]

As last registered (and/or legal) owner of record of (description of vehicle-make, model, license, etc.) you are hereby notified that the undersigned, pursuant to Title 20, Costa Mesa Municipal Code, has determined that said vehicle (or part of a vehicle) exists as an abandoned, wrecked, dismantled or inoperative vehicle at (describe location on public or private property) and constitutes a public nuisance pursuant to the provisions of said Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said part of a vehicle) within ten (10) days from the date of mailing of this notice.

As registered (and/or legal) owner of record of said vehicle (or said part of a vehicle), you are hereby notified that you may, within ten (10) days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the city council within such 10-day period, the city council shall have the authority to abate and remove said vehicle (or said part of a vehicle) without a hearing.

Notice Mailed _____
(Date) _____ CITY OF COSTA MESA
By _____
Development Services Director

20-34. Public hearing upon written request.

Upon request by the owner of the vehicle or the owner of the property on which the vehicle is located received by the city within ten (10) days after the mailing of the notices of intention to abate and remove, a public hearing shall be held by the director on the question of abatement and removal of the vehicle, or part thereof, as an abandoned, wrecked, dismantled or inoperative vehicle, and the assessment of the administrative costs and the costs of removal of the vehicle, or part thereof, against the property on which it is located.

20-35. Public hearing upon constructive request; notice of hearing; authority to abate and remove without hearing.

If the owner of the property on which the vehicle is located submits a sworn written statement denying responsibility for the presence of the vehicle on his/her land within such 10-day period, the statement shall be construed as a request for a hearing. Notice of the hearing shall be mailed, by registered mail, at least ten (10) days before the hearing to the owner of the property on which the vehicle is located and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. If such a request for hearing is not received within ten (10) days after mailing of the notice of intention to abate and remove, the city shall have the authority to abate and remove the vehicle, or part thereof, as a public nuisance without holding a public hearing.

20-36. City council to hear facts and testimony.

All hearings under this title shall be held before the city council at their next regular meeting, who shall hear all relevant facts and testimony. Such evidence may include testimony on the condition of the vehicle, or part thereof, and the circumstances concerning its location on the property. The city council shall not be limited by the technical rules of evidence. The owner of the property on which the vehicle is located may appear in person at the hearing or present a sworn written statement in time for consideration at the hearing and deny responsibility for the presence of the vehicle on the land with his/her reasons for such denial.

20-37. General powers of city council; notice of city council's decision.

- (a) The city council may impose such conditions and take such other action as it deems appropriate under the circumstances to carry out the purposes of this article. The city council may delay the time for removal of the vehicle, or part thereof, if, in its opinion, the circumstances justify it. At the conclusion of the public hearing, the city council may find that a vehicle, or part thereof, has been abandoned, wrecked, dismantled, or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as hereinafter provided and determine the administrative costs and the cost of removal to be charged against the responsible person. The order requiring removal shall include a description of the vehicle, or part thereof, and the correct identification number and license number of the vehicle, if available at the site.
- (b) If it is determined at the hearing that the vehicle, or part thereof, was placed without the consent of the owner of the property on which the vehicle is located, and that the property owner has not subsequently acquiesced to the vehicle's presence, the city council shall not assess the costs of administration or removal of the vehicle, or part thereof, against the property upon which the vehicle, or part

thereof, is located or otherwise attempt to collect such costs from the owner of the property on which the vehicle is located.

- (c) If the owner of the property on which the vehicle is located submits a sworn written statement denying responsibility for the presence of the vehicle on his/her land but does not appear, or if an interested party makes a written presentation to the director but does not appear, he/she shall be notified in writing of the decision.
- (d) The city council's decision shall be final, and shall specify that any action to review its decision shall be commenced no later than the time period set forth in the California Code of Civil Procedure Sections 1094.5 and 1094.6.

20-38. Disposal.

Seven (7) days after adoption of the order declaring the vehicle, or part thereof, to be a public nuisance, or seven (7) days from the date of mailing of notice of the decision if such notice is required by this article, the vehicle, or part thereof, may be disposed of by removal to a scrap yard or automobile dismantler's yard. After a vehicle has been removed it shall not thereafter be reconstructed or made operable, unless it is a vehicle that qualifies for either horseless carriage license plates or historical vehicle license plates, pursuant to Vehicle Code Section 5004, in which case the vehicle may be reconstructed or made operable.

20-39. Notice of removal to department of motor vehicles.

Within five (5) days after the removal of the vehicle, or part thereof, the director shall provide notice to the DMV identifying the vehicle removed, or the parts thereof. The director shall also transmit to the DMV any evidence of registration available, including, but not limited to the registration card, certificates of ownership, and license plates.

20-40. Costs of removal assessed.

If the administrative costs and the cost of removal which are charged against the owner of the property on which the vehicle is located or any other known responsible person pursuant to this title are not paid within thirty (30) days of the date of the order, or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code, and shall be transmitted to the tax collector for collection. The assessment shall have the same priority as other city taxes.

Article 4. – PUBLIC NUISANCE ABATEMENT – WEEDS

20-41. Declaration of Nuisance.

All weeds and rubbish existing on or in front of any real property in the city, in such a condition as to be detrimental to the health, safety or welfare of the inhabitants of such property, or of any adjoining property, are hereby declared to be a public nuisance.

20-42. Duty to remove.

No person shall fail to remove all weeds and rubbish from any property under his or her control in the city and from any street, sidewalk or parkway abutting such property, whenever such weeds and rubbish are declared to be a public nuisance as provided in this chapter.

20-43. Notice - Posting.

Whenever the weed abatement official determines that the presence of weeds or rubbish on any real property in the city constitutes a public nuisance as defined in this chapter, he shall cause notices to be posted conspicuously upon, or in front of, such property as follows:

- (a) One notice upon each separately owned parcel of real property having not over fifty feet frontage;
- (b) Notices, not more than fifty (50) feet apart, upon any such parcel which has a street frontage greater than fifty (50) feet. In addition to so posting such notice, a copy thereof shall be mailed by the city clerk or weed abatement official by regular mail, postage prepaid, to each person to whom the property described in such notice is assessed in the last equalized assessment roll.

20-44. Notice -- Contents.

Notices to be posted and mailed shall have the title "Notice to Remove Weeds and Rubbish" in letters not less than one (1) inch in height and shall be substantially in the following form:

NOTICE TO REMOVE WEEDS AND RUBBISH

Notice is hereby given:

- (a) That a public nuisance is hereby declared to exist because of the presence of: (description of nuisance) on the property, or the sidewalk or parkway adjacent thereto located at in the City of Costa Mesa, California, and more particularly described as (legal description).

(b) That said nuisance must be abated by the removal thereof within 30 days after the date of this notice, unless written objections are filed as herein provided.

(c) That all property owners having any objections to such declaration or removal of said nuisance may file with the City Clerk of the City of Costa Mesa, on or before _____, 20____ (which date is 15 or more days from the date of the posting and mailing of this notice) their written objections thereto and a request for a public hearing before the Costa Mesa City Council. Failure to so file such objections and request such hearing shall be deemed a request and consent that the City proceed to cause the removal of such nuisance and that the cost thereof be assessed and established as a lien upon your property.

Dated this _____ day of _____, 20____.

Weed Abatement Official
City of Costa Mesa

20-45. Weed abatement fees.

The City Council, by resolution, may from time to time establish fees and set the amounts of such fees.

20-46. Hearing before the city council.

- (a) Any objections filed pursuant to the notice required by Section 20-44 shall be set for a hearing before the city council no later than ten (10) days after the date such objections are filed, and the city council shall then hear and consider all evidence offered as to whether or not a nuisance, in fact, exists.
- (b) If the city council determines that no nuisance exists, the city shall take no further action with respect to the subject property.
- (c) If the city council determines that a nuisance exists, the city council shall order the nuisance removed by the owner within a reasonable period of time then specified, and that the city will thereafter remove such nuisance without further notice. A copy of the city council's order shall be mailed within ten (10) days after the date of such order to the person who filed the objections. The date specified in the city council's order by which the nuisance must be removed shall be at least ten (10) days after the date of the order.
- (d) The city council's decision shall be final, and shall specify that any action to review the decision shall be commenced no later than the time period set forth in the California Code of Civil Procedure Sections 1094.5 and 1094.6.

20-47. Notice of public hearing.

The city clerk shall provide notice of the time and place when the hearing will be held, pursuant to Section 20-44, to the person who filed such objections at least ten (10) days in advance of the hearing. Such notice may be given by personal service or by regular mail, postage prepaid.

20-48. Abatement of the nuisance.

- (a) Any nuisance described in a notice posted and mailed, as provided by Section 20-44, that has not been removed within thirty (30) days after the posting and mailing of such notice, shall be forthwith removed at the direction of the weed abatement official unless objections have been filed as specified in such notice.
- (b) Any nuisance described in any order of the city council for removal thereof, that has not been removed on or before the date specified for such removal in such order shall be forthwith removed at the direction of the weed abatement official.

20-49. Right of entry.

- (a) The weed abatement official or city's contractor may use all lawful means to enter upon any property in the city for the purpose of inspecting the same for the existence, and for the removal, of any nuisance in accordance with the provisions of this chapter.
- (b) If permission to enter upon any such property for any such purposes is refused, the weed abatement official shall apply to a judge for a warrant authorizing the entering upon such property to perform any such inspection, or work necessary to abate any such nuisance thereon.

20-50. Accounting for costs of abatement.

The weed abatement official shall keep a record of all costs incurred in connection with the removal from each parcel of land of any nuisance as herein provided. The weed abatement official shall periodically submit the cost accounting to the director for confirmation. A notice of assessment, with a copy of the schedule showing the costs of the removal of the nuisance for each property, as well as administrative costs in the amount of 33% of the total cost of abatement, shall be mailed by regular mail, postage prepaid, to each property owner whose property described in the notice of assessment is assessed, as shown in the last equalized assessment roll available on the date such notice of assessment is mailed, at the address shown on the assessment roll. The notice shall state that objections to the assessment may be filed with the City Clerk within fifteen (15) days from the date of mailing, and that if no objections are filed, the property will be assessed without any hearing or further notice, for the amount shown in the schedule of costs.

20-51. Hearing before the director on costs of abatement.

- (a) If, within fifteen (15) days from the mailing of the notice of assessment, any objections are filed to the schedule of costs of abating any such nuisances, the city council shall hear the objections and fix the amount of assessment for the abatement of the nuisance. Notice of the time and date of the hearing before the city council shall be given at least ten (10) days before the date of the hearing by a written notice served personally upon or sent by regular mail, postage prepaid, to the objector.
- (b) The city council's decision shall be final, and shall specify that any action to review its decision shall be commenced no later than the time period set forth in the California Code of Civil Procedure Sections 1094.5 and 1094.6.

20-52. Cost of abatement is a lien on the property.

The cost to the city to remove from any parcel of real property any weeds and/or rubbish constituting a nuisance under this chapter, when determined and removed as provided in this chapter, is hereby made a special assessment against, and a lien on, such parcel and shall remain a lien thereon until paid, by the filing of a resolution of the city council certifying the amount thereof and that it has been established pursuant to this chapter.

20-53. Collection procedure.

A certified copy of the city council's resolution establishing, confirming or certifying the cost of the abatement of any nuisance under this chapter shall be filed with the county auditor. The amount of such assessment shall be collected at the same time and in the same manner as ordinary municipal taxes. If delinquent, the amount of such assessment shall be subject to the same penalties and the same procedure for foreclosure and sale, as are provided for ordinary municipal taxes.

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

Section 4. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the city of Costa Mesa hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 5. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted

pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

PASSED AND ADOPTED this _____ day of _____, 2013.

Mayor

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk of the city of Costa Mesa

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, BRENDA GREEN, Interim City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 13-__ was introduced and considered section by section at a regular meeting of said City Council held on the _____ day of _____, 2013, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the _____ day of _____, 2013, by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this _____ day of _____, 2013.

City Clerk and ex-officio
Clerk of the City Council of the _____
City of Costa Mesa