

AN ORDINANCE OF THE CITY OF GRAND TERRACE
AMENDING CHAPTER 9.28 OF TITLE 9 OF GRAND
TERRACE MUNICIPAL CODE REGARDING PROCEDURES
REGULATING GRAFFITI.

SECTION 1: Chapter 9.28 (“Graffiti”) of the Grand Terrace Municipal Code is hereby amended to read as follows:

9.28.010 – Purpose and Intent

The City Council finds and declares as follows:

A. Graffiti on public or private property is a condition of blight that not only depreciates the value of property which has been the target of such vandalism, but also depreciates the value of the adjacent and surrounding properties so as to create a negative impact upon the entire community.

B. Graffiti has also been found to be associated with criminal activity and delinquency. It is also a means of identification and intimidation utilized by gangs and its presence may further gang-related activities. The power of graffiti to create fear within the community and blight upon the landscape, devaluing property and detracting from a sense of community enjoyed by the residents of the City of Grand Terrace goes beyond the cost of clean-up or removal. Not only is graffiti a criminal act of vandalism, but it is also a social crime upon the quality of life and freedom from intimidation that citizens desire in their neighborhoods.

C. California Government Code Section 38771 authorizes the City to declare what constitutes a nuisance. Section 53069.3 further authorizes the City, under certain circumstances, to provide for the removal of graffiti and other inscribed materials from private as well as public property. The Council finds and determines that graffiti is obnoxious and a public nuisance and unless the City causes it to be removed from public and private property, it tends to remain. Other properties then become the target of graffiti with the result that the entire neighborhood is affected and becomes a less desirable place in which to live, work or visit.

D. In the past, the City of Grand Terrace has appropriated funds for the removal of graffiti from privately owned real or personal property located within the City. While this public service benefits the entire community, it provides no incentive to private property owners to deal directly with the problem and to formulate their own ideas, solutions, and mitigation measures to avoid being victimized time and time again. The perpetual provision of free graffiti removal services is not an effective deterrent to the escalation of graffiti vandalism and is not a cost effective use of public funds.

E. It is the purpose and intent of the City Council of Grand Terrace, through the adoption of this Chapter, to provide additional enforcement tools to protect public and private property from acts of vandalism and defacement, including the application of graffiti on public and private property, walls, vehicles, and other structures. Such acts are destructive of the rights

and values of private property owners as well as the entire community. It is the further intent of the City Council, through the adoption of this Chapter, to provide to all of those who disregard the property rights of others, that the law enforcement agency of the City, Sheriff's Department, District Attorney's Office, and City Attorney/Prosecutor's Office, will strictly enforce the law and vigorously prosecute those persons engaging in the defacement of public or private properties.

9.28.020 – Definitions

For the purposes of this Chapter, the following words shall have the meanings respectively ascribed to them in this section:

A. "Adhesive label" shall mean any so called "bumper sticker", sheet of paper, fabric, or plastic, or other substance with an adhesive backing.

B. "Aerosol paint container" shall mean any aerosol container, regardless of the material from which it is made, which is adapted or made for the purpose of spraying paint, undercoating, spray insulation, or other substance capable of defacing property.

C. "City" shall mean the City of Grand Terrace.

D. "Costs" shall mean and include, but is not limited to, court costs, attorneys' fees, costs of removal of the graffiti or other inscribed material, costs of repair and replacement of defaced property, and the law enforcement costs incurred by the City in identifying and apprehending the person who created, caused, or committed the graffiti or other inscribed material on the publicly or privately owned permanent real or personal property within the City.

E. "Felt-tip marker" shall mean any marker or similar implement with a tip which, at its broadest width, is greater than one-eighth (1/8th) of an inch and which contains an ink or other pigmented liquid that is not water soluble.

F. "Graffiti" shall mean any unauthorized inscription, word, figure, or design that is marked, etched, scratched, drawn, or painted on or otherwise affixed to or on any surface, regardless of the nature of the material. Graffiti shall not include any lawful sign authorized in advance by the owner thereof.

G. "Graffiti Implement" shall mean an aerosol paint container, a felt tip marker, adhesive label, paint stick, etching tool capable of scarring glass, metal, concrete, wood, or other surface, , or any other device capable of being used to leave a visible mark at least one-eighth (1/8th) of an inch in width upon any surface of any material.

H. "Graffiti Vandal" shall mean any person(s) whom an enforcement official determines to be responsible for applying or affixing graffiti.

I. "Landscape Material" is defined as any plant material that is used to aesthetically enhance the surrounding area. This shall include, but not be limited to, trees, shrubs, turf, groundcover, vines and flowers.

J. "Paint stick" or "graffiti stick" shall mean a device containing a solid form of paint, chalk, wax, epoxy, or similar substance capable of being applied to a surface by pressure, and upon application, leaving a mark at least one-eighth (1/8th) of an inch in width.

K. "Public Property" shall mean any property or structure of the City that is located within the public right-of-way or on other lands owned or controlled by the City for the support, use and/or enjoyment of the public.

L. "Private Property" shall mean all other property (real or personal) or structures, including the property and structures of public agencies other than the City.

M. "Responsible Party" shall mean any person whom an enforcement official determines to be responsible for causing or maintaining a public nuisance or a violation of the Municipal Code or applicable state codes. The term "Responsible Party" includes but is not limited to a property owner, tenant, person with a legal interest in real property, a person in possession of real property, or a person who otherwise has responsibility for the repair or maintenance of real property at which there exists graffiti on any building, structure, tree, shrub, sidewalk, curb or vehicle.

N. "Structures" shall mean any structure as defined in the City's Building Code, and shall include, but not be limited to, buildings, walls, fences, gates, utility poles, cabinets, receptacles, news racks, postal boxes, sidewalks, curbs, pavements, bill boards, street signs, bus stops and shelters, cargo/shipping containers, or any other structure that is sited through an official approval process of the City or any other local agency.

O. "Unauthorized" shall mean without the permission of a responsible person or in violation of this ordinance as determined by the enforcement officer.

P. "Vehicle" shall mean a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails

9.28.030 – Application of Graffiti Prohibited

It shall be unlawful and a misdemeanor for any person to apply graffiti to any structure, landscape material, rock or vehicle located within the City. It shall also be unlawful and a misdemeanor for any person to apply or affix any adhesive label to any structure, landscape material, rock or vehicle not owned or lawfully possessed by such person, or without advance authorization by the owner thereof.

9.28.040 – Possession of Graffiti Implements by Minors Prohibited

A. It shall be unlawful and a misdemeanor for any person under the age of eighteen (18) years to have in his or her possession any graffiti implement or other instrument as described herein below while upon private property without the prior written consent of the owner of such property, or upon a public highway, street, alleyway, park, playground, swimming pool, public building or any area open to the public:

1. Any spray can containing anything other than a solution which can be removed by water after it dries;

2. Any spray can tips, other than those affixed to a spray can not meeting the description of section 9.28.040(A)(1);

3. Any marker pens containing anything other than a solution which can be removed with water after it dries;

4. Any container holding anything other than solution that can be removed with water after it dries and which can be used to apply that solution. This includes acrylic paint tubes, oil paint tubes, shoe dyes, and bottles and cans of such solutions; and,

5. Objects capable of etching glass or ceramic surfaces, including, but not limited to, bits, grinding stones, glass cutters, scribes, broken spark plug ceramic, chisels, and any solution capable of etching these surfaces when applied including acids and etching baths.

B. The provisions of this section 9.28.040 shall not apply to any person under the age of eighteen (18) years attending, or traveling to or from school, at which time the minor is enrolled, if the minor is participating in a class at said school which has a written requirement of the class for the possession of the implements or instruments described in this section. The burden of proof in any prosecution for a violation of this section 9.28.040 shall be upon the minor student to establish enrollment in a class that requires the possession of felt tip markers.

9.28.050 – Possession of Graffiti Implements Prohibited in Designated Public Places

It shall be unlawful and a misdemeanor for any person to have in his or her possession any graffiti implement while in or upon any public park, playground, swimming pool, recreation facility, or while in or within ten (10) feet of an underpass, bridge, abutment, storm drain, or similar types of infrastructure not normally used by the public, except as may be authorized by the City.

9.28.060 – Furnishing Graffiti Implements to Minors Prohibited

It shall be unlawful and a misdemeanor for any person, other than a parent or legal guardian, to sell, exchange, give, loan, or otherwise furnish, or cause or permit to be exchanged, given, loaned, or otherwise furnished, any graffiti implement to any person under the age of eighteen (18) years without the consent of the parent or other lawfully designated guardian, which consent shall be given in advance in writing.

9.28.070 – Accessibility to Graffiti Implements

A. Display Requirements. It shall be unlawful and a misdemeanor for any person or business engaged in a commercial enterprise to display for sale, trade, loan, or exchange any graffiti implement except in an area from which the public shall be securely precluded without employee assistance. Two such acceptable methods for displaying graffiti implements for sale shall be by containment in (1) a completely enclosed cabinet or other storage device which shall be permanently affixed to a building or structure, and which shall, at all times except during

access by authorized representatives, remain securely locked; or (2) in an enclosed area behind a sales or service counter from which the public is precluded from entry. Nothing herein shall relieve such person or business entity from, at all times, complying with the requirements of the California Penal Code section 594.1(c) by posting signs as described therein.

1. Any person or business engaged in the retail sale of any graffiti implement must display at a conspicuous location a legible sign measuring not less than twelve inches (12") by twelve inches (12") with letters at least ½ inch in height which states:

“It is unlawful for any person to sell or give to any individual under the age of eighteen years, without prior written authorization from a parent or legal guardian, any implement or other device capable of being used to deface real or personal property. Any person who maliciously defaces real or personal property is guilty of vandalism which is punishable by a fine, imprisonment, or both.”

B. Storage Requirements. It shall be unlawful and a misdemeanor for any person or business engaged in the commercial enterprise of selling, providing, loaning, or trading graffiti implements to store any graffiti implement except in either (1) a completely enclosed room which shall, at all times except during access or actual occupancy by the owner or authorized adult representative of the owner, remain securely locked; or (2) in a completely enclosed cabinet or other storage device which shall be permanently affixed to a building or building structure, and which shall at all times except during access by the owner or an adult representative of the owner, remain securely locked. For purpose of this section 9.28.070, an owner or authorized representative of the owner, shall be deemed to actually occupy a room even during brief periods of absence if the room is contained within a larger structure which is occupied by the owner.

C. Civil Responsibility for Wrongful Display or Storage. Any person or business who displays or stores or permits the display or storage of any graffiti implement in violation of the provisions of this section 9.28.070 shall be personally liable for any and all costs, including attorneys fees and court costs, incurred by any party in connection with the removal of graffiti, the repair of any property containing graffiti, or such party's prosecution of a civil claim for reimbursement or damages resulting from such graffiti removal or property repair, arising from the use by any person of such wrongfully displayed or stored graffiti implement in violation of this section 9.28.070 or of any provision of the California Penal Code.

9.28.080 – Maintenance of Graffiti Prohibited

No person shall cause, permit, aid, abet, or suffer any graffiti which is visible for a 24-hour period from adjacent real property (whether privately or publicly owned), public street, sidewalk, alley, or other public right-of-way or other area open to the public to remain on any structure, landscape material, rock or vehicle owned, possessed, or within the custody or control of such person, or located on real property owned, possessed, or within the custody or control of such person. Each day that graffiti is maintained constitutes a new and separate offense, and is subject to the penalties set forth in Chapter 1.16 of this Code.

9.28.090 – Removal of Graffiti

A. Declaration of Nuisance. Pursuant to California Government Code section 38771, the City Council hereby declares Graffiti visible from adjacent real property (whether privately or publicly owned), public street, sidewalk, alley, or other public right-of-way or other area open to the public to constitute a public nuisance.

B. Abatement of Nuisance. Pursuant to Government Code Section 38773, the City Council hereby establishes a procedure for the summary statement of the nuisance described in Section 9.28.090A. Furthermore, the City Council authorizes the appropriation and use of public funds to remove graffiti or other inscribed material from publicly or privately owned real or personal property located within the City and to repair or replace publicly or privately owned property within the City that has been defaced with graffiti or other inscribed material that cannot be removed cost effectively, or to otherwise abate graffiti attracting surfaces as defined hereinabove.

1. General. Any person applying graffiti within the City shall have the duty to remove same in a manner approved by the City within twenty-four hours after notice by the City or the public or private owner of the property involved. Failure of any person to so remove graffiti shall constitute an additional violation of this chapter. Consistent with Civil Code Section 1713.1, where graffiti is applied by minors, the parent or guardian shall be responsible for such removal or payment for the cost thereof.

2. Public Property. Subject to the provisions of subsection 1 of this section, whenever the City Manager or his/her designated representative determines that graffiti exists upon property owned by the City, it shall be removed within twenty-four (24) hours after it is observed by the City staff. When property is owned by a public entity other than the City, the removal of the graffiti may be authorized by the City Manager or his/her representative, and removal/abatement undertaken by City personnel or independent contractor, only after securing written consent of the public entity having jurisdiction over the property.

Utilities that are a part of the City of Grand Terrace operating under a franchise granted by the City which demonstrate an established policy to abate graffiti are exempt from the procedures regulating graffiti detailed within this ordinance.

3. Private Property.

a. Duty to Remove. It is every property owner's duty to remove graffiti promptly from his/her property. Where graffiti is located upon private property, and is capable of being viewed by persons utilizing any public right-of-way or sidewalk within the City, the City shall cause a written notice to be served upon the owner of the affected premises requesting the removal of that graffiti. Unless the property owner provides specific written consent authorizing the City or its contractor abate the graffiti, the property owner shall have twenty-four (24) hours after the date of the City's notice to remove the graffiti. Failure to remove or authorize City removal as specified shall be a violation for each day the graffiti is not

removed and deemed to authorize the City's removal pursuant to court order and assessment of costs of such removal as a lien on the subject property.

b. Notice of Abatement. The notice shall be addressed to the name and address as appears on the last tax assessment roll, by depositing a copy of the notice in the U.S. mail, with postage fully pre-paid, or personally delivering a copy of the notice to owner. The service is complete at the time of such deposit in the mail or when personal service is effectuated. The failure of any person to receive such notice shall not affect the validity of any proceeding.

c. Authorization to Enter, Hold Harmless. Prior to the entry onto private property by City personnel or authorized contractor for purposes of graffiti removal, a specified and signed written consent form shall be obtained from the private property owner or designated agent for such authorization of entry and release of liability. After written consent is received, City personnel or authorized contractor shall remove the graffiti within twenty-four (24) hours.

d. Authorization to Enter, Court Order. If a specified and signed written consent to enter upon private property is not obtained from or is refused by the property owner or designated agent, the City may enter upon the property to abate the nuisance pursuant to a court order obtained from a San Bernardino County Superior Court judge. After the court order is received, City personnel or authorized contractor shall remove the graffiti within twenty-four (24) hours.

e. Enforcement. Enforcement by way of criminal prosecution is an additional remedy to other abatement and enforcement procedures available to the City.

C. Scope of Abatement. Notwithstanding the provisions of Chapter 8.28 of this Code, the use of public funds for the removal of graffiti or the painting or repairing of surfaces containing graffiti, shall not be used to provide for the painting or repairing of any more extensive area than that where the graffiti is located unless the City Manager, or his designee, determines in writing that a more extensive area is required to be repainted or repaired in order to avoid aesthetic disfigurement to the neighborhood or community, or unless a responsible party agrees in writing to pay for the costs of repainting or repairing the more extensive area.

D. Appeal of Notice of Abatement. Notwithstanding any other provision of this Code, any appeal of a Notice of Abatement as it relates to the conditions referenced in section 9.28.090(A) must be filed within four (4) calendar days from the date of the Notice of Abatement. Failure of the City Clerk to receive a timely notice of appeal constitutes a waiver of the right to contest a Notice of Abatement. In this event, the Notice of Abatement is final and binding. All appeals under this Chapter shall be heard as follows:

1. The hearing to determine whether a nuisance as described in Section 9.28.090A exist shall be conducted by the city manager or his duly authorized designee who shall act as hearing officer; and who shall herein be referred to as the "Hearing Officer" who shall consider all relevant evidence including, but not limited to, applicable staff reports,

objections or protests relative to the existence of such alleged public nuisance, and the manner proposed for abatement of same. Such hearing may be continued from time to time.

2. Upon the conclusion of said public hearing, the hearing officer shall, on the basis of the evidence presented at such hearing, determine whether the premises, or any part thereof, as maintained, shall constitute a public nuisance, as defined in this code. If the hearing officer findings that a public nuisance exists, he shall, by written notice, order the same abated in a reasonable period of time as set forth in said notice. The determination of the hearing officer shall be final and conclusive.

3. A copy of the hearing officer's order of abatement shall be served upon the owner of the property by United States mail or by personal delivery together with a detailed list of needed corrections or abatement methods. In addition, a copy of the order shall be posted in a conspicuous place on the property.

9.28.100 – Prevention of Graffiti Through Land Use Entitlements

A. In approving tentative or parcel maps, subdivision maps, conditional use permits, variances, or other land use entitlements, the City shall consider imposing conditions reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such conditions may include, without limitation, any or all of the following:

1. Installation and use of anti-graffiti materials (as approved by the Director of Community Development or his/her designee) on surfaces which are likely to be graffiti attracting surfaces;

2. Installation and use of landscaping to screen or provide a barrier to surfaces prone to graffiti or are likely to be a graffiti attracting surface;

3. Installation and use of additional lighting to areas that are likely to be graffiti attracting surfaces and areas adjacent thereto;

4. Applicant or owner shall immediately remove any graffiti at the property;

5. Right of access by City forces to abate graffiti; and,

6. Applicant or permittee to supply the City with sufficient matching paint and/or anti-graffiti material on demand for use in the abatement of graffiti by City forces.

B. Persons applying for any tentative or parcel maps, subdivision maps, conditional use permits, variances, or other land use entitlements shall, as part of any conditions, covenants, or restrictions of any approval for said application, covenant, which covenant shall run with the land in a form satisfactory to the City, that the applicant, and any and all successors in interest of the property, shall comply with all conditions, covenants, or restrictions of said approval.

9.28.110 – Reward for Information

A. Pursuant to California Government Code section 53069.5, the City does hereby offer a reward in an amount to be established by resolution of the City Council, for information leading to the arrest and conviction of any person for a violation committed within the City of California Penal Code sections 594 or 594.3 (by the use of graffiti), 640, 640.5, 640.6, or sections 9.28.030, 9.28.040, 9.28.050, or 9.28.060 of this Chapter. In the event of multiple contributors of information, the reward amount shall be divided by the City in the manner it shall deem appropriate. For the purposes of this section, diversion of the offending violator to a community service program, or a plea bargain to a lesser offense, shall constitute a conviction.

B. Claims for rewards under this section shall be filed, in writing, with the City Clerk. Each claim shall:

1. Specifically identify the date, location, and kind of property damaged or destroyed,
2. Identify the date and time of reporting, the method of reporting to the City, and the particulars that were reported that made it possible to arrest and convict the suspect.
3. Identify by name the person who was convicted, and,
4. Identify the court and the date upon which the conviction occurred.

C. No claim for a reward shall be allowed by the City Council unless the City investigates and verifies the accuracy of the claim and determines that the requirements of this section have been satisfied. The investigation must determine that the claimant’s information was relevant and directly responsible for the arrest and conviction of the suspect.

D. Any person committing graffiti vandalism, and if said person is an unemancipated minor, then the parent or lawful guardian of said minor, shall be civilly liable for any reward paid pursuant to this section.

9.28.120 – Parental Responsibility

A. Pursuant to California Civil Code section 1714.1(b), where graffiti is applied by an unemancipated minor, the parents or legal guardian of said minor shall be jointly and severally liable for payment of civil damages resulting from the misconduct of the minor in an amount not to exceed ten thousand dollars (\$10,000) for each such offense. The parent or legal guardian of said minor shall also be civilly liable for any reward paid pursuant to section 9.28.110(D) of this Chapter.

B. Whenever deemed appropriate, it is the City’s intent to collect abatement and related administrative costs incurred in the summary abatement of any nuisance resulting from the defacement by a minor or other person of the property of another by graffiti or any other inscribed material. Notice shall be given to the minor or other persons prior to the recordation of a lien on the parcel of land owned by the minor or other person and to the parent or guardian

having custody and control of the minor prior to the recordation of a lien on the parcel of land owned by the parent or guardian having custody and control of the minor.

The notice shall be served in the same manner as a summons in a civil action pursuant to Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. If the minor or other person, after diligent search, cannot be found, the notice may be served by posting a copy of the notice upon the property owned by the minor or other person, in a conspicuous place, for a period of 10 days. The notice shall also be published pursuant to Section 6062 in a newspaper of general circulation that is published in the county in which the property is located. If the parent or guardian having custody and control of the minor, after diligent search, cannot be found, the notice may be served by posting a copy of the notice upon the property owned by the parent or guardian having custody and control of the minor, in a conspicuous place, for a period of 10 days. The notice shall also be published pursuant to Section 6062 in a newspaper of general circulation that is published in the county in which the property is located.

A graffiti nuisance abatement lien shall be recorded in the office of the Recorder of San Bernardino. From the date of recording, the lien shall have the force, effect, and priority of a judgment lien.

A graffiti nuisance abatement lien authorized by this section shall specify the amount of the lien; the name of the agency on whose behalf the lien is imposed; the date of the abatement order; the street address, legal description, and assessor's parcel number of the parcel on which the lien is imposed; and the name and address of the recorded owner of the parcel.

If the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified above shall be recorded by the governmental agency. A graffiti nuisance abatement lien and the release of the lien shall be indexed in the grantor-grantee index.

A graffiti nuisance abatement lien may be satisfied through foreclosure in an action brought by the City.

As used in this section, "abatement and related administrative costs" include, but are not limited to, court costs, attorney's fees, costs of removal of the graffiti or other inscribed material, costs of repair and replacement of defaced property, and the law enforcement costs incurred by the City, County, or City and County in identifying and apprehending the minor or other person.

C. As an alternative to the procedure specified in Section 9.28.120B whenever deemed appropriate, it is the City's intent to make the costs and related administrative costs of the abatement of any nuisance described in Section 9.28.090A resulting from the defacement by a minor or other person of property of another by graffiti or other inscribed material, a special assessment against a parcel of land owned by the minor or other person or by the parent or guardian having custody and control of the minor. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection, and enforcement of municipal taxes

shall be applicable to the special assessment. However, if any real property to which the abatement and related administrative costs relate has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon prior to the date on which the first installment of the taxes would become delinquent, then the abatement and related administrative costs shall not result in a lien against the real property but shall instead be transferred to the unsecured roll for collection. Notices or instruments relating to the abatement proceeding or special assessment may be recorded.

9.28.130 – Collection of Costs of Abatement – Lien or Assessment.

A. Whenever deemed appropriate, it is the City’s intent to collect abatement and related administrative costs incurred in abatement of the nuisance described in this Chapter by a nuisance abatement lien.

1. Prior to the recordation of the lien, notice shall be given to the owner of record of the parcel of land on which the nuisance is maintained, based on the last equalized assessment roll or the supplemental roll, whichever is more current.

2. The notice shall be served in the same manner as summons in a civil action in accordance with Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. If the owner of record, after diligent search cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of 10 days and publication thereof in a newspaper of general circulation published in the county in which the property is located pursuant to Section 6062.

3. A nuisance abatement lien shall be recorded in the County Recorder’s Office in San Bernardino and from the date of recording shall have the force, effect and priority of a judgment lien.

a. A nuisance abatement lien authorized by this section shall specify the amount of the lien, the name of the City, the date of the abatement order, the street address, legal description and assessor’s parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the parcel.

b. In the event that the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in paragraph a. shall be recorded by the City.

c. A nuisance abatement lien may be foreclosed by an action brought by the City for a money judgment.

B. As an alternative to the procedure authorized by Section 38773.1, whenever the City deems appropriate, the cost of abatement of a nuisance may be recovered by imposition upon a parcel of land a special assessment against the parcel.

C. A City or the prevailing party may recover attorneys’ fees in any action, administrative proceeding, or special proceeding to abate a nuisance. In no action, administrative proceeding, or special proceeding shall an award of attorneys’ fees to a prevailing