



**CITY OF LARKSPUR  
Staff Report**

February 6, 2019 City Council Meeting

**DATE:** January 18, 2019

**TO:** Honorable Mayor Morrison and the Larkspur City Council

**FROM:** Dan Schwarz, City Manager  
Jamie Kuryllo, City Clerk

**SUBJECT:** PUBLIC HEARING – WAIVE FIRST READING AND INTRODUCE ORDINANCE 1036,  
AMENDING LARKSPUR MUNICIPAL CODE CHAPTER 9.24 – CODE  
ENFORCEMENT

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**ACTION REQUESTED**

Waive first reading and introduce Ordinance 1036.

**SUMMARY AND BACKGROUND**

During 2018 and 2019, the City Manager and Department Heads collaborated to complete a thorough review of the Larkspur Municipal Code. During the review process, staff focused on making administrative updates such as eliminating outdated language, correcting code references and improving language consistency.

Presented for consideration at this hearing are non-controversial and administrative amendments to Larkspur Municipal Code Chapter 9.24 Code Enforcement, which will bring this Chapter of the Code into conformity with State law.

**STAFF RECOMMENDATIONS**

Staff recommends that Council waive first reading and introduce Ordinance 1036.

Respectfully submitted,

Dan Schwarz, City Manager  
Jamie Kuryllo, City Clerk

Attachments

1. Ordinance

**CITY OF LARKSPUR  
ORDINANCE No. 1036**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LARKSPUR AMENDING  
LARKSPUR MUNICIPAL CODE CHAPTER 9.24 – CODE ENFORCEMENT**

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**WHEREAS**, the City of Larkspur has determined that portions of Larkspur Municipal Code Chapter 9.24, as currently drafted, are legally obsolete and not up to date with recent changes in the law;

**WHEREAS**, the City believes that an update to Larkspur Municipal Code Chapter 9.24 will enable the City to better enforce laws, rules, and regulations that are designed to protect the health, safety, and welfare of City residents, businesses, and visitors.

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LARKSPUR DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1: Recitals.** The People of Larkspur find that the above Recitals are true and correct and are incorporated herein by reference.

**Section 2: Amendment of Larkspur Municipal Code Chapter 9.24.** Chapter 9.24 of the Larkspur Municipal Code is hereby amended and restated to read as follows:

**Chapter 9.24  
CODE ENFORCEMENT<sup>1</sup>**

Sections:

- 9.24.010 Title.
- 9.24.020 Purpose.
- 9.24.030 Violation of This Code Constitutes a Public Nuisance.
- 9.24.040 Causing, Permitting, etc., a Violation.
- 9.24.050 Enforcement Officer.
- 9.24.060 Separate Offenses.
- 9.24.070 Criminal Enforcement of Code Violations.
- 9.24.080 Criminal Citation Procedure.
- 9.24.090 Violations of Rules and Regulations of Subordinate Boards or Commissions.
- 9.24.100 Civil Action; Collection of Costs by the City.
- 9.24.110 Administrative Enforcement of Code Violations.
- 9.24.120 Hearing Request and Procedure.
- 9.24.130 Administrative Order.
- 9.24.140 Administrative Fines and Penalties.
- 9.24.150 Summary Abatement Procedure.
- 9.24.160 Cost Accounts and Imposition of Liens or Special Assessments.
- 9.24.170 Supplementary Enforcement Authority.
- 9.24.180 Limitation of Time for Judicial Review of Quasi-Judicial Decisions.

**9.24.010 Title.**

This chapter shall be known as the “Code Enforcement Ordinance,” and is hereinafter referred to within this chapter as “this chapter.” (Ord. 914 § 2, 2002)

**9.24.020 Purpose.**

Pursuant to Government Code § 38771, et seq., the City Council establishes the procedures set forth in this chapter for the purpose of abatement of nuisances and establishes a fee pursuant to LMC 1.01.140.

The purpose of this chapter is to provide the City of Larkspur (“City”) with criminal, civil, and administrative remedies, which shall be in addition to all other legal remedies that may be pursued by the City to address any violation of the Larkspur Municipal Code. For purposes of this chapter, the Larkspur Municipal Code shall be referred to as “this code” and shall include all current, but uncodified, City Ordinances, including the City’s Zoning Ordinance, all incorporated Uniform Codes, and any applicable State laws and regulations. The election of remedies provided by this code shall be at the sole discretion of the City and its officials. (Ord. 914 § 2, 2002)

**9.24.030 Violation of This Code Constitutes a Public Nuisance.**

A violation of this code, including any continuing violation of this code, is hereby declared to be a public nuisance. The City may elect to pursue any remedies for nuisance abatement as provided within this code or under any applicable State or Federal statute, including criminal prosecution. The City Manager, or any body designated by the City Manager, may order the abatement of any public nuisance, as defined in this code or in any State or Federal statute, following notice and a hearing, unless the nuisance qualifies for summary abatement procedures, as described in LMC 9.24.150. The City Manager may direct that any required hearing be conducted before any designated board, commission or hearing officer.

It shall be a violation of this code to violate any term or condition of any license, permit, agreement, or approval granted or issued pursuant to this code. Any person, whether as principal, agent, employee or otherwise, violating or contributing to the violation of any such term or condition shall be subject to the sanctions provided in this chapter or any other law. (Ord. 914 § 2, 2002)

**9.24.040 Causing, Permitting, etc., a Violation.**

Causing, permitting, aiding, abetting, contributing to, or concealing a violation of any provision of this code shall constitute a violation of such provision. (Ord. 914 § 2, 2002)

**9.24.050 Enforcement Officer.**

“Enforcement Officer” means any person who is charged by the City Manager with responsibility for enforcement of any provision of this code. In addition to any other powers conferred upon him/her by this code or by other State, County or Federal law, any designated Enforcement Officer shall have the authority to arrest a person without a warrant, issue a Notice to Appear, as described in Penal Code § 948, or issue a Notice of Violation, as described in LMC 9.24.110, if such Enforcement Officer has cause to believe that a violation of this code was or is being committed. (Ord. 914 § 2, 2002)

**9.24.060 Separate Offenses.**

A separate offense shall be deemed committed each day a violation of any provision of this code occurs or continues. (Ord. 914 § 2, 2002)

#### **9.24.070 Criminal Enforcement of Code Violations.**

A. A violation of this code may be prosecuted as a criminal offense. Unless expressly described as an infraction, a violation of any provision of this code, or failing to comply with any mandatory requirement hereof, shall constitute a misdemeanor. Notwithstanding the preceding sentence or any other section of this code, a violation of this code may, in the discretion of the enforcing authority, be charged and prosecuted as an infraction.

B. Any person convicted of a misdemeanor under the provisions of this code, unless provision is otherwise herein made, shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment in the County jail for a period of not more than six months or by both fine and imprisonment pursuant to Government Code § 36901.

C. Any person convicted of an infraction under this code, with the exception of those incidents subject to subsection D of this section, shall be punished by a fine of not more than one hundred dollars (\$100) for a first violation, or a fine of not more than two hundred dollars (\$200) for a subsequent violation of the same code section within one year, pursuant to Government Code § 36900(b). A third (or more) violation of the same code section by the same person within a twelve-month period may be charged and prosecuted as a misdemeanor.

D. Notwithstanding any other provision of law or this Code Enforcement Ordinance, a violation of local building and safety codes determined to be an infraction is punishable by the following: (1) a fine not exceeding one hundred thirty dollars (\$130) for a first violation; (2) a fine not exceeding seven hundred dollars (\$700) for a second violation of the same ordinance within one year; and (3) (A) a fine not exceeding one thousand three hundred dollars (\$1,300) for each additional violation of the same ordinance within one year of the first violation and (B) a fine not exceeding two thousand five hundred dollars (\$2,500) for each additional violation of the same ordinance within two years of the first violation if the property is a commercial property that has an existing building at the time of the violation and the violation is due to failure by the owner to remove visible refuse or failure to prohibit unauthorized use of the property. (Government Code § 36900(c))

E. If the City levies a fine pursuant to paragraphs (2) and (3) of subsection (D) of this section, it shall establish a process for granting a hardship waiver to reduce the amount of the fine upon a showing by the responsible party that it has made a bona fide effort to comply after the first violation and that payment of the full amount of the fine would impose an undue financial burden on it. (Government Code § 36900(d))

FD. Upon entry of a subsequent conviction against the same property owner within a two-year period for a condition of real property constituting a public nuisance under this chapter (except for conditions abated pursuant to Health and Safety Code § 17980), the court may require the owner to pay to the City treble the cost of the abatement, pursuant to Government Code § 38773.7. Any costs awarded to the City may be enforced in the manner described in LMC 9.24.160. (Ord. 914 § 2, 2002)

#### **9.24.080 Criminal Citation Procedure.**

A. If an Enforcement Officer arrests a person for a violation of this code or any other City ordinance and elects to charge the violation as a misdemeanor or infraction, the arresting officer shall prepare in duplicate a written Notice to Appear, pursuant to Penal Code § 948, containing the name and address of such person, the offense(s) charged, and the time and place where and when such person shall appear in court. The arresting officer shall deliver one copy of the

Notice to Appear to the violator and the violator, in order to secure release, must give his or her written promise to so appear in court by signing the duplicate notice which shall be retained by the officer.

B. The time specified in the Notice to Appear must be at least forty-five days after the date of the arrest.

C. The arresting officer shall, as soon as practicable, send the duplicate Notice to Appear to the City Attorney who will process the citation with the Superior Court of Marin County (hereinafter, "the court"). Thereupon the clerk of the court shall fix the amount of bail according to the bail schedule recommended by resolution of the City Council. The defendant may, prior to the date upon which he or she promised to appear in court, deposit with the court the amount of bail thus set. Thereafter, at the time when the case is called for arraignment before the Magistrate, if the defendant does not appear either in person or by counsel, the Magistrate may declare the bail forfeited, and may, in his or her discretion, order that no further proceedings shall be had in such case.

D. The City Council shall establish, by resolution, a recommended bail schedule which may be amended from time to time. The amount of recommended bail imposed for violations that are prosecuted as criminal offenses pursuant to this chapter shall be set forth in the bail schedule. The bail schedule shall include a recommended amount for any increased fines for repeated violations of the same provisions by the same person within a twelve-month period from the date of the issuance of a Notice to Appear.

E. Any person willfully violating his or her written promise to appear in court is guilty of a misdemeanor regardless of the disposition of the charge upon which he or she was originally arrested. (Ord. 914 § 2, 2002)

#### **9.24.090 Violations of Rules and Regulations of Subordinate Boards or Commissions.**

Except as expressly provided in this code, any conduct or activity declared to be a violation of any rule or regulation adopted by any subordinate board or commission established pursuant to a resolution adopted by the City Council shall be prosecuted as an infraction, if the Enforcement Officer elects to pursue criminal enforcement of such violation. (Ord. 914 § 2, 2002)

#### **9.24.100 Civil Action; Collection of Costs by the City.**

A. The provisions of this code may be enforced by a civil court action, prosecuted by the City Attorney in the name of the City.

B. Whenever the City Attorney is authorized or directed to commence or sustain any civil action or proceeding, either at law or in equity, to enforce any of the provisions of this code, or any rule, regulation or order promulgated or issued pursuant to this code, or any condition of an approval, permit or license granted pursuant to this code, or to enjoin or restrain any violation thereof, or otherwise to abate any public nuisance, or to collect any sums of money on behalf of the City, then the prevailing party in such action or proceeding shall be entitled to collect all costs and expenses of the same, including attorney's fees in an amount not to exceed the amount of attorney's fees incurred by the City in the action or proceeding, as authorized by Government Code § 38773.5(b). Any award of costs and expenses pursuant to this section or Government Code § 38773.5 shall be made a part of the judgment in any such prosecution.

C. Upon entry of a second or subsequent civil judgment against the same property owner within a two-year period for a condition of real property constituting a public nuisance under this

chapter (except for conditions abated pursuant to Health and Safety Code § 17980), the court issuing judgment may order the owner to pay treble the cost of the abatement, pursuant to Government Code § 38773.7. (Ord. 914 § 2, 2002)

**9.24.110 Administrative Enforcement of Code Violations.**

The fines and administrative penalties provided under this chapter are enacted under the authority of the City's general police powers, and Government Code §§ 36901 and 38773.5. The City Manager, or any designated Enforcement Officer, shall have the authority to gain compliance with all provisions of this code. These powers include the power to issue a Notice of Violation, as described herein, the power to inspect public and private property, and to seek and employ whatever remedies are available under this code.

A. Subject to subsection (E) of this section, whenever an Enforcement Officer finds that a provision of this code has been violated, he or she shall notify the violator in writing of the violation. If administrative enforcement of the violation is selected, the form of written notice shall be a Notice of Violation, which shall be served on the violator in the manner described in subsection (B) of this section. The Enforcement Officer shall include in the Notice of Violation the following information:

1. Date and location of the violation, including the address or definite description of the location where the violation occurred or is occurring;
2. Section(s) of the code being violated and a description of the violation;
3. Actions required to correct or abate the violation and a reasonable amount of time for said actions to be commenced, and the correction or abatement to be completed, considering the criteria in subsection (D) of this section;
4. Notice that the violator may, within fifteen calendar days of the date of the Notice of Violation, appeal said violation to the appeals hearing body;
5. An order prohibiting the continuation or repeated occurrence of a violation of this code described in the Notice of Violation; and
6. The signature of the citing Enforcement Officer.

B. The Notice of Violation required under this section shall be personally served on the violator, or shall be sent by registered or certified United States mail to the property owner at the last known address listed on the most recent tax assessor's records. In the case of service by registered mail or certified mail, service shall be completed at the time of deposit into the United States mail. Where service is by registered mail or certified mail upon the property owner, a copy of the Notice of Violation shall be conspicuously posted at the property which is the subject of the Notice of Violation, for a period of not less than three calendar days prior to the first date that commencement of corrective action or abatement is to be undertaken. The failure of any person to receive a Notice of Violation that was sent via registered or certified mail shall not affect the validity of any enforcement proceedings under this chapter.

C. The Enforcement Officer shall retain a declaration of the person effecting service, declaring the date, time, and manner that service was made, and the date and place of posting if applicable.

D. The time allowed for abatement of a nuisance shall be a "reasonable time" in the judgment of the Enforcement Officer, based upon the circumstances of the particular nuisance, taking into

consideration the means required to abate the nuisance, the period of time that the nuisance has existed, and the potential threat to public health and safety created by the nuisance.

E. The Enforcement Officer may issue a verbal notice, or an informal written notice, to abate the nuisance condition(s). However, if, following a verbal or informal written notice to abate, the nuisance has not been abated within the specified time period, the Enforcement Officer shall issue a formal written Notice of Violation. (Ord. 914 § 2, 2002)

**9.24.120 Hearing Request and Procedure.**

A. Any recipient of a Notice of Violation may request an appeals hearing to contest that there was a violation, as specified in the Notice of Violation, or that he or she is the responsible party for said violation, by completing a "Request for Hearing Form" and returning it to the City Clerk within fifteen days from the date of the Notice of Violation. At the time of returning the Request for Hearing Form to the City Clerk, the person or entity requesting the appeals hearing shall pay an appeals processing fee of one hundred fifty dollars (\$150). Failure to pay the appeals processing fee, or make arrangements for the payment of the fee, may result in the hearing being postponed until the payment of such fee.

B. If the recipient of a Notice of Violation does not submit a proper request for an appeals hearing, and does not comply with the Notice of Violation by the specified date, the Enforcement Officer shall have the right to issue an Order to Show Cause ("OSC") in the manner and form described herein, requiring a hearing before the City Council, or other designated body. Any hearing requested under this section, whether an appeals hearing or an OSC hearing, shall be conducted under the procedures set forth below.

C. Any hearing conducted pursuant to this section, whether an appeals hearing requested by a recipient of a Notice of Violation, or pursuant to an OSC, shall be set for a date not less than fifteen days nor more than sixty days from the date that the Request for Hearing Form or OSC is filed in accordance with this chapter, unless the Enforcement Officer determines that the matter is urgent or that good cause exists for an extension of time, in which case the date for such hearing may be shortened, or extended, as warranted by the circumstances.

D. If the Enforcement Officer issues an OSC, a copy of the OSC shall be served on the violator in the manner described in LMC 9.24.110(B). Where real property is involved, a copy of the OSC, along with a copy of the original Notice of Violation, shall be served on the property owner at the address as it appears on the last County assessment roll available on the date the OSC is prepared. The OSC must contain the date, time, and place at which the hearing will be conducted.

E. Any hearing provided in this section shall provide a full opportunity for the person or persons subject to a Notice of Violation to appear and object to the determination that a violation has occurred and/or that the violation continues to exist. The failure of any interested party to appear at a requested appeals hearing or a duly noticed OSC hearing shall constitute a failure by such party to exhaust his/her/their administrative remedies, and a waiver of the same.

F. At the place and time set forth in the notice of hearing, the City Council, or other designated person(s), shall conduct a hearing on the Notice of Violation. The person(s) hearing the appeal ("the hearing body") shall consider any written or oral evidence regarding the violation that may be presented by the violator, real property owner, any officer or agent of the City, and any other interested party.

G. After receiving all of the evidence presented, the public portion of the hearing shall be closed. The hearing body may then consider what action, or actions, if any, should be taken, including the imposition of any fines or penalties.

H. Within thirty days following the conclusion of the hearing, the hearing body shall issue written findings and make a determination regarding the existence of the violation and/or the failure of the violator or owner to take required corrective action within the specified time period. If the hearing body finds by a preponderance of the evidence that a violation occurred, or that a violation was not corrected within the time period specified in the Notice of Violation, the hearing body shall issue an administrative order, in accordance with LMC 9.24.130. If the hearing body finds that no violation occurred or that the violation was corrected within the specified time period, the hearing body shall issue a written finding of those facts.

I. The recipient or recipients of a Notice of Violation shall be served with a copy of the decision of the hearing body, including an administrative order if one is issued, in the manner and method set forth in LMC 9.24.110(B). (Ord. 914 § 2, 2002)

#### **9.24.130 Administrative Order.**

If the hearing body determines that a violation occurred and it was not corrected within the time specified in the Notice of Violation, the hearing body shall issue an administrative order.

A. An administrative order may impose any or all of the following remedies:

1. An order requiring the violator and/or property owner to correct or eliminate the nuisance condition, including a proposed schedule for correction or elimination where appropriate;
2. An order authorizing the City to take whatever steps are necessary to correct or eliminate the nuisance condition, including a proposed schedule for correction/elimination, where appropriate;
3. An administrative fine or penalty in an amount not to exceed five hundred dollars (\$500) per day for each on-going violation, up to a maximum penalty or fine of ten thousand dollars (\$10,000), exclusive of any amounts imposed for recovery of administrative costs. In determining the amount of fine or penalty to be imposed, the hearing body should consider the factors listed in LMC 9.24.140(D);
4. An order allowing for recovery of administrative costs. Administrative costs may include costs incurred by the City in connection with the proceeding, including attorney's fees, costs of investigation, staffing costs incurred in preparation for the hearing and for the hearing itself, and the cost of any re-inspection necessary to enforce the order. Such costs, if unpaid, may be recovered by the City through a lien on the property pursuant to Government Code § 38773.1 or through a special assessment pursuant to Government Code § 38773.5.

B. Any person aggrieved by an administrative order of the hearing body may obtain review of said administrative order in the Marin County Superior Court by filing with the court a petition for writ of mandate, subject to the conditions described in LMC 9.24.180. (Ord. 914 § 2, 2002)

#### **9.24.140 Administrative Fines and Penalties.**

The bail schedule described in LMC 9.24.080(D) shall not limit or affect the amount of actual fines or penalties imposed, including any fines and penalties authorized by Government Code § 36901, nor shall said bail schedule limit or preclude the recovery of any costs incurred by the

City in enforcing the provisions of this code or abating any nuisance condition, where the same may be lawfully imposed.

A. Any administrative fine or penalty imposed by the hearing body after a hearing shall be paid to the City within thirty days from the date of the Notice of Violation, unless an extension of time is requested by the offender and granted by the Enforcement Officer or City Council.

B. Any appeal processing fee that is paid pursuant to LMC 9.24.120(A) shall be refunded to the payee if it is determined, after a hearing, that the person charged in the Notice of Violation was not responsible for the violation or that there was no violation as charged in said notice.

C. Payment of a fine or penalty imposed pursuant to this chapter shall not excuse or permit any continuation or repeated occurrence of the violation that is the subject of the Notice of Violation.

D. In determining the amount of an administrative fine or penalty to be levied against a violator, the hearing body may take the following factors into consideration:

1. The duration of the violation;
2. The frequency, re-occurrence, and number of violations by the same violator;
3. The seriousness of the violation;
4. The justification, if any, for the existence, or continuance, of the violation;
5. The good faith efforts of the violator to mitigate the violation or to come into compliance, pursuant to the terms of the Notice of Violation;
6. The impact of the violation on the community;
7. The economic impact of the proposed penalty or fine on the violator;
8. The factors listed in the Uniform Administrative Code § 304.5.2; and
9. Such other factors as justice may require.

E. Any administrative fine or penalty imposed by the hearing body shall accrue from the date specified in the Notice of Violation and shall continue to accrue on a daily basis until the violation is corrected. The determination of compliance or elimination of the violation shall be determined by the Enforcement Officer, or the hearing body at the time of an appeals hearing. The hearing body, in its discretion, may suspend the imposition of any applicable fines or penalties for a period of time not to exceed sixty days during which:

1. The violator has filed for, or obtained, necessary permits;
2. Such permits are required to achieve compliance; and
3. Such permit applications are actively pending before, or have already been issued by, the City, State, or other appropriate governmental agency.

F. Any administrative penalty or fines assessed by the Enforcement Officer, or the hearing body following an appeals hearing, are a debt owed to the City. In addition to all other means of enforcement, any fines, penalties, or order allowing recovery of administrative costs specified in the administrative order of the hearing body may be enforced as a personal obligation of the

violator. If the violation is in connection with real property, any fines, penalties, or order allowing recovery of administrative costs may be enforced by imposition of a lien or special assessment upon the real property. Any lien or special assessment imposed upon the real property shall remain in effect until all of the administrative penalties, fines, interest, and administrative costs are paid in full. (Ord. 914 § 2, 2002)

**9.24.150 Summary Abatement Procedure.**

Whenever, in the reasonable judgment of the Enforcement Officer, the existence or continuance of any public nuisance poses an imminent or immediate danger of significant harm to persons or property, or endangers the public health, welfare or safety, an Enforcement Officer may act to abate such nuisance. The expense or cost resulting from such summary abatement shall be enforceable as a personal obligation of the person, persons, or entity responsible for the nuisance, including the property owner of any property on which such public nuisance exists, whether or not the owner is in possession of the property. The expense or cost of summary abatement may be imposed as a lien or a special assessment, as described in LMC 9.24.160. (Ord. 914 § 2, 2002)

**9.24.160 Cost Accounts and Imposition of Liens or Special Assessments.**

A. If a judicial order or administrative order authorizes the City to abate a public nuisance, the City official(s) responsible for the abatement project shall keep an accounting of the cost of abatement and shall render a written report to the City Council showing the cost of removing and/or abating the nuisance. Before the report is submitted to the City Council, a copy shall be posted for at least three business days on the City Hall bulletin board with a notice of the time and place when the report will be submitted to the City Council for confirmation. A copy of the report and notice shall be mailed to the violator, or the owner of the property where the nuisance existed if the nuisance concerned real property at the address shown on the last tax roll. The copy of the report and notice shall be mailed at least ten days prior to the submission of the report to the City Council.

B. At the time and place fixed for receiving and considering the report, the City Council shall hear a summary of the report and any objections by the violator or property owner against whom the cost of abatement is being charged or against whose property an abatement lien or special assessment may be imposed for the cost of abatement. After considering the report and any objections thereto, the City Council may make such modifications to the report as it deems appropriate, after which the report shall be confirmed by resolution or order.

C. Any fines or penalties imposed for violations of this code, including any other codes or statutes that have been incorporated into this code, any expenses of enforcement, and the cost or expenses associated with the abatement of a public nuisance that are levied in accordance with this chapter may be enforced by the recordation of a lien against the property of the violator or the owner of the real property where the nuisance condition existed. Any such lien shall be recorded in the County Recorder's office in the County in which the parcel of land is located and from the date of recording shall have the force, effect, and priority of a judgment lien. A lien authorized by this section shall specify the amount of the lien, the name of the City 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. Before recordation of a lien authorized by this section, notice shall be served on the owner of record of the parcel of land on which the nuisance existed, based on the last equalized assessment roll or the supplemental roll, whichever is more current. The notice shall be served in the same manner as a summons in a civil action. If the owner of record cannot be found, after a diligent search, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten

days and publication thereof in a newspaper of general circulation published in Marin County, California. Any fee imposed on the City by the County Recorder for costs of processing and recording the lien and the cost of providing notice to the property owner in the manner described herein may be recovered from the property owner in any foreclosure action to enforce the lien after recordation.

D. As an alternative to the lien procedure described above, any fines or penalties imposed for violations of this code, including any other codes or statutes that have been incorporated into this code, any expenses of enforcement, and the cost or expenses associated with the abatement of a public nuisance that are levied in accordance with this chapter, may become a special assessment and lien against the real property where the nuisance condition existed. Any special assessment imposed on real property pursuant to this section 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 is provided for ordinary municipal taxes. Notice of any special assessment that is levied on real property, pursuant to this section, shall be given to the property owner by certified mail, and shall contain the information set forth in Government Code § 38773.5(c). All laws applicable to the levy, collection, and enforcement of municipal taxes, including those described in Government Code § 38773.5(c), shall be applicable to such special assessment. (Ord. 914 § 2, 2002)

**9.24.170 Supplementary Enforcement Authority.**

Nothing in this chapter shall prevent the City from initiating a criminal, civil or administrative enforcement action, or any other legal or equitable proceeding, to obtain compliance or to discourage noncompliance with the provisions of this code. The enforcement procedures described in this chapter are intended to be alternative methods of obtaining compliance and/or discouraging noncompliance with the provisions of this code and are expressly intended to be in addition to any other remedies provided by law. It is the intent of the City Council that the immunities prescribed in Penal Code § 836.5 shall be applicable to public officers or employees acting in the course and scope of employment pursuant to this chapter. (Ord. 914 § 2, 2002)

**9.24.180 Limitation of Time for Judicial Review of Quasi-Judicial Decisions.**

A. Except as otherwise provided herein, the provisions of California Code of Civil Procedure (C.C.P.) § 1094.6 or successor statute are hereby adopted and any petition for review of an administrative decision of the City of Larkspur, or of any of its boards, commissions, departments, agencies, or persons authorized to render such a decision, shall be filed within the time limits prescribed therein. Notwithstanding such time limits, where a shorter time limitation is provided by any other law, such shorter time limit shall apply.

B. The limitation provided in subsection (A) of this section shall apply to any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken and discretion in the determination of facts is vested in the person(s) conducting the hearing.

C. The limitation provided in subsection (A) of this section shall apply to all quasi-judicial proceedings now pending or hereafter begun. Written notice of said limitation of C.C.P. § 1094.6 shall be given to the parties by the decision-maker in substantially the following form:

The time within which judicial review of this decision must be sought is governed by C.C.P. § 1094.6. Judicial review must be sought not later than the 90th day following the date on which this decision becomes final, except

that where a shorter time is provided by any State or Federal law, such shorter time limit shall apply.

D. The limitation provided in subsection (A) of this section shall be construed to require that petitions filed pursuant to C.C.P. § 1094.6 for review of administrative decisions rendered prior to the effective date of the ordinance codified in this chapter must be filed within ninety days from the date upon which notice of the time limits provided in this section is mailed or personally delivered to all parties to such administrative decision, unless a shorter time limit applies. Notice under this subsection shall be in substantially the following form:

By ordinance, the time limits set forth in California Code of Civil Procedure § 1094.6 have been made applicable to the decision rendered by (decision maker) on (date) concerning (title or description of administrative action). Judicial review must be sought not later than the 90th day following the date of this notice, except that where a shorter time limit is prescribed by any other law, such shorter time limit shall apply.

E. This section shall not be deemed to revive any cause of action or grounds for relief through a special proceeding which is barred by law or equity.

F. All costs of preparing a record which may be recovered by a local agency pursuant to C.C.P. § 1094.6(c) or successor statute shall be paid by the petitioner prior to delivery of the record to petitioner. (Ord. 914 § 2, 2002)

**Section 3: Compliance with the California Environmental Quality Act.** The Ordinance is categorically exempt from California Environmental Quality Act ("CEQA") pursuant to the general rule in Section 15061(b)(3) of the CEQA Guidelines that CEQA applies only to projects which have the potential for causing a significant effect on the environment. This Ordinance does not have the potential for causing a significant effect on the environment.

**Section 4: Severability.** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

**Section 5: Effective Date and Publication.** This ordinance of the City of Larkspur shall be effective thirty (30) days after the date of its passage. Before expiration of fifteen (15) days after its passage, this ordinance or a summary thereof as provided in California Government Code Section 36933, shall be published at least once in a newspaper of general circulation published and circulated in the City of Larkspur, along with the names of the members of the City Council voting for and against its passage.

**IT IS HEREBY CERTIFIED** that the foregoing ordinance was duly introduced at a regular meeting of the Larkspur City Council held on February 6, 2019 and thereafter passed and adopted by the Larkspur City Council on February 20, 2019 by the following vote, to wit:

AYES: COUNCILMEMBER:

NOES: COUNCILMEMBER:

ABSENT: COUNCILMEMBER:

ABSTAIN: COUNCILMEMBER

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK  
3095670.1

DRAFT