City of Needles, California
Request for City Council Action

☒ CITY COUNCIL ☐ NPUA ☒ Regular ☐ Special

Meeting Date: September 10, 2019

Title: Ordinance No. 624-AC Amending Chapter 14, Article III, Entitled "Graffiti Prohibition and Removal", in the Needles Municipal Code

Background: On April 23, 2019, City Council gave direction to staff to draft an ordinance to provide additional enforcement tools to protect public and private property from acts of vandalism and defacement, including the application of graffiti on privately and publicly owned walls and structures.

Vandalism, whether graffiti or damage or destruction of public property, costs the City of Needles thousands of dollars each year.

City staff and members of the San Bernardino Sheriff's Department reviewed the amended Ordinance. The Sheriff's Department indicated its support for the proposed Ordinance and remedies. Currently, the Sheriff's Department follows the criminal justice process to protect against vandalism and graffiti; this includes imprisonment and fines, and the City can seek restitution when harmed. It is agreed that the preferred response is for the District Attorney's Office, in coordination with the Sheriff's Department, to continue to take the lead in addressing incidents of graffiti in the City. However, the City maintains the option to pursue such matters in its discretion.

The City intends to increase its education effort through the schools, media and other forms of outreach, of the serious remedies for graffiti under State and local law.

This Ordinance establishes three (3) remedies for graffiti:

- **Criminal Penalties:** Any violation of this article shall be a misdemeanor punishable by either six months in jail, a one-thousand-dollar fine, or by such fine and imprisonment, and by the performance of community service in the form of graffiti cleanup to the maximum extent permitted by California Penal Code Section 594 and/or any other provision of law.

- **Civil Remedies:** A violation of any of the provisions of this article shall constitute a nuisance and may be abated by the City through the civil process by means of restraining order, preliminary or permanent injunction, or in any other manner provided by law for the abatement of such nuisance. This also includes costs recovery.

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- **Administrative Remedies:** A violation of any of the provisions of this article shall constitute a nuisance and may be abated by the City through administrative proceedings as provided in this Chapter 14 and Chapter 2A of the City's Municipal Code and other applicable law as may be amended from time to time. City may, at its discretion, issue administrative citations and fines as set forth in the City's Municipal Code.

Other notable provisions:

- "Abatement and Related Administrative Costs" is defined as all City costs associated with damage caused by graffiti, including but not limited to court costs, attorney's fees, cost of removal of graffiti or other inscribed material, cost of repair and replacement of property defaced by graffiti that cannot be removed cost effectively, and law enforcement time incurred by or charged to the City for identifying and apprehending the person(s) who caused the graffiti.
- Included restrictions on aerosol paint containers and felt-tip markers for sale to minors.
- Possession of spray actuator for the purpose of graffiti is prohibited.
- Minors and responsible adults are jointly and several liable for costs.
- Hearing procedures for purpose of contesting costs before the City Manager.
- In the event the costs are not paid, the City may file a Graffiti Nuisance Abatement Lien against the property or, in the alternative, collect the amount outstanding as a special assessment.

Fiscal Impact: Recover costs for staff time and property damage from vandalism.

Recommended Action: Approve Ordinance 624-AC, Amending Chapter 14, Article III, Entitled "Graffiti Prohibition and Removal", in the Needles Municipal Code

Submitted By: Patrick Martinez, Director of Development Services
John Pinkney, City Attorney

City Management Review: Rick **Date:** 9/3/19

Approved: ☐	Not Approved: ☐	Tabled: ☐	Other: ☐
			Agenda Item: 2

ORDINANCE NUMBER 624-AC

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEEDLES, CALIFORNIA, AMENDING CHAPTER 14, ARTICLE III, ENTITLED "GRAFFITI PROHIBITION AND REMOVAL", IN THE NEEDLES MUNICIPAL CODE

WHEREAS, vandalism, whether graffiti or damage or destruction of public property, costs the City of Needles thousands of dollars each year; and

WHEREAS, the City's operating policy is to immediately correct or repair the damage and report it to law enforcement for prosecution; and

WHEREAS, City Council, at the April 23, 2019, meeting gave direction to staff to draft an ordinance to provide additional enforcement tools to protect public and private property from acts of vandalism and defacement, including the application of graffiti on privately and publicly owned walls and structures; and

WHEREAS, a public hearing notice for the City Council meeting was published in the Needles Desert Star on June 26, 2019, posted in two conspicuous locations; and

WHEREAS, on July 9, 2019, the City Council held a duly noticed and advertised a public hearing to receive oral and written testimony relative to the amendment to the Needles Municipal Code (NMC); and

WHEREAS, said public hearing was continued to August 13, 2019 and further continued to September 10, 2019; and

WHEREAS, the Needles City Council has sufficiently considered all testimony and any documentary evidence presented to them in order to make the following determination:

SECTION 1. **CEQA.** Pursuant to Section 15060(c)(2) of the California CEQA Guidelines, adoption of the subject Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment and therefore is not subject to CEQA. Additionally, pursuant to Section 15060(c)(3) the activity is not a "project" as defined in Section 15378 because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 2. **Severability.** The City Council hereby declares that if any provision, section, paragraph, sentence, or word of this Ordinance is rendered or declared to be invalid or unconstitutional by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, such invalidity shall not affect the other provisions, sections, paragraphs, sentences, or words of this Ordinance, and to this end the provisions of this Ordinance are severable. The City Council declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance enforced.

SECTION 3. **Prosecution of Prior Ordinances.** Neither the adoption of this Ordinance nor the repeal of any other ordinance of this City shall in any manner affect the prosecution of any violation of any City ordinance or provision of the City of Needles Municipal Code, committed prior to the effective date hereof, nor be construed as a waiver of any penalty or the penal provisions applicable to any violation thereof.

SECTION 4. **Chapter 14, Article III. GRAFFITI PROHIBITION AND REMOVAL.** The City Council hereby repeals Chapter 14, Article III "Graffiti Prohibition and Removal" from the City of Needles Municipal Code and replaces it as set forth in Exhibit "A" attached hereto and incorporated herein by this reference.

SECTION 5. **Publication.** The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published pursuant to state law within fifteen (15) days after its passage, and this Ordinance shall become effective thirty (30) days after its passage.

SECTION 6. **Effective Date.** This action shall become final and effective 30 days after this decision by the City Council as provided by the Needles City Code.

INTRODUCED AND READ for the first time and ordered posted at a regular meeting of the City Council of the City of Needles, California, held on the 10th day of September 2019, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

PASSED, APPROVED AND ADOPTED, at a regular meeting of the City Council of the City of Needles, California, held on the of 24 of September 2019, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Mayor Jeff Williams

ATTEST:

_____
City Clerk Dale Jones, CMC

APPROVED AS TO FORM:

_____
City Attorney John O. Pinkney

EXHIBIT "A"
to Ordinance No. 624-AC

Article III. Graffiti Prohibition and Removal.

Sec. 14-55. Purpose and intent. The City Council of the City hereby specifically finds that Graffiti on public property is a blighting factor which not only depreciates the value of the 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 City.

California Government Code section 53069.3 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 entire neighborhoods are affected and become less desirable places in which to be. Graffiti also has been found to be a means of identification utilized by gangs and its presence may encourage further gang-related activities.

It is the purpose and intent of the City Council, through the adoption of the ordinance codified in this article, to provide additional enforcement tools to protect public and private property from acts of vandalism and defacement, including the application of Graffiti on privately and publicly owned walls and structures. Such acts are hostile to and destructive of the rights and values of private property owners as well as the total community. It is the further intent of the City Council, through the adoption of the ordinance codified in this article, to provide notice to all of those who disregard the property rights of others, that the law enforcement agencies of the City, the sheriff's department and the district attorney's office, will strictly enforce the law and vigorously prosecute those persons engaged in the defacement of public and private properties.

Government Code sections 38772, 38773.2, and 38773.6 authorize cities to adopt ordinances making the expense of abating Graffiti caused by certain Minors (1) a personal obligation of the Minor and of the parents or guardians having custody and control of the Minor, and (2) a lien or special assessment against property of the Minor and property of the parents or guardians having custody and control of the Minor. Welfare and Institutions Code section 742.14 authorizes cities to adopt ordinances electing to have the probation officer of the county recoup for it, through juvenile court proceedings in accordance with Welfare and Institutions Code section 742.16, its costs associated with Graffiti damage caused by certain Minors. Among other things, this chapter is intended to implement such statutory provisions. (Ord. No. 432-AC, (part).)

Sec. 14-56. Definitions. As used in this article, the following words and phrases shall have the meanings ascribed to them in this section:

"Abatement and Related Administrative Costs" means all City costs associated with damage caused by Graffiti, including but not limited to court costs, attorney's fees, cost of

removal of Graffiti or other inscribed material, cost of repair and replacement of property defaced by Graffiti that cannot be removed cost effectively, and law enforcement time incurred by or charged to the City for identifying and apprehending the person(s) who caused the Graffiti.

"Aerosol Paint Containers" means any aerosol container which is adapted or made for the purpose of spraying paint or other substance capable of defacing property.

"Felt Tip Marker" means any tipped style marker or similar implement with a tip which at its broadest width, is one-eighth inch or greater.

"Graffiti" means any inscription, word, figure, or design that is marked, etched, scratched, drawn, painted, pasted or otherwise affixed to or on any surface, regardless of the nature of the material of that structural component, to the extent the same was not authorized in advance by the owner thereof, or, despite advance authorization, is otherwise deemed by the City Council to be a public nuisance.

"Graffiti Implement" means any implement capable of marking a surface to create Graffiti including, but not limited to, Aerosol Paint Containers, Paint Sticks, felt-tip markers or marking pens, marking instruments, drill bits, grinding stones, scribes, glass cutters, or etching tools, or other similar implements capable of scarring glass, metal, concrete, stucco, wood or similar surfaces.

"Minor" has the same meaning as specified in Government Code Section 38772.

"Owner's Representative" means any person or entity expressly authorized by the owner of any property to permit another person to place inscriptions, words, figures or designs upon such property, or any person or entity in lawful possession of any property, whose right of possession includes the authority to permit or allow inscriptions, words, figures or designs to be placed upon such property.

"Paint Stick" means a device containing a solid form of paint, wax, epoxy or other similar substance capable of being applied to a surface by pressure and, upon application, leaving a mark.

"Spray Actuator" (also known as a "spray tip," "nozzle" or "button") means an object which is capable of being attached to Aerosol Paint Containers for the purpose of spraying the substance contained therein

Sec. 14-57. Unlawful to Apply Graffiti. It shall be unlawful for any person to apply Graffiti to any trees or structures including, but not limited to, buildings, walls, fences, poles and signs ("structures" hereinafter in this article), located within the City. It shall also be unlawful for any person to apply or affix any adhesive backed label, sticker, "bumper sticker" or similar item, to any tree or structure not owned or lawfully possessed by such person. (Ord. No. 432-AC, (part).)

Sec. 14-58. Minors Prohibited from Possession Graffiti Implements.

(a) Possession of Graffiti Implements by Minors Prohibited. It shall be unlawful for any person under the age of eighteen years to have in his or her possession any Graffiti implement while upon public property or upon private property without the consent of the owner of such private property whose consent to such possession and presence is given in writing in advance. This provision shall not apply to the possession of Felt Tip Markers by Minors attending or traveling to or from a school at which the Minor is enrolled, if the Minor is participating in a class at said school which formally requires the possession of such Felt Tip Markers. The burden of proof in any prosecution for violation of this section shall be upon the Minor student to establish the need to possess a Felt Tip Marker. (Ord. No. 432-AC, (part).)

(b) Aerosol Paint Containers and Felt-Tip Markers—Sale to Persons Under Eighteen Years of Age Prohibited.

(1) No person shall sell or cause to be sold to any person under the age of eighteen years any Aerosol Paint Containers or Felt Tip Marker.

(2) Evidence that a person, his or her employee, or agent, demanded and was shown bona fide evidence of majority and acted upon such evidence of majority in a transaction or sale shall be a defense to any criminal prosecution thereof.

(3) Any person who owns, manages, or operates a place of business wherein Aerosol Paint Containers and Felt Tip Markers are sold shall post in a conspicuous place a sign in letters at least three-eighths of an inch high stating: "Any person who maliciously defaces real or personal property with paint or any other liquid is guilty of vandalism which is punishable by a fine, imprisonment, or both."

(c) Storage and Display of Aerosol Paint Containers and Felt Tip Markers. Every person who owns, conducts, operates or manages a retail commercial establishment selling Aerosol Paint Containers, or Felt Tip Markers or marker pens and Paint Sticks, or similar Graffiti Implements shall store or cause such containers or pens to be stored in an area viewable by, but not accessible to, the public in the regular course of business without an employee assistance, pending legal sale or disposition of such containers or pens. It is the intent of this section to permit, but not to require, the viewing of Aerosol Paint Containers and Felt Tip Markers or marker pens and Paint Sticks or similar Graffiti Implements while they are stored or displayed pending retail sale.

Sec. 14-59. Possession of Graffiti Implements Prohibited in Designated Public Places. It shall be unlawful for any person to have in his or her possession any Graffiti Implement while in any public park, playground, swimming pool, recreational facility, or while in or within ten feet of an underpass, bridge abutment, storm drain, or other similar type of infrastructure not normally used by the public, except as may be authorized by the City. (Ord. No. 432-AC, (part).)

Sec. 14-59.1. Possession of Spray Actuator Prohibited. It shall be unlawful for any person to possess any Spray Actuator, as defined in herein, for the purpose of defacing, marking or damaging any public or privately-owned property without the express consent of the owner of such property or the Owner's Representative

Sec. 14-60. Graffiti Removal Provisions.

(a) Declaration of Nuisance.

(1) Graffiti as a Nuisance. The City Council hereby declares and finds Graffiti located on public or privately-owned property within the City to be a nuisance subject to abatement according to the provisions and procedures herein contained and as authorized by California Government Code Section 38773, et seq.

(b) Right of City to Remove.

(1) Use of Public Funds. Whenever the City becomes aware, or is notified and determines that Graffiti is so located on public or privately owned property viewable from a public or quasi-public place within the City, the City shall be authorized to use public funds for the removal of same, or for the painting or repairing of same, but shall not authorize or undertake to provide for the painting or repair of any more extensive area than that where the Graffiti is located, unless the City Manager, or 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 the responsible party agrees to pay for the costs of repainting or repairing the more extensive area.

(2) Right of Entry on Private Property.

(A) Securing Owner Consent. Prior to entering upon private property or property owned by a public entity other than the City, for the purpose of removal of Graffiti, the City shall attempt to secure the consent of the responsible party, and a release of the City from liability for private or public property damage.

(B) Failure to Obtain Owner Consent. If a responsible party fails to remove the offending Graffiti within forty-eight hours, or if the City shall have requested consent to remove or paint over the offending Graffiti and the responsible party shall have refused consent for entry on terms acceptable to the City consistent with the terms of this section, the City may commence Abatement and Related Administrative Costs recovery proceedings for the removal of the Graffiti pursuant to the nuisance abatement authority granted by California Government Code Section 38773, et seq., which authority includes the recovery of all costs incurred by the City in abating Graffiti and recordation of a lien as to affected property.

(c) Ease of Removal Provisions.

(1) Common Utility Colors and Paint Type. Any gas, telephone, water, sewer, cable, and other utility operating in the City, other than an electric utility, shall paint their above-surface metal fixtures which are installed after the effective date of the ordinance codified in this article, with a uniform paint type and color as directed by the City Manager.

(2) Conditions on Encroachment Permits. Encroachment permits issued by the City may, among other things, be conditioned on (1) the permittee applying an anti-Graffiti

material to the encroachment object or structure of a type and nature that is acceptable to the City Manager, or his or her designee; (2) the immediate removal by the permittee of any Graffiti; (3) the right of the City to remove Graffiti or to paint the encroaching object or structure; (4) the permittee providing City with sufficient matching paint and/or anti-Graffiti material on demand for use in the painting of the encroaching object or structure containing Graffiti.

(3) Conditions on Discretionary Approvals. In imposing conditions upon conditional use permits, variances, building permits or other similar land use entitlements or development or design applications, the City may impose Graffiti removal requirements or any or all of the following conditions, or other similar or related conditions:

(A) Use of Anti-Graffiti Material. Applicant shall apply an anti-Graffiti material of a type and nature that is acceptable to the City Manager, or his or her designee, to such of the publicly viewable surfaces to be constructed on the site deemed by the City Manager, or designee, to be likely to attract Graffiti;

(B) Right of Access to Remove Graffiti. Applicant shall grant in writing, the right of entry over and access to such parcels, upon forty-eight (48) hours posted notice, by authorized City employees or agents, for the purpose of removing or "painting over" Graffiti previously designated by the City Manager, or designee. Such grant shall be made an express condition of approval and shall be deemed to run with the land;

(C) Supply City with Graffiti-Removal Material. Applicant, and any and all successors in interest, shall, for a specified period of years after approval, provide the City with sufficient matching paint and/or anti-Graffiti material on demand for use in the painting over or removal of designated Graffiti;

(D) Owner to Immediately Remove Graffiti. Persons applying for subdivision maps shall, as part of any conditions, covenants and restrictions, covenant, which covenant shall run with the land, in a form satisfactory to the City, that the owners of the lots shall immediately remove any Graffiti placed on publicly viewable trees and structures thereon to City's satisfaction. (Ord. No. 432-AC, (part).)

Sec. 14-61. Rewards.

(a) Reward Authority.

(1) Pursuant to Section 53069.5 of the California Government Code, the City does hereby offer a reward in an amount as may be set by resolution of the City Council, for information leading to the arrest and conviction of any person for violation, within the City, of California Penal Code Sections 594 or 594.3 by the use of Graffiti, Penal Code Sections 640, 640.5 or 640.6. In the event of multiple contributions of information, the reward amount shall be divided by the City in the manner it shall deem appropriate. For the purpose of this section, diversion of the violator to a community service program, or a plea bargain to a lesser offense, shall constitute a conviction.

(2) Claims for reward under this section shall be filed with the City. Each claim shall:

(A) Specifically identify the date, location and kind of property damaged or destroyed;

(B) Identify by name the person who was convicted;

(C) Identify the court and the date upon which the conviction occurred.

(3) 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.

(4) The person committing the Graffiti vandalism, and if an unemancipated Minor, then the parent or lawful guardian of said Minor, shall be civilly liable for any reward paid pursuant to this section pursuant to the provisions of California Government Code Section 53069.5. (Ord. No. 432-AC, (part).)

Sec. 14-63. Penalties and Civil Liability of Parents.

(a) Criminal Penalties. Any violation of this article shall be a misdemeanor punishable by either six months in jail, a one-thousand-dollar fine, or by such fine and imprisonment, and by the performance of community service in the form of Graffiti cleanup to the maximum extent permitted by California Penal Code Section 594 and/or any other provision of law.

(b) Additional Penalties Available. Whenever deemed appropriate, it is the City's intent to petition a sentencing court to impose the following additional penalties upon conviction:

(1) Litter or Graffiti cleanup pursuant to California Vehicle Code Section 42001.7, upon conviction of violation of California Vehicle Code Sections 23111, 23112 or 23113(a);

(2) Suspension or delay of issuance of a driver's license pursuant to California Vehicle Code Section 13202.6 upon a Graffiti vandalism conviction;

(3) Performance of community service, including Graffiti removal service by any Minor determined to be a ward of the court as a result of committing a vandalism-related offense in the City, as provided in California Welfare and Institutions Code Section 728 and/or 729.6;

(4) Performance of community service, including Graffiti removal service of up to one hundred hours by any Minor determined to be a ward of the court as a result of committing a drug related offense in the City, as provided in California Welfare and Institutions Code Section 729.8.

(c) It is the City's further intent that pursuant to California Penal Code Section 640.6(a), all acts of Graffiti vandalism occurring within the City shall be prosecuted as misdemeanors pursuant to California Penal Code Section 594, et seq., or this article.

(d) Pursuant to California Civil Code Section 1714.1, any parent or legal guardian whose Minor child possesses a Graffiti Implement, shall be personally liable for any and all costs to any person or business incurred in connection with the removal of Graffiti caused by said child, or by said Graffiti Implement, and for all attorney's fees and court costs incurred in connection with the civil prosecution of any claim for damages or reimbursement, up to ten thousand dollars. An invoice may be sent to the parents or guardians having custody and control of the Minor, who shall be jointly and severally liable with the Minor for the City's Abatement and Related Administrative Costs. Invoices shall be due and payable no later than thirty days following their receipt, except to the extent that period is tolled due to a timely request for an administrative hearing. After that, interest on the amount owing shall accrue at the maximum legal rate and the City may proceed to collect the debt through any lawful means, including the procedures established by this chapter and by applicable state law. (Ord. No. 432-AC, (part).)

Sec. 14-64. Civil Remedies Available. A violation of any of the provisions of this article shall constitute a nuisance and may be abated by the City through civil process by means of restraining order, preliminary or permanent injunction, or in any other manner provided by law for the abatement of such nuisance. (Ord. No. 432-AC, (part).)

Sec. 14-65. Administrative Citations. A violation of any of the provisions of this article shall constitute a nuisance and may be abated by the City through administrative proceedings as provided in this Chapter 14 and Chapter 2A of the City's Municipal Code and other applicable law as may be amended from time to time. City may, at its discretion, issue administrative citations and fines as set forth in the City's Municipal Code.

Sec. 14-66. Invoice—Contents and Service.

(a) An invoice for abatement and related administrative costs sent pursuant to this Graffiti Ordinance shall include all of the following information:

(1) A statement notifying the recipient that he/she has been determined by the City to be responsible under Government Code section 38772 and Chapter 14, Article III of the City's Municipal Code for the City's expenses of removing certain Graffiti in the City and/or repairing or replacing property damaged by such Graffiti;

(2) The location and description of the Graffiti for which abatement cost recovery is sought;

(3) The date by which the invoice must be paid and the fact that interest on the amount owing will accrue at the maximum legal rate if it is not timely paid;

(4) A statement notifying the recipient of his or her right to request an administrative hearing within ten days of receipt of the invoice regarding liability and/or the

amount of costs sought, and the fact that the time period to pay the invoice will be tolled pending the outcome of the hearing;

(5) A statement notifying the recipient that if he/she does not pay the invoice or request a hearing within the time allowed, then the City's determinations regarding liability and costs will become final and non-appealable to any other City authority and the City will proceed with lawful collection methods, which in the case of a Minor and his or her parents or guardians may include recording a lien or special assessment for the full amount of the invoice plus interest against property of the Minor and against property of the parents or guardians.

(b) The City shall serve the invoice in one of the following ways: (1) by personal service; (2) by both regular first class mail and certified mail with return receipt requested; or, if neither of the previous two methods is available or successful in a given case, (3) by some other method reasonably calculated to provide actual notice to the recipient. If mail service is used, then the return receipt shall constitute evidence of the date the invoice was received. If the certified mail is not accepted, then the invoice will be deemed to have been received by regular mail three days after its mailing.

(c) Failure to comply with any of the foregoing requirements shall not render the invoice or other cost recovery proceedings defective if they meet minimum constitutional standards for due process.

Sec. 14-67. Hearing—Notice and Procedure.

(a) Any person sent an invoice for abatement or related administrative costs pursuant to this Graffiti Ordinance is entitled to an administrative hearing regarding liability and/or the amount of costs sought to be recovered, if timely requested. A request for a hearing shall be timely if it is received by the City no later than the close of business on the tenth day following receipt of the invoice. A timely request for a hearing tolls the time for payment of the invoice until the recipient has been notified of the hearing officer's decision.

(b) If a hearing is timely requested, the City shall send the party requesting the hearing written notice of the time, date and location of the hearing. The notice shall be served in the same manner as the invoice and shall be reasonably calculated so as to give the recipient at least three days' advance notice of the hearing. Notice of the hearing officer's final decision after the hearing shall be similarly served.

(c) The scope of an administrative hearing shall be limited to either or both of the following issues: (1) liability for costs; and (2) the amount of costs sought to be recovered. The party requesting the hearing shall be entitled to submit evidence on either or both issues, which shall be duly considered by the hearing officer provided it is either presented during the hearing or received by the City Manager or his or her designee no later than the close of business on the day before the hearing. No formal rules of evidence shall apply. The party requesting the hearing shall be entitled to attend the hearing, but such attendance shall not be mandatory.

(d) The hearing officer shall be the City Manager or his or her designee. The hearing officer's decision shall be final and non-appealable to any other City authority. Failure to timely

request a hearing waives any right to the hearing and renders the determinations reflected in the invoice similarly final and non-appealable.

Sec. 14-68. Delinquent Invoice—Collection Procedure. If an invoice is not paid in a timely manner and the City's determinations regarding the invoice have become final and non-appealable, then the City may proceed to collect the debt through any lawful means including, in the case of a Minor and the parents or guardians having custody and control of the Minor, imposition of a "Graffiti Nuisance Abatement Lien" following the procedures of Government Code section 38773.2 or, as an alternative to such a lien, a special assessment following the procedures of Government Code section 38773.6. To the extent the aforementioned state law and this article of the City's Municipal Code do not specify a particular aspect of the Graffiti nuisance abatement lien or special assessment imposition procedure, the procedures outlined in Chapter 14, Article II of this City's Municipal Code regarding conventional nuisance abatement liens and special assessments may be followed, provided they do not conflict with applicable state law.