

**ORDINANCE NO. 2015-01****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LEMOORE  
AMENDING AND RENUMBERING CHAPTER 4 OF TITLE 4 AND ADDING A  
DEFINITION SECTION OF THE LEMOORE MUNICIPAL CODE  
PERTAINING TO PROPERTY MAINTENANCE**

The City Council of the City of Lemoore does hereby ordain as follows:

**SECTION 1:** Section 4-4-2 of the Lemoore Municipal Code is hereby amended to read as follows:

**4-4-2: DEFINITIONS**

For purpose of this chapter, the following words or phrases shall have the meaning prescribed below:

**ABATE** means to repair, replace, remove, destroy, or otherwise remedy a condition, which constitutes a violation of this chapter by such means and in such a manner and to such an extent as the applicable city department director or designee(s) determines is necessary in the interest of the general health, safety and welfare of the community;

**CONTROL** means the ability to regulate, restrain, dominate, counteract or govern property, or conduct that occurs on a property;

**CHRONIC NUISANCE PROPERTY** means property on which a combination of three or more nuisance activities occur or exist during any ninety day period;

**CHRONIC NUISANCE ACTIVITY**

1. Any nuisance as defined by state law or local ordinance occurring on, around or within the influence of the property or the person responsible for the property.
2. Nuisance Activity includes: Any criminal conduct as defined by state law or local ordinance occurring on, around or within the influence of the property or the person responsible for the property, including, but not limited to, the following activities or behaviours:
  - a. Stalking;
  - b. Harassment;
  - c. Failure to Disperse;
  - d. Disorderly Conduct;
  - e. Assault;
  - f. Any Domestic Violence Crimes;
  - g. Reckless Endangerment;

- h. Prostitution;
- i. Patronizing a Prostitute;
- j. Public Disturbance Noises;
- k. Lewd Conduct;
- l. Any Firearms/Dangerous Weapons violations;
- m. Drug related loitering
- n. Any Drug related activity;

3. For purposes of this chapter, "Nuisance Activity" shall not include conduct where the person responsible is the victim of a crime and had no control over the criminal act.

**DRUG-RELATED ACTIVITY** means any unlawful activity at a property which consists of the manufacture, delivery, sale, storage, possession, or giving away of any controlled substance as defined by State law.

**PERSON RESPONSIBLE FOR THE PROPERTY** or **PERSON RESPONSIBLE** means, unless otherwise defined, any person who has titled ownership of the property or structure which is subject to this chapter, an occupant in control of the property or structure which is subject to this chapter, a developer, builder, or business operator or owner who is developing, building or operating a business on the property or in a structure which is subject to this chapter and/or any person who has control over the property and allows a violation of this chapter to continue.

**PERSON** means natural person, joint venture, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, officer or employee of any of them;

**PREMISES** and **PROPERTY** may be used by this chapter interchangeably and means and public or private building, lot, parcel, dwelling, rental unit, real estate or land or portion thereof including property used as a residential or commercial property;

**RENTAL UNIT** means any structure or that part of a structure, including but not limited to single family home, room or apartment, which is rented to another and used as a home residence, or sleeping place by one or more persons.

**SECTION 2:** Section 4-4-3 of the Lemoore Municipal Code is hereby amended to read as follows:

#### 4-4-3: FINDINGS

The city council finds and determines as follows:

- A. The city has a history and reputation for well-kept properties, and property values and general welfare of the community are founded, in part, upon the appearance and maintenance of private property;

- B. Owners, *person responsible for the property*, and occupants of some properties within the city have permitted visual blight, including, but not limited to, deteriorated buildings, the accumulation of overgrown, rank and noxious vegetation and the accumulation of broken or discarded personal property in front yards;
- C. The existence of such conditions as described in this chapter is injurious and inimical to the public health, safety and welfare of city residents and contributes to the deterioration of residential, commercial and industrial areas;
- D. Abatement of these conditions is in the best interest of the health, safety and welfare of the citizens of the city because maximum use and enjoyment of properties in close proximity to one another depends upon a minimum standard of sightliness *and the use and enjoyment of the property*. The beneficial effects of maintaining a minimum standard of sightliness *and the use and enjoyment* for properties in the city include, but are not limited to, appreciation of property values, physical improvements of residential, commercial and industrial zones, attraction of capital investors to residential, commercial and industrial zones, increase in commercial trade and industrial productivity and increase in the tax base of the city;
- E. The abatement of such conditions will improve the general welfare, health, safety, and image of the city;
- F. The abatement procedures set forth in this chapter are reasonable and afford due process to all affected persons;
- G. The uses and abuses of property, as described in this chapter, reasonably relate to the proper exercise of police power to protect the health, safety and welfare of the public.

**SECTION 3:** Section 4-4-4 of the Lemoore Municipal Code is hereby amended to read as follows:

#### 4-4-4: PROPERTY STANDARDS

Unless expressly allowed by the zoning regulations, it is unlawful for any landowner or person leasing, occupying or having charge or possession of any real property in the city to keep, maintain, deposit or perform on such property any of the following and existence of any of the following is hereby declared a public nuisance:

- A. Attractive nuisances dangerous to children and other persons, including, but not limited to, hazardous pools, ponds and excavations, and abandoned, broken or neglected household appliances, equipment and machinery, unless located behind a screened fence preventing access to the area.
- B. Overgrown, dead, diseased, decaying or hazardous trees, shrubs, ground cover or weeds likely to harbor vermin, restrict or impede access to or public use of adjacent

sidewalks and streets, obstruct traffic-control signs and devices and fire hydrants, pose a risk of physical injury to the public or constitute an unsightly appearance.

- C. Used or damaged lumber, junk, trash, debris, scrap metal, concrete, sand, asphalt, cans, bottles, tires, salvage materials, boxes, containers, bins, and abandoned, discarded, inoperative or unusable furniture, stove, refrigerator, freezer, sink, toilet, cabinet or other household fixture, yard waste or equipment stored so as to be visible from a public street, alley or from an adjoining property for a period in excess of one week, except nothing herein shall preclude the placement of stacked firewood for use on the premises in the side or rear yards of the premises.
- D. Any wall, fence, or hedge in such condition of deterioration or disrepair as to constitute a hazard to persons or property or cause depreciation in the value of any adjacent or nearby property.
- E. Broken windows or doors constituting hazardous conditions and inviting trespassers or malicious mischief.
- F. Buildings that are boarded up, partially destroyed, not properly secured or partially constructed or incomplete after the building permit authorizing its construction has expired.
- G. Maintenance of the premises so out of harmony and conformity with the maintenance quality of adjacent or nearby properties as to cause substantial diminution in the enjoyment, use or property values of such adjacent or nearby properties.
- H. Storage of automobile, motorcycle, boat or other watercraft, and trailer or parts thereof on residential properties within the front or side yard, unless parked on a paved driveway or screened from view by a minimum six foot (6') high solid fence.
- I. Accumulate, store, abandon, dismantle, repair or otherwise locate inoperative trailer, camper, boat or other watercraft, motor vehicle or parts thereof on private property for a period in excess of fourteen (14) consecutive days, unless stored within an entirely enclosed garage or screened by a minimum six foot (6') high solid fence. (Ord. 9606, 5-21-1996)
- J. City provided refuse containers or other receptacles stored in front of the front elevation of the building structure (front yard), unless screened; stored behind the front elevation of the building structure (side yards), unless screened or stored adjacent to the building structure and placed so that only one can is directly visible; or on the street, except when placed in locations of collection at times of collection. Containers may be placed for collection up to twenty four (24) hours prior to collection and must be properly stored on the same day as collection is made, as described in section 4-1-5C of this title. (Ord. 2011-06, 12-6-2011)

- K. Placement of satellite dish antennas over two feet (2') in diameter within the front or side yards abutting a street unless behind a solid fence of minimum six feet (6') high.
- L. Fountains, pools and ponds unmaintained such that they harbor algae, bacteria or mosquitoes.
- M. Cracked walkways or driveways if the cracks are such that weeds and growth come up through the cracks where an area is in overall poor condition.
- N. Construction equipment and machinery and building supplies and materials stored in areas visible from public rights of way or neighboring properties unless part of an active and approved construction project.
- O. Disposal of oil, gasoline, other petroleum products, noxious chemicals, pesticides, or other gaseous, liquid or solid wastes in such a manner as to constitute a health hazard or degrade the appearance of or detract from the aesthetic and property values of neighboring properties.
- P. Buildings in disrepair with wall cracks in excess of one-fourth inch ( $\frac{1}{4}$ " ) width, leaking roofs, defective electric wiring or otherwise not in compliance with building codes to the extent it presents a dangerous situation or effect on property values. (Ord. 9606, 5-21-1996)
- Q. Any property within the City of Lemoore which is a chronic nuisance property is in violation of this Chapter and subject to its penalties and remedies; and
- R. Any person responsible for property who permits property to be a chronic nuisance property shall be in violation of this chapter and subject to its penalties and remedies.

**SECTION 4:** Section 4-4-5 of the Lemoore Municipal Code is hereby amended to read as follows:

4-4-5: ABATEMENT

- A. Notice To Owner And/Or Lessee To Abate: In addition to the penalties *and other procedures* provided herein, upon a determination by the Chief of Police, *or designee*, that any activity or condition exists in violation of this chapter, he/she may send by certified mail to the address of the owner and/or lessee of the property concerned, a notice detailing the violation and requirements of its abatement, advising the property owner and/or lessee to cease the violation within a specified period if the city is not to proceed with the further steps set forth in this chapter for abatement.

Alternatively, when the Chief of Police, *or designee*, receives documentation confirming the occurrence of nuisance activities on any property, the Chief of Police, *or designee*, may review such documentation to determine whether it describes the nuisance activities enumerated in Section 4-4-4. Upon such a finding, the Chief of

Police, *or designee*, shall warn the person responsible for such property, in writing, that the property is in danger of being declared a chronic public nuisance property.

The warning shall contain: (Public Nuisance Letter)

1. The address or legal description sufficient for identification of the property;
2. A concise description of the nuisance activities that exist, or that have occurred on the property;
3. Offer the person responsible an opportunity to abate the nuisance activities giving rise to the violations; and

The Chief of Police, *or designee*, shall serve or cause to be served such warning upon the person responsible in accordance with the procedures set forth above.

- B. Notice to City Council: In the event the violation is not ceased or abated within the specified time, the Chief of Police, *or designee*, shall place the matter on the city council's agenda for the next regular meeting.
- C. Abatement Hearing: The city council at its next regular meeting may pass a resolution declaring the violation and setting a hearing thereon. The city clerk shall mail a copy of the resolution to the property owner at least ten (10) days prior to such hearing.
- D. Notice Of Violation; Posting: After the passage of such resolution, the Chief of Police, *or designee*, shall post upon the property on which violation is alleged to exist, a notice in letters not less than one inch (1") in height and in the following form:

*NOTICE TO ABATE VIOLATION*

*NOTICE is hereby given on the day of 20, the City Council of the City of Lemoore passed a Resolution declaring that certain violation(s) upon (description of property) are (description of violation(s)), and that the same must be abated by (work specified) or the removal of the same, otherwise they will be (work specified) or removed and the violation abated by the City, in which case the cost of such (work specified) or removal shall be assessed upon the property from which such violation(s) are located, and such cost will constitute a lien upon such property until paid.*

*Any person objecting to the proposed (work specified) or removal, as aforesaid, is hereby notified to attend the meeting of said City Council to be held in the Council Chambers in the City Hall at (time) on the day of , 20, when such objections will be heard and given due consideration.*

*DATED this day of 20.*

City Clerk  
City of Lemoore

The notice shall be posted at least five (5) days prior to the time for hearing objections to the abatement of such violation(s).

- E. Council Decision: At the time stated in such notice, the City Council shall hear and consider all objections to the proposed removal or work, and may continue the hearing. Upon conclusion of such hearing, the City Council shall by resolution allow or overrule any and all objections, whereupon the City Council shall have acquired jurisdiction to proceed and perform the work or removal. The decision of the City Council shall be final.
- F. Abatement of Violation: After the City Council has taken final action, the Chief of Police, *or designee*, shall abate the violation. The Chief of Police, *or designee*, is expressly authorized to enter upon private property for such purposes.
- G. Cost of Abatement: The Chief of Police, *or designee*, shall keep account of the abatement cost and shall submit an itemized statement thereof to the City Council at its next subsequent meeting. A copy of such statement shall be mailed to the owner of such premises. In the event that any such owner is unknown, the statement shall be posted on the bulletin board at City Hall for one week, giving notice when such statement shall be considered by the City Council.
- H. Assessment against Owner: The City Council, at the arranged time, shall consider such statement, and their determination shall be final. The costs of abating the violation shall constitute special assessments against the subject property. Upon confirmation of such statement, a copy thereof shall be delivered to the County Assessor. The Assessor shall add the amount set forth in such statement and charge it against the property. Thereafter, said amount shall be collected when ordinary taxes are collected. Such special assessments shall be subject to the same penalties and procedures under foreclosure and sale in case of delinquency, as provided for ordinary Municipal taxes.

**SECTION 5:** Section 4-4-6 of the Lemoore Municipal Code is hereby amended to read as follows:

4-4-6: PENALTIES

- A. Any person who violates any of the provisions of this Chapter shall be guilty of a misdemeanor, as provided for in Section 1-4-1 of this Code. It shall be a separate offense either when a violation is committed a second time more than twenty four (24) hours after a prior violation or when a violation is continued or permitted to exist for a period of more than twenty four (24) hours. Each and every day, or part thereof, during which any such violation is committed, continued or permitted, shall be a separate offense. In any civil action commenced by the City under this Chapter, the

City shall be entitled to recover from the defendant in any such action reasonable attorney fees and costs of suit.

- B. If the Chief of Police, *or designee*, has provided a notice as prescribed under 4-4-5(A) and the person responsible fails to respond to the warning within the time prescribed, the Chief of Police, *or designee*, shall issue a notice declaring the property to be a chronic nuisance property and post such notice at the property and issue the person responsible a civil infraction, punishable by:

Citation amount of one hundred dollars (\$100.00) for the first issuance

Citation amount of two hundred dollars (\$200.00) for the second issuance

Citation amount of three hundred dollars (\$300.00) for the third issuance

Citation amount of five hundred fifty dollars (\$500.00) for the fourth issuance

*\*Total citation fees not to exceed \$5,000.00 per calendar year per individual parcel*

If the person responsible responds as required by the notice and agrees to abate the chronic nuisance activity, the Chief of Police, *or designee*, and the person responsible, may work out an agreed upon course of action which would abate the chronic nuisance activity. If an agreed course of action does not result in the abatement of the chronic nuisance activities or if no agreement concerning abatement is reached, the matter shall be forwarded to the City Attorney for enforcement action. Provided, that in the event the Chief of Police, *or designee*, or the City Attorney determines that the person responsible has taken reasonable steps to abate the chronic nuisance activity, the City Attorney can choose not to commence an enforcement action under this Chapter, notwithstanding the continuance of the chronic nuisance activity.

**SECTION 6:** Section 4-4-7 of the Lemoore Municipal Code is hereby amended to read as follows:

#### 4-4-7: SEVERABILITY

If any provision, clause, sentence or paragraph of this Chapter or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this Chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this Chapter are declared severable

**SECTION 7:** Section 4-4-8 of the Lemoore Municipal Code is hereby amended to read as follows:

#### 4-4-8: CONFLICT WITH OTHER ORDINANCES

Whenever any provision of this chapter is found to be in conflict with any other city ordinance or any state laws, the most restrictive provisions shall apply in such case.

**SECTION 8:** Section 4-4-9 of the Lemoore Municipal Code is hereby amended to read as follows:

4-4-9: COST OF ABATEMENT

- A. The city may, pursuant to the provisions of this section, collect any fee, cost, or charge incurred in: 1) the abatement of public nuisances; 2) the correction of any violation of any law or regulation that would also be a violation of section 1941.1 of the Civil Code; 3) the enforcement of zoning ordinances adopted pursuant to chapter 4 (commencing with section 65800) of division 1 of title 7 or any other constitutional or statutory authority; 4) inspections and abatement of violations of article 1 (commencing with section 13100) of chapter 2 of part 2 of division 12 of the Health and Safety Code; 5) inspections and abatement of violations of the State Housing Law, part 1.5 (commencing with section 17910) of division 13 of the Health and Safety Code and regulations adopted pursuant thereto; 6) inspections and abatement of violations of the California Building Standards Code, title 24 of the California Code of Regulations; or 7) inspections and abatement related to local ordinances and regulations that implement any of the foregoing, if the fee, cost, or charge has not been paid within forty five (45) days of notice thereof, and the city does hereby make the amount of the unpaid fee, cost, or charge a lien against the property that is the subject of the enforcement activity.
- B. Except as provided in subsection G of this section, the amount of the proposed lien shall be collected at the same time and in the same manner as property taxes are collected. All laws applicable to the levy, collection, and enforcement of ad valorem taxes shall be applicable to the proposed lien, except that if any real property to which the lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrance for value has been created and attaches thereon, prior to the date on which the first installment of taxes would become delinquent, then the lien that would otherwise be imposed by this section shall not attach to real property and the costs of enforcement relating to the property shall be transferred to the unsecured roll for collection.
- C. The amount of any fee, cost, or charge shall not exceed the actual cost incurred performing the inspections and enforcement activity, including permit fees, fines, late charges, and interest.
- D. This section does not apply to any enforcement, abatement, correction, or inspection activity regarding a violation in which the violation was evident on the plans that received a building permit.
- E. The city shall provide the owner of the property with written notice in plain language of the proposed lien, a description of the basis for the amounts comprising the lien, a minimum of forty five (45) days after notice to pay the fee, cost, or charge, and an opportunity to appear before the city council and be heard regarding the amount of the proposed lien.

- F. The city council may delegate the holding of the hearing required by this subsection to an Administrative Hearing Officer designated by the City Manager. The Administrative Hearing Officer shall make a written recommendation to the city council which shall include factual findings based on evidence introduced at the hearing. The city council may adopt the recommendation without further notice of hearing, or may set the matter for a de novo hearing before the city council. Notice in writing of the de nova hearing shall be provided to the property owner at least ten (10) days in advance of the scheduled hearing.
- G. If the city council determines that the lien authorized pursuant to subsection A of this section shall become a lien, the body may also cause a notice of lien to be recorded. This lien shall attach upon recordation in the office of the County Recorder and shall have the same force, priority, and effect as a judgment lien, not a tax lien. The notice shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, set forth the date upon which the lien was created against the property, and include a description of the real property subject to the lien and the amount of the lien.

\* \* \* \*

The foregoing Ordinance was introduced at a Regular Meeting of the City Council of the City of Lemoore held on the 3<sup>rd</sup> day of March 2015 and was passed and adopted at a Regular Meeting of the City Council held on the 17<sup>th</sup> day of March 2015 by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST:

APPROVED:

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Mary J. Venegas, City Clerk

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Lois Wynne, Mayor