

CITY OF HEMET
Hemet, California

ORDINANCE NO. 1850

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HEMET, CALIFORNIA ADDING A NEW ARTICLE IV (ABATEMENT OF CHRONIC NUISANCE PROPERTIES) TO CHAPTER 46 (OFFENCES AND MISCELLANEOUS PROVISIONS) OF THE HEMET MUNICIPAL CODE, AN ELEMENT OF THE HEMET RESTORING OUR COMMUNITY STRATEGY (HEMET ROCS) PROGRAM

WHEREAS, the City Council has determined that a material percentage of persons who own or rent real property in this City have chronically allowed illegal and nuisance activity to be conducted on their property raising justifiable concerns for the public safety of residents in the neighborhood in which the property is located, and significantly and negatively impacting both the quiet enjoyment of their property and the living conditions or quality of life of those residents; and,

WHEREAS, the City Council has determined that such properties lower the value and appeal of the surrounding properties, cause long-standing or stable residents to relocate from the neighborhood, thereby contributing to the decline of the neighborhood and the establishment of the conditions of blight; and,

WHEREAS, the City Council has determined that existing laws have not sufficiently encouraged such persons to take reasonable steps to abate the nuisances that their property is creating; and,

CITY COUNCIL ORDINANCE NO. 1850
MUNICIPAL CODE AMENDMENT NO. 12-003
CHRONIC NUISANCE ORDINANCE

1 **WHEREAS**, the City Council has determined that enhanced penalties will give
2 such property owners and tenants additional incentives to ameliorate the problems that
3 their property is creating and that some property owners and tenants will never act
4 responsibly unless their property is subject to such abatement procedures; and,

5 **WHEREAS**, chronic nuisance properties create a negative financial impact upon
6 City services by numerous calls for service from various City departments, especially
7 law enforcement; and,

8 **WHEREAS**, this ordinance will establish a comprehensive notification and
9 enforcement process designed to collaboratively work with property owners and tenants
10 to address chronic nuisances:

11
12 **NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF HEMET DOES**
13 **HEREBY ORDAIN AS FOLLOWS:**

14
15 **SECTION 1. ADDITION OF ARTICLE IV TO CHAPTER 46 OF THE HEMET**
16 **MUNICIPAL CODE.**

17 Chapter 46 of the Hemet Municipal Code is hereby amended to add a new Article
18 IV, as shown in Exhibit "A" to this Ordinance.

19 **SECTION 2. SEVERABILITY**

20 If any section, subsection, subdivision, sentence, clause, phrase, or portion of
21 this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of
22 any court of competent jurisdiction, such decision shall not affect the validity of the
23 remaining portions of this Ordinance. The City Council hereby declares that it would
24 have adopted this Ordinance, and each section, subsection, subdivision, sentence,
25 clause, phrase, or portion thereof, irrespective of the fact that any one or more sections,

CITY COUNCIL ORDINANCE NO. 1850
MUNICIPAL CODE AMENDMENT NO. 12-003
CHRONIC NUISANCE ORDINANCE

1 subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared
2 invalid or unconstitutional.

3 **SECTION 3. EFFECTIVE DATE**


4 This Ordinance shall take effect thirty (30) days from its passage by the City
5 Council of the City of Hemet.

6 **SECTION 4. PUBLICATION**

7 The City Clerk is authorized and directed to cause this Ordinance to be published
8 within fifteen (15) days after its passage in a newspaper of general circulation and
9 circulated within the City in accordance with Government Code Section 36933(a) or, to
10 cause this Ordinance to be published in the manner required by law using the
11 alternative summary and posting procedure authorized under Government Code
12 Section 39633(c).

13
14 **INTRODUCED** at the regular meeting of Hemet City Council on May 8, 2012.

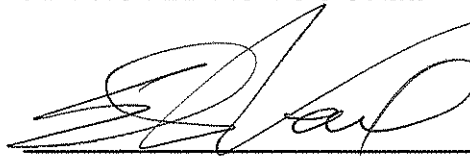
15
16
17 **APPROVED AND ADOPTED** this 22nd day of May, 2012.

18
19
20
21
22
23
24 
25 _____
26 **Jim Foreman, Mayor Pro Tem**

27 **ATTEST:**

28 **APPROVED AS TO FORM:**

29
30 
31 _____
32 **Sarah McComas, City Clerk**

33 
34 _____
35 **Eric S. Vail, City Attorney**

**CITY COUNCIL ORDINANCE NO. 1850
MUNICIPAL CODE AMENDMENT NO. 12-003
CHRONIC NUISANCE ORDINANCE**

1 State of California)
2 County of Riverside)
3 City of Hemet)
4

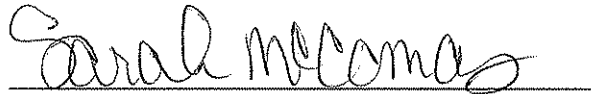
5 I, Sarah McComas, City Clerk of the City of Hemet, do hereby certify that
6 the foregoing Ordinance was introduced and first read on the 8th day of May
7 2012, and had its second reading at the regular meeting of the Hemet City
8 Council on the 22nd day of May, 2012, and was passed by the following vote:
9

10 **AYES:** Council Members Franchville, Krupa, Smith and Mayor Pro Tem
11 Foreman

12 **NOES:**

13 **ABSTAIN:**

14 **ABSENT:** Mayor Youssef
15
16
17
18
19



Sarah McComas, City Clerk

CITY COUNCIL ORDINANCE NO. 1850
MUNICIPAL CODE AMENDMENT NO. 12-003
CHRONIC NUISANCE ORDINANCE

EXHIBIT A

ARTICLE IV – ABATEMENT OF CHRONIC NUISANCE PROPERTIES

- 46-60 Short Title
- 46-61 Purpose
- 46-62 Definitions
- 46-63 Scope of Application
- 46-64 Authority
- 46-65 Chronic Nuisances Prohibited
- 46-66 Nuisance Incident Notice
- 46-67 Notice of Abatement
- 46-68 Enforcement and Fines
- 46-69 Civil Remedies
- 46-70 Lien Authorized
- 46-71 Right to a Hearing

- 46-72 to 46-79 Reserved

SEC. 46-60. SHORT TITLE

This Article shall be known and may be cited as the "Abatement of Chronic Nuisance Properties Ordinance."

SEC. 46-61. PURPOSE

The purpose of this Article is to provide administrative and civil remedies against Responsible Persons who permit, allow, or fail to prevent chronically recurring Nuisance Activities to occur on the Properties owned, leased, rented or controlled by them.

SEC. 46-62. DEFINITIONS

For the purposes of this Article, the following definitions shall apply:

A. "Administrative Expenses" shall include, but not be limited to:

1. The costs associated with any hearings before a Hearing Officer.
2. City's personnel costs, direct and indirect, incurred in enforcing this

Article and in preparing for, participating in or conducting any hearings subject to this

1 Article, including but not limited to attorney's fees.

2 3. The cost incurred by the City in documenting Nuisance Activity,
3 including but not limited to, the actual expense and costs of the City responding to calls
4 reporting Nuisance Activity; investigating and enforcing statutory crimes related to the
5 Nuisance Activity, including, but not limited to, court appearances; conducting
6 inspections; attending hearings; and preparing notices, administrative citations, and
7 orders.

8 B. "Chief of Police" shall mean the Chief of Police or his/her designee.

9 C. "City" shall mean the City of Hemet.

10 D. "Enforcement Officer" shall mean any qualified employee of the City
11 authorized by the Chief of Police to enforce violations of this Article.

12 E. "Gang-related Crime" means any crime in which the perpetrator is a
13 known member of a gang, or any crime motivated by gang membership in which the
14 victim or the intended victim of the crime is a known member of a gang.

15 F. "Hearing Officer" shall mean any person appointed to preside over a
16 hearing pursuant to this Article.

17 G. "Illegal Drug Activity" means a violation of any of the provisions of Chapter
18 6 (commencing with Section 11350) or Chapter 6.5 (commencing with Section 11400)
19 of the Health and Safety Code, or any successor provisions thereto and includes
20 without limitation, the possession, sale, distribution, use or manufacture of a Controlled
21 Substance and drug loitering as defined in Health & Safety Code Section 11532.

22 H. "Nuisance Activity" means the occurrence of any of the following activities,
23 behaviors, or conduct whenever engaged in by a Responsible Person on the Property,
24 or whenever the Responsible Person permits, allows, or fails to prevent any of the
25 following activities, behaviors, or conduct from occurring on the Property,

**CITY COUNCIL ORDINANCE NO. 1850
MUNICIPAL CODE AMENDMENT NO. 12-003
CHRONIC NUISANCE ORDINANCE**

A-2

- 1 1. Disturbing the peace in violation of Penal Code Section 415;
- 2 2. Making, causing or suffering any unnecessary noises or sounds in
3 violation of Section 53-4 of this Code;
- 4 3. Any form of assault or battery as defined in Penal Code Sections
5 240 and 242, respectively;
- 6 4. Manufacturing, giving away, selling, offering for sale, soliciting the
7 sale of, possessing, purchasing, using, igniting, exploding, firing or otherwise
8 discharging any fireworks within the City in violation of Section 14-76 of this Code;
- 9 5. Discharging a firearm within the City in violation of Section 46-5 of
10 this Code;
- 11 6. Conducting or maintaining a use in violation of Chapter 90 of this
12 Code;
- 13 7. Loitering in violation of Section 46-4 of this Code;
- 14 8. The committing of any serious felony or violent felony as defined in
15 Penal Code Sections 1192.7(c) and 667.5(c), respectively;
- 16 9. Anything that is injurious to health, or is indecent, or offensive to the
17 senses, or is an obstruction to the free use of property, so as to interfere with the
18 comfortable enjoyment of life or property by an entire community or neighborhood, or by
19 any considerable number of persons, as provided in Penal Code Sections 370 and 371;
- 20 10. The manufacture, cultivation, sale, use, or possession of a
21 controlled substance in violation of the Uniform Controlled Substances Act (Health &
22 Safety Code §§ 11000 *et seq.*) or that is in violation of federal law;
- 23 11. The committing, permitting or abetting of any act of prostitution as
24 defined in Penal Code Section 647(a)-(d);

**CITY COUNCIL ORDINANCE NO. 1850
MUNICIPAL CODE AMENDMENT NO. 12-003
CHRONIC NUISANCE ORDINANCE**

1 12. The manufacture, sale, possession, or use of a firearm in violation
2 of the Dangerous Weapons Control Law (Penal Code § 12000 et seq.);

3 13. Parties or gatherings at which controlled substances are illegally
4 consumed, or at which alcohol is consumed by minors, or at which alcohol is consumed
5 within the front yard setback, sidewalk, or public street in the immediate vicinity of the
6 Property;

7 14. Allowing the occupancy load of a building on the Property to
8 exceed the permitted number as established by the California Health and Safety Code,
9 or the Building Code as adopted by the City;

10 15. The occurrence of any Gang-related Crime;

11 16. The occurrence of any Illegal Drug Activity;

12 17. The occurrence of any other criminal activity that threatens the life,
13 health, safety, or welfare of residents of the Property, the neighborhood, or the public.

14 I. "Owner" means the person(s) holding legal and/or equitable title of record
15 to a Property. The Owner may be determined by information readily available to the
16 City including, without limitation, any of the following: (i) the person(s) indicated as the
17 owner on the last equalized tax role of Riverside County; (ii) the person(s) indicated as
18 the owner in a title report issued by a title company; (iii) the person(s) indicated as the
19 owner in deeds or other instruments conveying title to real property, or a lessee under a
20 ground lease of the Property, recorded in the official records of the Recorder for
21 Riverside County; (iv) the person(s) indicated as the owner in order or judgments of the
22 state or federal courts; and/or (v) tax records, permits, licenses, applications, and other
23 legal documents issued by or submitted to a local, state or federal governmental entity
24 in which the person(s) is indicated as the owner of the Property. Where the Property is
25 a mobile home, manufactured home, or trailer, located in a mobile home park or trailer

**CITY COUNCIL ORDINANCE NO. 1850
MUNICIPAL CODE AMENDMENT NO. 12-003
CHRONIC NUISANCE ORDINANCE**

A-4

1 park, the "Owner" shall be deemed to be the person(s) with title to the mobile home
2 coach, manufactured home, or trailer. Where the Property is a condominium,
3 townhouse or similar development in which title to dwelling units is separately owned
4 but there are common walls and/or common areas and facilities, the Owner shall be the
5 person(s) holding legal and/or equitable title to the dwelling unit.

6 J. "Person" means individual(s), corporations, associations, partnerships,
7 limited liability companies, trustees, lessees, agents and assignees.

8 K. "Person in Control" means a person(s) whom is known or observed to
9 exercise influence and control over the Property. A Person in Control does not need to
10 be an Owner, Tenant or occupant, of the Property.

11 L. "Property" means, for purposes of this Article, any of the following:

12 1. A lot or parcel of real property, including without limitation, all
13 dwelling units (including apartment units) and related structures thereon,

14 2. A dwelling unit, including without limitation, an apartment, duplex,
15 quadruplex, condominium, townhouse, mobile home coach, manufactured home, trailer,
16 or similar dwelling unit, located on a lot or parcel which may be owned, rented, or
17 leased separately from the underlying lot or parcel. Where the property is used for
18 commercial or industrial purposes, any separate unit or defined space that is rented,
19 leased or separately owned.

20 3. Public property, including areas of sidewalks, parkways, streets,
21 alleys or similar areas, which are in the immediate vicinity of a Property is deemed to
22 be part of the that Property.

23 4. Common areas or common facilities (e.g. pools, walkways, greens,
24 recreation rooms, playgrounds, internal roads or alleys) benefitting a Property, or made

**CITY COUNCIL ORDINANCE NO. 1850
MUNICIPAL CODE AMENDMENT NO. 12-003
CHRONIC NUISANCE ORDINANCE**

A-5

1 available to the Responsible Person by virtue of their ownership, lease, rental or control
2 of a Property, are deemed part of that Property.

3 5. Areas or facilities (e.g. a garage, or storage area) that have been
4 assigned principally to the Responsible Person by virtue of their ownership, lease, rental
5 or control of a Property, are deemed part of that Property.

6 M. "Responsible Person" means an Owner, Tenant, or Person in Control of a
7 Property.

8 N. "Tenant" means a person(s) designated in a lease or rental agreement as
9 the lessee, tenant or renter of the Property or an identified apartment or dwelling unit
10 (e.g. duplex, quadruplex, condo, or townhouse) located on the Property, and/or any
11 person(s) identified in the lease or rental agreement as being authorized to reside on
12 the Property or in an indentified apartment or dwelling unit located on the Property.

13 **SEC. 46-63. SCOPE OF APPLICATION**

14 A. The provisions of this Article shall apply to all Property, whether
15 residential, commercial, industrial, improved, or unimproved, throughout the City.

16 B. A criminal conviction is not required for establishing the occurrence of
17 Nuisance Activity pursuant to this Article. The occurrence of a Nuisance Activity may be
18 established by:

19 1. Proof that the Nuisance Activity was witnessed by an Enforcement
20 Officer and an incident report or arrest report is generated as a result of the call;

21 2. A call to law enforcement or code enforcement reporting the
22 Nuisance Activity is made by a known person who is identifiable to support the
23 occurrence of the Nuisance Activity and an incident report, citation, or arrest report is
24 generated as a result of the call;

25

CITY COUNCIL ORDINANCE NO. 1850
MUNICIPAL CODE AMENDMENT NO. 12-003
CHRONIC NUISANCE ORDINANCE

A-6

1 3. A call to law enforcement or code enforcement reporting the
2 Nuisance Activity is made by an unknown person and the Nuisance Activity is
3 substantiated by a Enforcement Officer or a witness and an incident report or arrest
4 report is generated as a result of the call.

5 C. The remedies set forth in this Article are cumulative and additional to any
6 and all other legal remedies available whether set forth elsewhere in the Hemet
7 Municipal Code, or in state or federal laws, regulations, or case law.

8 **SEC. 46-64. AUTHORITY**

9 The Chief of Police is designated as the officer of the City that will administer this
10 Article. The Chief of Police shall have the authority to designate qualified City
11 employees as Enforcement Officers in conformance with this Article to assist with the
12 enforcement of this Article, including, but not limited to, the issuance of administrative
13 citations.

14 **SEC. 46-65. CHRONIC NUISANCES PROHIBITED**

15 It shall be unlawful for any Responsible Person to allow any Property owned,
16 leased, rented, or controlled by them to generate or be the subject of five (5) or more
17 calls for law enforcement or code enforcement service for Nuisance Activity during any
18 twelve (12) month period.

19 **SEC. 46-66. NUISANCE INCIDENT NOTICE**

20 A. When the Chief of Police determines that the City's Police Department
21 and/or Code Enforcement Department has been dispatched to the same Property four
22 (4) times within any twelve (12) month period for any Nuisance Activity, the Chief of
23 Police may, but shall not be required to, issue a written nuisance incident notice to the
24 Responsible Person(s). The nuisance incident notice will be issued to the Responsible
25 Person(s) by: (i) regular mail to the mailing address indicated on the last equalized tax

1 roll of the Riverside County Assessor's Office, (ii) to the street address of the Property;
2 and (iii) posted on the front door or entry way to the Property. In-lieu of the above
3 mailing and posting, the nuisance incident notice may be personally served on the
4 Responsible Person(s). The issuance of a nuisance incident notice, by mailing, posting,
5 and/or personal service, shall be prima facie evidence that the Responsible Person(s)
6 has knowledge of and has permitted, allowed, and/or failed to prevent Nuisance Activity
7 at or upon the Property.

8 B. The nuisance incident notice authorized by this section shall:

- 9 1. Identify the type and specific location of the Nuisance Activity,
- 10 2. Summarize the evidence of the Nuisance Activity that was reported
11 to occur on the Property;
- 12 3. Provide the dates on which the Nuisance Activity was reported to
13 the Police Department or Code Enforcement Department and the dates of any prior
14 responses by the Police Department or Code Enforcement Department to Nuisance
15 Activity on the Property; and
- 16 4. Warn the Responsible Person(s) that future Nuisance Activity on or
17 at the Property may cause the City to institute enforcement proceedings to abate the
18 Nuisance Activity occurring on the Property and/or impose fines and Administrative
19 Expenses on the Responsible Person(s).

20 **SEC. 46-67. NOTICE OF ABATEMENT**

21 A. When the Chief of Police determines that the City's Police Department
22 and/or Code Enforcement Department has been dispatched to the same Property five
23 (5) or more times within any twelve (12) month period for Nuisance Activity, a written
24 notice of abatement will be issued to the Responsible Person(s) by: (i) regular mail to
25 the mailing address indicated on the last equalized assessment roll of the Riverside

**CITY COUNCIL ORDINANCE NO. 1850
MUNICIPAL CODE AMENDMENT NO. 12-003
CHRONIC NUISANCE ORDINANCE**

A-8

1 County Assessor's Office, (ii) regular mail to the street address of the Property; and (iii)
2 posted on the front door or entry way to the Property. In-lieu of the above mailing and
3 posting, the notice of abatement may be personally served on the Responsible
4 Person(s). The service of a notice of abatement, by mailing, posting, and/or personal
5 service, shall be prima facie evidence that the Responsible Person(s) has knowledge of
6 and has permitted, allowed, and/or failed to prevent Nuisance Activity at or upon the
7 Property.

8 B. The notice of abatement required by this Section shall:

9 1. State that the Property constitutes a chronic nuisance property in
10 violation of this Article because five (5) or more calls to law enforcement or code
11 enforcement reporting Nuisance Activity on the Property have occurred within the past
12 twelve (12) months;

13 2. Identify the type and specific location of the Nuisance Activities;

14 3. Summarize the evidence of the Nuisance Activities;

15 4. Provide the dates on which calls to law enforcement or code
16 enforcement were made reporting the Nuisance Activities;

17 5. Notify the Responsible Person(s) that future Nuisance Activity on or
18 at the Property may result in the City issuing an additional notice of abatement;

19 6. Notify the Responsible Person(s) of the required corrective actions,
20 if any, and the date by which such corrective actions must be completed;

21 7. Notify the Responsible Person(s) of any fine being imposed by the
22 City pursuant to Section 46-68, and the date by which such fine must be paid; and,

23 8. Notify the Responsible Person(s) of their right to request an
24 administrative hearing pursuant to Section 46-71.

**CITY COUNCIL ORDINANCE NO. 1850
MUNICIPAL CODE AMENDMENT NO. 12-003
CHRONIC NUISANCE ORDINANCE**

1 C. A subsequent and separate notice of abatement shall be issued to the
2 Responsible Person pursuant to this section for each and every call to law enforcement
3 and/or code enforcement reporting Nuisance Activity on the Property received after the
4 first notice of abatement is issued.

5 **SEC. 46-68. ENFORCEMENT AND FINES**

6 A. Any violation of Section 46-65 of this Article may result in any or all of the
7 following actions and/or fines:

8 1. A misdemeanor punishable by either six (6) months in jail and/or a
9 One Thousand Dollar (\$1,000) fine;

10 2. Institution of a civil action by the City Attorney, or his or her
11 designee as set forth in Section 46-69 below;

12 3. Issuance of administrative citation(s) and/or an order to abate the
13 Nuisance Activity with a fine for each and every Nuisance Activity of One Thousand
14 Dollars (\$1,000), plus any Administrative Expenses incurred in the enforcement of this
15 Article;

16 4. Administrative injunction ordering the action constituting a Nuisance
17 Activity to immediately cease and desist; such an order may require an order that the
18 Property be immediately vacated to protect the health and welfare of the community.

19 B. Violation of any section of this Article may be filed as an infraction or a
20 misdemeanor at the discretion of the City Attorney or City Prosecutor.

21 C. All Responsible Persons shall be jointly and severally liable for any fines
22 imposed pursuant to this Section.

23 D. Fines imposed pursuant to an administrative citation issued under this
24 Section are due and payable within thirty (30) days of issuance of the citation, provided
25 that when a request for a hearing is made, the fines and Administrative Expenses shall

**CITY COUNCIL ORDINANCE NO. 1850
MUNICIPAL CODE AMENDMENT NO. 12-003
CHRONIC NUISANCE ORDINANCE**

A-10

1 be due and payable within thirty (30) days of the date of the Hearing Officer's written
2 decision. Any fine or Administrative Expense not paid within the time limits set forth
3 shall be collected pursuant to Section 30-80.8 of this Code, as such Section may be
4 amended from time to time.

5 **SEC. 46-69. CIVIL REMEDIES**

6 A. In addition to the enforcement procedures and fines described in Section
7 46-68, the City Attorney may bring a civil action for injunctive relief and civil penalties
8 against any Responsible Person(s) who violates this Article.

9 B. In any civil action brought pursuant to this Article, the court may award
10 reasonable attorney fees and costs to the prevailing party.

11 C. All Responsible Persons shall be jointly and severally liable for any civil
12 penalties and reasonable attorney fees and costs.

13 **SEC. 46-70. LIEN AUTHORIZED**

14 Any abatement and related administrative costs incurred by the City under
15 Section 46-68 or 46-69 of this Article may be recorded as a nuisance abatement lien or
16 special assessment against the premises pursuant to Government Code sections
17 38773.1 and 38773.5.

18 **SEC. 46-71. RIGHT TO A HEARING**

19 A. The Responsible Person(s) has the right to request an administrative
20 hearing in response to a notice of abatement pursuant to Section 30-80 et seq. of the
21 Hemet Municipal Code.

22 B. All aspects of the hearing shall be conducted pursuant to Section 30-80 et
23 seq. of the Hemet Municipal Code.

24 **SEC. 46-72 through 46-79 RESERVED**