



CITY OF HEMET
Hemet, California

ORDINANCE NO. 1849

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HEMET, CALIFORNIA ADDING ARTICLE III (DRUG AND GANG-RELATED NUISANCE ON RESIDENTIAL PROPERTY) TO CHAPTER 46 (OFFENSES AND MISCELLANEOUS PROVISIONS) OF THE HEMET MUNICIPAL CODE, AN ELEMENT OF THE HEMET RESTORING OUR COMMUNITY STRATEGY (HEMET ROCS) PROGRAM

WHEREAS, the purpose of the Hemet ROCS program is to enact ordinances that will allow the City to better address nuisance activity and other deleterious conditions, arising from or associated with certain criminal activity occurring in residential neighborhoods or commercial centers; and,

WHEREAS, one of the major aspects of the Hemet ROCS program is the adoption of ordinances that hold property owners responsible for the conditions of their property, including conditions caused by tenants; and,

WHEREAS, this Ordinance seeks to hold residential property owners responsible for allowing their property to be used for illegal drug activity or gang-related crime which causes public nuisance conditions to persist on the property.

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1 NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF HEMET DOES
2 HEREBY ORDAIN AS FOLLOWS:
3

4 **SECTION 1: ADDITION OF ARTICLE III TO CHAPTER 46 OF THE HEMET**
5 **MUNICIPAL CODE.**

6 The City Council hereby adds a new Article III to Chapter 46 of the Hemet
7 Municipal Code, which shall read as shown in Exhibit "A" hereto.
8

9 **SECTION 2: SEVERABILITY.**

10 If any section, subsection, subdivision, sentence, clause, phrase, or portion of
11 this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of
12 any court of competent jurisdiction, such decision shall not affect the validity of the
13 remaining portions of this Ordinance. The City Council hereby declares that it would
14 have adopted this Ordinance, and each section, subsection, subdivision, sentence,
15 clause, phrase, or portion thereof, irrespective of the fact that any one or more sections,
16 subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared
17 invalid or unconstitutional.
18

19 **SECTION 3: EFFECTIVE DATE.**

20 This Ordinance shall take effect thirty (30) days from its passage by the City
21 Council of the City of Hemet.
22

23 **SECTION 4: PUBLICATION.**

24 The City Clerk is authorized and directed to cause this Ordinance to be published
25 within fifteen (15) days after its passage in a newspaper of general circulation and
26 circulated within the City in accordance with Government Code Section 36933(a) or, to

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1 cause this Ordinance to be published in the manner required by law using the
2 alternative summary and posting procedure authorized under Government Code
3 Section 39633(c).

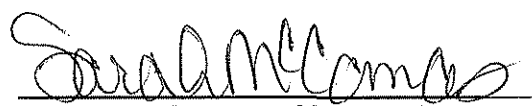
4
5 **INTRODUCED** at the regular meeting of Hemet City Council on May 8, 2012.

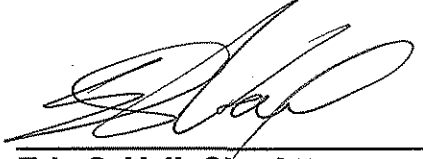
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7
8 **APPROVED AND ADOPTED** this 22nd day of May, 2012.

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15 
16 _____
17 **Jim Foreman, Mayor Pro Tem**

18 **ATTEST:**

19 **APPROVED AS TO FORM:**

20
21 
22 _____
23 **Sarah McComas, City Clerk**

20
21 
22 _____
23 **Eric S. Vail, City Attorney**

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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

20 Sarah McComas, City Clerk

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1 EXHIBIT "A"

2
3 **ARTICLE III – DRUG AND GANG-RELATED NUISANCE ON RESIDENTIAL**
4 **PROPERTY**

- 5 Sec. 46-50 – Definitions
6 Sec. 46-51 – Public Nuisance
7 Sec. 46-52 – Duties of Property Owner
8 Sec. 46-53 – Administrative Procedures
9 Sec. 46-54 – Enforcement
10 Sec. 46-55 – Lien Authorized
11 Sec. 46-56 – Penalties
12
13 Sec. 46-57 to Sec 59 Reserved
14

15 **Sec. 46-50 – Definitions**

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

17 A. "Controlled substance" means any drug, substance, or immediate
18 precursor, as listed in the Uniform Controlled Substances Act, Health and Safety Code
19 Section 11000, et seq.

20 B. "Drug- or Gang-related Nuisance" means any activities that, taken as a
21 whole:

22 1. create an unreasonable and substantial interference with the quiet
23 enjoyment of life, property and/or safety of residents, guests, or other members of the
24 public, residing at or visiting a Property, or whom reside, work, or frequent the
25 neighborhood within which the Property is located; and,

26 2. is caused by, related to, or commonly associated with, either Illegal
27 Drug Activity or a Gang-related Crime. Activity that is caused by, related to, or
28 commonly associated with Illegal Drug Activity and Gang-related Crime includes,
29 without limitation, any one or more of the following:

1 (i) excessive noise or other disturbances of the peace at the
2 Property for unreasonable periods of time;

3 (ii) steady traffic in the form of cruising, drive bys, or temporary
4 stops at the premises, day or night, to, at, or in the vicinity of a particular Property;

5 (iii) the barricading, fortification, or boarding up of a Property;

6 (iv) the posting of sentries or look-outs;

7 (v) the display or observance of weapons;

8 (vi) any other activity which is commonly associated by law
9 enforcement agencies with Illegal Drug Activity and/or Gang-related Crimes based on
10 observation and experience or published reports, studies, or similar literature.

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

14 D. "Illegal Drug Activity" means a violation of any of the provisions of Chapter
15 6 (commencing with Section 11350) or Chapter 6.5 (commencing with Section 11400)
16 of the Health and Safety Code, or any successor provisions thereto and includes,
17 without limitation, the possession, sale, distribution, use or manufacture of a Controlled
18 Substance and drug loitering as defined in Health & Safety Code Section 11532.

19 E. "Knowingly" means that a person has actual knowledge or has been
20 deemed to have constructive knowledge of a fact, incident, occurrence, or condition. A
21 Person or Persons shall be deemed to have constructive knowledge where the City has
22 served upon the Person or Persons by regular mail, to the address of the Property (or
23 subject unit on the Property) and to the mailing address indicated on the last equalized
24 tax roll of Riverside County, or such other mailing address for the Person or Persons
25 established by other official records, utility bills, and similar records.

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1 F. "Owner" means the person(s) holding legal and/or equitable title of record
2 to a Property. The Owner may be determined by information readily available to the
3 City including, without limitation, any of the following: (i) the person(s) indicated as the
4 owner on the last equalized tax role of Riverside County; (ii) the person(s) indicated as
5 the owner in a title report issued by a title company; (iii) the person(s) indicated as the
6 owner in deeds or other instruments conveying title to real property, or a lessee under a
7 ground lease of the Property, recorded in the official records of the Recorder for
8 Riverside County; (iv) the person(s) indicated as the owner in order or judgments of the
9 state or federal courts; and/or (v) tax records, permits, licenses, applications, and other
10 legal documents issued by or submitted to a local, state or federal governmental entity
11 in which the person(s) is indicated as the owner of the Property. Where the Property is
12 a mobile home, manufactured home, or trailer, located in a mobile home park or trailer
13 park, the "Owner" shall be deemed to be the person(s) with title to the mobile home
14 coach, manufactured home, or trailer. Where the Property is a condominium,
15 townhouse or similar development in which title to dwelling units is separately owned,
16 but there are common walls and/or common areas and facilities, the Owner shall be the
17 person(s) holding legal and/or equitable title to the dwelling unit.

18 G. "Person" means individual(s), corporations, associations, partnerships,
19 limited liability companies, trustees, lessees, agents and assignees.

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

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1 I. "Property" means, for purposes of this Article, any of the following:

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

4 2. A dwelling unit, including without limitation, an apartment, duplex,
5 quadraplex, condominium, townhouse, mobile home coach, manufactured home, trailer,
6 or similar dwelling unit, located on a lot or parcel which may be owned, rented, or
7 leased separately from the underlying lot or parcel.

8 3. Public property, including areas of sidewalks, parkways, streets,
9 alleys or similar areas, which is in the immediate vicinity to a Property is deemed to be
10 part of the that Property.

11 4. Common areas or common facilities (e.g. pools, walkways, greens,
12 recreation rooms, playgrounds) benefitting a Property, or made available to the
13 Responsible Person by virtue of their ownership, lease, rental or control of a Property,
14 are deemed part of that Property.

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

18 J. "Responsible Person" means an Owner, Tenant, or Person in Control of a
19 Property.

20 K. "Tenant" means a person(s) designated in a lease or rental agreement as
21 the lessee, tenant or renter of the Property or an identified apartment or dwelling unit
22 (e.g. duplex, quadraplex, condo, or townhouse) located on the Property, and/or any
23 person(s) identified in the lease or rental agreement as being authorized to reside on
24 the Property or in an indentified apartment or dwelling unit located on the Property.
25

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1 **Sec. 46-51 – Public Nuisance.**

2 Conduct or activity constituting a Drug- or Gang-Related Nuisance as defined
3 under this Article is declared to be a public nuisance subject to abatement and
4 penalties, as provided under this Article or as may otherwise be provided by this Code
5 or under the law.

6 **Sec. 46-52 – Duties of Persons Responsible for a Property**

7 The Responsible Person for a Property shall not cause or knowingly permit that
8 Property:

- 9 A. to be used or maintained for any Drug- or Gang-related Nuisance; or
10 B. to be leased, rented or occupied by any person(s) who commits, permits,
11 maintains, abets, engages in, or is involved with, any Illegal Drug Activity, Gang-
12 related Crime, or Drug- or Gang-related Nuisance related to the Property.

13 **Sec. 46-53 – Administrative Procedures**

14 The Police Chief, or his or her designee, may promulgate such administrative
15 procedures as may be necessary to implement the provisions of this Article.

16 **Sec. 46-54 – Enforcement**

17 A. The City may issue administrative citations and pursue the administrative
18 abatement procedure established in Chapter 30, Article II, Division 4 of this Code, or file
19 a civil code enforcement action, or utilize any other remedy, including a criminal action,
20 provided by law to compel abatement of a Drug- or Gang-related Nuisance.

21 B. A court rendering a judgment pursuant to this section may, in addition to
22 any other penalty or remedies provided by law, impose a civil penalty in the maximum
23 amount permitted by law and/or require the payment of attorney's fees and costs to the
24 prevailing party, if the City elects to seek recovery of its attorneys fees at the initiation of
25 the action.

1 **Sec. 46-55 – Lien Authorized**

2 Any enforcement, abatement and related administrative costs incurred by the
3 City under Section 46-54 of this Article may be recorded as a nuisance abatement lien
4 or special assessment against the premises pursuant to Government Code sections
5 38773.1 and 38773.5.

6 **Sec. 46-56 – Penalties**

7 It is unlawful for any Responsible Person to violate any provision, or to fail to
8 comply with any of the requirements, of this Article. Notwithstanding any other provision
9 of this Code, any Responsible Person who violates any provision of this Article shall be
10 subject to the following penalties:

- 11 (a) For the first violation within any twenty-four (24) month period, a violation of this
12 Article is punishable by a fine not exceeding \$1,500;
- 13 (b) For the second violation within any twenty-four (24) month period, a violation of
14 this Article is punishable by a fine not exceeding \$3,000;
- 15 (c) For a third violation within any twenty-four (24) month period, a violation of this
16 Article is punishable by a fine not exceeding \$4,500; and
- 17 (d) For a fourth violation within any twenty-four (24) month period, a violation of this
18 Article shall be punishable by a fine not exceeding \$6,000, or by imprisonment
19 not exceeding six (6) months, or by both such fine and imprisonment.

20 **Sec. 46-57 to 46-59 Reserved**