

ORDINANCE NO. 539 N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES  
PERTAINING TO PROPERTY MAINTENANCE AND ABATEMENT  
OF PROPERTY NUISANCES

THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES ORDAIN AS  
FOLLOWS:

Section I: The City Council of the City of El Paso de Robles finds and determines that this City has a history and reputation for well-kept properties and strict enforcement of building and zoning regulations, and that the values and general welfare of this community are founded upon the appearance and maintenance of properties and property values.

Section II: It is further found and determined that certain detrimental conditions, as hereinafter set forth, are becoming increasingly prevalent and substantial in significance and effect within the City and are injurious or potentially injurious to the public health, safety and welfare of the community, contributing to the problems of, and the necessity for, excessive and disproportionate expenditures for protection against hazards, diminuation of property values, prevention of crime, accidents, fires, and disease, and the preservation of the community in a manner which is not offensive to the senses and which does not interfere with the comfortable enjoyment of life and property.

Section III: The City Council of the City of El Paso de Robles further finds and determines that the uses and abuses of property as described herein reasonably relate to the proper exercise of police power to protect the health, safety and welfare of the public, and are reasonably encompassed within the purview of the authorizations granted by the California Government Code and State Constitution, and that unless corrective measures are undertaken to alleviate such present conditions, and particularly to avoid future problems in this regard, the socio-economic standards of this community will be depreciated.

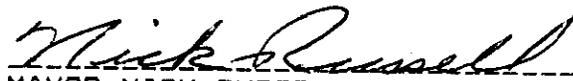
Section IV: It is further found and determined that the abatement of such conditions will enhance the appearance, appreciate the values and appearance of neighboring properties and benefit the use and enjoyment of properties in the City and will ultimately improve the tax base, and that the abatement procedures set forth in this ordinance are reasonable and afford the required due process.

Section V: Article IV, Chapter 21.40 of the Zoning Regulations is established to define public nuisances with regard to the maintenance of private property, to establish the authority and procedures for abatement of such nuisances and shall read as attached in Exhibit "A".

Section VI: That the City Clerk shall certify to the adoption of this ordinance and cause the same to be published in the manner prescribed by law.

PASSED AND ADOPTED this 15th day of September, 1987, by the following roll call vote:

AYES: Ovitt, Dolan, Cousins, Martin and Russell  
NOES: None  
ABSENT: None

  
MAYOR NICK RUSSELL

ATTEST:

  
JERRY BANKSTON, CITY CLERK

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## EXHIBIT A

## TITLE 21: ZONING

## ARTICLE IV: PROPERTY MAINTENANCE

## CHAPTER 21.40

**21.40.010 Purpose.** The purpose of this chapter is to define what constitutes a public nuisance with regard to the maintenance of private property and to establish the authority and procedures to abate such nuisance.

**21.40.020 Conflicts With Other Nuisance Abatement Provisions of This Code.** Whenever there is a conflict between the provisions of this chapter and those of Chapter 9.06 or any other chapter of this code, regarding the maintenance of private property, the provisions of this chapter shall take precedence.

**21.40.030 Definition of Nuisances.** The following acts and conditions, when performed or existing upon any lot, piece or parcel of land within the City of El Paso de Robles are hereby defined as and declared to be public nuisances when of such magnitude as to be injurious or potentially injurious to the public health, safety, and welfare of which have a tendency to degrade the appearance and property values of surrounding property or which cause damage to public rights-of-way.

A. Property:

1. Land where erosion, subsidence, or surface water drainage problems exist;
2. Overgrown vegetation; dead, decayed, diseased, or hazardous trees; weeds and other vegetation likely to harbor rats, vermin or nuisances or which may be a fire hazard;
3. Storage for an unreasonable period of time of any of the following:
  - a. Abandoned, wrecked, dismantled or inoperative automobiles, trailers, campers, boats or similar vehicles;
  - b. Debris, rubbish, and trash visible from public rights-of-way;
  - c. Broken or discarded household furnishings, appliances, boxes and cartons, lawn maintenance equipment, play equipment, toys, and similar materials;
  - d. Discarded building materials;
  - e. Discarded, wrecked or inoperable household appliances, machines and tools;
  - f. Materials or items of any nature stored on roof tops when visible from the public right-of way or from neighboring property;
4. Attractive nuisances (those objects which, by their nature, may attract children or other curious individuals) including, but not limited to unprotected and/or hazardous pools, ponds, ice boxes, refrigerators or excavations;
5. Clothes lines in front yard areas;

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6. Garbage or trash cans or containers stored in front or side yards and visible from public streets or garbage or trash cans or containers which cause offensive odors to neighbors.
- B. Structures or buildings, both permanent and temporary, or other lot improvements, which are subject to any of the following conditions:
1. Constitute a fire hazard;
  2. Have faulty weather protection including, but not limited to, crumbling, cracked, missing, broken, or loose exterior plaster or other siding, roofs, foundations or floors (including lack of paint or other protective finish), broken or missing windows or doors;
  3. A building or structure which is not completed within a reasonable time or for which the permit has expired;
  4. Unoccupied buildings which have been left unlocked or otherwise open or unsecured from intrusion by persons, animals or the elements;
  5. Fences or walls which violate zoning regulations regarding height, or which are in a hazardous condition, or which are in disrepair, or which hinder free access to public sidewalks;
  6. Signs, both on-site and off-site (billboards) which advertise uses no longer conducted or products no longer on the premises, except where such signs are legally permitted;
  7. Signs located on any commercial or industrial building or on any other building which has been vacant for more than 45 days (Exception: real estate signs advertising the sale of the building);
  8. Temporary signs which advertise or are related to events which have already taken place;
  9. A building or structure, that is marked or defaced with spray paint, dye, or like substance in a manner commonly described as Graffiti, for an unreasonable period of time.

**Section 21.40.040 Declaration of Nuisance.** Whenever the Community Development Director finds, upon the recommendation of a duly authorized representative of the Community Development Department, that a nuisance, as defined by Section 21.40.030, exists on any premises located with the City, he shall advise the property owner of the nuisance and direct him to abate the nuisance. The property owner shall be notified of the existence of the nuisance in writing. The notification shall detail the violations and establish a reasonable abatement period.

**Section 21.40.050 Voluntary Abatement of Nuisances.** The owner or tenant of any building, structure or property found to be a nuisance under the provisions of this ordinance, may abate the nuisance at any time within the abatement period by rehabilitation, repair, removal, or demolition. The Community Development Department shall be advised of the abatement and shall inspect the premises to insure that the nuisance has in fact been abated.

**Section 21.40.060 Failure To Voluntarily Abate a Declared Nuisance.** If a nuisance is not properly abated within the period

established under the provisions of Section 21.40.040, the Planning Commission shall hold a public hearing to determine if the declared nuisance should be abated under the police powers of the City.

**Section 21.40.070 Notice of Public Hearing.** A written notice of public hearing, substantially in the form contained in Form 21.40-1, shall be served on the property owner at least 10 days prior to the date set for the Planning Commission public hearing. Service shall be made by personal service upon the owner or by certified or registered mail. If there is not a known address for the owner, the notice shall be sent in care of the property address. "Owner" as used herein shall mean any person(s) shown as the property owner on the latest equalized property tax assessment rolls, and any person having, or claiming to have, any legal or equitable interest in, or to, the fee relating to said premises. In addition, notice of said hearing shall be published in a newspaper of general circulation in the City at least ten (10) calendar days before the hearing. The failure of any person to receive such notice shall not affect the validity of the proceedings.

**Section 21.40.080 Hearing By the Planning Commission.** At the time and place stated in the Notice of Public hearing, the Planning Commission shall hear and consider all relevant evidence, objections, or protests, and shall receive testimony from owners, witnesses, City personnel and interested persons relative to such alleged public nuisance and to proposed abatement measures. The hearing may be continued from time to time.

**Section 21.40.090 Decision of the Planning Commission.**

- A. Following the public hearing, the Planning Commission shall consider all evidence and determine whether the premises, or any part of the premises constitutes a public nuisance as alleged. If the Commission finds that a public nuisance does exist and that there is sufficient cause to abate the nuisance, the Planning Commission shall make a written order setting forth the findings and ordering the owner or other person having charge or control of the premises to abate the nuisance by rehabilitation, repair, or demolition in the manner and by the means specifically set forth in the Commission order. The order shall set forth the times within which the work shall be commenced and completed.
- B. Within ten (10) days from the date of the mailing of the order, the owner or person occupying or controlling such lot or premises affected, or any other person, may appeal to the City Council. Such appeal shall be in writing and shall be filed with the City Clerk. At a meeting of the City Council not more than thirty (30) days thereafter, it shall proceed to hear and pass upon the appeal. Notice of the appeal proceeding shall be given in the manner as provided in Section 21.40.070. The decision of the City Council thereupon shall be final and conclusive.

**Section 21.40.100 Limitation of Filing Judicial Action.** Any owner or other interested persons having any objections or feeling aggrieved at any proceeding taken on appeal by the City Council in ordering the abatement of any public nuisance under the provisions of this ordinance must bring an action to contest such decision within thirty (30) days after the date of such decision of the City Council. Otherwise, all objections to such decisions shall be deemed waived.



**Section 21.40.160 Abatement of Costs Against Property - Lien.** The total cost for abating such nuisance, as so confirmed by the City Council, shall constitute a special assessment against the respective lot or parcel of land to which it relates, and upon recordation in the Office of the County Recorder of a Notice of Lien, as so made and confirmed, shall constitute a lien on said property for the amount of such assessment.

- A. After such confirmation and recordation, a copy may be turned over to the Tax Collector for the City, whereupon it shall be the duty of said Tax Collector to add the amounts of the respective assessments to the next regular tax bills levied against said respective lots and parcels of land for municipal purposes, and thereafter said amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes; or
- B. After such recordation, such lien may be foreclosed by judicial or other sale in the manner and means provided by law.
- C. Such Notice of Lien for recordation shall be in form substantially as that shown on Form 21.40-2.

**Section 21.40.170 Violations.**

- A. The owner or other person having charge or control of any public nuisance defined in this ordinance, or who violates any order of abatement served as provided in Section 21.40.110, is guilty of a misdemeanor.
- B. Any occupant or lessee in possession of any such building or structure who fails to vacate said building or structure in accordance with an order given as provided in this ordinance is guilty of a misdemeanor.
- C. Any person who removes any notice or order posted as required in this ordinance, for the purpose of interfering with the enforcement of the provisions of this ordinance, is guilty of a misdemeanor.
- D. Any person who obstructs, impedes or interferes with any representative of the City Council or with any representative of a City department or with any person who owns or holds any estate or interest in a building which has been ordered to be vacated, repaired, rehabilitated, or demolished or with any person to whom any such building has been lawfully sold pursuant to the provisions of this ordinance when any of the aforementioned individuals are lawfully engaged in proceedings involving the abatement of a nuisance is guilty of a misdemeanor.

**Section 21.40.180 Alternatives.** Nothing in the foregoing sections shall be deemed to prevent the City Council from ordering the City Attorney to commence a civil or criminal proceeding to abate a public nuisance under applicable Civil or Penal Code provisions as an alternative to the proceedings set forth herein.

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Section 21.40.170 Violations.

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- B. Any occupant or lessee in possession of any such building or structure who fails to vacate said building or structure in accordance with an order given as provided in this ordinance is guilty of a misdemeanor.
- C. Any person who removes any notice or order posted as required in this ordinance, for the purpose of interfering with the enforcement of the provisions of this ordinance, is guilty of a misdemeanor.
- D. Any person who obstructs, impedes or interferes with any representative of the City Council or with any person who owns or ordered to be vacated, a building which has been demolished or with any person to whom the provisions of this ordinance are repaired, rehabilitated, or demolished has been lawfully sold pursuant to the provisions involving the person engaged in proceedings involving the sale of a nuisance is guilty of a misdemeanor.

Section 21.40.180 Alternatives.

Nothing in the provisions of this ordinance shall be deemed to prevent the City Attorney to commence the proceedings to abate a public nuisance upon the provisions as an alternative to the provisions set forth herein.

FORM 21.40-2

NOTICE OF LIEN  
(Claim of City of El Paso de Robles)

Pursuant to the authority vested by the provisions of Section 21.40.130 of the City of El Paso de Robles Municipal Code, the Community Development Director of the City of El Paso de Robles did on or about the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, cause the premises hereinafter described to be rehabilitated or the building or structure on the property hereinafter described, to be repaired or demolished in order to abate a public nuisance on said real property; and the City Council of the City of El Paso de Robles did on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, assess the cost of such rehabilitation, repair, or demolition upon the real property hereinafter described; and the same has not been paid nor any part thereof; and that said City of El Paso de Robles does hereby claim a lien on such rehabilitation, repair or demolition in the amount of said assessment, to wit: the sum of \$\_\_\_\_\_; and the same shall be a lien upon said real property until the same has been paid in full and discharged of record.

The real property hereinafter mentioned, and upon which a lien is claimed, is that certain parcel of land lying and being in the City of El Paso de Robles, County of San Luis Obispo, State of California, and particularly described as follows:

(DESCRIPTION)

DATED: This \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

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CITY MANAGER, CITY OF EL PASO DE ROBLES

(ACKNOWLEDGEMENT)

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FORM 21.40-1

NOTICE OF PUBLIC HEARING  
TO DETERMINE EXISTENCE OF  
PUBLIC NUISANCE AND TO ABATE  
IN WHOLE OR PART

Notice is hereby given that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, the Planning Commission of the City of El Paso de Robles will hold a hearing at \_\_\_\_\_ to ascertain whether certain premises situated in the City of El Paso de Robles, State of California, known and designated as \_\_\_\_\_ constitute a public nuisance subject to abatement by the rehabilitation of such premises or by the repair or demolition of buildings or structures situated thereon. If said premises, in whole or part, are found to constitute a public nuisance as defined by Sections \_\_\_\_\_ and \_\_\_\_\_ of the Municipal Code and if the same are not promptly abated by the owner, such nuisances may be abated by Municipal authorities, in which case the cost of such rehabilitation, repair or demolition will be assessed upon such premises and such cost will constitute a lien upon such land until paid.

Such alleged violations constitute of the following:

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Said methods of abatement available are:

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All persons having objection to, or interest in, said matters are hereby notified to attend a hearing before the Planning Commission of the City to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at the hour of \_\_\_\_\_ .m. when their testimony and evidence will be heard and given due consideration.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

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COMMUNITY DEVELOPMENT DIRECTOR

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