

ORDINANCE NO. 2024-14

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VISALIA AMENDING SECTIONS 8.40.020 AND 8.40.030 OF THE VISALIA MUNICIPAL CODE REGULATING PUBLIC NUISANCES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VISALIA

SECTION 1. Consistent with its control over municipal affairs as a charter city and the powers vested in the City of Visalia through the California Constitution, the City of Visalia is authorized to secure and promote the public health, comfort, safety, and welfare of its citizenry. The City Council of the City of Visalia hereby makes the followings findings:

- A. Illegal dumping in the public rights-of-way has become prevalent throughout the City.
- B. Illegal dumping can include different types of trash and debris that can dangerous to the health of people in Visalia, can be considered offensive to the senses, and can obstruct in the use of property in a manner that interferes with the enjoyment of properties where the illegal dumping occurs and on nearby properties, it can affect at the same time an entire community or neighborhood.
- C. Based on the potential impacts illegal dumping is hereby found to be a public nuisance.
- D. Defining illegal dumping will allow enforcement efforts by City staff to have a greater impact by allowing specific penalties and procedures to be enforced so that this behavior can be dealt with and deterred for the benefit of persons within the City of Visalia.

SECTION 2. The Visalia City Council hereby approves the following language to be added to Visalia Municipal Code Chapter 8.40.020, which defines all terms under the Section 8.40 Nuisances, with the additional language specifically defining the term, “illegal dumping” identified with underline & italics:

8.40.020 Definitions.

For the purpose of this chapter the terms below shall mean the following:

“Abandoned,” in addition to those provisions provided by state codes, local ordinances and case law, shall mean and refer to any item which has ceased to be used for its designated purpose. The following factors will be considered in determining whether or not an item has been abandoned: present operability and functional utility, the date of last effective use, the condition of disrepair or damage, the last time effort was made to repair or rehabilitate the item, the status of registration or licensing of the item, the age and degree of obsolescence, the cost of rehabilitation of the item versus its market value, and the nature of the area and the location of the item.

“Abate” means to repair, replace, remove, demolish or otherwise remedy the condition in question by such means and in such manner and to such an extent as the Enforcement Officer in his/her judgment shall determine is necessary in the interest of the general health, safety, and welfare of the community.

“Abatement standards” means those minimum requirements set forth by the enforcement officer by which premises shall be abated and maintained in order to comply with the provisions of this chapter.

“Administrative enforcement order” shall refer to the order issued by an enforcement officer determining that a violation of a municipal code section or other provision as set forth in [1.13.050](#) has occurred, and establishing the administrative penalty to be assessed, or setting forth the administrative abatement order to be imposed.

“Attractive nuisance” means any condition, instrument or machine which is unsafe, unprotected and may prove detrimental to children whether in a building, on the premises of a building, or on an unoccupied lot. This includes any abandoned wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles; any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove hazardous or dangerous to inquisitive minors.

“Camping” means the use of either a public park, a private or public street, or a vacant field, or place, none of which are intended for living accommodation purposes, as a temporary or permanent residence. Camping activities may be evidenced by the erecting of tents or any structure providing shelter; (including but not limited to trees, paper, metal, tarps, wood, shrubs, or bushes) sleeping with or without bedding, sleeping bag, blanket, mattress, tent, hammock, or other similar device; making preparations to sleep; storing personal belongings; starting or maintaining a fire; cooking; or preparing meals. Persons utilizing a vehicle as a mobile living unit must abide by Visalia Municipal Code Section [17.32.100](#).

“Dismantled” means that from which essential equipment, parts or contents have been removed or stripped and the outward appearance verifies removal.

“Enforcement officer” means that City Officer or employee as may be designated in writing by the City Manager to enforce property or premises maintenance, zoning and other City Code violations, as authorized by California Penal Code § 836.5.

“Illegal dumping” means any placing, depositing or dumping, or otherwise causing to be placed, deposited, or dumped, in or upon a public highway or road, including any portion of the right-of-way thereof, into or upon which the public is admitted by easement or license, or upon private property without the consent of the owner any of the following: waste, discarded putrescibles, garbage, rubbish, refuse, recyclable materials, hazardous substances, furniture or surplus material from another property, including home-based litter and refuse and/or business-related refuse, discarded materials, including but not limited to weeds, vegetation, tree trimmings, concrete, asphalt, or dirt”.

“Inoperative” means incapable of functioning or producing activity for mechanical or other reasons.

“Lienholder” means any person, as defined in this Chapter, who has a recorded interest in real property, including mortgagee, beneficiary under a deed of trust, or holder of other recorded liens or claims of interest in real property.

“Nuisance” means any public nuisance known at common law or in equity jurisprudence.

“Owner” means the registered owner of a vehicle, the person(s) to whom property tax is assessed on real or personal property, as shown on the last equalized assessment roll of the County, renter(s), lessor(s) and other occupants residing permanently or temporarily on property.

“Person” means individual, partnership, joint venture, corporation, association, social club, fraternal organization, trust, estate, receiver, or any other entity.

“Premises” means all property, lots, parcels or real estate, portion of any land, whether improved or unimproved, occupied or unoccupied, including adjacent or associated sidewalks, parking strips, the abutting half of any street or alley between lot lines, buildings, structures, landscaping, plantings, trees, bushes, fences, and the exterior storage of personal property, equipment, supplies and vehicles.

“Property” means any real property including but not limited to land, lot, or parcel of land, and any improvements located thereon, held by any owner, and shall include any alley, sidewalk, parkway or unimproved public easement abutting such real property, lot or parcel of land.

“Responsible party” shall refer to any natural person, the parent or legal guardian of any person under the age of eighteen (18) years, trust, estate, receiver, cooperative, partnership, corporation, association, business, joint venture, limited liability company, any government agency that is not statutorily exempt, or any other entity, who has done any act for which an administrative enforcement order may be imposed.

“Structure” means anything constructed, built or planted upon, any edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, which structure requires location on the ground or is attached to something having a location on the ground, including fences, gates, garages, carports, swimming and wading pools, patios, outdoor areas, paved areas, walks, tennis courts and similar recreation areas.

“Wrecked” means that which has outward manifestation or appearance of damage to parts and contents which are essential to operation.

SECTION 3. The Visalia City Council hereby approves the following additional language be added to Visalia Municipal Code Chapter 8.40.030, which declares certain violations as public nuisances, specifically adding subsection (L) defining when illegal dumping will be considered as a public nuisance, identified below in *underline & italics*:

8.40.030 Public Nuisances.

It is hereby declared to be a public nuisance and a violation of this Chapter for an owner or other person in control of said property or premises to keep or maintain property, premises or rights-of-way in such a manner that any of the following conditions exist:

A. Abandoned, dismantled, wrecked, inoperable, unlicensed, and discarded objects, equipment or appliances such as, but not limited to vehicles, boats, water heaters, refrigerators, furniture which is not designed for outdoor use, household fixtures, machinery, equipment, cans or containers standing or stored on property or sidewalks or streets which can be viewed from a public street or walkway, alley or other public property which items are readily accessible from such places, or which are stored on private property in violation of any other law or ordinance;

B. Discarded putrescibles, garbage, rubbish, refuse, or recycled items which have not been recycled within thirty (30) days of being deposited on the property which are determined by an enforcement officer to constitute a fire hazard or to be detrimental to human life, health or safety;

C. Oil, grease, paint, other petroleum products, hazardous materials, volatile chemicals, pesticides, herbicides, fungicides or waste (solid, liquid or gaseous) which is determined by a enforcement officer to constitute a fire or environmental hazard, or to be detrimental to human life, health or safety;

D. Lumber (excluding lumber for a construction project on the property with a valid permit), salvage materials, including but not limited to auto parts, scrap metals, tires, other materials stored on premises in excess of seventy-two (72) hours and visible from a public street, walkway, alley or other public property;

E. Receptacles for discarded materials and recyclables which are left in the front yard following the day of the regularly scheduled refuse pick-up for the property;

F. Swimming pool, pond, spa, or other body of water, or excavation which is abandoned, unattended, unsanitary, empty, which is not securely fenced, or which is determined by the enforcement officer to be detrimental to life, health or safety;

G. Any premises which detrimentally impacts the surrounding neighborhood because of dilapidation, deterioration or decay or is unsafe for the purpose for which it is being used or is not secured or is improperly secured;

H. Any premise or property in a condition which is in fact a fire hazard or which results or can result in the impairment of the ability of the department of fire and emergency management to respond to and suppress fires; and,

I. Any condition on a property which meets the following requirements:

1. Is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life and property; and
2. Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

J. Camping in areas not specifically designated for such use or not specifically authorized by a public agency. Camping on private property shall be permissible only in the rear yard of an existing single family residence in a residential zone for a period not to exceed two consecutive days and there is written permission from the property owner.

K. It is hereby declared to be a public nuisance for any person to place, deposit, or permit to be deposited in any unsanitary manner, upon public or private property within the city, or in an area under jurisdiction of said city, any human feces or to urinate in public. Violators of this provision are subject to administrative citation or being punished as authorized by this chapter for maintaining a public nuisance.

L. No person shall place, deposit or dump, or otherwise cause to be placed, deposited, or dumped, in or upon a public highway or road, including any portion of the right-of-way thereof, or upon which the public is admitted by easement or license, any of the following: waste, discarded putrescibles, garbage, rubbish, refuse, recyclable materials, hazardous substances, furniture or surplus material from another property, including home-based litter and refuse and/or business-related refuse, discarded materials, including but not limited to weeds, vegetation, tree trimmings, concrete, asphalt, or dirt.

1. Each day that any of these items remain placed, deposited, or dumped, in violation of subdivision (a) may be considered a separate violation. Violations may be charged as a criminal infraction, or alternatively, in its sole discretion, the city may take enforcement action pursuant to the administrative code procedures described in Chapters 1.12 and 1.13 of the Visalia Municipal Code. If the violation is charged as an administrative action, then the penalty for each violation shall be \$1,000. City staff may, in lieu of the administrative penalty, accept community service removal of the waste items that have been dumped in the public right of way, such a program for community service in lieu of administrative penalties shall be reviewed and approved by the city manager or designee prior to implementation.

2. This section does not restrict a private owner in the use of their own private property, unless the placing, depositing, or dumping of the waste matter on the property creates a public health and safety hazard, a public nuisance, or a fire hazard, as determined by a local health department or local fire department.

SECTION 4. The City Council intends this Ordinance to supplement, not contradict applicable state law and this Ordinance shall be construed in light of that intent.

SECTION 5. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstances, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivision, paragraphs, sentences, clauses or phrases of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Visalia hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION 6. This Ordinance shall take effect thirty days after its adoption.

SECTION 7. The City Clerk Shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted as required by law.