

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO,
CALIFORNIA, AMENDING ARTICLE 7 OF CHAPTER 10
OF THE FRESNO MUNICIPAL CODE, RELATING TO
MANAGEMENT OF REAL PROPERTY.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Article 7 of Chapter 10 of the Fresno Municipal Code is amended to read:

SECTION 10-701. TITLE. This article shall be known as the

"Management of Real Property Ordinance."

SECTION 10-702. FINDINGS.

(a) Just as the physical conditions of structures and properties within the City can constitute public nuisances, so can too the behavior of persons on properties within the City constitute public nuisances. The abatement of behavioral nuisances is as important to the City in its fight against blight, decay, deterioration and crime as is the abatement of other nuisances created by physical conditions.

(b) The owners of real properties within the City are primarily responsible for monitoring their properties and for taking appropriate action if a nuisance exists thereon, whether that nuisance be created by existing physical conditions or by nuisance creating behaviors, or the combination of conditions. Many nuisances can be avoided with active property management. Lack of proper management of real property can create an environment which is conducive to behaviors which become a nuisance with repetition and lack of abatement and corrective measures. If a property owner does not fulfill [the owner's] ~~his or her~~ responsibilities, it is necessary for the safety, health and welfare of the neighborhoods,

(c) It is not the intent nor purpose of this article to subject owners or [property] managers to any legal liability resulting from a tenant's actions away from a tenant's residence, unless it can be shown that the problem tenant is also creating a nuisance or committing a crime at the tenant's residence property.

SECTION 10-704. DEFINITIONS.

(a) "Administrative expenses" shall include, but not be limited to:

- (1) The cost of any hearings before the Hearing Officer;
- (2) Personnel costs, both direct and indirect, including attorney's fees;
- (3) The costs incurred in documenting the nuisance, including the actual expenses and costs of the City in conducting inspections and in the preparation of notices, administrative citations and orders.

(b) "Director" shall mean the Police Chief and/or the Director of the ~~Planning and Development Department~~ Development and Resource Management Department, and any of their designees.

(c) "Enforcement officer" means any person authorized by the Director pursuant to Section ~~9-907~~ 10-707 to enforce violations of this article. Although this ordinance assumes code enforcement and police officers will to continue cooperate in protecting Fresno residents' quality of life, this ordinance does not authorize code enforcement officers to enforce criminal laws

(d) "Habitual" shall mean patterns or occurrences evidenced by frequent repetition or regularity, or that evidence a mode of practice or usage.

~~forth in Chapter 1; Article 2; Section 1-201(y) of the Fresno Municipal Code and may be used interchangeably. ["Tenant" shall mean any person or entity having the legal right to possess real property under a written, verbal, or implied lease or sublease.]~~

SECTION 10-705. SCOPE. This article shall apply generally to all real property throughout the City of Fresno wherein any of the nuisances hereinafter specified are found to exist.

SECTION 10-706. ~~[JOINT]~~DUAL RESPONSIBILITY.

(a) Every ~~[responsible party] owning, possessing, or having charge or control~~ owning, possessing, or having charge or control of real ~~(?? same wording)~~property within the City is required to manage that property and control the environment thereon in a manner so as not to violate the provisions of this article, and ~~[every responsible party] the owner remain~~ liable for violations thereof regardless of any contract or agreement ~~[among them or]~~ with any third party regarding the property.

(b) Every ~~[responsible party] occupant, lessee, or holder of possessory interest in real property~~ is required:

(1) To comply with all laws applicable to the property.

(2) To supervise anyone utilizing, using, or occupying the property, with or without the consent of the owner, consistent with this article.

(3) To maintain the property in a manner so as not to violate the provisions of this article. **Nothing in this ordinance is intended to replace or supersede the routine interior inspection program by which the City enforces state and local standards of habitability for rental housing.**

SECTION 10-707. AUTHORITY. The Director shall have the responsibility to administer and enforce the provisions of this article. The Director

continued, of any loud, unnecessary or unusual noise which disturbs the peace and quiet of the neighborhood, or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing on the property or in the area. The standards set forth in Fresno Municipal Code Chapter 10, Article 1 shall be utilized in determining whether a violation of this subsection exists.

(f) The unlawful discharging of a firearm or brandishing of a weapon by any person.

(g) The frequent response by the Fresno Police Department to the real property or the adjacent area [including public property or common areas of an apartment complex or condominium development] (but not the real property of another) as a result of any person or persons causing any combination of the following calls as indicated in the City of Fresno Police Department Incident Code Identifier.

(1) Animal disturbances, including but not limited to competitive fighting between animals.

(2) Violent [or non-violent] criminal acts, charged or not, including, but not limited to rapes, assaults, battery, homicides, ~~and/or~~ shootings, [identity theft, fraud, possession of stolen property, burglary, and theft].

(3) Illegal consumption of intoxicants in public view.

(4) Gaming activities.

(5) Juvenile or domestic disturbances, excluding domestic violence calls for service.

"Frequent" as used in this subsection means such response is occurring more than 1.50 times than the average number of such responses for property of a similar size ~~in~~and character in the same "policing district" established by the

parties] ~~property owner~~ of the unlawful activity. Said notice shall include the location of the property, the name of the person(s) conducting the unlawful activity (if known and appropriate), a description of the illegal activity, suggested remedies and a warning of the enforcement of this article if the activity described is not abated within the time prescribed in the notice. The notice shall be served on the owner of the property, via regular mail, at the address listed on the latest tax assessment ~~role~~ roll and known address(es) of additional responsible parties. Within five (5) days of the date of mailing the notice under this subsection, the owner shall provide a copy of the notice to all other responsible parties].

SECTION 10-710. VIOLATION. Any violation of this article may be enforced by any of the following procedures:

(a) Institution of legal action by the City Attorney.

(b) By issuance of administrative citations with civil penalties in lieu of criminal prosecution (but not prohibiting civil injunctive action) as follows:

(1) First violation, ~~up to~~ One Thousand Dollars (\$1,000), plus any abatement, actual, administrative and enforcement costs and administrative expenses incurred;

(2) On a second violation of this article within a rolling 12 month period, ~~up to~~ Ten Thousand Dollars (\$10,000), plus any abatement, actual, administrative and enforcement costs and administrative expenses incurred;

(3) On a third or subsequent violation of this article within a rolling 12 month period, ~~up to~~ between Ten Thousand Dollars (\$10,000) and Fifty Thousand Dollars (\$50,000), plus any abatement, actual, administrative and enforcement costs and administrative expenses

PAYMENT BASED ON THE ABILITY TO PAY IN NEXT 75 days)

SECTION 10-714. USE OF FEES, FINES AND PENALTIES. All costs and penalties received by the City pursuant to this article shall be used exclusively for administration and enforcement of this article and Articles 3 and 4 of Chapter 11 of the Fresno Municipal Code.

SECTION 10-715. RELOCATION COSTS. The owner shall be required to reimburse the City for any costs or expenses associated or incurred with the relocation of tenants resulting from the enforcement of this Article.

SECTION 10-716. SEVERABILITY. If any section, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this article. The Council hereby declares that it would have passed this ordinance and adopted this article and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.