

ORDINANCE NO. 0006-2023

**AN ORDINANCE OF THE CITY OF MCFARLAND ADDING
CHAPTER 8.22 AND AMENDING CHAPTERS 10.14.020,
18.04.010 AND 18.08 OF THE MCFARLAND MUNICIPAL
CODE RELATING TO CODE COMPLIANCE**

Section 1. Recitals

WHEREAS, the City of McFarland (the “City”) has the authority under Article XI, Section 7 of the California Constitution, to enact regulations for the public peace, morals, and welfare of the City; and

WHEREAS, the City has the authority to compel the owner, lessee or occupant of buildings, grounds, or lots to remove dirt, rubbish, weeds and rank growth from buildings or grounds and adjacent sidewalks (Government Code § 39501 *et seq.*); and

WHEREAS, the City, by ordinance of the legislative body, can require and provide for the removal of said material; and

WHEREAS, the City can provide for the enforcement of abatement through a lien on property; and

WHEREAS, the City has the authority to establish fines, penalties and administrative fees for violations of various codes.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MCFARLAND DOES ORDAIN AS FOLLOWS:

Section 2. Chapter 18.22 is hereby added to the McFarland Municipal Code to read as follows:

Chapter 8.22 REMOVAL OF VEGETATIVE GROWTH AND/OR REFUSE

8.22.01 Generally.

Whenever the City Manager or authorized representative shall find vegetative growth, as described in Section 8-22.04, and/or refuse upon any property, lands, or lots in the City, which in his or her opinion is or may become a fire hazard or a health and safety hazard, he or she shall have cause to give to the owner of said property a notice to remove such vegetative growth and/or refuse which may constitute a hazard in the manner hereinafter provided in this part.

8.22.02 Definitions.

The following words, when used in this part, shall be defined as follows unless otherwise indicated:

- (a) “City” means the City of McFarland.
- (b) “City Manager” means the City Manager or authorized representative of the City Manager
- (c) “Council” means City Council of the City.
- (d) “Drainage” means any ditch, culvert, and/or pipe used as a means of public drainage or drainage control.
- (e) “Noxious weeds” as defined in Government Code Section 39561.5 includes dry grass, stubble, brush, litter or other flammable material which endangers the public safety by creating a fire hazard.
- (f) “Property” means and include lands, lots, drainage structures, drainage ways, and/or drainage easements.
- (g) “Refuse” means waste matter, appliances, abandoned automobiles, junk, litter, trash, debris, dirt, cut vegetative growth, dead trees which threaten structures or streets, tin cans, paper, waste material of every kind, or other unsanitary substance, object, or condition which is,

or when dry, may become a fire hazard, or which is or may become a menace to health, safety, or welfare.

(h) "Street" means public streets, alleys, parkways, sidewalks, and areas between sidewalks and curbs.

(i) "Vegetative growth" means flammable vegetation and combustible growth.

8.22.03 Vegetative growth and/or refuse are public nuisances.

The City Council may declare, by resolution in accordance with Sections 39561—39700 of the Government Code, that vegetative growth, as described in Section 8-22.04 of this chapter, and/or refuse, which are, or may become, a hazard upon or in front of private property to the center line of adjoining streets in the City, are public nuisances.

Also, it is unlawful for any property owner in the City to cause or permit any vegetative growth, as described in Section 8-22.04 of this chapter, and/or refuse to remain on any real property in the City or on portions of streets adjoining such real property to the centerline of such streets. It shall be the duty of every such person to destroy such vegetative growth and remove or destroy such refuse. The City Council may also declare vegetative growth, as seasonal and recurring nuisances.

8.22.04 Clearance of vegetative growth.

Any person owning property in the City shall:

(a) Mow or otherwise remove dry noxious weeds, as defined, which are located on any vacant lot that is undeveloped with a structure.

8.22.05 Exemption to Section 8-22.04.

An exemption from Section 8-22.04 of this chapter shall apply to any land beyond fifty (50) feet from improved streets, as declared by the City, State or Federal Government, which has been acquired or is managed, for one or more of the following purposes:

(a) Animal pastures and agricultural fields growing hay or grains. The interior portion of fenced pastures where the quantity of livestock significantly reduces the vegetative growth, therefore bringing the parcel into compliance. Agricultural fields must be cut at harvest time. Uncut hay and grain is subject to abatement;

(b) Habitat for endangered or threatened species, or any species that is a candidate for listing as an endangered or threatened species by the State of California or Federal Government;

(c) Land kept in a predominantly natural state as habitat for wildlife, plant, or animal communities;

(d) Open space lands that are environmentally sensitive parklands;

(e) Other lands having scenic values.

Abatement requirements shall remain in effect in waterways where flood preparation measures and emergency flood control mitigation is necessary.

(1) This exemption applies whether the land or water are held in fee title or any lesser interest. This exemption applies to any public agency, and private entity that has dedicated the land or water areas to one or more of those purposes or uses, or any combination of public agencies and private entities making that decision.

(2) This section shall not be construed to prohibit the use of properly authorized prescribed burning to improve the biological function of land or to assist in the restoration of desired vegetation.

(3) In the event that any lands adjacent to land or water areas, as described above, are improved such that they are subject to this chapter, the obligation to comply with Section 8-22.04 shall be with the person owning, leasing, controlling, operating or maintaining the occupied dwelling or occupied structure on the improved lands. All maintenance, activities and other fire prevention measures required by Section 8-22.04 shall be required only for the improved land and water areas as described above.

8.22.06 Drainage.

With the permission of the permitting agencies with jurisdiction over the area in question, any drainage shall be cleaned and maintained in a manner that does not restrict the natural or engineered flow of water.

8.22.07 RESERVED

8.22.08 Notice to destroy or remove vegetative growth and/or refuse.

In the event the person or persons owning, occupying, renting, managing, or controlling any real property in the City shall fail to remove therefrom and from the portions of streets adjoining such property all vegetative growth, as described in Section 8-22.04, and/or refuse in accordance with the provisions of this part, it shall be the duty of the City Manager or authorized representatives to notify such person(s) to remove the same.

The City Council may direct the City Clerk, in accordance with Section 39567.1 of the Government Code, to mail written notice of the proposed abatement to all persons owning property described in the resolution. The City Clerk shall cause such written notice to be mailed to each person to whom such described property is assessed in the last equalized assessment roll available on the date the resolution was adopted by the City Council. The address of the owner(s) shown on the assessment roll shall be conclusively deemed to be the proper address for the purpose of mailing such notice. Such notice shall be mailed at least fourteen (14) days prior to the time fixed for hearing objections by the City Council.

8.22.09 Form of notice.

The notice shall be substantially in the following form:

NOTICE TO DESTROY AND REMOVE RUBBISH, REFUSE, AND DIRT

Notice is hereby given on the _____ day of _____, 20____, the City Council passed a resolution declaring that (insert the appropriate hazard: noxious weeds, vegetative growth, refuse, etc.) constitute a (insert the appropriate term: fire hazard, or health and safety hazard) which must be abated by the (insert the appropriate phrase: cutting of said noxious weeds, or removal of said health and safety hazard). If the owner does not abate the hazard it will be abated by the City and the cost of the removal assessed upon the County property tax bill, and will constitute a lien upon such land until paid. Reference is hereby made to the resolution for further particulars and Ordinance No. _____. A copy of said resolution is on file in the office of the City Clerk,

All property owners having any objections to the proposed removal of the hazard are hereby notified to attend a meeting of the City Council of the City of McFarland to be held _____, when their objections will be heard and given due consideration.

Dated this _____ day of _____, 20_____.

City Manager
City of McFarland

8.22.10 Hearing of objections.

At the time stated in the notices, the Council shall hear and consider all objections to the proposed removal of vegetative growth and/or refuse.

At the conclusion of the hearing, the Council shall allow or overrule any objections. At that time, the City acquires jurisdiction to proceed and perform the work of abatement. The decision of the Council is final.

8.22.11 Order to abate nuisance.

If objections have not been made or after the Council has disposed of those made, it shall order the City Manager to abate the nuisance(s).

8.22.12 Destruction and removal of vegetative growth and/or refuse by City.

In the event the person or persons owning, occupying, renting, managing, or controlling real property in the City shall fail to remove or destroy vegetative growth and/or refuse, in accordance with provisions of this ordinance within ten (10) calendar days after the hearing of objections an order to abate nuisance, it shall be the duty of the City Manager and his or her deputies, assistants, employees, contacting agent, or other representatives to destroy or remove such vegetative growth and/or refuse. They are expressly authorized to enter upon private property for such purpose. It is unlawful for any person to interfere, hinder, or refuse to allow

them to enter upon private property for the purpose(s) to destroy or remove vegetative growth and/or refuse, in accordance with the provisions of this part. Any person owning, occupying, renting, managing, leasing, or controlling real property in the City shall have the right to destroy or remove vegetative growth and/or refuse, or have the same destroyed or removed at his or her own expense, at any time prior to the arrival of the City Manager or his or her authorized representatives for such purpose(s).

8.22.13 Account and report of cost of abatement.

The City Manager or authorized representatives shall keep an account of the cost of abatement for each separate lot or parcel of land. he or she shall submit such itemized written report, showing such cost, to the Council for confirmation. Such report shall refer to each separate lot or parcel of land by description sufficiently reasonable to identify the same, together with the expense proposed to be assessed against it, which shall include charges sufficient to pay for the administrative costs of the program.

8.22.14 Notice of report and hearing.

The City Clerk shall make available a copy of such report and assessment list at his or her office together with the notice of the filing thereof and of the time and place when and where it will be submitted to the Council for hearing and confirmation. The copy shall be available for at least five (5) calendar days prior to the submission of the Council.

8.22.15 Hearing of report: Modification: Confirmation of report.

At the time and place fixed for receiving and considering the report, the Council shall hear the same, together with any protests or objections of the property owners liable to be assessed for the abatement. Upon the conclusion of such hearing, the Council shall then confirm the report by motion and the amount thereof shall constitute a lien on the property assessed until paid. The confirmation of the assessment by the Council shall be final and conclusive.

8.22.16 Report to Assessor and Tax Collector: Filing copy of report with County Auditor.

A certified copy of the report shall be filed with the County Auditor on or before August 10th of each year for entry of such assessment of the County tax roll. In the event the report cannot be prepared in time for the County Auditor to enter the assessment on the next immediate tax roll, the certified copy may be filed with the County Auditor anytime before August 10th of the succeeding year.

8.22.17 Collection of assessment: Penalties and procedures for foreclosure.

The amount of the assessment shall be collected at the time and in the manner of ordinary municipal taxes. If delinquent, the amount is subject to the same penalties and procedure of foreclosure and sale provided for ordinary municipal taxes.

Section 3. Section 10.14.020 is amended to read as follows:

10.14.020 Penalties.

- A. Fines and penalties for violations of the California Vehicle Code are established by the State of California are applicable to all violations pursuant to state law. In the event that such fines and penalties are amended by the State of California, the Police Chief is authorized to adopt such changes without any additional approval of the City Council.
- B. Fines and penalties for the McFarland Municipal Code Parking violations shall be adopted by resolution of the City Council of the City of McFarland.
- C. In the event fines and penalties are amended by the state of California, the chief of police, or his designee, shall be authorized to amend such fines and penalties contained within this section as may be required to comply with such changes by the state of California, without approval of the city council.

Section 4. Section 18.04.010 is amended to read as follows:

18.04.010 City shall create a table of code enforcement fees and fines.

Code enforcement fees and fines are hereby created and shall be adopted by Resolution of the City Council annually and may be updated every year reflecting the Consumer Price Index.

Section 5. Section 18.08.010 is hereby deleted.

Section 6. Section 18.16.010 is hereby amended to read as follows:

18.16.010 Code enforcement fee waiver application.

A property owner, or their authorized agent, must submit a completed waiver application in order to determine waiver eligibility. They must also provide an explanation, additional information, or supporting documentation that may be relevant. The property owner or agent will be notified in writing about the application results.

Section 7. Notice. The City clerk shall certify to the passage and adoption of this ordinance and shall cause this Ordinance to be posted within 15 days after its passage, in accordance with Section 36933 of the Government Code.

Section 8. Severability. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is, for any reason, deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or preempted by legislative enactment, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of McFarland hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or word thereof, regardless of the fact that any one or more sections, subsections, clauses, phrases, or word might subsequently be declared invalid or unconstitutional or preempted by subsequent legislation.

Section 9. Effective Date. This Ordinance shall take effect thirty days after its adoption pursuant to California Government Code section 36937.

Section 10. Certification; Publication. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

INTRODUCED, at a regular meeting of the City Council of the City of McFarland, California on the 27th day of July 2023, by the following vote:

PASSED, AND ADOPTED at a regular meeting of the City Council of the City of McFarland, California on the 10th day of August 2023, by the following vote:

	Aye	Nae	Abstain	Absent
Saul Ayon	✓			
Ricardo Cano	✓			
Amador Ayon	✓			
Anita Gonzalez	✓			
Maria Pérez	✓			


Saul Ayon, Mayor

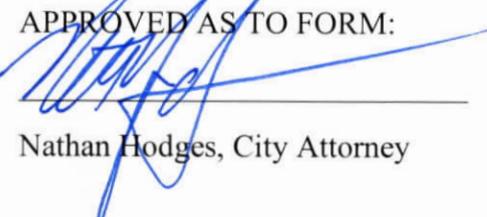
I hereby certify that the foregoing Ordinance was duly and regularly adopted by the City Council of the City of McFarland by a regular meeting thereof held on August 10, 2023.

ATTEST:



Francisca Alvarado, City Clerk

APPROVED AS TO FORM:



Nathan Hodges, City Attorney

Posted: August 17, 2023

