



# City of Woodland

## REPORT TO MAYOR AND CITY COUNCIL

AGENDA ITEM

TO: THE HONORABLE MAYOR  
AND CITY COUNCIL

DATE: Feb. 19, 2008

SUBJECT: Ordinance to Add Article 8 to Chapter  
14A (Nuisances) of the Code Regarding  
Abatement of Chronic Nuisance Properties

### **Report in Brief**

The Article imposes penalties on owners of property that are a risk to the health, safety, and welfare of the general public, especially those properties that are repeated violators.

Staff recommends that the City Council adopt Ordinance \_\_\_\_\_ to add Article 8 to Chapter 14A of the City Code regarding the abatement of chronic nuisance properties.

### **Background**

During 2007, there were numerous properties within the City that rose to the level of a chronic nuisance. The properties generated several complaints from citizens and on one occasion a verbal complaint during a Council meeting.

The proposed Ordinance was introduced by reading of title only and discussed by the City Council during a Public Hearing conducted on February 5. Issues and concerns expressed by citizens and the City Council during the Public Hearing have been addressed.

### **Discussion**

Chronic nuisance properties become a financial burden to the City due to the repeated calls for service and ongoing criminal activity. The chronic nuisance properties often require resources over and above the level of police services normally provided and could leave other areas of the City without adequate levels of police protection.

These properties can continue to impact the quality of life, safety, and health of the neighborhoods where they are located. The proposed Ordinance is the tool law enforcement needs to help remedy chronic nuisance properties. Once a safety violation occurs at a property, the property owner will receive a notice specifying the activities and behaviors which constituted the safety violation, including the names, when known, of the person(s) allegedly causing the safety violation, and the

address where the safety violation occurred. After an initial notice, if any safety violations occur after thirty days of the date of the notice, the property owner may be issued an administrative citation including a penalty not to exceed one thousand dollars.

**Fiscal Impact**

The Ordinance would permit collection of administrative expenses to cover the cost incurred by the City in documenting the safety violations, investigating and enforcing statutory crimes related to the safety violation, including court appearances, conducting inspections, attending hearings, and preparing notices, administrative citations, and orders.

**Public Contact**

The Police Department contacted the managers of nine local apartment complexes as well as a local property manager and invited them to a meeting on January 18, 2008 to discuss and provide feedback on this ordinance. This initial contact occurred by telephone and was followed up with a letter. Six individuals, managers of local apartment complexes and local property management businesses, met with personnel from the Police Department. A copy of the proposed Ordinance was provided to all participants at the meeting. The proposed Ordinance was explained and discussed. All representatives viewed the Ordinance positively and believed responsible property owners would not have difficulty complying with the requirements of the ordinance. Several attendees commented that they also did not want chronic nuisances occurring on their properties and they welcomed partnering with law enforcement to help identify these nuisances.

**Alternative Courses of Action**

1. Approve the addition of Article 8 to Chapter 14A of the City of Woodland Municipal Code regarding the abatement of chronic nuisance properties.
2. Cease further consideration of the proposed addition of Article 8 to Chapter 14A of the City of Woodland Municipal Code as described herein.

**Recommendation for Action**

Staff recommends that the City Council approve Alternative No. 1.

Prepared by: Sue Vannucci, Director of  
Administrative Services and City Clerk

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Mark G. Deven  
City Manager

Attachment: Ordinance

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WOODLAND  
ADDING ARTICLE 8 TO CHAPTER 14A OF THE WOODLAND MUNICIPAL CODE  
REGARDING THE ABATEMENT OF CHRONIC NUISANCE PROPERTIES**

WHEREAS, the City Council of the City of Woodland (“City Council”) has determined that a small percentage of persons who own or control real property in this City of Woodland (“City”) have allowed their property to be used for illegal purposes or have otherwise failed to properly maintain their property and such property has created a significant impact upon the living conditions in the city’s neighborhoods and has raised justifiable concerns about public safety; and

WHEREAS, the City Council has determined that such properties interfere with the comfort, health, solitude, and quality of life of the individuals residing in the neighborhood and lower the value of surrounding properties; and

WHEREAS, the City Council has determined that existing laws have not sufficiently encouraged such persons to take reasonable steps to abate the nuisances that their property is creating; and

WHEREAS, the City Council has determined that enhanced penalties will give such property owners additional incentives to ameliorate the problems that their property is creating and that some property owners will never act responsibly unless their property is subject to such abatement procedures; and

WHEREAS, chronic nuisance properties create a negative financial impact upon City services by numerous calls for service from various City departments; and

WHEREAS, this Ordinance will establish a comprehensive notification and enforcement process designed to collaboratively work with property owners to address chronic crime.

NOW, THEREFORE, The City Council of the City of Woodland does hereby ordain as follows:

1. **Purpose.** The purpose of this Ordinance is to add Article VIII to Chapter 14A of the City of Woodland Municipal Code to impose penalties on property owners and/or tenants of property located within the City’s jurisdictional boundaries that present a risk to the health, safety, and welfare of the general public.
2. **Authority.** The City Council enacts this Ordinance under the authority granted to cities by Article XI, Section 7 of the California Constitution.
3. **Amendment.** Article 8 is hereby added to Chapter 14A of the City of Woodland Municipal Code to read as follows:

## **ARTICLE VIII. COMMUNITY SAFETY**

### **Sec. 14A-8-1. Short Title.**

This Division shall be known as the “Community Safety Ordinance.”

### **Sec. 14A-8-2. Findings and Purpose.**

A. The City Council finds that:

1. Behaviors and activities of person(s) on real property within the City may constitute a public nuisance and thereby a significant risk to public safety when such behaviors and activities are associated with the ongoing occurrence of criminal activity.
2. Each Owner of real property within the City is responsible for monitoring his/her Property and for taking appropriate and reasonable action to prevent or address behaviors or activities occurring on his/her Property that contribute to crime or create public nuisances. When a Property Owner, after receiving notice hereunder, fails to take appropriate and reasonable action to prevent and/or address such behaviors and activities it is necessary for the health, safety, and welfare of the neighborhoods and the City as a whole, that the City is able to undertake administrative or judicial action.
3. Because behaviors and activities that are associated with the ongoing occurrence of criminal activity or crime have a substantial negative impact upon individuals, neighborhoods, and the City as a whole, the City Council, in adopting this Article, finds the administrative penalties imposed for a violation of this Article are justified and necessary to protect the property, health, safety, and welfare of this community.
4. Community safety must be protected in a way that does not result in housing discrimination or evictions based upon prejudice, unsubstantiated fear, or personal animosities. Nothing in this Article exempts Property Owners from strict compliance with state and federal housing laws, including, but not limited to, laws regarding evictions, retaliatory or discriminatory conduct, or invasion of privacy.
5. Chronic nuisance properties have a tremendous negative impact upon the quality of life, safety, and health of neighborhoods where they are located. This Article is enacted to remedy nuisance properties by providing a process for abatement; and this remedy is not an exclusive remedy available under any state or local laws and may be used in conjunction with such other laws.
6. Also, chronic nuisance properties are a financial burden to the City by the repeated calls for service to the properties, because of the nuisance

activities that repeatedly occur or exist on such property, and this Article is a means to ameliorate those conditions and hold responsible the owner or persons in charge of such property.

- B. Based on these findings, the purpose of this Article is:
  - 1. To provide administrative and civil remedies against Property Owners who permit, allow, or fail to prevent ongoing behaviors and activities to occur on their properties that compromise public safety.
  - 2. It is not the purpose of this Article to subject Property Owners to any legal liability resulting from a tenant's actions occurring away from the Owner's property.

**Sec. 14A-8-3. Definitions.**

- A. "Administrative expenses" shall include, but not be limited to:
  - 1. The costs associated with any hearings before a Hearing Officer.
  - 2. City's personnel costs, direct and indirect, incurred in enforcing this Article and in preparing for, participating in or conducting any hearings subject to this Article, including but not limited to attorney's fees.
  - 3. The cost incurred by the City in documenting the safety violations, including but not limited to, the actual expense and costs of the City responding to the safety violation(s); investigating and enforcing statutory crimes related to the safety violation, including, but not limited to, court appearances; conducting inspections; attending hearings; and preparing notices, administrative citations, and orders.
- B. "Chief of Police" shall mean the Chief of Police or his/her designee.
- C. "City" shall mean the City of Woodland.
- D. "Drug-related nuisance" means any activity related to the possession, sale, use, or manufacturing of an illegal drug or narcotic that creates an unreasonable interference with the comfortable enjoyment of life, property, or the safety and welfare of the residents of the property, the neighborhood, or the public. These activities include, but are not limited to, any activity commonly associated with illegal drug use and dealing, such as noise, steady foot and vehicle traffic day and night to a particular property, possession of weapons, drug loitering (as defined in California Health and Safety Code section 11532), possession of stolen property, identity theft, possession of property with serial numbers removed, evidence of forgery or fraud, or other drug-related activities.
- E. "Enforcement Officer" shall mean any person authorized by the Chief of Police pursuant to this ordinance to enforce violations of this Article.

- F. “Gang-related crime” means any crime motivated by gang membership in which the perpetrator, victim, or intended victim is a known member of a gang.
- G. “Hearing Officer” shall mean any person appointed pursuant to Section 14A-7-14 of the Woodland Municipal Code to preside over the administrative hearings pursuant to this Article.
- H. “Owner” and “Property Owner” have the same meaning and may be used interchangeably and shall mean the owner or owners of record of the subject real property as shown on the latest equalized tax assessment role of Yolo County or as otherwise actually known to the Chief of Police.
- I. “Person” means individual(s), corporations, associations, partnerships, limited liability companies, trustees, lessees, agents and assignees.
- J. “Real Property” or “Property” have the same meaning and may be used interchangeably and shall mean the lot or parcel of land for which the Owner has legal ownership or exercises custody or control thereof.
- K. “Safety Violation” shall mean any of the following activities or behaviors:
  1. Evidence of the illegal manufacture, cultivation, sale, use, or possession of controlled substances or other illegal drugs and substances, including paraphernalia, evidenced by the arrest of one or more persons.
  2. Any drug-related nuisance occurring within one year of an arrest on the premises for a Safety Violation defined in (1) above.
  3. Any act of prostitution evidenced by the arrest of one or more persons.
  4. Any gang-related crime.
  5. The unlawful possession, discharging, or brandishing of a firearm or weapon by any person.
  6. Violent criminal acts, whether or not a criminal case is filed, including, but not limited to, rape, attempted rape, robbery, battery, homicide, shootings, kidnapping, or arson.
  7. Disturbances occurring at parties or gatherings at which alcohol or drugs are consumed and/or crimes have occurred.
  8. Allowing the occupancy load to exceed the permitted number within a Public Assembly, as established by the California Building Code, when alcohol and/or drugs are being consumed or accessible to the gathering.
  9. Possession of child pornography.

10. The occurrence of any other criminal activity not specified above which threatens the life, health, safety, or welfare of residents of the property, the neighborhood, or the public.
- L. “Tenant” or “Occupant” have the same meaning and may be used interchangeably and shall mean that person(s), visitor(s), or transient(s) utilizing, leasing, residing at, or occupying the Real Property in question regardless of whether a lease or contract exists between the parties; such occupancy may last for any limited period of time.

**Sec. 14A-8-4. Scope of Application.**

- A. The provisions of this Article shall apply to all Real Property whether owner occupied or a rental Property, whether residential, commercial, industrial, improved, or unimproved, throughout the City wherein any of the Safety Violations are found to exist.
- B. A criminal conviction is not required for establishing the occurrence of a Safety Violation pursuant to this Article.
- C. The remedies set forth in this Article are cumulative and additional to any and all other legal remedies available whether set forth elsewhere in the Woodland Municipal Code, or in state or federal laws, regulations, or case law.

**Sec. 14A-8-5. Dual Responsibility.**

- A. Every Person owning, possessing, or having charge or control of Real 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. The Owner of Real Property shall be liable for Safety Violations as set forth in detail herein, regardless of any contract or agreement with any third party regarding the Property.
- B. Every Tenant, Occupant, lessee, or holder of any possessory interest in Real Property shall:
  1. Comply with all federal, state, and local laws applicable to the Property.
  2. Supervise or cause to be supervised anyone utilizing, residing at, or occupying the Property, with or without the consent of the Owner, consistent with this Article.
  3. Maintain the Property in a manner so as not to violate the provisions of this Article.

**Sec. 14A-8-6. Authority.**

The Chief of Police shall be responsible for administering and enforcing the provisions of this Article. The Chief of Police shall have the authority to designate employees as Enforcement Officers in conformance with this Article to assist with enforcement responsibilities of this Article, including, but not limited to, the issuance of administrative citations.

**Sec. 14A-8-7. Safety Violations Prohibited.**

It is hereby declared a violation of this Article for a Property Owner with actual or constructive knowledge, whether through the Owner or Owner's agent, lessee, sub-lessor, sub-lessee, or Occupant, to allow, permit or fail to prevent a Safety Violation to occur on the Real Property of the Owner on a repeated basis or after receipt of a notice as set forth in this Article.

**Sec. 14A-8-8. Notice to Property Owner.**

- A. To commence enforcement of this Article, the Chief of Police shall notify the Property Owner of the occurrence of a Safety Violation on the Owner's Property. The notice shall be served in accordance with Section 14A-7-4 of the Woodland Municipal Code.
- B. When the Chief of Police notifies an Owner of Rental Property of a Safety Violation allegedly caused by a specific Tenant or the Tenants of a specific unit or Property, the Chief of Police may concurrently give written notice thereof to the property manager, when one is known, and the specific Tenant(s) of a unit or Property.
- C. The notice shall also contain the following information:
  - 1. The address where the Safety Violation is occurring.
  - 2. A statement specifying the activities and behaviors which constitute the Safety Violation, including the names (when known) of the Person or Persons allegedly causing the Safety Violation, and may include reasonable actions which the Chief of Police directs the Property Owner to take to abate the violation.
  - 3. A statement informing the Owner that if any Safety Violations reoccur after thirty (30) calendar days of the date of notice, administrative citation, including a penalty not to exceed five hundred dollars (\$500) for each new Safety Violation that occurs, may be issued and imposed upon the Owner.
  - 4. A statement that the Owner must, in responding to the notice and working with Tenants, comply with all applicable federal, state and local regulations relating to evictions and prohibitions against discrimination.
- D. After an initial notice, City shall not be responsible for providing notice pursuant to this section prior to issuance of a citation for subsequent Safety Violations on

the same Property that occur within the latter of: (1) three hundred sixty-five (365) days of mailing or publication of the initial notice or; (2) that occur within three hundred sixty-five (365) days following the Hearing Officer's decision pursuant to Woodland Municipal Code section 14A-8-11.

**Sec. 14A-8-9. Safety Violation Enforcement and Fines.**

- A. Any violation of this Article may result in any or all of the following actions and/or fines:
  - 1. A misdemeanor punishable by either six (6) months in jail and/or a fine not to exceed One Thousand Dollars (\$1,000);
  - 2. Institution of a civil action by the City Attorney, or his or her designee as set forth in Section 14A-8-10;
  - 3. Issuance of administrative citation(s) and/or an order to abate the Safety Violation(s) with a fine for each and every Safety Violation of up to Five Hundred Dollars (\$500), plus any Administrative Expenses incurred in the enforcement of this Article;
  - 4. Administrative injunction ordering the action constituting a Safety Violation to immediately cease and desist; such an order may require an order that the property be immediately vacated to protect the health and welfare of the community.
  - 5. In addition to all other remedies or penalties provided by law, violation of any of the sections contained in this Article are punishable as follows:
    - i. \$100 administrative citation for the first violation;
    - ii. \$200 administrative citation for the second violation within one (1) year
    - iii. \$500 administrative citation for the third and subsequent violations within one (1) year
- B. Each day the Safety Violation(s) continue shall be deemed a new violation subject to additional citations, penalties, and fines.
- C. Violation of any section of this Article may be filed as an infraction or a misdemeanor at the discretion of the City Attorney.
- D. All fines shall be the obligation of the Owner and are due and payable within thirty (30) days of issuance of the citation, provided that when a request for a hearing is made, the fines and Administrative Expenses shall be due and payable within thirty (30) days of the date of the Hearing Officer's written decision. Any

fine or Administrative Expense not paid within the time limits set forth shall be collected pursuant to Section 14A-8-10.

**Sec. 14A-8-10. Civil Penalties.**

- A. In addition to the enforcement and fines described herein, the City Attorney may bring a civil action for injunctive relief and civil penalties pursuant to Section 14A-7-11 of the Woodland Municipal Code against any Owner who violates this Article. In any civil action brought pursuant to this Article, the court may award reasonable attorney fees and costs to the prevailing party.
- B. Any person who fails to pay to the city any fine imposed pursuant to this Article on or before the date that fine is due also shall be liable for the payment of late payment charges in the amount of Twenty Five Dollars (\$25.00), plus interest at the maximum rate permitted by law.
- C. The city may pursue any other legal remedy to enforce or collect any fines or amounts owed as set forth herein.

**Sec. 14A-8-11. Right to a Hearing.**

- A. The Property Owner has the right to request a hearing in response to a citation issued pursuant to this Article.
- B. All aspects of the hearing shall be conducted pursuant to Chapter 14A, Article 7 of the Woodland Municipal Code.

**4. Severability.** If any section, subsection, phrase or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, phrase, or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional.

**5. Effective Date and Notice.** This ordinance shall take effect thirty (30) days after its adoption and, within fifteen (15) days after its passage, shall be published at least once in a newspaper of general circulation published and circulated within the City of Woodland.

PASSED AND ADOPTED by the City Council of the City of Woodland this \_\_\_\_ day of \_\_\_\_\_, 2008, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

\_\_\_\_\_  
David Flory, Mayor

*Attest:*

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Susan L. Vannucci, City Clerk

*Approved as to form:*

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Ann M. Siprelle, City Attorney