

ORDINANCE NO. 917-22

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLYTHE, CALIFORNIA, REPEALING AND REPLACING CHAPTER 8.28 (NUISANCES) OF TITLE 8 (HEALTH AND SAFETY) OF THE BLYTHE MUNICIPAL CODE RELATING TO PUBLIC NUISANCES AND NUISANCE ABATEMENT PROCEDURES

WHEREAS, the City of Blythe has the authority, under its police power, to enact regulations for the public peace, morals and welfare of the City; and

WHEREAS, the City Council of the City of Blythe finds that certain conditions constitute public nuisances and are a threat to the public peace, safety and welfare of the City; and

WHEREAS, the City of Blythe has an interest in maintaining the City of Blythe in an orderly and aesthetically pleasing condition, and to improve the quality of life for its residents, businesses, and visitors; and

WHEREAS, Sections 36901, 38771 and 38773.5(a) of the California Government Code authorize the City of Blythe to enact ordinances declaring what constitutes a nuisance, the procedures for abating nuisance conditions, providing for the recovery of costs and attorneys' fees to abate the nuisance and providing for the collection of civil penalties; and

WHEREAS, this Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines. The Ordinance has been found to be exempt pursuant to CEQA Guidelines Section 15061(b)(3) (General Rule) because the Ordinance will not have a significant effect on the environment; and

WHEREAS, all legal prerequisites prior to the adoption of this Ordinance have occurred.

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

SECTION 1. Recitals. The City Council finds that all the recitals, facts, findings, and conclusions set forth above in the preamble of this Ordinance are true and correct.

SECTION 2. Amendment to Chapter 8.28 of Title 8. Chapter 8.28 (Nuisances) of Title 8 (Health and Safety) of the Blythe Municipal Code is hereby deleted in its entirety and replaced with the following:

Chapter 8.28 – ABATEMENT OF PUBLIC NUISANCES.

8.28.010 – Purpose and intent.

- A. It is the intention of the city council, in adopting the provisions codified in this chapter, to set forth guidelines for determining what conditions constitute a public nuisance; to establish a method for giving notice of the conditions and an opportunity to correct;

and, finally, in the event the public nuisance is not abated or corrected, to provide a procedure for a hearing and determination of the facts and manner in which the conditions shall be corrected or removed.

- B. In order to further the stated goals of the city and to protect its citizens and their property from conditions which are offensive or annoying to the senses, detrimental to property values and community appearance, or hazardous or injurious to the health, safety, or welfare of the general public, the city council has determined that this chapter pertaining to nuisance abatement is necessary to effectively abate or prevent the development of such conditions in the city.
- C. The remedies provided for in this chapter are supplemental and complementary to all of the provisions of this code, state law, and any law cognizable at common law or in equity; and nothing herein shall be read, interpreted, or construed in any manner to limit any existing right or power of the city to abate any and all public nuisances.

8.28.020 – Definitions.

The following words, terms and phrases when used in this chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. “Abandoned” refers to buildings, structures, property or other items found to be unoccupied, unattended or left in a place or condition in which it is reasonably apparent or obvious that the owner has no intention of returning to occupy or claim it.
- B. “Abate” means to remove the source of the public nuisance either by correcting specific problems or by removal from public or private property.
- C. “Abatement costs” means and includes all costs and expenses incurred by the city in abating a public nuisance. Such costs include, but are not limited to, the following: the actual expenses and costs to the city in the preparation of notices, specifications and contracts; inspection of the work; recording fees; any attorneys’ fees expended in the abatement of the nuisance, through civil action or otherwise; all costs and expenses for which the city may be liable under state law arising from or related to the nuisance abatement action; and all costs or expenses to which the city may be entitled pursuant to state law. Abatement costs shall begin to accrue at the time the city first receives a complaint regarding a problem on the property. Abatement costs may also be referred to in this chapter as “costs of abatement” and “administrative costs”.
- D. “Abatement hearing” means the administrative hearing before the hearing officer after issuance of a notice to abate by an enforcement official.
- E. “Applicable state code” means any law of the State of California which protects the health, safety or welfare of the citizens of the city.
- F. “Boarded building” means a building with doors or windows that have been covered with plywood or other material for the purpose of preventing entry into the building by persons or animals.
- G. “Building official” means the building official of the city.
- H. “City manager” means the city manager of the city.
- I. “Decayed” means vegetation which has become deteriorated, lost its strength, health or has declined in quality.
- J. “Deteriorated” means any building, structure, fence, automobile, or other item which is in a state of disrepair, partial ruin or decay.

- K. "Dilapidated" means any building, structure, fence, automobile, and the like in a state of disrepair or reduced into partial ruin or decay.
- L. "Diseased" means any abnormal condition that interferes with vital physiological processes, caused by unfavorable or environmental conditions.
- M. "Dismantling" means stripping, disassembling or taking apart any building, structure, automobile, furniture or equipment.
- N. "Encroaches" means advancement beyond property boundaries.
- O. "Enforcement official" means the city manager, the building official, the chief of police and any employee or agent of the city so designated by them and charged with enforcing the municipal code of the city, or applicable state code.
- P. "Excavation" means a natural cavity, pouch or recess; the action or process of excavating formed by cutting, digging or scooping.
- Q. "Facade" means the decorated face or front of a building or structure.
- R. "Field" means a wide open space of land.
- S. "Fire hazard" means any situation in which there is a greater than normal risk of harm to people or property due to fire.
- T. "Fire marshal" means the fire marshal of the city.
- U. "Harbor" means to provide a place, home or habitat for rodents, vermin or farm animals.
- V. "Hazardous" means a situation which poses a level of threat to life, health, property or environment.
- W. "Hazardous liquid" means a liquid deemed to cause a hazard, exposing one to unsafe, dangerous conditions by skin or airborne exposure.
- X. "Hazardous tree" means a tree in which the branches, trunk or other portion have grown into a position which has, or may have, the potential to become hazardous to people, pedestrians or other property.
- Y. "Hearing officer" means the city manager or the person designated by the city manager charged with presiding over the nuisance abatement hearing and responsible for issuing orders to abate public nuisances and pay abatement costs. The hearing officer's role in the hearing is to be neutral.
- Z. "Holiday lights and decorations" means lights or decorations used to denote a holiday or used in association with a holiday.
- AA. "Homeowners' association" means an organization, elected or not, which governs regulations and expenditures of a particular community.
- BB. "Illegal activity" means engaging in activities that are prohibited by law or statute, contrary to, or forbidden by official rules, regulations, accepted rules or this code.
- CC. "Interested party" means the owner, legal occupant, or holder of a recorded interest of a property subject to a notice or order to abate.
- DD. "Land" means the part of the earth that is not covered by water.
- EE. "Lot" means a parcel of land having fixed boundaries.
- FF. "Nauseating" means causing nausea, disgust, revulsion or loathing.
- GG. "Neglected" means to disregard, pay inadequate attention to, fail to care for, or to fail to attend to any building, structure, equipment, vehicles, vegetation, and the like.
- HH. "Non-approved material" means a material utilized, but which is not approved by the city.
- II. "Notice to abate" means notice provided by the city that a nuisance exists on a property and instructions to abate. Such notice is issued by an enforcement official upon determining the existence of a nuisance.

- JJ. “Order” means the order to abate a public nuisance issued pursuant to this chapter.
- KK. “Order to abate” means the order of the city to abate a nuisance.
- LL. “Overgrown” means vegetation that has grown abnormally or excessively large.
- MM. “Owner” means the owner of record of property.
- NN. “Parkway” means that portion of the street right-of-way which is available for landscaping, and not for curb, gutter or pavement.
- OO. “Patch painted” means any building or structure that is painted in a fashion that gives the reasonable appearance of being incomplete or mismatched.
- PP. “Premises” means any real property or improvements thereon.
- QQ. “Property” means the land or any permanent feature or structure above or below the surface. Also known as real property, land, lots, parcels or real estate.
- RR. “Public right-of-way” means any place or location on which the public has a right to travel, including, but not limited to, a street, road, sidewalk or footpath.
- SS. “Public nuisance” means any nuisance designated in this chapter.
- TT. “Public view” means anything which can be seen by a person from the public right-of-way, or from public property, or on areas of private property open to access by the public or by consent of the person in possession of the property or by consent of an agent of that person.
- UU. “Refuse” means unused or discarded matter/material having no substantial market value, including, but not limited to, rubbish, refuse, debris, sludge, rubble, asphalt, concrete, plaster, tile, rocks, bricks, soil, building materials, wood, crates, cartons, paper, containers, cans, bottles or barrels containing refuse or other matter, and plant or tree trimmings.
- VV. “Tarpaulin” means a piece of cloth or other material used for protecting or covering exposed objects or areas.
- WW. “Terrain” means an area of land or the particular features of it.
- XX. “Topped” means trees that have been cut leaving only the tree trunk or stump, or any other severe type of pruning which usually produces less desirable results than a more moderate pruning with respect to the tree’s natural form and which is generally hazardous to the overall health and stability of the tree.
- YY. “Vehicle” means a device by which any person or property may be propelled, moved, or drawn upon a highway, except for a device moved exclusively by human power or used exclusively upon stationary rails or tracks. For the purpose of this chapter, vehicle includes, but is not limited to, any bus, camper, golf cart, house car, motorcycle, motor truck, passenger vehicle, pickup truck, trailer and truck tractor.
- ZZ. “Vermin” means any one of various common types of small insects or animals which cause harm and annoyance.

8.28.030 – Declaration of public nuisance.

It is unlawful and is hereby declared to be a public nuisance for any person, business, homeowners’ association, corporation or entity owning, leasing, occupying, or having charge or possession of any land, parcel, building, structure or premises, in any location within the city, to maintain such premises in such a manner that any of the following conditions are found to exist, or cause or may cause a hazard to health, safety or general welfare:

- A. Any violation of a federal, state, or local law or ordinance, land use plan, rule, regulation, and/or any code adopted by reference in this code.

- B. Any property not maintained or used in a condition consistent with the approved plans or conditions.
- C. Any land, terrain or configuration which interferes with the established drainage pattern over a property or from adjoining properties that may result in erosion and/or surface drainage problems that could be detrimental to the public health, safety, usability, or appearance to neighboring properties.
- D. Any building or structure left not secured, not occupied, abandoned, partially or completely damaged or destroyed, or which is in a state of partial construction for an unreasonable period of time.
- E. Any building or structure erected, altered, expanded, maintained or used contrary to the provisions of this code or any condition or requirement imposed upon the building or structure.
- F. Any building or structure not adequately maintained or which is deteriorated in any of the following ways:
 - 1. Peeling, discolored or patch painted with colors that do not match on the exterior of the structure;
 - 2. Missing, broken or boarded up windows;
 - 3. Roof or ceiling in disrepair;
 - 4. Damaged porch, balcony or stairways;
 - 5. Missing or damaged handrails or related safety equipment;
 - 6. Broken or missing window screens, if required;
 - 7. Broken or missing locks and latches on windows and doors;
 - 8. Facades, exterior stucco or decorative planters or any other portion of the exterior of a structure which is damaged or not adequately maintained.
- G. Bees and other stinging insects, either intentionally or not, in a place or condition that has, or may have the potential to, bite, sting or harm humans or animals, unless otherwise permitted by the city.
- H. Any building or structure that is overcrowded with persons such that it unreasonably interferes with a neighboring resident's right to access, use, or enjoyment of his or her property, or such that it impairs the general welfare of a neighboring resident, or provides inadequate sanitation for the number of occupants.
- I. Failure to secure and prevent public access to abandoned or vacant buildings, structures or portions thereof.
- J. Any fence, wall or gate in any of the following conditions:
 - 1. Installed without the proper permits;
 - 2. Installed or maintained contrary with the conditions set forth in the approved plans or permits;
 - 3. Damaged, broken, dilapidated, unsightly or not adequately maintained;
 - 4. Patch painted with colors that do not match;
 - 5. Patched or covered by plywood, metal, plastic, tarpaulin or non-approved materials;
 - 6. Constructed of metal or plywood garage doors;
 - 7. Broken or non-working emergency access gates or equipment.
- K. Landscaping, vegetation, trees, vacant land, and parkways or any portion thereof, in public view, in any of the following conditions:
 - 1. Lack of turf, planted material, decorative rock, bark, planted ground cover or coverings;

2. Lawn or grass in excess of eight inches in height or which is dead, decayed, diseased, or not adequately maintained;
 3. Overgrown to a point which does, or has a potential to, harbor rats, vermin, excessive amounts of insects or other potential disease carriers;
 4. Obstructs vision of motorists or pedestrians or official traffic control devices;
 5. Encroaches onto, over, or upon any public right-of-way, including, but not limited to streets, alleys or sidewalks;
 6. Flowerbeds, planters, gardens and other decorative growing areas which contain overgrown, dead, decayed, diseased, or inadequately maintained flowers, bushes, hedges, ground coverings or vegetation;
 7. Flowerbeds, planters, gardens and other decorative growing areas which have become overrun with grass or weeds;
 8. Trees, bushes, hedges, and other vegetation which have become overgrown to a point where the tree, bush, hedge or other vegetation substantially encroaches onto neighboring properties causing a substantial interference with the neighboring resident's right to access, use or enjoyment of their property, or otherwise causes a hazard to health, safety or general welfare;
 9. Vacant land, fields or lots on which the vegetation is overgrown, or which contains or is likely to contain rats, vermin, trash, or illegal activity;
 10. Vacant land, fields or lots which are maintained in a condition which is a fire hazard, unsightly, or likely to invite mischievous or illegal activity;
 11. Trees which are dead, overgrown, not adequately maintained, or which have been declared hazardous or have been topped leaving only the tree trunk or tree stump, or have been declared to be hazardous by a certified arborist.
- L. Offensive or nauseating odor or smell created by garbage, recycling or garbage containers, dead animals or other odor causing substances or materials.
- M. Any of the following conditions on any property or portion thereof visible from public view:
1. Lumber, trash, garbage, debris, refuse;
 2. Hazardous swimming pools, spas, ponds, bodies of water or excavations;
 3. Abandoned, broken or neglected equipment and machinery;
 4. Furniture, appliances, play equipment or other household fixtures, except for lawn furniture;
 5. Clotheslines, clothes or similar materials hanging or placed in front yards, side yards, porches, balconies or fencing, or otherwise in public view;
 6. Any type of item or material stored or kept on a rooftop, carport or patio cover;
 7. Accumulation of litter, trash, boxes, or other items in front of doorways, on sidewalks, public walkways and other common areas used by the public;
 8. Accumulation of litter, trash, boxes or other items in parking lots, planters and other landscaped areas;
 9. Temporary service bins, dumpsters, or storage containers stored on a public street or on private property, except when associated with a

- permitted construction or remodeling project, stored in an approved trash enclosure, or completely stored out of public view;
10. Garbage cans, trash cans, recycling containers and bins, bags and other trash collection devices in place beyond 24 hours before or after the scheduled trash day;
 11. Commercial garbage or recycling bins stored outside the dumpster enclosure;
 12. Accumulation of grease, oil or other hazardous liquids or materials on paved and unpaved surfaces, driveways, sidewalks, walkways or any other location;
 13. Tarpaulins or any non-approved screening materials used for any purpose other than in an emergency weather condition, or when attached to temporary construction fencing surrounding an approved and permitted construction project or public safety hazard;
 14. Portable devices or equipment, including but not limited to play equipment, located or stored on any street, sidewalk or public right-of-way;
 15. Holiday lights or decorations, excluding permitted flags, installed or displayed in front or side yards, or on a structure, except 30 days before and after December 25, and 14 days before or after the Fourth of July, Halloween, Easter and Thanksgiving;
 16. Storage of construction equipment, machinery or building materials other than during operations conducted under a valid building, grading or demolition permit;
 17. Cement mixers, construction trailers or other equipment parked more than four hours at a location other than the site of the construction project;
 18. Animal, fowl or bird feces kept in a visible location or in a condition that is or may become hazardous or nauseating;
 19. Foundations, retaining walls, planters, pools and other structures left on a property after a building or structure has been demolished or destroyed unless expressly authorized under this code or a demolition permit.
- N. Repairing, dismantling, or painting of any vehicle or motorized equipment visible from public view unless:
1. The repairing or dismantling is conducted in an enclosed garage where the vehicle or equipment is registered to and owned by a person permanently residing on the property;
 2. The repairing or dismantling can be started and completed in less than 24 hours; and
 3. The painting is done in an approved paint booth or in accordance with the allowed uses in the California Fire Code. At no time can the painting be conducted in a residential district.
- O. Repairing or dismantling of any vehicle or motorized equipment on vacant lots, residential, commercial or industrial parking lots, including those associated with auto repair or auto parts stores, or on any street or alley.
- P. Any swimming pool, spa, pond, fountain or other body of water which is abandoned, unfiltered, polluted or not otherwise adequately maintained, or which creates a hazard to public health, safety or general welfare.
- Q. Any outdoor burning of any trash, material, building, structure, matter or thing, unless authorized by the fire marshal or his or her authorized representative by

the issuance of a permit; except wood, charcoal, or those materials normally associated with and used inside of a barbeque, fire pit, wood burning stove or other similar device specifically made and designed for the burning of such materials.

- R. Any property with dirty water, sewage or any other substance, including but not limited to, urine or other bodily matter, discolored water, contents of septic tanks, cesspools or privy vaults, which flows onto public or private property.
- S. Any property, building or structure, wall, fence, pavement, or walkway which is painted in an unreasonably offensive or garish manner, or in bright, fluorescent, or luminescent colors, which is out of harmony or conformity with the standards of adjacent properties.
- T. Maintenance of property in conditions that are detrimental to the public health, safety or general welfare or that constitutes a public nuisance as defined in California Civil Code sections 3479 and 3480, including, but not limited to, anything dangerous to human life or detrimental to human health, or that lacks adequate ventilation, sanitation or plumbing facilities, or that constitutes a fire hazard.
- U. Any property that generates an unusually high number of calls for police, code enforcement and/or fire service due to illegal activity and/or public nuisance conditions, or where an unusual amount of criminal activity takes place as demonstrated by police calls and/or reports. An unusual number of calls for service, or an unusual amount of criminal activity, may be determined in part by comparing similar or neighboring properties in similar zones or within the same or a similar neighborhood within the city.

8.28.040 – Right of entry.

- A. The enforcement official may use all lawful means to enter upon any property in the city for the purpose of inspecting the property for a public nuisance and/or for the removal of any public nuisance from the property. As used in this section, “lawful means” means consistent with the requirements of the United States Constitution, including, but not limited to, the Fourth Amendment, and all other applicable provisions of law.
- B. If a property owner or occupant refuses to allow the enforcement official entry upon the property for inspection or abatement of a public nuisance, the enforcement official shall request that the city attorney apply to a court of competent jurisdiction for a warrant authorizing the entrance upon such property to perform an inspection or abatement of such nuisance.

8.28.050 – Notice to abate to property owner.

Whenever an enforcement official determines a public nuisance exists as defined in this chapter, he or she shall notify the property owner and any interested party in writing of the existence of the alleged nuisance and direct that it be abated.

8.28.060 – Notice to abate – form and content.

The notification to the property owner and any interested party provided for in Section 8.28.050 of this chapter, hereafter referred to as a notice to abate, shall be headed “NOTICE OF PUBLIC NUISANCE” in letters not less than one inch in height. The notice to abate shall, in legible

characters, detail the violations and the conditions constituting a public nuisance and include the accessor's parcel number and street address, if any, of the property involved, and shall contain a description of the property in general terms reasonably sufficient to identify the location and extent of the nuisance. The notice shall further specify the date, time and place of a nuisance abatement hearing, which hearing shall be held at least ten calendar days from the date of issuance of the notice to abate. Other information, such as the owner's responsibility for administrative and incidental costs and expenses incurred in abating the nuisance, may be included in the notice to abate. This section shall not apply to Section 8.28.190 of this chapter concerning emergency abatement.

8.28.070 – Notices and orders to abate – method of service.

- A. Notices and orders required by this chapter shall be personally served on the property owner(s). If personal service is not possible, service shall be made by both of the following methods:
 - 1. By posting the notice in a conspicuous place on or in front of the property; and
 - 2. By registered or certified mail addressed to the owner(s) or other person(s) in charge or control of the property at the address shown on the last equalized assessment roll. Service shall be complete at the time of deposit into the United States mail.
- B. Failure of the owner or other person in charge of or control of the property to actually receive such notice or order shall not affect the validity of any proceedings under this chapter.

8.28.080 – Voluntary abatement of nuisance.

The owner of any building, structure, or property alleged to be a nuisance under the provisions of this chapter may abate the nuisance at any time prior to the date and time set for the nuisance abatement hearing. The owner shall advise the enforcement official of the abatement. Once advised, the enforcement official shall inspect the premises to ensure that the nuisance has been abated. If the enforcement official determines the nuisance has been abated, the nuisance abatement hearing shall be canceled.

8.28.090 – Nuisance abatement hearing.

- A. At the date, time and place stated in the notice to abate, the hearing officer shall hear and consider all relevant evidence, objections, and/or protests, and shall receive testimony of owners, witnesses, city personnel, and interested persons relative to the alleged public nuisance and to any proposed abatement measures. The hearing officer may continue the hearing from time to time.
- B. The hearing shall be recorded by either a video or audio-recording device or transcribed by a court reporter. The hearing officer shall not be limited by the technical rules of evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in a civil action in a California court of competent jurisdiction. Any relevant evidence shall be admitted if it is the type of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission

of such evidence over objection in a civil action. Oral evidence shall be taken only on oath or affirmation. Irrelevant and unduly repetitious evidence shall be excluded.

8.28.100 – Nuisance abatement hearing – hearing officer determination.

The hearing officer shall issue a written decision within five business days of the close of the nuisance abatement hearing. If the hearing officer finds a public nuisance exists, the notice of decision shall set forth the nature of the nuisance and shall order the owner or responsible party to abate the nuisance.

- A. The order shall provide notice to the owner or responsible party that the administrative and incidental costs and expenses incurred in abating the nuisance shall be assessed against the property and result in a lien or special assessment until paid.
- B. As applicable to the particular nuisance found to exist, the order shall specifically direct the owner or responsible party to abate the nuisance by rehabilitation, repair, or demolition in a lawful manner. The order may set forth a particular manner in which the nuisance must be abated.
- C. The order shall set forth time within which the work shall be commenced and completed. This time period shall not be longer than thirty calendar days unless otherwise specified in the order upon finding that the nuisance presents unusual circumstances which cannot be timely abated within a thirty-day time period.
- D. The order shall state if the nuisance is not abated, it will be removed and abated by the city. The order shall state that the costs and expenses of removal and abatement by the city, including any incidental costs and expenses, together with the prime interest rate plus one percent of the entire amount owing, will be assessed and result in a lien or special assessment upon the property until paid.
- E. The order shall inform the owner of their right to appeal the decision and order pursuant to this chapter.

8.28.110 – Order to abate a public nuisance – method of service.

The hearing officer's decision and order shall be served in accordance with Section 8.28.070 of this chapter.

8.28.120 – Voluntary abatement after order to abate a public nuisance.

The property owner may, at his or her own expense, remove and abate the nuisance as prescribed by the hearing officer's order prior to the expiration of the abatement period set forth in the order. If the property has been inspected by the enforcement official and the nuisance has been abated in accordance with the order to abate, the enforcement official shall not remove or abate the nuisance, but may schedule a hearing with the hearing officer to determine the administrative and incidental costs and expenses incurred in abating the public nuisance.

8.28.130 – Abatement of public nuisance by city.

If a declared nuisance is not completely abated within the time prescribed in the hearing officer's order to abate a public nuisance and the time for filing an appeal has expired, the

enforcement official is authorized and directed to abate the nuisance by city forces or private contract in accordance with the United States Constitution and all other applicable provisions of law. The enforcement official is also expressly authorized to enter upon the premises for the purpose of removing and abating the nuisance in accordance with the requirements of Section 8.28.040 of this chapter, provided that such entry, removal and/or abatement is in compliance with the requirements the United States Constitution and all other applicable provisions of law.

8.28.140 – Abatement costs – accounting.

- A. The enforcement official shall keep an account of the costs and expenses of removing and abating a nuisance, including incidental expenses, for each separate lot or parcel of land on which a nuisance has been found to exist.
- B. As used in this chapter, the term “incidental expenses” shall include, but not shall not be limited to, administrative overhead, the costs of printing, advertising, mailing and/or posting provided for in this chapter, the costs of preparing notices, specifications and contracts, inspection of the abatement work, attorneys’ fees, and any other expenses incidental to the completion and inspection of the abatement work.

8.28.150 – Abatement costs – report and notice of hearing.

- A. Within a reasonable time after a nuisance has been abated, whether by the owner or responsible party or by the city, the enforcement official shall prepare an itemized report showing all expenses and costs of removing and abating the nuisance, including incidental expenses. Such report shall refer to each separate lot or parcel of land by descriptions sufficient to identify such lot or parcel together with the expenses proposed to be assessed against each separate lot or parcel of land therefor, respectively. The enforcement official shall submit the report to the hearing officer and shall set the same for a hearing before the hearing officer.
- B. The enforcement official shall issue a notice of hearing, which shall be headed in letters not less than one inch in height as follows: “NOTICE OF COSTS OF ABATEMENT AND HEARING.” The notice shall include the date, time and place of the hearing and shall be served on the property owner and any other interested party in accordance with Section 8.28.070 of this chapter at least ten calendar days prior to the date set for the hearing. The notice shall also include a copy of the report showing all costs and expenses of removing and abating the nuisance, including incidental expenses.

8.28.160 – Abatement costs – hearing.

- A. At the time, date and place set for the hearing on the costs of abatement, the hearing officer shall conduct a hearing on the report. The owner of the property, and any other interested party, shall be afforded an opportunity to be heard with respect to the costs and expenses set forth in the report. Any objections or protests raised by any of the persons liable to be assessed for the costs of abating the nuisance may be submitted orally or in writing prior to the conclusion of the hearing.
- B. Upon conclusion of the hearing, the hearing officer shall make such revisions, corrections or modifications to the report as the hearing officer deems just and

appropriate, after which the report shall be confirmed as submitted, or as revised, corrected or modified. The hearing on the costs of the abatement may be continued from time to time.

- C. Within five business days after the conclusion of the hearing, the hearing officer shall issue an order confirming the costs of abatement and assessing the costs of abatement as a special assessment against the property. Such order shall provide that the property owner shall pay the costs of abatement within thirty calendar days or a notice of special assessment will be filed with the county auditor. The order shall also inform the owner of their right to appeal the order pursuant to this chapter. The order, together with a copy of the report confirming the costs of abatement, shall be served on property owner in accordance with Section 8.28.070 of this chapter. The hearing officer's order shall be final unless appealed in the time and manner set forth in this chapter.

8.28.170 – Collection of costs – special assessment.

- A. If the property owner fails to pay the costs of abatement within thirty calendar days of the date of the hearing officer's order confirming the costs of abatement, or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Section 38773.5 of the California Government Code.
 - 1. The enforcement official shall prepare a notice of special assessment and shall transmit the notice of special assessment to the county auditor for placement on the county assessment roll. The notice of special assessment shall include a copy of the hearing officer's order confirming the costs of abatement.
 - 2. Notice of the special assessment shall be given, by certified mail, to the property owner, if the property owner's identity can be determined from the county assessor's or county recorder's records.
 - 3. The notice shall be given at the time of imposing the assessment and shall specify that the property may be sold after three years by the tax collector for unpaid delinquent assessments.
 - 4. The enforcement official may also record a copy of the notice of special assessment with the county recorder.
- B. As authorized by Section 38773.5 of the California Government Code, the assessment may 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 and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment.
- C. As authorized by Section 38773.7 of the California Government Code, upon the entry of a second or subsequent civil or criminal judgment within a two-year period that finds an owner of property responsible for a condition that may be abated pursuant to this chapter, the responsible party may be ordered to pay treble the costs of the abatement. These costs shall not include costs incurred abating conditions pursuant to Section 17980 of the California Health and Safety Code.

8.28.180 – Appeal procedures.

Appeals pursuant to this chapter shall be heard by the city council. The owner or any interested party may appeal the hearing officer's decisions and orders issued pursuant to this chapter.

- A. An appeal shall be filed with the city clerk within ten calendar days following service of the hearing officer's decision and order or order confirming the costs of abatement. The appeal shall be in writing and shall state the grounds for the appeal. The appeal shall be accompanied by the fee required for the taking of any such appeal, which fee shall be set by city council resolution. The city council shall have the discretion to refund the fee in whole or in part if the owner or interested party demonstrates that no public nuisance existed at the time the hearing officer's order to abate was issued.
- B. The city clerk shall set the matter for a de novo hearing before the city council at a date and time not less than ten days nor more than forty-five days from the date of the filing of the appeal. The city clerk shall notify the appellant and such other persons as may be deemed appropriate by the city clerk of the date and time of the hearing on the appeal. The city council may, in its discretion, continue the hearing date for good cause.
- C. At the time and place set for the appeal, the city council shall hold a de novo hearing and shall afford the appellant and other interested parties a reasonable opportunity to be heard in connection therewith.
- D. To allow appellants the opportunity to fully present their arguments, the formal rules of evidence shall not apply and all relevant evidence may be considered. However, the city council shall have the discretion to exclude irrelevant evidence, i.e., evidence that does not pertain to the issue(s) on appeal. The city council shall also have the discretion to exclude evidence it deems needlessly repetitive.
- E. At the conclusion of the hearing, the city council may affirm, reverse or modify, in whole or in part, the order to abate or the order confirming the costs of abatement. The city council's decision shall be final and shall be served on the owner and any other interested party within five business days of the appeal hearing in accordance with Section 8.28.070 of this chapter.

8.28.190 - Emergency abatement.

- A. Notwithstanding any other provisions of this chapter, whenever the city manager determines that a public nuisance, as defined in this chapter or in any other applicable law, constitutes an immediate hazard, threat of harm or danger to persons or property, he or she may, without observing the provisions of this chapter relating to notice and hearing prior to abatement, immediately and forthwith cause the summary abatement of such public nuisance in such manner as the city manager determines is reasonably required. The city manager shall consult with the city attorney prior to causing such summary abatement.
- B. The summary abatement procedure authorized by this section shall be used only in circumstances in which there is an imminent hazard, threat of harm or danger to persons or property.
- C. Any abatement pursuant to this section shall be limited to the actions necessary to neutralize the immediate hazard, threat or danger only and shall comply with the requirements of the United States Constitution.

- D. Within ten business days following the summary abatement authorized by this section, the enforcement official shall serve the owner and any interested party with notice of the summary abatement. The notice shall provide that a post-abatement hearing will be provided to the owner and any interested party upon request. Such notice shall be served in accordance with Section 8.28.070 of this chapter.

8.28.200 – Violations.

Any person, whether the owner and/or other legally responsible party who causes, permits or maintains any nuisance condition to exist on any property, place or area within the city, shall be deemed guilty of a misdemeanor and upon conviction shall be punishable as provided in chapter 1.24 of this code.

8.28.210 – Alternative remedies.

- A. The procedure for abatement set forth in this chapter is an alternative procedure to any other procedure permitted by state or local law and shall neither prohibit the use of any other lawful abatement procedure nor be deemed to prevent the city council from ordering the commencement of any civil action to abate a nuisance as an alternative to or in conjunction with the proceedings set forth in this chapter. In addition thereto, any nuisance that is defined as a misdemeanor by any provision of this chapter or this code may be abated by criminal prosecution.
- B. The prevailing party in any action, administrative proceeding, or special proceeding to abate a nuisance pursuant to this chapter shall be entitled to its reasonable attorneys' fees if the city elected to seek recovery of its own attorneys' fees at the initiation of the action, administrative proceeding, or special proceeding.
- C. Notwithstanding any other provision of this chapter, the costs of abatement, including incidental expenses, as confirmed either by the hearing officer or the city council after appeal, may be assessed against the owner(s) of the property subject to abatement as a debt personal to the owner(s) and as a lien on the property. In the event the hearing officer or the city council assesses the costs of abatement against the owner(s) personally, the assessment shall be due and payable within thirty calendar days after service thereof. In the event such assessment is not paid within thirty calendar days, the city may commence any legal proceeding available to it including, but not limited to, suit in small claims court, municipal court or superior court to recover the costs of abatement, or may permit the lien to be assessed against the property, or both. Any determination as to the method of collection shall not operate or be construed as an election of remedies.

SECTION 3. Environmental Compliance. The City Council hereby finds that it can be seen with certainty that there is no possibility the adoption and implementation of this Ordinance will have a significant effect on the environment. The Ordinance is therefore exempt from the environmental review requirements of the California Environmental Quality Act pursuant to Section 15061(b)(3) (General Rule) of Title 14 of the California Code of Regulations.

SECTION 4. Inconsistencies. Any provision of the Blythe Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Blythe hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 6. Effective Date. This Ordinance shall take effect thirty (30) days after its final passage.

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

PASSED, APPROVED AND ADOPTED this 9th day of August 2022, by the following called vote to wit:

AYES:	Reynolds, DeConinck, Rodriguez, Halby and Burton
NOES:	None
ABSENT:	None
ABSTAIN:	None

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