

**ORDINANCE NO. 2009-1321**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, CALIFORNIA, ADDING CHAPTER 10.48 TO THE SAN MARCOS MUNICIPAL CODE TO ESTABLISH MINIMUM STANDARDS FOR THE MAINTENANCE OF EXISTING PROPERTY AND STRUCTURES.**

WHEREAS, the City Council of the City of San Marcos (the "Council") is authorized to enact regulations to protect the public welfare, health and safety of its citizens; and

WHEREAS, the City of San Marcos (the "City") has received complaints from residents about the appearance and maintenance of certain properties throughout the City that currently are not violations of the City's Municipal Codes but such conditions have a tendency to depreciate the aesthetic and property values of the surrounding properties and are detrimental to the well being of the City; and

WHEREAS, the Council has the firm belief that the current and future property values of the community are affected significantly by the appearance and maintenance of real property and that implementation of this Chapter will assist in the avoidance of further deterioration of residential and nonresidential areas and be of benefit to the community as a whole.

NOW, THEREFORE, BE IT ORDAINED that the City Council of the City of San Marcos, California, does hereby declare, determine and order as follows:

Section 1. That the above recitations are true and correct.

Section 2. That the Code of Ordinances of the City of San Marcos, California, is hereby amended by adding Chapter 10.48, which said chapter reads as follows:

**CHAPTER 10.48**

**PROPERTY VALUE PROTECTION AND**

**NEIGHBORHOOD PRESERVATION**

**SECTIONS:**

<b>10.48.010</b>	<b>Purpose and Intent</b>
<b>10.48.020</b>	<b>Definitions</b>
<b>10.48.030</b>	<b>Property in General</b>
<b>10.48.040</b>	<b>Buildings and Structures</b>
<b>10.48.050</b>	<b>Fences, Gates and Walls</b>

<b>10.48.060</b>	<b>Landscaping</b>
<b>10.48.070</b>	<b>Off-Street Parking</b>
<b>10.48.080</b>	<b>Obstructions in the Right-of-Way</b>
<b>10.48.090</b>	<b>Tents, Shelters, Canopies and Tarps</b>
<b>10.48.100</b>	<b>Dangerous Conditions to Children</b>
<b>10.48.110</b>	<b>Storm Water Conveyance System</b>
<b>10.48.120</b>	<b>Emission of Obnoxious Odors</b>
<b>10.48.130</b>	<b>Enforcement: Penalty</b>

**10.48.010 Purpose and Intent** This Chapter was developed based on the firm belief that the current and future property values and general welfare of the community are affected significantly by the appearance and maintenance of real property and that implementation of this Chapter will avoid further deterioration of residential and nonresidential areas and be of benefit to the community as a whole. The purpose and intent of this Chapter is to:

- (a) Enhance and promote the maintenance and appearance of real property, both improved and unimproved, and by doing so, improve the livability, appearance and social and economic conditions of the community;
- (b) Ensure that real properties, whether improved or unimproved, do not reach such a state of deterioration or disrepair as to cause the depreciation of the value of surrounding property or be materially or aesthetically detrimental to nearby properties and improvements;
- (c) Utilize the sanctions and penalties of this Chapter after all reasonable efforts at resolution by educational and non-confrontational means have been exhausted, it being recognized that voluntary compliance is preferred over all other remedies;
- (d) Establish a six (6) month educational period from the adoption of Ordinance No. 2009-1321 during which only notices of violations will be issued with educational material outlining the provisions of this Chapter. Health and safety violations are exempt from this provision;
- (e) Set forth the requirement that all property within the City of San Marcos be maintained and has an appearance that is acceptable to the general public;
- (f) Establish the minimum standards for the appearance and maintenance of real property. This Chapter applies to both residential and nonresidential developed properties, as well as undeveloped land. These standards apply to only portions of private property that is visible from the public right-of-way;
- (g) Proactively enforce the provisions of this Chapter throughout the City except with respect to single family residential properties;
- (h) No anonymous complaints will be investigated unless they relate to a health and safety matter;

- (i) Establish that it is unlawful for any person owning, leasing, occupying or having charge or possession of any property in the City to maintain such property in such manner that any of the conditions as described in the this Chapter exist, except as may be allowed by the City code; and
- (j) The City shall develop a program to assist those who are either physically or financially incapable of maintaining their property to the minimum standards of this Chapter.

#### **10.48.020 Definitions**

(a) Best Management Practice – “Best Management Practice” (BMP) means the schedule of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce to the maximum extent practicable the pollution of the waters of the United States. BMPs also include treatment requirements, operating procedures and practices to control site runoff, spillage or leaks, sludge or waste disposal or drainage from raw material storage.

(b) Building – “Building” shall mean a structure having a roof.

(c) Ground Cover – “Ground Cover” means anything which covers the ground surface or topsoil and has the effect of reducing erosion. Preferably, this would be a vegetative layer of grasses and/or other low-growing plants but may also include plant residues such as leaf litter and tree debris as well as various forms of rock or mulch. Artificial groundcovers may also be established with such materials as straw mulch, jute mesh or artificial turf.

(d) Street Side Yard – “Street Side Yard” means a yard extending from the front yard to the rear yard, the depth of which contains all areas between the side property line of a corner lot back to the wall(s) of the building which are parallel or generally face the side property line.

(e) Landscaping – “Landscaping” shall mean live shrubs, bushes, trees and ground cover, on the grounds surrounding a structure. Landscaping shall also include but is not limited to, the installation of other landscape features such as planters, water elements, pedestrian walks, walls, patios or decks.

(f) Public Right-of-Way – “Public Right-of-Way” shall mean any place owned and maintained by or dedicated to use of the public for the purpose of pedestrian or vehicular travel, including by not limited to a street, sidewalk, curb, gutter, parkway, highway, alley, mall or court. Public Right-of-Way does not include improved or unimproved pedestrian, equestrian or bicycle trails; pathways, walkways, driveways, or similar

areas within parks or other City owned property; or easements not previously used for the purpose of pedestrian or vehicular travel.

(g) Property – “Property” shall mean real property and includes buildings and other fixtures and improvements located upon the property and affixed to the land.

(h) Structure – “Structure” shall mean anything constructed or erected which requires location on the ground or attachment to something having a location on the ground. Structure shall include immobilized trailer coaches.

**10.48.030 Property in General.** It shall be unlawful for any person owning, leasing, occupying or having charge of any property within the City of San Marcos to maintain such property in such manner that any of the following conditions are found to exist thereon:

(a) Outside Storage – It shall be unlawful to maintain outside storage, at a location visible from the public right-of-way, of building material, machinery or other material or equipment, used in or for a business, on any lot within the City, except during the construction on the lot or unless permitted for the particular property. This includes but is not limited to:

- (1) Any material used for construction to include, but not limited to lumber, metal, electrical supplies or bricks;
- (2) The accumulation of dirt, sand, gravel, concrete, or other similar material not incorporated into landscaped design/areas on the property; and
- (3) Boats, trailers, camper shells, recreational vehicles, vehicle parts, furniture or other articles of personal property that are left in a state of partial construction or disrepair.

(b) Graffiti – Graffiti including but not limited to words, symbols or drawings on the exterior of any building, fence, wall, pole, sidewalk, tree or other structure must be removed within fifteen (15) calendar days of written notice to the property owner.

(c) Solid Waste – The existence of solid waste such as excessive animal feces or human waste of any kind as determined by the Health Department.

(d) Clotheslines – Clotheslines shall not be located in the front or front side yard if visible from the public right-of-way.

- (e) Outside Placement of Indoor Furniture – No person shall store, collect, park, leave, deposit, maintain, reserve, put aside for future use, permit, allow, or suffer to remain on any porch, balcony, roof, or in a yard, except in a completely enclosed building or structure, any upholstered furniture, furniture, mattresses, appliances, materials and other similar products not designed, built, and manufactured for outdoor use unless such is in an enclosed porch or balcony.

**10.48.040 Buildings and Structures.** It shall be unlawful for any person owning, leasing, occupying or having charge of any building or structure within the City of San Marcos to maintain such property in such manner that any of the following conditions are found to exist thereon:

- (a) General Condition – Buildings or structures that are dilapidated, abandoned, partially destroyed, have broken windows or broken windows secured with wood or other materials, or that are left in an unreasonable state of partial construction or demolition, or disrepair. An unreasonable state is defined as any unfinished building or structure, which has been in the course of construction, demolition or disrepair for two (2) years or more, or where the appearance and other conditions of said building or structure substantially detracts from the appearance of the immediate neighborhood.
- (b) Exterior Surfaces – Buildings or structures with damaged or defective building exteriors, that are unpainted (except color coated or natural finish coated), or where the paint on the building exterior is mostly worn off, cracked or peeling; or where roofing or other exterior materials or components are deteriorated, mostly infected with dry rot, or warped so as to constitute an unsightly appearance, or contribute to blight and property degradation.

**10.48.050 Fences, Gates and Walls.** It shall be unlawful for any person owning, leasing, occupying or having charge of any property within the City of San Marcos to allow any fence, gate, wall or similar structure on said property to sag, lean, or have missing boards or bricks, or fallen over or otherwise be in an unsafe condition, or constitute an unsightly appearance, or left in a state of partial construction or disrepair.

**10.48.060 Landscaping.** It shall be unlawful for any person owning, leasing, occupying or having charge of any property within the City of San Marcos to inadequately maintain landscaping which

is visible from any public street, or public right-of-way and which, either alone or in combination with other conditions on the subject property, degrades the aesthetic quality in the immediate vicinity, including without limitation any of the following:

- (a) Landscape Minimum – The landscaping on any property shall meet the minimum area standards as established in the City’s Zoning Ordinance or approved site plan. However, no more than fifty percent of any residential front yard may be covered by concrete, asphalt or other like material, including driveways, patio areas, walkways, and other landscape features. Exceptions to this standard can be granted through the Planning Director Permit process should the proposed hardscape be compatible with the neighborhood. An aerial map of the City, taken by or before the effective date of Ordinance No. 2009-1321, will be referenced for the existing conditions of properties throughout the City.
- (b) Ground Cover Required – Lack of vegetation, lawn, shrubs or other decorative ground cover on any improved property when compared to other properties in the surrounding neighborhood so as to cause dust, erosion or the accumulation of debris.
- (c) Lawn Standards - Lawn areas and ground cover that is dead and/or exceeds a height of six (6) inches from grade; or lacks plant material necessary to prevent erosion or prevent an unsightly landscape appearance that contributes to conditions that cause blight and property degradation. Ornamental grasses that exceed six (6) inches in height are exempt from the height limitation set forth in this section.
- (d) Trees and other Vegetation – Dead or hazardous trees and other vegetation that are unsightly or dangerous to public health, safety and welfare, or contributes to blight and property degradation.
- (e) Overgrown Vegetation – Overgrown vegetation likely to: harbor rats, vermin and other nuisances dangerous to public health; cause a detriment to neighboring property; contribute to conditions that cause blight and property degradation, or grow into the public right-of-way such that it obstructs the view of drivers on public streets or private driveways, or substantially obstructs the use of a public sidewalk area. Vegetation that hangs over the edge of a public sidewalk must have a vertical clearance of seven (7) feet. Vegetation over public streets or

alleys must be trimmed to a vertical clearance height of fourteen (14) feet.

- (f) Maintenance of Approved Site Plan - Failure of any property owner, with the exception of single-family homeowners, to substantially comply with any landscaping plans previously approved by the City in connection with the City's issuance of any land use approval.
- (g) Drought Restrictions - If the property resides in an area where the water purveyor has declared any stage of mandatory drought restrictions, the property will be evaluated in light of such restrictions to determine if the landscaping has degraded due to the drought restrictions or inadequate maintenance.

**10.48.070 Off-Street Parking.** It shall be unlawful for any person owning, leasing, occupying or having charge of any property within the City of San Marcos to allow parking in the front yard and street side yard on such property in such manner that any of the following conditions are found to exist thereon:

- (a) Residential – Any motor vehicle or other mobile equipment parked or stored on or in anything other than a garage, driveway or approved parking area constructed with an all-weather concrete, brick or similar material. Mobile Living Units and Recreation Vehicles shall be parked as per San Marcos Municipal Code Section 12.20.160. An approved parking area is one that was constructed as part of the original permitted construction of the residential unit, or approved by the City at a later date. All-weather parking areas must meet the standards of the City's off-street parking ordinance, Chapter 20.84 and not exceed the standards for minimum landscaping established in the City's Zoning Ordinance and Section 10.48.060 (a) of this chapter. The washing of a vehicle or other mobile equipment on lawn areas is exempt from this provision.
- (b) Nonresidential – Storage or parking of vehicles in other than designated parking areas.

**10.48.080 Obstructions in the Right-of-Way.** It shall be unlawful for any person owning, leasing, occupying or having charge of any real property within the City of San Marcos, or owner of any personal property, to maintain such property in such a manner that any of the following conditions are found to exist thereon:

- (a) Shopping Carts – The abandonment of shopping carts visible from the public right-of-way on private or public property is prohibited. Commercial businesses that provide shopping carts for customer use are responsible for retrieving their carts from public property.
- (b) Sight Obstruction – The accumulation of any material, the placement of any object, or any overgrown vegetation that obstructs the view of drivers on public streets or private driveways.
- (c) Physical Obstruction – The placement of any object in the public right-of-way including, but not limited to the following:
  - (1) Portable recreation equipment such as basketball hoops, hockey nets and skateboard ramps; or
  - (2) Abandoned, discarded or dilapidated objects, such as broken or neglected equipment, appliances, furniture, household equipment and furnishings, shopping carts, containers, packing materials, salvage materials, firewood, plant cuttings, scrap materials or similar materials; or
  - (3) News racks, newsstands, mailboxes of any kind, or benches, or any other object in the public right-of-way in such a manner as to impede the accessibility of persons with disabilities.

**10.48.090 Tents, Shelters, Canopies and Tarps.** Portable tents, shelters, canopies and tarps made of any material are not permitted on any property if used in the front yard and street side yard for permanent use. Temporary use of these types of structures and covers are allowed on a case-by-case basis. Temporary use is considered thirty (30) calendar days or less or during periods of construction. In addition, tarps shall not be used as a permanent shield or patio cover where visible to adjoining residents or from the public right-of-way.

**10.48.100 Dangerous Conditions to Children.** It is unlawful for any person owning, leasing, occupying or having charge of any property within the City of San Marcos to maintain such property in such manner that an attractive nuisance exists. Attractive nuisances generally considered dangerous to children include, but not limited to the following:



- (a) Abandoned, broken or neglected appliances such as refrigerators or freezers; or
- (b) Abandoned and broken equipment or vehicles.

**10.48.110 Storm Water Conveyance System.** It shall be unlawful to abandon, modify, remove or destroy any storm water conveyance system or Best Management Practice device installed to reduce storm water pollutants in accordance with the City's Storm Water Management Program and the Permit issued by the Regional Water Quality Control Board, or other Federal or State laws. This includes the proper maintenance of Best Management Practice devices or storm water conveyance systems installed on private property. Modifications to any storm water conveyance system or Best Management Practice device shall be approved by the City prior to modification.

**10.48.120 Emission of Obnoxious Odors.** It shall be unlawful to emit dangerous, unwholesome, nauseous or offensive odors, gases or fumes arising from or incidental to any business or uses of property where such odors, gases or fumes are allowed to escape in the open air in such amounts as to be at any time detrimental to the health of any individuals or the public or that is so noticeable, discomforting or disagreeable so as to offend the sensibilities of any reasonable individuals or the public at a distance of two hundred (200) feet from the building or the source of such odors, gases or fumes or at the property boundary where the same are generated and released.

- (a) Exemptions – The following are exempt from the requirements of Section 10.48.120:
  - (1) Emissions resulting from the activities of public fire services or law enforcement services;
  - (2) Emissions arising out of any reasonable and lawful use of property for farm or agricultural purposes;
  - (3) Emissions from sources that are properly permitted by the local, state or federal air pollution control agency regulating such sources and the emission is within permitted guidelines and authorized by such agency.
- (b) For purposes of this Section 10.48.120 the phrase "use of property for farm and agricultural purposes," as used in subsection (2) above, means actual dairy farming operations or the growing of crops, and does not mean the ancillary handling or processing of farm products, waste and/or manure where the actual farm or agricultural activity is not conducted.

**10.48.130 Enforcement: Penalty.**

- (a) City Manager to Enforce - It shall be the duty of the City Manager or his/her designee to enforce all of the provisions of this Chapter and the provisions of the Policy and Procedures as may be adopted by the City Council, and amended from time to time, for enforcement of the provisions of this Chapter. The City Manager or his/her designee shall use any remedy afforded to the City by the San Marcos Municipal Code including, without limitation, those set forth in Chapter 1.12 and Chapter 1.14 of this Municipal Code.
- (b) Violators Punishable by a Fine – Any person, firm or corporation violating any of the provisions of this Chapter shall be deemed guilty of a civil infraction, and upon conviction thereof shall be punishable by fine as established in Chapter 1.12 and Chapter 1.14 of the San Marcos Municipal Code.
- (c) Each Day a Separate Offense – Each and every day a violation of any provision of this Chapter exists constitutes a separate distinct violation.

Section 3. That if any section, subsection, sentence, clause or phrase 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 of the City of San Marcos hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 4. This Ordinance shall be effective thirty (30) days following its adoption. Within fifteen (15) days following its adoption, the City Clerk shall publish this Ordinance, or the title thereof as a summary as required by state law.

INTRODUCED at a regular meeting of the City Council of the City of San Marcos held on the 22nd day of September 2009, and thereafter,

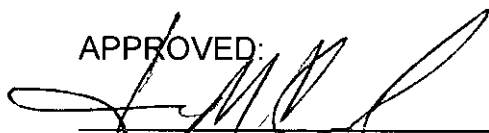
PASSED, APPROVED AND ADOPTED at a meeting of the City Council of the City of San Marcos held on the 13th day of October 2009, by the following roll call vote:

AYES: COUNCILMEMBERS: JONES, MARTIN, ORLANDO, DESMOND

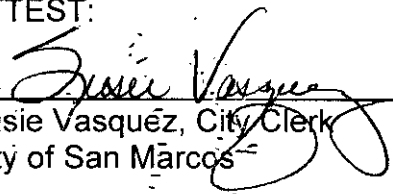
NOES: COUNCILMEMBERS: PRESTON

ABSENT: COUNCILMEMBERS: NONE

APPROVED:

  
\_\_\_\_\_  
James M. Desmond, Mayor  
City of San Marcos

ATTEST:

  
\_\_\_\_\_  
Susie Vasquez, City Clerk  
City of San Marcos

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Helen Holmes Peak, City Attorney  
City of San Marcos