

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that on the 5th day of May 2008, at its regular meeting at 6:00 p.m., in the City Commission Chambers at City Hall, 200 East Broadway, Annex Building, Room A301, Hobbs, New Mexico, the governing body of the City of Hobbs proposes to adopt an ordinance which reads as follows:

A summary of the ordinance is contained in its title and as follows:

AN ORDINANCE REGARDING NUISANCE ABATEMENT AND PROBLEM PROPERTY FORFEITURE.

ARTICLE I. IN GENERAL

SECTION I PURPOSE AND INTENT

The purpose of this ordinance is to prevent the use of property as a public nuisance.

SECTION II DEFINITIONS

In summary, Public Nuisance is any parcel of real or personal property or vehicle on or in which any of the following illegal activities occurs, or which is used to commit, conduct, promote, facilitate, or aid the commission of or flight from any of the following activities:

- A. 1. Prostitution, Patronizing prostitutes, Promoting prostitution, or Accepting earnings of a prostitute; or
2. Sexual exploitation of children by prostitution; or
3. Sexual exploitation of children; or
4. Trafficking controlled substances; Distribution of a controlled substance to a minor; Distribution of a controlled or counterfeit substance; Possession of a controlled substance; Manufacture, distribution, or possession of an imitation controlled substance; Sale of an imitation controlled substance to a minor; or
5. Possession, delivery or manufacture or delivery to a minor of drug paraphernalia; or
6. Commercial gambling; Permitting premises to be used for gambling; Dealing in gambling devises; or
7. Three (3) or more incidents occurring within any one hundred eighty (180) day period giving rise to convictions of disorderly conduct; or
8. Any criminal activity by a criminal street gang as defined herein; or
9. Sale of alcoholic beverages at any place other than a valid (not suspended or revoked) licensed premises; Manufacture of alcoholic beverages; or
10. Assault upon a peace officer; Aggravated assault upon a peace officer; Assault with intent to commit a violent felony upon a peace officer;

Battery upon a peace officer; Aggravated battery upon a peace officer; Assisting in assault upon a peace officer; Disarming a peace officer; or

11. Three (3) or more incidents occurring within any one hundred eighty (180) day period giving rise to convictions of unreasonable noises; or

12. Violations of Hobbs Municipal Code defining unsanitary premises and unlawful dumping; or

B. Public nuisance is also defined as a repeated pattern of calls for service and complaints of vagrants, suspicious persons, suspicious cars, general calls for welfare checks, disorderly conduct, domestic violence, domestic altercations, domestic disputes, loud parties, loud music, neighborhood complaints, noise ordinance violations, and public drunkenness.

ARTICLE II. CRIMINAL ABATEMENT

SECTION I. PUBLIC NUISANCES PROHIBITED.

A. It is unlawful for a property owner to intentionally, knowingly, recklessly, or negligently allow Public Nuisance(s) to occur on their property.

B. An owner of property may take certain actions to keep their property from being adjudicated as a Public Nuisance.

SECTION I. PENALTIES.

Any person who violates this ordinance, upon conviction, may be fined up to \$500.00 or imprisoned not to exceed 90 days, or both.

ARTICLE III. CIVIL ABATEMENT

SECTION I. INTENT

A. The actions provided in this Article are designed to abate public nuisances by removing the property and vehicles from criminal use and as a base of criminal operations, to ensure that criminal activity and the use of the property for criminal purposes is unprofitable, to require that the profits of criminal activity be disgorged, to make property owners vigilant in preventing public nuisances on, in, or using their property and responsible for the lawful use of their property by tenants, guests and occupants, and to deter public nuisances.

B. All seizures of real property shall be made pursuant to a temporary restraining order based upon a judicial finding of probable cause and only after an opportunity for an adversarial hearing to contest the seizure has been provided.

SECTION II. PROCEDURE IN GENERAL.

Section II provides a general overview of the procedures to actually seize property that has been adjudicated as a Public Nuisance.

SECTION III. TEMPORARY RESTRAINING ORDERS.

Section III provides a general outline of the use of Temporary Restraining Orders.

SECTION IV. REMEDIES FOR PUBLIC NUISANCES.

Section IV provides a general outline of the Remedies for Public Nuisances.

SECTION V. JUDGMENT FOR COSTS AND ATTORNEYS' FEES.

Section V provides for the City to be reimbursed for Costs and Attorneys' Fees.

SECTION VI. SUPPLEMENTARY REMEDIES.

Section VI provides for the use of the Court's contempt power to enforce findings made by the Court.

SECTION VII. LIEN FOR JUDGMENTS.

Section VII provides for the City to file a lien against real property that has been adjudicated as a Public Nuisance.

SECTION VIII. STIPULATED ALTERNATIVE REMEDIES.

Section VIII provides power to the City to work with an owner whose property has been adjudicated as a Public Nuisance to remedy the problems with the property.

SECTION IX. OTHER SEIZURES, CLOSURES, FORFEITURES AND CONFISCATIONS.

Section IX provides that there may be other laws permitting forfeiture the City may employ outside this Ordinance.

Copies of the ordinance are available to interested persons during regular business hours in the Office of the City Clerk, City Hall, 200 East Broadway, Hobbs, New Mexico, and also available for viewing on-line at www.hobbsnm.org.

/s/ Jan Fletcher
JAN FLETCHER, City Clerk