

2021-45927 ORDINANCE  
12/13/2021 03:09:08 PM Pages: 11 Fees: \$15.00  
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**CAPTION HEADING:**

**ORDINANCE**

Ordinance No. 422

Declaring as a public record the document titled "Chapter 8.25, Nuisances, Title 8 of the San Luis City Code"; adopting it by reference, providing for penalty, repealing any conflicting provisions, providing for severability; and declaring an emergency.



# *Ordinance*

OFFICE OF THE  
MAYOR  
CITY OF SAN LUIS

**No. 422**

**AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SAN LUIS, ARIZONA, DECLARING AS A PUBLIC RECORD THE DOCUMENT TITLED “CHAPTER 8.25, NUISANCES, TITLE 8 OF THE SAN LUIS CITY CODE”; ADOPTING IT BY REFERENCE; PROVIDING FOR PENALTY; REPEALING ANY CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.**

**BE IT ORDAINED** by the Mayor and City Council of the City of San Luis, Arizona, as follows:

**Section 1.** That certain document titled “Chapter 8.25 Nuisances, Title 8 of the San Luis City Code,” three (3) copies of which are on file in the Office of the San Luis City Clerk, is hereby declared to be public record, and said copies are ordered to remain on file with the San Luis City Clerk for inspection by the public.

**Section 2.** Chapter 8.25 Nuisances, Title 8 of the San Luis City Code, which public record is hereby referred to, adopted and incorporated by reference making it a part of this ordinance as if fully set out here.

**Section 3.** Chapter 8.25 Nuisances in Title 8 of the San Luis City Code provides for penalty in § 8.25.100.

**Section 4.** In the event of a conflict between the provisions of this ordinance and any other ordinance, resolution, order, regulation, or policy of the city of San Luis, the conflicting provisions are repealed, superseded, and replaced, and the provisions of this ordinance shall govern as of the effective date of this ordinance.

**Section 5.** 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.

**Section 6:** Whereas it is necessary for the preservation of the peace, health and safety of the City of San Luis, Arizona, an emergency is declared to exist, and this ordinance shall become immediately operative and in force from and after the date of its posting.

**PASSED, ADOPTED, and APPROVED** by the Mayor and City Council of the City of San Luis, Yuma County, Arizona this 8<sup>th</sup> day of December 2021



Gerardo Sanchez, Mayor

**ATTEST:**

  
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Sonia Cornelio, City Clerk

**APPROVED AS TO FORM:**

  
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Kay Marion Macuil, City Attorney

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**SAN LUIS CITY CODE  
TITLE 8**

**CHAPTER 8.25 NUISANCES**

Title 8, titled "Nuisances, Health and Safety," is amended by adding Chapter 8.25, titled "Nuisances," which shall consist of the following:

Sections:

- 8.25.010 Definitions.
- 8.25.020 Liability for public nuisances; mitigative actions by responsible parties.
- 8.25.030 Administrative review process.
- 8.25.040 Selection of corrective measures.
- 8.25.050 Right to enter premises for inspection or abatement.
- 8.25.060 Designation of enforcement authorities.
- 8.25.070 Abatement costs recovery procedures.
- 8.25.080 Lost, abandoned, and unclaimed motor vehicles.
- 8.25.100 Penalty.

§ 8.25.010 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***CORRECTIVE MEASURES.*** Those actions deemed necessary by designated enforcement authorities or the environmental manager of the city to prevent, minimize, mitigate or correct the damage to the public health, safety, or welfare which may have resulted from the creation of any of the "public nuisances" as defined below.

***ENFORCEMENT AUTHORITIES.*** Those designated city employees who are authorized by this chapter to issue notices to comply for violations and ensure appropriate corrective measures are taken by the violator to eliminate the nuisance and return the property to a state that meets the local community standards.

***PUBLIC NUISANCES.*** The following conditions are public nuisances:

- (1) Vermin attractions. Any condition or place in the city which provides harborage for flies, rodents, mosquitoes, and other insects which are capable of carrying and transmitting disease-causing organisms to any person or persons.

(2) Disease transmission. All sewage, human excreta, wastewater, garbage, or other organic wastes inappropriately deposited, stored, discharged, or exposed so as to be a potential medium in the transmission of disease to or between any person or persons and animals.

(3) Uncontrolled vegetation. Noxious weeds and other rank vegetation not properly controlled.

(4) Leaking waste hauling. Any vehicle or container used in the transportation of garbage, human excreta, or other organic material which allows leakage or spillage of contents.

(5) Wastewater maintenance. The lack of maintenance of any overflowing septic tank, sewage system, cesspool, or other accumulation of stagnant water, the contents of which may be accessible to flies or other insects.

(6) Water contamination. The pollution or contamination of any waters of the state or United States that are potable, used for swimming, fishing, hunting, irrigation, or supports riparian habitation.

(7) Effluent disposal. The use of the contents of privies, cesspools, or septic tanks or the use of sewage or sewage plant effluents for fertilizing or irrigation purposes for crops or gardens except by specific approval of the Department of Health Services and/or the Department of Environmental Quality of the State of Arizona.

(8) Regulated waste handling. The storage, collection, accumulation, transportation, disposal, and/or reclamation of garbage, trash, rubbish, litter, weeds or vegetative material, manure, or other objectionable or regulated wastes other than as provided and authorized by applicable law or regulation.

(9) Illegal dumping. The accumulation, throwing, dumping, dropping of any litter, garbage, waste, trash, or destructive or injurious material on public or private property that an owner or person in control of premises is responsible which is not immediately removed.

(10) Public safety obstructions. All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection or constitute a danger to pedestrians or vehicles.

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(11) Obstructions to traffic flow. Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this chapter or other applicable law.

(12) Dangerous antennas. Radio aeriols or television antennae erected or maintained in a dangerous manner.

(13) Dangerous signs. All hanging signs, awnings, banners, and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance.

(14) Dangerous machinery. All easily accessible, dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.

(15) Discarded machinery. Accumulations of discarded or dilapidated machinery, household appliances, automobile parts, or other material in a manner that annoys, injures, or endangers the safety, health, comfort, or repose of the community from such accumulations.

(16) Dangerous excavations. Any well, hole, or similar excavation which is left uncovered or in such other condition as to constitute a hazard to persons coming on the premises where it is located.

(17) Obstructions to waterways. Obstructions to the free flow of water in a natural waterway or public street drain, gutter, or ditch with trash or other materials.

(18) Inoperable motor vehicles. Any vehicle or motor vehicle that:

(a) cannot be legally operated;

(b) is disassembled, dismantled, or partially dismantled;

(c) is incapable of being propelled under its own power; or

(d) is not currently licensed or able to be licensed; and

(e) is kept or allowed to remain upon any property in the city in such a manner so as to be visible from beyond the boundary of the lot.

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- (f) The above provision on inoperable motor vehicles shall not apply to any inoperable vehicle stored on private property within the city if the vehicle is:
- (i) lawfully enclosed within a structure;
  - (ii) completely covered with an opaque car cover specifically designed and sold for such use;
  - (iii) a vehicle registered and licensed to a resident of the property and is undergoing repair, and that the total period during which the vehicle is inoperable did not exceed 15 days;
  - (iv) a legally established use on such property; or
  - (v) completely enclosed by any fence, wall, or barrier, not less than five feet in height, constructed of opaque materials without openings, holes, or gaps other than gates or doors which shall also be constructed of opaque material. If the inoperable vehicle is located in the rear yard of the property, then the fence, wall, or barrier need not be constructed of opaque material as long as said vehicle is completely covered by an opaque car cover specifically designed and sold for such use.

(20) Defective signs. Any sign that endangers the public safety, such as materially dangerous, electrically or structurally defective sign, or an abandoned sign.

(21) Construction debris. Failure to remove and dispose of construction debris within 15 days of its generation or by means other than containers designed for debris removal.

(22) Air pollution. Dense smoke, noxious vapors, gas, soot, or cinders in unreasonable quantities.

(23) Irrigation overflow. Irrigation overflow into rights-of-way that poses a public safety hazard.

(24) Other nuisances. Other acts that interfere with the comfortable enjoyment of life and property, or tend to depreciate the value of the property of others.

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**RESPONSIBLE PARTIES.** Property owners, persons in control of property and/or premises, and other persons responsible for the actual creation of the public nuisance or by allowing or directing activities on private or public owned property that lead to one of the above nuisances or who have a duty of maintenance of property, premises, or adjacent streets, alleys, sidewalks, and/or rights of way.

§ 8.25.020 Liability for public nuisances; mitigative actions by responsible parties.

(A) Responsible parties shall maintain their property and those areas in the streets or alleys between their property lines and to the centerline of the right-of-way abutting their property free and clear of all public nuisances, regardless of the manner in which the public nuisance was created, including, but not limited to, any inoperable vehicles, litter, trash, junk, stored material, construction material, trees, bushes, weeds, vegetative trimmings, or other potential hazards to public health, safety and welfare.

(B) When a public nuisance is created, the responsible party will be issued a notice to comply and given one week in which to eliminate the nuisance at their own expense. If corrective action is not taken within one week, the responsible party will be prosecuted in accordance with § 8.25.100 of this chapter. For nuisances that pose an immediate threat to the community's health or safety, or are nuisances in the public right of way, the responsible party will be required to correct the nuisance immediately. If the city finds it necessary to take steps to correct the nuisance, it will bill the responsible party for all costs incurred.

(C) If corrective action required is complex or extensive, additional time may be authorized by the enforcement authority to allow the responsible party a reasonable opportunity to comply.

(D) If a public nuisance is created and the responsible party cannot be determined, the owner of the property will be held responsible for corrective measures and costs.

(E) A person who is a responsible party shall be strictly, jointly, and severally liable for such reasonable abatement costs as may be incurred if elimination of the nuisance is not completed within the specified time and the city will take action on its own to eliminate the nuisance.

(F) An action brought by the city to recover abatement costs required by paragraph (D) of this section from a responsible party shall be initiated within one year of the completion of the compliance activities.

(G) All abatement costs shall be paid within 30 days from receipt of the abatement costs invoice. The city may extend the time for payment or provide for installment

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payments if, based upon the judgment of the city, payment within 30 days would place an undue economic hardship on the violator.

(H) If an assessment made in accordance with the provisions of this chapter is not paid as provided, it shall be recorded in the office of the County Recorder. From the date of its recording, it shall be a lien on said lot or tract of land assessed under this chapter and the several amounts assessed against such lot or tract of land until paid.

(I) Nothing in this section shall prevent the city from taking other enforcement actions as provided in this chapter.

(J) In addition to the other provisions of this section, the city may bill the responsible party for special solid waste pickup pursuant to the rates and charges for such special pickup as established by other regulations.

#### § 8.25.030 Administrative review process.

(A) The enforcing authority's department director will act as the hearing officer and will be responsible for reviewing all requests from parties contesting corrective measures.

(B) Responsible parties may object to corrective measures intended by the city by filing written notice to the hearing officer within 72 hours of receipt of the notice to comply.

(C) The hearing officer, upon receipt of the request for review, shall notify those concerned to defer enforcement action unless there is a danger to the public's health or safety until the outcome of the review is determined. The hearing officer may use any resources available for the purposes of obtaining the information necessary to determine whether appropriate corrective measures were selected. The responsible party shall promptly supply to the hearing officer any additional information necessary to review the issues fully and completely. At the conclusion of the review, the hearing officer shall notify the responsible party and the enforcement authority of his findings within ten working days. Corrective measures must commence within 24 hours of this notification.

#### § 8.25.040 Selection of corrective measures.

(A) Corrective measures will be selected by the citing official after considering the following factors:

- (1) Community, welfare, and environmental concerns at risk.

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- (2) Proximity to valuable natural resources such as waters of the state or the United States.
  - (3) Accessibility to the nuisance site by persons and equipment.
  - (4) Quantity, concentration, and properties of the hazardous substances present.
  - (5) The practicality and cost-effectiveness of corrective measures applicable to a site.
  - (6) The ability of the responsible party to pay abatement costs or reimburse the city if it has to clean up the site.
  - (7) Availability of other federal, state, or county enforcement authorities such as the Arizona Department of Environmental Quality or the Environmental Protection Agency to take the necessary action.
- (B) The citing enforcement authority will consult with other members listed in § 134-06 and the city's Environmental Program Coordinator in cases where the materials present might require special handling.

§ 8.25.050 Right to enter premises for inspection or abatement.

If an enforcement authority or the city's environmental program coordinator deems it necessary to enter a building or structure within city jurisdiction for the purpose of examining, removing, or preventing a public nuisance and is refused entrance, any of the enforcement authorities listed in § 8.25.060 may make a complaint under oath to a municipal magistrate. The magistrate shall issue a warrant directing the Police Department accompanied by and under the direction of at least one designated enforcement authority to examine, remove or prevent the public nuisance.

§ 8.25.060 Designation of enforcement authorities.

All officers and investigators of the city Police and Fire Departments, the city building official, the code enforcement officer, the building inspectors, sanitation inspector, pretreatment inspectors, and the code enforcement specialist are authorized to issue notices to comply and citations for violations of this code within city jurisdiction.

§ 8.25.070 Abatement costs recovery procedures.

Whenever the city is required to accomplish the activities associated with the elimination of a public nuisance, the following procedures will be used in establishing the reimbursable costs:

- (A) Contractor costs that are billed directly to the city.
- (B) Costs of city employees required to oversee cleanup activities will be compensated on a time and materials basis, including all benefits and overhead costs.
- (C) Costs associated with accounting and contracting services necessary to arrange for outside contractor services.

§ 8.25.080 Lost, abandoned, and unclaimed motor vehicles

The city shall comply with A.R.S. §§ 28-4801 through 28-4884 and its successors regarding lost, stolen, abandoned, or unclaimed vehicles within city limits.

§ 8.25.100 Penalty.

- (A) A responsible party cited for a violation of any provision of this chapter shall be subject to a civil sanction and shall be fined an amount not more than \$500 per day.
- (B) Each day a violation continues shall constitute a separate offense.
- (C) The city shall provide for payment by mail of fines imposed under this section.
- (D) The imposition of a penalty under the provisions of this section shall not waive any and all other legal remedies available to the city.