



## STUDENT AND NEIGHBORHOOD RELATIONS COMMISSION

# Agenda

CITY COUNCIL CHAMBERS  
1 CIVIC CENTER DRIVE  
SAN MARCOS, CA 92069  
(760) 744-1050  
[WWW.SAN-MARCOS.NET](http://WWW.SAN-MARCOS.NET)

MONDAY, SEPTEMBER 14, 2009  
6:30 P.M.

*Agendas:* Agenda packets are available for public inspection 72 hours prior to scheduled meetings at the City Manager's Department located on the second floor of City Hall, 1 Civic Center Drive, San Marcos, during normal business hours. In addition, packet documents are posted online at [www.san-marcos.net](http://www.san-marcos.net).

*Any agenda-related writings or documents provided to a majority of the Commission after distribution of the agenda packet are available for public inspection at the time of distribution in the City Manager's Department located on the second floor of City Hall, 1 Civic Center Drive, San Marcos, CA during normal business hours. The same materials are also posted online at [www.san-marcos.net](http://www.san-marcos.net) as time permits.*

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. APPROVAL OF 6/08/09 COMMISSION MEETING MINUTES

### PUBLIC COMMUNICATIONS

*(This is the public's opportunity to address the Commission on items not on the agenda.)*

5. ORAL COMMUNICATIONS.  
Speakers are limited to five minutes. Please complete a "Request to Speak" form and place in basket provided.
6. OLD BUSINESS
  - Property Appearance & Maintenance Ordinance final revisions
7. REPORTS
  - Sheriff's Department Report – Sgt. Giannantonio
8. COMMISSION COMMENTARY

9. ADJOURNMENT

**Attachments:**

Agenda Item #4 - Commission Meeting Minutes of 6/08/09 (no July minutes due to lack of quorum)

Agenda Item #6 - Property Appearance & Maintenance Ordinance final revisions

Agenda Item #7 - Sheriff's Department Report

**AFFIDAVIT OF POSTING**

STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO ) ss.  
CITY OF SAN MARCOS )

I, Melinda Cogle, Recording Secretary, of the City of San Marcos, hereby certify that I caused the posting of this agenda in the glass display case at the north entrance of City Hall on Friday, September 11, 2009, at 3:30 pm.

Date: September 11, 2009

*Melinda Cogle for*  
Melinda Cogle, Recording Secretary

MONDAY, JUNE 8, 2009 – 6:30 P.M.

1) **CALL TO ORDER:** Chairwoman Kildoo called the meeting to order at 6:30 p.m.

**2) PLEDGE OF ALLEGIANCE:** Provided by Chairwoman Kildoo.

**3) ROLL CALL:**

## PRESENT:

**COMMISSIONERS:** DURAN, HILL, KILDOO, MARTINEZ, PARIS, PRIEST, WORDEN

**ABSENT:**

COMMISSIONERS: HOANG, TITUS

**ALSO PRESENT:** Deputy City Manager Romero, Deputy Sheriff Sergeant Giannantonio, Director Schwarm, and Recording Secretary Cogle.

**4) APPROVAL OF MINUTES:**

MOVED BY DURAN, SECONDED BY MARTINEZ, TO APPROVE THE MINUTES OF 5/11/09, 6:30 P.M. AS SUBMITTED.

AYES: COMMISSIONERS: DURAN, MARTINEZ, PARIS, WORDEN

NOES: COMMISSIONERS: NONE

ABSENT: COMMISSIONERS: HOANG, TITUS

ABSTENTION: COMMISSIONERS: HILL, KILDOW, PRIEST

## 5) PUBLIC COMMUNICATIONS:

There were no requests to speak made by the public.

6) **PUBLIC HEARING:** Property Appearance & Maintenance Ordinance – SCHWARM explained the development of the Property Appearance & Maintenance Ordinance (PAMO) and provided the Commission with revisions of the Property Appearance and Maintenance Ordinance based on comments received from the public, Commission and City Attorney. The revisions include: 1) a typo being corrected in Section 1 of the Preamble; 2) Section 10.44.020 – the definition of “junk”; 3) Section 10.44.060 landscaping; 4) Section 10.44.070 off-street parking; and, 5) Section 10.44.090 tents, shelters, canopies and tarps. Schwarm reported that thirty-eight responses were received regarding the draft PAMO: 19 in support, 13 in opposition, 5 non-committal, and 1 inappropriate response.

STAFF recommended the **COMMISSION** review the proposed PAMO and provide comments, conduct a public hearing and approve PAMO with the proposed revisions and forward the Ordinance with Commission and public input to the Council with a recommendation.

**ROSALIA LEITCHLITER**, San Marcos, expressed concern regarding PAMO as it pertains to a toy hauler she owns stored behind a fence but can be viewed from the right-of-way that might be in violation of the proposed Ordinance. She believes complaint calls will be made pitting neighbor against neighbor if PAMO is approved. It was requested that an educational campaign be conducted and the Commission consider holding additional hearings and workshops for additional input.

**SUSAN WAIT**, San Marcos, reported she spoke to Vallecitos Water District's Conservation Officer who is unaware of the proposed ordinance. Wait expressed concern that most San Marcos residents are governed by an HOA, architectural committee, or zoning ordinance that provide rules for residents to live by. It was suggested to implement the ordinance in areas where no homeowner associations exist. Wait expressed concern that the City is creating laws that cannot be enforced and recommended additional hearings be held before making a recommendation to Council as the ordinance will affect every homeowner and business in San Marcos.

**LUANNE HULSIZER**, San Marcos, does not support the ordinance in its current form. Citizens have personal property rights and government interference should be kept to a minimum. The ordinance will cause more stress for businesses and residents. There are several senior and low income families in San Marcos who may not be able to afford compliance with the ordinance. An educational campaign is needed with volunteers walking door to door provide information and requested the Commission consider an educational process and take into consideration residents and business owners in San Marcos are currently under an economic struggle.

**SHERRY DAVIS**, San Marcos, expressed concern with the proposed ordinance. She feels the city does not have adequate basketball courts or football fields. She commented that Bradley Park is a mess and that more trees and benches are needed there. DAVIS explained a problem with the breezeways between her and her neighbor and that the city did nothing when her neighbor put up block wall and filled with dirt which causes flooding at her home each year. She has contacted the city many times regarding this issue and the block wall is now falling down in her yard. She requested the Commission reconsider the ordinance and not punish homeowners.

**SCHWARM** provided the following responses to speaker concerns: 1) RV parking is covered by a different ordinance; 2) the proposed ordinance does not require that citizens maintain a green lush lawn – only that a ground cover is provided to prevent water from running into the street and/or storm drains; 3) the Building Code is being updated to allow gray water reuse in residential areas; and, 4) basketball hoops are permitted on residential streets but cannot be stored in the public right of way.

**KILDOO** explained that the ordinance will be a tool to assist with issues. Council requested the Commission conduct additional public hearings to obtain more input from the community.

**SCHWARM** explained the PAMO ordinance will be enforced by a complaint driven process by two code compliance officers. The first step in enforcing the ordinance will be education and to seek compliance

before citations are issued. Anonymous complaints will not be accepted or permitted. Schwarm explained when a complaint is received, the code compliance officer investigates and then issues a notice of violation. Violators are provided a reasonable amount of time for correction. The City can seek assistance for those who are physically unable to correct a violation. Violators who blatantly ignore a notice of violation are issued a citation in the amount of \$100, and then if still not corrected, a second citation is issued in the amount of \$200, a third citation in the amount of \$500 and all other citations for the same violation are issued in the amount \$1,000. The intent of the ordinance is compliance and a citation is only immediately issued when there is a health and safety concern.

**SCHWARM** responded to **INDIVIDUAL COMMISSIONER** questions as follows: 1) when it is determined someone is financially or physically unable to correct a violation the city offers a hardship waiver process. A third party hearing is offered to those who want to contest a violation/citation and if they are found to not be in violation, their fine payment is refunded; 2) proof of hardship is provided by statements of income by businesses and an income guideline is published by the federal government for residential; 3) conditional use permits are included in the ordinance and establish a Performa for a CUP that governs businesses to fill the gap for those who do not have a CUP such as older businesses; 4) junk piled higher than fence height in a back yard that can be viewed from the public right of way is not permitted.

The Commission directed staff to coordinate and schedule a Saturday workshop for input on PAMO, continue receiving input on the city's website, and obtain information from agencies regarding water conservation.

7) **PRESENTATIONS:** TDA Grant for Barham Drive Urban Trail - **ROMERO** provided a report on the Barham Drive Urban Trail Improvement Project that included the scope of work to design and construct approximately 3,000 lineal feet of urban trail, install pedestrian, bicycle and transit signage, and provide pedestrian oriented features. Linkage and connections will include: CSUSM Sprinter station, CSUSM 10,000+ students, Campus Marketplace, Palomar Pomerado Health Center, Kaiser Permanente Health Care Center, and the future University District project. Romero recommended the project be supported by the Commission which will go before SANDAG on June 26<sup>th</sup> for consideration.

8) **REPORTS:**

Sheriff's Department Report (Sgt. Giannantonio): Report provided showing an increase and party calls have gone down and fight calls is zero. The chart/report will continue to be provided monthly and will consist of a rolling year.

Code Compliance Report (Karl Schwarm): Reported a part time parking enforcement officer, Peter Lopez, was recently hired by the city and will begin employment on July 6<sup>th</sup>.

9) **COMMISSION COMMENTARY:**

**INDIVIDUAL COMMISSIONERS** made the following comments: 1) the community is moving forward in a positive direction and there is a proactive approach being taken to educate the community; 2) the

public needs more information regarding the proposed PAMO so that input and concerns can be expressed; and, 3) improvements proposed to Barham will provide needed safety and beautification.

10) **ADJOURNMENT:** Chair Kildoo adjourned the meeting at 8:29 p.m.

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KATHLEEN KILDOO, CHAIR  
STUDENT AND NEIGHBORHOOD RELATIONS COMMISSION  
CITY OF SAN MARCOS

ATTEST:

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MELINDA COGLE, RECORDING SECRETARY  
CITY OF SAN MARCOS

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MELINDA COGLE, RECORDING SECRETARY  
CITY OF SAN MARCOS



# Report

## STUDENT AND NEIGHBORHOOD RELATIONS COMMISSION

CITY COUNCIL CHAMBERS  
1 CIVIC CENTER DRIVE  
SAN MARCOS, CA 92069  
(760) 744-1050  
WWW.SAN-MARCOS.NET

**MEETING DATE:** September 14, 2009

**SUBJECT:** Property Appearance and Maintenance Ordinance Final Revisions

### **Recommendation**

Review the attached revised Property Appearance and Maintenance Ordinance adding Chapter 10.48 to the City of San Marcos Municipal Code and forward the Commission's recommendation to the City Council.

### **Background**

Over the years City staff has received numerous complaints about various property appearance issues that upon investigation, were found not to be addressed in the City's municipal code. The complaints range from dead or overgrown landscaping, parking on lawns, to fences in need of repair. Some of these same complaints have intensified during the recent increase in foreclosures throughout the City.

The draft ordinance was developed based on resident complaints that were not addressed in the existing municipal code. Staff compiled a list of these property related deficiencies and used them to develop the Property Appearance and Maintenance Ordinance (PAMO). At the April, May and June 2009 regularly scheduled meetings, the Commission reviewed and received public comment on the draft PAMO. In addition, City staff conducted a public workshop on the PAMO on Saturday, July 25<sup>th</sup>. The comments received from the Student and Neighborhood Relations Commission (SNRC), as well as comments received from public, the City Attorney and the Vallecitos Water District (VWD) have been incorporated in the revised PAMO, which is attached.

### **Discussion**

Pursuant to comments received from the Commission, the public, the City Attorney and VWD, staff has made a few final revisions to the draft PAMO. The changes are minor in nature and help clarify the intent and provisions of the ordinance. The following is a summary of the recent changes to the PAMO:

1. Section 1, second paragraph, the phrase "...such conditions have a tendency to depreciate the aesthetic and property values of the surround properties and..." was added starting on the third line. This phrase clarifies that the ordinance's main purpose is to maintain property values.
2. Section 1, third paragraph – reworded the paragraph for grammatical enhancement.

3. Section 10.48.010 Purpose and Intent – the same rewording as in Section 1, third paragraph, and in subsection (b) the words “or aesthetically” inserted at the end of the third line.
4. Section 10.48.060 Landscaping – Added a new subsection (g) Drought Restrictions – This language was added at the request of VWD to reflect the possible impact a sever water restriction will have on landscaping.
5. Section 10.48.080 (c) Physical Obstruction - The words “Storage of” “Accumulation of” and Placement of “ were removed to clarify that placement of any object, no matter how long it has been there or in what quantity, in the public right-of-way is not allowed.
6. Section 10.48.100 (a) “Unprotected and/or hazardous pools, ponds, water features and excavations” – this section was removed due to existing building and safety codes that regulate these conditions.
7. Section 10.48.120 Emission of Obnoxious Odors – Subsections (a) and (b) added to allow for certain emissions, such as law enforcement and fire service activities, approved agriculture use of property and for emissions that are properly permitted by an air resource control agency.

#### **Implementation**

The Commission might want to recommend to the City Council that an “educational period” be established for the implementation of PAMO as was done with the Rooming House Ordinance. During this educational period City staff will issue notices of violations with educational material on the new provisions of the PAMO. This educational period could last from six to twelve months. At the end of the education period, there will be no “grandfathering” of existing conditions except were allowed for in the PAMO (see Section 10.48.060(a)).

Attachment – Revised Property Appearance and Maintenance Ordinance

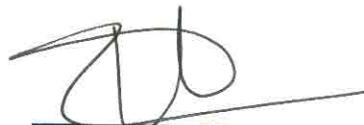
Prepared by:



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Karl Schwarm, HANS Div. Director

Approved by:



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Lydia Romero, Deputy City Manager

ORDINANCE NO. 2009- \_\_\_\_\_

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.

**Section 1**

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:

1. That the above recitations are true and correct.
2. That the Code of Ordinances of the City of San Marcos, California, is hereby amended by adding section, to be number Chapter 10.48, which said section reads as follows:

**Section 2**

**CHAPTER 10.48**  
**PROPERTY APPEARANCE AND MAINTENANCE**

**SECTIONS:**

**10.48.010   Purpose and Intent**  
**10.48.020   Definitions**

<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>

### Chapter 10.48

**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) 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;
- (e) 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; and
- (f) 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.

#### **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) Seasonal Decorations – “Seasonal Decorations” shall mean any lights, or seasonal displays to include lawn and window decorations.
- (e) 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.
- (f) 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.
- (g) 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.

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

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

(d) Seasonal Decorations - Seasonal decorations for residential properties shall comply with the same standards as commercial property in that they can be displayed up to forty (40) days before a holiday and ten (ten) days after a holiday.

- (e) Temporary Lighting – Temporary electrical power and lighting installations shall be permitted for a period not to exceed ninety (90) days for seasonal or holiday decorative lighting and similar purposes. (National Electric Code Section 590.3 (b)).
- (f) Clotheslines – Clotheslines shall not be located in the front or front side yard where visible from the public right-of-way.
- (g) 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 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.
- (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 mandatory drought restrictions, the property will be evaluated 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.
- (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 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 ordinance. 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 ordinance 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 \_\_\_\_\_ day of \_\_\_\_\_, 2009, and thereafter,

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

AYES:

NOES:

ABSENT:

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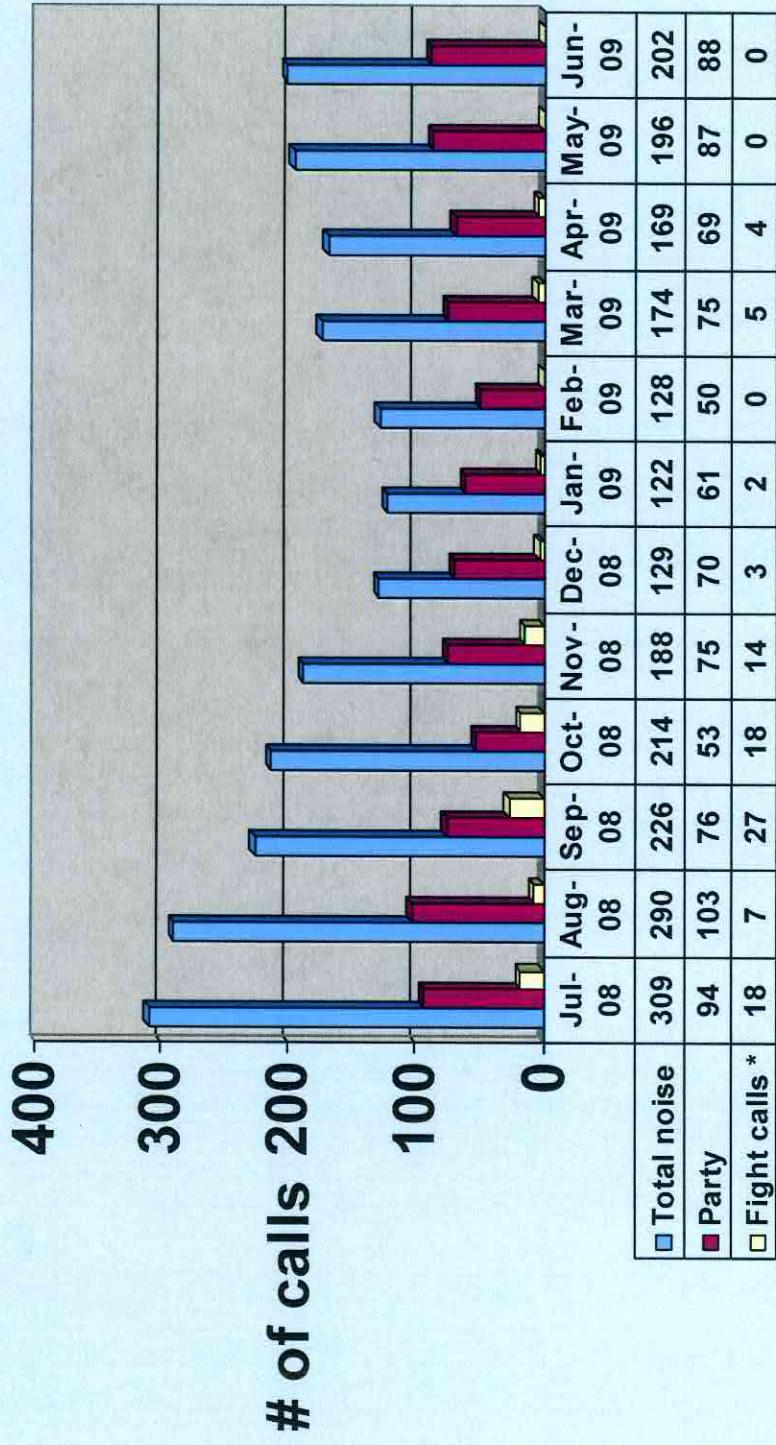
James M. Desmond, Mayor

ATTEST:

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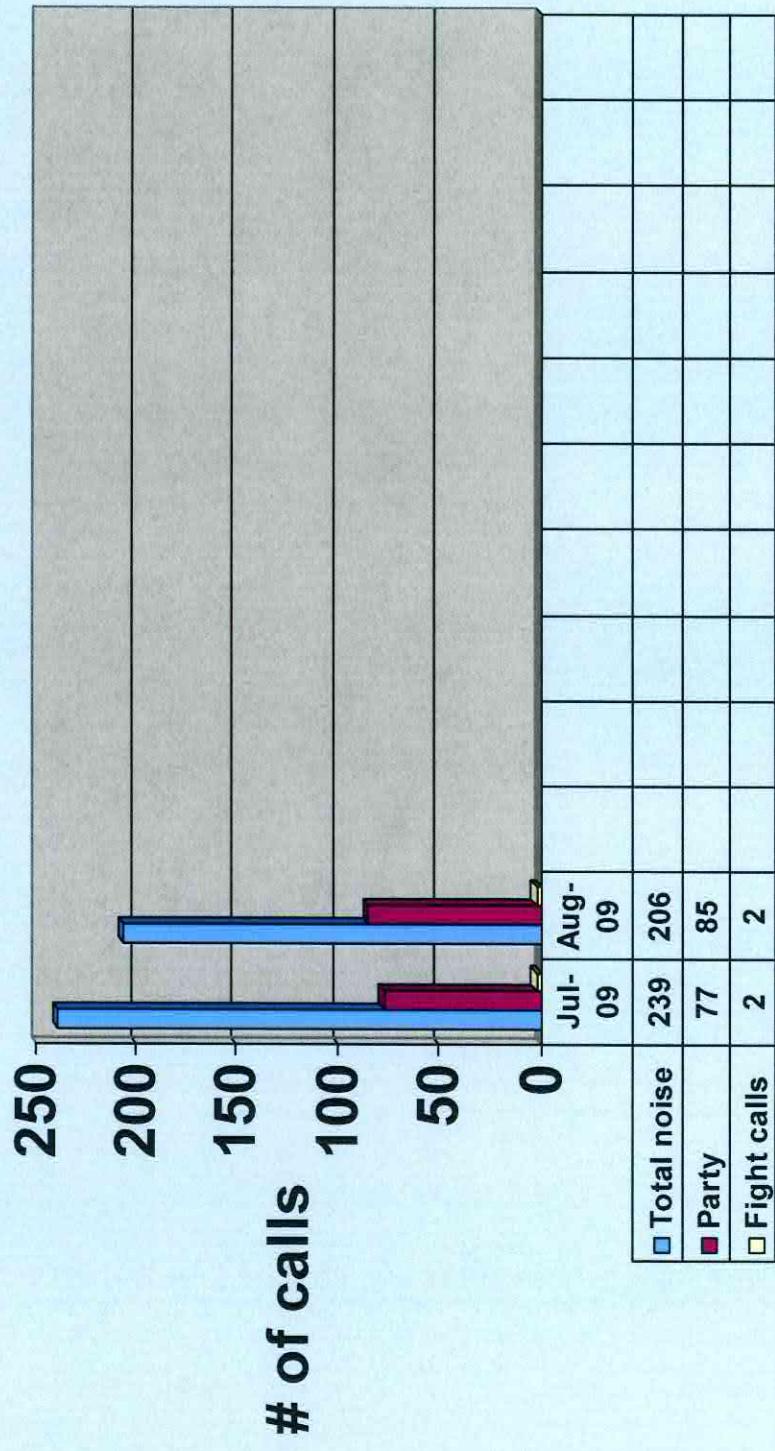
Susie Vasquez, City Clerk

## City of San Marcos Disturbance Calls



\*Beginning December 2008 fight calls are party-related and contain stats from all fight-related call types

## City of San Marcos Disturbance Calls



Listed fight calls are party-related and contain stats from all fight-related call types