



**CITY OF LODI  
COUNCIL COMMUNICATION**

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**AGENDA TITLE:** Introduce Ordinance Repealing Lodi Municipal Code Title 8, Health and Safety, Chapter 8.24 in its entirety relating to Comprehensive Municipal Environmental Response and Liability (MERLO)

**MEETING DATE:** March 2, 2005 City Council Meeting

**PREPARED BY:** Steve Schwabauer, City Attorney

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**RECOMMENDED ACTION:** That the City Council introduce Ordinance repealing Lodi Municipal Code Title 8, Health and Safety, Chapter 8.24 in its entirety relating to Comprehensive Municipal Environmental Response and Liability (MERLO)

**BACKGROUND INFORMATION:** As Council is aware, this Ordinance has been ruled partially pre-empted by the U.S. Court of Appeals for the Ninth Circuit and ruled completely pre-empted by the California Third District Court of Appeals. It is therefore appropriate at this time to repeal the Ordinance in its entirety.

**FUNDING:** None.

A handwritten signature in black ink, appearing to read "Stephen Schwabauer", written over a horizontal line.

Stephen Schwabauer  
City Attorney

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APPROVED:

A handwritten signature in black ink, appearing to read "Blair King", written over a horizontal line.

Blair King, City Manager

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI  
REPEALING LODI MUNICIPAL CODE TITLE 8 HEALTH & SAFETY  
CHAPTER 8.24 IN ITS ENTIRETY RELATING TO COMPREHENSIVE  
MUNICIPAL ENVIRONMENTAL RESPONSE AND LIABILITY (MERLO)

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BE IT ORDAINED **BY** THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

Section 1. Lodi Municipal Code Title 8 Health & Safety Chapter 8.24 - Comprehensive Municipal Environmental Response & Liability Ordinance (MERLO) is hereby repealed in its entirety.

Section 2 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 4. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
JOHN BECKMAN  
Mayor

Attest:

SUSAN J. BLACKSTON  
City Clerk

State of California  
County of San Joaquin, **ss.**

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. \_\_\_\_\_ was introduced at a regular meeting of the City Council of the City of Lodi held March 2, 2005 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held \_\_\_\_\_, 2005 by the following vote:

- Ayes: Council Members -
- Noes: Council Members -
- Absent: Council Members -
- Abstain: Council Members -

I further certify that Ordinance No. \_\_\_\_\_ was approved and signed by the Mayor of the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON  
City Clerk

Approved as to Form:



D. STEPHEN SCHWABAUER  
City Attorney