

ORDINANCE 01-01

AN ORDINANCE OF THE LAKESIDE FIRE PROTECTION DISTRICT REPEALING ORDINANCE 94-01 IN ITS ENTIRETY AND ADOPTING A NEW ORDINANCE TO DECLARE CERTAIN WASTE MATERIAL AS A PUBLIC NUISANCE, PROVIDE FOR ABATEMENT AND REMOVAL THEREOF, AND PROVIDE FOR THE COST OF SAID ABATEMENT TO BE A LIEN UPON PRIVATE PROPERTY

The Board of Directors of the Lakeside Fire Protection District ordain as follows:

Section 1: Ordinance 94-01 is hereby repealed in its entirety.

Section 2: The following Ordinance is hereby adopted by the Board of Directors as the District's procedure for the abatement of certain waste material:

01.010: The enactment of this ordinance is pursuant to the authority contained in California Health and Safety Code section 13879, and Division 12, Part 5, (commencing with section 14875) and Division 12, Part 6, sections 14930 and 14931.

01.020: **Findings**

A. A majority of all native vegetation within the Lakeside Fire Protection District constitutes a seasonal and recurrent nuisance pursuant to the Health and Safety Code Section 14900.5. The accumulation of waste material on private property reduces the value of the property, promotes blight, creates a harbor for rodents and insects, creates a fire hazard and is injurious to the health, safety, and general welfare of the public. These materials are declared to be a public nuisance and shall be abated to the satisfaction of the Fire Chief or his authorized representative.

B. Cultivated and useful grasses and pasture shall not be declared a public nuisance. However, if the Fire Chief or his authorized representative shall determine a hazard exists adjacent to the improved property from fire exposure, an adequate fire break may be constructed to prevent the spread of fire or ensure the public safety.

01.030: **Waste Material Defined**

For the purposes of this ordinance, "waste material" is defined as unused or discarded matter having no substantial market value which is exposed to the elements and not enclosed in a structure concealed from public view. "Waste material" includes, but is not limited to:

- A. Rubble, asphalt, concrete, plaster and tile;
- B. Rubbish, crates, cartons, metal, and glass containers;
- C. Weeds which bear seeds of a downy or wingy nature, sagebrush, chapparral, poison oak, dry grass, brush, litter or other flammable, noxious, or dangerous material which endangers the public safety by creating a fire hazard.

01.040: **Public Nuisance Defined**
For the purposes of this ordinance, "public nuisance" is defined as waste material, which, by reason of its location or character, may hamper or interfere with the prevention or suppression of fire upon the premises or any adjacent property, or which creates a fire hazard.

01.050: **Abatement Defined**
For purposes of this ordinance, "abatement" is defined as the removal of the hazard or public nuisance as defined herein.

It shall be the responsibility of the property owner to ensure compliance with other local or State or Federal laws, including those pertaining to sensitive lands or threatened or endangered species, when abatement is ordered. Violations of any such law may subject the property owner to penalties prescribed therein.

01.060: **Notice to Abate Public Nuisance**
If it is determined that a public nuisance, as defined in this ordinance, exists on any lot, premises, sidewalk, parking lot, or street adjacent areas, the Fire Chief or an authorized representatives shall cause a notice to be issued to abate the nuisance. The notice shall be entitled:

NOTICE TO CLEAN PREMISES

in legible letters at least one inch (1") in height, and shall direct the abatement of the nuisance and refer to this ordinance for particulars. The notice shall contain a description of the property in general terms, reasonably sufficient to identify the location of the nuisance, and a description of the items to be removed from the property. The notice shall also state the time within which the abatement must be completed, as well as the penalty for failure to complete the abatement.

01.070: **Time Limit for Completing Abatement**
Within thirty days from the date of service of the notice, or in the case of an appeal to the Fire District, thirty days from the determination thereof, it shall be the duty of the land owner, the agent of the owner, or the person in possession of the premises to comply with the requirements of the notice and abate the premises.

01.080: **Service of Notice**
The Notice to Abate Public Nuisance may be served by one of the following methods:

- A. By personal service on the owner, adult occupant or adult in charge or control of the property;
- B. By regular mail addressed to the owner or person in charge and control of the premises at the address shown on the last available assessment roll;
- C. By posting at least one notice in a conspicuous place on the property, or on an adjacent public right of way nearest the street, highway, or road, or other area most likely to give actual notice to the owner.

- D. In the case of weeds or vegetation which has previously been declared to constitute a seasonal nuisance, it is sufficient to mail a post card notice to the owners of the property as their address appears on the current assessment roll. The notice shall describe the property and shall state "dangerous weeds of a seasonal and recurrent nature are growing on the property which constitutes a public nuisance and must be abated."

01.090: **Appeal to the Board of Directors**

At any time after receipt of the abatement notice and up to seven days prior to the final clearance date as specified in the notice, the owner or person occupying or controlling the premises may appeal to the Lakeside Fire Protection District Board of Directors. The appeal shall be in writing and filed with the Fire Marshal. At the next or regular adjourned meeting of the Board of Directors, the board shall proceed to hear and make a determination on the appeal, which determination shall be final and conclusive. The Fire Marshal shall notify the individual of the date and time of the meeting.

01.100: **Violation**

The owner, occupant or agent of any property within the Lakeside Fire Protection District who fails to abate a public nuisance or violates any of the provisions contained in this ordinance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than one thousand dollars or imprisonment for a period not to exceed six months, or both.

01.110: **Abatement of Public Nuisance by Fire Chief**

Upon the failure, neglect or refusal of any owner or agent, after notice, to properly comply with the order to remove or destroy the waste material within the time specified in this ordinance, the Fire Chief or an authorized representative, may cause such work to be done. When the work has been completed, a report of the proceedings and an accurate account of the cost on each separate property shall be filed with the Fire Prevention Bureau

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- A. If the Board determines that it is in the best interest of the District and its citizens, the Board may contract out the abatement process. Upon completion of the abatement, the District may lien the property as set forth herein, and may assign its interest to the contractor as full or partial payment.
- B. Pursuant to Health and Safety Code section 14901, the officer, board or commission, and his or its assistants, deputies, employees, or contracting agents, or other representatives may enter upon private property for the purpose of removing the weeds.

01.120 **Cost of Abatement to be Paid by Owner of Property**

Costs for abatement shall include any and all administrative costs including, but not limited to, cost of mailing, fire district personnel's time, computer retrieval, plus contractors' abatement cost. When the District has completed the work ordered to be done, or has paid for such work to be done, the actual cost thereof, together with the administrative costs, shall be charged to the owner of the property, and the owner, or an agent, shall be billed by mail, if not paid prior. The bill shall inform the owner

that he or she has thirty days to pay the entire bill and that failure to pay will result in a lien on the property.

01.130 **Hearing for Failure to Pay for Cost of Abatement**

Where the full amount due to the District is not paid by the owner within thirty days after the date of the bill, the Board shall conduct a hearing pursuant to Health and Safety Code sections 14910 et seq. The District shall post a notice three days prior to the hearing pursuant to Health and Safety Code section 14906. The Board of Directors shall review the report on accounting on the abatement at the hearing. The owner of the property may present a written or oral protest or objection to the report on accounting. At the conclusion of the hearing, the Board of Directors shall either approve the report on accounting as submitted or modify it. The decision of the Board of Directors shall be final and conclusive.

01.140 **Special Assessments**

The District shall charge to the property owner the full amount due. Pursuant to Health and Safety Code sections 14915 through 14922, a copy of the report, as confirmed, shall be turned over to the auditor of the county, on or before the tenth day of August following such confirmation, and the auditor shall enter the amounts of the respective assessments against respective parcels of land as they appear on the current assessment roll.

01.150: **Lien on Property for Cost of Abatement**

The amount approved by the Board of Directors shall be charged to the property owner and constitute a lien against the property. Failure to pay the amount determined by the Board of Directors may result in foreclosure of the lien and sale of the property to pay for the abatement.

01.160: **Liability of Successive Owners**

Every successive owner of property who neglects to abate a continuing nuisance upon, or in the use of, such property, created by a former owner, is liable therefor in the same manner as the one who first created it. (California Civil Code section 3483)

01.170: **Validity of Ordinance**

Should any section, paragraph, sentence or word of this ordinance or the codes referenced herein, be declared invalid, it is the intent of the Board that it would have adopted all other portions of the ordinance independent of the invalid portions and those portions not deemed invalid will remain in full force and effect.

