

ORDINANCE 07-01

AN ORDINANCE OF THE LAKESIDE FIRE PROTECTION DISTRICT REPEALING ORDINANCE 01-01 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- Section 1: Ordinance 01-01 is hereby repealed in its entirety.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:
- 07.010: 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.
- 07.020: **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.
- 07.030: **Waste Material Defined**
- For 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, dry or dead vegetation or trees, brush, litter or other flammable, noxious, or dangerous material which endangers the public safety by creating a fire hazard.

07.040: **Public Nuisance Defined**

For 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.

07.050: **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.

07.060: **Notice to Abate Public Nuisance**

If the Fire Chief or authorized representative determines 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 authorized representative 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 state the time within which the abatement must be completed, as well as the penalty for failure to complete the abatement. The notice shall inform the property owner that an appeal of the abatement of the nuisance may be submitted in writing to the Lakeside Fire Protection District, 12365 Parkside Street, Lakeside, CA 92040, (619) 390-2350, prior to the expiration of that notice.

07.070: **Time Limit for Completing Abatement**

Unless otherwise determined by the Fire Chief or authorized representative, the land owner, the agent of the owner, or the person in possession of the premises shall comply with the requirements of the notice and abate the premises within thirty days from the date of service of Notice to Abate Public Nuisance.

07.080: **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."

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

At any time after receipt of a Notice to Abate Public Nuisance and up to seven days prior to the date of the public hearing pursuant to Section 07.110 of this ordinance, the owner or person occupying or controlling the premises may appeal the abatement of the nuisance to the Lakeside Fire Protection District Board of Directors. The appeal shall be in writing and filed with the Lakeside Fire Protection District, 12365 Parkside Street, Lakeside, Ca 92040, (619) 390-2350. At the next 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 Chief or authorize representative shall notify the individual of the date and time of the meeting.

07.100: **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.

07.110:

Public Hearing and 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 authorized representative, may schedule a public hearing before the Lakeside Fire Protection District Board to consider a resolution declaring a public nuisance on the premises and authorizing the Fire Chief to enter upon the private property for the purpose of abatement of the public nuisance. The Fire Chief or authorized representative shall notify the property owner or agent of the date and time of the public hearing. The owner or agent of the property may present a written or oral protest or objection at the public hearing. At the conclusion of the public hearing, the Board of Directors shall either adopt the resolution declaring a public nuisance on the premises and authorize the Fire Chief to enter upon the private property for the purpose of abatement of the public nuisance as submitted, adopt the resolution with modifications, or not adopt the resolution. The decision of the Board of Directors shall be final and conclusive.

If authorized by the Board to enter the private property to abate the public nuisance, 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.

- 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.

07.120

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.

07.130

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.

07.140

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.

07.150:

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.

07.160:

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)

07.170:

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.

Section 3: **Effective Date of Ordinance**

This Ordinance shall become effective thirty (30) days following its passage and adoption.

Passed, approved and adopted on May 22, 2007 by the following vote:

Ayes: Coyle, Dailey, Daskoski, Smith, Liebig.

Noes: None.

Abstain: None.

Absent: None.

Attested By: 
Board of Directors President


Clerk of the Board