

## ORDINANCE 2000-1

AN ORDINANCE OF THE NORTH COUNTY FIRE PROTECTION DISTRICT REPEALING ORDINANCE #13 OF THE FALLBROOK FIRE PROTECTION DISTRICT AND ENACTING ORDINANCE 2000-1 RELATING TO THE DECLARATION OF CERTAIN WASTE MATTER AND/OR WEEDS AS A PUBLIC NUISANCE AND PROVIDING FOR THE ABATEMENT AND /OR REMOVAL THEREOF

The Board of Directors of the North County Fire Protection District ordains as follows:

**ARTICLE I** The health and safety of the North County Fire Protection District and the residents thereof, require the incorporation of the following amended ordinance.

**ARTICLE II** A majority of all native vegetation within the North County Fire Protection District constitutes a seasonal and recurrent nuisance pursuant to the Health and Safety Code Section 14900.5.

**ARTICLE III** The enactment of this ordinance is pursuant to the authority of the Health and Safety Code Section 13861, 13879, 14875, 14930, *et seq.*

### **ARTICLE IV ABATEMENT OF CERTAIN VEGETATION AND WASTE MATTER**

#### **SECTION 1 Weeds and Other Items Declared a Public Nuisance**

- A. Weeds defined below growing upon the streets, sidewalks or upon private or public property within the North County Fire Protection District which by reason of its size, type, manner of growth, proximity to any building, or improvements which, when dry, will with reasonable probability constitute a fire hazard, is hereby declared to be a public nuisance and shall be abated to the satisfaction of the Fire Chief or an authorized representative .
- B. Weeds are defined as provided in the Health and Safety Code Section 14875 by reference and are declared a seasonal and recurrent nuisance.
- C. Cultivated and useful grasses and pasture are not declared a public nuisance. However, the Fire Chief or an authorized representative may determine a hazard exists adjacent improved property from fire exposure and require an adequate firebreak.

#### **SECTION 1.1 Definition - Abatement**

Abatement pursuant to this Ordinance shall be defined as the removal of the hazard or nuisance as defined by this Ordinance.

The property owner shall insure compliance with the requirements of this section and to consider whether the property is protected open space easement or subject to protection under the sensitive lands ordinance of the County of San Diego or any endangered species acts.

## **SECTION 2** Waste Matter Defined.

Waste matter is defined for this article as unused or discarded matter having no substantial value and which is exposed to the elements or not enclosed in any structure or concealed from public view. These items consist (without limitation or exclusion by enumeration) of such matter and/or material as: rubble, asphalt, and any combustible non-functioning material.

### **SECTION 2.1** Waste Matter Declared a Public Nuisance

Waste matter is hereinafter defined as matter, which by reason of its location and/or character may hamper or interfere with the prevention or suppression of fire upon the premises or adjacent premises. Such waste matters shall be abated and are hereby declared a public nuisance.

## **SECTION 3** Notice to Abate Hazard.

If it is determined that a public nuisance as herein defined exists on any lot, premises, sidewalk, parking lot or street adjacent areas, the Chief of the Fire District or his/her authorized representative upon discovery shall cause a notice to be issued to abate such nuisance. Such notice shall be titled: **“Notice To Abate Hazard”** and shall, in legible characters, direct the abatement of the nuisance and refer to this article and section for particulars. Notices served by means other than posting as provided by this article shall contain a description of the property reasonably sufficient to identify the location of the property and location of the nuisance thereon.

### **SECTION 3.1** Notice to Abate Seasonal and Recurrent Nuisances

In the case of weeds/vegetation which have previously been declared to constitute a seasonal and/or recurring nuisance, it is sufficient to mail a post card notice to the owners of the property as they and their addresses appear upon the current San Diego County Real Property Tax assessment roll. Other nuisances shall be abated as per the Health and Safety Code Section 14898.

The notice shall refer to and describe the property and shall state “nuisance” or dangerous weeds of a seasonal and recurrent nature are growing on the property and that the same constitutes a public nuisance, which must be abated by removal. If not removed by the property owner, the Fire Chief or an authorized representative shall cause the abatement by removal. The cost of such removal shall be assessed upon the lot and/or lands from which nuisance is removed. Such removal by the District will constitute a lien upon such lots or lands until paid or collected through tax assessment.

## **SECTION 4** Service of Notice to Abate Hazard

The notice required by Section 3 and 3.1 of this ordinance may be served by one of the following:

(a) By personal service on the owner, adult occupant or adult in charge or control of property.

-OR-

(b) By regular mail addressed to the owner or person in charge and control of the property at the address shown on the last available San Diego County Real Property Tax assessment roll or otherwise known.

-OR-

(c) By posting in a conspicuous place on the land or adjacent public right of way a notice in conformance with Sections 14981 and similar to Section 14892 of the Health and Safety Code, not more than 100 feet in distance apart along such right of way with at least one notice posted on each lot or parcel.

#### **SECTION 5** Appeal To The Board of Directors

At any time after the receipt of the abatement notice and up to seven days prior to the final clearance date as specified on the notice, the owner or person occupying or controlling said lot or premise may appeal to the North County Fire Protection District Board of Directors. Such appeal shall be in writing and shall be filed with the Board Secretary. At a regular or adjourned meeting of the Board of Directors, the board shall proceed to hear such appeal and the decision of the Board of Directors thereupon shall be final and conclusive.

An administration fee of twenty-five dollars (\$25.00) shall accompany any appeal filed. Said fee may be waived if financial inability can be reasonably shown. Application of waiver shall be in the form of a letter signed by the owner or appropriate delegate.

If the appeal is not accompanied by the fee or application waiver, (and acceptance thereof by the Board Secretary) then the appeal will be administratively denied.

If the appeal is successful in reversing the prior demand for abatement then the above administration fees shall be refunded to the appellant.

#### **SECTION 6** Abatement of Nuisance by the Fire Chief

If the owner fails or neglects to abate the nuisance as herein defined within the time specified, the Fire Chief shall cause such nuisance to be removed and/or abated pursuant to Sections 14900 and 14901 of the Health and Safety Code. When appropriate, the Fire Chief shall consult the Soil Conservation Service. The abatement work may be done by private contractors. A report of the proceedings and an accurate account of the cost of abating the nuisance on each separate property shall be filed in the Fire

Prevention Bureau. The District representative may enter on private property for the purpose of removing weeds.

**SECTION 7** Cost of Abatement and Removal.

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 contractor's abatement costs.

**SECTION 8** Government Code Provisions Adopted and Collection Assessments.

The provisions of Section 25845 of the Government Code and Section 14930 of the Health and Safety Code of the State of California are incorporated by reference and made as part of this ordinance. The County Auditor shall enter each assessment in the County Tax Roll opposite the parcel of land. The amount of the assessment shall be collected at the time and in the manner of ordinary county taxes; and, if delinquent, the amount is subject to the same penalties and procedure of foreclosure and sale as provided for ordinary county taxes.

In the alternative, if the Fire District determines that it is in the best interest of the district and its citizens, the Fire District may contract out the abatement process. In order to facilitate this process, it is decreed that should a noticed party (per Section 4 herein) not comply to the satisfaction of the District, the Fire District may abate the problem on behalf of the landowner. Upon said abatement the district may assess all related costs per Government Code Section 25845.

The assignee of said claim shall be authorized to sue for collection of moneys due. Upon collection on said lawsuit the Fire District shall receive the first moneys up to what is owed to the District for services performed; after the Fire District has been satisfied the collection facility shall be paid for their work and then the assignee shall be paid.

**SECTION 9** Violation.

The owner, occupant or agent of any lot or premise within the North County Fire Protection District who shall permit or allow the unlawful continuance of a fire hazard and/or public nuisance as defined in Section 1.1 of this ordinance upon any lot or premises owned, controlled by him/her, or who shall violate any of the provisions of this ordinance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than five hundred dollars (\$500.00), or to imprisonment for a period not exceeding six (6) months, or both such fine and imprisonment.

**ARTICLE V** The Board of Directors hereby declares that facts exist pursuant to Section 36937 of the Government Code of the State of California constituting an urgency, to wit: That in order to promote and protect the public health, safety and welfare of the citizens of the North County Fire Protection District by reason of certain vegetation and other items constituting a potential health and fire hazard requiring immediate regulation and control by the Fire District; That the Board of Directors does hereby determine that such facts constitute an urgency, that the passage of this ordinance is urgent due to the severity and frequency of annual vegetation within the District, and shall take effect immediately upon adoption pursuant to Section 36937 of the Government Code of the State of California.

**ARTICLE VI** The Board of Directors hereby declares that should any section, paragraph, sentence or word of this ordinance or of the Codes or Ordinances referenced herein be declared for any reason to be invalid, it is the intent of the Board that it would have adopted all other portions of this ordinance independent of the elimination therefrom of any such portion as may be declared invalid.

**ARTICLE VII** Ordinance 13 is repealed hereby.

PASSED this

by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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Richard Olson, Board President

ATTEST:

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Loren Stephen-Porter, Board Secretary