

ORDINANCE NO. 18
AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
COSUMNES COMMUNITY SERVICES DISTRICT
AUTHORIZING THE ABATEMENT OF WEEDS, REFUSE, AND ABANDONED
MATERIALS

WHEREAS, California Government Code Section 53069.4 authorizes local jurisdictions to, by ordinance, making violations of the Cosumnes Community Services District's ("District") laws subject to an administrative fine or penalty; and

WHEREAS, California Government Code Section 61064 provides that any violation of a District ordinance, rule, or regulation is a misdemeanor, a citation may be issued for such violation and processed as an infraction, and the Board of Directors may confer on designated uniformed district employees the power to issue citations for misdemeanor and infraction violations of state law, city or county ordinances, or district rules, regulations, or ordinances when the violation is committed within a facility and in the presence of the District employee issuing the citation; and

WHEREAS, the uncontrolled growth and/or accumulation of weeds, grasses, hazardous vegetation and combustible materials or obstructions on sidewalks, streets, and on lands or lots within the District is dangerous or injurious to neighboring property and the health, safety, and welfare of residents of the District and surrounding areas; and

WHEREAS, such growth and accumulation constitutes a public nuisance in that it creates fire hazards, reduces the value of private property, promotes blight and deterioration, invites plundering, constitutes an unattractive nuisance, and creates a hazard to the health, safety, and general welfare of the public; and

WHEREAS, the District is located in a wildland/suburban interface in which many of the native and non-native plant species within the jurisdictional boundaries of the District are highly flammable during dry periods and have contributed to significant wildfires resulting in catastrophic fire losses to life, property, and the environment. The risk of significant wildfires continues to increase for numerous reasons; and

WHEREAS, of paramount importance to the Board of Directors and the citizens of the District is the protection of lives and property from the threat of fire and the safety of fire and law enforcement personnel during wildfires; and

WHEREAS, it is the purpose of this Ordinance to establish a hazardous vegetation and combustible material abatement program that protects the lives and property of the citizens of the District.

NOW, THEREFORE, the Board of Directors of the Cosumnes Community Services District does hereby ordain as follows:

SECTION 1. The Board of Directors hereby authorizes the abatement of weeds, refuse, and abandoned materials as set forth herein.

Abatement of Weeds, Refuse, and Abandoned Materials.

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1.1 Findings.

The Board of Directors finds and determines that the uncontrolled growth and/or accumulation of weeds, refuse, and other discarded or abandoned materials on parking areas, streets, land or lots within the District creates a condition tending to reduce property values, promotes blight and deterioration, invites plundering, creates fire hazards, constitutes an attractive nuisance to minors, creates a haven for rodents and insects, and generally creates a condition adverse to the health, safety and welfare of District residents. To eliminate these risks, the Board of Directors declares that weeds, refuse and abandoned materials in the District shall be abated in accordance with the provisions of this Ordinance.

1.2 Definitions.

“Abandoned materials” means any thing, item or product that has been discarded, abandoned, thrown aside, or left as worthless, regardless of the condition of the thing, item or product.

“Administrative Citation Ordinance” means District Ordinance No. 17, as may be amended from time to time.

“Enforcement Officer” as defined in the Administrative Citation Ordinance.

“Refuse” means and includes any of the following:

1. Garbage, waste or rubbish;
2. Grass clippings, tree or shrub trimmings, or other organic materials; or

3. Unused or discarded collections of materials, including but not limited to wood, bedding, crockery, tires or construction debris.

“Responsible person” means any person or entity charged with or found to have violated the District Code or other applicable laws. “Responsible person” includes the parents and/or legal guardian of any person under the age of eighteen who is charged with a violation of the District Code or other applicable laws. “Responsible person” means and includes each property owner as identified on the last equalized assessment roll available on the date of the violation.

“Streets” means and includes alleys, parkways, park paths, bicycle trails, roads, driveways, sidewalks and areas between sidewalks and curbs.

“Weeds” means and includes any of the following:

1. Weeds which bear seeds of a downy or wingy nature;
2. Sagebrush, chaparral and any other brush or weeds which attain such large growth as to become, when dry, a fire menace.

1.3 Declaration of Nuisance.

Any violation of the provisions of this Ordinance is hereby declared to be a nuisance, subject to redress as provided for in this Ordinance and the Administrative Citation Ordinance.

1.4 Concurrent Authority.

The provisions of this Ordinance do not provide the exclusive regulation for abatement of weeds, refuse and abandoned materials within the District. The rules set forth herein shall supplement and be in addition to other regulatory codes, statutes and/or ordinances heretofore and hereafter enacted by the District, the state or any other legal entity or agency having jurisdiction over abatement of weeds, refuse and abandoned materials.

1.5 Administration and Enforcement.

A. The Fire Chief or their designee shall enforce the provisions of this Ordinance that pertain to the removal of weeds, refuse and/or abandoned materials that create a fire hazard. All other provisions of this Ordinance shall be enforced by the Enforcement Officer.

1.6 Penalties.

A. A violation of this Ordinance pursuant to the procedures set forth in Section 1.11 which pertain to the abatement of weeds, refuse and/or abandoned materials that do not constitute a fire hazard, shall be an administrative violation as defined in the Administrative Citation Ordinance.

1. Each of the sanctions for administrative violations identified in the Administrative Citation Ordinance shall be available for enforcement of the provisions of Section 1.11 of this Ordinance.
2. A violation of Section 1.11 of this Ordinance shall be assessed the applicable monetary sanction as set forth in the Book of Fees.

B. Unless otherwise expressly incorporated by reference herein, the sanctions and procedures set forth in the Administrative Citation Ordinance shall not apply to violations of this Ordinance.

1.7 Right of Entry and Inspection.

The Fire Chief or their designee may enter upon private or public property to enforce or administer the provisions of this Ordinance and in accordance with the provisions of the Administrative Citation Ordinance.

1.8 Prohibited Activity.

No owner, lessee, tenant or occupant of any building, structure, residence, property, grounds or lots within the District shall allow or cause the accumulation or proliferation of weeds, refuse or abandoned materials on private property or on any streets within the District.

1.9 Abatement.

It shall be the responsibility of any owner, tenant, lessee or occupant of any building, structure, residence, property, grounds or lots to abate and remove any accumulated weeds, refuse or abandoned materials located: (1) on private property; or (2) on any streets within the District if such person(s) placed the weeds, refuse and/or abandoned materials on such private property or streets, or otherwise own, are occupying, or have custody or control over such private property or streets.

1.10 Enforcement Procedures for Abatement of Weeds, Refuse, and/or Abandoned Materials that Create a Fire Hazard.

The following procedures shall apply to the abatement of any weeds, refuse and/or abandoned materials that create a fire hazard:

A. The Fire Chief or their designee shall conduct periodic inspections of property within the District to determine whether any accumulation of weeds, refuse and/or abandoned materials constitutes a fire hazard. The Fire Chief or their designee shall also respond to and investigate citizen complaints that an accumulation of weeds, refuse and/or abandoned materials constitutes a fire hazard.

B. Upon a determination that any accumulation of weeds, refuse and/or abandoned materials constitutes a fire hazard, the Fire Chief or their designee shall send a written notice to all responsible persons advising such persons that the weeds, refuse and/or abandoned materials shall be abated by the date set forth in the notice. The written notice shall advise all responsible persons that if accumulated weeds, refuse and/or abandoned materials are not abated by a date certain, which shall not be less than 30 calendar days following the mailing or posting of the notice, the District will arrange for abatement at the expense of any and all responsible persons. The notice shall contain a section for a responsible person to return to the fire department to indicate whether the responsible person intends to perform the abatement, or whether the responsible person elects to have the fire department complete the abatement. The notice shall also contain a section for any person receiving the notice to advise the fire department that the property involved has been sold and the identity of the new owner(s).

C. The notice sent to a responsible person pursuant to this section shall advise the responsible person that the action required by that notice can be appealed through the administrative hearing procedures set forth in the Administrative Citation Ordinance.

D. If a responsible person does not either: (1) appeal the action requested by the notice, or (2) abate the weeds, refuse and/or other abandoned materials by the date set forth in the notice, the fire chief or his/her designee may enter upon the property identified in the notice to remove and abate such items. In the alternative, the fire chief, or his/her designee may contract with a private party or parties to cause the removal or abatement of such items, and such parties shall have the right of entry to the same extent as the fire chief. In the event the fire chief retains a private party or parties to effect removal or abatement, such party or parties shall operate under the control of the fire chief, and the fire chief shall impose such conditions and limitations upon the authority of the private party as he finds necessary to protect the property and any persons thereon.

E. In addition to any costs incurred by the District for abatement activity taken under this section, an administrative fee will be charged to reimburse the District for administrative time devoted to abatement of the weeds, refuse and/or other abandoned materials. The administrative fee will be set forth in the Book of Fees or established by resolution of the Board of Directors.

F. The Fire Chief or their designee shall serve the notice required under this section on each responsible person pursuant to the Administrative Citation Ordinance. If notice is required to be posted on the property pursuant to Ordinance No. [Admin Citation Ordinance], the notice shall bear a title which reads "Notice to Remove Weeds, Noxious Vegetation, Refuse and Other Obstructions," in a typeface not less than 1 inch in height. Notices which are posted shall be conspicuously posted in front of the property, or if the property has no frontage upon a street, then upon a portion of the property nearest to a street most likely to give actual notice to the owner(s). Notices shall be posted not more than 100 feet in distance apart upon property with more than 200 feet of frontage, and at least 1 notice shall be posted on each parcel with 200 or less feet of frontage.

G. If a responsible person refuses to allow the Fire Chief or their designee to abate the weeds, refuse and/or abandoned materials that create the fire hazard, the Fire Chief or their designee shall cause the service of a notice of administrative violation pursuant to the Administrative Citation Ordinance. The administrative sanction for such a violation shall be as set forth in the Book of Fees.

1.11 Abatement Procedures for Weeds, Refuse, and/or Abandoned Materials that do not Create a Fire Hazard.

The following procedures shall apply to the abatement of weeds, refuse and/or abandoned materials that do not create a fire hazard:

A. Enforcement. The Enforcement Officer shall implement a uniform procedure for the abatement of weeds, refuse and/or abandoned materials that constitute a nuisance in violation of this Ordinance. The Enforcement Officer shall also respond to and investigate citizen complaints that concern the accumulation of weeds, refuse and/or abandoned materials to determine whether such materials constitute a nuisance in violation of this Ordinance.

B. Notice to Correct. If the Enforcement Officer determines that a violation has occurred under this Ordinance, a notice to correct shall be served in accordance with the provisions of the Administrative Citation Ordinance on the Responsible Person. In addition to the requirements of the Administrative Citation Ordinance, the notice to correct shall contain the following information:

1. A description of the property by reference to the assessor's parcel number as used in the records of the county assessor, and by reference to the common name of a street upon which the property abuts, if the property abuts upon a street;
2. A statement describing the weeds, refuse and/or abandoned materials upon the property that violate this Ordinance;
3. Citation to this Ordinance and any other applicable laws that have been violated;
4. A request that such weeds, refuse and/or abandoned materials be removed or abated by a date certain, which shall not be less than 30 calendar days following the mailing or posting of the notice;
5. Notification of rights to appeal the notice to correct as provided for in the Administrative Citation Ordinance.

C. Notice of Administrative Violation. If the weeds, refuse and/or abandoned materials are not abated and/or removed within the time set forth in the notice to correct, the Enforcement Officer shall issue a notice of administrative violation pursuant to the procedures set forth in the Administrative Citation Ordinance. All responsible persons shall have the right to request an administrative hearing as set forth in the Administrative Citation Ordinance.

D. Notice to Abate. At the time of service of either the notice to correct or the notice of administrative violation, or at anytime thereafter, the Enforcement Officer may also serve a notice to abate a nuisance pursuant to the Administrative Citation Ordinance. The notice to abate shall constitute the notification that if the required corrective action is not taken by the date specified, the weeds, refuse and/or abandoned materials described therein may be removed under authority of the District and that the costs of such removal and abatement shall be made a legal charge against the owner(s) of the property, a lien on the property, and subject to collection with property taxes as provided for in the Administrative Citation Ordinance. The notice to abate is subject to appeal as set forth in the Administrative Citation Ordinance.

1.12 Administrative Hearings.

Administrative hearings shall be conducted pursuant to the procedures set forth in the Administrative Citation Ordinance.

1.13 Judicial Review.

If a hearing is requested, the decision of the hearing officer shall be the final administrative decision and shall not be appealable to the Board of Directors.

1.14 Abatement Liens – Special Assessments.

A. The costs of abatement, administrative fees and any administrative penalties assessed or imposed pursuant to this Ordinance shall be declared a lien against the property pursuant to the procedures set forth in the Administrative Citation Ordinance. The abatement lien shall include those costs set forth in the Book of Fees.

B. In addition to recording an abatement lien, all costs and penalties may be declared a special assessment pursuant to the procedures set forth in the Administrative Citation Ordinance. Such assessment may then be collected as provided for in that Ordinance.

C. Any costs and administrative fees incurred to abate weeds, refuse and/or abandoned materials prior to the effective date of this ordinance may be declared a lien against the property pursuant to the procedures set forth in the Administrative Citation Ordinance.

Section 2. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the District or any officer or employee thereof a mandatory duty of care towards persons and property within or without the District, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. CEQA. The adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), which provides that CEQA only applies to projects which have the potential for causing a significant effect on the environment. Where it can be determined that the proposed project will not have a significant adverse effect on the environment, the project is not subject to CEQA. This Ordinance would establish a program to allow for code enforcement and does not propose nor authorize any action that would have the potential to cause a significant adverse effect on the environment. Thus, it can be established with certainty that this Ordinance will not have a significant adverse effect on the environment and is therefore not subject to CEQA. Pursuant to the foregoing, the District Clerk shall prepare and complete a Notice of Exemption in accordance with CEQA.

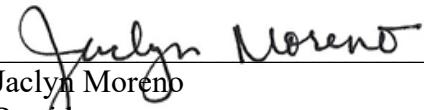
Section 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. This Board of Directors hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

Section 5. Effective Date, Expiration and Publication. This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance, within fifteen (15) days after its passage, a summary of the ordinance shall be published at least once in a newspaper of general circulation published and circulated within the Cosumnes Community Services District.

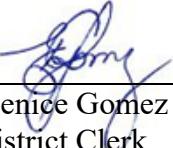
Section 6. Authorization. The District Clerk is hereby authorized and charged with taking all actions necessary to effectuate the Ordinance on behalf of the District.

PASSED AND ADOPTED this 2nd day of February, 2022 by the following vote:

AYES: **Albiani, Brewer, Fuentes, Luttrell, Moreno**
NOES: **None**
ABSENT: **None**
ABSTAIN: **None**


Jaclyn Moreno
President

ATTEST:


Elenice Gomez
District Clerk

APPROVED AS TO FORM:


Sigrid Asmundson
District Counsel