

ORDINANCE NUMBER 4286

AN ORDINANCE AMENDING THE SAN JOAQUIN COUNTY ORDINANCE CODE BY ADDING CHAPTER 6 TO DIVISION 1 (FIRE PREVENTION) TITLE 4, CONCERNING ABATEMENT OF HAZARDOUS WEEDS AND RUBBISH IN THE UNINCORPORATED AREAS OF SAN JOAQUIN COUNTY.

THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA DO ORDAIN AS FOLLOWS:

SECTION 1. Chapter 6 is hereby added to Division 1, Title 4, of the San Joaquin County Ordinance Code to read as follows:

CHAPTER 6

ABATEMENT OF HAZARDOUS WEEDS AND RUBBISH

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Section 4-1050 Intent. It is the intent of this ordinance to compel the owner, lessee, or occupant(s) of buildings, grounds, or lots in the unincorporated portions of San Joaquin County to remove Weeds and Rubbish that constitute a public nuisance and fire hazard from such property and adjacent public right of ways, or pay the County the cost of removing the nuisance.

Section 4-1051 Definitions. For the purpose of this chapter, certain words and phrases are defined and certain provisions shall be construed as set forth herein, unless it is apparent from the context that a different meaning is intended.

- a) **Abate:** To bring entirely down, demolish, put an end to, do away with a nuisance.
- b) **Brush:** Branches from trees, orchard clippings in piles, tree trimmings or other combustible vegetation in a dry state of condition capable of sustaining combustion (fire).
- c) **Combustible Vegetation:** Cut or uncut Brush, Weeds, grass, vines, orchards, vineyards, or other vegetation that when dry become a fire hazard.
- d) **Fire Hazard:** A thing or act which increases or could cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing, or extinguishing fire or any act which could obstruct, delay, hinder, or interfere with the operations of the fire department or the egress of occupants in the event of fire.
- e) **Lot:** Lot means a designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon.
- f) **Public Right of Way:** Public way is any street, alley, or similar parcel of land essentially unobstructed from the ground to the sky that is deeded, dedicated, or otherwise permanently appropriated to the public for public use, including sidewalks, planters, drainage ditches or other strips of public land fronting or adjoining a private parcel of land.
- g) **Rubbish:** Magazines; books; trimmings from lawns, trees or flower gardens; pasteboard or cardboard boxes; rags; straw; sawdust; packing material; shavings; wood boxes; scrap lumber; and refuse that will ignite through contact with flames of ordinary temperatures.
- h) **Weeds:** Weeds as used in this ordinance, means vegetation and or Combustible Vegetation growing upon lots, private or public, improved or unimproved, and the adjoining public right of way in the unincorporated portions of San Joaquin County, including any fire protection district, and includes any of the following:
 - 1. Vegetation which bear seeds of a downy or wingy nature.
 - 2. Tumbleweeds, sagebrush, chaparral, and any other brush or vegetation which attain such large growth as to become, when dry, a fire menace to adjacent property or the property upon which the Weeds exist.
 - 3. Vegetation which is noxious or dangerous.
 - 4. Dry grass, stubble, brush, litter, or other flammable material which endangers the public safety by creating a fire hazard.

Section 4-1052 Findings by the Board of Supervisors. The San Joaquin County Board of Supervisors hereby finds that Weeds and Rubbish, as defined in this chapter, on lots or parcels, or the public right of way within the unincorporated portions of the county, including any fire protection district, constitute a public nuisance and are a fire hazard and may be abated as provided by this ordinance.

Section 4-1053 Enforcement Officer Designation. The San Joaquin County Board of Supervisors shall designate the Fire Warden as the officer responsible for the administration and enforcement of the provisions of this ordinance. The Fire Warden is the Director of Community Development Department and may appoint deputies to assist in the enforcement of said ordinance and such deputies shall include the chief of all fire districts, and their authorized representatives within the unincorporated portions of San Joaquin County.

Section 4-1054 Notice to Remove - Posting. If and when it shall be determined by the Fire Warden, and or such deputies as described in section 4-1053, that Weeds or Rubbish constituting a public nuisance or a fire hazard exist on a lot, a "Notice to Abate Weeds and Rubbish" shall be sent and such notice shall include the possibility of abatement by the County if compliance is not met within the guidelines set forth in this ordinance.

a) Heading The notices shall be headed "NOTICE TO ABATE WEEDS AND RUBBISH" in words not less than one inch in height.

b) Form The notice shall be substantially in the following form:

NOTICE TO ABATE WEEDS AND RUBBISH

San Joaquin County Ordinance number _____ states that Weeds or Rubbish, as defined herein, constitute a public nuisance and fire hazard, and the existence of which is a violation of said Ordinance. Weeds or Rubbish violating the ordinance have been found on Assessor Parcel Number _____, Street Address _____, or in the public right of way adjacent to the property, and must be abated; otherwise the nuisance will be abated by county authorities, in which case the cost of the removal from your lot(s) and the adjacent public right of way, including administrative charges, will constitute a lien upon your lots or lands until paid. You are hereby notified that if you wish to contest this Notice To Abate Weeds and Rubbish you must file a written protest with the Fire Warden at 1810 E. Hazelton Ave., Stockton California 95205-6232 within fourteen (14) days of the date of this notice. The protest should specify the address or description of the property, the reasons for objection and the name, address and phone number and status (owner, manager, tenant, lessee or other) of the person making the objection. If a written protest is not received by (date) _____, the Fire Warden shall order the weeds or rubbish abated by the County or its agents. Dated this _____ day of _____, 20____.

Fire Warden, San Joaquin County, by the authority of Ordinance no _____.

c) Mailing of Notice: Notice in the form required in b) above shall be mailed to the property owners as their names and addresses appear from the last equalized assessment roll, or as they are known to the San Joaquin County Assessor's Office.

d) Alternative to Mailing: If said Notice To Abate is determined to be undeliverable by means of regular or certified mail service, the notice shall be posted on the property to be abated.

e) Place of Posting: The notices shall be conspicuously posted in front of the property on which the nuisance exists. If the property has no frontage upon any street, highway, or road, then the notice shall be posted upon the portion of the property nearest to the street, highway or road, or location most likely to give actual notice to the owner.

- f) **Manner of Posting** The notices shall be posted not more than one hundred feet in distance apart, but at least one notice shall be posted on each lot or parcel.
- g) **Failure to Receive Notice:** Failure of the owner to receive such notice shall not affect the power of the County or any of its officers or agents to proceed as provided in this chapter, nor affect the validity of lien provided for under this chapter.

Section 4-1055 Abatement: If a protest is filed, the Fire Warden, or designated representative, shall hear the case and determine whether the abatement of the Weeds or Rubbish should be waived. If the property owner has not responded to the notice, has not requested a hearing to protest the removal of the Weeds or Rubbish, and the Weeds or Rubbish have not been abated, the Fire Warden, after determining that the notification requirements of this ordinance have been satisfied, shall order the abatement of the Weeds or Rubbish by the County or its agents.

Section 4-1056 Abatement of Seasonal Nuisances: In the case of a lot containing Weeds or Rubbish where abatement has occurred in previous years, and the Weeds or Rubbish are seasonal or recurring, it shall be the decision of the Fire Warden to declare the lot a seasonal public nuisance and the Weeds or Rubbish shall be abated thereafter without the necessity of further hearing. It shall be sufficient to mail a postcard notice to the owners of the property as they and their addresses appear upon the current assessment roll. The notice shall refer to and describe the property and shall state that Weeds or Rubbish of a seasonal and recurrent nature are growing on or in front of the property, and that the same constitute a public nuisance which must be removed, and if the owner fails to remove the Weeds or Rubbish, the nuisance will be abated by the county authorities, in which case the cost of such removal shall be assessed upon the lot and that such cost will constitute a lien upon such lots or lands until paid.

Section 4-1057 Public Right of Way Abatement: In the case of abatement occurring on a private lot, adjoining public right of ways containing Weeds or Rubbish shall also be abated. In those instances, the owner, lessee or occupant will be billed for the cost of abating the property and the adjacent right of way.

Section 4-1058 Right of Entry: The Fire Warden, and the assistants, deputies, employees, or contracting agents or other representatives may enter upon private property for the purpose of removing the Weeds or Rubbish. If entry to abate the condition is denied by the property owner or the situation becomes confrontational, the Fire Warden may obtain the services of the San Joaquin County Sheriff to secure access to the property so the abatement of the Weeds or Rubbish can occur.

Section 4-1059 Removal before Fire Wardens arrival: At any time before removal of the nuisance by the Fire Warden or its agents, a property owner may remove the Weeds at his or her own expense. In that case, the assessment and lien shall be limited to the costs incurred by the responsible agency in enforcing abatement upon the parcel, including investigation, boundary determination, measurement, clerical, and other related costs.

Section 4-1060 Recovery of Abatement Costs: The County shall be reimbursed for all time, material, contracting agent's costs, and any other costs necessary to abate Weeds and Rubbish per this ordinance.

- a) **Statement of Expense.** A statement of expense shall be developed by the Fire Warden. The Statement of Expense shall be an itemized statement explaining all costs incurred by the County in abating the Weeds or Rubbish. The Statement of expense shall be mailed to the property owner as their names and addresses appear from the last equalized assessment roll, with a demand of payment within thirty (30) calendar days of the date of the statement was mailed. The Statement of Expense shall advise the owner that he may pay the expenses or that he may request, in writing, a hearing to dispute the costs of abatement set forth in the Statement of Expense. The written request for a hearing must be received by the Fire Warden, at 1810 E. Hazelton Ave., Stockton, CA 95202-6232, within thirty (30) calendar days of the date the statement was mailed.
- b) **Office Hearing:** The hearing will be conducted by an official designated by the Fire Warden. The official shall give written notice of the date, time, and place of the hearing on the Statement of Expense. The hearing notice shall be sent to the owner by registered or certified mail. At the hearing, the official may approve, modify, or reject the Statement of Expense. The existence of a violation of this title shall not be considered at the hearing, only the amount of costs due to the County shall be considered. The hearing official's written decision shall be sent to the owner, by registered or certified mail, within five (5) calendar days of the hearing. The written decision shall advise the owner that he must pay the amount determined by the hearing official to be due within fifteen (15) days from the date the written decision was mailed. The written decision shall also advise the owner that he may appeal the decision to the Board of Supervisors by filing a written notice of appeal with the Clerk of the Board within fifteen (15) days of the date that the decision was mailed.
- c) **Board Resolution.** If the owner does not pay the amount due, request a hearing within the time specified, does not pay the amount due after a hearing, or appeal the matter to the Board of Supervisors, the Fire Warden shall request placement of a resolution on the consent calendar of the Board of Supervisors approving the amount due under the Statement of Expense or under the written decision of the hearing official. The resolution shall direct the Auditor to cause a special assessment to be placed on the subject property. Said assessment shall have the same priority as other taxes. A notice of release shall not be recorded with the office of the County Recorder until all assessments for the cost of abatement are paid. When the assessment in question is collected, it shall be credited to the Community Development Department.
- d) **Appeal to Board of Supervisors.**
 - 1. If the owner does not agree with the decision of the hearing official, he may file a written appeal to have the matter heard before the Board of Supervisors. Such written appeal must be filed with the Clerk of the

Board within fifteen (15) calendar days from the date the decision of the hearing official was mailed. The only issue on appeal shall be the amount of costs due to the County. The existence or nonexistence of a violation shall not be an issue. The Board of Supervisors may, by resolution approve, modify, or reject the Statement of Expense. Any amount determined by the Board of Supervisors to be due under the Statement of Expense must be paid within fifteen (15) days from the date a copy of the Board's resolution is mailed to the owner.

2. If complete payment is received within the time specified, the claim for reimbursement shall be satisfied. However, if complete payment is not made within the time specified, a copy of the resolution, and the Statement of Expense, shall be forwarded to the Auditor of San Joaquin County. The Auditor shall cause a special assessment to be placed on the affected parcel. Said assessment shall have the same priority as other taxes. A Notice of Release shall not be recorded in the office of the County Recorder until all assessments for the cost of abatement are paid. When the assessment in question is collected, it shall be credited to the Community Development Department.

Section 4-1061 Costs of Abatement Constituting Special Assessments; Liens: The amount of the costs for abating the nuisance on the lot and in the public right of way adjacent to the lot, and the costs incurred by the responsible agency in enforcing abatement upon the lot, including investigation, boundary determination, measurement, notification, clerical, administration and any other costs shall constitute special assessments against the lot, and or respective parcels of land and are a lien on the property(s) for the amount of the respective assessments.

Section 4-1062 Assessment Billings: The Tax Collector shall include the amount of the assessment on bills for taxes levied against the respective lots and parcels of land.

Section 4-1063 Collection of Assessments: The amounts of the assessments shall be collected at the same time and in the same manner as county taxes are collected, and are subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes.

Section 4-1064 Cancellation or Refund of Assessment: If a special assessment, penalty or cost was entered, charged, or paid:

- a) More than once;
- b) Through clerical error;
- c) Through the error or mistake of the board of supervisors or of the officer, board or commission designated to give notice or to order abatement of the nuisance, in respect to any material fact, including the case where the cost report rendered and confirmed as hereinbefore provided shows the county abated the Weeds or Rubbish but such is not the actual fact;
- d) Illegally; or

- e) On property acquired after the lien date by the State or by any county, city, school district or other political subdivision and because of this public ownership not subject to sale for delinquent taxes.

All or any portion of the assessment, penalty or costs shall, on order of the Board of Supervisors, be cancelled by the auditor if uncollected, or, refunded by the County Treasurer if collected, except no refund will be made in the case provided for in subdivision (e) above.

Section 4-1065 Refunding requisites: No order for a refund under the foregoing section shall be made except on a claim:

- a) Made by the person who paid the special assessment, his guardian, executor, or administrator; and
 - b) Filed within three years after making of the payment sought to be refunded.
- The provisions of this section do not apply to cancellations.

SECTION 2. This Ordinance shall take effect and be in force thirty (30) days after it's adoption, and prior to the expiration of fifteen (15) days from the passage thereof, shall be published once (1) in The Record, a newspaper of general circulation published in the County of San Joaquin, State of California, with the names of the members of the Board of Supervisors voting for and against the same.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of San Joaquin, State of California, on March 14, 2006, by the following vote of the Board of Supervisors, to wit:

AYES: Mow, Gutierrez, Marengo

NOES:

ABSENT: Ornellas, Sieglock

ABSTAIN:

Dario L. Marengo

DARIO MARENCO, Chairman
Board of Supervisors
County of San Joaquin
State of California

ATTEST: Lois M. Sahyoun
Clerk of the Board
County of San Joaquin
State of California

By: Aida Pizano