

ORDINANCE NO. 23-02

AN ORDINANCE OF THE WOODSIDE FIRE PROTECTION DISTRICT OF SAN MATEO COUNTY, CALIFORNIA DECLARING CERTAIN VEGETATION AND WASTE MATTER A PUBLIC NUISANCE, PROVIDING FOR THE ABATEMENT AND/OR REMOVAL THEREOF, AND DETERMINING THE ORDINANCE IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

The Board of Directors (“Board”), as the governing body of the Woodside Fire Protection District (“Fire District”), does ordain as follows:

SECTION 1. AUTHORITY

This Ordinance is enacted pursuant to the authority of Health and Safety Code sections 13861, subsection (h); 13870, 13879, and 14875 *et. seq.*

SECTION 2. FINDINGS

The Board of Directors of the Woodside Fire Protection District finds and determines that accumulation of combustible vegetation, including but not limited to seasonal and recurrent grasses, weeds, stubble, brush, dry needles, dead, dying, bark, mulch, or diseased trees, and rubbish endanger the health, safety and welfare of Fire District residents and are dangerous to property. Enacting this Ordinance is in the Fire District’s best interest by reducing the risk of fire.

SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION

The District finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the following categorical exemptions in the CEQA Guidelines: Sections 15304 (minor alterations to land) because it requires minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees and fuel management activities to reduce the volume of flammable vegetation, 15307 (actions taken as authorized by law to assure protection of natural resources), 15308 (actions taken as authorized by law to assure protection of the environment), and 15321 (enforcement of a law, general rule, standard, or objective, administered or adopted by the District).

The Ordinance will not result in the taking of endangered, rare, or threatened plant or animal species or significant erosion and sedimentation of surface waters. The Ordinance will not impact an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies under CEQA Guideline section 15300.2(a). There are no unusual circumstances under CEQA Guideline section 15300.2(c). No exception identified in CEQA Guideline Section 15300.2 applies to this Ordinance.

Each exemption stands as a separate and independent basis for determining that this Ordinance is not subject to CEQA.

SECTION 4. DEFINITIONS.

The following definitions apply to this Ordinance:

- A. **ABATEMENT.** Any action the Fire District may take on public or private property and any adjacent property as may be necessary to remove or alleviate a nuisance, including but not limited to demolition, removal, repair, boarding and securing or replacement of property.
- B. **COMBUSTIBLE MATERIAL.** Rubbish, litter, or material of any kind other than Hazardous Vegetation, that is combustible and endangers the public safety by creating a Fire Hazard as determined by the Fire Code Official.
- C. **FIRE CODE OFFICIAL.** The Fire Chief or his or her duly authorized representatives.
- D. **FIRE HAZARD.** Any condition, arrangement, or act that will increase, or may cause an increase of, the hazard or menace of fire to a greater degree than customarily recognized as normal by persons in the public service of preventing, suppressing, or extinguishing fire, or that may obstruct, delay, or hinder, or may become the cause of obstruction, delay, or hindrance, to the prevention, suppression, or extinguishment of fire.
- E. **HAZARDOUS VEGETATION.** Vegetation that is combustible and endangers the public safety by creating a Fire Hazard as determined by the Fire Code Official, including but not limited to bark, mulch, seasonal and recurrent grasses, weeds, stubble, non-irrigated brush, dry leaves, dry needles, dead, dying and diseased trees, or any other vegetation identified by the Fire Code Official.
- F. **LEGAL INTEREST.** Any interest that is represented by a document such as a deed of trust, quitclaim deed, mortgage, judgment lien, tax or assessment lien, mechanic's lien or other similar instrument which is recorded with the county recorder.
- G. **PERSON.** Any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, trust, organization or the manager, lessee, agent, servant, officer or employee of any of them or any other entity which is recognized by law as the subject of rights or duties, including any public entity.
- H. **PROPERTY OWNER.** The record owner of real property based on the county assessor's records.
- I. **RESPONSIBLE PERSON.** A person who is determined by the Fire Code Official to be responsible for causing or maintaining a public nuisance. The term "responsible person" includes but is not limited to a property owner, tenant, person with a legal interest in real

property or person in possession of real property.

SECTION 5. DECLARATION OF NUISANCE

- A. Any Hazardous Vegetation is hereby declared to be a seasonal and recurring public nuisance and shall be abated to the satisfaction of the Fire Code Official.
- B. Combustible Rubbish is hereby declared to be a public nuisance and shall be abated to the satisfaction of the Fire Code Official.

SECTION 6. ABATEMENT OF NUISANCE

The Fire Code Official is hereby authorized to abate nuisances as described in this Ordinance. When the Fire Code Official determines that a nuisance as described in this Ordinance constitutes an immediate threat to public health or safety, the Fire Code Official is authorized to summarily abate the nuisance, notwithstanding the provisions of Sections 7 through 10 of this Ordinance.

SECTION 7. NOTICE TO ABATE NUISANCE

When the Fire Code Official determines that a public nuisance exists on any lot, premises, sidewalk, parking lot or street adjacent areas, the Fire Code Official shall cause a notice to be issued to abate such nuisance. The abatement notice shall:

- A. Be headed "Notice to Abate Public Nuisance/Hazardous Vegetation."
- B. Contain a description of the property on which the public nuisance is located in general terms reasonably sufficient to identify the property.
- C. Refer to this Ordinance, and to applicable state laws or regulations, which render the property a public nuisance.
- D. Describe the action required to abate the public nuisance, which may include without limitation correction, repair, removal, obtaining the necessary permits, or other appropriate action and provide the time frames by which each action must occur.
- E. Explain the consequences should the responsible person fail to comply with the terms of the notice, including that the nuisance will be abated by the District, the cost of the abatement will be charged to the responsible persons, and the cost will constitute a lien upon the property until paid.
- F. Identify all applicable hearing and appeal rights and the date by which an appeal must be filed.

SECTION 8. SERVICE OF NOTICE OF ABATEMENT

- A. The Notice of Abatement required in Section 7 may be served by any of the following methods:
 - 1. By first class mail to the property owners as their names and addresses appear on the current assessment role of the San Mateo County assessor or
 - 2. By personal service to the property owner or responsible person.
- B. Failure of the property owner or responsible person to actually receive notice regularly made in conformity with this Section shall not affect the validity of the notice or the proceedings.

SECTION 9. TIME LIMIT FOR REMOVAL OF NUISANCE

It is the duty of the property owner or responsible person in possession of any parcel or premises within the Woodside Fire Protection District to abate the nuisance as stated within ten calendar days from the date of Notice of Abatement unless the property owner or responsible person files an appeal. In the event of an appeal, the nuisance must be abated 10 calendar days from the District Board of Directors' decision, unless the appeal is sustained.

SECTION 10. APPEAL

- A. Within ten calendar days from Service of the Notice of Abatement, the property owner or responsible person may appeal to the Board of Directors. Such appeal must be in writing and filed with the Fire Code Official.
- B. At a regular or special meeting of the Board of Directors not less than five days or more than thirty days after receipt of an appeal, the Board of Directors shall hear the appeal. The Board of Directors may continue the hearing.
- C. Upon conclusion of the hearing, the Board shall issue a decision ordering or denying the abatement of the nuisance.
- D. The decision of the Board of Directors is final.

SECTION 11. ABATEMENT

- A. If the property owner fails to abate the nuisance within the time specified, the Fire Code Official shall cause the nuisance to be abated at the property owner's expense.
- B. The Fire Code Official, deputies, assistants, employees of the District, and contracting agents may enter upon private property for the purpose of abating a nuisance. Any such

entry remains subject to all requirements established by the United States Constitution, the California Constitution, and any other applicable state and federal law.

SECTION 12. COSTS OF ABATEMENT.

- A. The Fire Code Official shall prepare a Cost Report for approval by the Board of Directors of the costs of abating the nuisance on each separate property. Costs of abatement may include the costs incurred by the District in enforcing abatement, including costs of mailing, District personnel time in investigation, clerical and administrative costs, and costs of enforcement, including, but not limited to, attorneys' fees.
- B. The District shall serve, as provided in Section 8 above, a copy of the report and notice of the hearing date to the Property Owner at least seven days prior to the hearing on the report.
- C. At the specified date and time, the Board will receive the report. The Board will hear any objections of the property owners, if any, to be assessed for the costs of abatement. The Board may make modifications to the report as it deems necessary, after which, the Board shall confirm the report.
- D. After the Board has confirmed the report, the District will seek cost recovery from the property owner as provided in Section 13.

SECTION 13. SPECIAL ASSESSMENT AND LIEN.

- A. After confirmation of the Cost Report, the District shall send a written bill to the property owner. If complete payment is not made within 30 days of the date the bill was made, the District shall certify to the San Mateo County Assessor-County Clerk-Recorder that the bill remains unpaid.
- B. The provisions of Health and Safety Code section 14912 are incorporated by reference and are made a part of this Ordinance. The costs for abating the nuisance shall constitute special assessments against the respective parcels of land and are a lien on the property. Upon confirmation by the Board of Directors, the Fire Code Official shall provide the Cost Report to the San Mateo County Assessor-County Clerk-Recorder to be collected in the same time and manner as County taxes are paid.

SECTION 14. VIOLATION

Any property owner, or responsible person who permits or allows the unlawful continuance of a public nuisance as defined in this Ordinance or who has violated any regulatory or prohibitory provision of this Ordinance shall be guilty of an infraction or a misdemeanor in accordance with Health & Safety Code section 13871.

SECTION 15. NONEXCLUSIVE REMEDY

This Ordinance is an alternative remedy and does not supersede any other provision of law that authorizes a nuisance to be abated or enjoined.

SECTION 16. VALIDITY

- A. If any section, subsection, sentence, clause, phrase, or provision of this Ordinance or its application to any person or circumstance is held invalid for any reason, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The Board of Directors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause, phrase, or provision thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or provisions be declared unconstitutional or invalid.

- B. All former ordinances and resolutions, or parts thereof, conflicting or inconsistent with the provisions of this ordinance are hereby superseded by this Ordinance. The adoption of this ordinance shall not in any manner affect any action or prosecution for violation of ordinances, which violations were committed prior to the effective date hereof, be construed as a waiver of any license, fee, or penalty required by or resulting from any such ordinance, or affect the validity of any bond (or cash deposit in lieu thereof) required to be posted, filed, or deposited pursuant to such ordinance.

SECTION 17. EFFECTIVE DATE

This ordinance shall take effect and be in full force and effect 30 days after its passage. This ordinance shall be published as required by law.


PASSED, APPROVED, and ADOPTED this day of at the regular meeting of the District Board of Directors, on a motion made by Director and seconded by Director and duly carried with the following vote:


AYES:   
NOES: 2nd motioned Motioned


ABSENT:

ABSTAIN:

ORDINANCE 23-02


September 26, 2023
Matt Miller, President
Board of Directors

ATTEST:

September 26, 2023
Randy Holthaus
District Secretary

APPROVED AS TO FORM:

September 26, 2023
Jonathan V. Holtzman
District Counsel