

## ORDINANCE 2020-07

AN ORDINANCE OF THE CYPRESS FIRE PROTECTION DISTRICT REPEALING ORDINANCE #2008-06 AND ENACTING ORDINANCE 2020-07 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 Cypress Fire Protection District ordains as follows:

ARTICLE I The health and safety of the Cypress Fire Protection District (DISTRICT) and the residents thereof, require the incorporation of the following amended ordinance.

ARTICLE II A majority of all native vegetation within the 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 Sections 13861, 13879, 14875, 14930, et seq., as may be amended and Government Code Section 25845.

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

#### SECTION 1 Weeds, Brush and Other Items Declared a Public Nuisance

A. Weeds and brush defined below growing upon the streets, sidewalks or upon private or public property within the 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 and brush 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 to 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, in compliance with Health and Safety codes and the District Fire Defense plan.

Nothing contained in this section or shall any provision of this Ordinance be construed to require or allow any person to enter upon, alter, damage or clear vegetation on the land or property of another, except as provided in Section 7.

#### 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 Fire 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.

### SECTION 3.1 Notice to Abate Seasonal Vegetation, Waste Matter and Recurrent Public Nuisances

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; -
- (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 Monterey 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 14891 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.

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 5 Appeal to The Board of Directors

The owner or person occupying or controlling a lot or premise served a "Notice to Abate Hazard" may appeal to the DISTRICT Board of Directors. Such appeal shall be in writing and shall be filed with the Board Secretary ten days prior to the public hearing at 2221 Garden Road Monterey, CA 93940.

An administration fee shall accompany any appeal filed. The appeal must include the parcel number, address and basis of your appeal. If the appeal is not accompanied by the fee then the appeal will be administratively denied.

A public hearing shall be conducted at a regular meeting by the Board of Directors or before a referee appointed by it, to hear and consider all objections or protests, if any, to the proposed abatement of the public nuisance. If the hearing is before a referee, upon the conclusion of the hearing, the referee shall report to the Board of Directors findings and recommendations as to what objections, if any, should be allowed and what objections, if any, should be overruled. The public hearing shall be conducted at the DISTRICT Board of Directors' meeting room located at 3775 Rio, Rio Road, Carmel, California, or other designated meeting place and shall take place on a date and time to be determined and posted with the inspection schedule each year.

#### SECTION 6 Violation

The owner, occupant or agent of any lot or premise within the 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 in violation and responsible for all costs and fees incurred to abate the public nuisance.

#### SECTION 7 Abatement of Nuisance by the Fire Chief

If the owner fails or neglects to abate the nuisance as herein defined by the District within the time specified in the notice to abate hazard, 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. The fire code official or commissioner or their assistants, deputies, employees, or contracting agents, or other representatives may enter upon private property for the purpose of inspecting and/or removing vegetation. Upon said abatement the district may assess all related costs per Government Code Section 25845. Any property owner may have the vegetation removed at the owner's expense if it is done prior to the arrival of the fire code official or commissioner or their representatives. A report of the proceedings and an accurate account of the cost of abating the nuisance on each separate property shall be filed at the District.

#### SECTION 8 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 and legal costs.

#### SECTION 9 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.

## SECTION 10 Environmental Assessment

(a) Pursuant to the California Environmental Quality Act (CEQA), California Public Resources Code 21000 et seq. and the CEQA Guidelines promulgated thereunder, (b) California Administrative Code, 15000 et seq., the Board of Directors finds and declares that this Ordinance is exempt from the requirements of CEQA for the following reasons:

- 1) This Ordinance is not a "project" per 15378 of the CEQA Guidelines and has no potential for physical change in the environment. It promulgates regulations for fire prevention and abatement, to establish vegetation management and maintenance standards for the purposes of fire protection, a means for abatement of fire hazards and procedures for enforcing those measures. This Ordinance further incorporates and complies with policies of the Safety Element of the Monterey County General Plan which was adopted after appropriate CEQA review. This Ordinance does not change the above policies and will have no effect not already resulting from previously adopted ordinances, policies and statutes.
- 2) This Ordinance is categorically exempt from CEQA under 15304(i), 15307 and 15308 of the CEQA Guidelines as it will result in minor alterations of vegetation and will not involve mature or scenic trees, except for forestry and fire management purposes. It is a regulatory action that will reduce the start and spread of wildfires and assure maintenance and enhancement of a natural resource in the District. The ordinance is further reinforced by the District Fire Defense Plan and supporting CEQA document completed in 2018.

## SECTION 11 Publication of Notice

Following adoption, this Ordinance shall be published once in The Herald, a newspaper published in the County of Monterey and circulated in the District.

## ARTICLE V

This Ordinance shall take effect and be in force thirty (30) days from and after final passage.

The Board of Directors hereby declares that that in order to promote and protect the public health, safety and welfare of the citizens of the Cypress 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 30 days from passage.

## 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 2001-08 is repealed hereby.

PASSED AND ADOPTED at a regular meeting of the Board of Directors of Cypress Fire Protection District duly held on March 26, 200 by the following vote:

AYES: McLaughlin, Geisen, Foster-Bates

NOES:

ABSENT: Anderson



## **Cypress Fire Protection District**

2221 Garden Road

Monterey, California 93940

(831) 333-4600 FAX: (831) 333-4660

[www.cypressfire.org](http://www.cypressfire.org)

### **Cypress Fire Protection District Ordinance 2020-07 WEED ABATEMENT STANDARDS**

The following are the weed abatement standards employed by the Cypress Fire Protection District (District). Owners or private contractors employed by owners shall comply with these standards when clearing their properties.

Grass, weeds, brush, trash, rubbish, and other combustible materials which create a fire hazard shall be removed from improved parcels, vacant lots, yards, courtyards, parkways, and other locations as specified by the District.

#### **All Parcels within the District:**

Must comply with California Public Resources Code 4291. See enclosure.

- Cut or mow annual grass down to a maximum height of 4 inches.
- Create a horizontal spacing between shrubs and trees.
- Create a vertical spacing between grass, shrubs and trees.
- Remove fallen leaves, needles, twigs, bark cones and small branches. However, these may be permitted to a depth of 4 inches if erosion control is an issue.

In addition, owners must maintain a 30-foot reduced fuel clearance along the perimeter of their parcel that borders 1) a public road and 2) an adjacent parcel; to a distance of 100 feet beyond the structure on either parcel that is the furthest distance from the road. If there are no structures on either parcel, no side boundary clearance is required.

#### **Exceptions:**

Ornamental plants and trees that are individually planted, spaced, and maintained in such a manner that they do not form a means of transmitting fire from native growth to the structure. Cultivated ground cover such as green grass, ivy, succulents, or similar plants provided that they are maintained in a condition that does not form a means of transmitting fire from native growth to the structure.

Do not let weed contractors stray from your property onto State, Federal, or other private lands.

If it becomes necessary for the District to perform weed abatement on your property, the cost shall be assessed upon the property and entered into the County tax roll. Ordinance # 2020-07 is posted on the District website for your reference.

**To file an appeal with the District Board of Directors for abatement costs:**

The owner or person occupying or controlling a lot or premise served with a "Notice to Abate Hazard" having any objections to the proposed abatement of such weeds may appeal to the District Board of Directors. Such appeal shall be in writing and shall be filed with the Board Secretary at 2221 Garden Road, Monterey, CA 93940 twenty days prior to the public hearing.

An administration fee of one hundred dollars (\$100.00) shall accompany any appeal filed. Application of waiver shall be in the form of a letter signed by the Property Owner or appropriate delegate. The letter must include the parcel number, address and basis for your appeal. If the appeal is not accompanied by the fee, the appeal will be administratively denied.

The public appeal hearing shall be conducted in accordance with the ordinance at the District Board of Directors' meeting room located at 3775 Rio Road, Carmel, California, commencing at the hour of 1:00 p.m. at the regularly scheduled May District Board meeting where previously filed appeals will be heard and given due consideration.

If the appeal is successful in reversing the prior demand for abatement, then the above administration fees shall be refunded to the appellant. The decision of the Board of Directors thereupon shall be final and conclusive.

The District wishes to work cooperatively with you and/or your agent to mitigate this issue as quickly as possible. If you wish to discuss this, please contact the District Fire Prevention office at 831-375-9644.