

Chapter 8.48 WEED AND RUBBISH ABATEMENT

Note

* Prior ordinance history; Ord. 396.

8.48.010 Title.

This chapter shall be known as the “Weed and Rubbish Abatement Ordinance.” This chapter applies to all property within the city of Santee and to those areas where the Santee Fire Department provides fire prevention services pursuant to agreement. (Ord. 443 § 1, 2004)

8.48.020 Waste matter defined.

“Waste matter,” for the purpose of this chapter, means unused or discarded matter having no substantial market value, which is exposed to the elements and is not enclosed in any structure or otherwise concealed from public view, and which consists (without limitation or exclusion by enumeration) of such matter and material as:

- A. Rubble, asphalt, concrete, plaster, tile;
- B. Rubbish, crates, cartons, metal and glass containers. (Ord. 443 § 1, 2004)

8.48.030 Nuisance—Designated—Generally.

A. All weeds or dry grasses over four inches in height, dead shrubs, dead trees or tree limbs within ten feet of a chimney, rubbish, or any material growing or discarded upon the streets, parking areas, sidewalks, or upon private property within the city which bear seeds of a wingy or downy nature or which by reason of their size, manner of growth and location constitute a fire hazard to any building, improvement, crops or other property, and weeds or grasses which, when dry, will in reasonable probability constitute such a fire hazard are hereby declared to be a public nuisance.

B. Cultivated and useful grasses and pastures are not a public nuisance; provided, however, that if the fire chief or his or her authorized representative determines it necessary to protect adjacent improved property from fire exposure, an adequate fire break may be required. (Ord. 443 § 1, 2004)

8.48.040 Nuisance—Designated—Waste matter.

Waste matter as defined in Section 8.48.020, which by reason of its location and character would materially hamper or interfere with the prevention or suspension or suppression of fire upon any lot, property or premises, or the abatement of a nuisance as defined by Section 8.48.030, is a public nuisance. (Ord. 443 § 1, 2004)

8.48.050 Notice to abate—Authority.

If it is determined by the fire chief or his or her authorized representative, that a public nuisance, as designated in Sections 8.48.030 and 8.48.040, exists on any lot, property or premises in the city or upon any

sidewalk, parking area or street adjacent to such lot, property or premises, the fire chief or his or her authorized representative shall cause, including through the use of a third party contractor, a notice to be issued to abate such nuisance. Such notice shall be headed: "NOTICE TO ABATE PUBLIC NUISANCE" in legible characters, shall direct the abatement of the nuisance and shall be directed to the owner, occupants or person in charge or control of the lot, property or premises. (Ord. 443 § 1, 2004)

8.48.060 Notice to abate—Service.

The notice required by Section 8.48.050 may be served in any of the following ways:

A. By personal service on the owner, occupant or person in charge or control of the lot, property or premises. Service shall be complete upon such personal service;

B. By regular mail addressed to the owner or person in charge and control of the lot, property or premises, at the address shown on the last available

property assessment roll, or as otherwise known. Service shall be deemed complete upon the deposit of said notice, postage prepaid, in the United States mail;

C. By posting at a conspicuous place on the lot, property or premises or abutting public right-of-way for five consecutive days. Service shall be deemed complete on the day after the fifth consecutive day of posting. (Ord. 443 § 1, 2004)

8.48.070 Notice to abate—Appeal.

A. Within twenty days from the date of service of the required notice, the owner or person occupying or controlling such lot, property or premises affected may appeal to the fire chief. Such appeal shall be in writing and shall be filed with the city clerk. An administration fee of twenty-five dollars shall accompany any appeal filed. Said fee may be waived by the city manager or his or her authorized representative if financial inability can be reasonably shown. Application for a waiver shall be in the form of a letter signed by the owner or appropriate designee. The fire chief or his or her authorized representative shall hold a public hearing not less than five calendar days nor more than twenty calendar days from receipt of both a written appeal and the administrative fee.

B. The decision of the fire chief or his or her authorized representative thereupon shall be final and conclusive unless a written appeal is made to the Santee City Council within five business days of the decision of the fire chief or his/her authorized representative. Such appeal shall be in writing and shall be filed with the city clerk. An additional administration fee of twenty-five dollars shall accompany any appeal filed. Said fee may be waived by the city manager or his or her authorized representative if financial inability can be reasonably shown. Application for a waiver shall be in the form of a letter signed by the owner or appropriate designee. The city clerk shall notify the appellant in writing no later than seven days prior to the scheduled hearing of the time, date and place of the hearing by mailing such notice to him or her at the address stated in his or her written appeal.

C. The Santee City Council shall hear the appeal as scheduled in the notice. The Santee City Council's decision on the issue shall be final. (Ord. 443 § 1, 2004)

8.48.080 Duty to remove nuisance.

It shall be the duty of the owner, the agent of the owner, or the person in possession of any lot, property or premises in the city, within twenty days from the date of notification as provided in this chapter, or in case of an appeal, within ten days from the final determination thereof, unless the same is sustained, to remove the

nuisance as stated in the Notice to Abate Public Nuisance. It shall also be the duty of the owner, occupant or person in charge of the property to obtain all required permits or approvals from all other governmental agencies, including the California State Fish and Game and the U.S. Fish and Wildlife Service, prior to removal of the nuisance. (Ord. 443 § 1, 2004)

8.48.090 Abatement by the city—Cost report and account—Filing required.

If the owner, occupants or person in charge of the subject property fails or neglects to remove the nuisance as defined in this chapter, within the time specified in this chapter, the fire chief or his or her authorized representative shall cause such nuisance to be abated. The abatement work may be done by city crews or by private contractor. A report of the abatement proceedings and an accurate account of the charges for abating the nuisance on each separate property shall be filed with the Santee City Council. (Ord. 443 § 1, 2004)

8.48.100 Cost report and account—Approval and posting requirements.

The city clerk shall thereupon set the cost report and account for approval by the Santee City Council at the first regular or adjourned regular meeting, which will be held at least seven calendar days after the date of filing, and shall post a copy of the report and account and notice of the time, date and place of approval in a conspicuous place at or near the entrance of the council chambers in the city office. (Ord. 443 § 1, 2004)

8.48.110 Cost report and account—Procedure—Assessment of costs.

The Santee City Council shall consider the cost report and account at the time set for approval, together with any objections or protests by any interested parties. Any owner of land or person interested therein may present a written or oral protest or objection to the report and account. At the conclusion of any such protest, the Santee City Council shall approve the report and account as submitted, or as modified or corrected by the Santee City Council. The amounts so approved shall be liens upon the respective lots, properties or premises, upon which abatement was performed, and the Santee City Council shall adopt a resolution assessing such amounts as liens upon the respective parcels of land as they are shown upon the most recent available property assessment roll, and determining that such weeds, grasses, dead trees, dead shrubs and waste matter constitute a public nuisance. (Ord. 443 § 1, 2004)

8.48.120 Cost report and account—Filing of resolution.

The city clerk shall prepare and file with the county auditor a certified copy of the resolution of the Santee City Council, as provided in Section 8.48.110. (Ord. 443 § 1, 2004)

8.48.130 Payment to city.

The finance department of the city or its authorized representative may accept payment of any amount due at any time prior to the Santee City Council's final determination on the cost report and account, as called for in Section 8.48.110. (Ord. 443 § 1, 2004)

8.48.140 Government Code Sections adopted by reference—Collection of assessments.

The provisions of Government Code Sections 39580 to 39585, inclusive, are incorporated in this chapter by reference; provided, however, that the authority for this chapter is Government Code Section 39502 and provided, further, that the city does not adopt the alternative provisions established by Government Code Section 39560 et seq. except as expressly provided herein. 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 municipal taxes. If delinquent, the amount is subject to the same penalties and procedure of foreclosure and sale as is provided for ordinary municipal taxes. (Ord. 443 § 1, 2004)

8.48.150 Violation—Penalty.

The owner, occupant or agent of any lot, property or premises subject to this chapter who permits or allows the existence of a public nuisance, as defined in this chapter, upon any lot, property or premises owned, occupied or controlled by him, or who violates any of the provisions of this chapter, is guilty of a misdemeanor. (Ord. 443 § 1, 2004)

8.48.160 Maintenance standards.

All parcels shall be mowed and/or cleared a distance of one hundred feet from any structure or adjacent structure if the parcel is unimproved and up to thirty feet along each side of established regularly traveled roadways or driveways. Clearance of property shall be accomplished by methods that will not disturb native soil or root stock. The required width will be at the discretion of the fire chief or his or her authorized representative. (Ord. 443 § 1, 2004)

8.48.170 Use of independent contractor.

At the direction of the fire chief and pursuant to a written agreement, the city may use the services of an independent contractor to implement the provisions of this chapter. (Ord. 443 § 1, 2004)

8.48.180 Alternatives.

A. Nothing in the foregoing sections shall be deemed to prevent the city council from ordering the city attorney to commence a civil or criminal proceeding to abate a public nuisance under applicable Civil or Penal Code provisions as an alternative to the proceedings set forth herein.

B. In any action, administrative proceeding, or special proceeding to abate a public nuisance, the prevailing party shall be entitled to recover reasonable attorneys' fees. Notwithstanding the foregoing, recovery of attorneys' fees shall be available only in those actions or proceedings in which the city elects, at the initiation of such action or proceeding, to seek recovery of its own attorneys' fees, should it prevail in the action or proceeding. Prior to invoking such a right to recover attorneys' fees, the city attorney shall obtain authorization from the city council. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the city in the action or proceeding. (Ord. 483 § 2, 2009)

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