

Ordinance No. 96-18 An Ordinance of The City Council of the City of Escondido Amending Chapter 11, Article 2 of the Escondido Municipal Code by adding Sections 11-39 through 11-52, pertaining to Abatement of Weeds and Rubbish

The City Council of the City of Escondido, California, DOES HEREBY ORDAIN as follows:

SECTION 1. That Chapter 11 of the Escondido Municipal Code is amended to include Division 2 of Article 2, Sections 11-39 through 11-52, which were previously reserved, and now read as follows:

DIVISION 2. WEED AND RUBBISH ABATEMENT PROGRAM

Sec. 11-39 Purpose

The City Council declares that its purpose in adopting this ordinance is to designate the responsibility of the owners of real property in the City of Escondido in the elimination of the public nuisance created by weeds, rubbish and refuse on or about their property.

Sec. 11-40 Definitions

(a) "Weeds" as referred to herein, include (i) weeds which when mature bear seeds of a downy or wingy nature; (ii) sagebrush, chaparral and any other brush or weeds which attain such large growth as to become, when dry, a fire menace; (iii) poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health, and weeds that are otherwise noxious or dangerous; (iv) (iv) overgrown vegetation which is likely to harbor rats or vermin, or which constitutes a fire hazard; (v) dry grass, stubble, brush, or other flammable material which endangers the public safety by creating a fire hazard.

(b) "Rubbish," as referred to herein, includes trash or refuse consisting of uncontained paper, wood, dry grass or brush, dirt, plastic, rubber, metal or ceramic wreckage, or any other discarded material which may be combustible or deleterious to the public health, safety, or welfare, or any material 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.

Sec. 11-41 Declaration

The City Council hereby declares as a public nuisance and a fire hazard adversely affecting the public health, safety, and general welfare:

(a) All weeds growing upon the streets, sidewalks, parking, and private property, to include lands or lots or buildings and grounds in the City of Escondido.

(b) All rubbish upon the streets, sidewalks, parking, and private property, to include lands or lots or buildings and grounds in the City of Escondido.

Sec. 1142 Procedure for Abatement Notice

(a) The Chief of the Fire Department, or any agent thereof, shall be vested with authority to determine whether a fire hazard or public nuisance, as herein defined, may exist on any street, sidewalk, parking or private property subject to these provisions, and shall cause a written notice to be issued to abate such nuisance.

(b) The notice required shall contain a description of the property in general terms reasonably sufficient to identify the location of said property, and shall refer to this ordinance and direct compliance herewith by removal or destruction of the weeds and/or rubbish. Said notice shall further describe the consequences of failure to comply as herein prescribed.

(c) The notice required shall be served by any of the following methods:

(i) By personal service on the owner as reflected on the last equalized assessment roll of the county or agent thereof, or as known to the Fire Marshal.

(ii) By certified mail addressed to the owner, as reflected on the last equalized assessment roll of the county or agent thereof, or as known to the Fire Marshal.

(iii) By posting said notices conspicuously on or in front of the property, with at least one notice per each parcel. The notice, when posted, shall be headed in bold-faced type, not less than one inch in height, **NOTICE TO ABATE FIRE HAZARD/PUBLIC NUISANCE**.

Sec. 11-43 Appeal From Requirements of Notice

(a) Within five (5) days from the date of service of the required notice, the owner or agent of premises affected by such notice may appeal to the Chief of the Fire Department who shall hear and consider all objections or protests to the proposed abatement.

(b) Upon conclusion of the hearing, the Chief of the Fire Department shall allow or overrule any or all objections. The decision of the Chief of the Fire Department may be appealed as set forth in Sec. 11-20.

Sec. 1144 Abatement Procedure

(a) After the Chief of the Fire Department, or an agent of the Chief, makes a determination that a property constitutes a fire hazard and/or public nuisance, and serves notice by one of the methods indicated in Sec. 11-42, if no appeal is filed, the property may be abated by the City, or by any contractor of the City, no earlier than thirty (30) days from the date of the notice, if no appeal is filed. If the fire hazard/public nuisance has been determined to be imminently dangerous to life or adjacent property, the property may be abated by the City, or by any contractor of the City within the time frame set forth in the notice, which notice shall permit, at a minimum a five day appeal period.

(b) If a property owner appeals the determination under the procedures of Sec. 11-43, then no abatement shall be performed earlier than thirty (30) days from the date of the decision of the Chief of the Fire Department.

(c) Any property owner or agent shall have the right to destroy or remove the weeds or rubbish before the arrival of personnel of the City, or City's contractor without assessment of costs.

Sec. 11-45 Assessment Procedure

(a) When abatement is completed, by the City or an agent of the City, a report of the proceedings and an accurate account of the cost on each separate parcel shall be filed with the Chief of the Fire Department. The report shall contain the following information:

(i) Names and addresses of all owners of each separate parcel

(ii) The Tax Assessor's parcel number

(iii) The legal description of the property

(b) The Chief of the Fire Department, shall, if the amounts set forth in the report remain unpaid, forward such report to the City Clerk.

(c) The City Clerk shall thereupon set the report and account for hearing by the Council, and shall post a copy of said report and account and notice of the time and place of hearing in a conspicuous place at or near the entrance to the Council chambers.

(d) The Council shall consider the report and account at the time set for hearing, together with any objections to the accuracy of said account. At the conclusion of the hearing, the Council shall either approve the report and account as submitted, or as modified and corrected by the Council. The Council shall confirm such amount as a special assessment and cause the same to be recorded on the assessment roll. The amounts so approved shall be charged to the property owner on the next regular tax bill, and shall further be a lien upon the property involved. The Council shall adopt a resolution assessing such amounts, and the City Clerk shall file a certified copy of said resolution with the County Auditor and the County Recorder of the County of San Diego. The resolution shall include the information contained in subsection (a), and the dates the abatement was ordered and the date of confirmation. The City Clerk shall provide a certified abstract to the County Recorder relative to each separate parcel to record as a special assessment lien against each parcel.

(e) 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; and if delinquent the amount is subject to the same penalties and procedure of foreclosure and sale as is provided for ordinary municipal taxes.

(f) The provisions of sections 39577 and 39580 to 39585, inclusive, of the Government Code are hereby incorporated by reference, and made a part of this ordinance.

Sec. 11-46 Performance of Abatement Process

Abatement of any nuisance or fire hazard under this division may, if it is determined to be in the best interests of the City and its citizens, be contracted to an outside contractor. Should the City contract out the abatement process, the City may assign its interest in collecting payment for the work to the contractor which performed the work, as payment to the contractor.

Sec. 11-47 Code Enforcement

The adoption of this division shall not affect in any manner the prosecution of violations under Chapter 6 of the Escondido Municipal Code, nor shall the prosecution of violations under Chapter 6 prevent the application of this division in cases where the Chief of the Fire Department or an agent of the Chief, determines that a nuisance or fire hazard exists.

Sec. 11-48 Abatement Standards

The Chief of the Fire Department shall establish standards for the abatement of the various kinds of weeds and rubbish, to include, but not be limited to, the level to which weeds will be cut, the clearance around structures, roadways and between properties.

Sec. 11-49 Criminal Penalties

Any owner, occupant or agent who permits or allows a violation of this division, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars (\$1,000) or imprisonment in the county jail not exceeding six (6) months, or both. Each such person shall be guilty of a separate offense for each and every day during which any violation of any provision of this division is committed, continued or permitted by such person.