

ORDINANCE NO. 36

**ORDINANCE OF THE BOARD OF DIRECTORS OF THE
RUNNING SPRINGS WATER DISTRICT ADOPTING
PROCEDURES FOR ABATEMENT OF HAZARDOUS
WEED AND/OR WASTE**

WHEREAS, pursuant to Water Code section 31120, the Running Springs Water District may exercise any of the powers, functions, and duties which are vested in, or imposed upon, a fire protection district pursuant to the Fire Protection District Law of 1987; and

WHEREAS, the Board of Directors of the Running Springs Water District desires to adopt an ordinance setting forth procedures regarding the abatement of hazardous weeds and waste within the District's boundaries pursuant to the provisions of Water Code section 31120 and Health and Safety Code sections 13879 and 14875 *et. seq.*; and

WHEREAS, the Running Springs Water District is authorized to adopt ordinances pursuant to the provisions of Water Code section 31000 *et. seq.*; and

WHEREAS, the Board of Directors acknowledges that the Constitution protects the reasonable expectations of privacy on private property; and

WHEREAS, the enactment of this ordinance will facilitate the abatement of public nuisances while at the same time protecting the reasonable privacy expectations of the District's property owners; and

WHEREAS, the Board of Directors has determined that the public health, safety and welfare of the citizens of the Running Springs Water District necessitates that certain weeds and other items constituting a potential health and fire hazard be regulated and controlled by the District;

NOW, THEREFORE, BE IT ORDAINED by the Board of Directors of the Running Springs Water District as follows:

SECTION 1. All of the recitals set forth above are true.

SECTION 2. The Running Springs Water District hereby adopts the following as its Procedures for Abatement of Hazardous Weeds and/or Waste Matter:

2.1 Public Nuisance Declared – Weeds, Waste Matter and Other Items, Exemptions

A. Any weeds growing upon the street, sidewalks or upon private or public property within the Running Springs Water District which

by reason of their size, type, manner of growth, proximity to any building or improvements which will with reasonable probability constitute a fire hazard, and any waste matter or other items constituting such a hazard are hereby declared to be a public nuisance and shall be abated to the satisfaction of the Fire Chief or his or her authorized representative.

- B. Cultivated, useful grasses and pasture shall not be declared a public nuisance. However, if the Fire Chief or his or her authorized representative determines that a firebreak is necessary to protect adjacent improved property from fire exposure, an adequate firebreak shall be required as determined by the Fire Chief or his or her representative.

2.2 Waste Matter Defined as a Public Nuisance.

Waste matter as hereinafter defined is matter which, by reason of its location and/or character, may materially hamper or interfere with the prevention or suppression of fire upon the premises or adjacent premises. The requirement to abate same as defined herein or by Section 2.1 is hereby declared a public nuisance.

2.3 Definitions

For purposes of this Ordinance, the following terms shall be defined as set forth below.

2.3.1 Abatement.

“Abatement” means the removal of the hazard or nuisance as defined by this Ordinance.

2.3.2 Weeds

“Weeds” means all weeds growing upon streets, sidewalks, or private property within the boundaries of the Running Springs Water District, and includes any of the following:

- (a) Weeds which bear seeds of a downy or wingy nature.
- (b) Sagebrush, chaparral, manzanita, juniper and any other brush or weeds which attain such large growth as to become a fire menace to adjacent improved property.
- (c) Weeds which are otherwise noxious or dangerous.
- (d) Poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health.

- (e) Grass, stubble, brush, fodder, tree limbs, foliage or other flammable material which endangers the public safety by creating a fire hazard.

2.3.3 Waste Matter

“Waste Matter” means unused or discarded matter having no substantial market value, which is exposed to the elements and is not enclosed in any structure or concealed from public view and which consists (without limitation or exclusion by enumeration) of such matter and material as: rubble, asphalt and any combustible, non-functioning material.

2.4 Resolution Declaring Nuisance.

Whenever the Fire Chief or his or her authorized representative finds that a nuisance as defined in this Ordinance exists on any lot or premises, or upon any sidewalk, parkway or street adjacent to such lot or premises, he or she shall notify the Board of Directors of the Running Springs Water District of such nuisance. The Board of Directors, upon receiving such notice of nuisance, may adopt a resolution declaring the nuisance. This Resolution of Nuisance shall refer, by the name under which it is commonly known, to the street, highway, or road abutting or nearest to the property upon which the nuisance exists. The Resolution of Nuisance shall also describe the property upon which, or in front of which, the nuisance exists by describing the property by reference to the tract, block, lot, code area or parcel number as used in the records of the County Assessor or in accordance with the map used in describing property for taxation purposes. No other description is necessary. Any number of streets, highways, roads, or parcels of private property may be included in one resolution.

2.5 Notice to Destroy Weeds and Abate Public Nuisance; Content of Notice

- A. The Board of Directors of the Running Springs Water District designates the Fire Chief or his or her authorized representative to give notice to destroy weeds and abate a public nuisance. The notices shall be headed “Notice to Destroy Weeds and Abate Public Nuisance,” in words not less than one inch in height.
- B. The Notice to Destroy Weeds and Abate Public Nuisance shall be substantially in the following form:

NOTICE OF INTENTION TO DESTROY WEEDS AND ABATE PUBLIC NUISANCE

Notice is hereby given that on the _____ day of _____, 20___, the Board of Directors of the Running Springs Water District adopted a resolution declaring that noxious or dangerous weeds growing upon or in front of, and/or waste located upon or in front of, the property on, or nearest to _____ Street (or Road), in the

District, and more particularly described in said resolution constitutes a public nuisance which must be abated by the removal of said noxious or dangerous weeds and/or waste; otherwise they will be removed and the nuisance will be abated by the District's authorities, in which case the cost of such removal shall be assessed upon the lots and lands from which or in front of which such weeds and/or waste are removed, and such cost will constitute a lien upon such lots or lands until paid. Reference is hereby made to said resolution for further particulars.

All property owners having any objections to the proposed removal of such weeds and/or waste are hereby notified to attend a meeting of the Board of Directors of the Running Springs Water District, to be held on _____, 20__, when their objections shall be heard and given due consideration.

Dated this _____, day of _____, 20__

(Fire Chief or his or her authorized Representative)

2.6 Notice to Property Owners; Seasonal and Recurrent Nuisances

A. The notice required by Section 2.5 of this Ordinance shall be served by one of the following:

1. Publication and Posting. Notice of the hearing must be published and posted as follows:

(a) Notice of the hearing prescribed in Section 2.5 shall be published once in a newspaper of general circulation printed and published within the District, or if there is none, in a newspaper of general circulation printed and published in San Bernardino County, not less than 10 days prior to the date of the hearing;

-AND-

(b) By posting notice in a conspicuous place in front of the property on which or in front of which the nuisance exists, or if the property has no frontage upon any street, highway or road then upon the portion of the property nearest to a street, highway or road, or most likely to give actual notice to the owner. Notices shall be posted not more than 100

feet in distance apart, but at least one notice shall be posted on each lot or parcel.

-OR-

2. By regular mail addressed to the owner or person in charge and control of the property as their names and addresses appear the last equalized assessment roll, or as they are known to the clerk. Service shall be deemed completed upon the deposit of said notice, postage prepaid, in the United States mail.

-OR-

3. In the case of weeds which have previously been declared to constitute a seasonal and/or recurring nuisance, it is sufficient to mail a postcard notice to the owners of the property as they and their addresses appear upon the current assessment roll.
The postcard notice shall refer to and describe the property and shall state that dangerous weeds of a seasonal and recurrent nature are growing on the property and that same constitutes a public nuisance which must be abated by removal. The notice shall further state that if the weeds are not removed by the property owner, the Fire Chief or his or her authorized representative shall cause the abatement by removal, and that the cost of such removal shall be assessed upon the lot and/or lands from which nuisance is removed, and that such assessment will constitute a lien upon such lots and lands until paid or collected through tax assessment.

2.7 Hearing on Notice

At the time stated in the notices, the Board of Directors of the Running Springs Water District shall hear and consider all objections or protests, if any, to the proposed removal of weeds and/or waste, and may continue the hearing from time to time. Upon the conclusion of the hearing the Board of Directors shall allow or overrule any or all objections, whereupon the Board of Directors shall acquire jurisdiction to proceed and perform the work of removal, and the decision of the Board of Directors shall be final, except as provided in Health and Safety Code sections 14920 and 14921.

If the nuisance is seasonal and recurrent, the Board of Directors shall so declare. Thereafter, such seasonal and recurring weeds shall be abated every year without the necessity of any further hearing.

2.8 Order to Abate

After the Board of Directors has made its final decision on the disposition of any protests or objections, or in the event that no protests or objections are received, the Board of Directors shall order the Fire Chief or his or her authorized representative to cause notices to be posted to abate the nuisance or to cause the nuisance to be abated by having the weeds and/or waste removed.

2.9 Authority to Enter Upon Land.

The Fire Chief or his or her authorized representative may enter upon the land for posting or serving notice, or for the purpose of removing the weeds or waste.

2.10 Removal of Weeds or Waste by Owner; Imposition of Special Assessment and Lien when Order to Abate Issued

The property owner may remove the weeds and/or waste at his or her own expense prior to the abatement of the nuisance by the Fire Chief or his or her authorized representative. In any case in which an order to abate is issued, even when the property owner has conducted the abatement at his or her own expense, the Board of Directors may, by resolution or motion, order that a special assessment and lien be imposed pursuant to the provisions of Health and Safety Code section 14912. The assessment and lien shall be limited to the costs incurred by the District in enforcing the abatement, including but not limited to costs associated with the following:

- (a) investigations;
- (b) boundary determinations,
- (c) measurements;
- (d) clerical: cost of mailing, personnel time, computer retrieval, and contractor's abatement charges.

2.11 Account and Itemized Report of Cost of Abatement for Each Lot or Parcel of Land; Hearing on Report

- A. The Fire Chief or his or her authorized representative shall keep an account of the cost of abatement in front of or on each separate parcel of land and shall render a written itemized report to the Board of Directors indicating the cost of removing the weeds and/or waste abated. Prior to submission of the report to the Board of Directors, the Fire Chief or his or her authorized representative shall post the report for at least three days on or near the District's door with a notice of the time when the report will be submitted to the Board of Directors for confirmation.
- B. At the time fixed for receiving and considering the report, the Board of Directors shall hear any and all objections regarding the report, if any, of the property owners liable to be assessed for the work of abatement. The Board of Directors may modify the

report as it deems necessary, after which, by order or resolution, the report shall be confirmed.

2.12 Collection of Expenses.

The District shall collect the amount of assessments pursuant to the provisions of Health and Safety Code section 14915 *et. seq.*


SECTION 3. Violation.

The owner, occupant or agent of any lot or premise within the Running Springs Water District who shall permit or allow the unlawful continuance of a fire hazard and/or public nuisance as defined in this Ordinance upon any lot or premises owned, occupied or controlled by him/her, or who shall violate any of the provisions of this Ordinance, shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine of not more than one thousand dollars (\$1,000), or to imprisonment for a period not exceeding six (6) months, or both such fine and imprisonment.

SECTION 4. Severability.


The Board of Directors hereby declares that should any section, paragraph, sentence or word of this Ordinance or of the statutory provisions referenced herein be declared for any reason to be invalid, it is the intent of this Board that it would have adopted all other portions of this Ordinance independent of the elimination therefrom of any such portion as it may be declared invalid.

ADOPTED this 16th day of March, 2011.



Vice-President of the Board of Directors
of Running Springs Water District

ATTEST:



Secretary