

SAN SIMEON COMMUNITY SERVICES DISTRICT
ORDINANCE NO. 93

AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE
SAN SIMEON COMMUNITY SERVICES DISTRICT
REGARDING ABATEMENT OF HAZARDOUS WEEDS, TREES AND DEBRIS

BE IT ORDAINED BY THE BOARD OF DIRECTORS OF THE SAN SIMEON
COMMUNITY SERVICES DISTRICT as follows:

SECTION ONE: PURPOSE AND AUTHORITY

This Ordinance is adopted pursuant to Government Code section 61623.5 and Health and Safety Code sections 14875 through 14922. The District finds that weeds, dead trees, and other debris have created a risk of fire and other safety hazards, and constitutes a blight on the community's image. Therefore, this ordinance is created to protect the health, safety, welfare and aesthetics of the community, and to preserve the District's time and resources.

SECTION TWO: DEFINITIONS

Unless otherwise indicated, the following definitions shall apply to the words and phrases used in this Ordinance:

- A. "Board" means the Board of Directors of the San Simeon Community Services District.
- B. "Debris" means plant matter, paper, waste matter, litter, trash, refuse, rubbish and any other substance which endangers public safety, creates a fire hazard or constitutes a public nuisance.
- C. "District" means the San Simeon Community Services District.
- D. "Enforcement Official" means the General Manager of the District or the General Manager's authorized representative. The Enforcement Official shall be charged with the initial duty and discretion to determine whether this ordinance has been violated, whether the offender's property or a certain place within the District should be declared a public nuisance or constitutes a fire hazard, whether abatement is necessary, or whether criminal penalties should be imposed. This duty and discretion shall not relieve the Board of its responsibility and authority to make final determinations.
- E. "Street" means public highway, street, parkway, alley, sidewalk and the area located between a sidewalk and street.
- F. "Weeds" means the following plants growing upon streets or private property within the District:

- i. Plants which, when mature, bear downy or winged seeds;
- ii. Sagebrush, chaparral and/or any other plant that creates a fire hazard, a public nuisance, or a menace to the property of others;
- iii. Plants that are noxious or dangerous to humans or animals;
- iv. Dry grass, plants, stubble, brush, dead or dying trees, or any other potentially flammable material that endangers public safety, creates a fire hazard or constitutes a public nuisance.

G. "Person" means a natural person, a corporation, an unincorporated association, a business, or any other entity within the District.

SECTION THREE: PROHIBITED ACCUMULATIONS OF WEEDS, DEAD TREES AND DEBRIS.

It shall be the duty of every owner of property located in the District, or person who caused or allowed the weeds, dead trees, and/or debris to accumulate at any place within the District, to remove or destroy, or cause the removal or destruction of, weeds, dead trees and/or debris accumulating on the owner's property, or in the District. It shall be unlawful for an owner of property located within the District to cause or allow such accumulations of weeds, dead trees and/or debris to remain on the property. It shall also be unlawful for any person who caused or allowed the accumulation of weeds, dead trees, and/or debris to accumulate at any place within the District, to cause or allow such accumulations of weeds, dead trees, and/or debris to remain at such a place within the District.

SECTION FOUR: DECLARATION OF PUBLIC NUISANCE.

In accordance with Health and Safety Code sections 14876-14884, the Board may adopt a resolution identifying weeds, dead trees and debris accumulating on any property or street and declaring the weeds, dead trees and debris to constitute a public nuisance (the "Resolution"). The Resolution shall identify the streets upon which the public nuisances are located or which abut properties upon which the public nuisances are located. The Resolution also shall identify the properties upon which or in front of which the nuisances are located, by reference to the tract, block, lot code area and parcel number of each property as used in the records of the San Luis Obispo County Assessor.

SECTION FIVE: NOTICE TO REMOVE OR DESTROY WEEDS, DEAD TREES AND DEBRIS.

For properties on which or in front of which are located accumulations of weeds, dead trees and debris identified as public nuisances in the Resolution, the enforcement

official shall notify the properties' owners of their obligations to remove or destroy the weeds, dead trees and debris.

A. Notice to the affected property owners shall be prepared on District letterhead and entitled, "NOTICE TO REMOVE OR DESTROY WEEDS, DEAD TREES AND DEBRIS" in words not less than one inch in height, and the notice shall read substantially as follows:

NOTICE TO REMOVE OR DESTROY WEEDS, DEAD TREES AND DEBRIS

Notice is hereby given that on the _____ day of _____, 20____, the Board of Directors of the San Simeon Community Services District adopted Resolution No. _____, a resolution declaring that noxious or dangerous weeds, dead trees and/or debris were accumulating on or in front of property on or nearest to _____ [Name of street] in the District, which property is more particularly described in the resolution, and that the weeds, dead trees and/or debris constitute a public nuisance which must be abated by removal or destruction of the weeds, dead trees and/or debris. Resolution No. _____ further provides that if the weeds, dead trees and/or debris are not so abated, they will be removed or destroyed by the District, in which case the cost of removal or destruction shall be assessed upon the property on which or in front of which the weeds, dead trees and/or debris are located, and such cost will constitute a lien upon the property until paid. For further details, please refer to Resolution No. _____, copies of which are available during regular business hours from the District office at the address listed above.

All property owners having objections to the proposed removal or destruction of the weeds, dead trees and/or debris described above are hereby notified to attend a meeting of the Board of Directors of the San Simeon Community Services District, to be held at _____ p.m. on _____, 20____ at _____, California, at which meeting any objections will be heard and considered.

Dated this _____ day of _____, 20____.

[Name of official]
General Manager
San Simeon Community Services
District

B. At least ten days before the date of the hearing described in the notice, the official shall post the notice conspicuously in front of the properties on which or in front of which the declared public nuisances are located, or on the portions of the properties nearest to the street most likely to give actual notice to the properties' owners. The notices shall be posted not more than 100 feet apart, but at least one notice shall be posted on each property identified in the Resolution.

C. The official shall cause the notice to be published once in a newspaper of general circulation in the District not less than ten days before the date of the hearing described in the notice.

D. As an alternative to posting and publishing the notice pursuant to subdivisions (b) and (c) of this section, the official may mail the notice to the owners of the properties identified in the Resolution, as the owners' names and addresses appear on San Luis Obispo County's latest equalized assessment roll, at least fifteen days before the date of the hearing described in the notice.

SECTION SIX: HEARING AND ABATEMENT ORDER

A. At the time and date specified in the notice, the Board shall conduct a public hearing to hear and consider all objections, evidence and argument with respect to the proposed removal or destruction of weeds, dead trees, and debris identified in the Resolution. The Board shall allow or overrule each objection, if any, and the Board's decisions regarding the objections are final. The Board shall also make findings of fact, as necessary, and such findings shall be final.

B. After the Board makes findings of fact, if necessary, and disposes of objections received by the Board, or if no objections are received, the Board shall order the official to proceed with abatement of the public nuisances identified in the Resolution in accordance with section 9 of this Ordinance.

SECTION SEVEN: ALTERNATIVE PROCEDURES FOR SEASONAL AND RECURRENT NUISANCE.

A. If a public nuisance created by accumulations of weeds, dead trees and debris is seasonal and recurrent, the Board shall declare the public nuisance as such in the Resolution and conduct a noticed hearing in accordance with sections 5 through 7 of this Ordinance before issuing an abatement order for the public nuisance.

B. Thereafter, however, the Board may order abatement of the seasonal and recurrent public nuisances without adopting new resolutions or conducting noticed public hearings under sections 5 through 7 of this Ordinance, provided that the enforcement official mails a notice to owners of the properties identified in the Resolution in accordance with subdivision (c) of this section.

C. The notice shall be mailed to the owners of the properties identified in the Resolution, using the owners' names and addresses as they appear on San Luis Obispo County's latest equalized assessment roll, at least fifteen days before abatement is required under section 9 of this Ordinance. The notice shall be prepared on District letterhead and shall read substantially as follows:

NOTICE TO REMOVE OR DESTROY SEASONAL
AND RECURRENT WEEDS, DEAD TREES AND DEBRIS

Notice is hereby given that on the _____ day of _____, 20____, the Board of Directors of the San Simeon Community Services District adopted Resolution No. _____, a resolution declaring that noxious or dangerous weeds, dead trees and/or debris of a seasonal and recurrent nature accumulate on or in front of the property located at [Describe property by reference to the property's street address and San Luis Obispo County assessor parcel number] and thereby create a public nuisance which must be abated by removal or destruction of the weeds, dead trees and/or debris. Accumulations of weeds, dead trees and/or debris presently located on or in front of the above-described property are creating a public nuisance, and the weeds, dead trees and/or debris must be removed or destroyed within ten days after the date of this notice. Otherwise, the weeds, dead trees and/or debris will be removed or destroyed by the District, in which case the cost of removal or destruction shall be assessed upon the property on which or in front of which the weeds and/or debris are located, and such cost will constitute a lien upon the property until paid. For further details, please refer to Resolution No. _____, copies of which are available during regular business hours from the District office at the address listed above.

Dated this _____ day of _____, 20____

[Name of official]
General Manager
San Simeon Community
Services District

SECTION EIGHT: ABATEMENT OF PUBLIC NUISANCES

A. If the person or persons owning, occupying, leasing, managing or controlling a property identified in the Resolution fail or refuse to remove or destroy weeds, dead trees and/or debris on or in front of the property in accordance with the provisions of this Ordinance within ten calendar days after the public hearing at which the Board issued an abatement order pursuant to section 6, subdivision (b), of this Ordinance, or within fifteen days after mailing of the notice described in section 7 of this Ordinance, the official shall remove or destroy the weeds, dead trees and/or debris in accordance with this section.

B. When required by law, the official shall request the consent of the person or persons owning, occupying, leasing, managing or controlling the property before entering the property for purposes of inspection and abatement under this Ordinance. If consent is refused, the official shall apply for an inspection/abatement warrant, as defined in Code of Civil Procedure section 1822.50, to enter the property for inspection and abatement purposes, and entry onto the property shall be made only pursuant to an inspection warrant applied for, issued and executed in accordance with Code of Civil Procedure sections 1822.51 through 1822.59.

C. It shall be unlawful for any person to interfere with, hinder or refuse to allow the official's entry onto a property to abate public nuisances pursuant to this section.

D. Any person or persons owning, occupying, leasing, managing or controlling property identified in the Resolution shall have the right to remove or destroy weeds, dead trees and debris on or in front of their property (herbicides shall be applied by a licensed professional pest control operator and shall follow all the Federal, State, and County laws for such use. Enforcement of violations shall be through the County Ag. Commissioners Office of the County of San Luis Obispo) at their own expense, at any time before arrival of the official for entry onto the property pursuant to this section; provided, however, that the costs of the District to enforce the abatement upon the subject property, including investigation, boundary determinations, measurement, clerical and other related costs, may be imposed as a special assessment and lien on such property pursuant to a resolution of the Board adopted pursuant to the provisions of section 9 of this Ordinance. Replacement of trees shall follow San Luis Obispo County regulations.

SECTION NINE: ABATEMENT COSTS

In any case in which the Board issues an abatement order pursuant to section 6, subdivision (b), of this Ordinance, or in which the District mails a postcard notice pursuant to section 7 of this Ordinance, the Board may adopt a resolution ordering that a special assessment and lien be imposed on the property on or in front of which the public nuisance is located in accordance with the following procedures:

A. When enforcing the abatement of, or abating, a public nuisance pursuant to this Ordinance, the enforcement official shall keep a written account of the enforcement and abatement costs incurred for each property identified in the Resolution, which may include costs incurred by the District for investigations, boundary determinations, measurement, abatement, and clerical work related to abatement of the public nuisance. Based on these accounts, the official shall prepare a written report stating the enforcement and abatement costs incurred for each property.

B. Before the official's report is presented to the Board, a copy of the report shall be posted outside the Board's meeting room for at least three days before the meeting at which the Board will consider the report, along with a notice of the time and date of the meeting. Copies of the report and the notice also shall be mailed to the owner of each property identified in the report, using the owner's name and address as it appears on San Luis Obispo County's latest equalized assessment roll, at least fifteen days before the meeting. At the meeting, the Board shall consider the report, along with any objections by owners of property identified in the report as subject to assessment for enforcement and abatement costs. After making any necessary modifications to the official's report, the Board shall confirm the report by resolution.

C. Upon confirmation of the official's report by the Board, the District shall submit certified copies of the official's report and the Board's resolution confirming the report to the San Luis Obispo County Recorder's office for recordation. On or before the

SECTION TWELVE:

INCONSISTENT PROVISIONS

To the extent that the provisions of this Ordinance may be inconsistent or in conflict with the terms and conditions of any prior District ordinance, resolution, rule or regulation governing the same subject, the provisions of this Ordinance shall prevail with respect to the subject matter thereof, and such inconsistent or conflicting terms or conditions of prior ordinances, resolutions, rules or regulations are hereby repealed.

SECTION THIRTEEN:

SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held to be invalid, no other provision of this Ordinance shall be affected thereby.

SECTION FOURTEEN:

EFFECTIVE DATE

This Ordinance shall take effect thirty days after its adoption. This ordinance shall remain in effect until it is rescinded by the District.

SECTION FIFTEEN:

POSTING

The District General Manager is directed to post a copy of this Ordinance in three public places in the District within ten days after adoption of the Ordinance.

PASSED AND ADOPTED by the Board of Directors of the San Simeon Community Services District on this 9th day of February, 2000, on motion of Director Kiech seconded by Director Mirabal-Boubion by the following vote:

AYES: Keich, Lambeth, Andresen, Mirabal-Boubion and May,

NOES: None

ABSENT:None

ABSTAIN:None

SAN SIMEON COMMUNITY SERVICES DISTRICT

By: _____

Ardy May
Chairperson, Board of Directors

ATTEST:

By: _____

Secretary, Board of Directors