

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUTTER CREEK
ENACTING CHAPTER 10.40 OF THE SUTTER CREEK MUNICIPAL CODE
REGARDING THE ABATEMENT OF WEEDS AND RUBBISH**

The City Council of the City of Sutter Creek, California does ordain as follows:

Section 1

Chapter 10.40 of the Sutter Creek Municipal Code is enacted to read as follows:

CHAPTER 10.40 - ABATEMENT OF WEEDS AND RUBBISH

10.40.010 - Purpose.

The purpose of this chapter is to provide for the abatement of fire hazards within the city.

10.40.020 - Definitions.

For the purposes of this chapter, the following words shall mean as follows:

A. "Enforcement officer" means the city manager, or his or her designee, and shall include any official or officials the city manager duly appoints to administer the provisions of this chapter. For the purposes of the provisions of this chapter dealing with removal and destruction of weeds and waste, "enforcement officer" shall include any person who, pursuant to contract with the city, is authorized to abate nuisances.

B. "Fire hazard" means any condition which increases or may cause an increase in the degree of danger from fire over that which is customarily recognized as normal by persons in the public service of preventing or extinguishing fire. It shall also mean any condition or any act which may obstruct, delay or hinder, or may become the cause of an obstruction, delay or hindrance to the prevention, suppression, or extinguishment of fire.

C. "Nuisance" means any condition or use of premises or of building exterior which is detrimental to the property of others or which poses an immediate or potential health, safety, or fire hazard. This includes, but is not limited to, the keeping of, or depositing on, or the scattering over the premises of the following:

1. Weeds, grass, dead trees, lumber;
2. Rubbish, refuse, junk, trash, debris, garbage;
3. Waste material;
4. Abandoned, discarded or unused objects or equipment of any type, including, but not limited to, furniture, stoves, refrigerators, freezers, vehicles, cans, or containers.

D. "Owner" means the owner, agent of the owner, lessee, and/or occupant or person in possession of any lot, parcel, tract, or piece of land.

E. "Tax collector" shall mean the person collecting property taxes levied on real property for the city.

F. "Weeds" as used in this chapter means all weeds growing upon streets, alleys, sidewalks, or private property in the city and includes any of the following:

1. Weeds that bear or may bear seeds of a downy or wingy nature;
2. Sagebrush, chaparral, blackberries, weeds, indigenous grasses or any other brush which may attain large growth as to become a fire hazard as determined by the enforcement officer;
3. Weeds that are otherwise noxious or dangerous;
4. Poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health; and
5. Accumulation of dry grass, stubble, brush, litter, garden refuse, cuttings, and other combustible trash that endangers the public safety by creating a fire hazard.

10.40.030 - Owner to remove weeds.

It shall be the duty of the owner of land, improved or unimproved, to immediately remove, upon notice by the enforcement officer, any nuisance from the sidewalk abutting or adjoining such parcel of land, including, but not limited to, all grass, weeds, dead trees, tin cans, rubbish, refuse, and waste material or other unsanitary or dangerous substances or objects.

All combustible weeds shall be removed from parcels less than one acre in size. Improved parcels larger than one acre shall be clear of all weeds within one hundred feet of any structure and thirty feet of any street, driveway, and all property lines on improved property.

Unimproved parcels larger than one acre shall be cleared of all combustible weeds within thirty feet of any public access point including, but not limited to, public streets, public roads, trails, parking lots, and sidewalks. Unimproved parcels larger than one acre shall create a defensible space clear of all weeds a minimum of one hundred feet from any building or structure. Structures less than one hundred twenty square feet with no electricity or plumbing (i.e., do not require a building permit) are exempt. Owners of unimproved parcels larger than one acre may present, in writing, an individual vegetation management plan to the enforcement officer that creates defensible space to protect structures and buildings. Individual management plans will be reviewed and may be approved at the discretion of the enforcement officer.

The enforcement officer may exclude cultivated grasses and pastures where grazing or equivalent practices clearly demonstrate that vegetation is subject to ongoing best agricultural management practices and removal is unnecessary to protect adjacent improved property or ingress/egress routes from fire exposure. Active grazing land" for the purpose of this section means land where the primary use is or has been livestock grazing for commercial purposes within the preceding three-year period. Abatement may be accomplished in any manner that reduces vegetation to less

than four inches above the soil line and is not in violation of any environmental rules, regulations, or statutes applicable within the city.

This chapter shall not be construed to hold the city or any officer, employee, or agent thereof responsible for any damage to persons or property by reason of any inspection authorized herein or for any action or omission in connection with the application or enforcement of this chapter. By adopting the provisions of this chapter, the city does not intend to impose on itself, its employees or agents any mandatory duties of care toward persons and property within its jurisdiction so as to provide a basis of civil liability for damages.

10.40.040 - Owner to keep premises clean.

It shall be the duty of the owner, agent, lessee or other person occupying or having charge or control of any parcel of land, improved or unimproved, to keep such parcel of land free from all nuisances thereon, including, but not limited to, grass, weeds, tin cans, rubbish, refuse and waste material of any kind, and other unsanitary substances or objects which may endanger or injure neighboring property of the health, safety, or welfare, or be offensive to the senses, of the residents of the vicinity of such property.

10.40.050 - Declaration of public nuisance.

A. Whenever any condition exists upon the streets, sidewalks, parkways or private property within the city which is defined as a nuisance pursuant to Section 10.40.020, or whenever weeds on specified parcels of property are seasonal and recurrent nuisances, the enforcement officer may declare the same to be a public nuisance.

B. Notice of Nuisance. The enforcement officer shall give written notice to the owner of record to abate the nuisance within fifteen days. The notice of nuisance shall state that the property owner is required to abate the nuisance, shall state the nature of the nuisance to be abated, what is required to abate it, and that if the nuisance is not abated the code enforcement officer may issue a citation in accordance with chapter 1.17 of this code.

C. Notice of Abatement Proceedings. If the nuisance has not been abated by the owner within fifteen days after service of the notice of nuisance, the enforcement officer is ordered to take appropriate remedial actions. The enforcement officer shall notify the owner of affected properties, as shown on the latest equalized tax assessment roll, by mail, of intention to abate the nuisance.

D. Service of Notice. Notice shall be mailed by certified mail to the address of the property owner not less than fifteen days prior to the date of the proposed abatement. Failure of any owner, or any party concerned, to receive a notice shall not affect the validity of any proceeding taken, if the procedure for service of notice has been followed.

10.40.060 - Appeals.

The property owner may appeal the decision of the enforcement officer requiring the abatement of the nuisance by sending a written appeal to the enforcement officer requesting a hearing with the enforcement officer within fifteen days of the notice.

10.40.070 - Hearing procedure.

- A. The enforcement officer shall only consider evidence that is relevant to whether a nuisance existed and whether the property owner caused or maintained the nuisance.
- B. The property owner contesting the notice of abatement shall be given the opportunity to testify and present witnesses and evidence.
- C. The failure of any recipient of a notice of abatement to appear at the appeal hearing shall constitute a waiver of the appeal, waiver of abatement costs, and failure to exhaust administrative remedies.
- D. The notice of abatement proceeding and any additional documents submitted by the enforcement officer shall constitute prima facie evidence of the respective facts contained in those documents.
- E. If the enforcement officer submits additional written information concerning the notice of abatement proceeding for consideration of the appeal hearing, a copy of the written information shall be served by mail on the person requesting the hearing at least five days prior to the date of the hearing.
- F. At least five days prior to the appeal hearing, the recipient of a notice of abatement proceeding shall be provided a copy of the documents relied upon by the enforcement officer. No other discovery is permitted. Formal rules of evidence shall not apply.
- G. A hearing before the enforcement officer shall be set for a date that is not less than ten days and not more than twenty days from the date the request for hearing is filed. The person requesting the hearing shall be notified of the time and place set for the hearing at least five days prior to the date of the hearing.

10.40.080 - Decision on appeal.

- A. After considering all the testimony and evidence submitted at the appeal hearing, the enforcement officer shall issue a written decision within seventy-two hours of the hearing upholding or denying the notice of abatement proceeding and shall list within the decision the reasons for that decision. The enforcement officer may impose such conditions and take such other actions as is deemed appropriate to carry out the purpose of the provisions of this chapter.
- B. The decision of the enforcement officer shall be final and shall be served by mail on the property owner within forty-eight hours.

10.40.090 - City removal of nuisance.

The enforcement officer and his deputies, assistants, contracting agents and other representatives are authorized to enter upon private property to abate, or cause to be abated, the nuisance determined to exist under this chapter, provided such entry shall be consistent with the provisions of the United States and California Constitutions and other applicable law.

10.40.100 - Assessment costs--Liens—Attorney fees--Other procedures.

A. The enforcement officer or his designee shall notify, in writing, all parties concerned of the amount of total costs incurred by the city resulting from the nuisance abatement. If the total costs determined as provided for in this section is not paid within thirty days after mailing of such notice, the charges shall be placed as a special assessment on the tax bill for the property pursuant to Section 38773.5 of the Government Code. In addition to the costs of abatement, a nuisance abatement service administrative overhead fee in an amount which may be established from time to time by resolution of the city council shall be assessed against each parcel for the city and other city-incurred costs associated with abatement. The nuisance abatement service administrative overhead fee shall initially be set at 10% of the total costs upon passage of this ordinance until changed by Council resolution.

B. Notice shall be given at the time of imposing the assessment which shall specify that the property may be sold after three years by the tax collector for unpaid delinquent assessments. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchase for value, or if a lien of a bona fide encumbrance for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

C. Other Abatement Procedures. The provisions of this chapter shall not in any manner limit or restrict the city from enforcing city ordinances or abating public nuisances in any other manner provided by law.

10.40.110 - Payment of costs.

The owner, or other person interested in the premises on which any work has been performed under the provisions of this chapter, may pay the costs thereof to the city clerk after the filing of the statement by the enforcement officer with the city clerk and until the first day of August of the year in which such statement was filed.

10.40.120 - Statement of unpaid amounts.

A statement of all amounts remaining unpaid after August 1st, certified by the city clerk and giving the descriptions of the respective pieces or parcels of land upon which such charges exist, shall thereupon be prepared and certified by the city clerk, and shall be by him or her immediately forwarded to and filed with the tax collector who shall thereupon cause an entry to be made on the tax roll opposite the description of the property therein described as follows: "Nuisance Abatement Lien _____ \$_____", filling in the amount of the expense shown in the statement of the city clerk in each particular case, plus a penalty of twenty percent to cover the incidental expense of collection. The tax collector shall thereafter cause a corresponding entry to be made on the tax

bill for the property; and thereafter before any payment shall be received for any tax for the redemption of the property, the amount of nuisance abatement lien shall first be paid.

10.40.130 - Manner of collection.

In all respects, other than as is in this chapter recited, the nuisance abatement lien shall be collected and the collection of them enforced, in the same manner, under the same conditions, and pursuant to the same notices as other taxes upon real property in the city.

10.40.140 - Refunds.

Any nuisance abatement lien, penalties or costs on them paid more than once or erroneously or illegally collected by reason of a clerical error may, by order of the city council, be refunded; provided, however, that no order of the city council to refund nuisance abatement lien, penalties, or costs shall be made except upon a verified claim therefor, filed within six months after making of the payment sought to be refunded, or in the case of a double assessment of such taxes, within two years after such payment.

10.40.150 - Legality of abatement taxes.

No assessment or act relating to the assessment or collection of nuisance abatement lien is illegal on account of informality, nor because the same was not completed within the time required by law; nor shall any such assessments ever be held illegal on account thereof.

10.40.160 - Severability.

If any part or provision of this chapter is found to be invalid or unenforceable by a court of law, such invalidity shall not affect any other part or provision herein, and all remaining provisions of this chapter will be valid and enforceable to the fullest extent permitted by law.

Section 2

All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 3

The City Council determines that the provisions of this Ordinance are exempt from the California Environmental Quality Act because the instant ordinance involves continuing administrative activities and thus is not a project, as the Act defines, pursuant to Section 15378(b)(2) of the California Environmental Quality Act Guidelines. To the extent the adoption of this Ordinance constitutes a project, the City Council finds pursuant to CEQA Guideline Section 15061(b)(3) that the project is exempt from environmental review because it can be seen with certainty that the adoption of the ordinance would not have any significant impact on the environment.

This ordinance shall be published and posted in the manner required by law by the City Clerk.

Introduced at a meeting of the City Council of Sutter Creek on April 8, 2025 and enacted by the City Council of the City of Sutter Creek at a regular meeting held on April 22, 2025.

PASSED, APPROVED AND ADOPTED at a regular meeting of the Sutter Creek City Council, held on this 22nd day of April 2025, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

ABSTAIN:

Claire Gunselman, Mayor

ATTEST:

Aaron Wolcott, City Clerk