



LAKE SHASTINA COMMUNITY SERVICES DISTRICT

ORDINANCE NO. 2-18

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE LAKE SHASTINA
COMMUNITY SERVICE DISTRICT ESTABLISHING AN ABATEMENT,
ADMINISTRATIVE APPEAL AND COLLECTION PROCEDURE.**

WHEREAS, the Lake Shastina Community Services District has adopted ordinances that require the assessment of penalties, fines and fees for violation of regulations that prohibit hazardous vegetation and protect the health and safety of the District citizens; and

WHEREAS, it is of paramount importance that the citizens have the right to appeal these findings and monetary assessments, and it is of vital importance that the District have a mechanism to enforce penalties and collect the fines and fees.

NOW, THEREFORE BE IT ORDAINED that the Board of Directors adopts the following Ordinance, creating an administrative appeal process, establishing collection procedures for administrative fines, and providing regulations for abatement, and attached hereto as Exhibit A.

It is hereby certified that the forgoing Ordinance No. 2-18 was duly introduced at a regular meeting of the Lake Shastina Community Services District on 18th of April, 2018 and adopted at a regular meeting of the Lake Shastina Community Services District on 16th of May, 2018

ROLL CALL VOTE

AYES: Directors Cupp, Lewis, MacIntosh, Mitchell and Thompson
NOES: None
ABSENT: None

Lake Shastina Community Services District by:



Carol Cupp, President

ATTEST



Michael Wilson, District Secretary

ABATEMENT, ADMINISTRATIVE APPEAL AND COLLECTION PROCEDURE

1.01. Abatement.

- A. Whenever a Lake Shastina Community Services District (District) Code Enforcement Official deems it necessary, shall issue a “notice to abate” by certified mail to the property owner as his or her name appears on the last equalized assessment roll and to the address as shown in the records of the County Assessor. This shall constitute a notice of violation.
- B. Any person receiving the notice to abate shall have the right to appeal such notice pursuant to 1.02 Appeal Procedures.
- C. If at the end of the time allowed for compliance in the notice to abate, or as extended in the case of appeal, or as specified by the Board of Appeals, compliance has not been accomplished, the officer issuing the notice to abate may order the hazardous vegetation abated. This can be done through private contractor or District staff.
- D. When the abatement has been completed, the officer shall provide to the District Clerk an itemized statement covering the cost of the work for such abatement. The actual cost of such removal and a reasonable administrative charge may be imposed as a Special Assessment upon the property, and such property shall be subject to a Special Assessment Lien.

1.02. Appeal Procedure.

- A. Any person (the "appellant") upon whom a notice of violation is served by District may appeal the findings, determinations and/or amount of potential fines and penalties set out in the notice of violation pursuant to the procedures set forth in this section. The appellant must file a written appeal with the District General Manager within ten working days of personal service or the date of mailing of the notice of violation. The written appeal shall contain:
 - 1. A brief statement setting forth the interest the appealing party has in the matter relating to the imposition of the penalty;
 - 2. A brief statement of the material facts which the appellant claims support his or her contention that no administrative penalty should be imposed or that an administrative penalty of a different amount is warranted; and
 - 3. An address at which the appellant agrees notice of any additional proceeding or an order relating to imposition of the administrative penalty may be received by first class mail.
- B. The written appeal must be accompanied by payment of a fee as set pursuant to Government Code Section 54954.6 (a)(1)(A) and other relevant code sections. Failure to comply with the requirements of this paragraph within the ten days for filing an appeal set forth in subsection A of this section shall constitute a waiver of the right to appeal.

- C. An appeal of a notice of violation shall be heard by the Board of Appeals. The Board of Appeals shall constitute one individual appointed by the Board of Directors. The District is authorized to enter into a contract with an individual, company or firm to provide hearing officer services, provided the individual, company or firm adopts and follows adequate procedures for maintaining neutrality and avoiding conflicts of interest. The issuer of the Notice of Violation shall not sit on the Board of Appeals.
- D. The appeal hearing shall be set no sooner than twenty calendar days following receipt of the written appeal, unless a different date is mutually agreed upon by the appellant and Board of Appeals. Notice of the appeal hearing shall be mailed by registered mail at least fifteen calendar days before the date set for the hearing. Failure of the appellant to appear timely will cause the notice of violation and the assessment of administrative fines and penalties to become a final order or decision.
- E. In reviewing the notice of violation, Board of Appeals shall consider the factors set forth above, and shall uphold, withdraw, or modify the notice of violation and fines and penalties specified by that notice. The Board of Appeals shall serve a copy of his or her written decision on the appellant. The Board of Appeals' decision shall be mailed by registered mail and shall be deemed served within five working days after the date it was mailed to the address provided by the appellant.
- F. The decision of the Board of Appeals shall constitute the administrative order or decision of the local agency within the meaning of Government Code Section 53069.4(b)(1) and (c) and shall be final unless appealed. Any person aggrieved by a final administrative order or decision imposing an administrative fine may seek relief from the Superior Court.

1.03. Collection.

When an administrative fine or penalty becomes a final order under this section, or Government Code Section 53069.4, the District may proceed to collect the fine or penalty as follows:

- A. The District may commence a civil action to enjoin and/or collect the administrative fines and penalties; in the event a civil action is commenced to collect the administrative fines and penalties, the District shall be entitled to recover all costs associated with the collection of the fines and penalties. Such costs include, without limitation, staff and counsel time incurred in the collection of the penalty, attorney fees for processing the civil action, and those costs set forth in Code of Civil Procedure Section 1033.5.
- B. The amount of any unpaid final administrative fine, plus interest, plus any other costs as provided in this chapter, may be declared a lien on any real property owned by the property owner within the District against whom an administrative penalty has been imposed as follows:
 - 1. Notice shall be given to the property owner before recordation of the lien, and shall be served in the same manner as a summons in the civil action pursuant to Code of Civil Procedure Section 415.10 *et seq.*,
 - 2. The lien shall attach when the District records it with the County recorder's office. The lien shall specify the amount of the lien, the date of the code violations, the date of the final decision, the street address and/or legal description, and

assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the record owner of the parcel; and

3. In the event that the lien is discharged, released or satisfied, either through payment or foreclosure, the District shall record a notice of the discharge containing the information specified in subsection B.

- C. The District may withhold issuance of discretionary licenses, permits and other entitlements to the property owner on any project, property or application of any kind whenever an administrative penalty remains unpaid.

- D. The District may take such other actions as are allowed for enforcement of a civil judgment, such as is provided for pursuant to the Enforcement of Judgment Law, California Code of Civil Procedure section 680.010 *et seq.*

- E. In any action brought under county code where special assessments, attorney's fees and costs have been ordered, the District may order the costs to be specially assessed against the parcel. The assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as are provided for ordinary county taxes. All laws applicable to the levy, collection, and enforcement of county taxes are applicable to the special assessment.

- F. In any action brought under District code against the occupier or owner of the parcel or both, the prevailing party shall be awarded attorney's fees and costs in accordance with California Government Code § 25845(b) and (c).