

BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

ORDINANCE NO. _____

**AN ORDINANCE AMENDING ARTICLE II OF CHAPTER 13 OF THE LAKE COUNTY CODE REGARDING THE
ABATEMENT OF GARBAGE AND REFUSE AND ESTABLISHING FINES AND PENALTIES FOR THE
ACCUMULATION OF GARBAGE AND OTHER REFUSE**

WHEREAS, when persons accumulate garbage and other refuse on their real property, there are significant risks to public health, safety, and welfare which result, including but not limited to, community blight, the presence of vermin and strong odors, and the potential for injurious materials to leach into the soil and waterways; and

WHEREAS, the Board of Supervisors desires to deter such illegal activity by imposing fines and penalties for such misconduct.

NOW THEREFORE, the Board of Supervisors of the County of Lake hereby ordains as follows:

Section One: Article II of Chapter 13 of the Lake County Code is hereby amended to read as follows:

“ARTICLE II. - REMOVAL OF RUBBISH/WEEDS

Sec. 13-10. – Prohibited Conduct and Required Removal.

Sec. 10.1 Prohibited Conduct. It is unlawful for any person owning, occupying, renting, managing, or controlling any real property in the County to cause or permit any weeds, dead trees, or brush to accumulate on said property or to place, cause or permit any rubbish or other refuse to be, accumulate, or remain on any real property in the County, on trailers, in vehicles, or on portions of streets adjoining such real property to the center line of such streets. The accumulation of such garbage is declared to be a public nuisance pursuant to Lake County Code Chapter 13, Section 13-3.1 (e) 7.

Sec. 10.2 Required Removal of Garbage and/or Refuse.

a. The owner or tenant of any premises, business establishment or industry shall be responsible for the satisfactory removal of all garbage and/or refuse accumulated on such premises. To prevent propagation, harborage or attraction of flies, rodents or other vectors and the creation of a nuisance, garbage and/or refuse, excepting nonflammable inert material, shall not be allowed to remain on the premises for more than seven (7) days.

b. All garbage and/or refuse shall be drained, wrapped, and stored in durable, rust-resistant, nonabsorbent, watertight containers not to exceed 96 gallons capacity and which have tight-fitting covers. Plastic garbage bags are not to be used for outside storage of garbage at any time.

c. No garbage and/or refuse, with the sole exception of non-flammable inert materials, may be stored for any period of time, on a trailer. Said garbage and/or refuse may be placed on a trailer only for the purpose of transporting said materials for purposes of disposal in a legally authorized manner.

d. No garbage and/or refuse may be stored in a vehicle. Said garbage and/or refuse may be placed in a vehicle only for the purpose of transporting said materials for purposes of disposal in a legally authorized manner.

e. Nonflammable inert materials stored on a premises shall not be allowed to become either a harborage for rodents, insects or other vectors, nor a public nuisance. Such inert nonflammable materials which are not properly stored shall not be allowed to remain on a premises for more than thirty (30) days.

f. The owner of any multifamily dwelling shall either contract with a franchise hauler legally authorized to remove and/dispose of garbage and/or refuse or shall undertake as its own responsibility, the disposal of garbage and/or refuse for such a dwelling. All receptacles used for the storage of garbage, rubbish and waste matter accumulated on properties used for multifamily dwellings shall be emptied and the contents thereof removed and disposed of when:

1. The contents are even with the top of the receptacle;
2. At least once a week; and
3. The owner of any such multifamily dwelling shall not permit such contents to overflow above the top of the receptacle prior to removal and disposal.

Sec. 10.3 Burning of Garbage and/or Refuse.

It shall be illegal for any person to burn garbage in Lake County unless the consent of the County Health Official and the Air Quality Management District is first obtained and such burning is done in an approved manner and location.

Sec. 13-11 Definitions.

As used in this Article, the following terms shall have the following meanings:

“Abate and/or abatement” means the act of removing, destroying, eliminating, seizing, impounding, or taking any other action to mitigate and/or respond to a public nuisance.

“Abatement costs” means any costs or expenses reasonably related to the abatement of conditions which violate this Division and shall include, but not be limited to, costs associated with the removal, storage, transportation, cleaning, clearing, and disposal of accumulated garbage and refuse, and those administrative costs further described in Chapter 13 of the Lake County Code.

“Accumulation of garbage and/or refuse” means any measurable amount of accumulated items constituting a condition harmless or injurious to the health, safety, and welfare of neighboring properties, an community area, the public generally, and/or to the environment.

“Blight” means a deteriorating environmental condition or nuisance that can damage and eventually ruin the security, health and economic vitality of a business area, neighborhood, or community if it is ignored and allowed to persist and/or to grow.

“Container” means a bin, can, vessel, or other receptacle used to hold garbage and/or refuse.

“Disposal” means the delivery of solid waste and/or recyclable materials to a solid waste facility or facilities.

“Enforcement Official” means any person designated as an enforcement Official in Chapter 13 of the Lake County Code.

“Garbage and/or refuse” means and includes, but is not limited to, any items consisting of trash, litter, waste, junk, debris, discarded items, construction or demolition materials, cans, bottles, bricks, boxes, appliances, vehicle parts, tires, discarded mattresses, equipment, furniture, ordinary household garbage, dead trees, brush, or other injurious or offensive materials of any kind.

“Multi-family Dwelling” means that type of dwelling and real property use as defined by the Lake County Zoning Ordinance.

“Non-flammable inert materials” means materials which are not readily susceptible to catching fire which contain no decomposable wastes and no soluble pollutants, including but not limited to rock, earth, construction rubble, and concrete chunks.

Sec. 13-11. - Trash Disposal.

Sec. 11.1 Trash disposal must be made in an appropriate manner, i.e. through a trash pick-up service, self-haul to an approved disposal site, or properly composting in a back yard compost pile.

Sec. 13-12. - Duty to Abate.

12.1 The owner and any person or entity in possession of real property constituting a nuisance pursuant to this article shall be jointly and severally liable for the maintenance thereof and has the duty to immediately abate the nuisance.

12.2 As a condition of compliance in a Notice of Nuisance and Order to Abate, an Enforcement Official may require the property owner to provide a maintenance plan to address the prevention of further nuisance conditions resulting from the accumulation of rubbish on the property. Such a maintenance plan shall require evidence that said property owner will implement a regular practice for trash disposal on said property. Evidence that said property will be the subject of regular garbage service shall be deemed a sufficient maintenance plan.

12.3 In the case of a repeat offender as defined in Section 13-3 of this chapter, the Enforcement Official may impose as a condition of a Notice of Nuisance and Order to Abate a requirement that the property owner provide proof of regular garbage service for the subject property or other lawful method for regular and routine garbage collection and disposal which is acceptable to the Enforcement Official as more particularly described in Section 13.2 herein.

Sec. 13-13. - Procedures, Remedies and Administrative Penalties.

13.1 The procedures, remedies and penalties applicable to a violation of this article and for recovery of costs related to enforcement are as set forth herein this chapter.

13.2 Administrative Penalties.

a. In addition to any other remedy authorized by this code or applicable law, any violation of the provisions of this Division will be subject to an administrative penalty, enforcement, and collection proceedings, as set forth in this chapter and authorized by California Government Code Section 53069.4. Said penalties shall begin to accrue on the date the Notice of Violation is issued and each day the violation continues shall constitute a separate violation subject to a separate penalty.

b. Except as otherwise provided in subsection d of this section, the Enforcement Official may impose an administrative penalty for each violation in an amount not to exceed one hundred dollars (\$100.00) for each day the first violation occurs and continues, two hundred dollars (\$200.00) for each day the second violation of the same provision of this chapter within one (1) year after the first violation occurs and continues, and five hundred dollars (\$500.00) for each day of an additional violation of the same provision of this chapter within one (1) year after the first violation.

At the point after a second violation and where an additional violation, as described hereinabove, is determined to have occurred, the Enforcement Official may additionally require that the violator either subscribe to a garbage collection service for regular and routine garbage collection or enter into a contractual arrangement with the County wherein the violator agrees to adhere to another lawful method for regular and routine garbage collection and disposal which is satisfactory to the Enforcement Official. Said agreement shall require the violator to reimburse the County for all reasonable administrative costs of the Enforcement Official in monitoring compliance with that agreement. Failure to adhere to any material terms of this agreement shall constitute a breach of contract, entitling the County to seek any and all remedies available as a result of said breach.

At any point after an egregious violation has occurred, regardless of whether that violation is a first, second, or additional violation, if said egregious violation continues without remediation for a period of ten (10) days or more, the Enforcement Official may require that the violator either subscribe to a garbage collection service for regular and routine garbage collection or enter into a contractual arrangement with the County wherein the violator agrees to adhere to another lawful method for regular and routine garbage collection and disposal which is satisfactory to the Enforcement Official. Whether a violation is egregious for purposes of this paragraph shall be left to the sound discretion of the Enforcement Official.

c. Whenever the Enforcement Official determines that a violation of any provision of this article has occurred, the Enforcement Official is authorized to issue a notice of violation. Said Notice of Violation shall be issued pursuant to those procedures and hearing rights described in this Chapter."

Section Two: CEQA Review.

This Board finds that pursuant to Section 21080, _____ of the Public Resources Code and Section _____ of Title 14 of the California Code of Regulations that the monetary amounts imposed by this ordinance are fines/penalties and are therefore exempt from the provisions of the California Environmental Quality Act ("CEQA").

Section Three: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict and no further.

Section Four: This ordinance shall take effect on the ____ day of ____, 2018 and before the expiration of fifteen days after its passage, it shall be published at least once in a newspaper of general circulation printed and published in the County of Lake.

//

//

//

The Foregoing Ordinance was introduced before the Board of Supervisors on the _____ day
of _____, 2018, and passed by the following vote on the ____ day of _____, 2018.

AYES:

NOES:

ABSENT OR NOT VOTING:

COUNTY OF LAKE

Chair, Board of Supervisors

ATTEST: CAROL J. HUCHINGSON

Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

ANITA L. GRANT

County Counsel

By: _____