

RESOLUTION NO. 22-28

A RESOLUTION OF THE MORAGA-ORINDA FIRE PROTECTION DISTRICT UPHOLDING ADMINISTRATIVE CITATION NUMBER 21-2601-005 ISSUED ON AUGUST 4, 2022 FOR VIOLATION OF ORDINANCE NUMBER 20-01 AND ORDINANCE NUMBER 20-03, ON THE PROPERTY LOCATED AT 1124 SANDERS DRIVE IN MORAGA CALIFORNIA, APN NUMBER 258193001, AND IMPOSING A FINE IN THE AMOUNT OF \$500.00

WHEREAS, on July 15, 2020, under the authority of Section 13869 of the California Health and Safety Code, the Moraga-Orinda Fire District (“MOFD” or “the District”) adopted Ordinance 20-01 adopting and amending the California Fire Code, 2019 Edition, and by reference, the International Fire Code, 2018 Edition; and

WHEREAS, on July 15, 2020, under the authority of Section 13869 of the California Health and Safety Code, the Moraga-Orinda Fire District (“MOFD” or “the District”) adopted Ordinance 20-03 setting forth the requirements and/or restrictions pertaining to banning open burning and recreational fires during high fire season and providing for enforcement options and penalties; and

WHEREAS, California Fire Code Section 105.6.32 of the Fire Code states that an operational permit is required for the kindling or maintaining of an open fire or a fire on any public street, alley, road, or other public or private ground, and the instructions and stipulations of the permit shall be adhered to; and

WHEREAS, California Fire Code Section 307.2 states that a permit shall be obtained from the fire code official in accordance with Section 105.6 prior to kindling a fire for recognized Silvicultural or range or wildlife management practices, prevention or control of disease or pests, or a bonfire and that application for such approval shall only be presented by and permits issued to the owner of the land on which the fire is to be kindled; and

WHEREAS, On July 10, 2021 and on July 27, 2021, MOFD Engine 41 responded to 1124 Sanders Drive, Moraga (“the Property”) APN 258193001 for illegal burning violating the MOFD Burn Ban (Ordinance No. 20-03), which constitutes a fire hazard; and

WHEREAS, On July 27, 2021 MOFD Staff received a citizen complaint for open burning and smoke coming from 1124 Sanders Drive, Moraga; and

WHEREAS, On July 30, 2021, MOFD staff sent the property owner a Pre-citation Notice ordering Mr. Giovinazzi to stop burning and to comply with MOFD Ordinance Nos. 20-01, sections 105.6.32 and 307.2, and 20-03, and notifying him that failure to comply with these ordinances would result in the issuance of an administrative citation; and

WHEREAS, The Pre-citation Notice also stated that continued failure to comply with the Fire Code might result in the issuance of additional citations and increasing fines; and

WHEREAS, On August 3, 2022, MOFD responded to an incident at 1124 Sanders Drive, Moraga. MOFD Fire Officials observed violations of both the Fire Code 20-01, Ordinance No. 20-01 and Burn Ban, Ordinance 20-03. A video of the observed smoke coming from 1124 Sanders Drive, Moraga is available for viewing; and

WHEREAS, On August 4, 2022 MOFD sent the property owners an Administrative Citation No. 21-2601-005 for violating Ordinance No. 20-01 (Fire Code) and Ordinance No. 20-03 (Burn Ban), and imposed a fine of \$500; and

WHEREAS, On September 9, 2022, property owner Anthony Giovinazzi filed a request for a hearing to contest Administrative Citation No. 21-2601-005 on the ground that no violations were identified as stated on the citation; and

WHEREAS, Mr. Sylvester paid the \$500 fine in full in conjunction with his request for a hearing in accordance with Section 7(a) of Ordinance No. 21-01; and

WHEREAS, On September 2, 2022, MOFD staff sent the property owners a letter notifying them that the MOFD Board of Directors would conduct a hearing on this matter at its regularly scheduled meeting of September 21, 2022; and

WHEREAS, The MOFD Board of Directors conducted a hearing on September 21, 2022, considered all evidence presented by MOFD staff, all evidence presented and any statements made by the property owners, and any statements made by members of the public; and

NOW, THEREFORE, BE IT RESOLVED that the Moraga-Orinda Fire District Board of Directors hereby upholds Administrative Citation number 21-2601-005 issued on August 4, 2022 for violation of Ordinance Number 20-01 and Ordinance Number 20-03 on the property located at 1124 Sanders Drive in Moraga California, APN number 258193001, and hereby imposes a fine of \$500 for this violation; and be it

FURTHER RESOLVED that the property owners are hereby notified that the time for judicial review of this decision of the Board of Directors of the Moraga-Orinda Fire District is governed the California Government Code Section 53069.4;

PASSED, APPROVED and ADOPTED this 21st day of September 2022 at the regular meeting of the District Board of Directors held virtually due to the COVID pandemic, on motion made by Director Jex, seconded by Director Jorgens, and duly carried with the following vote.

AYES:	DIRECTORS BAITX, DANZIGER, JEX, JORGENS, AND DONNER
NOES:	NONE
ABSENT:	NONE
ABSTAIN:	NONE

Resolution 22-28
Dated: September 21, 2022


Michael Donner (Sep 29, 2022 09:39 PDT)

Michael Donner, President
Board of Directors

I certify that this is a full, true and correct copy of the original document which is on file in my office, and that was passed and adopted by the Moraga-Orinda Fire Protection District on the date shown.

ATTEST:



Marcia Holbrook,
District Secretary/District Clerk

APPROVED AS TO FORM:


Jonathan Holtzman (Oct 4, 2022 11:29 PDT)

Jon Holtzman, District Counsel

APPROVED AS TO CONTENT:


Dave Winnacker (Oct 4, 2022 14:22 PDT)

Dave Winnacker, Fire Chief

22-28 Resolution Administrative Citation Hearing 1124 Sanders Drive Moraga APN 258193001 MM Final

Final Audit Report

2022-10-04

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"22-28 Resolution Administrative Citation Hearing 1124 Sanders Drive Moraga APN 258193001 MM Final" History

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