



M E M O R A N D U M
COMMUNITY DEVELOPMENT RESOURCE AGENCY
BUILDING DIVISION
County of Placer

TO: Honorable Board of Supervisors DATE: April 21, 2020

FROM: Steve Pedretti, Director, Community Development Resource Agency

BY: Tim Wegner, Deputy Director

SUBJECT: Hazardous Vegetation Ordinance Update

ACTION REQUESTED

Adopt an ordinance, introduced on April 7, 2020, repealing and replacing in its entirety Placer County Code, Chapter 9, Article 9.32, Part 4 related to hazardous vegetation and combustible material abatement.

BACKGROUND

On November 6, 2007, the Board approved Ordinance 5491-B, establishing the County's initial Hazardous Vegetation Abatement on Unimproved Parcels Ordinance as a pilot program in the Eastern County area. The unimproved parcel standards were developed to compliment State defensible space requirements set forth in Public Resources Code Section 4291 (PRC 4291) and State Fire Code requirements. The County's unimproved parcel regulations provide continuity across boundary lines by requiring clearance on an adjacent unimproved parcel when an improved parcel cannot achieve the required one-hundred foot defensible space on its parcel alone.

On April 23, 2013, the Board approved Ordinance 5705-B, expanding the program to cover the entire unincorporated Placer County.

Since that time, the County has endured several wildfires destroying personal and real property, including homes and businesses. With the recent devastating fire that destroyed the Town of Paradise, California, many communities are seeking to better defend against wildfires.

For this reason, Placer County Fire and Eastern and Western County Fire Chiefs, or their delegate prevention officers, participated in focus group meetings over the past year to discuss challenges and opportunities with the County's current Hazardous Vegetation on Unimproved Parcels Ordinance and the defensible space standards contained in PRC 4291 and the California Fire Code.

From these meetings, it was determined the County's ordinance could:

- 1) Better address improved and unimproved parcel defensible space standards through one resource rather than through a combination of County, State, and Fire Code requirements;
- 2) Identify fire hazards requiring mitigation outside the traditional one-hundred-foot defensible space area that contribute to fuel loading and wildfire spread;
- 3) Streamline the enforcement process for expedited decisions and compliance by shortening the timeframe to file appeals and substituting a single hearing officer for the hazardous vegetation abatement hearing body; and
- 4) Provide an alternative administrative citation hearing and fine process for non-compliance when abatement is not an option due to high fire risk. Hearings would be conducted in the same manner as the current administrative citation hearings for land use violations. These matters are heard by a hearing officer once a month or as calendared. This is in contrast to the current improved parcel criminal system which requires three convictions in a one-year period prior to abatement, often preventing timely abatement.

ANALYSIS

During their review of the current Hazardous Vegetation Ordinance on Unimproved Parcels, staff and counsel concluded the most effective approach to accomplish the aforementioned objectives was to repeal the existing ordinance and draft a new ordinance (Attachment A) governing hazardous vegetation and combustible material abatement on all lands in the unincorporated County.

The proposed ordinance intends to:

- Identify hazardous vegetation standards for both improved and unimproved parcels, maintaining the same one hundred (100) foot defensible space standard with an exception for ornamental grasses, plants, and vines;
- Establish fire hazard violations outside of the traditional one hundred (100) foot defensible space area;
- Shift appeals from an administrative hearing body to an administrative hearing officer and reduce the timeframe for filing an appeal;
- Authorize the issuance of administrative citations and fines for non-compliance, which is of particular value during months where abatement is precluded due to fire danger;
- Establish a cost recovery process including administrative costs (County and District) and abatement costs; and
- Update the lien process to largely mirror the recently amended process set forth in Placer County Code Section 17.62.160(E).

Should the Board adopt the proposed ordinance, staff proposes entering into Memoranda of Understanding (MOUs) with districts, allowing said districts to enforce the standards identified in the proposed ordinance. Additionally, staff will return to the Board at a future date to discuss a staffing plan.

The typical hazardous vegetation abatement process would proceed as follows:

1. **Complaint received.** Non-compliant parcels may be identified by:
 - a. A community member; or
 - b. Placer County Fire/Fire District personnel.
2. **Site Visit.** A site visit is conducted by Placer County Fire, or a Fire District, depending on the area and resource availability.
3. **Compliance Period.** Non-compliant parcel owners receive a Notice of Violation and Order to Abate, providing thirty (30) days to correct the violation(s) and fifteen (15) days to request an appeal hearing.
4. **Abatement.** If violations remain after the thirty-day notice period, and if the owner has not requested an appeal hearing, the County's Code Compliance team will abate the hazard. The hazard is abated by County contracted work crews procured for this purpose. Abatement is conducted to the satisfaction of Placer County Fire or the responsible Fire District.
5. **Cost Recovery.** The County's Code Compliance team will pursue the recovery of administrative (County and District) and abatement costs from the parcel owner. If costs are not paid, staff will request the Board approve a special assessment and lien on the parcel to recover those costs.

Condensing the County's defensible space standards, streamlining the compliance process, expanding administrative remedies, and developing a defensible space team would constitute significant efforts in helping the County prepare for the next fire season.

ENVIRONMENTAL IMPACT

This action is categorically exempt from environmental review pursuant to CEQA Guidelines Sections 15061(b)(3) (General Rule), 15301 (Existing Facilities), 15304 (Minor Alterations to Land), 15307 (Actions by Regulatory Agencies for Protection of Natural Resources), and 15308 (Actions by Regulatory Agencies for Protection of the Environment).

FISCAL IMPACT

There is no direct fiscal impact for repealing and replacing in its entirety Placer County Code, Chapter 9, Article 9.32, Part 4 related to hazardous vegetation and combustible material abatement. Associated staffing

and cost for enforcement will be addressed in the Community Development Resource Agency proposed budget.

ATTACHMENT

Attachment A: Ordinance

ATTACHMENT A

Before the Board of Supervisors County of Placer, State of California

In the matter of: Repeal and Replacement of Placer County Code Chapter 9, Article 9.32, Part 4 Related to Hazardous Vegetation and Combustible Material Abatement

Ordinance No.: _____

Introduced: _____

The following Ordinance was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held _____, by the following vote:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:

Clerk of said Board

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER ORDAINS AS FOLLOWS:

Section 1. Placer County Code Chapter 9, Article 9.32, Part 4 is hereby repealed in its entirety and replaced as follows:

Part 4. Hazardous Vegetation and Combustible Material Abatement

9.32.120 Title.

This part shall be known as, and may be cited or referred to as, the "Hazardous Vegetation and Combustible Material Abatement Ordinance."

9.32.130 Purpose.

The purpose of this part is to provide for the removal of hazardous vegetation and combustible material from parcels in the unincorporated areas of the county so as to reduce the potential for fire and to promote the public health, safety and welfare of the community.

The board of supervisors makes the following findings:

A. It is the intent of the board of supervisors that this part shall apply to the abatement of hazardous vegetation and combustible material on unimproved and improved parcels in the unincorporated area;

B. Placer County generally has a climate conducive to wildfires and is prone to periodic dry summers and wind events. Many of the county's native and non-native plant species can be highly flammable during normal dry periods and have contributed to significant wildfires within the county. Increasingly dry summers and severe wind events further exacerbate the fire danger and have the potential to result in catastrophic fire losses to life, property and the environment;

C. Placer County has a diverse and complex landscape, including mountainous areas and forest-covered, oak tree-covered, brush-covered, and grass-covered lands that are home to many rare and sensitive plant and animal species;

D. Of paramount importance to the board of supervisors and the citizens of Placer County is the protection of lives and property from the threat of fire and the safety of fire and law enforcement personnel during wildfires;

E. It is the purpose of this part to establish a hazardous vegetation and combustible material abatement program that protects the lives and property of the citizens of Placer County while at the same time protecting rare and sensitive plant and animal species and the environment; and

F. The board of supervisors finds that hazardous vegetation and combustible material pose a danger to the health, safety and welfare of Placer County residents for the reasons set forth above. Therefore, all hazardous vegetation or combustible material located on real property within the unincorporated area of the county of Placer is deemed a public nuisance and poses a hazard to the safety of residents and the public generally.

9.32.140 Authority.

The board of supervisors enacts this ordinance pursuant to California Health and Safety Code Sections 14930 and 14931 concerning the abatement of hazardous vegetation and combustible material; and California Government Code Sections 25845 and 25845.5 regarding the abatement of nuisances and establishment of real property liens.

9.32.150 Definitions.

The following definitions apply to this part:

"Abate" and/or "abatement" means an act used to remove, destroy, eliminate, seize, impound, or any action taken to mitigate a public nuisance.

"Abatement costs" means any and all costs incurred by the county of Placer to abate the hazardous vegetation or combustible material on any property pursuant to this part, including physical abatement costs, administrative and staff time costs, contractor costs, and any additional actual costs incurred for the abatement proceeding, including hearing officer costs. Abatement costs shall be deemed incurred by the county even if the county's obligation to pay such costs is contingent upon the county's receipt of funds from the owner of the parcel subject to abatement. Contractor costs shall include the costs of public agencies performing any work, task, or action authorized by this part pursuant to an agreement with the county.

"Combustible material" means rubbish, litter or material of any kind other than hazardous vegetation that is flammable and endangers the public safety by creating a fire hazard.

"County fire warden" means the fire warden of the county of Placer or designee.

"Enforcement official" means the county fire warden, the chiefs of all fire protection districts within unincorporated Placer County, the Placer County community development/resource agency (CDRA) director, the Placer County chief building official, such other officers as are designated by the board of supervisors, or any of their respective designees.

"Hazardous vegetation" means vegetation that is flammable and endangers the public safety by creating a fire hazard, including but not limited to seasonal and recurrent weeds, stubble, brush, dry leaves, etc.

"Improved parcel" means a portion of land identified by an assessor's parcel number upon which a structure is located.

"Person" means natural person or other legal entity.

"Structure" means any dwelling, house, building or other type of flammable construction attached to or near any other structure.

"Unimproved parcel" means a portion of land identified by an assessor's parcel number upon which no structure is located.

9.32.160 Duty to abate hazardous vegetation and combustible material.

It shall be the duty of every owner, occupant, and person in control of any improved or unimproved parcel of land or interest therein, which is located in the unincorporated territory of the county of Placer, to abate therefrom, and from all private roadways, all combustible material and hazardous vegetation constituting a fire hazard that may endanger or damage neighboring property.

The requirements of this section will generally be satisfied if the following minimum requirements are met:

A. For improved parcels:

1. Maintain one hundred foot (100') defensible space around all buildings/structures.
 - a. Annual grasses and weeds need to be maintained at four inches or less.
 - b. Tree branches need to be limbed up six feet from the ground.
 - c. Shrubs need to be maintained.
 - d. Non-ornamental climbing vines must be removed from trees and structures.
2. Maintain a ten foot (10') minimum clearance next to the roadside; more may be required.
3. Remove all portions of trees within ten feet (10') of chimney and/or stovepipe outlets.
4. Maintain trees adjacent to or overhanging a structure free of dead/dying wood.
5. Maintain the roof of any structure free of leaves, needles, or other dead/dying wood.
6. Install a spark arrester on all chimneys attached to any appliance or fireplace that burns solid fuel.
7. Provide minimum four inch high street address numbers that are clearly visible from the roadside.
 - a. The address numbers shall be posted on the house.
 - b. If the house sits back from the street, post the address at the beginning of the driveway and on the house.
 - c. Address numbers shall be either a minimum four inches high, reflectorized, and contrast with their background or a minimum five inches high and contrast with their background.
8. Remove any hazardous vegetation constituting an extreme fire hazard, as determined by the enforcement official.

B. For unimproved parcels:

1. Any portion of an unimproved parcel within one hundred feet (100') of structures on neighboring parcels shall comply with Section 9.32.160(A)(1) above;
2. Flammable vegetation and other combustible growth within ten feet (10') of roadway frontage shall be removed;
3. All trees within ten feet (10') of roadway frontage must be pruned to at least six feet above grade; and
4. Any hazardous vegetation constituting an extreme fire hazard, as determined by the enforcement official, shall be removed.

C. The enforcement official may require more clearance distance than specified herein for the protection of public health, safety or welfare or the environment.

D. The determination for appropriate clearance distances will be made based upon a visual inspection of the parcel and shall consider all factors that place the property or structure(s) at risk from an approaching fire. These factors shall include local weather conditions, fuel type(s), topography, and the environment where the property or structure(s) is located.

E. Ornamental landscaping, including green perennial lawns, plants, shrubs, and bushes, are exempt from this part unless, in the judgment of the enforcement official, they create a means of rapidly transmitting fire from native growth to any structure.

9.32.170 Enforcement, inspection and authority to enter property.

A. For the purpose of enforcing or administering this part, the enforcement official may enter any real property for the purpose of inspecting the property or for summary abatement proceedings whenever the enforcement official is informed or has reasonable cause to believe that hazardous vegetation or combustible material exists, constituting a condition dangerous or injurious to the health or welfare of the public, is a public nuisance or is otherwise in violation of this part.

B. No person shall interfere with the entry of the enforcement official in the official course and scope of his duty.

9.32.180 Summary abatement proceedings.

In addition to the authority granted by law to the enforcement official in exigent situations, and pursuant to California Health and Safety Code Section 14930 and California Government Code Section 25845, the enforcement official is authorized to enter real property and summarily abate any public nuisance determined by the enforcement official to constitute an immediate threat to public health or safety without prior notice or hearing.

9.32.190 Abatement proceedings.

A. Notice of Violation and Order to Abate. If the enforcement official determines that any real property is being maintained or permitted to exist in a manner prohibited by this part, the enforcement official shall issue a written notice to the property owner and any known person in possession of the property, of the violation and order the hazardous vegetation or combustible material to be immediately abated. The notice of violation and order to abate ("notice/order") shall specify the corrective actions required to be taken and order the property owner and any known person in possession to abate the hazardous vegetation or combustible material within thirty (30) calendar days and state that the failure to bring the real property into compliance with this part could subject the owner or persons in possession to civil, administrative and criminal penalties. Furthermore, the notice/order shall inform the property owner and any known person in possession of the opportunity to appear before and be heard by a hearing officer prior to abatement by the county. The failure of the notice/order to set forth all required contents shall not affect the validity of the abatement proceedings.

B. Manner of Giving Notice. The enforcement official shall cause a copy of the notice/order to be mailed or otherwise delivered to all persons known to be in possession of the property and to the property owner as such person's name and address appear on the last county equalized assessment roll. If the address is unknown, that fact shall be so stated and the notice shall be posted at the property. Service by mail shall be deemed complete at the time of deposit in the U.S. mail. The failure of any person in possession or owner of the property to receive such notice shall not affect the validity of these proceedings.

C. Appeals Hearing.

1. Request for Hearing. Any person who is adversely affected by the notice/order may appeal the determination to a hearing officer appointed by the county pursuant to California Government Code Section 27720.

a. The request for a hearing must be made in writing and submitted to the enforcement official within fifteen (15) calendar days of the postmark on the notice/order or the date of posting. Timely appeal shall stay any further action for abatement until the date set for hearing. Failure to timely appeal the notice/order shall constitute a failure to exhaust administrative remedies.

b. If no request for a hearing is timely made, the board of supervisors herein declares that abatement of the hazardous vegetation or combustible material shall have been deemed ordered by the board of supervisors as of the date of the postmark of the notice/order or the date of posting.

2. Hearing. Upon timely written request by the recipient of the notice/order, a hearing shall be scheduled with the hearing officer with notice thereof mailed or otherwise delivered to the requesting person at least fifteen (15) calendar days before the scheduled hearing. The failure of any owner or occupant to receive such notice shall not affect the validity of the proceedings.

a. At the time fixed in the notice of hearing, the hearing officer shall receive evidence from the enforcement official and the owner or person in possession of the real property in violation, or their representatives and any other concerned persons who may desire to present oral or documentary evidence regarding the conditions of the real property or other relevant matter, if such persons are present at the hearing. In conducting the hearing, the hearing officer shall not be limited by the technical rules of evidence. Failure of the owner or person in possession to appear shall not affect the validity of the proceedings or order issued thereon.

b. Upon conclusion of the hearing, the hearing officer shall make his/her decision and in the event he/she so concludes, may declare the conditions on the real property to be in violation of this part and to constitute a public nuisance. The hearing officer may direct the owner or person in possession to abate the hazardous vegetation or combustible material within ten (10) calendar days after mailing and posting of the hearing officer's decision. The order shall include notice that if the hazardous vegetation or combustible material is not abated as directed within ten (10) calendar days, the enforcement official may abate the hazardous vegetation or combustible material and the abatement costs shall be a lien and a special assessment against the real property. The hearing officer's decision and order shall be final and conclusive.

D. Abatement of Hazardous Vegetation or Combustible Material by Enforcement Official. If, at the end of the time allowed for compliance in the original notice/order issued pursuant to Section 9.32.190(A), or as set forth in an order issued by the hearing officer after a timely request for hearing pursuant to Section 9.32.190(C), compliance has not been accomplished as directed, the enforcement official may remove the hazardous vegetation or other combustible material, or may cause the removal to be carried out by a private contractor selected in accordance with applicable statutes and county procurement policies.

9.32.200 Abatement cost recovery.

A. Account of Costs and Receipts. The enforcement official will keep an itemized account of the costs of enforcing the provisions of this part.

B. Demand and Notice of Proposed Special Assessment. Upon completion of abatement, the enforcement official shall prepare a notice to be served as provided in Placer County Code Section 17.62.080(A), specifying:

1. The work done;
2. An itemized account of the costs and receipts of performing the work, including both the costs of physically abating the nuisance and the county's administrative costs related to enforcement of this part;
3. A street address, assessor's parcel number, legal description, or other description sufficient to identify the premises;
4. A demand for payment of all abatement costs within thirty (30) days after service of the notice;
5. A statement that failure to pay all abatement costs within said thirty (30) day period may result in the levy of a special assessment in that amount against the subject property;
6. The time and place where the enforcement official will submit the account to the board of supervisors for confirmation. The time and place specified shall be not less than thirty (30) days after service of the notice;
7. A statement that the board of supervisors will hear and consider objections and protests to said account and proposed special assessment.

C. Hearing on Account and Proposed Special Assessment. At the time and place fixed in the notice, the board of supervisors will hear and consider the account and proposed special assessment, together with objections and protests thereto. At the conclusion of the hearing, the board may make such modifications and revisions of the account and proposed special assessment as it deems just, and may order the account and proposed special assessment confirmed or denied, in whole or in part, or as modified and revised. The determination of the board as to all matters contained therein is final and conclusive.

D. Notice of Lien. Upon confirmation of a special assessment by the board, the enforcement official shall notify the property owner by certified mail, return receipt requested, of the amount of the lien confirmed by the board and shall have recorded in the office of the county recorder of Placer County a notice of lien. The notice of lien shall contain:

1. A street address, assessor's parcel number, legal description, and/or other description sufficient to identify the premises;
2. A description of the proceeding under which the special assessment was made, including the order or resolution of the board confirming the special assessment;
3. The amount of the special assessment;
4. A claim of lien upon the described premises.

E. Lien. Upon the recordation of a notice of lien, the amount claimed shall constitute a lien upon the described premises, pursuant to California Government Code Section 25845. Such lien shall be at a parity with the liens of state and county taxes.

F. Collection with Ordinary Taxes. After recordation, the notice of lien shall be delivered to the county auditor, who will enter the amount of the lien on the assessment roll as a special assessment. Thereafter the amount set forth shall be collected at the same time and in the same manner as ordinary county taxes, and shall be subject to the same penalties and the same procedures and sale in case of delinquency as are provided for ordinary county taxes; all laws applicable to the levy, collection and enforcement of county taxes are hereby made applicable to such special assessment.

9.32.210 Other remedies.

The provisions of this part are to be construed as an added remedy of abatement and not in derogation of any other administrative, civil or criminal actions or proceedings or remedies otherwise provided by law.

A. Alternative Administrative Proceedings. In addition to or in lieu of the abatement proceedings provided for in this part, the enforcement official may enforce the duty to abate hazardous vegetation and combustible material in Section 9.32.160 above through the administrative citation and hearing process set forth in Placer County Code Section 17.62.180.

B. Civil Actions.

1. Injunctive Relief and Abatement. Whenever, in the judgment of the enforcement official, any person is engaged in or about to engage in any act or practice which constitutes or will constitute a violation of any provision of this part or notice or order issued pursuant hereto, the enforcement official may request the county counsel or district attorney to commence proceedings for the abatement, removal, correction and enjoinder thereof, and requiring the violator to pay civil penalties and/or abatement costs or in addition, be subject to criminal prosecution.

2. Civil Remedies and Penalties. Any owner or person in possession of real property who willfully violates the provisions of this part or any notice or order issued pursuant hereto shall be liable for a civil penalty not to exceed one thousand dollars (\$1,000.00) for each day or portion thereof that the violation continues to exist. In determining the amount of the civil penalty to impose, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the violator, whether corporate or individual, and any corrective action taken by the violator.

C. Criminal Actions.

1. It shall be unlawful for any person to violate any provision of this part. Any person violating any provision of this part shall be deemed guilty of an infraction or misdemeanor as hereinafter specified. Such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provision of this part is committed, continued or permitted.

2. Any person so convicted shall be guilty of an infraction offense and punished by a fine not exceeding one hundred dollars (\$100.00) for a first violation; guilty of an infraction offense and punished by a fine not exceeding two hundred dollars (\$200.00) for a second violation on the same site and perpetrated by the same person. The third and any additional violations on the same site and perpetrated by the same person shall constitute a misdemeanor offense and shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00) or six months in jail, or both. Payment of any penalty herein shall not relieve a person from the responsibility for correcting the violation. Notwithstanding the above, a first or second offense may be charged as a misdemeanor.

D. Treble Damages. Upon a second or subsequent civil or criminal judgment for a violation of this part within a two-year period the violator shall be liable to the county of Placer for treble the abatement costs, in accordance with Government Code Section 25845.5.

E. Notice of Noncompliance. Whenever a notice/order has been issued, the enforcement official may record a notice of noncompliance with the office of the county recorder of Placer County and shall notify the owner of the property of such action. The notice of noncompliance shall describe the property, shall set forth the noncomplying conditions, and shall state that any abatement costs incurred by the county as a result of the violation of this part may be specially assessed as a lien on the property and that the owner has been so notified.

9.32.220 Authority to promulgate reasonable rules and regulations.

The board of supervisors may adopt, by resolution, reasonable rules and regulations to enforce, interpret, and carry out the provisions of this part. Such rules may vary among different

areas within the county. A copy of any such rules and regulations shall be kept on file with the clerk of the board.

9.32.230 No duty to enforce.

Nothing in this part shall be construed as imposing on any enforcement official, the county of Placer, any special district or other public agency any duty to issue a notice of violation or order to abate, nor to abate any violations of this part, and neither the enforcement official, nor the county, nor any special district or other public agency shall be held liable for failure to take such actions.

9.32.240 Severability.

This part and the various sections and clauses thereof are hereby declared to be severable. If any sentence, paragraph, section or clause is adjudged unconstitutional or invalid, the remainder of this part shall not be affected thereby. The board of supervisors hereby declares that it would have passed this part and each section thereof, regardless of the fact that one or more sections thereof be declared unconstitutional or invalid.

Section 2. This ordinance shall take effect and be in full force thirty (30) days after the date of its passage. The Clerk is directed to publish this ordinance, or a summary thereof, within fifteen (15) days in accordance with Government Code Section 25124.

