

Chapter 8.36

FIRE PROTECTION—FIRE HAZARD ABATEMENT

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8.36.010 Title.

This chapter shall be known and may be referred to as the Napa County Fire Hazard Abatement Ordinance.

8.36.020 Purpose of provisions—Public nuisance findings.

Pursuant to and in accordance with the determination made and the authority granted by the state under Section 14930 of the Health and Safety Code, the Napa County board of supervisors makes the following findings and declarations:

A. The uncontrolled growth and/or accumulation of prohibited materials on parcels as defined in this chapter is hereby found to create a condition that is a fire hazard and potentially injurious to the health, safety, and general welfare of the public and first responders.

B. The presence of such prohibited materials within defensible space and in other locations as prohibited in this chapter is hereby declared to be a public nuisance that may be abated in accordance with the provisions of this chapter and other applicable provisions of the Napa County Code governing nuisance abatement. Nothing in this chapter shall replace or conflict with the authority of the county agricultural commissioner to eradicate noxious weeds under applicable sections of the California Food and Agricultural Code.

8.36.030 Definitions.

"Combustible vegetation" means material that in its natural state will readily ignite, burn, and transmit fire to any structure or other vegetation. Combustible vegetation includes, but is not limited to, dry grass, brush, weeds, dead or dying trees, litter, or other flammable vegetation that create a fire hazard.

"Defensible space" means the area around a structure within a 100-foot radius or to the property line, whichever is less, in which combustible vegetation and other prohibited materials must be treated, cleared, or reduced to slow the spread of fire to and from the structure.

"Defensible Space Guidelines" means the Napa County Defensible Space Guidelines promulgated by Napa County and the California Department of Forestry and Fire Protection. The Defensible Space Guidelines were adopted to establish minimum requirements for fuel treatments and for measures to ensure compliance with the requirements of this chapter and the obligations of property owners. In the event of any conflict between the provisions of this chapter and the Defensible Space Guidelines, the provisions of this chapter shall control.

"Enforcement officer" means the fire marshal, assistant fire marshal, engine company officer, fire inspector of the county, or any person designated by the fire chief to enforce this chapter. In the case of enforcement by a fire district, "enforcement officer" means the fire chief of the fire district.

"Fire hazard" shall mean any condition, arrangement, act, or omission that:

1. Increases, or may cause an increased risk of, hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing, or extinguishing fire; or
2. May obstruct, delay, hinder, or interfere with the operations of a fire department or the egress of occupants in the event of fire.

"Green waste" means and includes, but is not limited to, organic material such as tree and shrub trimmings, grass clippings, plant waste, leaves, untreated wood wastes, paper products, natural fiber products, mulch, and compost, but does not include growing plants.

"Parcel" means any contiguous quantity of land in the possession of, owned by, or recorded as the property of, the same person or entity, and which is located in the unincorporated area of Napa County.

"Prohibited materials" means combustible vegetation, green waste, rubbish, or weeds.

"Rubbish" means and includes, without limitation, all the following types of waste: paper, cardboard, wood, bedding, rubber tires, construction waste, and similar waste materials.

"Structure" means any constructed building or improvement used for shelter, support, or any other use or occupancy.

"Weeds" means and includes any of the following:

1. Weeds that bear seeds of a downy or wingy nature;
2. Sagebrush, chaparral, and any other brush or weeds that attain such hard growth as to become, when dry, a fire hazard;
3. Weeds and grasses that are otherwise noxious;
4. Poison oak when the conditions of growth are such as to constitute a menace to the public health; or
5. Dry grass, stubble, brush, litter, or other flammable plant material that endangers the public safety by creating a fire hazard.

8.36.040 Applicability of article.

This chapter shall be applicable to all unincorporated areas of the county. It shall also apply within those unincorporated areas in independent fire districts having governing bodies other than the Napa County board of supervisors, provided that the governing body takes action to enforce this chapter by adopting an appropriate resolution authorizing the fire chief of the district to enforce the requirements of this chapter. If any part of this chapter is in conflict with any other part of this code, the more restrictive provision(s) shall control.

8.36.050 Enforcement.

The enforcement officer shall have the duty and power to enforce the provisions of this chapter.

8.36.060 Duty to maintain defensible space and abate public nuisances.

Property owners shall maintain a defensible space as defined by this chapter and in the Defensible Space Guidelines. The following conditions within the unincorporated area of Napa County are declared to be nuisances and shall be abated by the owner of each parcel or property where such conditions exist, at the owner's sole expense:

- A. The presence of prohibited materials within the defensible space surrounding any structure.
- B. The presence of prohibited materials on undeveloped parcels that are one acre or less in size.
- C. The presence of prohibited materials that contribute to the fuel load or hinder the clearing of properties or delay firefighting operations on any parcel.
- D. A portion of any tree that extends within ten feet of the outlet of any chimney or stovepipe.
- E. The accumulation of dead or dying wood in any tree adjacent to or overhanging a structure.
- F. The presence of prohibited materials on the roof or in the rain gutter of any structure.
- G. The absence of a screen, constructed of nonflammable material with openings of not more than one-half inch in size, on any outlet of a chimney or stovepipe. The screen shall be constructed and installed in accordance with the California Building Standards Code.
- H. The failure to comply with the Napa County Defensible Space Guidelines, which are incorporated herein by this reference.

8.36.070 [Reserved.]

8.36.080 Adjacent property owner's responsibilities.

When a structure is less than one hundred feet from a property line and prohibited materials on an adjacent parcel present a fire hazard for the structure, the property owner of the adjacent parcel where the fire hazard exists shall be responsible for clearing the area on that owner's parcel that is within one hundred feet of the structure, so as to provide the necessary fire protection in the manner and to the extent required by the Napa County Defensible Space Guidelines.

8.36.090 Order to abate.

The enforcement officer may issue an order of abatement of a nuisance to any property owner whose parcel is the site of any violation of this chapter, by posting and delivering the order in the manner set forth in Section 8.36.110 of this chapter. The property owner shall have fourteen calendar days from the date of the order of abatement to abate the nuisance.

8.36.100 Abatement by county personnel or private contractors.

If a property owner to whom an abatement order has been issued, and to whom notice has been given by the enforcement officer in accordance with section 8.36.110 of this chapter, fails to comply with the order, then the enforcement officer may summarily abate the nuisance and cause the prohibited materials and/or other conditions that violate this chapter to be removed or otherwise abated by county personnel or private contractors hired by the county.

8.36.110 Notices to abate—Service of notice and abatement order.

A. Following a determination that a public nuisance as defined in Section 8.36.060 exists, the enforcement officer or designee shall give notice of the abatement order, along with a copy of the abatement order itself, to the owner of the property where the nuisance exists in the following manner:

- 1. By posting on each affected parcel; and
- 2. By either:
 - a. Personal delivery to the owner of each affected parcel; or
 - b. Delivery by First Class U.S. mail and by certified mail, postage prepaid, return receipt requested, to the address of the owner of each affected parcel as the address appears upon the current county equalized assessment roll.

B. The failure of the owner or any other person to receive the notice and abatement order required by this chapter to be given shall not affect the validity of any proceedings taken pursuant thereto, as long as the enforcement officer has complied with the notice procedures above.

C. The notice shall be titled with the words "Notice to Abate Fire Hazard." The notice shall be in substantially the following form:

[MONTH DAY YEAR]

You are hereby notified that there is a condition that constitutes a fire hazard on the following described property owned by you:

(Describe property by owner's address (if available) and APN as it appears upon the current county equalized assessment roll)

The nature of the fire hazard is as follows:

(Describe nature of fire hazard)

You are hereby notified that the Board of Supervisors has declared that such fire hazard constitutes a public nuisance and you are required to remove said fire hazard within fourteen (14) calendar days of the date of this notice. If you fail to do so, the fire hazard will be removed by Napa County and the cost of removal shall be assessed against your property and will constitute a lien upon said real property until paid. This charge representing the cost of removal will be in addition to the administrative charge imposed by section 8.36.160 of the Napa County Code.

D. An appeal of the decision of the enforcement officer to abate the property may be filed in accordance with the procedures set forth in Section 8.36.130 of the Napa County Code.

E. A request for extension of time may be made in accordance with the procedures set forth in Section 8.36.120 of the Napa County Code.

8.36.120 Requests for extension of time.

The owner of the parcel affected by the notice and abatement order may request an extension of time for the removal of prohibited materials. Said request shall be submitted to the enforcement officer within ten calendar days of the date the notice was sent and posted on the property. The enforcement officer shall notify the property owner, in writing, within ten calendar days of the date of request for extension whether or not the extension shall be granted and, if granted, the new date by which the abatement shall take place.

8.36.130 Appeal of order to abate.

The owner of the parcel who wishes to contest the issuance of an order to abate a nuisance by the enforcement officer may file a written appeal to the fire chief. Any such appeal shall be filed with the clerk of the board within ten days of the date the notice was sent and posted on the property. The written appeal shall include a statement of all facts supporting the appeal. The fire chief or designee shall respond within ten calendar days of the filing of the appeal and the decision of the fire chief or designee shall be in writing. An appeal to the fire chief is not deemed filed until it is delivered to the clerk of the board. The filing of such notice of appeal shall stay the effectiveness of the order of abatement until the appeal has been decided. The decision of the fire chief is final.

8.36.140 [Reserved.]

8.36.150 Abatement by county.

Unless a parcel owner files a timely appeal and unless the appeal is upheld by the fire chief, resulting in withdrawal of the order to abate, the county may have the public nuisance removed pursuant to Section 8.36.100 of this chapter.

8.36.160 Cost of abatement.

Any expense, including administrative expenses that the county incurs as a result of having prohibited materials or other similar accumulations removed, or as a result of other steps necessary to abate a nuisance within the definition of Section 8.36.060 of this chapter, shall be charged to the parcel owner. The enforcement officer shall keep an itemized account of the cost of enforcing the provisions of this chapter. Upon completion of abatement, the enforcement officer shall prepare and serve upon the owner of the parcel as shown on the last equalized assessment roll, anyone known by the board to be in possession of the parcel, and all lien holders of record, a cost bill specifying:

- A. The work done, whether by county personnel or private contractors;
- B. The costs of administering the abatement including but not limited to the costs relating to the protest and appeals hearings;
- C. An itemized account of the costs and receipts of performing the work;
- D. The street address, assessor parcel number, or other description sufficient to identify the property affected;
- E. The amount of the assessment proposed to be levied against the property; and
- F. A statement that if an appeal is filed, the fire chief will hear and consider objections and protests to the account and proposed assessment.

8.36.170 Cost of abatement—Work by owner prior to county removal of nuisance.

Any owner of a parcel for which an order to abate has been issued may have the nuisance removed and abated at their own expense if such abatement is accomplished prior to the arrival of the person or persons the county has sent and designated to remove the nuisance. However, even if the owner takes such steps to eliminate the nuisance prior to the county's doing so, in any case in which an order to abate has been issued, the owner of the parcel shall be liable for the reasonable cost incurred by the county in enforcing the code and seeking abatement of the nuisance on the parcel(s) involved, including investigation, boundary determination, measurement, clerical, and other costs. The property owner wishing to appeal the cost bill for total abatement expenses may file an appeal in accordance with the procedures set forth in Section 8.36.130 of the Napa County Code.

8.36.180 [Reserved.]

8.36.190 Placement of lien on property in event of non-payment.

If the property owner does not pay the cost of the abatement expenses ("cost bill") within forty-five days after being billed or within fifteen days after an order of the fire chief affirming or amending the cost bill, then a copy of the cost bill shall be sent to the county auditor by the tenth day of August following the expiration of the period within which the cost bill must be paid. The auditor shall thereupon enter the amount of the cost bill, or such amount of the cost bill that has not been paid, as an assessment against the affected parcels of land as they appear on the current assessment roll. The county tax collector shall include the amount of the assessment on the bills for taxes levied against the respective parcels of land. Thereafter, the amount of the assessment shall be collected at the same time and in the same way as county taxes are collected. The owner is subject to the same penalties, procedure, and sale as in the case of delinquency for non-payment of ordinary county taxes. All laws applicable to the levy, collection, and enforcement of county ad valorem taxes are applicable to these assessments, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attached thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the cost bill relating to such property shall be transferred to the unsecured roll for collection.

8.36.200 Enforcement—Extent of duty to enforce.

Nothing in this chapter shall be construed as imposing on the enforcement officer or the county any duty to issue an order to abate a fire hazard and neither the enforcement officer nor the county shall be held liable for failure to issue an order to abate a fire hazard nor for failure to abate any fire hazard.