

## CHAPTER 13A - ABATEMENT OF HAZARDOUS VEGETATION AND COMBUSTIBLE MATERIAL

### Sec. 13A-1. - Purpose.

The purpose of this chapter is to provide for the removal of hazardous vegetation and combustible material from around the exterior of improvements situated 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 chapter shall apply to the abatement of hazardous vegetation and combustible material on unimproved and improved parcels zoned for five acres or less in the unincorporated area;
- (b) Sonoma 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) Sonoma County has a diverse and complex landscape which includes mountainous areas or forest-covered lands, brush covered lands, grass-covered lands, and other brush covered wildlands which are home to many rare and sensitive plant and animal species;
- (d) Of paramount importance to the board of supervisors and the citizens of Sonoma County is the protection of lives and property from the threat of fire and the safety of fire and law enforcement personnel during wildfires; and
- (e) It is the purpose of this chapter to establish a hazardous vegetation and combustible material abatement program that protects the lives and property of the citizens of Sonoma County while at the same time protecting rare and sensitive plant and animal species and the environment.
- (f) The board of supervisors finds that hazardous vegetation or combustible material poses a danger to the health, safety and welfare of the residents in the vicinity of any real property located throughout the territory of the county of Sonoma 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 Sonoma is deemed a public nuisance and poses a hazard to the safety of the landowners, residents in the vicinity, users of public highways and to the public generally.
- (g) The county finds that this chapter is not subject to the California Environmental Quality Act (CEQA) because it will not result in significant environmental impacts and pursuant to the following categorical exemptions: Section 15304(i) (specified fuels management activities within 100 feet of a dwelling), 15308 (actions taken as authorized by local ordinance to assure protection of the environment, 15321 (action by agency for enforcement of a law, general rule, standard or object administered or adopted by the agency, including by direct referral to the county counsel as appropriate for judicial enforcement).

( [Ord. No. 6148, § I](#), 4-19-2016)

### Sec. 13A-2. - Authority.

This chapter is enacted by ordinance pursuant to the powers granted to the board of supervisors concerning the abatement of hazardous vegetation and combustible material as contained in Section 14930 and Section 14931 of the Health and Safety Code of the state of California. Additional authority for the abatement of nuisances, establishment of procedures, and establishment of real property liens through the

board of supervisors is provided in Section 25845 and 25845.5 of the Government Code of the state of California.

( [Ord. No. 6148, § I](#), 4-19-2016)

Sec. 13A-3. - Definitions.

The following definitions apply to this chapter:

"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 Sonoma to abate the hazardous weeds or combustible material on any property pursuant to this chapter, including physical abatement costs, administration fees and any additional actual costs incurred by the Sonoma County Fire and Emergency Services Department for the abatement proceeding, including attorney's fees, if applicable.

"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 chief" means the fire chief of the county of Sonoma or his/her designated representative, including:

- (1) Chiefs of all fire protection districts within the territory of the political subdivision with the county where he/she serves, and their deputies;
- (2) All employees of the Sonoma County Fire and Emergency Services Department; and
- (3) Such other officers as are designated by the board of supervisors or the county fire chief.

"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 of any size, the area of which is determined by the assessor's maps and records and may be identified by an assessor's parcel number upon which a structure is located.

"Person" means natural person or corporation.

"Structure" means any dwelling, house, building or other type of flammable construction including but not limited to a wood fence attached to or near any other structure.

"Unimproved parcel" means a portion of land of any size, the area of which is determined by the assessor's maps and records and may be identified by an assessor's parcel number upon which no structure is located.

( [Ord. No. 6148, § I](#), 4-19-2016)

Sec. 13A-4. - Duty to abate hazardous vegetation and combustible material.

Upon receipt of a notice of violation and order to abate, as discussed in Section 13A-7, 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 Sonoma as that territory is determined and classified by the board of supervisors to abate there from, and from all parcels, roadways and parkways, except for those roads maintained by the county, all combustible material and hazardous vegetation, that constitutes a fire hazard which may endanger or damage neighboring property pursuant to the requirements of the notice of violation and order to abate received. The removal of vegetation pursuant to this chapter shall not exceed that set forth in the notice of violation and order to abate. The notice of

violation and order to abate and any clearance shall conform to guidelines issued by the county fire chief, and which the fire chief may amend periodically.

The requirements of this section will be satisfied if the following requirements are met by the method described in a notice of violation and order to abate:

(a) For improved parcels:

- (1) Maintain a thirty-foot defensible space around all buildings/structures.
  - a. The grass needs to be cut six inches (6") or less.
  - b. The tree branches need to be limbed up six feet (6') from the ground.
  - c. Shrubs need to be maintained.
  - d. Climbing vines must be removed from trees and structures.
- (2) Additional defensible space outward to one hundred feet (100') from all buildings and surrounding, neighboring structures may be required depending on the property slope, fuel load and/or fuel type.
  - a. Fuel load — Amount of vegetation.
  - b. Fuel type — Type of vegetation.
  - c. Property slope — Steepness of property.
- (3) Maintain a ten-foot minimum clearance next to the roadside; more may be required.
  - a. The roadside clearance may be extended more than ten feet (10').
- (4) Remove all portions of trees within ten feet (10') of chimney and/or stovepipe outlets.
  - a. Property owners are responsible for maintaining trees year round.
  - b. Trees need to be cut ten feet (10') away from the chimney in any direction.
- (5) Maintain trees adjacent to or overhanging a structure free of dead/dying wood.
  - a. Cut the trees back and remove any dead or dying wood.
- (6) Maintain the roof of any structure free of leaves, needles, or other dead/dying wood.
  - a. Remove any leaves, needles, branches, or debris from the roof and/or gutters.
- (7) Install a spark arrester on chimney and/or stovepipe outlets.
  - a. The spark arrester must be constructed of heavy wire mesh with openings not to exceed one-half inch (½").
- (8) Provide street address numbers that are clearly visible from the roadside, minimum height: Four inches (4").
  - a. The address numbers should 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. The address numbers should be in a contrasting color for visibility.
- (9) Remove all tree limbs within six feet (6') of the ground.
  - a. Remove lower hanging tree branches from the ground up six feet (6').
- (10) Remove dead/dying vegetation from property.
  - a. Remove any and all dead/dying vegetation from the property

(b) For unimproved parcels:

- (1) Flammable vegetation and other combustible growth within ten feet (10") of neighboring structures and roadway frontage shall be removed;
  - (2) Dead and dying vegetation within ten feet (10') of neighboring structures and roadway frontage shall be removed;
  - (3) Grass and combustible surface vegetation within ten feet (10') of neighboring structures and roadway frontage must be trimmed to less than four inches (4") in height unless necessary for erosion control;
  - (4) All trees within ten feet (10') of neighboring structures and roadway frontage must be pruned to at least six feet (6') above grade; and
  - (5) Combustible material shall be removed from the property.
- (c) The county fire chief or his or her designee may require more clearance distance than specified in the notice of violation and order to abate 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 adjoining 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 adjoining structure(s) is located.

( [Ord. No. 6148, § I](#), 4-19-2016)

Sec. 13A-5. - Enforcement, inspection and authority to enter property.

- (a) Pursuant to the board of supervisors' prosecutorial discretion, the board of supervisors may direct the county fire chief to limit enforcement of the provisions of this chapter to specified areas in the unincorporated area for a specified period of time.
- (b) For the purpose of enforcing this chapter, the county fire chief may designate any person or persons as his/her deputy in the performance of the duties enjoined upon him/her by this chapter, in addition to those named in Section 13A-3(d) of this chapter.
- (c) For the purpose of enforcing or administering this chapter, the county fire chief may enter any real property for the purpose of inspecting the property or for summary abatement proceedings whenever the county fire chief 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 persons or to the public, including the environment, is a public nuisance or is otherwise in violation of this chapter.
- (d) No person shall interfere with the entry of the county fire chief acting in the official course and scope of his duty.

( [Ord. No. 6148, § I](#), 4-19-2016)

Sec. 13A-6. - Summary abatement proceedings.

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

( [Ord. No. 6148, § I](#), 4-19-2016)

Sec. 13A-7. - Abatement proceedings.

- (a) Notice of Violation and Order to Abate. If the county fire chief determines that any real property is being maintained or permitted to exist in a manner prohibited by this chapter, the county fire chief 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 owners and persons in possession to abate the hazardous vegetation or combustible material within thirty (30) business days and state that the failure to bring the real property into compliance with this chapter could subject the owner or persons in possession to civil, administrative and criminal penalties. Furthermore, the notice/order shall provide the property owner and person in possession of the opportunity to appear before the Sonoma County Board of Supervisors and be heard prior to the abatement by the county. The failure of the notice to set forth all required contents shall not affect the validity of the abatement proceedings.
- (b) Manner of Giving Notice. The county fire chief shall cause a copy of the notice/order to be mailed or otherwise delivered to all known persons to be in possession and to the property owner as such person's name and address appears on the last county equalized assessment roll. If the address is unknown, that fact shall be so stated and the notice shall be addressed to the person at the county seat. 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 Sonoma County Code Sections 2-33.1 through 2-33.5.
  - (2) The request for a hearing must be made in writing and submitted to the enforcing officer within fifteen (15) calendar days of the postmark on the notice/order. Timely appeal shall stay any further action for abatement until the date set for hearing.
    - a. If no request for a hearing is timely made, the Sonoma County 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.
  - (3) 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 county fire chief 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 chapter 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) business 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 and within ten (10) business days, the county fire chief may abate the hazardous

vegetation or combustible material and the abatement costs shall be a lien and an assessment against the real property.

- c. The board may grant any extension of time to abate such conditions that it may deem justifiable upon good cause being shown.
- (d) Abatement of Hazardous Vegetation or Combustible Material by County Fire Chief. If, at the end of the time allowed for compliance in the original notice/order issued pursuant to Section 13A-4 of this code, or as set forth in an order issued by the board after a timely request for a hearing pursuant to Section 13A-7 of this code, compliance has not been accomplished as directed, the county fire chief may order the hazardous vegetation or other combustible material to be removed by county fire officials or employees, or may cause the removal to be carried out by a private contractor selected by the county purchasing agent in accordance with applicable statutes and in the manner and under the terms specified by the board of supervisors.
- (e) Abatement Cost Recovery. As set forth in Government Code Section 25845, the owner and any person in possession of the real property upon which the hazardous vegetation or combustible material is found to exist shall be jointly and severally liable for all abatement costs incurred by the county without any further hearing.
  - (1) Notice of Abatement Costs. At the conclusion of the abatement by the county fire chief or designee, the county fire chief shall issue a bill setting forth the abatement costs to the owner and person in possession of the real property. The bill shall demand payment to the county of Sonoma the total abatement costs and administration costs, plus attorneys' fees, if relevant, within fifteen (15) calendar days of its mailing.
  - (2) Abatement Costs Specially Assessed Against the Parcel. If the amount set forth in the notice of abatement costs is not paid upon demand by the county, the abatement costs, including attorneys' fees, if applicable, shall be specially assessed against the real property pursuant to Government Code Section 22845, or by any other means provided by law. 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 of sale in case of delinquency as are ordinary county taxes.
  - (3) Notice of Abatement Lien. A notice of abatement lien may be recorded against the real property subject to this abatement proceeding, setting forth the date upon which abatement of the nuisance was ordered either by notice issued by the county fire chief or by the board of supervisors after a hearing, the date the abatement was complete and the amount of abatement costs. Furthermore, the notice shall identify the parcel address, the record owner, the possessor of the property, if known and applicable, together with the last known address of the record owner or possessor. The abatement lien shall have the same effect as recordation of an abstract of a money judgment pursuant to Article 2 of Chapter 2 of Division 2 of Title 9 of Part 2 of the California Code of Civil Procedure (commencing with § 697.310, as amended). The lien has the same priority as a judgment lien on real property and continues in effect until released.
- (f) Attorneys' Fees. Reasonable attorneys' fees may be recovered by the prevailing party in any civil action, administrative proceeding or special proceeding established by this chapter. In the event a hearing is requested pursuant to the notice described above and the board of supervisors deems the real property to be a public nuisance and orders the county fire chief to abate the hazardous vegetation or combustible material, the county shall be deemed the prevailing party.

( [Ord. No. 6148, § 1](#), 4-19-2016)

Sec. 13A-8. - Hearing official.

- (a) Delegation of Authority. The Sonoma County Board of Supervisors may delegate its authority to conduct the administrative abatement proceedings set forth in Section 13A-6, above, to either of the following:
- (1) The county hearing officer appointed by the board of supervisors pursuant to Sonoma County Ordinance No. 643 and Government Code Section 27720, as amended. The hearing officer shall have full authority and duty to preside over hearings in the manner set forth in Sonoma County Ordinance No. 643, as amended.
  - (2) A weed abatement hearing board (WAHB) designated pursuant to Government Code Section 25845, as amended. The WAHB shall have full authority to act and may preside over hearings with the same authority, power and duties of the hearing officer. The WAHB shall be comprised of three (3) persons as follows: one (1) member shall be an officer of the Sonoma County Fire and Emergency Services Department selected by the county fire chief, (but not an employee involved in inspecting or issuing the notice/order); and two (2) members shall be selected by the board of supervisors. members shall serve at the pleasure of the appointing entity.
- (b) Recommended Action. At the conclusion of a hearing by either the hearing officer or WAHB, a recommended decision shall be issued to the owner or person in possession of the real property subject to the hearing, and to any other interested person previously requesting notice. The hearing officer or WAHB shall also file the recommended decision with the board of supervisors. The recommended decision may alter the notice/order in any fashion and may include an order to the owner or person in possession of the real property to abate the hazardous weeds or combustible material within ten (10) calendar days of issuance of the order.
- (c) No Further Appeal. Upon receiving the recommended decision from either the hearing officer or WAHB, the board of supervisors may adopt the decision as recommended on the consent agenda at its next regularly scheduled public board meeting without further notice or hearing, or may set the matter for a de novo hearing before the board of supervisors.

( [Ord. No. 6148, § I](#), 4-19-2016)

#### Sec. 13A-9. - Other remedies.

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

(a) Civil Actions.

- (1) Injunctive Relief and Abatement. Whenever, in the judgment of the county fire chief, 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 chapter or notice or order issued pursuant hereto, the county fire chief 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 chapter 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.

(b) Criminal Actions.

- (1) It shall be unlawful for any person to violate any provision of this chapter. Any person violating any provision of this chapter 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 chapter 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 (6) 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.
- (c) Treble Damages. Upon a second or subsequent civil or criminal judgment for a violation of this chapter within a two-year period the violator shall be liable to the county of Sonoma for treble the abatement costs, in accordance with Government Code § 25845.5.
- (d) Notice of Noncompliance. Whenever a notice/order has been issued, the county fire chief may record a notice of noncompliance with the office of the county recorder of Sonoma 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 chapter may be specially assessed as a lien on the property and that the owner has been so notified.

( [Ord. No. 6148, § I](#), 4-19-2016)

Sec. 13A-10. - Severability.

This chapter and the various parts, sections and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid, the remainder of this chapter shall not be affected thereby. The county board of supervisors hereby declares that it would have passed this chapter and each part thereof, regardless of the fact that one (1) or more parts thereof be declared unconstitutional or invalid.

( [Ord. No. 6148, § I](#), 4-19-2016)