

Chapter 8.36 - FIRE PROTECTION—WEED AND RUBBISH ABATEMENT

Sections:

8.36.010 - Title.

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

(Ord. 1303 § 1 (part), 2008: Ord. 1290 § 1 (part), 2007)

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 board of the county makes the following findings and declarations:

- A. The uncontrolled growth and/or accumulation of combustible vegetation or rubbish 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.
- B. The presence of such combustible vegetation or rubbish, is hereby declared to be a public nuisance which may be abated in accordance with the provisions of this chapter. 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.

(Ord. 1303 § 1 (part), 2008: Ord. 1290 § 1 (part), 2007)

8.36.030 - Definitions.

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

"Defensible space" means that area described in the Napa County Defensible Space Guidelines which is adjacent to each side of a building or structure and must be cleared of all brush, flammable vegetation, or combustible growth, subject however to the exceptions set forth in the Napa County Defensible Space Guidelines.

"Enforcement officer" means the fire marshal, assistant fire marshal or fire inspector of the county. 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 which:

1. Increases, or may cause an increase 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 yard trimmings, plant waste, untreated wood wastes, paper products, natural fiber products, mulch and compost, but does not include growing plants.

"Occupied building" means a structure or building either potentially or actually occupied by persons on either a permanent or temporary basis including but not limited to residences or businesses.

"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 the county of Napa.

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

"Rubbish" means and includes all the following types of waste, but is not restricted to nonputrescible wastes: paper, cardboard, grass clippings, tree or shrub trimmings, wood, bedding, crockery, rubber tires, construction waste and similar waste materials.

"Structure" means any building or structure used for support or any use or occupancy.

"Weeds," as used in this chapter, means and includes any of the following:

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

(Ord. 1303 § 1 (part), 2008; Ord. 1290 § 1 (part), 2007)

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 board provided 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.

(Ord. 1290 § 1 (part), 2007)

8.36.050 - Enforcement.

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

(Ord. 1290 § 1 (part), 2007)

8.36.060 - Public nuisances.

The following are declared to be public nuisances within the unincorporated areas of the county and it shall be the responsibility of the owner of the property, upon which such nuisance exists, to abate such nuisances at his or her own expense whenever they may exist during each fire season declared by the California Department of Forestry and Fire Protection:

- A. The accumulation of combustible vegetation or rubbish within one hundred feet, or to the property line, whichever is less of any unoccupied structure;
- B. The accumulation of combustible vegetation or rubbish within one hundred feet of any occupied building;
- C. The accumulation of combustible vegetation or rubbish on undeveloped parcels one acre or less in size;
- D. The accumulation of combustible vegetation or rubbish that contribute to the fuel load or hinder the clearing of properties or delay fire fighting operations on any parcel when such accumulations create a fire hazard as determined by the enforcement officer;
- E. A portion of any tree that extends within ten feet of the outlet of any chimney or stovepipe;
- F. The accumulation of dead or dying wood in any tree adjacent to or overhanging a structure;
- G. The accumulation of combustible vegetation or leaves on a structures roof or in the gutters;
- H. 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.

(Ord. 1303 § 2 (part), 2008; Ord. 1290 § 1 (part), 2007)

8.36.070 - Duty to remove—Date of removal of nuisances.

Removal of public nuisances described in Section 8.36.060 of this code shall be accomplished by June 1st of every year and such obligation continues until the end of the fire season as declared by the California Department of Forestry and Fire Protection. The Napa County Defensible Space Guidelines have been adopted to establish guidelines for fuel treatments that comply with the requirements of Section 8.36.060.

(Ord. 1303 § 2 (part), 2008; Ord. 1290 § 1 (part), 2007)

8.36.080 - Adjacent property owner's responsibilities.

When an occupied building is less than one hundred feet from a property line and combustible vegetation on an adjacent parcel presents a fire hazard for the occupied building the owner of the parcel where the fire hazard exists shall be responsible for clearing the area on that owner's land which is within one hundred feet of the occupied structure and is needed to provide the necessary fire protection in the manner and to the extent required by the Napa County Defensible Space Guidelines.

(Ord. 1303 § 2 (part), 2008; Ord. 1290 § 1 (part), 2007)

8.36.090 - Order to abate.

The enforcement officer may issue an order of abatement of a nuisance to the owner of the affected property in the manner set forth in Section 8.36.110 of this chapter. The property owner shall have twenty-one calendar days from the date of the order of abatement to abate the nuisance.

(Ord. 1290 § 1 (part), 2007)

8.36.100 - Abatement by county personnel or private contractors.

If the property owner fails to comply with the order of abatement, then the enforcement officer may cause the weeds, combustible vegetation, green waste, rubbish, and other such accumulations to be removed by county personnel. Alternatively, the county may elect to contract with private contractors to remove the weeds, combustible vegetation, green waste, rubbish, and other such accumulations.

(Ord. 1290 § 1 (part), 2007)

8.36.110 - Notices to abate—Service of notice.

- A. Following a determination that a public nuisance of the type described in Section 8.36.060 exists, notice to abate the fire hazard shall be provided by the enforcement officer or designee in the following manner:

1. By personal delivery to the owner of the affected property; or
 2. By certified or registered mail, postage prepaid, to the owner of the affected property as the owner's address appears upon the current county equalized assessment; or
 3. By conspicuously posting upon the affected property.
- B. The failure of the owner or any other person to receive any notice required by this chapter to be given shall not affect the validity of any proceedings taken pursuant thereto.
- 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 Number 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 twenty-one (21) calendar days of the date of this notice. If you fail to do so, the fire hazard will be removed by the County of Napa 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.

(Ord. 1303 § 3, 2008; Ord. 1290 § 1 (part), 2007)

8.36.120 - Requests for extension of time.

The owner of the parcel affected by the notice 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. 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.

(Ord. 1290 § 1 (part), 2007)

8.36.130 - Appeal of decision of enforcement officer.

The owner of the parcel who wishes to contest the decision of the enforcement officer to abate 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. The written appeal shall include a statement of all facts supporting the appeal. The fire chief or its designee shall respond within ten calendar days of the filing of the appeal and the decision of the fire chief or its 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.

(Ord. 1303 § 4, 2008: Ord. 1290 § 1 (part), 2007)

8.36.140 - Appeals of abatement determination.

The owner of the parcel who wishes to contest the decision of the fire chief may file an appeal with the county safety officer. Any such appeal shall be filed with the clerk of the board within ten calendar days of the decision of the fire chief pursuant to Section 8.36.130 of this chapter. The county safety officer shall schedule a hearing date that is not more than ten calendar days following the filing of the appeal with the clerk of the board. The county safety officer shall render a decision at the conclusion of the hearing or within seven calendar days of the conclusion of the hearing. The decision of the county safety officer shall be in writing and shall be final with no right of further appeal notwithstanding any other provision of this code. An appeal to the county safety officer 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.

(Ord. 1290 § 1 (part), 2007)

8.36.150 - Abatement by county.

Unless a timely appeal is made, heard and allowed by the fire chief and safety officer, as the case may be, the county may have the public nuisance removed pursuant to Section 8.36.100 of this chapter.

(Ord. 1290 § 1 (part), 2007)

8.36.160 - Cost of abatement.

Any expense including administrative expenses which the county incurs as a result of having weeds, combustible vegetation, green waste, rubbish, or other similar accumulations removed, 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;
- F. A statement that if an appeal is filed the county hearing officer will hear and consider objections and protests to the account and proposed assessment.

(Ord. 1290 § 1 (part), 2007)

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

Any person may have the public nuisance removed at his or her own expense if it is done prior to the arrival of the person or persons the county has designated to remove the nuisance. However, 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 enforcing the abatement of the parcel(s) involved, including investigation, boundary determination, measurement, clerical and other costs. The provisions of Section 8.36.180 of this chapter apply to any such costs.

(Ord. 1290 § 1 (part), 2007)

8.36.180 - Appeal from determination of cost.

The owner of the property may appeal the cost bill (total abatement expenses). Such appeal shall be in writing and must be filed with the clerk of the board within thirty calendar days of the date of the mailing of the notice required by Section 8.36.160. An appeal hearing shall be set within fifteen calendar days of the filing of the appeal. Pursuant to subsection (i) of Government Code Section 25845, the county hearing officer is delegated the power and duty to hear these appeals. At the conclusion of the hearing, the county hearing officer may make such modifications and revisions of the proposed account and assessment as it deems just, and may order the account and proposed assessment confirmed or denied, in whole or in part, or as modified and revised. The county hearing officer shall render a written decision, including any findings or conclusions required and file the decision and record with the clerk of the board. The determination of the

county hearing officer as to all matters contained in the order is final. An appeal to the county hearing officer 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.

(Ord. 1290 § 1 (part), 2007)

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

If the 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 county hearing officer 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.

(Ord. 1290 § 1 (part), 2007)

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.

(Ord. 1290 § 1 (part), 2007)

Division IV. Agricultural Nuisances