

ORDINANCE NO. ()

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING CHAPTER 13A ABATEMENT OF HAZARDOUS VEGETATION AND COMBUSTIBLE MATERIAL

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

Section I. Chapter 13A of the Sonoma County Code is hereby amended as follows:

Section 13A-1. Purpose.

The purpose of this chapter is to provide for the removal of hazardous vegetation and combustible material 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 in the unincorporated area;
- (b) Sonoma County generally has a climate conducive to wildfires and is prone to periodic dry conditions 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 conditions and severe wind events further exacerbate the fire danger and have resulted 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 residents 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;
- (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 residents 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 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.

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 as provided in Section 25845 and 25845.5 of the Government Code of the State of California.

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 vegetation or combustible material on any property pursuant to this chapter, including physical abatement costs, administration fees and any additional costs incurred by the County of Sonoma for the abatement proceeding, including attorney’s fees, if applicable.

“Combustible material” means rubbish, firewood piles, 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/Fire Marshal” means the Fire Warden/Fire Marshal of the County of Sonoma or his/her designated representative:

- (1) Chiefs of all fire protection districts within the territory of the political subdivision within the county where he/she serves, and their deputies may assist with conducting inspections and sending notices of violation to the Fire Warden/Fire Marshal to enforce;
- (2) All employees of the County of Sonoma Fire Prevention and Hazardous Materials Division Sonoma County Fire and Emergency Services Department; and
- (3) Such other officers as are designated by the Board of Supervisors or the County Fire Warden/Fire Marshal.

“Defensible space” is the buffer that landowners are required to create on their property between a structure and the plants, brush and trees or other items surrounding the structure that could ignite in the event of a fire.

“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.

“Ladder fuels” are those combustible materials such as low-growing plants, ground cover and shrubs (both live and dead) that provide a path for a surface fire to climb up into the crowns of shrubs or trees.

“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.

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

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.

All property owners, occupants and persons in control of any improved or unimproved parcel of land or interest therein which is located in the unincorporated area of the County (collectively referred to as “Owner” in this Chapter 13A) shall comply with the vegetation management requirements set forth in Chapter 13A. Vegetation management in the Riparian Corridor Combining Zone streamside conservation area is subject to the allowed land uses, activities and permit requirements set forth in Chapter 26-65-040 of the Sonoma County Code. Owner shall also comply with all other federal, state and local laws, including environmental protection laws. The intensity of fuels management may vary within the 100 foot perimeter of the structure, the most intense management requirements shall be within the first 30 feet around the structure. Compliance with the provisions of this Chapter 13A is required throughout the year.

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

(a) Improved Parcels

(1) Vegetation management requirements from structures to a distance of thirty-feet, or to the property line, whichever is closer.

- a. Maintain roofs and gutters of any structure to be free of leaves, needles or other dead/dying vegetation or flammable materials.
- b. Remove all dead or dying trees, branches, shrubs, or other plants adjacent to or overhanging buildings. Maintain trees adjacent to or overhanging a structure free of dead/dying wood.
- c. Remove all portions of trees within ten feet (10') of chimney and/or stovepipe outlets.
- d. Climbing vines must be maintained to be free of dead and dying materials or removed from trees and structures.
- e. Remove flammable vegetation and dead/dying vegetation which are on, below or adjacent to structures, decks, balconies, stairs or similar attachments.
- f. Relocate exposed firewood or lumber piles at least 30 feet from structures unless covered in a fire resistive material. Clear 10 feet around and 15 feet above flammable piles. Remove all dead branches, leaves and foliage from all trees, bushes and ground cover.
- g. Remove all dead and dying grass, plants, shrubs, trees, branches, leaves, weeds and needles.

(2) Vegetation Management Requirements from structures to a distance of 100 feet (100') or to the property line, whichever is closer:

- a. Remove low hanging tree branches and limbs that are less than 3 inches in diameter.
 - i. If trees are less than 30 feet in height, remove branches to a height from ground equivalent to 1/3 the height of the tree.
 - ii. If trees are greater than thirty feet in height, remove branches to 10 or more feet from ground.
- b. Reduce vegetation so that live flammable ground cover and shrubs (ladder fuels) are removed or separated so that they will not spread flame horizontally across the ground or vertically into the tree canopy. Large trees do not have to be cut and removed as long as they are limbed up to an appropriate height and maintained free of dead and dying materials, and surrounding plants are spaced so they will not transmit flame to the tree.

- c. Remove dead and/or dying vegetation. If more than 30 feet from structures, loose surface litter normally consisting of fallen leaves, needles, grass clippings, twigs, bark, cones, and small branches, shall be permitted to a maximum depth of 3 inches.
- d. Dead and dying grasses and other weeds shall be cut to a height of three inches or less. To avoid erosion, do not cut grasses to bare mineral soil.
- e. Logs and stumps embedded in the soil must be removed or isolated from structures and other vegetation.
- f. All exposed woodpiles must have a minimum of 10 feet clearance in all directions.

(3) Other Requirements:

- a. Maintain a ten foot minimum horizontal and 14 foot vertical clearance next to private roads and private driveways.
- b. Equip chimney or stovepipe openings with a metal screen having openings between 3/8 inch and 1/2 inch.
- c. Clearly mark property with address numbers and street identification pursuant to Sonoma County Fire Safe Standards, Chapter 13.
- d. Liquid Propane Gas (LPG) storage tanks shall have 10 feet of clearance and no flammable vegetation for an additional 10 feet around their exterior.
- e. Combustible material shall be removed from the property when identified by the fire official.

(b) Unimproved Parcels.

For unimproved parcels and portions of improved parcels which fall outside of the requirements of Sec. 13A-4(a), the following requirements shall be met:

- 1. Areas within 30 feet of structures on neighboring parcels:
 - a. Reduce vegetation so that low-growing plants (ladder fuels) are removed or separated so that they will not spread flame horizontally across the ground or vertically into the tree canopy. Large trees do not have to be cut and removed as long as all of the plants beneath them are maintained to provide the appropriate spacing;

- b. Dead and dying vegetation shall be removed;
- c. Dead and dying grasses and other weeds shall be trimmed to three inches (3") or less in height unless necessary for erosion control. To avoid erosion, do not cut grasses to bare mineral soil.
- d. Remove low hanging tree branches and limbs that are less than 3 inches in diameter.
 - 1. If trees are less than 30 feet in height, remove branches to a height from ground equivalent to 1/3 of the height of the tree.
 - 2. If trees are greater than 30 feet in height, remove branches to 10 or more feet from ground.

2. Areas near private roads and private driveways. Maintain a ten foot minimum horizontal and 14 foot vertical clearance next to private roads and private driveways. In these areas, the following requirements must be met:

- a. Reduce vegetation so that low-growing plants (ladder fuels) are removed or separated so that they will not spread flame horizontally across the ground or vertically into the tree canopy. Large trees do not have to be cut and removed as long as all of the plants beneath them are maintained to provide the appropriate spacing;
- b. Dead and dying vegetation shall be removed;
- c. Dead and dying grasses and other weeds shall be trimmed to three inches (3") or less in height unless necessary for erosion control. To avoid erosion, do not cut grasses to bare mineral soil.
- d. Remove low hanging tree branches and limbs that are less than 3 inches in diameter.
 - 1. If trees are less than 30 feet in height, remove branches to a height from ground equivalent to 1/3 the height of the tree.
 - 2. If trees are greater than 30 feet in height, remove branches to 10 or more feet from ground.

3. Combustible material shall be removed from the property when identified by the fire official.

Sec. 13A-4A. 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 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 in the judgment of the Fire Warden/Fire Marshal or her/his designee 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 property owner, occupant and person in control of the land is responsible for the abatement and vegetation management (collectively referred to as “Owner”). Abatement and vegetation management in the Riparian Corridor Combining Zone streamside conservation area is subject to the allowed land uses, activities and permit requirements set forth in Chapter 26-65-040 of the Sonoma County Code or as prescribed in a notice of abatement. Owner shall also comply with all other federal, state and local laws, including environmental protection laws, and obtain permits when necessary.

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

- (a) Pursuant to the board of supervisors’ discretion, the board of supervisors may direct the County Fire Warden/Fire Marshal 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 Warden/Fire Marshal 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 Warden/Fire Marshal may enter any real property for the purpose of inspecting the property or for summary abatement proceedings whenever the County Fire Warden/Fire Marshal 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 County Fire Warden/Fire Marshal acting in the official course and scope of his duty.

Sec. 13A-6 – Summary abatement proceedings.

In addition to the authority granted by law to the County Fire Warden/Fire Marshal in exigent situations, and pursuant to California Health and Safety Code §25845,

as amended, the County Fire Warden/Fire Marshal is authorized to enter real property and summarily abate any public nuisance determined by the County Fire Warden/Fire Marshal to constitute an immediate threat to public health or safety without prior notice or hearing.

Sec. 13A-7. - Abatement proceedings.

Notice of Violation and Order to Abate. The Fire Warden/Fire Marshal is the enforcing officer for Chapter 13A and may enforce through the code enforcement administrative procedures set forth in Sonoma County Code Chapter 1. If the County Fire Warden/Fire Marshall determines that any real property is being maintained or permitted to exist in a manner prohibited by this chapter, the County Fire Warden/Fire Marshal may issue a written notice to the property owner and any known person in possession of the property as set forth in Sonoma County Section 1-7.3 through 1-7.6, of the violation and order the hazardous vegetation or combustible material to be immediately abated. The notice of violation and order to abate 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) calendar 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 as set forth in Sonoma County Code Section 1-7 and 1-7.1 and as authorized in Public Resources Code section 4291.

Any person violating any provision 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 Fire Warden/Fire Marshal 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, and any corrective action taken by the violator.

Sec. 13A-8 – Private right of action.

Any interested person may institute a civil proceeding for injunctive relief against such violation, for money damages, and for whatever other additional relief the court deems appropriate. In any action brought pursuant to this section, the prevailing party shall be entitled to reasonable attorney's fees and costs pursuant to order of the court. The remedies available under this section shall be in addition to, and shall not in any way restrict, any other rights or remedies under law.

Section II. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section III. The provisions of this Code shall not be construed as imposing upon the County of Sonoma any liability or responsibility for damages to persons or property

resulting from defective work, nor shall the County of Sonoma, or any official, employee or agent thereof, be held as assuming any such liability or responsibility by reason of the review or inspection authorized by the provisions of this Code of any permits or certifications issued under this Code.

Section IV. Environmental Review. The Board has considered the application of CEQA to this ordinance. The Board finds this ordinance exempt pursuant to CEQA Guidelines 15307 and 15308 in that the standards set forth in the ordinance are authorized by state law to assure the maintenance, restoration, enhancement or protection of natural resources and the environment. In addition, the Board of Supervisors finds and determines that this ordinance is exempt from CEQA pursuant to Section 15304(i) (minor alterations to land and specified fuels management activities), Section 15308 (actions taken as authorized by local ordinance to assure protection of the environment); and the common-sense exemption Section 15061(b)(3) of the State CEQA Guidelines as it can be seen with certainty that there is no possibility that the proposed modifications and clarifications to vegetation management standards, which are already substantially in extant and in practice, may have a significant effect on the environment. This finding and determination is based on the environmental determination of the Permit and Resource Management Department for this ordinance. The Director of Permit and Resource Management Department is directed to file notice of exemption in accordance with CEQA and the State CEQA Guidelines.

Section V. This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage and shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California.

In regular session of the Board of Supervisors of the County of Sonoma, introduced on the 21st day of April, 2020, and finally passed and adopted this 28th day of April, 2020, on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

Rabbitt:	Zane:	Gore:	Hopkins:	Gorin:
Ayes:	Noes:	Absent:	Abstain:	

WHEREUPON, the Chair declared the above and foregoing Ordinance duly adopted and

SO ORDERED.

Chair, Board of Supervisors

County of Sonoma

ATTEST:

Sheryl Bratton,
Clerk of the Board of Supervisors