

BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA
ORDINANCE NO. _____
AN ORDINANCE ADDING ARTICLE VIII TO CHAPTER 13 OF THE LAKE COUNTY
CODE REGARDING HAZARDOUS VEGETATION ABATEMENT

WHEREAS, the County of Lake, pursuant to its police power granted by Article XI, section 7 of the California Constitution, may adopt regulations to protect the health, safety, and welfare of the public; and

WHEREAS, State law for defensible space, Public Resources Code section 4291, requires that owners of improved parcels (parcels having a structure) maintain 100 feet (or to the limit of their property line) of defensible space around structures; and

WHEREAS, Public Resources Code section 4291 may be extended beyond the property line by adopting a local ordinance which applies specifically to unimproved parcels (properties where no structure exists) that are adjacent to improved properties if an extra hazardous fire condition exists in that an owner of improved property is at risk because of fuel levels on an adjacent unimproved property and it is impossible for the improved property owner to obtain the full 100 feet of defensible space referenced hereinabove; and

WHEREAS, the County of Lake has experienced a series of devastating disasters caused by wild fires and preventative actions taken now can greatly reduce both the occurrence, extent and severity of wildfires in the future; and

WHEREAS, the Board of Supervisors has approved the creation of the Lake County Community Risk Reduction Authority in collaboration with several County fire protection districts, the purpose of which includes the implementation of measures to reduce the risk of uncontrolled fires resulting from hazardous vegetation; and

WHEREAS, as the Lake County Community Risk Reduction Authority develops and increases its membership through the participation of other stakeholders in the County, this Authority intends to develop and manage funding sources for its risk reduction programs; and

WHEREAS, any such risk reduction program resulting from hazardous vegetation requires a strong code-enforcement component in order to implement abatement procedures when necessary to protect public health and safety; and

WHEREAS, both independently and in anticipation of the participation by the County of Lake in the goals of the Community Risk Reduction Authority, this Board desires to adopt an ordinance expressly imposing an obligation upon property owners to abate the public nuisance created by hazardous vegetation and imposing fines and penalties for the failure to do so.

NOW THEREFORE, the Board of Supervisors of the County of Lake hereby ordains as follows:

Section One: Lake County Code Article VIII is hereby added to Chapter 13 of the Lake County Code to read as follows:

“Sec. 13-57. Findings and Purpose.

57.1 Of paramount importance to the Board of Supervisors and the residents of Lake County is the protection of lives and property from the threat of fire and the safety of fire and law enforcement personnel during wildfires.

57.2 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 unincorporated area of the County of Lake and creates a hazard to the safety of the landowners, residents in the vicinity, users of public roadways, and to the general public. The establishment of defensible space benefits property

owners, public safety personnel and all residents of Lake County by significantly increasing the likelihood that structures will survive a wildfire and it will provide for firefighter safety during a firestorm and assist in the protection of lives.

57.3 The Lake County Board of Supervisors supports the improved parcel defensible space obligations found in California Public Resources Code section 4291. However, Public Resources Code section 4291 does not address hazardous vegetation abatement on unimproved parcels and the potential impact that hazardous vegetation on an unimproved parcel could have on an adjacent improved parcel.

57.4 It is the purpose of this Article to extend and supplement state law, using those same treatment requirements provided in Public Resources Code section 4291, to ensure defensible space is maintained on unimproved parcels adjacent to improved parcels and along emergency access and evacuation routes and fire access easements so that land owners benefit from the application of Public Resources Code section on unimproved parcels.

Sec. 13-58. Definitions.

58.1 Abate and/or Abatement. An act used to remove, destroy, eliminate, seize, impound, or any action taken to mitigate a public nuisance.

58.2 Abatement Costs. Any and all costs incurred by the County of Lake to abate the hazardous weeds or combustible material on any property pursuant to this ordinance, including physical abatement costs, administration fees and any additional actual costs incurred by the participating independent county fire protection districts, for the abatement proceeding, including attorneys fees, if applicable.

58.3 County Enforcement Official. The County Enforcement Official shall have the same meaning as provided in Sec. 13- __ of the Lake County Code. In any enforcement and/or abatement actions undertaken pursuant to this Article, a County Fire Official may request assistance of any and all Fire Protection Districts within the County.

58.4 Hazardous Vegetation. 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, tumbleweeds and dead or severely damaged trees. Hazardous Vegetation shall not include a commercial agricultural crop which is being actively grown and managed by the property owner or his or her legal tenant.

58.5 Combustible Material. All rubbish, litter or material of any kind other than hazardous vegetation that is combustible and endangers the public safety by creating a fire hazard.

58.6 Improved Parcel. A portion of real property of five (5) acres or less which is located in an area primarily intended for residential uses, the area of which is determined by the assessor's maps and records and which may be identified by an Assessor's Parcel Number, upon which a Structure is located.

58.7 Unimproved Parcel. A portion of real property of any size, the area of which is determined by the assessor's maps and records and which may be identified by an Assessor's Parcel Number, upon which no structure is located.

58.8 Structure. Any dwelling, house, building, or other type of combustible construction subject to Public Resources Code section 4291.

Sec. 13-59. Application of this Article

This Article shall apply to:

59.1 Unimproved Parcels adjacent to Improved Parcels where (a) the owner/occupant of The Improved Parcel is unable to obtain the required defensible space clearances, as delineated in adopted County codes and/or Public Resources Code section 4291, and (b) the current condition of fuels on the Unimproved Parcel is assessed by the Local Fire Official as a hazardous fire condition. The owner of the Unimproved Parcel shall provide the fuel modifications to meet the defensible space requirements of the adjacent Improved Parcel.

59.2 Unimproved Parcels where (a) the parcel is adjacent to roadways which is determined by the Local Fire Official to be necessary for the safe ingress and egress to the area served by the roadway or fire access easement, and (b) the current condition of fuels on the Unimproved Parcel is assessed by the Local Fire Official as a hazardous fire condition.

59.3 In the instances where the Structures on the Improved Parcel are built after the effective date of this Article, the owner, occupant or other person in control of the Improved Parcel shall be responsible for fifty (50) percent of the abatement cost on the Unimproved Parcel.

Sec. 13-60. Duty to Abate Hazardous Vegetation.

60.1 Every owner or person in control of any land or interest therein in the unincorporated area of the County of Lake shall abate all fire hazards and hazardous trees from such land and from all sidewalks, parkways, road easements and all other easements on such land. Hazardous Vegetation and Combustible Materials within one hundred (100) feet of a Structure (or greater as determined by the County Fire Official or his or her designated representative), within one hundred feet of a neighboring property line, or

along roadways that serve as primary ingress and egress routes, is hereby declared to be a public nuisance that may be abated in accordance with this Article, and by any other means available by law.

60.2 It shall be the duty of every owner, occupant, and person in control of any Unimproved Parcel or any interest therein, which is located in the unincorporated territory of the County of Lake to abate therefrom, and from all sidewalks and roadways on or immediately adjacent thereto (except for those roads accepted into the County maintained system), all Combustible Material and Hazardous Vegetation which constitutes a fire hazard and public nuisance which may endanger or damage neighboring property or woodland.

60.3 The requirements of this section shall be satisfied if the Unimproved Parcel is cleared in accordance with a Notice to Abate by cutting brush, trimming trees, thinning trees, disking, mowing, plowing or any other method described in the Notice and removing all Combustible Materials as follows:

- a. A minimum of a ten (10) foot wide strip of land beyond the shoulder of the roadway, to a height of fifteen (15) feet along the boundary of an Unimproved Parcel; and/or;
- b. A one hundred (100) foot wide strip of land around combustible Structures located on an adjacent Improved Parcel;
- c. The County Fire Official may mandate additional fuels management of an area more or less than the above-referenced widths or height, for the protection of public health, safety or welfare or the environment. Where the terrain, condition or environment on the

Unimproved Parcel is such that it cannot or should not be disked or mowed, the County Fire Official may require, or authorize other means of Hazardous Vegetation removal.

60.4. It shall be the duty of every owner, occupant, and person in control of any Unimproved Parcel or any interest therein, which is located in the unincorporated territory of the County of Lake to abate therefrom, and from all sidewalks and roadways on or immediately adjacent thereto (except for those roads accepted into the County maintained system), all Combustible Material and Hazardous Vegetation which constitutes a fire hazard and public nuisance which may endanger or damage neighboring property or woodland.

60.5 Where the terrain, condition or environment on the Unimproved Parcel is such that it cannot or should not be disked or mowed, the County Fire Official may require, or authorize, other means of Hazardous Vegetation removal.

Sec. 13-61. Enforcement

61.1 The County Fire Official shall be the primary authority for enforcement of this Article, and shall administer and enforce the requirements as provided in this Article.

61.2 In order to facilitate informal resolution whenever possible, the County Fire Official shall take the following actions in advance of initiating the formal enforcement process provided for in this Article:

- a. Plan and conduct Public Resource Code section 4291 inspections within the limits of available resources.
- b. Review the requirements of Public Resources Code section 4291 and seek voluntary compliance with the provisions of this Article with property owners and/or occupants found to be out of compliance.

- c. Conduct pre-abatement inspections and prepare documentation relating to the areas of non-compliance.
- d. The County Fire Official may seek the assistance of the County Fire Safe Committee for assistance in this informal process to obtain voluntary compliance.
- e. The County Fire Official may, at his or her discretion issue an administrative or criminal citation for violations of this Article, in lieu of abating an Unimproved Parcel.

Sec. 13-62. Notice to Abate

62.1 Whenever the County Fire Official determines, based on a Public Resources Code Section 4291 inspection, that an Unimproved Parcel is in violation of this Article and requires abatement, the County Fire Official shall send the owner of record for the Unimproved Parcel a Notice to Abate. The Notice to Abate shall be in writing and shall:

- a. Identify the owners) of the Unimproved Parcel upon which the violation exists, as named in the records of the County Assessor, and identify the occupants) or persons in control of the property, (if other than the owners) and if known or reasonably identifiable.
- b. Describe the location of the Unimproved Parcel by its commonly used street address, if any, and identify the Unimproved Parcel by reference to the Assessor's Parcel Number, if any.
- c. Briefly describe the violations) on the Unimproved Parcel and identify the fuel modifications which are required to abate the violations) and bring the Unimproved Parcel into compliance with this Article.
- d. Contain a statement that the legal owner or occupant is required to correct the

violation and allow at least thirty (30) calendar days from the date the Notice is served for the work to be completed.

e. Outline the appeal process as provided in Section _____ of this Article.

f. Contain a statement that, unless the legal owner or occupant abates the violations and brings the Unimproved Parcel into compliance with this Article, or seeks an appeal within the time prescribed in the Notice, the County Fire Official may abate the violation at the legal owner and/or occupant's expense. It shall also state that the abatement costs, including administrative costs, may be made a special assessment added to the County assessment roll and become a lien on the real property, or be placed on the unsecured tax roll.

Sec. 13-63. Service of Notice to Abate

63.1 All notices required by this Article shall be served in the following manner:

a. By delivering it personally to the legal owners) of the parcels) and to the occupant(s), or by mailing it by certified United States mail to the legal owners) of the parcel at his or her address as it appears on the last equalized assessment roll and to any non-owner occupant(s), if known, at the street address for the parcel.

b. In the event that, after reasonable effort, the County Fire Official is unable to serve the notice as set forth above, service shall be accomplished by posting copies of the notice along the frontage of the subject parcel(s), and at such other locations on the parcels) as are reasonably likely to provide notice to the owners) and any person known by the County Fire Official to be in possession of the parcel(s). At least two (2) copies of the notice shall be posted on a parcel pursuant to this section.

63.2 The date of service for the notice is deemed to be the date of personal delivery or

posting, or three (3) days after deposit in the U.S. Mail.

Sec. 13-64. Enforcement Process

64.1 Not less than thirty (30) days after the Notice to Abate is served, the County Fire Official shall conduct a post-notice/pre-abatement inspection on the Unimproved Parcel and, if the required fuel modifications have not been performed, the County Fire Official may request that the required fuel modifications be completed by the County Fire Protection District in whose jurisdiction the subject property is located, and the cost of enforcement, the work of the fire protection district, and the abatement with administrative fee be attached to the property tax as a lien.

Sec. 13-64. Appeals Process

64.1. Any person upon whom a Notice to Abate has been served may appeal the determination of the County Fire Official by delivering a written request for hearing to the Clerk to the Board of Supervisors within thirty (30) days of the date of the Notice to Abate, together with payment of any appeal fee as may be duly adopted by the County. The written request shall include a statement of all facts supporting the appeal.

64.2 If a timely appeal is so filed, no further enforcement action will be taken until after the hearing body has made a determination on the appeal. In the absence of a timely filed written request that complies fully with the requirements of this Section, the determination of the County Fire Official as set forth in the Notice to Abate shall become final and conclusive on the thirty-first day following service of the Notice.

64.3 The hearing on the appeal shall occur not more than thirty (30) days after receipt of a

timely appeal and shall provide written notice of the hearing date and time to the appellant at least ten (10) days prior to the date of the hearing, unless such time limits are waived in writing by both the County Fire Official and the appellant.

64.4 The hearing on appeal shall proceed in the same manner and according to the same requirements as described in Section 13- ____ of the Lake County Code.

Sec. 13-65. Abatement Hearing Body

65.1 The County Board of Supervisors shall be the abatement hearing body and shall have the authority to amend, dismiss, or uphold a Notice to Abate by a majority vote.

Sec. 13-66. Abatement by Local Fire Official

66.1 If, at the end of the time allowed for compliance, compliance has not been accomplished, the County Fire Official issuing the notice may proceed with the abatement of the Hazardous Vegetation or Combustible Material and provide that it be removed by the County, the fire protection district within whose jurisdiction the property is located, or by a private contractor selected by the County in accordance with applicable statutes. The cost of such removal and enforcement accompanied by a reasonable administrative charge may be imposed as an assessment in the County tax roll.

66.2 The costs so assessed shall be limited to the actual costs incurred in enforcing abatement upon the Unimproved Parcel. Such costs may include, but are not limited to, the costs of payments to a county fire protection district, a contractor, costs of site inspection, costs of notice, boundary determination, measurement, clerical, personnel, consultant, and other administrative costs.

Sec. 13-67. Abatement Penalties and Costs

67.1 Upon expiration of the time limits and appeal processes established by this Article, the County Fire Official shall acquire jurisdiction to abate the nuisance, and may carry out the following as appropriate:

a. Disposal of Materials. Any materials abated may be disposed of as a part of the removal process.

b. Cost Accounting, Receipts and Notice of Assessment. The County Fire Official shall keep an itemized account of the costs of enforcing the provisions of this Article, and of the proceeds of the sale of any materials connected therewith. Upon completion of the abatement, the County Fire Official shall prepare a notice to be served on the affected parcels as provided in Section _____, specifying the work done, an itemized account of the costs, identification of the parcel subject to the abatement action and/or lien; the amount of the assessment proposed to be levied against the parcel(s); the time and place where the County Fire Official will submit the account to the Board of Supervisors for confirmation of costs, which shall proceed pursuant to the procedure described in Section 13-____ of the Lake County Code.

Sec. 13-68. Lien Procedures

68.1 Notice of Lien. Upon confirmation of an assessment by the Board of Supervisors, The County Fire Official shall notify the affected parcel owners by certified mail, return receipt requested, of the amount of the pending lien confirmed by the Board of Supervisors, and advise them that they may pay the account in full within thirty (30) days in order to avoid the lien being recorded against the parcel(s). If the lien amount is not paid by the date stated in the letter, the County Fire Official shall prepare and have recorded a Notice of Lien with the Lake County _____ Office. The Notice of

Lien shall contain: A description of the property sufficient to identify the parcel subject to the lien; a brief description of the proceeding giving rise to the confirmation of this assessment; the amount of the assessment; and a claim of lien upon the subject parcel.

68.2 Lien Upon the recordation of a Notice of Lien, the amount claimed shall constitute a lien upon the described premises, pursuant to Section 25845 of the California Government Code. Such lien shall be at parity with the liens of state and county taxes, to the extent allowed by applicable law.

68.3 Collection with Taxes. After recordation, the Notice of Lien shall be delivered to the County _____, who shall enter the amount of the lien on the assessment roll as a special assessment. The amount set forth shall be subject to the same penalties and interest as all County taxes. All laws applicable to the levy, collection and enforcement of County taxes are hereby made applicable to such assessment to the extent allowed by applicable law.

Sec. 13-69. Violations

69.1 Pursuant to Lake County Code, it shall be an infraction or misdemeanor for any person, natural or corporate, owning, possessing, occupying, or controlling any lands or premises to fail to perform the duty set forth in this Article, or to fail to comply with the requirements in the Notice to Abate as specified in this Article, or to interfere with the performance of the duties herein specified for any of the officers named in this part or their deputies, or to refuse to allow any such officer or their deputies or employees, or approved private contractors, to enter upon any parcel for the purpose of lawfully inspecting and/or as ordered, removing any Hazardous Vegetation and Combustible Material hereinbefore described as a public nuisance, or to interfere in any manner

whatever with the officers or contractors in the work of a lawful inspection and ordered removal herein provided.

Sec. 13-70. Penalties for Violations

70.1 Any person violating or failing to comply with the provisions of this Article shall be guilty of a misdemeanor, except that when the District Attorney or County Counsel shall elect to charge such violation as an infraction, it shall be an infraction. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Article is committed, continued or permitted by such person and shall be punishable accordingly. Any person convicted of a misdemeanor under the provisions of this Code shall be punishable by a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000.00), or by imprisonment in the County Jail for a period not more than one (1) year, or by both such fine and imprisonment.

70.2 Alternatively, the County Fire Official may prosecute violations of this Article by civil action, including without limitation, issuance of an administrative citations.

70.3 Every violation of this Article which is determined to be an infraction or an administrative violation pursuant to Lake County Code shall be punishable by (1) a fine of one hundred dollars (\$100.00) for a first violation, (2) a fine of two hundred dollars (\$200.00) for a second violation within one year; and (3) a fine of five hundred dollars (\$500.00) for each additional violation within one year.

Sec. 13-71. Authority of the Board of Supervisors to Promulgate Regulations

71.1 The Board of Supervisors reserves its right to adopt reasonable rules, regulations, and resolutions consistent with this Article to enforce, interpret, and carry out the provisions of this Article.”

Section Two: The Board of Supervisors finds this ordinance is not a project for purposes of the California Environmental Quality Act because it has no potential for resulting in a significant environmental effect.

Section Three: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict and no further.

Section Four: This ordinance shall take effect on the ____ day of ____, 2018 and before the expiration of fifteen days after its passage, it shall be published at least once in a newspaper of general circulation printed and published in the County of Lake.

The Foregoing Ordinance was introduced before the Board of Supervisors on the ____ day of ____, 2018, and passed by the following vote on the ____ day of ____, 2017.

AYES:

NOES:

ABSENT OR NOT VOTING:

COUNTY OF LAKE

Chair, Board of Supervisors

ATTEST: CAROL J. HUCHINGSON
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:
ANITA L. GRANT
County Counsel

By: _____

DRAFT