

1 BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

2 ORDINANCE NO. \_\_\_\_\_

3 AN ORDINANCE ADDING ARTICLE VIII TO CHAPTER 13 OF THE LAKE COUNTY  
4 CODE REGARDING HAZARDOUS VEGETATION AND/OR COMBUSTIBLE  
MATERIAL

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

8 WHEREAS, the County of Lake has experienced a prolonged and debilitating series  
9 of devastating disasters caused by wild fires and the Board of Supervisors wishes to  
10 implement preventative action plans, which if taken now, can greatly reduce both the  
11 occurrence, extent and severity of wildfires in the future; and

12 WHEREAS, hazardous vegetation and/or combustible material pose a significant  
13 danger to the health, safety, and welfare of the public by fueling and propelling wildfires,  
14 thereby increasing the danger to lives, property, and the environment; and

15 WHEREAS, the Board of Supervisors supports the improved parcel defensible space  
16 obligations of Public Resources Code section 4291, but section 4291 does not address  
17 hazardous vegetation abatement and/or combustible material on unimproved parcels and the  
18 possible resulting impacts to adjacent improved parcels; and

19 WHEREAS, the Board may supplement state law by local ordinance to extend the  
20 benefits of Public Resources Code section 4291 to ensure that defensible space protections  
21 are accomplished on those portions of unimproved parcels adjacent to improved parcels and  
22 along roadways; and

23 WHEREAS, Health and Safety Code section 14930 and 14931 authorize the Board  
24 of Supervisors to proscribe, by ordinance, a procedure for the removal of weeds and other  
25 rank growths from property in the County and to make the expense a lien upon the real  
26 property in accordance with section 25845 of the Government Code; and

27 WHEREAS, it is the purpose of this Article to establish a comprehensive program  
28 for hazardous vegetation/combustible material nuisance abatement to address the increased  
danger to the public caused by hazardous vegetation on property within the unincorporated

1 area of the County of Lake and to enhance the defensible space on unimproved parcels that  
2 are adjacent to improved parcels.

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

5 **Section One:** The recitals hereinabove are true and correct and incorporated herein by  
6 reference.

7 **Section Two:** Lake County Code Article VIII is hereby added to Chapter 13 of the Lake  
8 County

9 Code to read as follows:

10 **"Section 13-57. Title.**

11 This article shall be known as, and may be cited or referred to as: "The Hazardous  
12 Vegetation/Combustible Material Abatement Ordinance."

13 **Section 13-58. Findings and Purpose.**

14 58.1 The Board of Supervisors finds that hazardous vegetation or combustible material  
15 poses a danger to the health, safety and welfare of the public and exacerbates the risk  
16 of wild fires. Hazardous vegetation and/or combustible material requires a  
17 comprehensive abatement program in the County of Lake. Further, the  
18 establishment of defensible space benefits property owners, public safety personnel  
19 and all residents of Lake County by significantly increasing the likelihood that  
20 structures will survive a wildfire and it will provide for firefighter safety during a  
21 firestorm and assist in the protection of lives.

22 58.2 All hazardous vegetation and/or combustible materials within the unincorporated  
23 area of the County of Lake is deemed a public nuisance.

24 58.3 This Ordinance shall apply to all real property located in the unincorporated areas of  
25 Lake County. The removal of hazardous vegetation in the areas subject to this  
26 ordinance is recognized as an essential action a homeowner or property owner can  
27 take to increase the chances that Lake County residents, wildlife, homes, and other  
28 structures will survive a wildfire.

58.4 It is the purposes of this Ordinance to supplement the regulations established in

Public Resources Code section 4291 and to establish a comprehensive abatement program specifically for hazardous vegetation and/or combustible materials within the unincorporated area of the County under the direction of the Lake County Fire Official, as assisted by Lake County Code Enforcement.

**Sec. 13-59. Definitions.**

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

59.2 *Hazardous Vegetation 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 for the abatement proceeding, including attorneys fees, if applicable.

59.3 *County Fire Official.* The Chief Building Official or other officer of the County of Lake who is certified in fire prevention pursuant to the International Code Council (ICC) or National Fire Protection Association (NCPA) standards.

59.4 *County Code Enforcement Official.* A County official authorized to enforcement the nuisance abatement provisions of Chapter 13 of the Lake County Code.

59.5 *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.

59.6 *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.

59.7 *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.

1 59.8 *Unimproved Parcel.* A portion of real property of any size, the area of which is  
2 determined by the assessor's maps and records and which may be identified by an  
3 Assessor's Parcel Number, upon which no structure is located.

4 59.9 *Structure.* Any dwelling, house, building, or other type of flammable construction  
5 attached to or near any other structure.

6 **Sec. 13-60. Duty to Abate.**

7 60.1 Upon receipt of a notice of violation and order to abate, as discussed in section 13-62  
8 herein, it shall be the duty of every owner, occupant, and person in control of any  
9 improved or unimproved parcel of land or interest therein, which is located in the  
10 unincorporated territory of the County of Lake to abate there from, and from all  
11 parcels, roadways and parkways, except for those roads maintained by the county, all  
12 combustible material and hazardous vegetation, that constitutes a fire hazard which  
13 may endanger or damage neighboring property pursuant to the requirements of the  
14 notice of violation and order to abate received.

15 60.2 **Improved Parcels**

16 2.1 The duty to abate hazardous vegetation and/or combustible materials on  
17 improved parcels includes, but is not limited to the following:

- 18 a. Maintenance of a thirty-foot (30-foot) defensible space around all  
19 buildings/structures.
- 20 b. Maintenance of ten-foot (10-foot) clearance next to a roadside.
- 21 c. Removal of all portions of trees within ten (10) feet of a chimney or stovepipe  
22 outlet.
- 23 d. Maintenance of a roof on any structure free from leaves, needles, or dead or  
24 dying wood.
- 25 e. Removal of all dead vegetation from the subject property.
- 26 f. Maintenance of shrubbery and trees year round.

27 2.2 If so determined by a County Fire Official, as defined herein, additional  
28 defensible space outward to one hundred (100) feet from all buildings and  
surrounding, neighboring structures may be required depending on the property

slope, fuel load and/or fuel type.

2.3 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.

### 60.3 **Unimproved Parcels**

3.1 The duty to abate hazardous vegetation and/or combustible materials on unimproved parcels includes, but is not limited to the following:

a. Removal of flammable vegetation and other combustible growth within thirty (30) feet

off neighboring structures and roadway frontage.

b. Removal of dead and dying vegetation within thirty (30) feet of neighboring structures and roadway frontage.

c. Trimming of grass and combustible surface vegetation within ten (10) feet of neighboring structures and roadway frontage must be trimmed to less than six (6) inches in height unless necessary for erosion control.

d. Pruning of all trees within ten (10) feet of neighboring structures and roadway frontage to at least six feet (6') above grade; and

e. Removal of all combustible material from the property.

3.2 A County Fire Official 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. If so determined by a County Fire Official, as defined herein, additional defensible space outward to one hundred (100) feet from all buildings and surrounding, neighboring structures may be required depending on the property slope, fuel load and/or fuel type.

3.3 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

1 local weather conditions, fuel type(s), topography, and the environment where the  
2 property or adjoining structure(s) is located.

3 3.4 The County Fire Official may mandate additional fuels management of an area  
4 more or less than the above-referenced widths or height, for the protection of public  
5 health, safety or welfare or the environment. Where the terrain, condition or  
6 environment on the Unimproved Parcel is such that hazardous vegetation cannot or  
7 should not be disked or mowed, the County Fire Official may require, or authorize  
8 other means of Hazardous Vegetation removal.

9 3.5 Where the terrain, condition or environment on the Unimproved Parcel is such  
10 that it cannot or should not be disked or mowed, the County Fire Official may  
11 require, or authorize, other means of Hazardous Vegetation removal.

12 **Sec. 13-61. Enforcement**

13 61.1 The County Fire Official or his or her designee shall be the primary authority for  
14 enforcement of this Article, and shall administer and enforce the requirements as  
15 provided in this Article.

16 61.2 In order to facilitate informal resolution whenever possible, the County Fire Official  
17 shall take the following actions in advance of initiating the formal enforcement  
18 process provided for in this Article:

19 a. Plan and conduct hazardous vegetation/combustible material inspections within  
20 the limits of available resources.

21 b. Seek voluntary compliance with the provisions of this Article with property  
22 owners and/or occupants found to be out of compliance.

23 c. Conduct host-notice/pre-abatement inspections and prepare documentation  
24 relating to the areas of non-compliance.

25 d. The County Fire Official may seek the assistance of the County Fire Safe  
26 Committee for assistance in this informal process.

27 e. The County Fire Official may, at his or her discretion issue an administrative or  
28 criminal citation for violations of this Article, in lieu of abating an Unimproved  
Parcel.

1     **61.3   Summary Abatement**

2           Nothing in this Article is intended to in any way limit or restrict the authority of the  
3           County Fire Official, pursuant to Health and Safety Code section 14930 and  
4           Government Code section 25845, to summarily abate any public nuisance determined  
5           by the County Fire Official to constitute an immediate threat to public health or  
6           safety without prior notice or hearing.

7     **Sec. 13-62. Abatement Proceedings.**

8     **62.1   Notice of Violation and Order to Abate.** If the County Fire Official determines that  
9           any real property is being maintained or permitted to exist in a manner prohibited by  
10          this Article, the County Fire Official shall issue a written notice to the property  
11          owner and any known person in possession of the property, of the violation and order  
12          the hazardous vegetation or combustible material to be immediately abated.

13          1.2 The notice of violation and order to abate shall specify the corrective actions  
14          required to be taken and order the property owners and persons in possession to abate  
15          the hazardous vegetation or combustible material within thirty (30) business days and  
16          state that the failure to bring the real property into compliance with this Article could  
17          subject the owner or persons in possession to civil, administrative and criminal  
18          penalties. The notice/order shall provide the property owner and person in possession  
19          of the opportunity to appeal that notice/order and appear before the Lake County  
20          Board of Supervisors and be heard prior to the abatement by the County.

21          1.3 **Additional Time.** Said thirty-day (30-day) period may be extended by the  
22          County Fire Official if that official determines additional time is justified due to the  
23          topography and/or size of a particular parcel.

24          1.4 The failure of the notice to set forth all required contents shall not affect the  
25          validity of the abatement proceedings.

26     **62.2   Manner of Giving Notice.**

27          2.1 The County Fire Official shall cause a copy of the notice/order to be mailed or  
28          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

1 assessment roll. If the address is unknown, that fact shall be so stated and the notice  
2 shall be addressed to the person at the county seat. Service by mail shall be deemed  
3 complete at the time of deposit in the U.S. mail. The failure of any person in  
4 possession or owner of the property to receive such notice shall not affect the validity  
5 of these proceedings.

6 2.2 In the event that, after reasonable effort, the County Fire Official is unable to  
7 serve the notice as set forth above, service shall be accomplished by posting copies of  
8 the notice along the frontage of the subject parcel(s), and at such other locations on  
9 the parcels) as are reasonably likely to provide notice to the owners) and any person  
10 known by the County Fire Official to be in possession of the parcel(s). At least two  
11 (2) copies of the notice shall be posted on a parcel pursuant to this section.

12 62.3. **Request for a Hearing.** Any person who is adversely affected by the notice/order  
13 may appeal the determination to the Board of Supervisors.

14 3.1 Such a request must be in writing and be received within fifteen (15) calendar  
15 days of the postmark on the notice/order. Timely appeal shall stay any further action  
16 for abatement until the date set for hearing.

17 3.2 If no request for a hearing is timely made, the Lake County Board of Supervisors  
18 herein declares that abatement of the hazardous vegetation or combustible material  
19 shall have been deemed ordered by the Board of Supervisors as of the date of the  
20 postmark of the notice/order.

21 62.4 **Hearing.** Upon timely written request for a hearing, the hearing shall be scheduled  
22 with the Board of Supervisors and shall proceed according to the process described  
23 in Lake County Code section 13-7.

24 4.1 The hearing on the appeal shall occur not more the thirty (30) days after receipt  
25 of a timely request for hearing and shall provide written notice of the hearing date  
26 and time to the appellant at least ten (10) days prior to the date of the hearing, unless  
27 such time limits are waived in writing by both the County Fire Official and the  
28 appellant.

4.2 At the time fixed in the notice of hearing, the Board of Supervisors shall receive



evidence from the County Fire Official 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. Failure of the owner or person in possession to appear shall not affect the validity of the proceedings or order issued thereon.

4.3 Upon conclusion of the hearing, the Board of Supervisors shall make its decision and in the event it so concludes, may declare the conditions on the real property to be in violation of this Article and to constitute a public nuisance. The Board of Supervisors may direct the owner or person in possession to abate the hazardous vegetation or combustible material within a reasonable time specified, but which shall not be less than ten (10) days from the date of the Board of Supervisors' order . The order shall include notice that if the hazardous vegetation or combustible material is not abated as directed and within the time specified, the County Fire Official may abate the hazardous vegetation or combustible material and the abatement costs and any administrative penalties assessed shall be a lien and an assessment against the real property.

4.4 The Board of Supervisors may grant any extension of time to abate such conditions that it may deem justifiable upon good cause being shown.

**62.5 Abatement of Hazardous Vegetation or Combustible Material by County Fire Official.**

If, at the end of the time allowed for compliance in the original notice/order issued pursuant to this Article if no request for hearing is made, or as set forth in an order issued by the Board of Supervisors consequent to a hearing process described in section 62.4 herein, compliance has not been accomplished as directed, the County Fire Official 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 which

may be specified by the Board of Supervisors.

**62.6 Abatement Cost Recovery Without Further Hearing.**

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.

**62.7 Notice of Abatement Costs.** At the conclusion of the abatement by the County Fire Official or designee, the County Fire Official 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 Lake the total abatement costs and administration costs, plus attorneys' fees, if relevant, within fifteen (15) calendar days of its mailing. If said amount 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.

**62.8 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 Official 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. The lien has the same priority as a judgment lien on real property and continues in effect until released.

**Sec. 13-63. Violations.**

1 63.1 Pursuant to Lake County Code, it shall be an infraction or misdemeanor for any  
2 person, natural or corporate, owning, possessing, occupying, or controlling any lands  
3 or premises to fail to perform the duty set forth in this Article, or to fail to comply  
4 with the requirements in the Notice to Abate as specified in this Article, or to  
5 interfere with the performance of the duties herein specified for any of the officers  
6 named in this part or their deputies, or to refuse to allow any such officer or their  
7 deputies or employees, or approved private contractors, to enter upon any parcel for  
8 the purpose of lawfully inspecting and/or as ordered, removing any Hazardous  
9 Vegetation and Combustible Material hereinbefore described as a public nuisance, or  
10 to interfere in any manner whatever with the officers or contractors in the work of a  
11 lawful inspection and ordered removal herein provided.

12 63.2 Any person violating or failing to comply with the provisions of this Article shall be  
13 guilty of a misdemeanor, except that when the District Attorney or County Counsel  
14 shall elect to charge such violation as an infraction, it shall be an infraction. Each  
15 such person shall be guilty of a separate offense for each and every day during any  
16 portion of which any violation of any provision of this Article is committed,  
17 continued or permitted by such person and shall be punishable accordingly. Any  
18 person convicted of a misdemeanor under the provisions of this Code shall be  
19 punishable by a fine of not less than one hundred dollars (\$100) or more than one  
20 thousand dollars (\$1,000.00), or by imprisonment in the County Jail for a period not  
21 more than one (1) year, or by both such fine and imprisonment.

22 **Section 13-64. Administrative Citations.**

23 64.1 In addition to any corrective action, fines, and penalties as a public nuisance,  
24 violation of this Article may be punishable as an administrative violation pursuant to  
25 Lake County Code in any instance where the failure to adequately abate hazardous  
26 vegetation as required by this Article has continued into that period of time  
27 designated as the "fire season" in Lake County, thereby significantly acerbating the  
28 risk to neighboring properties and area communities generally. Said violation shall be  
punishable by (1) a fine of up to one hundred dollars (\$100.00) per day per violation

for a first violation, (2) a fine of up to two hundred dollars (\$200.00) per day per violation for a second violation within one year; and (3) a fine of up to five hundred dollars (\$500.00) per day per violation for each additional violation within one year.

**64.2 Collection of Administrative Citation Fines.**

A fine under this Section may be assessed through an Administrative Citation, issued by the County Fire Official and payable directly to the County. Said fine shall be collected in accordance with the procedures specified in this Section. Payment of the fine shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the County.

**64.3 Special Account Established.**

All administrative fines shall be payable to the County at the address provided on the Administrative Citation and shall be deposited in an account designated for the enforcement of this Article. Any fine so paid shall be refunded if it is determined, after an appeal hearing, that there was no violation as charged in the Administrative Citation.

**64.4 Procedures for Administrative Citations.**

When the County Fire Official observes a violation of this Article, the County Fire Official may issue an Administrative Citation to any responsible person. For purposes of this Article, a “responsible person” shall mean either each person committing the violation or causing a condition on a parcel of real property located within the jurisdiction of the County of Lake which gives rise to the violation, each person who has an ownership interest in that property, and/or each person who, although not an owner, nevertheless has a legal right or a legal obligation to exercise possession and control over that property. Each Administrative Citation shall contain the following information:

- (1) The date of the violation;
- (2) The address or a definite description of the location where the violation occurred;
- (3) The name, address, and other identifying information for the person being cited.
- (4) The section of this Article violated and a description of the violation;

- (5) The fine schedule for the violation;
- (6) A description of how, when and where the fine must be paid;
- (7) An order prohibiting the continuation or repeated occurrence of the violation;
- (8) A brief description of the appeal process;
- (9) The name and signature of the citing County Fire Official.

The person cited shall be requested to sign the citation to acknowledge receipt of the citation.

#### **64.5 Notices.**

All notices required under this Section shall be served on the responsible party in accordance with the provisions of Section 13-6.2 of this Chapter. The failure of any Responsible Party or other person with a legal or equitable interest in the property to receive any notice served in accordance with this section shall not affect the validity of any proceedings taken under this code.

#### **64.6 Appeal of Administrative Citation.**

Any recipient of an Administrative Citation may contest the citation by requesting an appeal hearing within fifteen (15) calendar days from the date of the citation. The Appeal must be in writing on a form furnished by the County specifying the basis for the appeal in detail. If the deadline to request an appeal hearing falls on a weekend or Holiday, then the deadline shall be extended until 5:00 p.m. on the next regular business day. The County shall hold a hearing within thirty days of receipt of an appeal. The person requesting the appeal hearing shall be notified of the time and place of the hearing at least ten (10) days prior to the date of the hearing. The Board of Supervisors shall hear the appeals. The failure of any person with an interest in the property to receive properly addressed notice of the hearing shall not affect the validity of any proceedings under this chapter. Failure to file an appeal in accordance with the provisions of this chapter shall constitute a waiver of rights to contest the accompanying Administrative Citation and the imposition of the fine.

#### **64.7 Hearing Procedure.**

The Board of Supervisors shall conduct an orderly hearing and accept evidence on

1 which persons commonly would rely in the conduct of their business affairs in the  
2 same manner and according to the same procedures provided in Section 13-53 of this  
3 Chapter.

4 **Sec. 13-65. Right to Judicial Review.**

5 Any person aggrieved by an administrative decision of the Board of Supervisors may  
6 obtain review of the administrative decision by filing a petition for review with the  
7 Superior Court in Lake County in accordance with the timeliness and other  
8 provisions set forth in California Government Code Section 53069.4.

9 **Sec. 13-66. Authority of the Board of Supervisors to Promulgate Regulations.**

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

13 **Section Three:** The Board of Supervisors finds this ordinance is not a project for  
14 purposes

15 of the California Environmental Quality Act because it has no potential for resulting in a  
16 significant environmental effect.

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

19 **Section Five:** This ordinance shall take effect on the \_\_\_\_ day of \_\_\_\_, 2019 and before  
20 the expiration of fifteen days after its passage, it shall be published at least once in a  
21 newspaper of general circulation printed and published in the County of Lake.

22 The Foregoing Ordinance was introduced before the Board of Supervisors on  
23 the \_\_\_\_ day of \_\_\_\_, 2019, and passed by the following vote on the \_\_\_\_  
24 day of \_\_\_\_, 2019.

25 AYES:

26 NOES:

27 ABSENT OR NOT VOTING:

28 COUNTY OF LAKE

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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: \_\_\_\_\_