

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  
5 MATERIAL

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

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

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

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

20 WHEREAS, the Lake County Community Fire Protection Plan notes that the Legislature  
21 of the State of California has determined that the unrestricted use of grass-, grain-, brush-, or  
22 forest-covered land within the State is a potential menace to life and property from fire and that  
23 counties may adopt local ordinances and regulations to provide fire prevention hazard conditions;  
24 and

25 WHEREAS, the Lake County Natural Hazard Mitigation Plan has recommended the  
26 development of comprehensive defensible space requirements to minimize risk; and

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

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

5 WHEREAS, it is the purpose of this Article to establish a comprehensive program for  
6 hazardous vegetation/combustible material nuisance abatement to address the increased danger to  
7 the public caused by hazardous vegetation on property within the unincorporated area of the  
8 County of Lake and to enhance the defensible space on unimproved parcels that are adjacent to  
9 improved parcels.

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

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

14 **Section Two:** Lake County Code Article VIII is hereby added to Chapter 13 of the Lake  
15 County Code to read as follows:

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

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

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

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

27 58.2 All hazardous vegetation and/or combustible materials within the unincorporated area of  
28 the County of Lake is deemed a public nuisance.

58.3 This Ordinance shall apply to all real property located in the unincorporated areas of Lake

County. The removal of hazardous vegetation in the areas subject to this ordinance is recognized as an essential action a homeowner or property owner can take to increase the chances that Lake County residents, wildlife, homes, and other 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 vegetation 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, his or her designee, 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 (NFPA), or California Department of Forestry and Fire Protection 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.

Said material does not include the combustible material used by a commercial enterprise licensed and/or certified to work with combustible material so long as said enterprise does so in compliance with any such license and/or certification and other legal requirements.

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.

59.8 *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.

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

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

60.1 Upon receipt of a notice of violation and order to abate, as discussed in section 13-62 herein, 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 Lake to abate there from, and from all parcels, roadways and parkways, except for those roads maintained by the county, all combustible material and hazardous vegetation, that constitutes a fire hazard which may endanger or damage neighboring property pursuant to the requirements of the notice of violation and order to abate received.

**60.2 Improved Parcels**

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

- a. Maintenance of a thirty-foot (30-foot) defensible space around all buildings/structures.
- b. Maintenance of ten-foot (10-foot) clearance next to a roadside.
- c. Removal of all portions of trees within ten (10) feet of a chimney or stovepipe outlet.

- d. Maintenance of a roof on any structure free from leaves, needles, or dead or dying wood.
- e. Removal of all dead vegetation and/or combustible material from the subject property.
- f. Maintenance of shrubbery and trees year round.

2.2 If so determined by a County Fire Official or his or her designee, 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. The necessity for such additional defensible space will be determined according to fire safety and fire protection standards recognized by the ICC, the NFPA, and/or the California Department of Forestry and Fire Protection and the imminent risk of harm to neighboring properties.

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 of 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

1 e. Removal of all dead vegetation and/or combustible material from the property.

2 3.2 A County Fire Official or his or her designee may require more clearance distance than  
3 specified in the notice of violation and order to abate for the protection of public health,  
4 safety or welfare or the environment. If so determined by a County Fire Official, as  
5 defined herein, additional defensible space outward to one hundred (100) feet from all  
6 buildings and surrounding, neighboring structures may be required depending on the  
7 property slope, fuel load and/or fuel type. The necessity for such additional defensible  
8 space will be determined according to fire safety and fire protection standards recognized  
9 by the ICC, the NFPA, and/or the California Department of Forestry and Fire Protection  
10 and the imminent risk of harm to neighboring properties.

11 3.3 The determination for appropriate clearance distances will be made based upon a  
12 visual inspection of the parcel and shall consider all factors that place the property or  
13 adjoining structure(s) at risk from an approaching fire. These factors shall include local  
14 weather conditions, fuel type(s), topography, and the environment where the property or  
15 adjoining structure(s) is located.

16 3.4 The County Fire Official or his or her designee may mandate additional fuels  
17 management of an area more or less than the above-referenced widths or height, for the  
18 protection of public health, safety or welfare or the environment. Where the terrain,  
19 condition or environment on the Unimproved Parcel is such that hazardous vegetation  
20 cannot or should not be disked or mowed, the County Fire Official may require, or  
21 authorize other means of Hazardous Vegetation removal.

22 **Sec. 13-61. Enforcement**

23 61.1 The County Fire Official or his or her designee shall be the primary authority for  
24 enforcement of this Article, and shall administer and enforce the requirements as provided  
25 in this Article.

26 61.2 In order to facilitate informal resolution whenever possible, the County Fire Official shall  
27 take the following actions in advance of initiating the formal enforcement process provided  
28 for in this Article:

a. Plan and conduct hazardous vegetation/combustible material inspections and training

presentations within the limits of available resources.

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

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

d. The County Fire Official may seek the assistance of any of the County Fire Safe Councils for assistance in this informal process.

### **61.3 Summary Abatement**

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

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

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

1.2 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) business days and state that the failure to bring the real property into compliance with this Article could subject the owner or persons in possession to civil, administrative and criminal penalties. The notice/order shall provide the property owner and person in possession of the opportunity to appeal that notice/order and appear before the Lake County Board of Supervisors and be heard prior to the abatement by the County.

1.3 **Additional Time.** Said thirty-day (30-day) period may be extended by the County Fire Official if that official determines additional time is justified due to the topography

and/or size of a particular parcel.

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

**62.2 Manner of Giving Notice.**

2.1 The County Fire Official shall cause a copy of the notice/order to be mailed or otherwise delivered to all known persons to be in possession and to the property owner as such person's name and address appears on the last county equalized assessment roll. If the address is unknown, that fact shall be so stated and the notice shall be addressed to the person at the county seat. Service by mail shall be deemed complete at the time of deposit in the U.S. mail. The failure of any person in possession or owner of the property to receive such notice shall not affect the validity of these proceedings.

2.2 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.

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

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

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

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



1 4.1 The hearing on the appeal shall occur not more the thirty (30) days after receipt of a  
2 timely request for hearing and shall provide written notice of the hearing date and time to  
3 the appellant at least ten (10) days prior to the date of the hearing, unless such time limits  
4 are waived in writing by both the County Fire Official and the appellant.

5 4.2 At the time fixed in the notice of hearing, the Board of Supervisors shall receive  
6 evidence from the County Fire Official and the owner or person in possession of the real  
7 property in violation, or their representatives and any other concerned persons who may  
8 desire to present oral or documentary evidence regarding the conditions of the real  
9 property or other relevant matter, if such persons are present at the hearing. Failure of the  
10 owner or person in possession to appear shall not affect the validity of the proceedings or  
11 order issued thereon.

12 4.3 Upon conclusion of the hearing, the Board of Supervisors shall make its decision and  
13 in the event it so concludes, may declare the conditions on the real property to be in  
14 violation of this Article and to constitute a public nuisance. The Board of Supervisors may  
15 direct the owner or person in possession to abate the hazardous vegetation or combustible  
16 material within a reasonable time specified, but which shall not be less than ten (10) days  
17 from the date of the Board of Supervisors' order . The order shall include notice that if the  
18 hazardous vegetation or combustible material is not abated as directed and within the time  
19 specified, the County Fire Official may abate the hazardous vegetation or combustible  
20 material and the abatement costs and any administrative penalties assessed shall be a lien  
21 and an assessment against the real property.

22 4.4 The Board of Supervisors may grant any extension of time to abate such conditions  
23 that it may deem justifiable upon good cause being shown.

24 **62.5 Abatement of Hazardous Vegetation or Combustible Material by County Fire**  
25 **Official.**

26 If, at the end of the time allowed for compliance in the original notice/order issued pursuant  
27 to this Article if no request for hearing is made, or as set forth in an order issued by the  
28 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 in the same manner and subject to the procedures described in Chapter 13, section 13-43, of the Lake County Code.

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

**63.1** Any person who violates any of the provisions of this Article is guilty of an infraction or misdemeanor as described in Lake County Code Chapter 13, section 13-44.

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

2       64.1     In addition to any corrective action, fines, and penalties as a public nuisance, violation of  
3               this Article may be punishable as an administrative violation pursuant to Lake County  
4               Code in any instance where the failure to adequately abate hazardous vegetation as  
5               required by this Article has continued into that period of time designated as the “fire  
6               season” in Lake County, thereby significantly acerbating the risk to neighboring properties  
7               and area communities generally and where that failure, as determined by the County Fire  
8               Official, puts neighboring properties at imminent risk of harm. For purposes of this Article,  
9               “fire season” shall be designated as that period of time annually when a burn ban is  
10              declared and shall contain while said ban remains in effect in the County of Lake. Said  
11              violation shall be punishable by (1) a fine of up to one hundred dollars (\$100.00) per day  
12              per violation for a first violation, (2) a fine of up to two hundred dollars (\$200.00) per day  
13              per violation for a second violation within one year; and (3) a fine of up to five hundred  
14              dollars (\$500.00) per day per violation for each additional violation within one year.

15       64.2     **Collection of Administrative Citation Fines.**

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

21       64.3     **Procedures for Administrative Citations.**

22              When the County Fire Official observes a violation of this Article, the County Fire Official  
23              may issue an Administrative Citation to any responsible person. For purposes of this  
24              Article, a “responsible person” shall mean either each person committing the violation or  
25              causing a condition on a parcel of real property located within the jurisdiction of the  
26              County of Lake which gives rise to the violation, each person who has an ownership  
27              interest in that property, and/or each person who, although not an owner, nevertheless has  
28              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.

#### **64.4 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.

#### **64.5 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.

**64.6 Hearing Procedure.**

The Board of Supervisors shall conduct an orderly hearing and accept evidence on which persons commonly would rely in the conduct of their business affairs in the same manner and according to the same procedures provided in Section 13-53 of this Chapter. 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.

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

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

**Sec. 13-66. Hazardous Vegetation/Combustible Material Abatement Program.**

This Article establishes the Hazardous Vegetation/Combustible Material Abatement Program. This Program is intended to specifically address the significant danger to the public created by the proliferation of hazardous vegetation and/or combustible material through enforcement of the abatement procedures specified herein, to implement community outreach to inform the public of the need to maintain their properties in compliance with this Article, to work with the community to address abatement solutions for the indigent and those physically unable to self-abate, and to consider best practices for the reduction of wildfire risks associated with hazardous vegetation and/or combustible materials.

All administrative fines and abatement monies received shall be deposited in an account designated for the enforcement of this Article and the implementation of the Hazardous Vegetation/Combustible Material Abatement Program.

**Sec. 13-67. Authority of the Board of Supervisors to Promulgate Regulations.**

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.”

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

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

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

9 The Foregoing Ordinance was introduced before the Board of Supervisors on the  
10 \_\_\_\_ day of \_\_\_\_, 2019, and passed by the following vote on the \_\_\_\_ day of  
11 \_\_\_\_, 2019.

12 AYES:

13 NOES:

14 ABSENT OR NOT VOTING:

15 COUNTY OF LAKE

16  
17 \_\_\_\_\_  
18 Chair, Board of Supervisors

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

21 By: \_\_\_\_\_  
22 Deputy

23  
24 APPROVED AS TO FORM:  
25 ANITA L. GRANT  
County Counsel

26 By: \_\_\_\_\_  
27  
28