

# **ORDINANCE NO. ( )**

## **AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING CHAPTER 13A DUTY TO MAINTAIN DEFENSIBLE SPACE AND ABATE HAZARDOUS VEGETATION AND COMBUSTIBLE MATERIAL**

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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:**

### **Chapter 13A. Title. Duty to Maintain Defensible Space and Abate Hazardous Vegetation and Combustible Material**

#### **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. In the State Responsibility Area, Title 14 of the California Code of Regulations Sections 1299.01-1299.05 applies to improved parcels. This ordinance also applies a duty to maintain defensible space and abate hazardous vegetation on improved parcels in the unincorporated area of the County outside of the State Responsibility Area, and to unimproved parcels within the Local and State Responsibility Areas.

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 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.

“Person” means natural person or corporation.

“Structure” means any dwelling, house or building.

“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) For improved parcels in the Local Responsibility Area:

- (1) Maintain a thirty-foot defensible space around all structures.
  - a. The grass needs to be cut six inches (6") or less. Do not cut to bare mineral soil.
  - b. The tree branches need to be limbed up six feet (6') from the ground.
  - c. Shrubs need to be maintained.
  - d. Climbing vines must be maintained to be clear of dead and dying materials or removed from trees and structures.
- (2) Additional defensible space outward to one hundred feet (100') from all structures may be required depending on the property slope, fuel load and/or fuel type.
- (3) Maintain a ten-foot minimum clearance next to the roadside; more may be required by Fire Warden/Fire Marshal.
- (4) Remove all portions of trees within ten feet (10') of chimney and/or stovepipe outlets.
  - a. Property owners are responsible for maintaining trees year round.
  - b. Trees need to be cut ten feet (10') away from the chimney in any direction.
- (5) Maintain trees adjacent to or overhanging a structure free of dead/dying wood. Cut the trees back and remove any dead or dying wood.
- (6) Maintain the roof of any structure free of leaves, needles, or other dead/dying wood. Remove any leaves, needles, branches, or debris from the roof and/or gutters.
- (7) Install a spark arrester on chimney and/or stovepipe outlets.

The spark arrester must be constructed of heavy wire mesh with openings not to exceed one-half inch (1/2").
- (8) Provide street address numbers that are clearly visible from the roadside, minimum height: Four inches (4").
  - a. The address numbers should be posted on the house.
  - b. If the house sits back from the street, post the address at the beginning of the driveway and on the house.
  - c. The address numbers should be reflective in a contrasting color for visibility pursuant to Sonoma County Code Chapter 13.
- (9) Remove all tree limbs and branches within six feet (6') of the ground.
- (10) Remove dead/dying vegetation from property.
- (b) For unimproved parcels in the State Responsibility Area and Local Responsibility Area:
  - (1) Flammable vegetation and other combustible growth within ten feet (10') of structures and roadway frontage shall be removed;

- (2) Dead and dying vegetation within ten feet (10') of structures and roadway frontage shall be removed;
- (3) Grass and combustible surface vegetation within ten feet (10') of structures and roadway frontage must be trimmed to less than four inches (4") in height unless necessary for erosion control;
- (4) All trees within ten feet (10') of structures and roadway frontage must be pruned to at least six feet (6') above grade; and
- (5) Combustible material shall be removed from the property.

(c) Exemptions:

(1) Agricultural crops and agricultural operations as defined in Sonoma County Code section 13-6 are exempt. This exempts defensible space and vegetation management responsibilities for agricultural crops. It also exempts agricultural buildings such as barns, hay barns, dairy milking facilities and agricultural exempt buildings. To protect residents, defensible space shall be required around habitable dwellings and residential accessory structures similar to, but not limited to, pool houses, art studios and private detached garages. Roads used for agricultural purposes also are exempt from this Chapter.

(2) Cannabis cultivation operations are exempt. This exempts defensible space and vegetation management responsibilities for cannabis cultivation. It also exempts cannabis cultivation buildings approved by the Fire Code Official. To protect residents, defensible space shall be required around habitable dwellings and residential accessory structures similar to, but not limited to, pool houses, art studios and private detached garages. Roads used solely for cannabis cultivation purposes also are exempt from this Chapter.

**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 Marshal 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 4291.1.

**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 9<sup>th</sup> day of June, 2020, and finally passed and adopted this 16<sup>th</sup> day of June, 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.**

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Chair, Board of Supervisors  
County of Sonoma

ATTEST:

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Sheryl Bratton,  
Clerk of the Board of Supervisors