

## ORDINANCE NO. XXXXXXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLACERVILLE  
REPLACING TITLE 8 CHAPTER 4 OF THE PLACERVILLE MUNICIPAL CODE  
VEGETATION MANAGEMENT PROGRAM

BE IT ORDAINED BY THE CITY OF PLACERVILLE AS FOLLOWS:

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Section 1: FINDINGS

- A. The City Council of the City of Placerville (hereinafter "City") finds and declares that the uncontrolled growth and/or accumulation of weeds, grasses, hazardous vegetation and combustible materials or other materials or obstructions on sidewalks, streets, and on lands or lots within the City limits of the City of Placerville is dangerous or injurious to neighboring property and the health or welfare of residents of the City and is a public nuisance in that it creates fire hazards, conditions that reduce the value of private property, promote blight and deterioration, invite plundering, constitute an unattractive nuisance creating a hazard to the health and safety of minors, and creates a harbor for rodents and insects and is injurious to the health, safety and general welfare.
- B. It is the intent of the City that this Ordinance shall apply to the abatement of the accumulation of weeds, grasses, hazardous vegetation and combustible materials on all

## 12.2

parcels within the City;

- C. The City is located in a Very High Fire Hazard Severity Zone as recommended by CAL Fire in which many of the native and non-native plant species within the jurisdictional boundaries of the City are highly flammable during dry periods and can contribute to significant wildfires resulting in catastrophic fire losses to life, property and the environment.
- D. The City has a diverse and complex landscape which includes steep terrain and and other brush covered areas which are home to many rare and sensitive plant and animal species;
- E. Of paramount importance to the City Council and the citizens of Placerville is the protection of lives and property from the threat of fire and the safety of fire and law enforcement personnel during wildfires; and
- F. It is the purpose of this Ordinance to establish a hazardous vegetation and combustible material abatement program that protects the lives and property of the citizens of the City.

### Section 2: DEFINITIONS

- A. Accumulation of Weeds, Grasses, Hazardous Vegetation and Combustible Materials - Allowing the growth of weeds, grasses, hazardous vegetation and accumulation of combustible materials as defined below.
- B. Combustible Material -Accumulation of garbage, rubbish, brush, trees, waste or material of any kind other than hazardous vegetation that is flammable and endangers the public safety by creating a fire hazard.
- C. Fire Chief- The Chief of the El Dorado County Fire Protection District or her/his representative.
- D. Garbage - Includes, but is not limited to, the following: waste resulting from the handling of edible foodstuffs or resulting from decay, and solid or semisolid putrescible waste, and all other mixed, nonrecyclable wastes which are generated in the day-to- day operation of any business, residential, governmental, public or private activity, and may include paper, plastic, or other synthetic material, food or beverage containers.
- E. 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, trees, stubble, brush, dry leaves and tumbleweeds.
- F. Improved Parcel -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.

- G. Rubbish - Includes all the following, but is not restricted to, nonputrescible wastes, such as paper, cardboard, grass clippings, tree or shrub trimmings, leaves wood, wood chips, bedding, crockery, rubber tires, construction waste and similar waste materials.
- H. Structure - Any dwelling, house, building or other type of flammable construction including but not limited to a wood fence attached to or near any other structure.
- I. Unimproved Parcel - 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.
- J. Waste - Waste means all putrescible and non-putrescible solid, semi-solid, and liquid wastes, including residential, commercial, and municipal garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, construction and demolition debris, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid wastes and semisolid wastes.
- K. Weeds - Includes any of the following:
- (1) Weeds which bear seeds of a downy or wingy nature;
  - (2) Sagebrush, chaparral, manzanita and any other brush or weeds which attain such hard growth as to become, when dry, a fire menace to adjacent improved property;
  - (3) Weeds and grasses which are otherwise noxious;
  - (4) Poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health;
  - (5) Dry grass, stubble, brush, or other flammable vegetation which endangers the public safety by creating a fire hazard.

### Section 3: LEGAL AUTHORITY FOR THE CITY ORDINANCE

The City has the legal authority to adopt the provisions contained in this Ordinance as specified below:

- A. **Government Code** Section 39560 - 39588 which provides the City the authority to abate weeds and rubbish pursuant to the provisions of the California Health and Safety Code at Section 14875 et seq.
- B. **Government Code** Section 61069 which provides the County the authority to enter private property to: (1) inspect and determine the presence of public nuisances including fire hazards that the has the authority to abate; and (2) abate public nuisances, including public nuisances constituting fire hazards such as excessive growth of weeds, grasses, hazardous vegetation and other combustible material by giving notice to the property owner to abate

**Comment [CM1]:** This section applies to Districts. Does it also apply to cities? If not is there a separate section that grants this authority?

such public nuisance; and (3) enter upon private property to determine if a notice to abate a public nuisance including a fire hazard has been complied with by the property owner; and, if not, exercise its power to abate such public nuisance after failure to act by the responsible property owner.

- C. The *California Health and Safety Code*, Part 5 Sections 14875-14930, which provides that an accumulation of weeds, grasses, hazardous vegetation and other combustible material constitutes a public nuisance, providing guidelines for enforcement and abatement by the County of such fire hazards, and payment of such abatement costs incurred by the County to remove such hazardous vegetation and combustible material, and provides for penalties for violations of this Ordinance by property owners.
- D. The *California Fire Code* Title 24, Part 9, Chapter 3, Section 304.1.2 and Section 1103.2.4 prohibits combustible waste material creating a fire hazard on vacant lots or open space, which California Fire Code has been adopted by the City.
- E. The *California Code of Regulations Code*, 14 C.C.R., Sections 1270.01-1276.03.
- F. The *California Public Resources Code* Section 4291 which requires a person who owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or land that is covered with flammable material, to maintain defensible space no greater than 100 feet minimum from each side of the structure, and which provides for required fuel modification so as to ensure that a wildfire burning under average weather conditions would be unlikely to ignite the structure on the property.

#### Section 4: PROHIBITED CONDUCT

A person shall not dump, nor permit the dumping of weeds, grasses, hazardous vegetation, refuse, or other combustible material, nor shall a person permit the accumulation of weeds, grasses, hazardous vegetation, refuse, or other combustible material on that person's property or on any other property so as to constitute a fire hazard.

#### Section 5: DUTY TO REMOVE AND ABATE HAZARDOUS VEGETATION AND COMBUSTIBLE MATERIAL

It shall be the duty of every owner, occupant, and person in control of any parcel of land or interest therein, which is located within the City to remove, or abate, all hazardous vegetation and combustible material, which constitutes a fire hazard which may endanger or damage neighboring property.

The owner, lessee or occupant of buildings, grounds, or lots and vacant property within the City shall remove from such property and adjacent streets all waste, garbage, rubbish weeds, hazardous vegetation or other combustible materials growing or accumulated, which includes the cleaning of material from roofs and gutters, thereon in accordance with the procedures and methods prescribed in this Ordinance and by the enforcement official.

All parcels within the City, whether Improved or Unimproved, shall comply with the

following requirements:

(1) Cultivated and useful grasses and pastures shall not be considered a public nuisance. However, if the City's enforcement official shall determine it necessary to protect adjacent improved property from fire exposure, an adequate firebreak may be required. Active cropland shall be provided with 100 foot fuelbreaks or crossbreaks if the crop is to be harvested by mid-June. If there is to be a later harvest, 100 foot fuelbreaks will be required. All waste, dry grass, brush, vines or other dry vegetation shall be cleared for an area of not less than 100 feet from all structures, combustible fences, vehicles, and combustible storage. Tree litter (leaves and bark, coniferous needles, leaves, fallen branches, etc.) shall be removed from the base of trees, tree stems, and limbs within 10 feet of the ground and maintained throughout the fire season. All trees within ten feet (10) above grade. The enforcement official may require additional clearances when topographical or geographical conditions warrant said action. Any Unimproved Parcel of less than two acres (2ac.) shall be cleared of all waste, hazardous vegetation and combustible material prior to May 1 or the start of fire season, whichever occurs first. Lots on which weeds, dry grass, non-cultivated pastures, or other hazardous vegetation exists, shall be mowed, and shall be cut to a maximum height of two inches so as to not constitute a fire hazard throughout the calendar year.

(2) Any Unimproved parcel or multiple contiguous parcels under the same ownership consisting of more than two acres (2ac.) shall either be cleared of all waste, hazardous vegetation and combustible material or mowed as set forth in subsection (2) above, or shall construct and maintain a minimum thirty-foot wide firebreak around the perimeter of such property. Such actions should take place prior to May 1 or the start of fire season, whichever occurs first. Firebreaks shall be disked around the entire perimeter of the parcel. Scraping will also be allowed, provided that the scraped material is removed or spread evenly over the remaining property

**Comment [CM2]:** Why 30 Feet here and not 100?

(3) The City's enforcement official or his or her designee may require a firebreak of more than one hundred (100) feet in width to a maximum of one hundred (100) feet in width, or less than one hundred (100) feet in width, as a firebreak for the protection of public health, safety or welfare or the environment. The determination of appropriate clearance distances for firebreaks 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.

(4) Dry leaves or wood chips located on parcels must be disked or turned under or evenly broadcast over the parcel area. If leaves or wood chips are being retained for the purpose of mulch or compost, they must be placed in a container so as to not constitute a fire hazard.

**Comment [CM3]:** A compost pile would not be allowed under this provision? Is that the intent?

## Section 6: ENFORCEMENT OFFICIALS

The enforcement official shall have authority to enforce this chapter and issue citations for violations. For purposes of this chapter, the "enforcement official" may be:

A. The City Manager or his/her designee;

B. El Dorado County Fire Protection District/Fire Chief, or his/her designee; and/or

#### Section 7: INSPECTION

The enforcement official, or personnel acting under his or her direction, may enter upon private or public property whenever necessary to enforce or administer the provisions of this chapter; provided, however, that this right of entry and inspection shall not be construed to grant the right to enter into any dwelling or structure which may be located on the land. Should the City determine that there is a reasonable expectation of privacy of the property owner with respect to the dwelling unit to be inspected, the City may request an inspection warrant pursuant to the provisions of California Civil Code Section 1822.50 et seq., which warrant shall state the location which it covers and state the purposes of the inspection. When there is no reasonable expectation of privacy, such as with respect to an abandoned dwelling or building, the City's designated enforcement official may enter onto that property without a warrant in order to inspect the property for the purposes of determining whether the provisions of this Ordinance have been violated.

**Comment [CM4]:** Should we have a designation for "seasonal or recurring"? This would eliminate their ability to get a hearing. These are properties that have been forced to come into compliance more than once.

#### Section 8: ENFORCEMENT

Violations of this Ordinance may be enforced pursuant to the legal authorities specified in Section 3 of this Ordinance following the procedures and timelines specified in Section 9 of this Ordinance. As an alternative to such enforcement procedures, the enforcement official retains the discretion to commence a meet and confer process with property owners determined to be in violation of this Ordinance to attempt to agree to a mutually acceptable method for abating the waste, vegetation and combustible material existing on such property. Nothing shall prohibit the enforcement official from issuing a hazard abatement notice to a property owner and following the enforcement procedure specified in Section 9 with respect to property owners who do not agree to a mutually acceptable abatement method after discussions with the enforcement official.

#### Section 9: ENFORCEMENT PROCEDURE

##### A. Initial Notice of Duty to Remove and Abate Waste, Hazardous Vegetation and Combustible Material

On or before February 15 of each year the enforcement official shall mail written notice to all owners of Unimproved Parcels within the City emphasis area or citywide stating that all waste, hazardous vegetation and combustible material located on such parcel must be removed and or abated as specified in Section 5 of this Ordinance on or before May 1 of such year. Such written notice shall be mailed to all owners of Improved Parcels within the City emphasis area or citywide with respect to which inspection of the parcel by the enforcement official reveals a violation of this Ordinance within 15 days after the discovery of such violation by the enforcement official.

**Comment [CM5]:** Should this be April 1 or is May 1 ok?

## B. Hazard Abatement Notice

If the meet and confer process described in Section 8 does not occur or does not result in abatement and removal of waste, hazardous vegetation and/or combustible material, the and at least one notice shall be posted on each parcel with 200 or less feet of frontage.

Such Hazard Abatement Notice also will be sent by certified mail to the property owner of such parcel as his or her name appears on the last equalized assessment roll and to the address shown on such assessment roll.

## Section 10: APPEALS

Appeals Procedure. Any person, who is adversely affected by the Hazard Abatement Notice specified in Section 9, may appeal such Hazard Abatement Notice to the Hearing Officer within fifteen (15) calendar days of the postmark on the Hazard Abatement Notice by filing a written appeal with the enforcement official. Timely appeal shall stay any further action for removal or abatement until the date set for hearing, unless the weeds, hazardous vegetation, waste or combustible material at issue presents an imminent fire hazard within 100 feet of any structure. The enforcement official shall set the matter for hearing before the Hearing Officer. The enforcement official shall notify the Appellant by certified mail of the date and time set for such hearing, at least fifteen (15) days prior to said date. If the Appellant resides outside the City, such Notice of Hearing shall be mailed to the Appellant at least twenty (20) days prior to the date set for the hearing. The Appellant shall have the right to appear in person or by agent, designated in writing, at the hearing, and present oral, written, and/or photographic evidence. The Hearing Officer shall issue its order denying or granting the appeal, which shall be in writing and be issued within fifteen

(15) days of the date of the hearing. The decision of the Hearing Officer shall be final.

Following the hearing notification deadline, the parcel shall be abated within seven (7) days. If abatement has not occurred within the seven (7) days, the City may abate the nuisance.

## Section 11: REMOVAL OF HAZARDOUS VEGETATION AND COMBUSTIBLE MATERIAL

If, by May 1 of any year as specified in the original Hazard Abatement Notice or if after April 15, not less than 15 calendar days following the mailing or posting of the notice, or as extended in cases of appeal, or as specified by the City Council, compliance with this Ordinance has not been accomplished, the enforcement official or his designee may order that waste, hazardous vegetation or other combustible material located on the property be removed by public officers and/or employees of the City, or may cause such removal to be carried out by a private contractor selected by the City.

## Section 12: COLLECTION OF COSTS FOR ABATEMENT

When proceedings under this chapter result in the removal of weeds, grasses, hazardous vegetation, waste or combustible material from property by the City or its agents or contractors due to the refusal of a property owner to comply with this Ordinance, all costs incurred by the City in performing such removal may be assessed against the property. Such costs shall include the costs of labor, materials and equipment furnished by the City in removing such waste, hazardous vegetation and/or combustible material; the costs incurred by the City for payments to an independent contractor to remove such waste, hazardous vegetation and

combustible material from the property; all administrative costs incurred by the City in removing such waste, hazardous vegetation and combustible material including actual costs of investigation, property inspection, boundary determination, measurement, clerical costs, related attorneys' fees, and administrative overhead costs for supervision, insurance, costs of publication, mailing and posting of notices; costs associated with placing the lien and assessment on the tax roll; preparation of contracts with independent contractors to perform the abatement work; review of bids by contractors; administration of contracts for abatement activities; and other budgeted overhead items. If waste, weeds, hazardous vegetation and/or combustible materials are ultimately removed from the property by the property owner subsequent to the deadline for removal specified in any Hazard Abatement Notice issued by the City, the City shall be entitled under this Ordinance to assess against the property all such costs incurred securing such compliance with this Ordinance by the property owner up to and including the final date of compliance.

The enforcement official shall keep an account of such administrative and removal costs of abatement, and shall submit to the City Council for confirmation an itemized written report showing such unpaid costs and their proposed assessment to the respective properties subject to the Hazard Abatement Notice. The report shall be filed with the City Clerk to the not less than 15 calendar days in advance of the confirmation hearing required below.

Upon receipt of the report, a public hearing shall be scheduled in to receive any protests and to confirm the cost report. A statement of the proposed costs and notice of the time, date and place of the hearing, together with reference to the report on file with the City Clerk, shall be mailed to the owner or owners of each parcel of property proposed to be assessed as shown on the last equalized assessment roll available on the date of mailing of the notice to the address or addresses of the owner or owners shown on the roll or any other address or addresses ascertained to be more accurate. Such notice shall be mailed not less than 15 calendar days in advance of the hearing.

Notice of the time, date and place of the public hearing by the City Council shall be published once in a newspaper of general circulation published within the City. With respect to each property proposed to be assessed for which the name of the owner or owners is not shown on the last equalized assessment roll, or no address for an owner is shown on the last equalized assessment roll, the notice shall show the name or names of the owner or owners as such name or names are shown on the last equalized assessment roll, the assessor's parcel number, the street address of the property if the property has an address and the address is known to the enforcement official, the name of the street or road upon which such property abuts if the property abuts upon a street or road, the amount of the proposed assessment and reference to the report on file with the enforcement official. Such publication shall be made not less than 15 calendar days in advance of the hearing.

At the time fixed for receiving and considering the report, the City Council shall conduct a public hearing and shall receive and consider any objections from members of the general public or property owners liable to be assessed for the costs of abatement. The City Council may continue the hearing and delegate to the City Manager- or his or her designee the responsibility of hearing individual protests and submitting a recommendation with respect thereto; provided, that the City Council provides an opportunity for individual consideration of each property upon which abatement activities have been conducted by the City upon receipt



of a recommendation by the City Manager, or his or her designee. The City Council may modify the report if it is deemed necessary. The City Council shall then confirm the report by motion or resolution.

**Comment [CM6]:** Do we need to or want to allow for this provision or just have the Council make the decision at the hearing?

### Section 13: LEVYING OF ABATEMENT COSTS AGAINST PROPERTY

A. The costs of abatement incurred by the City once approved by resolution of the City Council, shall be mailed to the owner of the property demanding payment within thirty (30) days of the date of mailing, or by August 1 whichever comes first. If the costs as confirmed are not paid by the responsible property owner by August 1, or within 30 days of the date of mailing of the notice, whichever comes first, such costs shall be assessed against the parcel of land as a nuisance abatement lien in accordance with Health and Safety Code Sections 14875 through 14931, and Government Code Section 39577 - 39588. The Notice of Lien shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, set forth the date upon which the abatement of the nuisance was ordered by the City Council and the date that the abatement was complete, and include a description of the real property subject to the lien and the amount of the abatement cost constituting the lien. Recordation of a Notice of Abatement Lien pursuant to this Section shall have the same effect as recordation of a money judgment recorded pursuant to Code of Civil Procedure Section 697.310 et seq., and shall create a lien which has the same priority as a judgment lien on real property which shall continue in effect until released. On the order of the City Council, or any designee of the City Council, an abatement lien created under this Ordinance may be released or subordinated in the same manner as a judgment lien on real property may be released or subordinated.

**Comment [CM7]:** ? Is this correct

B. As an alternative to, or in addition to the lien procedure detailed in subsection A above, the abatement costs incurred by the City may be levied against the parcel of land subject to abatement activities by the City as a real property assessment in accordance with Health and Safety Code Division 12, Part 5, Chapter 4, Article 3 commencing with 14912 and 14915-14919 and Government Code Section 39577 - 39588. Any assessment imposed on real property pursuant to this Section may be collected at the same time and in the same manner as ordinary real property taxes are collected by the County of El Dorado, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as is provided for ordinary real property taxes. Notice of any assessment that is levied on real property pursuant to this Section shall be given to the property owner by certified mail from City , and shall contain the information set forth in Health and Safety Code Division 12, Part 5, Chapter 4, Article 3 commencing with 14912 and 14915-14919 and Section 39577 - 39588 of the Government Code. The City shall transmit the notice of such assessment levied on real property pursuant to this Section to the County Auditor-Controller of El Dorado County with instructions to collect the assessment on the real property tax rolls for the ensuing fiscal year. Such notice shall be transmitted to the County Auditor-Controller prior to August 10 in any fiscal year.

#### Section 14: VIOLATIONS

The owner or occupant of any parcel or premises within the City who violates this Ordinance or permits a violation of this Ordinance upon any parcel or premises owned, occupied or controlled by him or her, shall be guilty of an infraction. Violation of this Ordinance shall consist of the following: (1) failure to abate waste, hazardous vegetation and combustible material after abatement notice from the City ; or (2) interference with the performance of the duties of officers or employees of the City or any contractor hired by the City for abatement activities: or (3) refusal to allow any officer or employee of the City or private contractor approved by the City to enter upon the property for the purpose of inspecting and/or removing any waste, hazardous vegetation and/or combustible material from the property; or (4) interference in any manner whatsoever with the officers, employees or contractors of the City in the work of inspection and removal as provided in this Ordinance.

#### Section 15: PENALTY - INFRACTION

A. Notwithstanding the provisions of any other section of this code, violation of any of the provisions of this chapter, or failure to comply with any of the regulatory requirements of this chapter, is an infraction and shall be punishable in accordance with Title 1 Chapter 4 of the Placerville City Code.

(1) .

**Comment [CM8]:** Consider adding this as opposed to existing code. Would need to change existing code if this replaces Title 8 Chapter 4

#### Section 16: SEVERABILITY

If any Ordinance, article, subsection or subdivision thereof, provision, sentence, clause or phrase of this code, or any application thereof, is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the remaining provisions of this code, which can be given effect without the invalid portions and, therefore, such invalid portions are declared to be severable. The City hereby declares that it would have enacted this Ordinance and each of its articles, sections, subsections, or subdivisions thereof, provisions, sentences, clauses or phrases irrespective of the fact that one or more of them is declared invalid.

#### Section 17: EFFECTIVE DATE AND PUBLICATION

This Ordinance shall take effect thirty (30) days after its adoption. The City Clerk is directed to publish this Ordinance as adopted in a newspaper of general circulation in the City. In lieu of publication of the full text of the Ordinance within fifteen (15) days after its passage, a summary of the Ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk.

The above Ordinance was introduced at a regular meeting of the City Council of the City of Placerville on January 8, 2019, by Councilmember \_\_\_\_\_, and the reading of said Ordinance was waived. The Ordinance was read for a second time on \_\_\_\_\_, 2019. Councilmember \_\_\_\_\_ moved for adoption of the Ordinance, and a poll vote was taken which stood as follows:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
Regina O’Connell, City Clerk