

Title 7, Chapter 16

7-16-1: TITLE

This Chapter shall be known as the Placerville Hazardous Vegetation and Materials Abatement Ordinance

7-16-2: PURPOSE

The City Council finds and declares that the uncontrolled growth and/or accumulation of grass, weeds, hazardous vegetation and combustible materials or other materials or obstructions on sidewalks, streets, and on lands or lots within the City 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 a condition that reduces the value of private property, promotes blight and deterioration, invites plundering, creates fire hazards, constitutes an attractive nuisance creating a hazard to the health and safety of minors, creates a harbor for rodents and insects and is injurious to the health, safety and general welfare

7-16-3: DEFINITIONS

As used in this chapter:

- a. "Refuse" includes rubbish and garbage, as defined herein.
- b. "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 tin cans, bottles and paper or plastic, or other synthetic material, food or beverage containers.
- c. "Rubbish" includes all the following, but is not restricted to nonputrescible wastes, such as paper, cardboard, grass clippings, tree or shrub trimmings, wood, bedding, crockery, rubber tires, construction waste and similar waste materials.
- d. "Weeds", as used in this chapter, includes any of the following:
 1. Weeds which bear seeds of a downy or wingy nature;
Sagebrush, chaparral, and any other brush or weeds which attain such hard growth as to become, when dry, a fire menace to adjacent improved property;
 2. Weeds and grasses which are otherwise noxious;
 3. Poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health;
 4. Dry grass, stubble, brush, litter, or other flammable material which endangers the public safety by creating a fire hazard.

- e. "Accumulation of weeds" includes, but is not limited to, permitting or allowing the growth of weeds.
- f. "combustible material" includes an accumulation of garbage, rubbish, waste or material of any kind other than hazardous vegetation that is flammable and endangers the public safety by creating a fire hazard.
- g. Fire Chief means the Chief of the El Dorado County Fire Protection District (District)
- h. Director means the Development Services Director for the City of Placerville
- i. 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 and tumbleweeds
- j. Structure means any dwelling, house, building or other type of flammable construction including but not limited to a wood fence, deck or porch attached to or near any other structure.
- k. 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.

7-16-4: CONCURRENT AUTHORITIES

This Chapter is not the exclusive regulation for weed and refuse abatement within the City of Placerville. - It shall supplement and be in addition to the other regulatory codes, statutes, and ordinances heretofore and hereafter enacted by the City, the State, or any other legal entity or agency having jurisdiction.

7-16-5: DUTY TO ABATE HAZARDOUS VEGETATION AND COMBUSTIBLE MATERIAL

- (A) It shall be the duty of every owner, occupant, and person in control of any unimproved or improved parcel of land or having an interest therein, which is located in the City of Placerville to abate therefrom, and from all sidewalks and roadways, except for those roads accepted into the county maintained system, all combustible material and hazardous vegetation, that constitutes a fire hazard and public nuisance which may endanger or damage neighboring property or forestland.
- (B) 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.

(C) All improved Parcels, shall comply with the following requirements:

(1) 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, shall at all times do all of the following:

- (a) Maintain defensible space of 100 feet from each side and from the front and rear of the structure, but not beyond the property line except as provided in paragraph (2). The amount of fuel modification necessary shall consider the flammability of the structure as affected by building material, building standards, location, and type of vegetation. Fuels shall be maintained in a condition so that a wildfire burning under average weather conditions would be unlikely to ignite the structure. This paragraph does not apply to single specimens of trees or other vegetation that are well-pruned and maintained to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to a structure or from a structure to other nearby vegetation. Consistent with fuels management objectives, steps should be taken to minimize erosion. For the purposes of this paragraph, “fuel” means any combustible material, including petroleum-based products and wildland fuels.

(b) The Fire Chief or Director or designee may require more than a one hundred (100) foot width (subject to CEQA guidelines) or less than a one hundred (100) foot width for the protection of public health, safety or welfare or the environment. The Fire Chief or Director or designee will determine appropriate clearance distances based upon a visual inspection of the parcel and shall consider all factors that place the property or 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.

- (c) Clearance on adjacent property shall only be conducted following written consent by the adjacent landowner.
- (d) Remove that portion of a tree that extends within 10 feet of the outlet of a chimney or stovepipe.
- (e) Maintain a tree, shrub, or other plant adjacent to or overhanging a building free of dead or dying wood.
- (f) Maintain the roof of a structure free of leaves, needles, or other vegetative materials.

(2) A person is not required under this section to manage fuels on land if that person does not have the legal right to manage fuels, nor is a person required to enter upon or to alter property that is owned by any other person without the consent of the owner of the property.

- (D) Improved and unimproved parcels adjacent to roadways and determined by the Enforcement Official (or designee) to be necessary for the safe ingress and egress to the area served by the roadway or fire access easement and the current condition of fuels on the improved or unimproved parcel is assessed by the Enforcement Official as an extra hazardous fire condition must be treated or abated.

7-16-6: PROHIBITED CONDUCT

A person shall not dump weeds or refuse, nor shall the person permit the dumping of weeds or refuse, nor shall the person permit the accumulation of weeds or refuse, on his property or on any other property in such a manner as to constitute a fire hazard.

7-16-7: 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 Fire Chief of the El Dorado Fire Protection District (Fire Chief) or his/her designee;
- B. The City of Placerville Development Services Director (Director) or his/her designee.

7-16-8: 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. 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.

7-16-9: ENFORCEMENT

Violations of this Ordinance may be enforced following the procedures and timelines specified in Section 10 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 10 with respect to property owners who do

not agree to a mutually acceptable abatement method after discussions with the enforcement official.

7-16-10: **HAZARD ABATEMENT NOTICE**

Proceedings under this chapter shall commence when a violation of this chapter is identified, and notice is given in the manner prescribed as follows. The Enforcement Official shall mail written notice to each person that has an ownership interest in the property to which the violation pertains. Ownership interest shall be determined based on the last equalized assessment roll available on the date of mailing of the notice. Notification shall also be accomplished by posting on the property where the owner's mailing address is not available or not current.

The contents of written and posted notices shall include the following:

- a. A description of the property by reference to the assessor's parcel number as used in the records of the County Assessor, and by reference to the common name of a street or road upon which the property abuts, if the property abuts upon a road or street;
- b. A statement that there are weeds, rubbish or refuse upon the property;
- c. A request that such weeds, rubbish or refuse be removed or abated by a date certain, which shall not be less than fifteen (15) calendar days following the mailing or posting of the notice;
- d. A statement that the weeds, rubbish or refuse may be removed under authority of the City and the costs of such removal and abatement made a legal charge against the owner or owners of the property, a lien on the property and subject to collection with property taxes as specified under Section 38773.5 of the Government Code;
- e. A statement referencing the right to appeal the Enforcement Official's determination; and
- f. With respect to notices which are posted, a title which reads "Notice to Remove Weeds, Grass, Noxious Vegetation, Rubbish and Other Obstructions", the letters of the foregoing title to be not less than one inch (1 ") in height.

Notices which are posted shall be conspicuously posted in front of the property, or if the property has no frontage upon a road or street, then upon a portion of the property nearest to a road or a street most likely to give actual notice to the owner. Notices shall be posted not more than one hundred feet (100') in distance apart upon property with more than two hundred feet (200') of frontage, and at least one notice shall be posted on each parcel with two hundred (200) or less feet of frontage.

7-16-11: **APPEALS**

Any person, who is adversely affected by the Hazard Abatement Notice specified in Section 10, 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 who shall be the City of Placerville City Manager or his designee.** Any designee of the City Manager shall be someone not involved in any way in the issuance of the Hazard Abatement Notice. 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 County of El Dorado, 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.

7-16-12: REMOVAL OF HAZARDOUS VEGETATION AND COMBUSTIBLE MATERIAL

If compliance has not been accomplished at the end of the time allowed for compliance in the original notice, or as extended by administrative agreement of the Hearing Officer, the Enforcement Officer may order such weeds or other flammable vegetation and/or material to be **removed by the City of Placerville or by private contractor selected by the City in accordance with City's abatement contracting procedures.**

7-16-13: 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 their 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, and administrative overhead costs for supervision, insurance, costs of publication, mailing and posting of notices; 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 material 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 Enforcement Officer, 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 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 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 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 shall then confirm or modify, if necessary, the report by motion or resolution.

7-16-14: 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. If the costs as confirmed are not paid by the responsible property owner within 30 days of the date of mailing of the notice, such costs shall be assessed against the parcel of land as a nuisance abatement lien in accordance with Government Code Section 38773.1. 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 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.
- 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 Government Code Section 38773.5. 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 County. 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.

7-16-15: ATTORNEY FEES

In the event an action is filed over any of the proceedings set forth in this Chapter, the prevailing party shall be entitled to reasonable fees and costs.

7-16-16: VIOLATIONS

1. A 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 also constitutes an Administrative Violation pursuant to Title I, Chapter 4A of the Placerville City Code.
2. Every violation of this Chapter is punishable by (1) a fine not exceeding one hundred dollars (\$100) for the first violation; (2) a fine not exceeding two hundred dollars (\$200) for the second violation of the same ordinance provisions within one year, and (3) a fine not exceeding five hundred dollars (\$500) for each additional violation of the same ordinance provisions within one year.