

**NEWCASTLE FIRE PROTECTION DISTRICT
ORDINANCE NO. 20-02**

**AN ORDINANCE FOR THE ABATEMENT OF HAZARDOUS VEGETATION AND
COMBUSTIBLE MATERIALS ON IMPROVED AND UNIMPROVED PARCELS AND REPEALING
ORDINANCE 19-03, ABATEMENT OF HAZARDOUS VEGETATION, IN ITS ENTIRETY**

I. Title.

This ordinance shall be known as and may be cited or referred to as “Abatement of Hazardous Vegetation and Combustible Materials on Improved and Unimproved Parcels.” (Ord. No. 20-02)

II. Findings.

- A. The Newcastle Fire Protection District (NFPD) Board of Directors supports improved parcel defensible space obligations found in Public Resources Code Section (PCR) 4291, and hazardous vegetation abatement obligations on unimproved parcels adjacent to improved parcels found in Placer County Code (PCC) 9.32.120, et seq. However, PCC 9.32.120 does not address hazardous vegetation on an unimproved parcel beyond that necessary to provide the fuel modifications to meet defensible space requirements of an improved parcel, nor does it address hazardous vegetation on an unimproved parcel not adjacent to an improved parcel. This ordinance extends and supplements the county code to ensure hazardous vegetation, as well as combustible materials that create a fire hazard, are cleared (1) on unimproved parcels adjacent to improved parcels beyond what is necessary to provide the fuel modifications to meet defensible space requirements of the improved parcel, and (2) on all unimproved parcels.
 - B. This ordinance shall apply to all improved parcels and unimproved parcels within the territory of the Newcastle Fire Protection District whether adjacent to an improved parcel or unimproved parcel.
 - C. The Newcastle Fire Protection District serves a diverse and complex area which includes mountainous, forest-covered, brush-covered and grass-covered lands and land covered with flammable material with a climate conducive to wildfires and prone to periodic dry summer and wind events. Native and non-native plant species can be highly flammable during dry periods and have contributed to significant wildfires within the District.
 - D. The removal of hazardous vegetation and combustible material within the District is recognized as an essential action the owner of an improved or unimproved parcel can take to increase the chances that homes, structures and other property will survive a wildfire.
 - E. It is the purpose of this ordinance to provide for the removal of hazardous vegetation and combustible materials from any parcel within the Newcastle Fire Protection District to reduce the potential for fire and to promote the public health, safety and welfare. It is the further purpose
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of this ordinance to establish a hazardous vegetation and combustible materials abatement program that provides a process to identify and abate hazardous vegetation and combustible material on improved and unimproved parcels whether adjacent to an improved or unimproved parcel.

III. Definitions.

- A. *Abatement.* Abatement means mitigation or elimination of a fire hazard and such ongoing maintenance as is necessary to prevent the recurrence of a fire hazard, including but not limited to, creation and maintenance of a fire break.
- B. *Administrative Citation.* Administrative Citation is an enforcement tool which may be used instead of a criminal citation for specified violations of the Newcastle Fire Protection District's Abatement of Hazardous Vegetation and Combustible Materials ordinance.
- C. *Combustible Materials.* Combustible Materials means rubbish, litter or material of any kind other than hazardous vegetation which is flammable and endangers the public safety by creating a fire hazard.
- ~~D.~~ *Defensible space.* The buffer that landowners are required to create on their property between a building or structure and the plants, brush, and trees or other items surrounding the building or structure that could ignite in the event of a fire.
- E. *District.* District means the Newcastle Fire Protection District.
- F. *Fire Hazard.* Fire Hazard may include, but is not limited to, accumulations of wastepaper, wood, hay, straw, weeds, litter or combustible or flammable waste, abandoned vehicles, or rubbish on a roof or in any court, yard, vacant lot, alley, parking lot, open space, or beneath a grandstand, bleacher, pier, manufactured home, recreational vehicle or other similar structure that endangers the public safety or damages neighboring property by creating a fire hazard.
- G. *Grass.* Grass means any herbaceous plant, cultivated or not, that will attain, when mature, such a height as to be a medium for the rapid spread of fire.
- H. *Hazardous Vegetation.* Hazardous vegetation is flammable and endangers the public safety by creating a fire hazard, including but not limited to, seasonal and recurrent weeds, stubble, brush, downed limbs, low-hanging branches, dry leaves, grass and tumble weeds.
- I. *Hearing Officer.* Hearing Officer is an officer of the District appointed by the Board of Directors who was not involved in inspecting or issuing the notice of violation and order to abate.
- J. *Improved Parcel.* Improved parcel means a portion of land of any size, the area of which is determined by the assessor's maps and record and may be identified by an assessor's parcel number upon which a structure is located.

- K. *Structure*. Structure is any dwelling, house, building or other type of flammable construction subject to PRC 4291.
- L. *Unimproved Parcel*. 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.
- M. *Weeds*. Weeds means vegetation which bears seeds of a downy or winged nature; vegetation which attains such large growth as to become, when dry, a fire menace; vegetation that is otherwise noxious or dangerous; and poison oak and poison ivy when the conditions of growth are such to constitute a menace to the public health.

IV. Duty to abate hazardous vegetation and combustible materials on improved and unimproved parcels.

- A. Upon receipt of a notice of violation and order to abate, it shall be the duty of every owner, occupant, and person in control of any improved or unimproved parcel of land or having an interest therein, which is located in the Newcastle Fire Protection District as that District is determined and classified by its Board of Directors, to abate therefrom, and from all roadways, except those roads maintained by the county, all hazardous vegetation and combustible materials that constitutes a fire hazard and which may endanger or damage neighboring property.
- B. This section requires upon receipt of a notice of violation and an order to abate:
 - 1. An owner of an improved parcel to clear an area on his or her property sufficient to meet the defensible space obligations of an adjacent improved parcel.
 - 2. An owner of an unimproved parcel adjacent to an improved parcel to abate hazardous vegetation and combustible material on his or her parcel beyond that necessary to provide the fuel modifications to meet defensible space requirements of an adjacent improved parcel required by Placer County Code Section 9.32.120, et seq.
 - 3. An owner of an unimproved parcel adjacent to another unimproved parcel to remove hazardous vegetation and combustible material from his or her parcel.
- C. This section will be satisfied if the following requirements are met by clearing hazardous vegetation and combustible materials by cutting, trimming, thinning, mowing, disking, plowing, or by any other method described in the notice of violation and order to abate:
 - 1. Cut grass to 3 inches in height or less;

2. Limb tree branches up 6 feet or more from the ground:
3. Remove dead and dying shrubs and branches;
4. Remove accumulations greater than 3 inches in depth of dead and dying surface fuels consisting of fallen leaves, pine needles, twigs, bark, cones, small branches, grasses and forbs.
5. Create horizontal and vertical spacing among shrubs and trees using the "Fuel Separation" method, the "Continuous Tree Canopy" method or a combination of both where appropriate. Guidance regarding these methods is contained in the State Board of Forestry and Fire Protection's "General Guidelines for Creating Defensible Space, February 8, 2006," incorporated herein by reference. Clearance distances will depend on slope, and vegetation size and type. Properties with greater fire hazards will require greater separation between fuels.
6. Remove wastepaper, litter, rubbish, abandoned vehicles and trash.
7. Within 10 feet of a roadway:
 - a. Remove flammable vegetation and combustible materials.
 - b. Remove dead and dying vegetation.
 - c. Trim grass to less than 3 inches.
 - d. Limb trees at least 6 feet above grade or one-third of the height of the tree, whichever is less.
8. The fire chief or his or her designee may require more clearance distance in the notice of violation and order to abate than specified herein for the protection of public health, safety and welfare, or the environment.
9. 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 parcel or adjacent structures at risk from an approaching fire. Such factors shall include local weather conditions, fuel type, topography and the environment where the parcel or adjacent structures are located.

V. Enforcement.

- A. The fire chief of the Newcastle Fire Protection District or any person designated by the fire chief shall have the authority to enforce the requirements of this ordinance. The fire chief shall exhaust all informal steps to resolve the abatement of hazardous vegetation and combustible materials on improved and unimproved parcels in advance of using the enforcement process below.

- B. The Newcastle Fire Protection District Board of Directors shall have the discretion to direct the fire chief to limit enforcement of the provisions of this ordinance to specified areas in the District for a specified period of time.
- C. The fire chief or his or her designee may enter any parcel in the District for the purpose of inspecting the parcel or for summary abatement proceedings whenever the fire chief is informed or has reasonable cause to believe that hazardous vegetation or combustible materials exist that constitute a condition dangerous or injurious to the health or welfare of persons or to the public, including the environment, that is a public nuisance or is otherwise in violation of this ordinance.
- D. No person shall interfere with the entry of the fire chief or his or her designee acting in the official course and scope of his or her duty.

VI. Abatement Process.

- A. Notice to Abate. If the fire chief determines that any parcel is being maintained or permitted to exist in a manner prohibited by this ordinance, the fire chief shall issue a written notice to the parcel owner and any known person in possession of the parcel of the violation and order the hazardous vegetation and combustible materials to be immediately abated.
- B. Manner of Giving Notice. The fire chief shall cause a copy of the notice of violation and order to abate to be mailed or otherwise delivered to all known persons to be in possession and to the parcel 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 assessor's office. Service by mail shall be deemed complete as of the date of the postmark. The failure of any person in possession or owner of the parcel to receive such notice shall not affect the validity of the abatement proceedings.
- C. Request for Hearing. Any person who is adversely affected by the notice of violation and order to abate may appeal the determination to the Newcastle Fire Protection District and request a hearing. The request must be made in writing and submitted to the District within 15 days of the postmark on the notice of violation and order to abate. Timely appeal shall stay any further action for abatement until the date set for hearing.
- D. No Request for Hearing. If no request for a hearing is timely made, the District shall declare that abatement of the hazardous vegetation or combustible materials is deemed ordered as of the date of the postmark on the notice of violation and order to abate.
- E. Delegation of Authority. The Newcastle Fire Protection District Board of Directors may delegate its authority to conduct the hazardous abatement hearing to:
 - 1. A hearing officer who is an officer of the Newcastle Fire Protection District who was not involved in inspecting or issuing the notice of violation and order to abate.

2. An Abatement Hearing Board (AHB) comprised of (a) one officer of the Newcastle Fire Protection District appointed by the Board of Directors who was not involved in inspecting or issuing the notice of violation and order to abate; and (b) two members of the public who must reside in the District. All members serve at the pleasure of the board of directors.
- F. Hearing. Upon timely written request by the recipient of the notice of violation and order to abate, a hearing shall be scheduled with the hearing officer or AHB with notice thereof mailed or otherwise delivered to the requesting person at least 15 days before the scheduled hearing. The failure of any owner or occupant to receive such notice and order shall not affect the validity of the proceedings.
1. The Newcastle Fire Protection District Board of Directors may delegate its authority to conduct the administrative abatement hearing to either a hearing officer or an Abatement Hearing Board (AHB) designated pursuant to Health and Safety Code 13861 (I).
 2. At the time fixed in the notice of hearing, the hearing officer or AHB shall receive evidence from the District and from the owner or person in possession of the parcel in violation or their representative and any other concerned persons who may desire to present oral or documentary evidence regarding the condition of the parcel or other relevant matter, if such persons are present at the hearing. In conducting the hearing, the hearing officer or AHB shall not be limited by the technical rules of evidence. Failure of the owner or person in possession to appear shall not affect the validity of the proceedings or order issued thereafter.
 3. Upon conclusion of the hearing, the hearing officer or AHB shall issue a recommended decision indicating whether the conditions on the parcel are in violation of this ordinance; shall file the decision with the Board of Directors of the Newcastle Fire Protection District; and shall cause a copy of the decision to be mailed or otherwise delivered in the same manner as the notice of violation and order to abate to the parcel owner and all known persons in possession of the parcel. The decision may alter the notice of violation and order to abate in any fashion and may include an order to abate the hazardous vegetation or combustible materials within 10 days after the decision is delivered or mailed. Service by mail shall be deemed complete as of the date of the postmark on the decision.
 4. Upon receiving the recommended decision from the hearing officer or AHB, the Board of Directors may adopt the decision as recommended on the consent agenda at its next regularly scheduled public board meeting without further notice, hearing or appeal.
 5. The Newcastle Fire Protection District's Board of Directors may grant any extension of time to abate such conditions that it may deem justifiable upon good cause being shown.

6. If at the end of the time allowed for compliance in the either original notice of violation and order to abate issued, or as set forth in the decision issued by the hearing officer or AHB, compliance has not been accomplished as directed, the fire chief may order the hazardous vegetation or other combustible materials removed by a private contractor, or the violation referred to Placer County Code Enforcement. Property owners who fail to comply may have fines applied to their property taxes.

VII. Administrative Citation.

- A. In the event that the property owner does not comply with a notice of violation and order to abate and does not request a hearing, a \$500 administrative penalty fee will be issued. The property owner will be given two options:
 1. Option One. The property owner can correct all hazards listed in the notice of violation and order to abate and notify the District when completed. If done within 15 calendar days of the postmark date on the Administrative Citation, the Citation and any applicable fees will be removed. The owner must provide pictures showing that all hazards listed have been abated. All pictures must include the property address and show views pertinent to the Administrative Citation. The District official reviewing the Citation has the discretion to determine whether the violation has been appropriately corrected within the 15 calendar days. If the violation is not corrected within the 15 calendar days, the \$500 administrative penalty fee shall become effective and due immediately.
 2. Option Two. If the property owner believes that the Administrative Citation was issued in error and/or disputes it, the property owner must complete a Request to Review form and submit it to the District by e-mail or regular mail within 15 calendar days of the postmark date on the Administrative Citation. The "Request to Review" form is available at the District office located at 9211 Cypress St., Newcastle, Ca. 95658 or on the District's website at <http://www.newcastlefire.org/resources>. The "Request to Review" form must be completed and include any pictures to support the claim that the Administrative Citation was issued in error. The fire chief or his/her designee shall conduct a review of the Administrative Citation and render a decision as to whether it was issued in error.
- B. If after 90 calendar days, the property owner fails to comply with Option One or Option Two, the \$500 administrative penalty fee shall be applied to their property taxes. Continued failure to comply with Option One or Option Two may subject the property owner to an additional fine of \$500 for continued noncompliance.

VIII. Other Remedies.

In lieu of action being taken by the Newcastle Fire Protection District, the District may decide to refer the matter to Placer County Code Enforcement. All documentation, including copies of items mailed to the property owner, shall be issued to Placer County Code Enforcement.

EFFECTIVE: This Ordinance shall take effect on May 1, 2020

Passed: _____
Signature

Approved _____
Signature

VOTE ON PASSAGE: _____ Yea _____ Nay _____ Abstain

Attest: _____
Clerk

I, Gillian Lofrano, Secretary to the Board, do hereby certify that the foregoing Ordinance No. 20-02 was duly published in the Auburn Journal, a newspaper of general circulation in the Community of Newcastle on the fourth day of March, 2020; and I further certify the compliance with the Codified Ordinances and the laws of the State of California, pertaining to Public Meetings.



Clerk