

ORDINANCE NO. 1820

**ORDINANCE ADDING CHAPTER 7.30 TO THE AMADOR COUNTY CODE
REGARDING DEFENSIBLE SPACE REQUIREMENTS AND HAZARDOUS
VEGETATION AND COMBUSTABLE MATERIAL ABATEMENT**

The Board of Supervisors of the County of Amador ordains as follows:

SECTION I. Chapter 7.30 is hereby added to Title 7 of the Amador County Code as follows:

7.30.010 Purpose.

The purpose of this chapter is to provide for the removal of hazardous vegetation and combustible material from parcels 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.

7.30.020 Findings.

The board of supervisors finds and declares the following:

- 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 improved parcels in the unincorporated area;
- B. Amador County generally has a climate conducive to wildfires and is prone to periodic dry summers 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 summers and severe wind events further exacerbate the fire danger and have the potential to result in catastrophic fire losses to life, property and the environment;
- C. Amador County has a diverse and complex landscape, including mountainous areas and forest-covered, oak tree-covered, brush-covered, and grass-covered lands;
- D. Of paramount importance to the board of supervisors and the citizens of Amador 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 citizens of Amador County; and
- F. The board of supervisors finds that hazardous vegetation and combustible material pose a danger to the health, safety and welfare of Amador County residents 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 Amador is deemed a public nuisance and poses a hazard to the safety of residents and the public generally.

7.30.030 Authority.

The board of supervisors enacts this ordinance pursuant to California Health and Safety Code sections 14930 and 14931 concerning the abatement of hazardous vegetation and combustible material, and California Government Code sections 25845 and 25845.5 regarding the abatement of nuisances and establishment of real property liens.

7.30.040 Definitions.

The following definitions apply to this part:

A. "Abate" and/or "abatement" means an act used to remove, destroy, eliminate, seize, impound, or any action taken to mitigate a public nuisance.

B. "Abatement costs" means any and all costs incurred by the county of Amador to abate the hazardous vegetation or combustible material on any property pursuant to this part, including physical abatement costs, administrative and staff time costs, contractor costs, and any additional actual costs incurred for the abatement proceeding, including hearing officer costs. Abatement costs shall be deemed incurred by the county even if the county's obligation to pay such costs is contingent upon the county's receipt of funds from the owner of the parcel subject to abatement. Contractor costs shall include the costs of public agencies performing any work, task, or action authorized by this part pursuant to an agreement with the county.

C. "Building or structure: means anything constructed that is designed or intended for support, enclosure, shelter, or protection of persons, animals, or property, having a permanent roof that is supported by walls or posts that connect to or rest on the ground, excluding outbuildings.

D. "Combustible material" means rubbish, litter or material of any kind other than hazardous vegetation that is flammable and endangers the public safety by creating a fire hazard.

E. "Enforcement official" means the fire chief of the Amador Fire Protection District or his or her designee, and any other officers as may be designated by the board of supervisors.

F. "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.

G. "Improved parcel" means a portion of land identified by an assessor's parcel number upon which a structure is located.

H. "Inspection official" means the fire chiefs of all state and local fire agencies within unincorporated Amador County where he/she serves and their deputies and designees.

I. "Outbuilding" means buildings or structures that are less than 120 square feet in size and are not used for human habitation.

J. "Person" means natural person or other legal entity.

7.30.050 Duty to abate hazardous vegetation and combustible material.

A. It shall be the duty of every owner, occupant, and person in control of any improved parcel of land or interest therein, which is located in the unincorporated territory of the county of Amador, to abate therefrom, all combustible material and hazardous vegetation constituting a fire hazard as provided in this chapter.

B. 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 building or structure. Compliance with the provisions of this Chapter is required throughout the year.

C. The requirements of this section will be satisfied if the following minimum requirements are met:

1. Zone 0 – Within 5 feet around all structures (including attached decks):

a. It is recommended to remove all combustible materials, including woody plants, mulch, wood piles, combustible trellises, and any other stored items.

2. Zone 1 – Within 30 feet around all structures or to the property line:

a. Remove all dead or dying grass, plants, shrubs, trees, branches, leaves, weeds, and pine needles from the Zone whether such vegetation occurs in yard areas around the "Building or Structure," on the roof or rain gutters of the "Building or Structure," or any other location within the Zone.

b. Remove dead tree or shrub branches that overhang roofs, below or adjacent to windows, or which are adjacent to wall surfaces, and keep all branches a minimum of ten feet (10 ft.) away from chimney and stovepipe outlets.

c. Relocate exposed firewood piles outside of Zone 1 unless they are completely covered in a fire resistant material.

d. Remove flammable vegetation and items that could catch fire that are adjacent to or under combustible decks, balconies and stairs.

3. Zone 2 – Within 30 – 100 feet of all structures or to the property line:

a. In this zone create horizontal and vertical spacing among shrubs and trees using the "Fuel Separation" method, the "Continuous Tree Canopy" method or a combination of both to achieve defensible space clearance requirements. Further 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.

- b. Dead and dying woody surface fuels and aerial fuels shall be removed. Loose surface litter, normally consisting of fallen leaves or needles, twigs, bark, cones, and small branches, shall be permitted to a maximum depth of three inches (3 in.).
- c. Cut annual grasses and forbs down to a maximum height of four inches (4 in.).
- d. All exposed wood piles must have a minimum of ten feet (10 ft.) of clearance, down to bare mineral soil, in all directions.

(3) For both Zones 1 and 2:

- a. "Outbuildings" and Liquid Propane Gas (LPG) storage tanks shall have the following minimum clearance: ten feet (10 ft.) of clearance to bare mineral soil and no flammable vegetation for an additional ten feet (10 ft.) around their exterior.
- b. Protect water quality. Do not clear vegetation to bare mineral soil and avoid the use of heavy equipment in and around streams and seasonal drainages. Vegetation removal can cause soil erosion, especially on steep slopes. Keep soil disturbance to a minimum on steep slopes.

(4) The enforcement official may require more clearance distance than specified herein for the protection of public health, safety or welfare or the environment.

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 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 structure(s) is located.

7.30.060 Enforcement, inspection and authority to enter property.

Whenever necessary to make an inspection to enforce any provision of this chapter, or whenever the inspection official has reasonable cause to believe that there exists in any building or upon any premises any condition in violation of this chapter, the enforcement official or his/her designee, may enter such premises at all reasonable times to perform any duty imposed upon such person by this chapter, provided that if the premises are private and occupied, the enforcement official or his/her designee, shall present proper credentials, state the reasons for entry and request entry. If entry is not granted, a court order should be secured.

7.30.070 Summary abatement proceedings.

In addition to the authority granted by law to the enforcement official in exigent situations, and pursuant to California Health and Safety Code Section 14930 and California Government Code

Section 25845, the enforcement official is authorized to enter real property and summarily abate any public nuisance determined by the enforcement official to constitute an immediate threat to public health or safety without prior notice or hearing.

7.30.080 Abatement proceedings.

A. Notice of Defensible Space Inspection.

1. If the inspection official suspects that any real property may be maintained or permitted to exist in a manner prohibited by this chapter, the inspection official shall conduct a Defensible Space Inspection. The inspection official shall provide the property owner and any known person in possession of the property, with a Notice of Defensible Space Inspection (“inspection notice”) describing the results of that inspection. The inspection notice shall specify any corrective actions necessary to bring the property into compliance with this chapter, the time frame(s) within which any corrective measures must be accomplished, and shall state that the failure to bring the property into compliance could subject the owner or persons in possession to enforcement action, including civil, administrative and criminal penalties.
2. Following the expiration of the time allowed for corrective measures in the inspection notice, the inspection official shall conduct a re-inspection of the property for compliance with this chapter.

B. Notice of Violation and Order to Abate.

1. If, following re-inspection, the inspection official determines that the violations were not timely corrected as provided in the inspection notice and that the real property remains in violation of this chapter, the inspection official may recommend abatement and refer the violations to the enforcement official.
2. Upon receipt of any violation referred by an inspection official, the enforcement official may 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. The Notice of Violation and Order to Abate ("notice/order") shall specify the corrective actions required to be taken and order the property owner and any known person 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 part could subject the owner or persons in possession to civil, administrative and criminal penalties. Furthermore, the notice/order shall inform the property owner and any known person in possession of the opportunity to appear before and be heard by the Hazardous Vegetation Abatement Hearing Board prior to abatement by the county. The failure of the notice/order to set forth all required contents shall not affect the validity of the abatement proceedings.

3. Manner of Giving Notice. The enforcement official shall cause a copy of any inspection notice or notice/order to be mailed or otherwise delivered to all persons known to be in possession of the property and to the property owner as such person's name and address appear on the last county equalized assessment roll. If the address is unknown, that fact shall be so stated and the notice shall be posted at the property. 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.

7.30.090 Appeals Hearing.

A. A Hazardous Vegetation Abatement Hearing Board is hereby established. The hearing board will be convened as necessary by the enforcement official and will consist of the chair of the board of supervisors or his/her designee who shall be a member of the board of supervisors, a county department head, and an individual appointed by the Board of Supervisors with knowledge and/or experience related to compliance with defensible space requirements. The hazardous vegetation abatement hearing body shall determine whether to amend, dismiss, or uphold a notice of violation and order to abate upon a majority vote.

B. Request for hearing. Any person who is adversely affected by the notice/order may appeal the determination as provided below.

1. The request for a hearing must be made in writing and submitted to the enforcement official within fifteen (15) calendar days of the mailing of the notice/order or the date of posting. A timely appeal shall stay any further action for abatement until the date set for hearing. Failure to timely appeal the notice/order shall constitute a failure to exhaust administrative remedies.

2. If no request for a hearing is timely made, the 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 or the date of posting.

C. Hearing. Upon timely written request, a hearing shall be scheduled before the hearing board with notice thereof mailed or otherwise delivered to the requesting person at least fifteen (15) calendar days before the scheduled hearing. The failure of any owner or occupant to receive such notice shall not affect the validity of the proceedings.

1. At the time fixed in the notice of hearing, the hearing board shall receive evidence from the enforcement official and the owner or person in possession of the real property in violation, or their representatives and any other concerned persons who may desire to present oral or documentary evidence regarding the conditions of the real property or other relevant matter, if such persons are present at the hearing. The hearing by the hearing board

need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. The hearing board may act only on the basis of evidence introduced at the hearing.

2. Failure of the owner or person in possession to appear shall not affect the validity of the proceedings or order issued thereon.

3. Upon conclusion of the hearing, the hearing board shall make its decision and shall forward its written recommendation to the board of supervisors.

4. The board of supervisors may adopt the hearing board's recommendation without further notice or hearing or may set the matter for hearing de novo before the board of supervisors.

a. If the board of supervisors adopts the hearing board's recommendation, the board of supervisors shall give notice thereof to the owner and possessor of its decision and proceed to abate the violation at the owner's expense.

b. If the board of supervisors sets the matter for a hearing de novo it shall provide at least 14 calendar days notice thereof in accordance with the provisions of Section 7.30.080 B.3. of this chapter, and conduct the hearing pursuant to paragraph C.1., above.

5. If the board of supervisors adopts the hearing board's recommendation, or following a hearing de novo finds that the violation exists the board of supervisors shall order the violation to be abated by the owner at the owner's expense. If the owner fails to obey the abatement order, the board of supervisors may abate the violation using county workers or by contract all at the expense of the owner.

6. The owner shall be liable for all costs of abatement incurred by the county including but not limited to administrative and investigative costs and any and all costs incurred in the physical abatement of the violation, and in any action, proceeding, or administrative proceeding to abate a violation the county or the alleged violator, whoever is the prevailing party, shall be entitled to the amount of reasonable attorney's fees actually incurred in the action or proceeding.

7.30.100 Abatement cost recovery.

A. Account of Costs and Receipts. The enforcement official will keep an itemized account of the costs of enforcing the provisions of this chapter.

B. Demand and Notice of Proposed Special Assessment. Upon completion of abatement, the enforcement official shall prepare a notice to be served by first class and certified mail, return

receipt requested to the property owner as such person's name and address appear on the last county equalized assessment roll. If the address is unknown, that fact shall be so stated and the notice shall be posted at the property. 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. The notice shall specify the following:

1. The work done;
2. An itemized account of the costs and receipts of performing the work, including both the costs of physically abating the nuisance and the county's administrative costs related to enforcement of this part;
3. A street address, assessor's parcel number, legal description, or other description sufficient to identify the premises;
4. A demand for payment of all abatement costs within thirty (30) days after service of the notice;
5. A statement that failure to pay all abatement costs within said thirty (30) day period may result in the levy of a special assessment in that amount against the subject property;
6. The time and place where the enforcement official will submit the account to the board of supervisors for confirmation. The time and place specified shall be not less than thirty (30) days after service of the notice;
7. A statement that the board of supervisors will hear and consider objections and protests to said account and proposed special assessment.

C. Hearing on Account and Proposed Special Assessment. At the time and place fixed in the notice, the board of supervisors will hear and consider the account and proposed special assessment, together with objections and protests thereto. At the conclusion of the hearing, the board may make such modifications and revisions of the account and proposed special assessment as it deems just, and may order the account and proposed special assessment confirmed or denied, in whole or in part, or as modified and revised. The determination of the board as to all matters contained therein is final and conclusive.

D. Notice of Lien. Upon confirmation of a special assessment by the board, the enforcement official shall notify the property owner by certified mail, return receipt requested, of the amount of the lien confirmed by the board and shall have recorded in the office of the county recorder of Amador County a notice of lien. The notice of lien shall contain the following:

1. A street address, assessor's parcel number, legal description, and/or other description sufficient to identify the premises;

2. A description of the proceeding under which the special assessment was made, including the order or resolution of the board confirming the special assessment;
3. The amount of the special assessment; and
4. A claim of lien upon the described premises.

E. Lien. Upon the recordation of a notice of lien, the amount claimed shall constitute a lien upon the described premises, pursuant to California Government Code Section 25845. Such lien shall be at a parity with the liens of state and county taxes.

F. Collection with Ordinary Taxes. After recordation, the notice of lien shall be delivered to the county auditor, who will enter the amount of the lien on the assessment roll as a special assessment. Thereafter the amount set forth shall be collected at the same time and in the same manner as ordinary county taxes, and shall be subject to the same penalties and the same procedures and sale in case of delinquency as are provided for ordinary county taxes; all laws applicable to the levy, collection and enforcement of county taxes are hereby made applicable to such special assessment.

7.30.110 Other remedies.

The provisions of this chapter are to be construed as an added remedy of abatement and not in derogation of any other administrative, civil or criminal actions or proceedings or remedies otherwise provided by law.

A. Civil Actions.

1. Injunctive Relief and Abatement. Whenever, in the judgment of the enforcement official, any person is engaged in or about to engage in any act or practice which constitutes or will constitute a violation of any provision of this part or notice or order issued pursuant hereto, the enforcement official may request the county counsel or district attorney to commence proceedings for the abatement, removal, correction and enjoinder thereof, and requiring the violator to pay civil penalties and/or abatement costs or in addition, be subject to criminal prosecution.

2. Civil Remedies and Penalties. Any owner or person in possession of real property who willfully violates the provisions of this part or any notice or order issued pursuant hereto shall be liable for a civil penalty not to exceed one hundred dollars (\$100.00) for each day or portion thereof that the violation continues to exist. In determining the amount of the civil penalty to impose, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the violator, whether corporate or individual, and any corrective action taken by the violator.

B. Criminal Actions.

1. It shall be unlawful for any person to violate any provision of this part. Any person violating any provision of this part shall be deemed guilty of an infraction or misdemeanor as hereinafter specified. Such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provision of this part is committed, continued or permitted.

2. Any person so convicted shall be guilty of an infraction offense and punished by a fine not exceeding one hundred dollars (\$100.00) for a first violation; guilty of an infraction offense and punished by a fine not exceeding two hundred dollars (\$200.00) for a second violation on the same site and perpetrated by the same person. The third and any additional violations on the same site and perpetrated by the same person shall constitute a misdemeanor offense and shall be punishable by a fine not exceeding one thousand dollars (\$1,000.00) or six months in jail, or both. Payment of any penalty herein shall not relieve a person from the responsibility for correcting the violation. Notwithstanding the above, a first or second offense may be charged as a misdemeanor.

C. Notice of Noncompliance. Whenever a notice/order has been issued, the enforcement official may record a notice of noncompliance with the office of the county recorder of Amador County and shall notify the owner of the property of such action. The notice of noncompliance shall describe the property, shall set forth the noncomplying conditions, and shall state that any abatement costs incurred by the county as a result of the violation of this part may be specially assessed as a lien on the property and that the owner has been so notified.

7.30.120 Authority to promulgate reasonable rules and regulations.

The board of supervisors may adopt, by resolution, reasonable rules and regulations to enforce, interpret, and carry out the provisions of this part. Such rules may vary among different areas within the county. A copy of any such rules and regulations shall be kept on file with the clerk of the board.

7.30.130 No duty to enforce.

Nothing in this part shall be construed as imposing on any enforcement official, the county of Amador, any special district or other public agency any duty to issue a notice of violation or order to abate, nor to abate any violations of this part, and neither the enforcement official, nor the county, nor any special district or other public agency shall be held liable for failure to take such actions.

7.30.140 Severability.

This part and the various sections and clauses thereof are hereby declared to be severable. If any sentence, paragraph, section or clause is adjudged unconstitutional or invalid, the remainder of this

part shall not be affected thereby. The board of supervisors hereby declares that it would have passed this part and each section thereof, regardless of the fact that one or more sections thereof be declared unconstitutional or invalid.

SECTION II. The Board of Supervisors finds and declares that this ordinance is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 15308 (actions taken as authorized by local ordinance to assure protection of the environment) and 15061(b)(3) (“common sense exemption,” whereby there is no possibility the activity in question may have a significant effect on the environment). It is exempt pursuant to CEQA 15308 because it is a regulatory action taken by the County pursuant to its police power.

SECTION III. This ordinance shall be published within fifteen days after the date hereof in a newspaper of general circulation printed and published in the County of Amador, State of California, and shall become effective thirty days after the date hereof.

The foregoing ordinance was duly passed and adopted by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the 10th day of May 2022, by the following vote:

AYES: Richard M. Forster, Jeff Brown, Brian Oneto, Patrick Crew, Frank U. Axe

NOES: None

ABSENT: None


Richard M. Forster, Chairman, Board of Supervisors

ATTEST:

JENNIFER BURNS, Clerk of the
Board of Supervisors, Amador County,
California


Deputy