

**Wildfire Prevention:
Let's Treat It as If Our Lives Depend on It**

2019-2020 Nevada County Grand Jury

Report Date: March 24, 2020

Public Release Date: June 5, 2020

Wildfire Prevention: Let's Treat It as If Our Lives Depend on It

Summary

Public discussion about wildfire has significantly increased over the last few years. Local residents have discussed defensible space, evacuation, home insurance, and the need for community-wide fire prevention efforts. Wildfire is a collective concern that often requires a collective solution. Stated differently, people can't protect themselves from wildfire if neighbors are unwilling to do their share.

Over the past few years many members of the public have voluntarily stepped up, both by learning more about fire prevention and by responding to the education with increased activity. The number of voluntary defensible space inspections has increased significantly and community-wide free green waste cleanups have yielded impressive results. Area non-profit organizations and local fire districts have mobilized. More neighborhoods have come together to improve their community's fire prevention activities and to receive Firewise Community certifications. Nevada County has increased personnel and the amount of money spent on fire prevention activities.

But more must be done.

Fire officials report "best practice" is to inspect properties and roads every five years. While there has been improvement, Nevada County remains below that level and there are not currently enough defensible space inspectors to reach that goal. While many residents welcome inspection, some do not. The Nevada County Board of Supervisors (BOS) recognized this when they passed the Hazardous Vegetation Abatement Ordinance No. 2463 (Ordinance No. 2463), giving them the authority to enforce defensible space criteria and ultimately fine/abate property owners who are not in compliance.

Defensible space inspectors are also authorized to enforce vegetation management requirements along private roads in Nevada County. This is significant because approximately two-thirds of the roads in the county are private, and privately maintained roads would be needed during a major evacuation.

Vacant parcels also present an interesting challenge for our community. Fire officials report the only existing vegetation management ordinances that cover vacant properties are in the areas where the vacant property might be part of a neighbor's defensible space zone or along a roadway.

The 2019-2020 Grand Jury (Jury) agrees with fire officials that every property in the county should be inspected at some point over the next five years and that existing ordinances should be enforced. Further, the Jury believes private roads necessary for major evacuations should be inspected. To accomplish this, the Nevada County Board of Supervisors (BOS) should increase the number of defensible space inspectors. It should be noted that inspections are completed by multiple sources (for example, CAL FIRE, the Fire Safe Council, some fire districts, local Homeowners Associations (HOA)), so not all properties would be inspected by County Office of Emergency Services (OES) personnel. In addition, the Jury recommends that the County BOS seek public input to develop an ordinance that appropriately addresses vegetation management on vacant property in the county.

Glossary

BLM	Bureau of Land Management
BOS	Nevada County Board of Supervisors
DSI	Nevada County Office of Emergency Services Defensible Space Inspectors
HOA	Homeowners Association
Jury	2019-2020 Nevada County Grand Jury
OES	Nevada County Office of Emergency Services
Ordinance No. 2463	Hazardous Vegetation Abatement Ordinance No. 2463
PRC 4291	California Public Resources Code § 4291

Background

Prompted by concerns from citizens and prior grand jury reports, the Jury began an investigation into the wildfire preparedness level of Nevada County. While the subject of wildfires in the county is expansive, the Jury narrowed the scope to focus on hazardous vegetation ordinances and management. The Jury developed a plan of action that included numerous interviews, internal document review, examination of published materials, and Internet research. Members of the Jury have also attended fire-related public presentations, which have grown in frequency.

Approach

- Interviewed county officials, individuals employed by local fire districts, non-profits, CAL FIRE and local fire experts.
- Surveyed current fire preparedness procedures and practices.

- Requested documents from several public officials to better understand fire prevention activities.
- Attended public meetings on wildfire-related topics.
- Reviewed publicly disseminated literature prepared by the Nevada County Office of Emergency Services, Ready Nevada County and CAL FIRE.
- Examined articles in The Union, YubaNet and fire-related websites.

Discussion

In 2009, a Fire Safety report prepared for the Board of Supervisors indicated “A typical fire season for Nevada County ranges from May 15 to October 31, which is about 168 days of the year or 46% of the time.” Today, fire officials describe fire season as “year-round” and our community is paying attention.

Public interest intensified following large fires in Butte and Sonoma Counties, but wildfire is not a new issue for our area. In fact, there were productive plans introduced by stakeholders following smaller fires in Nevada County, such as the Lobo and McCourtney fires, and many residents still remember the impact on our community from the 49er fire in 1988. As discussions have evolved, they have increasingly focused on fire prevention. Wildfires do not stop at property lines; rather they are a threat that encourages neighbors to work together to create a safer environment.

California has seen massive fires over the past few years. According to CAL FIRE’s website, four of the largest fires on record in California have burned since December 2017 and 15 of the top 20 largest fires have burned since 2000. Last year, Governor Gavin Newsom issued Executive Order N-05-19 directing CAL FIRE and other agencies and departments to develop recommendations on the most impactful ways to mitigate wildfire, with an emphasis on environmental sustainability and protection of public health. The complete executive order may be found on the [website](#) of the Office of the Governor.

Fire is a fact of life in the Golden State and nothing can be done to completely eliminate the risk. However, fire safety officials often say that reducing the amount of vegetation available to burn is one of the most critical things we can do to protect ourselves.

A successful vegetation management program must involve multiple stakeholders including government, fire officials, property owners, and members of the general public. The Jury examined vegetation management programs in Nevada County in three different categories:

- 1) defensible space around homes
- 2) private road clearance
- 3) vacant properties

The Law

According to the Ready Nevada County website, at least two laws govern county residents. California Public Resource Code § 4291 (PRC 4291) requires 100 feet of defensible space to the property line around structures to protect residents, first responders, and property. PRC 4291 does not address hazardous vegetation abatement beyond the property line of a parcel on which a protected building or structure is located, i.e. vacant property.

Nevada County's Ordinance No. 2463 extends and supplements state law (see attached). The Nevada County [website](#) notes that the Nevada County ordinance builds on state code. This ordinance applies to private roads, which is significant because. The ordinance requires that defensible space be maintained on parcels adjacent to improved structures, along emergency access and evacuation routes, and it has a fine/abatement procedure to enforce compliance. The ordinance addresses two important issues:

- 1) Adjacent property concerns - if a property owner cannot achieve the needed 100 feet of defensible space around an occupied structure because the property line is less than 100 feet from their structure, it requires the adjacent property owner to accommodate the additional space needed to obtain the full 100 feet.
- 2) Private roads - it adds the requirement for property owners along a private road that is a critical ingress/egress route to mitigate the vegetation 10 feet back from the roadside edge and trimmed up 15 feet high.

The City of Grass Valley, Nevada City, and the Truckee Fire Protection District have their own vegetation ordinances, so residents should look to the specific districts in which their home resides for details.

One example of a local ordinance, passed by the Truckee Fire Protection District in February 2019, requires property sellers in Truckee to have defensible space inspections of their property and requires buyers to read and sign defensible space disclosure documents. Buyers must acknowledge the area's high risk of wildfire and the laws requiring their obligation to ensure defensible space.

Defensible Space

As the CAL FIRE website points out "Creating defensible space is essential to improve your home's chance of surviving a wildfire... This space is needed to slow or stop the spread of wildfire and it protects your home from catching fire - either from direct flame contact or radiant heat. Defensible space is also important for the protection of the firefighters defending your home."

County residents have been largely receptive to the need to clear their properties. One way to measure this is by reviewing the amount of green waste collected. Nevada County data shows

that Waste Management collection in the first nine months of 2019 exceeded the entire year of 2018. Tahoe Truckee Sierra Disposal reports an increase of over 24% in green waste collection for 2019 when compared to 2018. Over 220 tons of green waste material was hauled to community dumpsters during the free community cleanup campaign last May. It was reported to have been so successful that another is planned to start in May.

Public support can also be measured by the number of Firewise Communities. According to The Union, two Firewise Communities existed a decade ago in Nevada County and by 2014 there were 14. The Fire Safe Council reports that by the end of 2019 there were 47 communities listed on the Firewise USA site for Nevada County, 41 have been certified and 6 are pending approval. The Fire Safe Council also reports that there are 39 communities on the waiting list. At the end of the year, there were 24,900 residences in Nevada County in Firewise communities.

Residents are also seeking defensible space inspections to ensure that their homes meet guidelines. The Fire Safe Council, which only conducts inspections that are requested voluntarily, completed 1,350 property inspections in 2019, up from 257 in 2018. The Fire Safe Council provides training for inspectors and reports that well over 100 people have been trained by their programs. Throughout the county, additional inspections have been completed in the county by HOAs. For example, the Tahoe Donner HOA inspectors, who are trained by Truckee Fire, completed 984 inspections in 2019.

Enforceable defensible space inspections are also performed by Truckee Fire Protection District and CAL FIRE, though neither of those agencies issued any citations in 2019. Truckee Fire Protection District reported conducting 750 inspections and CAL FIRE reported 4,089 inspections in the county (it should be noted that CAL FIRE inspectors also cover Yuba and Placer Counties but those numbers are not included in the totals above). The number of defensible space inspections by Truckee Fire Protection District and CAL FIRE have significantly increased over the past few years. In 2017, the Truckee Fire Protection District reported approximately 500 inspections and CAL FIRE reported 1,522 inspections in Nevada County. These two agencies combined performed 4,839 inspections in 2019, over double the number conducted just two years ago. In total, there were over 7,000 non-enforced inspections and re-inspections completed by non-Nevada County employees in 2019.

It seems that the current public concerns about wildfire are spurring many to action, but not all residents are willing or able to comply with the laws. In fact, it has been reported that enforcement becomes more important as those out of compliance dig in their heels.

Local fire districts are responsible for fire suppression, but not necessarily wildfire prevention. And, as independent special districts, most fire districts have not adopted the county ordinance reporting that they do not have the funds or staff to inspect or enforce. As a result, enforcement of both state and local ordinances - or involuntary defensible space inspections - largely falls to the county's Defensible Space Inspectors (DSI) team.

In January 2020, OES presented a list of current and target objectives to the BOS. The document, titled *Wildfire Evacuation Preparedness Action Plan*, lists its goal as: “Establish defensible space around our homes and neighborhoods by reducing hazardous vegetation and encouraging voluntary compliance with defensible space standards.”

In the plan, OES states that the current objective is to provide 1,500 annual site visits with homeowners on defensible space guidelines and to utilize enforcement as a last resort. Its target objective is to increase the number of voluntary inspections to 3,000-6,000 annual visits, using enforcement as the last resort. OES indicates that the current objectives define the work being done by county staff utilizing existing resources and target objectives as identified unmet needs.

This is confusing because, as already discussed, voluntary enforcement of defensible space regulations is completed by a number of entities and 2019 totals exceeded the highest number envisioned. In interviews with OES personnel, the Jury was told that the numbers are actually the goal for OES DSI inspectors, who have traditionally focused on enforcement rather than voluntary inspections. The Jury also understands that the goal is for the number of visits rather than the number of properties they will inspect, an important distinction because properties often require more than one inspection before they become compliant. The number of inspections conducted last year by OES inspectors is apparently unknown, but multiple sources report that number to be between 500 and 800 visits.

Currently, the County’s OES inspectors receive complaints about properties from members of the public and from fire officials. They report that handling complaints takes almost all of their time resulting in few proactive inspections. In a presentation to the BOS on October 22, 2019 OES officials reported that 277 complaints had been received from May 13 – Sept 30, 2019. They also reported that all inspections had been completed and 179 thirty-day Notice to Abate letters had been mailed to property owners. Upon second inspection, 94% of property owners had been found to be in compliance or were making progress toward compliance. Eleven sixty-day Notice to Abate letters had been mailed. Said differently, almost two-thirds of the complaints resulted in a Notice to Abate making it clear that not all residents will comply with regulations voluntarily.

OES reports that the total budget for the defensible space program is \$224,328 for 2019-2020 and that payroll is budgeted for just under \$100,000. They also report that, as of December 30, 2019 defensible space inspectors have worked 1,337 hours and that there are 3,719 hours remaining to be used during this budget year. Said differently, half way through the current budget year approximately 25% of the available funds have been spent on defensible space inspector payroll.

DSI positions are temporary (seasonal, with a maximum of 1,000 hours per year) and have a salary range of \$18.74-\$22.88 per hour. They require one year of fire prevention or related experience. The job posting states:

Associates degree in Forestry, Fire Science, Environmental Science, or a closely related field, preferred. Desired training in the following areas:

- Federal Emergency Management Agency IS-100 – Introduction to the Incident Command System Federal Emergency Management Agency IS-700 – NIMS: An Introduction
- National Fire Protection Association – Assessing Wildfire Hazards in the Home Ignition Zone
- Tahoe Regional Planning Agency – Defensible Space Assessor Training
- California Department of Forestry and Fire Protection – Defensible Space Inspector Training

In January 2020, there were three open DSI positions and at no point during the budget year have all the positions been filled. Officials are now projecting that they will not be able to use all the hours allotted to defensible space inspections because they have been unable to fill the positions.

There is no central repository of county-wide information on the defensible space inspections completed each year, but the numbers detailed earlier in the discussion suggest that approximately 7,500 voluntary and non-voluntary inspections were performed last year.

The Nevada County Assessor reports that we have 46,685 parcels with a structure in Nevada County and over 90% are single-family residences. If each parcel with a structure were inspected every five years (considered “best practice” by fire officials) there would need to be over 9,300 inspections done annually. Said differently, to achieve best practice levels 1,800 additional properties should have been inspected last year. As stated above, inspections are completed by multiple sources (for example, CAL FIRE, the Fire Safe Council, some fire districts, local HOAs), so not all properties would be inspected by County OES personnel.

Private Roads

Road clearance is mandated by PRC 4291 and Ordinance No. 2463. Essentially roads must be cleared of brush 10 feet on both sides of the road and must have vertical branch clearance of 15 feet. This ordinance applies to private roads, which is significant because about two-thirds of our roads are privately owned. According to the Nevada County Community Development Agency website “Unincorporated Nevada County includes approximately 2,800 miles of both public and private roads. The Department of Public Works maintains approximately 560 miles of public roads and an additional 50 miles established under various road maintenance districts.”

Ordinance No. 2463 states, in part:

No Parcel owner may allow any portion of vegetation on his property to interfere with street and emergency vehicle access, regardless of whether the access is along a public street or along a private residential access road. The Public Official may provide written

notice to the property owner requiring vegetation to be trimmed for a specified additional distance when the Public Official determines the vegetation would otherwise interfere with street or emergency vehicle access.

1. If the Parcel Owner fails to maintain these clearance requirements, the Public Official may abate this nuisance without further notice and at the Parcel Owner's expense. This subsection shall not apply to cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers, provided they do not constitute a fire hazard.
2. Pursuant to California Health and Safety Code §14930 and Government Code §25845, as amended, a Public Official may summarily abate weeds or hazardous growth on private property that in any way hinders emergency access, and may charge the Parcel Owner for the costs of the abatement.

The Public Works Department has a list of the top 50 public roads that need clearance but no such priority list exists for private roads. Several local Firewise Communities have “clean up days” where entire neighborhoods turn out to help clean up roads essential for ingress and egress.

As is the case with defensible space, County defensible space inspectors may be used to enforce road clearance compliance. Records are not available to indicate how many miles of public and private road were inspected in 2019.

In January 2020, OES officials presented the BOS with the goal of 300 miles per year of private roadside treatment, which allows for a five-year rotation cycle on 1500 miles of privately owned roadways. The report also noted that a significant increase in funding, and funding consistency, would be required to meet this goal. As of March 2020, no additional funds have been allocated.

Any discussion about roads isn't complete without examining public roads as well. According to the January 2020 *OES Wildfire Evacuation Plan*, Public Works annually clears brush on about 50-70 miles and mows an estimated 40-50 miles of the 560 miles of county-maintained roadway. The maintenance cycle is completed every eight to ten years. The plan reveals that the County has now set the target objective of increasing the maintenance cycle to three to five years, which is aligned with best practices. Nevada County has had recent success getting grants to help fund these efforts. In March 2020, CAL FIRE awarded a \$868,084 grant to Nevada County to remove hazardous vegetation along 200 miles of county-maintained roads and an additional \$1.5 million to the Truckee Community Wildfire Protection Plan to create shaded fuel breaks and right of way clearance on 682 acres.

Vacant land

Vacant properties are located throughout the county, some are in close proximity to neighborhoods. As has been pointed out by officials, wildfire knows no property line so unmaintained vacant properties can hold the same kind of fire risk as unmaintained properties

with a structure. One of the higher-profile fires of 2019 was started at a vacant property in a homeless campground near the corner of Sutton and Dorsey way.

According to the Nevada County Assessor, as of June 30, 2019, there were 14,560 parcels in Nevada County without a permitted structure, also known as vacant land. Fire officials report the only vegetation management regulations that exist over vacant properties are in the areas where the vacant property might be part of a neighbor's defensible space zone or along a roadway.

Vacant property poses a difficult challenge for regulators, both because the property owner may not live in the county and because the cost of vegetation management can be expensive. A 2007 community wildfire report details resistance the county met as they attempted to address vegetation management on vacant and large properties.

The Bureau of Land Management (BLM) was reported to be the least cooperative agency regarding forest management or vegetation management by all state and local officials interviewed by the Jury. On February 13, 2020, BLM announced that it will construct and maintain up to 11,000 miles of strategic fuel breaks to reduce wildfire in six states, including California. At the writing of this report, locations of the fuel breaks had not been determined. As noted by Nevada County, the federal government provides oversight on US Forest Service and BLM lands (approximately 178,400 and 10,500 acres respectively), while state government provides oversight on state parks and other smaller state properties (approximately 23,600 acres within holdings like Malakoff Diggins State Historic Park and Empire Mine State Historic Park). State and federal lands, which occupy about one-third of the county, are outside of the purview of the Jury and therefore not addressed in this report.

Additional context

1) Fiscal Year 2020 Budget:

The total Nevada County budget for the current fiscal year is \$258 million and there are approximately 794 employees. The Emergency Services budget, which covers more than the defensible space program, is \$1.292 million and calls for two full time employees (a program manager and an Administrative Analyst II) as well as 5,000 hours of employment for temporary, part-time defensible space inspectors. In the budget, the OES program manager position is in the Sheriff's Office and is reimbursed under "other charges". The county's budget for the defensible space program in 2019-2020 is \$224,328 and includes DSI staff, office expenditures related to that staff and contracts with the Fire Safe Council. Budget documents also indicate that there are "1,000 Hrs. to be used for Defensible" but the meaning of that is unclear. OES reports to the Director of Information and General Services.

2) Board Objectives:

The County BOS has included wildfire prevention as one of its top priorities for this fiscal year. A full copy of the objectives may be found on the Nevada County [website](#). The 2019-2020 wildfire objective is:

Prioritize the implementation of existing county policies and programs to reduce the risk of wildfire and the effects of wildfire on life, property and the environment. Pursue hazardous vegetation mitigation funding sources and support related community partners with their efforts. Explore other ways to reduce the threat and damage from wildfires.

There are 13 initiatives tied to this objective (one is listed twice), ranging from “increase the number of county staff trained and responsible for responding to emergencies” to “[p]rovide the public more convenient and affordable green waste disposal”.

On December 17, 2019 in a presentation to the BOS, only six of the thirteen initiatives were reviewed and all were rated on target. Those initiatives were:

- Launch and maintain a public awareness campaign to increase wildfire prevention, preparedness and personal responsibility
- Bring together community organizations with a shared wildfire mission to establish ongoing, coordinated approach to wildfire prevention, plans and projects
- Increase Code Red registrations
- Further mature and develop the Emergency Operations Center staffing, capabilities, training systems, resources and response readiness
- Seek and secure funding for wildfire prevention and preparedness initiatives
- Complete the Ponderosa West Fuel Break

3) General Plan:

Nevada County has a BOS-approved, long-term policy guide that directs its physical, economic and environmental future. It is called the *General Plan* and can be located on Nevada County’s [website](#). Chapter 10 of the *General Plan*, adopted in February 2020, lists ten prioritized Emergency Preparedness goals; the first goal listed was “Maintain the cooperative relationship between the Nevada County Community Development Agency and the Nevada County Fire Marshal, and provide funding for the appropriate staffing of the County Fire Marshal services to provide oversight and implement fire protections policies.” The Nevada County Fire Marshal referenced in this goal works for CAL FIRE and is responsible for reviewing building plans to ensure code compliance.

4) Funding:

Funding that is dedicated to fire prevention traditionally comes from three sources: discretionary budget allotment by the County BOS, funding supplied by grants and the money spent by homeowners.

The 2018-2019 Grand Jury report *Facing Year-Long Fire Seasons: Are We Prepared* found: “The county doesn’t allocate sufficient budgetary resources for its abatement ordinance or fire prevention efforts.”

The BOS responded with the following:

Disagree. The County has increased its overall Emergency Management budget by 88% since FY2017/18 from \$622,443 to \$1,292,996 in FY2019/20. Within the overall service budget unit, the County has quadrupled its Defensible Space Inspection Program and prevention efforts. Moreover, Nevada County Public Works is projecting to spend approximately \$708,000 for vegetation removal along the County's maintained roadways for FY2019/20, which is approximately 30% of the Roads-Maintenance service budget unit.

The Jury finds no evidence that the current funding levels are sufficient, even though the budget increased in the current year. In fact, County OES staff presented the BOS with a fire prevention funding gap of over \$5 million dollars six months after providing the above response to the Jury. Currently, Nevada County is collaborating with stakeholders to bring a formal needs assessment, a timeline, and more details to the BOS before a summer deadline to place a tax measure on the November ballot.

The County has applied for and received a number of grants to help fund fire suppression efforts. In total, OES applied for \$10.6 million dollars in grants in 2018-19 and was awarded \$3.5 million. In December 2019, the Board of Supervisors authorized OES to submit seven applications to CAL FIRE in the total amount of \$8,858,397. In March 2020, CAL FIRE announced the award of \$868,000 for egress and ingress work.

The amount of money spent by homeowners on fire prevention is unknown, but clearly the levels have increased in recent years.

5) Home Insurance:

The 2020 *Nevada County General Plan* states the following: “The County shall work with the California Department of Insurance to obtain recognition that Nevada County has developed fire safety programs that promote compliance with fire safety regulations, which may help to address homeowner fire insurance challenges.”

Home Insurance remains a concern for many Nevada County homeowners. Many homeowners have lost their current carrier or face significant increases to coverage rates. State Insurance Commissioner Ricardo Lara visited this area last August and spoke to standing room only crowds. Among other things, he reported that complaints about non-renewals have increased 600% since 2010 in areas with increased fire risk. Commissioner Lara also clearly stated that communities must set – and follow – fire prevention standards as a way of helping to offset future insurance cancellations.

Findings

- F1** Wildfire prevention is a collective goal for the community and we rely on each other to help reduce the risk.
- F2** The number of Firewise Communities has increased over the past few years, proving that more county residents are involved in fire prevention activities.
- F3** By the end of 2019 there were 47 communities listed on the Firewise USA site for Nevada County, leaving 39 communities on the waiting list.
- F4** Defensible space regulations, designed to reduce the potential impact of wildfire, are critical to the community. There are over 100 inspectors in the county who have been trained by the Fire Safe Council and Truckee Fire Protection District to assist with DSI inspections.
- F5** Not every homeowner will comply voluntarily with state, county and local ordinances. Nevada County has been enforcing Ordinance No. 2463 using defensible space inspectors to cite those out of compliance.
- F6** Nevada County’s DSI inspectors conduct few proactive inspections because the majority of their time is spent on the complaints received.
- F7** Nevada County is on track to end the fiscal year without using all the funds budgeted to hire DSI inspectors because it has been unable to hire for the positions available.
- F8** Even if all Nevada County DSI positions were filled, the county does not have enough DSI’s to inspect vegetation management at every property with a structure every five years, which is best practice.
- F9** The lack of a central repository of data makes it difficult to know how many defensible space inspections have been completed and when a property was last inspected.

- F10** Not all property owners in the county are aware that they are responsible for clearing their private roads.
- F11** Not all residents in the county are aware that they may file a complaint with DSI's to inspect private roads for ingress/egress and compliance with Ordinance No. 2463.
- F12** A public awareness campaign about owner responsibility of clearing private roads would assist in compliance.
- F13** Nevada County does not have enough DSI's to inspect every private road every five years, which is best practice.
- F14** Current Nevada County ordinances do not deal adequately with vegetation management of vacant properties
- F15** The free green waste community cleanup campaign in 2019 was more successful than anticipated and is being planned again for 2020.
- F16** Current fire prevention funding levels are inadequate. Nevada County OES staff has presented the BOS with a funding gap of \$5.4-\$10.1 million dollars, along with the idea of a sales or property tax to close the gap.

Recommendations

The Nevada County Grand Jury recommends the following:

- R1** The BOS and OES should financially support certification of the Firewise Communities currently on the waiting list.
- R2** Nevada County should meet with trained defensible space inspectors who volunteer their time to better understand why the paid DSI positions remain unfilled.
- R3** Nevada County DSI inspectors should significantly increase their efforts to inspect more than just complaint-driven properties.
- R4** The BOS should direct staff to collect information from CAL FIRE, Fire Districts, HOAs, Fire Safe Council and others to develop a database on defensible space inspections, which would be searchable by property to reveal the date that a property was last inspected.
- R5** The BOS and local fire districts should develop a campaign to educate landowners about their responsibility to clear private roads.

- R6** The BOS and local fire districts should develop a campaign to educate county residents that they may file a complaint on private roads as well as on defensible space.
- R7** To assist in effective evacuation efforts, members of the public should file complaints with the OES DSI program if private road vegetation management impedes ingress and egress to their home.
- R8** The BOS should develop and fund a private road inspection program that prioritizes private roads and inspects high priority roads in alignment with best practices.
- R9** The BOS should direct staff, with stakeholders including members of the public, to develop appropriate vegetation management regulations for vacant properties.
- R10** The BOS should direct staff, based on statistics, to determine the number of inspectors needed to inspect occupied structures, private roads and undeveloped property in accordance with best practices. Once the number has been determined, Nevada County should work toward increasing the number of DSI in order to meet the goal.
- R11** The BOS should continue to financially support the free community green waste pick-up program.

Request for Responses

Pursuant to Penal Code section 933.05, the Nevada County Civil Grand Jury requires responses from the following:

- The Nevada County Board of Supervisors for:
 - Findings F5, F6, F7, F8, F9, F10, F11, F12, F13, F14, and F16.
 - Recommendations R1, R2, R3, R4, R5, R6, R8, R9, R10, and R11.
 - Responses are due by September 3, 2020.

- Grass Valley Fire Department, Higgins Fire Protection District, Nevada City Fire Department, Nevada County Consolidated Fire District, North San Juan Fire Protection District, Ophir Hill Fire Protection District, Rough and Ready Fire Protection District, Penn Valley Fire Protection District, Peardale-Chicago Park Fire Protection District and Truckee Fire protection District for:
 - Findings F5, F10, F11 and F12.
 - Recommendations R5 and R6.
 - Responses are due by August 4, 2020.

Pursuant to Penal Code section 933.05, the Nevada County Civil Grand Jury invites responses from the following:

- The Nevada County Office of Emergency Services for:
 - Findings F5, F6, F7, F8, F13 and F14.
 - Recommendations R1, R2, R3, R4, R5, R6, R8, R9, R10, and R11.
 - Responses are invited by September 3, 2020.

- The Nevada County Human Resources Department.
 - Recommendation R2.
 - Responses are invited by September 3, 2020.

Attachments:

County of Nevada Hazardous Vegetation Abatement Ordinance No. 2463



ORDINANCE No. 2463

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

AN URGENCY ORDINANCE AMENDING ARTICLE 7 OF CHAPTER IV OF THE NEVADA COUNTY GENERAL CODE REGARDING HAZARDOUS VEGETATION ABATEMENT (4/5 AFFIRMATIVE VOTE REQUIRED)

THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA, STATE OF CALIFORNIA, ORDAIN AS FOLLOWS

SECTION I:

The Nevada County Board of Supervisors hereby finds and determines as follows:

1. Of paramount importance to the Nevada County Board of Supervisors and the citizens of Nevada County are the protection of lives and structures from the threat of wildfire, and the safety of fire and law enforcement during wildfires. The proper establishment of defensible space benefits property owners, public safety personnel and all citizens of Nevada County by dramatically increasing the likelihood that structures will survive a wildfire, provides for firefighter safety during a firestorm and generally aids in the protection of lives.
2. During the fire season, Nevada County generally has a dry, arid climate conducive to wildfires. Nevada County also has a very diverse and complex landscape, which includes dry, brush-covered and grass-covered wildlands, mountainous areas, dense heavily forested properties and other terrains which are home to many sensitive plant and animal species. Many of the County's native and non-native plant species can be highly combustible during normal dry periods and have contributed to significant wildfires within the County. Difficult topography and terrain exacerbate the fire danger and the difficulty of fighting wildfires, and have resulted in catastrophic fire losses to life, property and the environment. Due to the extreme dry weather that we have had recently this justifies the need for an urgency ordinance.
3. With the recent fire events, the community has expressed concern about fire safety. The Board of Supervisors Objectives include to "Reduce the risk of local wildfire and the effects of wildfire on life, property and the environment by providing leadership and support to community partners, pursuing State and Federal funding, implementing county policies and programs, and assisting the public to be "wildfire ready." Explore other ways to reduce the threat and damage from wildfires." This Ordinance provides mechanisms for inspections, notices, enforcement, and vegetation abatement. To allow time for an effective defensible space inspection period to occur prior to the start of fire season an update to the vegetation abatement ordinance is necessary.
4. The proposed ordinance is an urgency measure which, if adopted by a 4/5ths vote, will become effective immediately. Government Code section 25123(d) authorizes the Board to adopt an urgency ordinance "for the immediate preservation of the public peace, health, or safety."

SECTION II:

Article 7 of Chapter IV of the Nevada County General Code is hereby amended to read as shown in Exhibit A attached hereto and incorporated herein by this reference.

SECTION III:

The County finds that this Article is not subject to the California Environmental Quality Act (CEQA) pursuant to the following categorical exemptions: Section 15304 (minor public or private alterations in the condition of land, water and/or vegetation which do not involve the removal of healthy, mature, scenic trees except for forestry and agricultural purposes, including but not limited to specified fuels management activities within 100 feet of a dwelling), 15301 (maintenance or minor alteration of topographical features, including existing landscaping and native growth), 15307 (actions taken as authorized by local ordinance to assure the protection of natural resources), 15308 (actions taken as authorized by local ordinance to assure the protection of the environment) and 15321 (action by agency for enforcement of a law, general rule, standard or objective administered or adopted by the agency, including by direct referral to the County Counsel as appropriate for judicial enforcement).

SECTION IV:

Severability. If any provision of this Article or the application thereof to any person or circumstance is held invalid, the remainder of this Article, including the application of such part or provision to other circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Article are severable. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one (1) or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be held unconstitutional, invalid or unenforceable.

Pursuant to Government Code section 25123(d), this Ordinance shall take effect and be in force immediately upon the passage hereof, and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the Supervisors voting for and against same in The Union, a newspaper of general circulation printed and published in the County of Nevada.

PASSED AND ADOPTED by a majority vote of the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 26th day of March, 2019, by the following vote of said Board:

- Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Susan K. Hoek and Richard Anderson.
- Noes: None.
- Absent: None.
- Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: 



Richard Anderson, Chair

3/26/2019 cc: GIS*
Union*
COB*
CoCo*
OC*

Exhibit A

ARTICLE 7 HAZARDOUS VEGETATION AND COMBUSTIBLE MATERIAL ABATEMENT

Sec. G-IV 7.1 Findings

- A. The Nevada County Board of Supervisors supports the improved parcel defensible space obligations found in California Public Resources Code Section (PRC) 4291 and as adopted in the County's local amendments to the California Building Standards Code. However, PRC 4291 does not address hazardous vegetation and combustible material abatement beyond the property line of a parcel on which a protected building or structure is located or the potential impact that hazardous vegetation beyond a property line could have on an adjacent improved parcel. This Article extends and supplements state law, utilizing the same treatment requirements as provided by PRC 4291, to ensure defensible space is maintained on parcels adjacent to improved parcels and along emergency access and evacuation routes and fire access easements so that land owners benefit from defensible space on adjacent parcels where appropriate.
- B. During the fire season, Nevada County generally has a dry, arid climate conducive to wildfires. Nevada County also has a very diverse and complex landscape, which includes dry, brush-covered and grass-covered wildlands, mountainous areas, dense heavily forested properties and other terrains which are home to many sensitive plant and animal species. Many of the County's native and non-native plant species can be highly combustible during normal dry periods and have contributed to significant wildfires within the County. Difficult topography and terrain exacerbate the fire danger and the difficulty of fighting wildfires, and have resulted in catastrophic fire losses to life, property and the environment.
- C. Of paramount importance to the Nevada County Board of Supervisors and the citizens of Nevada County are the protection of lives and structures from the threat of wildfire, and the safety of fire and law enforcement during wildfires. The proper establishment of defensible space benefits property owners, public safety personnel and all citizens of Nevada County by dramatically increasing the likelihood that structures will survive a wildfire, provides for firefighter safety during a firestorm and generally aids in the protection of lives.
- D. The purpose of this Article is to provide for the removal of hazardous vegetation and combustible material from around the exterior of improvements situated in the unincorporated areas of the County to reduce the potential for fire and to promote the public health, safety and welfare of the community. It is the further purpose of this Article to establish a hazardous vegetation abatement program that provides a process to identify and abate hazardous vegetation on parcels and protects the lives and property of the citizens of Nevada County, while at the same time protecting sensitive plant and animal species and protecting against significant erosion and sedimentation. The removal of hazardous vegetation in the areas subject to this Article is recognized as an essential action homeowners and property owners can take to increase the chances that homes, structures and other property will survive a wildfire, while protecting the natural environment. Regular fuels management and modifications consistent with the requirements of this Article is necessary to ensure adequate defensible space is achieved. The defensible space required by this Article is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structures, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to structures on adjacent improved parcels.
- E. The Nevada County Board of Supervisors does not provide fire protection or suppression services within the County. Such services within Nevada County are provided by CAL FIRE and numerous independent local fire protection districts, the United States Forest Service, and the Bureau of Land Management. The Nevada County Board of Supervisors finds and declares that CAL FIRE and the local fire protection districts, individually or collectively are best suited and equipped to implement this Article, with inspections, enforcement, and abatement by County officials when appropriate.
- F. This Article is enacted by ordinance pursuant to the powers granted to the board of supervisors concerning the abatement of hazardous vegetation and combustible material as contained in Section 14930 and Section 14931 of the Health and Safety Code of the state of California. Additional

authority for the abatement of nuisances, establishment of procedures, and establishment of real property liens through the board of supervisors is provided in Section 25845 and 25845.5 of the Government Code of the state of California.

Sec. G-IV 7.2 Application of Article

This Article shall apply to:

- A. All Parcels adjacent to Improved Parcels where: (a) the owner/occupant of the Improved Parcel is unable to obtain the required defensible space, as delineated in adopted County Codes; and (b) the current condition of fuels on the subject Parcel is assessed by the Public Official as a hazardous fire condition. The owner of the subject Parcel shall provide the fuel modifications to meet the defensible space requirements of the adjacent Improved Parcel subject to applicable law including the finding that the clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure.
- B. All Parcels where:
 - a. The parcel is adjacent to a roadway which is determined by the Public Official to be necessary for the safe ingress and egress to the area served by the roadway or fire access easement; and
 - b. The current condition of fuels on the adjacent Parcel is assessed by the Public Official as a hazardous fire condition.
- C. This Article shall be applicable to all unincorporated areas of the county.
- D. This Article may be enforced within those unincorporated areas by independent fire districts having governing bodies other than the Board, provided the governing body takes action to enforce this Article by adopting an appropriate resolution authorizing the fire chief of the district to enforce the requirements of this Article.
- E. The owner, occupant or other person in control of the improved parcel shall be responsible for fifty (50) percent of the abatement cost on the adjacent parcel if the owner of said adjacent parcel consents in writing to the abatement.
- F. If any part of this Article is in conflict with any other part of this code the more restrictive provision(s) shall control.

Sec. G-IV 7.3 Definitions

As used in this Article, the following definitions shall apply:

- A. "Abate" or "Abatement" shall mean an act used to remove, destroy, eliminate, size, impound, or any action taken to mitigate a public nuisance.
- B. "Abatement costs" shall mean any and all costs incurred by the County or a local independent fire district to enforce this Article and to abate the hazardous vegetation or combustible material on any property pursuant to this Article, including physical abatement costs, administration fees and any additional actual costs incurred for the abatement proceeding(s), including attorney's fees, if applicable.
- C. "Biomass" shall mean all green waste material generated during the fuels treatment project. Biomass includes, without limitation, all grass, weeds, vegetation and tree trimmings.
- D. "Board of Supervisors" or "Board" shall mean the Board of Supervisors for the County of Nevada.
- E. "Citation" or "Administrative Citation" shall mean a civil citation issued pursuant to the Article stating there has been a violation of one or more provisions and setting the amount of the civil penalty to be paid by the responsible party.
- F. "Combustible material" shall mean all rubbish, litter or material of any kind other than hazardous vegetation that is combustible and endangers the public safety by creating a fire hazard.
- G. "County" shall mean the County of Nevada, a political subdivision of the State of California.
- H. "Days" shall mean calendar days.
- I. "Defensible space" means that area described in Public Resources Code section 4291 and as otherwise described in this Code, which is adjacent to each side of a building or structure and must be cleared of

all brush, flammable vegetation, or combustible growth, subject however to the exceptions set forth in this Code.

- J. "Fire hazard" shall mean any condition, arrangement, act or omission which:
 - a. Increases, or may cause an increase of hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing or extinguishing fire; or
 - b. May obstruct, delay, hinder or interfere with the operations of a fire department or the egress of occupants in the event of fire.
- K. "Fuel Modification Area" shall mean a strip of land in which the following fuel reduction activities are required to occur:
 - a. Cut and remove all weeds and grasses down to four (4) inches or lower;
 - b. Prune and remove "ladder fuels" up to ten (10) feet or higher;
 - c. "Mosaic" all stands of brush;
 - d. Remove all dead or decaying trees and tree limbs; and
 - e. Perform any other fire protection or maintenance activities within the Fuel Modification Area(s) consistent with the standards and requirements contained in PRC 4290 or as required by a Public Official.
- L. "Hazardous vegetation" shall mean any vegetation that is combustible and endangers the public safety by creating a fire hazard. Hazardous vegetation includes material that in its natural state will readily ignite, burn and transmit fire from native or landscape plants to any structure or other vegetation. Hazardous vegetation includes, but is not limited to, dry grass and leaves, brush, weeds, green waste, dead or dying trees, low-hanging branches, litter or other flammable vegetation that create a fire hazard. Hazardous vegetation shall not include a commercial agricultural crop that is being actively grown and managed by the property owner or his or her legal tenant.
- M. "Improved Parcel" shall mean a portion of real property on which a structure is located, the area of which is determined by the assessor's maps and records and which may be identified by an Assessor's Parcel Number.
- N. "Ladder fuels" shall mean fuels that can carry a fire vertically between or within combustible material or hazardous vegetation.
- O. "Public Official" shall include the County of Nevada Fire Marshal, the Fire Chief of any local fire protection district located in whole or in part within the County of Nevada, company officers and trained prevention staff as may be designated by a Fire Chief to enforce the provisions of this Article, Office of Emergency Services staff. Public Officials include County Code Compliance officers.
- P. "Parcel" shall mean a portion of real property of any size, the area of which is determined by the assessor's maps and records and which may be identified by an Assessor's Parcel Number.
- Q. "PRC 4291" shall mean California Public Resources Code Section 4291, and any amendments thereto.
- R. "Responsible Party" shall mean an individual, association, co-partnership, political subdivision, government agency, municipality, industry, public or private corporation, firm, organization, partnership, joint venture or any other person or entity whatsoever whose act or omission caused or contributed to a violation of this Article.
- S. "Structure" shall mean any dwelling, house, building, or other type of combustible construction, whether or not occupied, including but not limited to a wood fence attached to or near any other structure.
- T. "Unimproved parcel" shall mean 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 (APN) upon which no structure is located.

Sec. G-IV 7.4 Nuisance Declared; Duty to Abate Hazardous Vegetation and Combustible Material

- A. Hazardous Vegetation and Combustible Materials within one hundred (100') feet of a Structure (or greater as determined by the Public Official) or along roadways that serve as primary ingress and egress routes, are hereby declared to be a public nuisance that may be abated in accordance with this Article, and by any other means available by law.

- B. It shall be the duty of every owner, occupant, and person in control of any parcel or any interest therein, which is located in the unincorporated territory of the County of Nevada to abate therefrom, and from all sidewalks and roadways on or immediately adjacent thereto (except for those roads accepted into the County maintained system), all Combustible Material, and Hazardous Vegetation which constitutes a fire hazard and public nuisance which may endanger or damage neighboring property or forestland.
- C. The requirements of this section shall be satisfied if the Parcel is cleared in accordance with a Notice to Abate by cutting brush, trimming trees, thinning trees, disking, mowing, plowing or any other method described in a Notice to Abate, or, if no Notice to Abate is issued, by removing all Hazardous Vegetation and Combustible Materials as follows:
- a. Maintain a defensible space of one hundred (100') feet from each side and from the front and rear of the Structure, but not beyond the property line except as provided by law.
 - b. Maintain a one hundred (100') foot wide strip of land around Structure(s) located on an adjacent Improved Parcel (some or all of this defensible space requirement may be required on an adjacent parcel depending upon the location of the Structure on the Improved Parcel);
 - c. The amount of fuel modification necessary may take into account 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.
 - d. Maintain a minimum of a ten (10') foot wide strip of land beyond the shoulder of a roadway serving as primary ingress and egress to the parcel, to a height of fifteen (15') feet along the boundary of a Parcel; and/or
 - e. The intensity of fuels management may vary within the one hundred (100') foot perimeter of the Structure, the most intense being with the first thirty (30') feet around the habitable Structure. Consistent with fuels management objectives, steps should be taken to minimize erosion.
 - f. Remove the portion of a tree that extends within ten (10') feet of the outline of a chimney or stovepipe.
 - g. Climbing vines must be removed from trees and structures.
 - h. Maintain a tree, shrub, or other plant adjacent to or overhanging a building free of dead or dying wood.
 - i. Maintain the roof of a structure free of leaves, needles, or other vegetative materials.
 - j. Maintain the property free of ladder fuels.
- D. The Public Official may mandate additional fuels management of an area more or less than the above-referenced widths or height, for the protection of public health, safety or welfare or the environment if the Public Official finds that the additional fuels management is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structures, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to a Structure on an Improved Parcel. The Public Official shall determine appropriate defensible space distances based upon a visual inspection of the Parcel and shall consider all factors that place the Structure(s) on the adjacent Improved Parcel at risk from an approaching fire. These factors shall include, but are not limited to, local weather conditions, fuel type(s), topography, and the environment where the adjacent parcel or the structure(s) is located;
- E. When an occupied building is less than one hundred feet from a property line and Combustible Material or Hazardous Vegetation on an adjacent parcel presents a fire hazard for the occupied building the owner of the parcel where the fire hazard exists shall be responsible for clearing the area on that owner's land which is within one hundred feet of the occupied structure and is needed to provide the necessary fire protection in the manner and to the extent required by the Public Official.
- F. Where the terrain, condition or environment on the adjacent Parcel is such that it cannot or should not be disked or mowed, the Public Official may require, or authorize, other means of hazardous vegetation or combustible material removal.

- G. No Parcel owner may allow any portion of vegetation on his property to interfere with street and emergency vehicle access, regardless of whether the access is along a public street or along a private residential access road. The Public Official may provide written notice to the property owner requiring vegetation to be trimmed for a specified additional distance when the Public Official determines the vegetation would otherwise interfere with street or emergency vehicle access.
 - a. If the Parcel Owner fails to maintain these clearance requirements, the Public Official may abate this nuisance without further notice and at the Parcel Owner's expense. This subsection shall not apply to cultivated ground-cover such as green grass, ivy, succulents, or similar plants used as ground-covers, provided they do not constitute a fire hazard.
 - b. Pursuant to California Health and Safety Code §14930 and Government Code §25845, as amended, a Public Official may summarily abate weeds or hazardous growth on private property that in any way hinders emergency access, and may charge the Parcel Owner for the costs of the abatement.

Sec. G-IV 7.5 Enforcement

- A. The Public Official shall be the primary authority for enforcement of this Article, and shall administer and enforce the requirements as provided in this Article.
- B. The Public Official shall have the following responsibilities and authorities in the enforcement and administration of the provisions of this Article:
 - 1. Receive and respond to complaints through planning and conducting inspections within the limits of available resources.
 - 2. Review the requirements of this Article with property owners and/or occupants found to be out of compliance, to support voluntary compliance with the provisions of this Article.
 - 3. 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 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 Parcel or adjoining Structure(s) is located.
 - 4. Prepare and issue Notices to Abate, and such other notices as may be necessary to encourage voluntary compliance with the provisions of this Article.
 - 5. Carry out all enforcement and abatement proceedings as described in this Article.
 - 6. Conduct post-notice/pre-abatement inspections and documentation and conduct post-abatement inspections and documentation.
 - 7. The Public Official may, at his or her discretion, issue an administrative citation for violations of this Article, in lieu of abating a parcel.
 - 8. Within local fire district boundaries, inspections established by this Article may be performed by designated fire district personnel.
 - 9. Conduct abatements and handle accounting, assessment and collection of costs, including recordation of liens.

Sec. G-IV 7.6 Notice to Abate

Whenever the Public Official determines, based on a planned inspection, that a Parcel is in violation of this Article and requires abatement, the Public Official shall send the owner of record for the Parcel a Notice to Abate. The Notice to Abate shall be in writing and shall:

- A. Identify the owner(s) of the Parcel upon which the violation exists, as named in the records of the County Assessor, and identify the occupant(s) or person in control of the property, if other than the owner(s) and if known or reasonably identifiable.
- B. Describe the location of the Parcel by its commonly used street address, if any, and identify the Parcel by reference to the Assessor's Parcel Number, if any.
- C. Briefly describe the violation(s) on the Parcel and identify the Fuel Modification Area(s) which are required to abate the violation(s) and bring the Parcel into compliance with this Article.
- D. Contain a statement that the legal owner or occupant is required to correct the violation and allow at least thirty (30) calendar days from the date the Notice is served for the work to be completed.

- E. Outline the appeal process as provided in Section G-IV 7.9 of this Article.
- F. Contain a statement that, unless the legal owner or occupant abates the violation(s) and brings the parcel into compliance with this Article, or seeks an appeal within the time prescribed in the Notice, the violation may be abated at the legal owner and/or occupant's expense. It shall also state that the abatement costs, including administrative costs, may be made a special assessment added to the County assessment roll and become a lien on the real property, or be placed on the unsecured tax roll.
- G. Contain a statement that this Article provides that the Parcel owner and any person in possession of the Parcel upon which the Hazardous Vegetation or Combustible Material is found to exist shall be jointly and severally liable for all abatement costs incurred by the County.

Sec. G-IV 7.7 Service of Notice to Abate

All notices required by this Article shall be served in the following manner:

- A. By delivering it personally to the legal owner(s) of the Parcel(s) and to the occupant(s), or by mailing it by certified United States mail to the legal owner(s) of the Parcel at his or her address as it appears on the last equalized assessment roll and to any non-owner occupant(s), if known, at the street address for the Parcel.
 - a. If the records of the Nevada County Assessor show that the ownership has changed since the last equalized assessment roll was completed, the Notice shall also be mailed to the new owner(s) at his or her address as it appears in said records; or
 - b. In the event that, after reasonable effort, the Public Official is unable to serve the notice as set forth above, service shall be accomplished by posting copies of the notice along the frontage of the subject Parcel(s), and at such other locations on the Parcel(s) as are reasonably likely to provide notice to the owner(s) and any person known by the Public Official to be in possession of the Parcel(s). At least two (2) copies of the notice shall be posted on a Parcel pursuant to this section.
- B. The date of service for the notice is deemed to be the date of personal delivery or posting, or three (3) days after deposit in the U.S. mail.

Sec. G-IV 7.8 Enforcement Process

- A. Not less than thirty (30) days after the Notice to Abate is served, the Public Official shall conduct a post-notice/pre-abatement inspection on the Parcel and, if the required Fuel Modification Area(s) have not been performed, the Public Official may require that the required Fuel Modification Area(s) be completed by the County, and the cost of enforcement and the abatement with administrative fee be attached to the property tax as a lien.
- B. For Parcels owned or controlled by public agencies, the Public Official or designee may provide a Notice of Nuisance and include the project area in the local community wildfire protection plan and request the hazardous vegetation or combustible material be abated in accordance with the Healthy Forest Restoration Act of 2003 (H.R. 1904) or the PRC.

Sec. G-IV 7.9 Appeals Process

- A. Any person upon whom a Notice to Abate has been served may appeal the determination of the Public Official by delivering a written request for hearing to the Clerk of the Board's office within ten (10) days of the date of the Notice to Abate, together with payment of any appeal fee as may be duly adopted by the Board of Supervisors. The written request shall include a statement of all facts supporting the appeal. The time requirement for filing such a written request shall be deemed jurisdictional and may not be waived.
- B. If a timely appeal is filed with the Clerk of the Board, no further enforcement action will be taken until after the Hazardous Vegetation Abatement Hearing Body has made a determination on the appeal. In the absence of a timely filed written request that complies fully with the requirements of this section, the determination of the Public Official as set forth in the Notice to Abate shall become final and conclusive on the thirty-first (31st) day following service of the Notice.

- C. The hearing on the appeal shall occur not more than thirty (30) days after receipt of a timely appeal and shall provide written notice of the hearing date and time to the appellant at least ten (10) days prior to the date of the hearing, unless such time limits are waived in writing by the Public Official and the appellant.

Sec. G-IV 7.10 Hazardous Vegetation Abatement Hearing Body

A Hazardous Vegetation Abatement Hearing Body is hereby established to hear appeals on any Notice to Abate issued by a Public Official. The Hazardous Vegetation Abatement Hearing Body shall consist of the County Fire Marshal or designee, the County's Emergency Services Program Manager or designee, and a Fire Chief from a local fire protection district selected by the Nevada County Fire Chiefs' Association; provided, however, that if the Notice to Abate being appealed was issued by the County Fire Marshal or designee, then the Hazardous Vegetation Abatement Hearing Body shall consist of the County's Emergency Services Program Manager or designee, and two (2) Fire Chiefs from a local fire protection district selected by the Emergency Services Program Manager. The Hazardous Vegetation Abatement Hearing Body shall have the authority to amend, dismiss, or uphold a Notice to Abate by a majority vote.

Sec. G-IV 7.11 Abatement by Public Official

- A. If, at the end of the time allowed for compliance in the original Notice to Abate, or as extended in cases of appeal, or as specified by the Hazardous Vegetation Abatement Hearing Body, compliance has not been accomplished, the Public Official issuing the notice, or the agency of which he or she is an officer, may pursue a lawful abatement. The Public Official may proceed with the abatement of the Hazardous Vegetation or Combustible Material and provide that it be removed by public officers or by employees of the agency or by a private contractor selected by the agency in accordance with applicable statutes. The cost of such removal and enforcement accompanied by a reasonable administrative charge may be imposed as an assessment in the County tax roll.
- B. The costs so assessed shall be limited to the actual costs incurred by the Public Official and the County in enforcing the violation and abatement upon the subject Parcel. Such costs may include, but are not limited to, the costs of all prior inspections, appeal hearings and other enforcement actions leading up to the abatement, payments to the contractor, costs of site inspection, costs of notice, boundary determination and measurement, costs for material disposal and all clerical, personnel, consultant, and other administrative costs.

Sec. G-IV 7.12 Abatement Penalties and Costs

Upon expiration of the time limits and appeal processes established by this Article, the Public Official shall acquire jurisdiction to abate the nuisance, and may carry out the following as appropriate:

- A. Disposal of Materials. Any materials abated may be disposed of as a part of the removal process to include, as appropriate, recycling or as a part of a Biomass utilization program.
- B. Cost Accounting, Receipts and Notice of Assessment. The Public Official shall keep an itemized account of the costs of enforcing the provisions of this Article, and of the proceeds of the sale of any materials connected therewith. Upon completion of the abatement, the Public Official shall prepare a notice to be served on the affected Parcel(s) as provided in Section G-IV 7.7 and specifying:
 - 1. The work done (supported by before and after pictures);
 - 2. An itemized account of the costs and receipts of performing the work;
 - 3. An address, legal description, or other description sufficient to identify the Parcel that was subject to abatement and/or lien;
 - 4. The amount of the assessment proposed to be levied against the Parcel(s), or the amount to be refunded, if any, due to excess proceeds over the expenses;
 - 5. The time and place where the Public Official will submit the account to the Hazardous Vegetation Abatement Hearing Body for confirmation. The time and place specified shall be no less than fifteen (15) days after service of the notice;

6. A statement that the Hazardous Vegetation Abatement Hearing Body will hear and consider objections and protests to the account and proposed assessment or refund.

Sec. G-IV 7.13 Hearing on Proposed Lien

At the time and place fixed in the notice, the Hazardous Vegetation Abatement Hearing Body will hear and consider the account and proposed assessment, together with objections and protests thereto. At the conclusion of the hearing, the Hazardous Vegetation Abatement Hearing Body may make such modifications and revisions of the proposed account and assessment as deemed just and may order the account and proposed assessment confirmed or denied, in whole or in part, or as modified and revised, and shall issue a written recommendation regarding the proposed lien to the Board of Supervisors. The Board of Supervisors may summarily adopt the recommendation of the Hazardous Vegetation Abatement Hearing Body without further notice of hearing, or may set the matter for a *de novo* hearing in accordance with Government Code Section 25845(h). The determination of the Board of Supervisors as to all matters contained therein shall be final and conclusive.

Sec. G-IV 7.14 Notice of Lien; Recordation of Lien; Collection of Lien

- A. Upon confirmation of an assessment by the Board of Supervisors, Code Compliance shall notify the affected Parcel owners by certified mail, return receipt requested, of the amount of the pending lien confirmed by the Board of Supervisors, and advise them that they may pay the account in full within thirty (30) days in order to avoid the lien being recorded against the parcel(s). If the lien amount is not paid by the date stated in the letter, Code Compliance shall prepare and have recorded a Notice of Lien with the Nevada County Clerk-Recorder's office. The Notice of Lien shall contain:
 1. A legal description, address and/or other description sufficient to identify the Parcel(s) to be liened;
 2. A description of the proceeding under which the special assessment was made, including the order of the Board of Supervisors under this code confirming the assessment;
 3. The amount of the assessment;
 4. A claim of lien upon the described Parcel(s).
- B. Upon the recordation of a Notice of Lien, the amount claimed shall constitute a lien upon the described Parcel(s), pursuant to Section 25845 of the California Government Code. Such lien shall be at parity with the liens of state and County taxes, to the extent allowed by applicable law.
- C. After recordation, the Notice of Lien shall be delivered to the County Auditor-Controller, who shall enter the amount of the lien on the assessment roll as a special assessment. The amount set forth shall be subject to the same penalties and interest as ordinary County taxes. All laws applicable to the levy, collection and enforcement of County taxes are hereby made applicable to such assessment to the extent allowed by applicable law.

Sec. G-IV 7.15 Violations

Pursuant to Nevada County Code, it shall be an infraction or misdemeanor for any person, natural or corporate, owning, possessing, occupying, or controlling any lands or premises to fail to perform the duty set forth in this Article, or to fail to comply with the requirements in the Notice to Abate as specified in this Article, or to interfere with the performance of the duties herein specified for any of the officers named in this part or their deputies, or to refuse to allow any such officer or their deputies or employees, or approved private contractors, to enter upon any Parcel for the purpose of lawfully inspecting and/or as ordered, removing any Hazardous Vegetation and Combustible Material hereinbefore described as a public nuisance, or to interfere in any manner whatever with the officers or contractors in the work of a lawful inspection and ordered removal herein provided.

Sec. G-IV 7.16 Penalties for Violations

- A. This Article is a local safety code. Every violation of this Article which is determined to be an infraction or an administrative violation shall be punishable in accordance with Government Code Sections 53069.4 and 25132, as may be amended from time to time.

- B. Any person violating or failing to comply with the provisions of this Article shall be guilty of a misdemeanor, except that when the District Attorney or County Counsel shall elect to charge such violation as an infraction, it shall be an infraction. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Article is committed, continued or permitted by such person and shall be punishable accordingly.
- C. Notwithstanding any other law, a violation of local building and safety codes that is an infraction is punishable under Government Code 25132, as may be amended from time to time, by the following:
 - a. A fine not exceeding one hundred thirty dollars (\$130) for a first violation.
 - b. A fine not exceeding seven hundred dollars (\$700) for a second violation of the same ordinance within one year of the first violation.
 - c. A fine not exceeding one thousand three hundred dollars (\$1,300) for each additional violation of the same ordinance within one year of the first violation.
- D. Pursuant to Government Code Section 25132, subdivision (d), if the County levies a fine pursuant to subsections (b) or (c) of section G-IV 7.16 C., the County shall establish a process for granting a hardship waiver to reduce the amount of the fine upon a showing by the responsible party that the responsible party has made a bona fide effort to comply after the first violation and that payment of the full amount of the fine would impose an undue financial burden on the responsible party.
- E. Any person convicted of a misdemeanor under the provisions of this Code shall be punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars (\$1,000), or by both.
- F. The Public Official may issue an administrative citation against any Responsible Party in accordance with Government Code section 53069.4 and the provisions of this Article, subject to the following provisions:
 - 1. The administrative penalty for a violation of this Article shall be not less than one hundred (\$100.00) dollars for the first violation, seven hundred (\$700.00) dollars for each additional violation within one (1) year from the date of the first violation, and one thousand three hundred dollars (\$1,300) for each additional violation of the same ordinance within one year of the first violation.
 - 2. Upon a subsequent violation within a two (2) year period the violator shall be liable to the County for treble the abatement costs, including, but not limited to, costs incurred by local independent fire districts, in accordance with Government Code 25845.5.
 - 3. Unless a violation creates an immediate danger to health and safety, a Responsible Party shall be provided with notice and an opportunity to correct the violation prior to the imposition of the administrative penalty.
- G. The administrative penalty, or any portion thereof, for a first-time violation which has become effective following the corrective period, may be waived by the Public Official in his or her sole discretion only if the Responsible Party corrects the violation in accordance with all conditions established by the Public Official.
- H. If after a third inspection a Parcel owner continues to be noncompliant, the Public Official may issue a noncompliance citation. This can be waived by the Public Official if the Parcel owner is cooperating, performing best efforts, and mitigation progress is visible.
- I. Whenever a notice has been issued, the Public Official may record a notice of noncompliance with the office of the county recorder of Nevada County and shall notify the Parcel owner of such action. The notice of noncompliance shall describe the Parcel, shall set forth the noncomplying conditions, and shall state that any abatement costs incurred by the County as a result of the violations of this Article may be specially assessed as a lien on the property and that the Parcel owner has been so notified.
- F. Alternatively, the Public Official may prosecute violations of this Article by civil action, including, without limitation, issuance of administrative citations.

Sec. G-IV 7.17 Authority to Promulgate Reasonable Rules and Regulations

The Board of Supervisors reserves its right to adopt reasonable rules, regulations, and resolutions consistent with this Article to enforce, interpret, and carry out the provisions of this Article. Such rules, regulations and resolutions may vary between different areas within Nevada County.

