

ORDINANCE NO. 2023-07

AN ORDINANCE OF THE COUNTY OF CONTRA COSTA, THE CROCKETT-CARQUINEZ FIRE PROTECTION DISTRICT, AND THE CONTRA COSTA COUNTY FIRE PROTECTION DISTRICT, ESTABLISHING FUEL MITIGATION AND EXTERIOR HAZARD ABATEMENT (DEFENSIBLE SPACE), REQUIRING DOCUMENTATION OF COMPLIANCE PRIOR TO SALE OF THE PROPERTY, AND ADOPTING REQUIREMENTS FOR FUEL BREAKS ON PARCELS WITHIN THE FIRE DISTRICTS.

The Contra Costa County Board of Supervisors, as the Board of Supervisors for Contra Costa County and as the Board of Directors of the Contra Costa County Fire Protection District and the Crockett-Carquinez Fire Protection District, ordains as follows:

SECTION 1. AUTHORITY AND APPLICABILITY.

- (a) This ordinance is authorized by state statutes and regulations, including but not limited to Public Resources Code Sections 4117, 4290 and 5561.5; Health and Safety Code Sections 13801, 13804, 13861, 13862, and 13870; Government Code Section 51175; Title 14, California Code of Regulations, Section 1270.04; Title 19, California Code of Regulations, Section 1.07; and Title 24, Part 9, California Code of Regulations, Chapter 49.
- (b) This ordinance applies in all territory within the Contra Costa County Fire Protection District and Crockett-Carquinez Fire Protection District that has been classified as a Local Responsibility Area. This ordinance also applies to all structures in a State Responsibility Area located within the Contra Costa County Fire Protection District and Crockett-Carquinez Fire Protection District, pursuant to Health and Safety Code Section 13811.

SECTION 2. DEFINITIONS

COMBUSTIBLE MATERIAL. Rubbish, litter, or material of any kind other than Hazardous Vegetation, that is combustible and endangers the public safety by creating a Fire Hazard as determined by the Fire Code Official.

COST OF ABATEMENT. Includes all expenses incurred by the Fire District in its work of abatement and administrative costs.

DEFENSIBLE SPACE. The areas, including Zone 0, Zone 1, and Zone 2, extending 100 feet from any Structure.

FIRE APPARATUS ACCESS ROAD. A road that provides fire apparatus access from a fire station to a facility, building, or portion thereof. This is a general term that includes, but is not limited to, a fire lane, public street, public right of way, private street, driveway, parking lot lane, and access road.

FIRE CODE OFFICIAL. The Fire Chief or their duly authorized representatives.

FIRE DISTRICT. The Contra Costa County Fire Protection District and the Crockett-Carquinez Fire Protection District.

FIRE HAZARD. Any condition, arrangement, or act that will increase, or may cause an increase of, the hazard or menace of fire to a greater degree than customarily recognized as normal by persons in the public service of preventing, suppressing, or extinguishing fire, or that may obstruct, delay, or hinder, or may become the cause of obstruction, delay, or hindrance, to the prevention, suppression, or extinguishment of fire.

FUEL BREAK. A strategically located block or strip of land on which a cover of dense, heavy, or hazardous vegetation has been removed or modified to create lower fuel volume or reduced combustibility as an aid to fire control.

HAZARDOUS VEGETATION. Vegetation that is combustible and endangers the public safety by creating a Fire Hazard, including but not limited to bark, mulch, seasonal and recurrent grasses, weeds, stubble, non-irrigated brush, dry leaves, dry needles, dead, dying, and diseased trees, or any other vegetation identified by the Fire Code Official.

LADDER FUEL. Fuel that provides vertical continuity between surface fuel and canopy fuel strata, increasing the likelihood that fire will carry from surface fuel into the crowns of shrubs and trees.

LOCAL RESPONSIBILITY AREA. An area that is not a State Responsibility Area or federal property, and where the responsibility for preventing and suppressing fires is primarily the responsibility of the Fire District.

MODIFICATION. Where there are practical difficulties involved in carrying out the provisions of this Ordinance, the Fire Code Official, shall have the authority to grant Modifications for individual cases, provided that the Fire Code Official shall first find that special individual reasons make the strict letter of this Ordinance impractical and that the Modification is in compliance with the intent and purpose of this Ordinance. The details of actions granting a Modification shall be recorded and entered in the files of the Fire District.

OUTBUILDING. Buildings or Structures that are less than one hundred-twenty square feet in size and are not used for human habitation, and buildings or Structures with a roof but no walls.

PARCEL. A portion of real property of any size, which may be identified by an Assessor's Parcel Number, the area of which is determined by the legal lot of record.

PERSON. Includes any agency of the state, and any county, city, special district, or other local public agency, and any individual, firm, association, partnership, business trust, corporation, nonprofit corporation, limited liability company, or company.

RUBBISH. Waste matter, litter, trash, refuse, and debris on streets or private property in the

jurisdiction which is, or dry when they become, a fire hazard.

STATE RESPONSIBILITY AREA. An area of the state identified by the Board of Forestry and Fire Protection pursuant to Public Resources Code Section 4125 where the financial responsibility for preventing and suppressing fires is primarily the responsibility of the state.

STREETS. Includes alleys, parkways, driveways, highways, private roads, public roads, trails and fire trails.

STRUCTURE. A building that has walls and a roof and an area of 120 square feet or greater.

TREE LITTER. Any limbs, bark, branches and/or leaves in contact with other vegetation or left to gather on the ground.

WEEDS. All weeds growing upon streets or private property in the jurisdiction, including any of the following:

- (a) Weeds that bear seeds of a fluffy nature or are subject to flight.
- (b) Sagebrush, Chaparral (including Chamise, Coyote Brush/Greasewood, Brooms, and Buckwheat), and any other brush or weeds that attain such large growth as to become, when dry, a fire hazard to adjacent improved property.
- (c) Weeds that are otherwise noxious or dangerous
- (d) Poison oak and poison sumac when the conditions of growth constitute a menace to public health.
- (e) Dry grass, brush, tree litter, litter, or other flammable materials that endanger the public safety by creating a fire hazard.

ZONE 0. Referred to as the Ember-resistant Zone or Home Ignition Zone, it extends from 0 to five feet from any Structure, attached deck, or Outbuilding on the Parcel. Zone 0 requires the most stringent wildfire fuel reduction. This Ember-resistant Zone is designed to ensure that fire or embers from igniting materials cannot spread to the Structure.

ZONE 1. Referred to as the Lean, Clean, and Green Zone, it extends from five feet to 30 feet from any Structure or attached deck, or from 5 feet from the Structure or attached deck to the property line, whichever is closer.

ZONE 2. Referred to as the Reduced Fuel Zone, it extends from 30 feet to 100 feet from any Structure or attached deck, or from 30 feet from the Structure or attached deck to the property line, whichever is closer.

SECTION 3. FUEL MITIGATION AND EXTERIOR HAZARD ABATEMENT (DEFENSIBLE SPACE) STANDARDS.

- (a) Prohibition. No Person who has any ownership or possessory interest in or control of a Parcel within any State Responsibility Area or Local Responsibility Area within the Fire District shall allow to exist thereon any Hazardous Vegetation or Combustible Material that constitutes a Fire Hazard as determined by the Fire Code Official.
- (b) Defensible Space for Structures and Attached Decks. All Persons who have any ownership or possessory interest in or control of any Parcel within the Fire District shall maintain Defensible Space adjacent to all Structures and attached decks on the Parcel in accordance with California Code of Regulations, Title 14, Section 1299.03, and in accordance with Public Resources Code Section 4291.
- (c) Defensible Space for Outbuildings. All Persons who have any ownership or possessory interest in or control of any Parcel within the Fire District shall comply with the Defensible Space requirements of Section (b), above, with respect to any Outbuildings on the Parcel that are within 100 feet of a Structure or attached deck on the Parcel.
- (d) Roadside Vegetation. All Persons who have any ownership or possessory interest in or control of any Parcel within the Fire District that abuts a Fire Apparatus Access Road shall:
 - (1) Remove all Hazardous Vegetation that is within ten feet, measured horizontally, from the paved edge of the Fire Apparatus Access Road.
 - (2) Ensure that all portions of any tree overhanging a Fire Apparatus Access Road has at least 13 feet-6 inches, measured vertically, of clearance from the roadway surface.
- (e) Fences. No Person who has any ownership or possessory interest in or control of any Parcel within the Fire District shall construct or allow to be constructed or placed on the Parcel any screen, fence or other Structure made, in whole or in part, of bark, mulch, or wood chips within 100 feet of a Structure or within 10 feet of the paved edge of a Fire Apparatus Access Road.
- (f) Environmental Concerns. Compliance with the fuel mitigation requirements of this Ordinance shall not result in the taking of endangered, rare, or threatened plant or animal species, significant erosion, or sedimentation of surface waters. When these or other conditions make it impractical to comply with the fuel mitigation requirements, the person who owns, leases, or controls the Parcel or Parcels shall request that the Fire Code Official grant a modification of the requirements.

SECTION 4. SALE OR TRANSFER OF PROPERTY.

Before the close of escrow on the sale of any Parcel within the Fire District, the seller shall provide to the buyer documentation from the Fire Code Official stating that the property is

currently in compliance with the fuel mitigation requirements of this ordinance. The Fire Code Official shall have the discretion to accept alternate means and measures to achieve compliance if completion of the required work will delay the sale or transfer of the property.

SECTION 5. FUEL BREAKS.

- (a) **Fuel Break Requirement.** To reduce the risk of uncontrolled wildfire, Fuel Breaks are required on all Parcels in the Fire District. A Fuel Break requires the removal or modification of fuel, maintained on an annual basis by June 1 of each year, or on a recurring basis as determined by the Fire Code Official, in a manner that will prevent the transmission of fire.
- (b) **Fuel Break Standards.** A person who owns, leases, or controls one or more Parcels within the Fire District shall comply with following fuel break standards for each Parcel.
 - (1) **Parcels of Five Acres or Less.** The Parcel shall be maintained in accordance with the following requirements:
 - (A) Annual grasses and weeds shall be maintained at a height of no more than 3 inches. Weeds and grasses must be mowed, with material mulched and scattered or raked and bagged, and removed from the property, or disced. All discing work, including discing to establish fuel breaks, shall be completed so that all weeds, grasses, crops and other vegetation or organic material, which could be expected to burn, shall be completely turned under to the point that there is not sufficient exposed fuel to maintain or allow the spread of fire. Parcels may require additional abatement during the season due to the regrowth of weeds and other flammable vegetation.
 - (B) All Hazardous Vegetation shall be removed.
 - (C) All non-irrigated brush shall be removed.
 - (D) All Combustible Material shall be removed.
 - (E) All dead, diseased, or dying trees within 100 feet of an occupied structure shall be removed.
 - (F) All Ladder Fuel(s) shall be removed from trees so that foliage, twigs, or branches are a minimum of six feet above the ground, or higher based on site and slope conditions.
 - (2) **Parcels Greater Than Five Acres.** The Parcel shall be maintained with 30-foot fuelbreaks and 15-foot crossbreaks. Fuelbreaks and crossbreaks are a continuous strip of disced or dozed ground following as closely as possible to the property line, and along one side of all fencelines, ditches, and on top of all ridgelines. Crossbreaks

should divide the parcel into approximately five-acre sections. Fencelines may require handmowing or weedeating to ensure completion of fuelbreak. When terrain is too steep or rugged for a tractor, a handmowed fuelbreak may be required. All cut material must be mulched and scattered or raked, bagged and removed from parcel. Where 30-foot fuelbreaks are required, they shall be provided around all structures, combustible storage, trees, shrubs and brush, along ridgelines, fencelines, ditches, and along the sides of, but not in, creeks.

(3) All Parcels.

- (A) Fuelbreaks along roadways are required as part of the property line. Road right-of-ways shall be cleared to a minimum of 10 feet horizontally from the edge of driving surface and 13 feet-6 inches vertically.
 - (B) Active pastureland shall be provided with 15-foot wide fuelbreaks and crossbreaks if a sufficient number of animals are present to steadily reduce height of grasses during the summer months to 3 inches or less by the end of August, irrespective of parcel size. If this requirement cannot be met, 30-foot fuelbreaks and crossbreaks shall be required.
 - (C) Active cropland shall be provided with 15-foot fuelbreaks or crossbreaks if the crop is to be harvested by mid-June. If there is to be a later harvest, 30-foot fuelbreaks shall be required.
 - (D) Orchards are to be maintained by complete abatement, including grasses under tree branches. This may require pruning of lower branches to allow equipment access.
 - (E) Tree litter (eucalyptus leaves and bark, coniferous needles, leaves, fallen branches, etc.) shall be removed from the base of trees, tree stems, and limbs within 6 feet of the ground and maintained throughout the fire season.
 - (F) All debris, rubble, junk, piles of dirt, and other obstructions, that would obstruct or impede vehicles or equipment used for abatement work or fire suppression operations, must be removed.
 - (G) If the Fire Code Official requires mowed fuelbreaks and crossbreaks, mowed fuelbreaks shall be 60 feet wide and mowed crossbreaks shall be 30 feet wide.
- (c) Multiple contiguous Parcels owned by the same Person may be treated as a single Parcel, upon request of the owner, lessee or Person in control of the Parcel and with the approval of the Fire Code Official, if a Fuel Break is provided based on the size of the combined Parcels.
- (d) Environmental Concerns. Creation of Fuel Breaks shall not result in the taking of

endangered, rare, or threatened plant or animal species, significant erosion, or sedimentation of surface waters. When these or other conditions make it impractical to create and maintain a required Fuel Break, the person who owns, leases, or controls the Parcel or Parcels shall request a Modification of the Fuel Break requirement.

SECTION 6. ABATEMENT OF EXTERIOR FIRE HAZARDS

(a) Exterior Fire Hazard Control – General.

- (1) **Jurisdictional Authority.** The Board of Directors, as the supervising, legislative, and executive authority of the jurisdiction, hereby delegates to the Board of Fire Commissioners of the jurisdiction all its powers, duties, and rights to act pursuant to Part 5 (commencing with Section 14875), Division 12, of the Health and Safety Code (“Part 5”), to clear or order the clearing of rubbish, litter, or other flammable material where such flammable material endangers the public the safety by creating a fire hazard. Fire hazard abatement will be conducted in accordance with the provisions of Part 5 and this ordinance.
- (2) **Retention of Jurisdictional Authority.** If no Board of Fire Commissioners has been appointed for the jurisdiction, then the Board of Directors retains its powers and rights to act pursuant to Part 5.
- (3) **Contract for Services.** The Board of Directors reserves and retains the power to award a contract for fire hazard abatement work,
- (4) **Public Nuisance.** The Board hereby declares that all fire hazards, including weeds growing upon private property or streets and all rubbish on private property, easements or streets in the Fire District, are public nuisances.

(b) Fire Hazard Abatement.

- (1) **Prohibition.** No person who has any ownership or possessory interest in or control of parcel of land shall allow to exist thereon any hazardous rubbish, weeds, trees, or other vegetation that constitutes a fire hazard. Destruction by burning within this jurisdiction is unlawful unless the written permission of the fire chief is first obtained, and all other applicable permits are obtained from appropriate governing agencies or jurisdictions.
- (2) **Specific Requirements.** The Fire District may develop additional abatement standards for land in residential, rural and/or rural residential, business, industrial areas, or land which is unused or vacant. These standards may be modified periodically as circumstances dictate.
- (3) **Clearance of Weeds from Streets.** The Fire Code Official is authorized to cause areas within 10 feet (3048 mm) on each side of portions of streets which are improved, designed, or ordinarily used for vehicular traffic to be cleared of

flammable vegetation and other combustible growth. The Fire Code Official is authorized to enter upon private property to do so, to the extent allowed by law.

(c) Abatement Procedures.

- (1) Abatement Order. The Fire Code Official may order the abatement of a fire hazard. On making the order, the Fire Code Official will mail a copy of a notice to the owners of the affected property as their names and addresses appear upon the last county equalized assessment roll, or as their names and addresses are known to the fire code official. As an alternative to mailing, the notice may be posted upon the affected property and published in the jurisdiction, not less than 15 days prior to the date of the abatement hearing.

Copies of the notice will be headed with the words "Notice to Abate Fire Hazard" in letters at least one inch high. The notice will be in substantially the following form:

NOTICE TO ABATE FIRE HAZARD

You are hereby notified that (describe condition, e.g., weeds and rubbish) constitute a fire hazard on the following described property owned by you:

(Describe property by common street designation, by metes and bounds, Assessor's code area and parcel number, or by reference to attached map).

You must remove the (describe condition, e.g., weeds and rubbish) within fifteen (15) days from the date of this notice. If you fail to do so, the (jurisdiction) Fire Protection District will remove it, and the cost of the abatement, including administrative costs, will be collected as property taxes and will be a lien on your property until paid.

You are further notified that the Board of Directors has declared that (describe condition, e.g., weeds and rubbish) constitute a public nuisance.

You may appear before the Board of Fire Commissioners on (time and date) at (place- room, street, address, and city) to show cause why this order should not be enforced.

(Signed): (Name of fire code official of name of jurisdiction)

- (2) Hearing Date. A date for hearing on the notice will be sent at least 15 days after the date of the notice. The date of the notice is the date on which the notice is placed in the United States mail or the date on which it is posted on the property. At the

hearing, the property owner or his agent may appear to show cause why the order should not be enforced. For good cause shown, the Board of Fire Commissioners may extend the time for compliance with the order or may rescind the order.

- (3) **Contract Award.** If the owner fails to comply with the order, the Fire Code Official may have the (describe condition, e.g., weeds and rubbish) abated either by employees of this jurisdiction or by contract. If a contract is awarded, it will be by public bid, awarded to the lowest responsible bidder. A contract may include work on more than one parcel. Concerning any contract previously awarded as provided in this subsection and that has been fully extended as provided in that contract, it may thereafter be extended on its same terms and conditions for a further period (not to exceed one year) by agreement of the Board of Directors and the involved contractor.
- (4) **Abatement Report of Costs.** The Fire Code Official or his or her designee abating the nuisance will keep an account of the cost of abatement in front of or on each separate parcel of land and will render an itemized report in writing to the Board of Fire Commissioners showing the cost of removing the weeds and rubbish on or in front of each separate lot or parcel of land, or both. Before the report is submitted to the Board of Fire Commissioners, a copy of it will be posted for at least three days on or near the chamber door of the Board with a notice of the time and when the report will be submitted to the Board for confirmation. At the time fixed for receiving and considering the report, the Board of Fire Commissioners will hear it and any objections of any of the property owners liable to be assessed for the work of abatement. Thereupon, the Board of Fire Commissioners may make such modifications in the report as it deems necessary, after which the report will be confirmed. The amount of the cost, including administrative costs, of abating the nuisance in front of or upon the various parcels of the land mentioned in the report as confirmed will constitute special assessment against the respective parcels of land, and are a lien on the property for the amount of the respective assessments. The lien attaches upon recordation, in the office of the County Recorder, of a certified copy of the Resolution of Confirmation.
- (5) **Cost Assessments.** Upon confirmation of the report of cost by the Board of Fire Commissioners and the recordation of the Resolution of Confirmation, a copy of the report of cost will be sent to the County Auditor, who will enter the amount of the assessments against the parcels. Thereafter the amount of the assessments will be collected at the same time and in the same way as County taxes are collected. The owners are subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection, and enforcement of county taxes are applicable to these assessment taxes.
- (6) **Alternate Mitigation.** In lieu of ordering abatement, the Fire Code Official may order the preparation of firebreaks and fuelbreaks around parcels of property where combustible weeds, crops, or brush are present. In determining the proper width for firebreaks and fuelbreaks, the Fire Code Official will consider the height of the

growth, weather condition, topography, and the accessibility to the property for fire protection equipment. The procedures set forth above for the abatement of weeds and rubbish apply to the preparation of firebreaks and fuelbreaks.

SECTION 7. VALIDITY.

The Contra Costa County Board of Supervisors declares that if any section, paragraph, sentence, or word of this ordinance as adopted is declared for any reason to be invalid, it is the intent of the Contra Costa County Board of Supervisors that it would have passed all other portions or provisions of this ordinance independent of the elimination here from any portion or provision as may be declared invalid.

SECTION 8. MORE RESTRICTIVE REQUIREMENTS.

If requirements more restrictive than those in this ordinance are adopted by a city, those requirements will apply only within the jurisdiction adopting those requirements.

SECTION 9. EFFECTIVE DATE.

This ordinance becomes effective 30 days after passage. Within 15 days of passage, this ordinance shall be published once in the East Bay Times, a newspaper published in this County, in a manner satisfying the requirements of Government Code Section 25124, with the names of supervisors voting for and against it.

Passed on _____, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

ATTEST: Monica Nino,
Clerk of the Board of Supervisors
and County Administrator

Board Chair

By: _____
Deputy

[SEAL]