

**Newcastle Fire Protection District**

**ORDINANCE NO. 19-03  
AN ORDINANCE OF THE NEWCASTLE FIRE PROTECTION DISTRICT  
REQUIRING THE ABATEMENT OF HAZARDOUS VEGETATION  
Newcastle Fire Protection District of Newcastle, California**

**WHEREAS**, pursuant to the Health and Safety Code sections 14930 and 14931 of, article XI, section 7 of the California Constitution, and sections 25845 and 54988 of the Government Code, the Board of Directors does enact this ordinance, which shall be known and may be cited as the "Newcastle Fire Protection District Fire Hazard Abatement Ordinance

**NOW, THEREFORE, BE IT RESOLVED** by the Board of the Newcastle Fire Protection District that the Hazard Vegetation Ordinance 19-03 be added to the Local Ordinances and

**AUTHORIZE THE FOLLOWING:**

The Board of Director of the Newcastle Fire Protection District Ordains as follows:

The purpose of this ordinance is to provide for the removal of hazardous vegetation and combustible materials from around the exterior of improvements situated in the Newcastle Fire Protection District's area to reduce the potential for fire and to promote the public health, safety and welfare of the community.

The Newcastle Fire Protection District makes the following findings:

- (a) It is the intent of the Newcastle Fire Protection District that this ordinance shall apply to the abatement of hazardous vegetation and combustible material on improved and unimproved parcels within the districts area;
- (b) The areas of the Newcastle Fire District generally have a climate conducive to wildfires and is prone to periodic dry summers and wind events. Many of the district's native and non-native plant species can be highly flammable during normal dry periods and have contributed to significant wildfires within the district.
- (c) The areas of the Newcastle Fire District have a diverse and complex landscape which includes mountainous areas or forest-covered lands, brush covered lands, grass-covered lands, and other brush covered wildlands.
- (d) Of paramount importance to the fire district and its citizens is the protection of lives and property from the threat of fire and the safety of fire and law enforcement personnel during wildfires; and
- (e) It is the purpose of this ordinance to establish a hazardous vegetation and combustible material abatement program that protects the lives and property of the citizens of the Newcastle Fire District.

## **Section 1 - Authority.**

A district may adopt a fire prevention code by reference pursuant to Article 2 commencing with Section 50022. (Chapter 1 of Part 1 of Division 1 of Title 5 of the Government Code). For that purpose, the district board shall be deemed a legislative body and the district shall be deemed a local agency. California government code 25845:

(a) The board, by ordinance, may establish a procedure for the abatement of a nuisance. The ordinance shall, at a minimum, provide that the owner of the parcel, and anyone known to the board to be in possession of the parcel, be given notice of the abatement proceeding and an opportunity to appear before the board and be heard prior to the abatement of the nuisance.

(b) In any action to abate a nuisance, whether by administrative proceedings, judicial proceedings, or summary abatement, the owner of the parcel upon which the nuisance is found to exist shall be liable for all costs of abatement incurred, including, but not limited to, administrative costs and any and all costs incurred in the physical abatement of the nuisance.

(c) A district may, by ordinance, provide for the recovery of attorneys' fees in any action, administrative proceeding, or special proceeding to abate a nuisance. If the ordinance provides for the recovery of attorneys' fees, it shall provide for recovery of attorneys' fees by the prevailing party, rather than limiting recovery of attorneys' fees to the district if it prevails.

(d) If the owner fails to pay the costs of the abatement upon demand, the district may order the cost of the abatement to be specially assessed against the parcel. The assessment may be collected at the same time and in the same manner as ordinary property taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as are provided for ordinary taxes.

## **Section 2 - Definitions.**

(a) "Abatement" means mitigation or elimination of a fire hazard and such ongoing maintenance as is necessary to prevent the recurrence of a fire hazard, including, but not limited to, creation and maintenance of a firebreak.

(b) "Abatement Costs" means any costs or expenses reasonably related to the abatement of conditions which violate the Newcastle Fire District Ordinance Code, and shall include, but not be limited to, enforcement, investigation, collection and administrative costs, and the costs associated with the removal or correction of the violation.

(c) "Administrative Citation" - A "Notice of Violation and Administrative Fine," commonly known as an administrative citation, is an alternative enforcement tool that may be used instead of a criminal citation for specified violations of Newcastle Fire Protection District's Hazard Abatement Ordinance.

(d) "Board or District Board" means the Newcastle Fire Protection District Board of Directors.

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

(f) "District" means the Newcastle Fire Protection District

(g) "Fire Hazard" – Fire hazards may include but are not limited to the following:

Accumulations of wastepaper, wood, hay, straw, weeds, litter or combustible or flammable waste, abandoned vehicles, or rubbish on a roof or in any court, yard, vacant lot, alley, parking lot, open space, or beneath a grandstand, bleacher, pier, wharf, manufactured home, recreational vehicle or other similar structure.

(h) "Grass" means any herbaceous plant or any combination of dead weeds, grass or vegetation, cultivated or not, which will attain, when mature, such a height as to be a medium for the rapid spread of fire.

(i) "Hearing Officer" shall be the Fire Chief or his or her designee.

(j) "Improved parcel" means a portion of land of any size, the area of which is determined by the assessor's maps and records and may be identified by an assessor's parcel number upon which a structure is located.

(k) "Obstruction" means any material or object, including natural growing vegetation, which is placed or allowed to accumulate so as to interfere with fire suppression or the abatement of fire hazards. This would include but is not limited to, low hanging vegetation that affects driveway access and inoperative vehicles which are adjacent to structures.

(l) "Occupant" means an adult person, or an entity, having a possessory interest in real property. "Occupant" includes a tenant, resident, or other person or entity having possession, use, or control of the property.

(m) "Owner" means an adult person, or an entity, having an ownership interest in real property. "Owner" does not include persons having only a security interest in the property.

(n) "Parcel" means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code).

(o) "Parcel line" means the boundaries of the parcel.

(p) "Property line" means the boundaries of the contiguous real property under common ownership or control.

(q) "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some

definite manner, and includes any building, including, but not limited to, manufactured buildings, mobile homes, or modular buildings, that is used for any purpose.

(r) "Unimproved parcel" means a portion of land of any size, the area of which is determined by the assessor's maps and records and may be identified by an assessor's parcel number upon which no structure is located.

(s) "Weeds" means vegetation which bears or may bear seeds of a downy or windy nature; other vegetation which may attain such large growth as to become, when dry, a fire menace; vegetation otherwise noxious or dangerous, including poison oak and poison ivy in a condition of growth constituting a menace to public health; and accumulations of refuse, cuttings, trash and other combustible rubbish.

### **Section 3 - Duty to abate hazardous vegetation and combustible material.**

Upon receipt of a notice of violation, it shall be the duty of every owner, occupant, and person in control of any improved or unimproved parcel of land or interest therein, which is located in the Newcastle Fire District as that territory determined and classified by the board of directors to abate there from, and from all parcels, roadways and parkways, except for those roads maintained by the county, all combustible material and hazardous vegetation, that constitutes a fire hazard which may endanger or damage neighboring property pursuant to the California Public Resources Code - PRC § 4291 and the requirements of the notice of violation received.

The removal of vegetation pursuant to this ordinance shall not exceed that set forth in the notice of violation and order to abate. The notice of violation and order to abate and any clearance shall conform to guidelines issued by the Newcastle Fire District, and which the fire chief may amend periodically.

The requirements of this section will be satisfied if the following requirements are met by the method described in a notice of violation and order to abate:

For improved and unimproved parcels:

(1) Maintain a thirty-foot defensible space around all buildings/structures.

- a. The grass needs to be cut six inches (6") or less.
- b. The tree branches need to be limbed up six feet (6') from the ground.
- c. Shrubs need to be maintained.
- d. Climbing vines must be removed from trees and structures.

(2) Additional defensible space outward to two hundred feet (200') from all buildings and surrounding, neighboring structures may be required depending on the property slope, fuel load and/or fuel type.

- a. Fuel load — Amount of vegetation.
- b. Fuel type — Type of vegetation.
- c. Property slope — Steepness of property.

(3) Maintain a two-foot minimum clearance next to the roadside; more may be required.

- (4) Remove all portions of trees within ten feet (10') of chimney and/or stovepipe outlets.
  - a. Property owners are responsible for maintaining trees year-round.
  - b. Trees need to be cut ten feet (10') away from the chimney in any direction.
- (5) Maintain trees adjacent to or overhanging a structure free of dead/dying wood.
  - a. Cut the trees back and remove any dead or dying wood.
- (6) Maintain the roof of any structure free of leaves, needles, or other dead/dying wood.
  - a. Remove any leaves, needles, branches, or debris from the roof and/or gutters.
- (7) Install a spark arrester on chimney and/or stovepipe outlets.
  - a. The spark arrester must be constructed of heavy wire mesh with openings not to exceed one-half inch ( $\frac{1}{2}$ ").
- (8) Provide street address numbers that are clearly visible from the roadside, minimum height: four inches (4").
  - a. The address numbers should be posted on the house.
  - b. If the house sits back from the street, post the address at the beginning of the driveway and on the house.
  - c. The address numbers should be in a contrasting color for visibility.
- (9) Remove all tree limbs within six feet (6') or  $\frac{1}{3}$  the height of the tree. (More than ten feet may be required on a slope).
- (10) Remove dead/dying vegetation from property.
  - a. Remove any and all dead/dying vegetation from the property
  - b. For all parcels:
    - (1) Flammable vegetation and other combustible growth within ten feet (10') of neighboring structures and roadway frontage shall be removed;
    - (2) Dead and dying vegetation within ten feet (10') of neighboring structures and roadway frontage shall be removed;
    - (3) Grass and combustible surface vegetation within ten feet (10') of neighboring structures and roadway frontage must be trimmed to less than three inches (3") in height unless necessary for erosion control;
    - (4) All trees within ten feet (10') of neighboring structures and roadway frontage must be pruned to at least six feet six feet (6') or  $\frac{1}{3}$  the height of the tree. (More than ten feet may be required on a slope).

(5) Combustible material shall be removed from the property.

c. The fire chief or his or her designee may require more clearance distance than specified in the notice of violation and order to abate for the protection of public health, safety or welfare or the environment.

d. The determination for appropriate clearance distances will be made based upon a visual inspection of the parcel and shall consider all factors that place the property or 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 property or adjoining structure(s) is located.

Enforcement, inspection and authority to enter property.

(a) Pursuant to the board of directors' discretion, the board of directors may direct the fire chief to limit enforcement of the provisions of this ordinance to specified areas in the Newcastle Fire District's area for a specified period of time.

(b) For the purpose of enforcing this ordinance, the fire chief may designate any person or persons as his/her deputy in the performance of the duties enjoined upon him/her by this ordinance.

(c) For the purpose of enforcing or administering this ordinance, the fire chief or his or her designee may enter any real property for the purpose of inspecting the property or for summary abatement proceedings whenever the fire chief is informed or has reasonable cause to believe that hazardous vegetation or combustible material exists, constituting a condition dangerous or injurious to the health or welfare of persons or to the public, including the environment, is a public nuisance or is otherwise in violation of this ordinance.

(d) No person shall interfere with the entry of the fire chief or his or her designee acting in the official course and scope of his or her duty.

#### **Section 4 – Hazard Abatement Process.**

(a) Notice to Abate. If the fire chief determines that any real property is being maintained or permitted to exist in a manner prohibited by this ordinance, the fire chief shall issue a written notice to the property owner and any known person in possession of the property of the violation and order the hazardous vegetation or combustible material to be immediately abated.

(b) Manner of Giving Notice. The fire chief shall cause a copy of the notice/order to be mailed or otherwise delivered to all known persons to be in possession and to the property owner as such person's name and address appears on the last county equalized assessment roll. If the address is unknown, that fact shall be so stated and the notice shall be addressed to the person at the county assessor's office. Service by mail shall be deemed complete at the time of deposit in the U.S. mail. The failure of any person in possession or owner of the property to receive such notice shall not affect the validity of these proceedings.

(c) Abatement Hearing.

(1) Request for Hearing. Any person who is adversely affected by the notice/order may appeal the determination to a hearing officer.

(2) The request for a hearing must be made in writing and submitted to the enforcing officer within fifteen (15) calendar days of the postmark on the notice/order. Timely appeal shall stay any further action for abatement until the date set for hearing.

a. If no request for a hearing is timely made, the district herein declares that abatement of the hazardous vegetation or combustible material shall have been deemed ordered as of the date of the postmark of the notice/order.

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

a. At the time fixed in the notice of hearing, the hearing officer shall receive evidence from the fire district and the owner or person in possession of the real property in violation, or their representatives and any other concerned persons who may desire to present oral or documentary evidence regarding the conditions of the real property or other relevant matter, if such persons are present at the hearing. In conducting the hearing, the hearing officer shall not be limited by the technical rules of evidence. Failure of the owner or person in possession to appear shall not affect the validity of the proceedings or order issued thereon.

b. Upon conclusion of the hearing, the hearing officer shall make his/her decision and in the event he/she so concludes, may declare the conditions on the real property to be in violation of this ordinance. The hearing officer may direct the owner or person in possession to abate the hazardous vegetation or combustible material within ten (10) business days after mailing and posting of the hearing officer's decision. The order shall include notice that if the hazardous vegetation or combustible material is not abated as directed and within ten (10) business days.

c. The board may grant any extension of time to abate such conditions that it may deem justifiable upon good cause being shown.

d. Abatement of Hazardous Vegetation or Combustible Material by the District. If, at the end of the time allowed for compliance in the original notice issued, or as set forth in an order issued by the board after a timely request for a hearing pursuant to this code, compliance has not been accomplished as directed, the fire chief may order the hazardous vegetation or other combustible material to be removed by a private contractor or referred to Placer County Code Enforcement.

## **Section 5 - Administrative Citation.**

In the event that the property owner does not comply with a "Notice of Violation" and has not requested a hearing, a \$500 Administrative Citation will be issued. The property owner will be given three options:

Option 1. The property owner can correct all violations listed and notify our office when completed. If done within 15 days of the mailing date of the administrative citation (found on the front of the envelope) the citation and any applicable fees will be removed. The owner must provide pictures showing that all hazards listed have been abated within 15 days of the mailing of this citation. All pictures must include the property address and show views pertinent to this citation. The official reviewing the citation has the discretion to determine whether the violation has been appropriately corrected within the 15-day period. If the violation is not corrected within the 15-day period, the administrative penalty shall become effective and due immediately.

Option 2. If the property owner feel that they have received the citation in error and/or wish to dispute the citation, they must fill out a Request to Review form and submit it to our office via email or standard mail within 15 days of the mailing date of the citation (found on the front of the envelope). This form can be picked up at our office at 16999 Placer Hills Rd., Meadow Vista, CA 95722. Forms must be filled out completely and include any applicable pictures to support the claim.

Option 3. Pay the Administrative Citation. Property owner can write a check for \$500 and mail it to Newcastle Fire Protection District, 16999 Placer Hills Rd., Meadow Vista, CA 95722. Owner must provide the APN number on the check. If the property owner chooses this option, the administrative citation will be closed and listed as paid in full. The property owner will not be entitled to Request a Review once the citation is paid in full.

If the property owner chooses to do nothing, the \$500 Administrative Penalty Fee may be applied to their property taxes, and be subject to an additional fine of \$1000 for continued non-compliance.

## **Section 6 - Hearing Official.**

(a) Delegation of Authority. The Newcastle Fire Protection District Board may delegate its authority to conduct the administrative abatement to either of the following:

(1) The Hearing Officer

(2) A Weed Abatement Hearing Board (WAHB) designated pursuant to



Government Code Section 25845, as amended. The WAHB shall have full authority to act and may preside over hearings with the same authority, power and duties of the hearing officer. The WAHB shall be comprised of three (3) persons as follows: one (1) member shall be an officer of the Newcastle Fire Protection District selected by the District Board of Directors, (but not an employee involved in inspecting or issuing the notice/order; and two (2) members shall be selected by the board of directors. Members shall serve at the pleasure of the appointing entity.

(b) Recommended Action. At the conclusion of a hearing by either the hearing officer or WAHB, a recommended decision shall be issued to the owner or person in possession of the real property subject to the hearing, and to any other interested person previously requesting notice. The hearing officer or WAHB shall also file the recommended decision with the board of directors. The recommended decision may alter the notice/order in any fashion and may include an order to the owner or person in possession of the real property to abate the hazardous weeds or combustible material within ten (10) calendar days of issuance of the order.

(c) No Further Appeal. Upon receiving the recommended decision from either the hearing officer or WAHB, the board of directors may adopt the decision as recommended on the consent agenda at its next regularly scheduled public board meeting without further notice or hearing.

#### **Section 7 - Other remedies.**

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

This ordinance shall take effect thirty (30) days after its adoption.

Passed: \_\_\_\_\_

\_\_\_\_\_  
Signature

Approved \_\_\_\_\_

\_\_\_\_\_  
Signature

VOTE ON PASSAGE:    \_\_\_ Yea    \_\_\_ Nay    \_\_\_ Abstain

Attest: \_\_\_\_\_

Clerk

*I, Gillian Lofrano, Secretary to the Board, do hereby certify that the foregoing Ordinance No. 19-03 was duly published in the Auburn Journal, a newspaper of general circulation in the Community on the 6th day of October, 2019; and I further certify the compliance with the Codified Ordinances and the laws of the State of California, pertaining to Public Meetings.*

\_\_\_\_\_  
Clerk