

ORDINANCE NO. SCC 2019-_____
AN ORDINANCE OF THE BOARD OF SUPERVISORS OF
THE COUNTY OF SHASTA
ADDING CHAPTER 8.10, “DEFENSIBLE SPACE FOR FIRE PROTECTION,”
TO THE SHASTA COUNTY CODE, AND AMENDING SECTION 12.12.050 AND
SECTION 16.04.130 OF THE SHASTA COUNTY CODE

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

SECTION I.

Chapter 8.10 of the Shasta County Code is enacted to read in its entirety as follows:

Chapter 8.10

DEFENSIBLE SPACE FOR FIRE PROTECTION

Sections:

8.10.010	Findings
8.10.020	Definitions
8.10.030	Enforcement Responsibility/Applicability
8.10.040	Prohibitions/Defensible Space Requirements
8.10.050	Removal of Prohibited Materials
8.10.060	Enforcement

8.10.010 Findings

The Board of Supervisors makes the following findings and declarations:

- A. The accumulation of combustible vegetation, dead, dying or diseased trees, green waste, rubbish, and other flammable materials on private property is hereby found to create a condition that is a fire hazard and potentially injurious to the health, safety, and general welfare of the public.
- B. Therefore, the presence of such combustible vegetation, dead, dying or diseased trees, green waste, rubbish, and other flammable materials on parcels as hereinafter defined in violation of any regulatory or prohibitory provisions of this Chapter is hereby declared to constitute a public nuisance.
- C. Nothing in this chapter shall replace or conflict with the authority of the County Agricultural Commissioner to eradicate noxious weeds under applicable sections of the California Food and Agricultural Code.

8.10.020 Definitions

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section:

- A. "AGRICULTURAL LANDS" means those lands in the unincorporated area of the County of Shasta classified in the Shasta County Zoning Plan (Title 17 of the Shasta County Code) as Limited Agriculture (A-1), Exclusive Agricultural (EA), and Unclassified (U) when located within an agricultural general plan land use designation.
- B. "DEFENSIBLE SPACE" is an area either natural or man-made, where fuel has been treated, cleared or modified to slow the rate and intensity of an advancing wildfire, to create an area for fire suppression operations to occur, and to reduce the risk to improvements from wildfires. The amount of fuel modification necessary shall 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. The intensity of fuels management may vary within the 100-foot perimeter of the structure, the most intense being within the first 30 feet around the structure.
- C. "ENFORCING OFFICER" means the persons or entities with enforcement responsibility of this chapter under Section 8.10.030 of this Code, as currently enacted and as may hereafter be amended.
- D. "FIRE WARDEN" means the Shasta County Fire Warden established pursuant to Chapter 2.32 of the Shasta County Code, as currently enacted and as may hereafter be amended, or his/her authorized representative.
- E. "FUEL" means any combustible material, including petroleum-based products and wildland fuels.
- F. "IMPROVEMENT" means any building or structure, permanent or temporary, erected for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind located in the unincorporated area of the County of Shasta subject to this chapter and shall include agricultural crops. For purposes of this chapter, the term "improvement" shall not include decks, sheds, gazebos, freestanding open-sided shade structures and similar accessory structures less than 250 square feet and 30 feet or more from a dwelling, and fences more than 5 feet from a dwelling.
- G. "PARCEL" means any contiguous quantity of land in the possession of, or owned by, or recorded as the property of, the same person or entity and which is located

in the unincorporated area of the County of Shasta subject to this Chapter.

- H. "RESPONSIBLE PARTY" means any private individual, organization, firm, partnership, limited liability company, or corporation owning, renting, leasing, or otherwise controlling any parcel located in the unincorporated area of the County of Shasta subject to this chapter.
- I. "RURAL LANDS" means those lands in the unincorporated area of the County of Shasta which are not "URBAN LANDS" or "AGRICULTURAL LANDS" as defined in this Chapter.
- J. "URBAN LANDS" means those lands in the unincorporated area of the County of Shasta located in either (a) a zoning district in which the Shasta County Zoning Plan (Title 17 of the Shasta County Code) permits the creation of parcels that are two acres or less in size or (b) a Planned Development zoning district.

8.10.030 Enforcement Responsibility/Applicability.

- A. This chapter shall be applicable in all unincorporated territory of the County of Shasta, including, but not limited to, (1) unincorporated areas classified as local responsibility, (2) unincorporated areas classified as state responsibility pursuant to section 4125 of the Public Resources Code, as currently enacted and as may hereafter be amended, and (3) unincorporated areas within fire protection districts and other special districts that provide fire protection services.
- B. The Fire Warden and his or her designees shall administer and enforce the provisions of this chapter. Fire protection districts and other special districts that provide fire protection services shall have concurrent authority with the Fire Warden to administer and enforce the provisions of this chapter within their respective districts to the fullest extent authorized by law, but no district shall exercise the powers expressly reserved to the Fire Warden in section 8.10.040 (A)(3), section 8.10.040 (B)(3), section 8.10.040(C)(2), section 8.10.040 (D), section 8.10.050 (A), and section 8.10.050 (B) of this Chapter, as currently enacted and as may hereafter be amended, without the agreement of the Fire Warden.
- C. This Chapter shall supplement and shall not supersede or limit any other statute, regulation, or ordinance affecting the subject matter hereof, including but not limited to, other fire prevention and protection statutes, regulations, and ordinances enacted by the state, the county, or any other governmental agency having jurisdiction.

8.10.040 Prohibitions/Defensible Space Requirements.

- A. Rural Lands Requirement. For any parcel that lies entirely in a Rural Lands area (with no portion of any such parcel in an Agricultural Lands area or an Urban

Lands area), the following defensible space requirement shall apply to the entirety of the parcel.

1. No Defensible Space Requirement. On parcels in the unincorporated area of the County of Shasta that (a) are classified in the Shasta County Zoning Plan (Title 17 of the Shasta County Code) as Timber Production (TP) and (b) are subject to a “Plan” as defined in California Code of Regulations, title 14, section 895.1, as it now exists and may hereafter be amended, no defensible space requirements are imposed under this chapter.
 2. Defensible Space for Improvements. On all other parcels, a responsible party shall maintain defensible space of 100 feet from the exterior perimeter of any improvement on the responsible party’s parcel. Where the distance from the improvement to the property line of the parcel on which the improvement is located is less than the required defensible space, the responsible party shall only be required to provide the required defensible space to the property line.
 3. Defensible Space along Property Lines. On all other parcels, a responsible party shall maintain defensible space of up to 30 feet from the property line of the responsible party’s parcel when the accumulation of fuel on the parcel endangers or encroaches on a defensible space of 100 feet from the exterior perimeter of any improvement on an adjacent property that lies wholly or partially within an Urban Lands Area. The Fire Warden may require a distance greater than 30 feet but not to exceed 100 feet when it is determined that the greater distance is necessary to provide defensible space for improvements on an adjacent property.
- B. Agricultural Lands Requirement. For any parcel that lies entirely in an Agricultural Lands area or that lies partially in an Agricultural Lands area and a Rural Lands Area (with no portion of any such parcel in an Urban Lands area), the following defensible space requirements shall apply to the entirety of the parcel.
1. No Defensible Space Requirement. On pasture, crops, orchards and vineyards, irrigated by either surface water or ground water, no defensible space requirements are imposed under this chapter.
 2. Defensible Space for Improvements. On all other parcels, a responsible party shall maintain defensible space of 100 feet from the exterior perimeter of any improvement on the responsible party’s parcel. Where the distance from the improvement to the property line of the parcel on which the improvement is located is less than the required defensible space, the responsible party shall only be required to provide the required defensible space to the property line.

3. Defensible Space Along Property Lines. On all other parcels, a responsible party shall maintain defensible space of up to 30 feet from the property line of the responsible party's parcel when the accumulation of fuel on the parcel endangers or encroaches on a defensible space of 100 feet from the exterior perimeter of any improvement on an adjacent property that lies wholly or partially within an Urban Lands Area. The Fire Warden may require a distance greater than 30 feet but not to exceed 100 feet when it is determined that the greater distance is necessary to provide defensible space for improvements on an adjacent property.
- C. Urban Lands Requirements. For any parcel that lies entirely or partially within an Urban Lands area, the following defensible space requirements shall apply to the entirety of the parcel.
1. Defensible Space for Improvements. A responsible party shall maintain defensible space of 100 feet from the exterior perimeter of any improvement on the responsible party's parcel. Where the distance from the improvement to the property line of the parcel on which the improvement is located is less than the required defensible space, the responsible party shall only be required to provide the required defensible space to the property line.
 2. Defensible Space along Property Lines. A responsible party shall maintain defensible space of up to 30 feet from the property line of the responsible party's parcel when the accumulation of fuel on the parcel endangers or encroaches on a defensible space of 100 feet from the exterior perimeter of any improvement on an adjacent property, regardless of whether the adjacent property lies in an Agricultural Lands area, Rural Lands area, or Urban Lands area. The Fire Warden may require a distance greater than 30 feet but not to exceed 100 feet when it is determined that the greater distance is necessary to provide defensible space for improvements on an adjacent property.
 3. Defensible Space along Roads and Driveways. A responsible party shall maintain defensible space of up to 10 feet of each side of the pavement or, if unpaved, the traveled way, of highways, private roads and driveways that are on or adjacent to a responsible party's parcel.
- D. Fuel. For purposes of this section, fuel does not include single specimens of trees, fire-resistant ornamental shrubbery, other fire-resistant planting materials or cultivated ground covers which the Fire Warden determines are well-pruned and maintained so as to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to a structure or from a structure to other nearby vegetation.
- E. Grading. The provisions of this chapter shall not be construed to authorize

grading which does not comply with the Shasta County regulations regarding grading, excavating, filling, clearing and watercourses found in Title 12 of the Shasta County Code, as currently enacted and as may hereafter be amended. In performing actions in compliance with this Chapter, steps shall be taken to prevent erosion.

8.10.050 Removal of Prohibited Materials.

The following are approved methods for the removal of prohibited materials:

- A. The removal of prohibited materials shall be done using methods such as mowing, cutting, grazing and trimming that minimize surface disturbance, leave the plant root structure intact, and otherwise stabilize the soil and prevent erosion. Removed trees shall have the stumps cut no higher than eight inches above the ground. The height of weeds and annual grasses shall not exceed a height of six inches. Any chipping of trees or vegetation that is done on-site may be allowed to remain so long as it is dispersed over an area not to exceed six inches in depth. If the Fire Warden determines that difficult terrain, danger of erosion, or other unusual circumstances make strict compliance with this section undesirable or impractical, enforcement thereof may be suspended and reasonable alternative measures shall be provided as determined by the Fire Warden.
- B. Areas where prohibited materials are removed may be re-planted with single specimens of trees, fire-resistant ornamental shrubbery, and other fire-resistant planting materials or cultivated ground covers which do not form a means of rapidly transmitting fire from native or landscape plants to any improvement or other vegetation, to the Fire Warden's satisfaction. Re-planting may be required for erosion control.
- C. The removal of prohibited materials shall be carried out in conformance with all applicable federal, state and local laws, ordinances, and regulations.

8.10.060 Enforcement

- A. Any violation of any regulatory or prohibitory provision of this Chapter shall be a fire hazard and a public nuisance subject to enforcement under Chapter 1.12 (Enforcement), as currently enacted and as may hereafter be amended, and Chapter 8.28 (Nuisances) of this Code, as currently enacted and as may hereafter be amended, and shall be subject to enforcement under any other procedure permitted by law. All remedies provided herein are cumulative and not exclusive, and are in addition to any other remedy or penalty provided by law.
- B. Any violation of any regulatory or prohibitory provision of this Chapter is

subject to Chapter 1.08 of this Code. This chapter is a safety and regulatory provision necessary for the protection of the public health, welfare, and safety. Unless otherwise specifically provided in this chapter or by state law, in any criminal prosecution for a violation of this chapter it is not necessary to prove knowledge or criminal intent.

- C. The Board of Supervisors may order that the cost of abating nuisances pursuant to this Chapter be specially assessed against the respective parcels of land pursuant to section 25845 of the Government Code, as currently enacted and as may hereafter be amended. The Board of Supervisors may also cause notices of abatement lien to be recorded against the respective parcels of real property pursuant to section 25845 of the Government Code, as currently enacted and as may hereafter be amended. The Board of Supervisors may also cause notices of abatement lien for the cost of abating nuisances pursuant to this Chapter to be recorded against the respective parcels of land pursuant to section 14931 of the Health and Safety Code, as currently enacted and as may hereafter be amended, which shall have the force, effect, and priority of judgment liens.
- D. Nothing in this Chapter shall be construed as imposing any duty to abate a violation of this Chapter, nor to take any other action with regard to any violation of this Chapter, and neither the Fire Warden, nor any enforcing officer, nor the County of Shasta shall be held liable for failure to abate any violation of this Chapter, nor for failure to take any other action with regard to any violation of this Chapter.
- E. This chapter is intended to protect the interests of the community at large and is not intended to establish a duty of care for the benefit of any particular person or class of persons.

SECTION II.

Section 12.12.050 of the Shasta County Code is amended to read in its entirety as follows:

12.12.050 Exemptions

- A. The following activities are exempt from permit requirements of this chapter:
 - 1. Cultivation and production of agricultural products, including but not limited to gardening, forestry regulated by the California Department of Forestry and Fire Protection under an approved Timber Harvest Plan, and the rearing and management of livestock, except as provided in subsection B of this section;

2. Brush clearing in accordance with the provisions of Public Resources Code Section 4291 et seq., as currently enacted and as may hereafter be amended, or pursuant to the provisions of Chapter 8.10 of the Shasta County Code, as currently enacted and as may hereafter be amended, or at the direction of the Fire Warden for fire prevention and safety purposes, except as provided in subsection B of this section;
3. Mining, quarrying, excavating, processing, or stockpiling of rock, sand, gravel, aggregate or clay, as authorized in the zone plan and for which a use permit and reclamation plan have been granted, except as provided in subsection B of this section;
4. Operation of refuse disposal sites for which a valid permit has been issued pursuant to Chapter 8.32, as currently enacted and as may hereafter be amended;
5. Temporary excavation for installation or abandonment of underground storage tanks and associated piping when no permanent change is made in the existing terrain, best management practices are established to minimize erosion and prevent off-site discharge of sediment, and the excavation is refilled and stabilized, except as provided in subsection B of this section;
6. Temporary trench or pit excavation for the purpose of installing underground or overhead utilities where best management practices are established to minimize erosion and prevent off-site discharge of sediment, except as provided in subsection B of this section;
7. Subsurface geologic exploration under the supervision of a licensed civil engineer, registered environmental health specialist, engineering geologist or archeologist, except as provided in subsection B of this section;
8. The construction of pits for the containment of drilling fluids, when well drilling is performed pursuant to Chapter 8.56, as currently enacted and as may hereafter be amended, and when best management practices are established to minimize erosion and prevent off-site discharge of sediment, except as provided in subsection B of this section;
9. Grading conducted during a civil or hazardous material emergency or natural disaster to relieve or correct conditions caused by such emergency or disaster or to make emergency firebreaks;
10. The removal and spreading of contaminated earth materials from underground tank excavations performed in compliance with Chapter 8.24, as currently enacted and as may hereafter be amended, and when best management practices are established to minimize erosion and prevent off-site discharge of sediment;

11. Grading performed on public works projects by a governmental agency.
- B. No exemption provided in subdivisions 1, 2, 3, 5, 6, 7, or 8 of subsection A of this section shall apply to any grading (1) that will, or has the potential to, adversely affect any off-site drainage or aquatic habitat, or (2) that will, or has the potential to, adversely affect the lateral or subjacent support of any property not owned by the owner of the land upon which such grading is performed, or (3) that otherwise violates any regulatory or prohibitory provision of the Shasta County Code or any other law, or (4) that is undertaken to facilitate or otherwise assist any violation of any regulatory or prohibitory provision of the Shasta County Code or any other law.

SECTION III.

1. Subsection (A) of Section 16.04.130 of the Shasta County Code is amended in its entirety to read as follows:

16.04.130 Fire Standards and Equipment

- A. Prior to issuance of a certificate of occupancy for any building or mobile home, or any addition to a building or mobile home, the building official shall require that the building site provide defensible space for a distance of not less than 100 feet on each side of the structure or to the property line, as required by Section 4291 of the Public Resources Code, as currently enacted and as may hereafter be amended, and Sections 8.10.040 (A)(2), 8.10.040(B)(2) and 8.10.040(C)(1) of the Shasta County Code, as currently enacted and as may hereafter be amended.
2. All other provisions in Section 16.04.130 of the Shasta County Code not specifically amended by this ordinance remain in full force and effect.

SECTION IV.

The County finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the following categorical exemptions: Sections 15304 (i) (fuel management activities), 15307 (actions taken as authorized by local ordinance to assure protection of natural resources), 15308 (actions taken as authorized by local ordinance to assure 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) of the CEQA Guidelines. There are no unusual circumstances under CEQA Guideline section 15300.2(c). Each exemption stands as a separate and independent basis for determining that this ordinance is not subject to CEQA.

SECTION V.

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION VI.

All former ordinances and resolutions, or parts thereof, conflicting or inconsistent with the provisions of this ordinance are hereby repealed. The adoption of this ordinance shall not in any manner affect any action or prosecution for violation of ordinances, which violations were committed prior to the effective date hereof, be construed as a waiver of any license, fee, or penalty required by or resulting from any such ordinance, or affect the validity of any bond (or cash deposit in lieu thereof) required to be posted, filed, or deposited pursuant to such ordinance.

SECTION VII.

This ordinance shall take effect and be in full force and effect 30 days after its passage. The Clerk shall cause this ordinance to be published as required by law.

DULY PASSED AND ADOPTED _____, 2019, by the Board of Supervisors, County of Shasta, State of California, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSE:

LEONARD MOTY, CHAIRMAN
Board of Supervisors
County of Shasta
State of California

ATTEST:

LAWRENCE G. LEES

Clerk of the Board of Supervisors

By: _____
Deputy