

**ORDINANCE NO. 695
(AS AMENDED THROUGH 695.4)
AN ORDINANCE OF THE COUNTY OF RIVERSIDE
AMENDING ORDINANCE NO. 695 REQUIRING THE
ABATEMENT OF HAZARDOUS VEGETATION**

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

Section 1. Ordinance No. 695 is hereby amended in its entirety to read as follows:

Section 1. FINDINGS.

- A. It is the intent of the Board of Supervisors that this ordinance shall apply to the abatement of hazardous vegetation on unimproved property;
- B. Riverside County generally has an arid climate conducive to wildfires and is prone to periodic Santa Ana wind events. Many of the County's native and non-native plant species can be highly flammable during normal dry periods and have contributed to significant wildfires within the County. Santa Ana wind events further exacerbate the fire danger and have resulted in catastrophic fire losses to life, property and the environment;
- C. Riverside County has a diverse and complex landscape which includes deserts, mountains and other brush covered wildlands which are home to many rare and sensitive plant and animal species;
- D. The Board of Supervisors has recognized the importance and uniqueness of this diverse and complex landscape through its adoption and implementation of the Western Riverside County Multiple Species Habitat Conservation Plan and the Coachella Valley Multiple Species Habitat Conservation Plan which preserves land for the protection of these species;
- E. Of paramount importance to the Board of Supervisors and the citizens of Riverside County is the protection of lives and property from the threat of fire and the safety of fire and law enforcement personnel during wildfires; and
- F. It is the purpose of this ordinance to establish a hazardous vegetation abatement program that protects the lives and property of the citizens of Riverside County while at the same time protecting rare and sensitive plant and animal species and the environment.

- G. The Board of Supervisors finds that hazardous vegetation or combustible material poses a danger to the health, safety and welfare of the residents in the vicinity of any real property located throughout the territory of the County of Riverside for the reasons set forth above. Therefore, all hazardous vegetation or combustible material located on real property within the territory of the County of Riverside is deemed a public nuisance and poses a hazard to the safety of the landowners, residents in the vicinity, users of public highways and to the public generally.

Section 2. DEFINITIONS.

- A. Abate and/or Abatement. An act used to remove, destroy, eliminate, seize, impound, or any action taken to mitigate a public nuisance.
- B. Abatement Costs. Any and all costs incurred by the County of Riverside to abate the hazardous weeds or combustible material on any property pursuant to this ordinance, including physical abatement costs, administration fees and any additional actual costs incurred by the Riverside County Fire Department for the abatement proceeding, including attorneys fees, if applicable.
- C. Combustible Material. Rubbish, litter or material of any kind other than hazardous vegetation that is flammable and endangers the public safety by creating a fire hazard.
- D. County Fire Chief. The Fire Chief of the County of Riverside or his designated representative, including:
 - 1) Chiefs or Chief Engineers of all Fire Protection Districts within the territory of the political subdivision with the County where he serves, and their deputies;
 - 2) All employees of the Riverside County Fire Department Hazard Reduction Office; and
 - 3) Such other officers as are designated by the Board of Supervisors or the County Fire Chief.
- E. Hazardous Vegetation. Vegetation that is flammable and endangers the public safety by creating a fire hazard including but not limited to seasonal and recurrent weeds, stubble, brush, dry leaves, tumbleweeds.
- F. Improved Parcel. 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.

- G. Person. Natural person or corporation.
- H. Structure. Any dwelling, house, building or other type of flammable construction including but not limited to a wood fence attached to or near any other structure.
- I. Unimproved Parcel. 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.

Section 3. DUTY TO ABATE HAZARDOUS VEGETATION. Upon receipt of a Notice of Violation and Order to Abate, it shall be the duty of every owner, occupant, and person in control of any unimproved parcel of land or interest therein, which is located in the unincorporated territory of the County of Riverside as that territory is determined and classified by the Board of Supervisors to abate there from, and from all sidewalks and parkways, except for those roads accepted into the County Maintained System, all combustible material and hazardous vegetation, that constitutes a fire hazard which may endanger or damage neighboring property pursuant to the requirements of the Notice of Violation and Order to Abate received. No owner, occupant or person in control of any such unimproved parcel of land or interest therein shall be authorized to abate hazardous vegetation unless the owner, occupant or person has received a Notice of Violation and Order to Abate or alternatively has been issued a grading permit pursuant to the requirements of Ordinance No. 457. The removal of vegetation pursuant to this ordinance shall not exceed that set forth in the Notice of Violation and Order to Abate or grading permit. The Notice of Violation and Order to Abate and any clearance shall conform to Guidelines issued by the County Fire Chief implementing this ordinance, and which the Fire Chief may amend periodically.

- A. The requirements of this section shall be satisfied if there is cleared pursuant to the requirements set forth in a Notice of Violation and Order to Abate by the method described in said Notice:
 - (1) a one hundred (100) foot wide strip of land at the boundary of an unimproved parcel adjacent to a roadway; and/or
 - (2) a one hundred (100) foot wide strip of land around structure(s) located on an adjacent improved parcel (some or all of this clearance may be required on the unimproved parcel depending upon the location of the structure on the improved parcel).

The County Fire Chief or his or her designee may require more than a one hundred (100) foot width or less than a one hundred (100) foot width for the protection of public health, safety or welfare or the environment.

The determination for appropriate clearance distances will be made based upon a visual inspection of the parcel and shall consider all factors that place the property or 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. Examples of the clearance requirements above are attached hereto as Exhibit "A" for informational purposes only.

- B. Where the parcel's terrain is such that it cannot be disked or mowed, the County Fire Chief may require, or authorize, that other means of removal be used.

Section 4. ENFORCEMENT, INSPECTION AND AUTHORITY TO ENTER PROPERTY.

- A. For the purpose of enforcing this ordinance, the County 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, in addition to those named in Section 2.D. of this ordinance.
- B. For the purpose of enforcing or administering this ordinance, the County Fire Chief may enter any real property for the purpose of inspecting the property or for summary abatement proceedings whenever the County 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.
- C. No person shall interfere with the entry of the County Fire Chief acting in the official course and scope of his duty.

Section 5. SUMMARY ABATEMENT PROCEEDINGS. In addition to the authority granted by law to the County Fire Chief in exigent situations, and pursuant to California Health and Safety Code §14930 and Government Code §25845, as amended, the County Fire Chief is authorized to enter real property and summarily abate any public nuisance determined by the County Fire Chief to constitute an immediate threat to public health or safety without prior notice or hearing.

Section 6. ABATEMENT PROCEEDINGS.

- A. Notice of Violation and Order to Abate. If the County Fire Chief determines that any real property is being maintained or permitted to exist in a manner prohibited by this ordinance, the County 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. The notice of violation and order to abate ("Notice/Order") shall specify the corrective actions required to be taken and order the property owners and persons in possession to abate the hazardous vegetation or combustible material within thirty (30) days and state that the failure to bring the real property into compliance with this ordinance could subject the owner or persons in possession to civil, administrative and criminal penalties. Furthermore, the Notice/Order shall provide the property owner and person in possession of the opportunity to appear before the Riverside County Board of Supervisors and be heard prior to the abatement by the County. The failure of the notice to set forth all required contents shall not affect the validity of the abatement proceedings.
- B. Manner of Giving Notice. The County 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 seat. Service by mail shall be deemed complete at the time of deposit in the US 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. Hearing.
- (1) Request for Hearing. Any person who is adversely affected by the Notice/Order may appeal the Notice/Order by filing a written request for a hearing with the Riverside County Hazard Reduction Office within fifteen (15) calendar days. The request shall be postmarked 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.

If no request for a hearing is timely made, the Riverside County Board of Supervisors herein declares that abatement of the hazardous weeds or combustible material shall have been deemed

ordered by the Board of Supervisors as of the date of the postmark of the Notice/Order.

- (2) Hearing. Upon timely written request by the recipient of the Notice/Order, a hearing shall be scheduled with the Riverside County Board of Supervisors or its designee (hereinafter "Board") with notice thereof mailed or otherwise delivered to the requesting person at least fourteen (14) 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.

At the time fixed in the notice of hearing, the Board shall receive evidence from the County Fire Chief 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 Board 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.

Upon conclusion of the hearing, the Board shall make its decision and in the event it so concludes, may declare the conditions on the real property to be in violation of this ordinance and to constitute a public nuisance. The Board may direct the owner or person in possession to abate the hazardous vegetation or combustible material within ten (10) days after mailing and posting of the Board's decision. The order shall include notice that if the hazardous vegetation is not abated as directed and within ten (10) days, the County Fire Chief may abate the hazardous vegetation and the abatement costs shall be a lien and an assessment against the real property.

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 County Fire Chief. If, at the end of the time allowed for compliance in the original Notice/Order issued pursuant to Section 6.A. above, or as set forth in an order issued by the Board after a timely request for a hearing, and compliance has not been accomplished as directed, the County Fire Chief may order the hazardous vegetation or other combustible material to be removed by County fire officials

or employees, or may cause the removal to be carried out by a private contractor selected by the County Purchasing Agent in accordance with applicable statutes and in the manner and under the terms specified by the Board of Supervisors.

- E. Abatement Cost Recovery. As set forth in Government Code Section 25845, the owner and any person in possession of the real property 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 without any further hearing.
- F. Notice of Abatement Costs. At the conclusion of the abatement by the County Fire Chief or designee, the County Fire Chief shall issue a bill setting forth the abatement costs to the owner and person in possession of the real property. The bill shall demand payment to the County of Riverside the total abatement costs and administration costs, plus attorneys' fees, if relevant, within fifteen (15) calendar days of its mailing.
- G. Abatement Costs Specially Assessed Against the Parcel. If the amount set forth in the Notice of Abatement Costs is not paid upon demand by the County, the abatement costs, including attorneys' fees, if applicable, shall be specially assessed against the real property pursuant to Government Code Section 22845, or by any other means provided by law. The assessment may be collected at the same time and in the same manner as ordinary County taxes are collected, and shall be subject to the same penalties and the same procedure of sale in case of delinquency as are ordinary County taxes.
- H. Notice of Abatement Lien. A Notice of Abatement Lien may be recorded against the real property subject to this abatement proceeding, setting forth the date upon which abatement of the nuisance was ordered either by notice issued by the County Fire Chief or by the Board of Supervisors after a hearing, the date the abatement was complete and the amount of abatement costs. Furthermore, the notice shall identify the parcel address, the record owner, the possessor of the property, if known and applicable, together with the last known address of the record owner or possessor. The abatement lien shall have the same effect as recordation of an abstract of a money judgment pursuant to Article 2 of Chapter 2 of Division 2 of Title 9 of Part 2 of the California Code of Civil Procedure (commencing with § 697.310, as amended). The lien has the same priority as a judgment lien on real property and continues in effect until released.

- I. Attorneys Fees. Reasonable attorneys' fees may be recovered by the prevailing party in any civil action, administrative proceeding or special proceeding established by this ordinance. In the event a hearing is requested pursuant to the notice described above in Section 6 and the Board of Supervisors deems the real property to be a public nuisance and orders the County Fire Chief to abate the hazardous vegetation or combustible material, the County shall be deemed the prevailing party.

Section 7. HEARING OFFICIAL.

- A. Delegation of Authority. The Riverside County Board of Supervisors may delegate its authority to conduct the administrative abatement proceedings set forth in Section 6, above, to either of the following:
 - (1) The County hearing officer appointed by the Board of Supervisors pursuant to Riverside County Ordinance No. 643 and Government Code Section 27720, as amended. The hearing officer shall have full authority and duty to preside over hearings in the manner set forth in Riverside County Ordinance No. 643, as amended.
 - (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 Riverside County Fire Department selected by the County Fire Chief, (but not an employee involved in inspecting or issuing the Notice/Order; and two (2) members shall be selected by the Board of Supervisors. 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 Supervisors. 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 Supervisors may adopt the decision as recommended on the consent agenda at its next regularly scheduled public Board meeting without further notice or hearing, or may set the matter for a de novo hearing before the Board of Supervisors

Section 8. OTHER REMEDIES. The provisions of this ordinance are to be construed as an added remedy of abatement and not in derogation of any other civil or criminal actions or proceedings or remedies otherwise provided by law.

A. Civil Actions.

(1) Injunctive Relief and Abatement. Whenever, in the judgment of the County Fire Chief, any person is engaged in or about to engage in any act or practice which constitutes or will constitute a violation of any provision of this ordinance or notice or order issued pursuant hereto, the County Fire Chief may request the County Counsel or District Attorney to commence proceedings for the abatement, removal, correction and enjoinder thereof, and requiring the violator to pay civil penalties and/or abatement costs or in addition, be subject to criminal prosecution.

(2) Civil Remedies and Penalties. Any owner or person in possession of real property who willfully violates the provisions of this ordinance or any notice or order issued pursuant hereto shall be liable for a civil penalty not to exceed \$1,000.00 for each day or portion thereof that the violation continues to exist. In determining the amount of the civil penalty to impose, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the violator, whether corporate or individual, and any corrective action taken by the violator.

B. Criminal Actions.

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

(2) Any person so convicted shall be guilty of an infraction offense and punished by a fine not exceeding one hundred dollars (\$100) for a first violation; guilty of an infraction offense and punished by a fine not exceeding two hundred dollars (\$200) for a second violation on the same site and perpetrated by the same person. The third and any additional violations on the same site and perpetrated by the same person shall constitute a misdemeanor offense and shall be punishable by a fine not exceeding one thousand dollars (\$1,000) or six months in jail, or both. Payment of any penalty herein shall not relieve a person from the responsibility for correcting the violation. Notwithstanding the above, a first or second offense may be charged as a misdemeanor.

C. Treble Damages. Upon a second or subsequent civil or criminal judgment for a violation of this ordinance within a two year period the violator shall be liable to the County of Riverside for treble the abatement costs, in accordance with Government Code § 25845.5.

D. Notice of Noncompliance. Whenever a Notice/Order has been issued, the County Fire Chief may record a Notice of Noncompliance with the Office of the County Recorder of Riverside County and shall notify the owner of the property of such action. The Notice of Noncompliance shall describe the property, shall set forth the noncomplying conditions, and shall state that any abatement costs incurred by the County as a result of the violation of this ordinance may be specially assessed as a lien on the property and that the owner has been so notified.

Section 9. SEVERABILITY. This ordinance and the various parts, sections and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid, the remainder of this ordinance shall not be affected thereby.

The County Board of Supervisors hereby declares that it would have passed this ordinance and each part thereof, regardless of the fact that one or more parts thereof be declared unconstitutional or invalid.

Section 2. EFFECTIVE DATE. This amendment shall become effective 30 days after adoption.

Adopted:

695 Item 10.7 of 10/16/1990 (Eff: 11/15/1990)

Amended:

695.1 Item 3.7 of 04/08/1997 (Eff: 05/08/1997)

695.2 Item 3.33 of 07/02/2002 (Eff. Immediately)

695.3 Item 3.10 of 03/20/2007 (Eff: 04/19/2007)
695.4 Item 3.33 of 06/16/2009 (Eff: 07/16/2009)