



ORDINANCE NO. _____

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 8.09
VEGETATION MANAGEMENT AND DEFENSIBLE SPACE
OF TITLE 8, PUBLIC HEALTH AND SAFETY
OF THE EL DORADO COUNTY CODE**

**THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO DOES ORDAIN
AS FOLLOWS:**

Chapter 8.09 of the El Dorado County Ordinance Code entitled "Vegetation Management and Defensible Space" is hereby repealed and replaced in its entirety to read as follows:

CHAPTER 8.09. - HAZARDOUS VEGETATION AND DEFENSIBLE SPACE

Sec. 8.09.010. - Title.

This Chapter shall be known and may be referred to in all proceedings as the County Hazardous Vegetation and Defensible Space Ordinance. The purpose of this Chapter is to provide for the removal of hazardous vegetation and combustible materials situated in the unincorporated areas of the County so as to reduce the potential for fire and to promote the safety and welfare of the community.

Sec. 8.09.015. - Conflict of Ordinances.

- A. The operation of this Chapter shall in no way change or diminish the application of other ordinances in this Code dealing with like or similar matters.
- B. In any case where a provision of this, or any other, Chapter is found to be in conflict with a provision of any zoning, building, fire safety, or health ordinance or any other section of the Code, including fines, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.
- C. It is not intended by this Chapter to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws or ordinances or with private restrictions placed upon property by covenant, deed, or other private agreement except those specifically repealed by this Chapter.

Sec. 8.09.020. - Findings.

- A. The Board of Supervisors of El Dorado County (hereinafter "County") finds and declares that the uncontrolled growth and/or accumulation of weeds, grasses, hazardous vegetation and combustible materials or obstructions on sidewalks, streets, and on lands or lots within the County is dangerous or injurious to neighboring property and the health, safety, and welfare of residents of the County. Such growth and accumulation constitute a public nuisance in that it creates Fire Hazards, reduces the value of private property, promotes blight and deterioration, invites plundering, constitutes an unattractive nuisance and creates a hazard to the health, safety, and general welfare of the public;
- B. It is the intent of the County that this Chapter shall apply to the Abatement of the growth and/or accumulation of weeds, grasses, shrubs, dormant brush, slash, tree limbs, hazardous vegetation and combustible materials on all Improved Parcels and designated Unimproved Parcels within the County and maintenance of those parcels to prevent vegetation from growing back;
- C. All parcels in the County have been identified and designated as being within either a State Responsibility Area (SRA) or Local Responsibility Area (LRA) Moderate, High or Very High Fire Hazard Severity Zone by the California Department of Forestry and Fire Protection (CAL FIRE) in accordance with the most current edition of the Fire and Resource Assessment Program (FRAP) Map. The County is located in a mountainous and/or hilly region of Northern California. The County has a diverse and complex landscape which includes mountains, forests, chapparal or grass covered wildlands which have the potential to fuel a catastrophic fire event;
- D. Catastrophic wildfire events pose a serious threat to the preservation of public peace, health and safety within any wildland urban interface and intermix communities. The proper implementation and enforcement of hazardous fuel regulations and landscaping requirements have been proven to reduce the impact from destructive wildfires through the mitigation of hazardous fuel conditions around homes and roadways;
- E. Wildfires with extreme fire behavior are occurring more often and growing larger. Eighteen (18) of the twenty (20) most destructive wildland fires in the State of California have occurred between 2002-2022. The County in particular has a history of destructive wildfires. These include the 2007 Angora Fire, 2014 King Fire, 2021 Caldor Fire and the 2022 Mosquito Fire. Climate change stressors, such as increased average air temperature, precipitation variability, reduced snowpack, drought, and tree mortality, will lead to an increased frequency of large wildfires that will create adverse impacts on local County communities;
- F. Of paramount importance to the Board of Supervisors and the citizens of the County is the protection of lives and property from the threat of fire and the safety of fire and law enforcement personnel during wildfires;

- G. During periods of drought and declared “fire seasons” the County generally has a dry, arid climate conducive to wildfires. Many of the County’s native and non-native plant species can be highly combustible during both drought and normal dry periods that have contributed to significant wildfires;
- H. The County has difficult topography, terrain, and weather conditions that exacerbate the fire danger and that can create significant challenges for firefighters attempting to suppress wildfires. Many communities and individual residential, commercial, and industrial structures in the County are located in areas that are at significant risk from wildfires due to their close proximity to steep topographical conditions that allow for rapid fire spread that can overwhelm the available firefighting resources in the County;
- I. It is the purpose of this Chapter to establish a Hazardous Vegetation and Combustible Material Abatement program that protects the lives and property of the citizens of the County;
- J. It is the County's intent to make fire safe communities, thus giving citizens better opportunities for affordable fire insurance; and
- K. California Public Resource Code Section 4291 and Government Code Section 51182 both establish that a minimum defensible space clearance of no less than 100-feet is required around structures to protect them from the threat of a wildfire. Due to the County’s steep terrain, weather conditions, age of the structure, limited roadways to allow concurrent emergency vehicle access and public evacuation, limited water supply for fire protection, and hazardous vegetation present within communities and individual properties, additional clearance beyond 100-feet may be required, on a case-by case basis, around structures to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure. No other feasible mitigation measures to reduce the risk of ignition or spread of wildfire to the structure is present as many of these structures are existing and no other practical measures would adequately reduce this risk.

Sec. 8.09.030. - Definitions.

Abate or Abatement shall mean an act used to remove, destroy, eliminate, seize, impound, or any action taken to mitigate a public nuisance.

Abatement Costs means the cost of staff time based on weighted salary consisting of base pay plus benefits; actual cost of mobilization, removal, disposal, of Waste, Weeds, grasses, Hazardous Vegetation and Combustible Materials, and actual cost to repair or Abate hazardous conditions.

Accumulation of Weeds, Grasses, Hazardous Vegetation, and Combustible Materials means allowing the growth or accumulation of Weeds, grasses, Hazardous Vegetation and/or the accumulation of Combustible Materials as defined below.

Biomass shall mean all green waste material generated during a fuel treatment project. Biomass includes, without limitation, all grass, Weeds, vegetation, and tree trimmings.

Combustible Material means the accumulation of garbage, rubbish, waste, or material of any kind other than Hazardous Vegetation that is flammable and endangers the public safety by creating a Fire Hazard.

County Emphasis Area means an area designated by the County for focused, proactive inspections.

Critical Infrastructure means a use or facility classified within one or more of the following categories: (1) Essential Services Facilities, (2) At-risk Populations Facilities, (3) Hazardous Materials and Solid Waste Facilities,

- Essential Services Facilities include, without limitation, public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities and equipment, and government operations facilities.
- At Risk Population Facilities include, without limitation, pre-schools, public and private primary and secondary schools, before and after school care centers with 12 or more students, daycare centers with 12 or more children, group homes, and assisted living residential or congregate care facilities with 12 or more residents.
- Hazardous Materials and Solid Waste Facilities include, without limitation, any facility that could, if adversely impacted, release hazardous materials or waste in sufficient amounts during a hazard event that would create harm to people, the environment and property.

Defensible Space means the buffer that Responsible Person(s) is(are) required to create on their property between a "Structure" and the plants, brush and trees or other items surrounding the "Structure" that could ignite in the event of a fire.

Enforcement Official means the Chief Administrative Officer or her/his designees.

Fire Chief means the chief of any fire department/district located wholly or partially located in El Dorado County.

Fire Hazard shall mean any condition, arrangement, act, or omission which:

1. Increases, or may cause an increase of hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing, or extinguishing fire; or
2. May obstruct, delay, hinder, or interfere with the operations of a fire department or the egress of occupants in the event of fire.

Garbage includes, but is not limited to, the following: Waste resulting from the handling of edible foodstuffs or resulting from decay, and solid or semisolid putrescible waste, and all other mixed, non-recyclable wastes which are generated in the day-to-day operation of any business, residential, governmental, public, or private activity, and may include paper, plastic, or other synthetic material, food, or beverage containers.

Hardwood generally indicates trees which have broad leaves—deciduous trees (such as oak, alder, dogwood, and madrone).

Hazardous Vegetation shall mean any vegetation that is combustible and endangers the public safety by creating a Fire Hazard. Hazardous Vegetation includes material that in its natural state will readily ignite, burn, and transmit fire from native or landscape plants to any Structure or other vegetation. Hazardous Vegetation includes, but is not limited to, dry grass and leaves, brush, weeds, green waste, dead or dying trees, low-hanging branches, litter, or other flammable vegetation that create a Fire Hazard. Hazardous Vegetation shall not include a commercial agricultural crop that is being actively grown and managed by a Responsible Person.

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.

Investigative Official means the chief of a fire department/district in El Dorado County or his/her designee; Chief of Cal Fire Amador/El Dorado Unit or his/her designee; or personnel designated by the Chief Administrative Officer.

Ladder Fuels means fuels that can carry a fire vertically between or within Combustible Material or Hazardous Vegetation.

Outbuilding means a structure that is less than one hundred-twenty (120) square feet in size and not used for human habitation. For purposes of this Chapter, an "Outbuilding" is not a "Structure" as defined below.

Real Estate Transaction means the transfer of property between individuals or entities.

Responsible Person(s) means an owner, tenant, occupant, lessor, manager, licensee, political subdivision, local government agency, municipality, or other person having control over a Structure or parcel of land or, to the fullest extent allowed by law, the parent or legal guardian of any person under 18 years who have done any act for which a penalty may be imposed under this Chapter, or any other person required to comply with the provisions of the Code and, any other lien holder, secured party, or other person who has properly recorded a security interest or other appropriate document evidencing an interest in the property, which has been recorded in the official records of the County.

Rubbish includes, but is not limited to, non-putrescible Wastes, such as paper, cardboard, grass clippings, tree, or shrub trimmings, leaves and needles, wood chips used in landscaping or within

five feet of a Structure, bedding, crockery, rubber tires, construction Waste and similar Waste materials.

Slash means the woody debris remaining on the ground after fuels management work: Slash including but not limited to treetops, branches, bark, chunks, cull logs, uprooted stumps, and uprooted trees.

Softwood means the wood from a conifer (such as pine, cedar, fir, or spruce) as distinguished from that of broadleaved trees.

Structure as used in this Chapter, is defined to include buildings which qualify for occupancy classification and use designation per the County building code, such as residential dwellings (which includes trailers and mobile homes, whether situated in a park or installed on private property), commercial buildings, industrial buildings, agricultural buildings, barns, storage buildings, government buildings, and any accessory buildings thereto deemed appropriate for a site address by the County Surveyor.

Exception: Any freestanding outbuilding less than 120 square feet in floor area.

Unimproved Parcel means 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.

Vegetation means plants considered collectively, especially those found in a particular area or habitat. For the purposes of this Chapter any tree less than six inches in diameter is considered Vegetation.

Waste means all putrescible and non-putrescible solid, semi-solid, and liquid wastes, including residential, commercial, and municipal garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, construction, and demolition debris, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid wastes and semisolid wastes.

Weeds include any of the following:

1. Weeds which bear seeds of a downy or wingy nature;
2. Weeds and grasses which attain such growth as to become, when dry, a fire menace to adjacent Improved Parcel;
3. Poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health;
4. Dry grass, stubble, brush, or other flammable Vegetation which endangers the public safety by creating a Fire Hazard.

5. Vegetation that is not pruned or is otherwise neglected so as to attain such large growth as to become, when dry, a fire menace to adjacent property.

Wildfire Risk Area refers to lands that are covered with grass, grain, brush, or forest, whether privately or publicly owned, which is so situated or is of such inaccessible location that a fire originating upon it would present an abnormally difficult job of suppression or would result in great or unusual damage through fire or such areas designated by the Enforcement Official.

Sec. 8.09.040. - California Environmental Quality Act (CEQA).

The subject project is Categorically Exempt (Class 4) from provisions of CEQA, pursuant to 14 CCR section 15304. The subject project is also exempt under the “common sense” exemption in 14 CCR section 15061(b)(3) because it does not involve activity that will have a significant effect on the environment.

Sec. 8.09.050. - Legal Authority for the County Ordinance.

The County has the legal authority to adopt the provisions contained in this Chapter as specified below:

- A. California Health and Safety Code sections 14875-14931, provide that an accumulation of Weeds, grasses, Hazardous Vegetation, and other Combustible Material may be declared a public nuisance and provides guidelines for enforcement and Abatement by the County of such nuisance as Fire Hazards, and payment of such Abatement Costs incurred by the County to remove such Hazardous Vegetation and Combustible Material. This Code also provides for penalties for violations of this Chapter by Responsible Persons.
- B. California Fire Code (CFC) Title 24, Part 9, Chapter 3, section 304.1.2, and Chapter 49 (Requirements for Wildland-Urban Interface Fire Areas), as locally adopted with amendments, provides minimum standards to increase the ability of a Structure to resist the intrusion of flame or burning embers.
- C. California Code of Regulations Title 14, Division 1.5, Chapter 7, Subchapter 3, Section 1299, and California Code of Regulations Title 19 §3.07.
- D. California Public Resources Code section 4291 and California Government Code section 51182, as amended, requires a Person or entity that owns, leases, controls, operates, or maintains a building or Structure in, upon, or adjoining a mountainous area, forest-covered lands, brush-covered lands, grass covered lands, or land that is covered with flammable material, to maintain Defensible Space of 100 feet from each side and from the front and rear of the Structure, and which provides for required fuel modification so as to ensure that a wildfire burning under average weather conditions would be unlikely to ignite the Structure on the property.

- E. California Government Code sections 25845 and 25845.5, provide that the Board of Supervisors may establish procedures for the Abatement of a nuisance and regarding enforcement mechanisms available for the County to ensure that the costs incurred by the County in Abating the nuisance consisting of accumulation of Weeds, grasses, Hazardous Vegetation and other Combustible Materials are recovered from the Responsible Person who fails to Abate such nuisance after notice from the County to do so.
- F. California Civil Code section 1102.19, provides that on and after July 1, 2021, a seller of a real property in this County, and subject to this Chapter, and that is located in a high or very high Fire Hazard severity zone, shall provide to the buyer documentation stating that the property is in compliance with this Chapter prior to the close of escrow. The seller shall also provide the buyer information on the local agency from which a copy of that documentation may be obtained prior to the close of escrow.

Sec. 8.09.055. - Collection of Administrative Fines or Fees.

Fines or fees incurred in connection with enforcement activities may be recovered through the billing process. Those fines or fees billed shall be paid within 30 days after the date of the imposition of the fine or billing, whichever is earlier. Any fines or fees not paid within such 30-day period shall be subject to a late fee in the amount of ten percent of the established fine or fee. The total fine or fee plus late fee as described herein shall accrue interest at a rate established by a resolution of the Board. Any fine or fee which remains unpaid 90 days after the due date may be referred to the County Revenue Recovery for collection purposes and will be subject to additional fees to cover the cost of collection.

Sec. 8.09.060. - Prohibited Conduct.

A Responsible Person shall not dump, nor permit the dumping of Weeds, grasses, Hazardous Vegetation, refuse, or other Combustible Material, nor shall a Responsible Person permit the accumulation of Weeds, grasses, Hazardous Vegetation, refuse, or other Combustible Material on that Responsible Person's property or on any other property so as to constitute a Fire Hazard.

Sec. 8.09.070. - Duty to Remove and Abate Hazardous Vegetation and Combustible Material.

- A. This Chapter creates minimum rules for Hazardous Vegetation and Defensible Space in the County. Any legal entity, if it wishes, can adopt Hazardous Vegetation and Defensible Space regulations that provide for rules that are more restrictive than the County's. The County with local and/or state partners may conduct inspections in selected areas or in response to residential complaints.
- B. Any homeowners association (HOA), lighting and landscape district, subdivision development, special district, or other entity that has a developed and approved Wildland Fire Safe Plan in accordance with the County's General Plan requirement or Fire Protection Plan as required within CFC Chapter 49, as amended, shall be granted a reasonable amount of time to comply with this ordinance not to exceed five years from

the date which this ordinance was approved and ratified by the Board of Supervisors (May 30, 2019).

- C. Prior to the close of any Real Estate Transaction subject to Civil Code section 1102.19 within the County, the seller of any real property shall obtain a defensible space inspection report from an Investigating Official that the property is in compliance with this Chapter and provide that report to the buyer at or before the close of escrow. If the property inspected is found not in compliance with this Chapter the Responsible Person(s) will need to perform the necessary wildfire protection measures as specified within the inspection report and have the property inspected again prior to escrow or the buyer shall agree to achieve compliance within 90 days as specified in this Chapter. If an Investigating Official is unable to provide a defensible space inspection report at the time of escrow, the buyer shall request a report from an Investigating Official stating the property is in compliance with this Chapter within 90 days after the close of escrow, unless otherwise approved by the Enforcement Official. Nothing in this subsection, including the existence of an agreement between a buyer and a seller, shall limit the ability of the Enforcement Official to enforce the provisions of this Chapter.
- D. All Persons who own, lease, control, operate or maintain any Improved Parcel(s), shall comply with the following requirements:
1. Maintain Defensible Space as described in California Code of Regulations Title 14, Division 1.5, Chapter 7, Subchapter 3, Section 1299.03, as amended, and as otherwise described by this Chapter, which is adjacent to each side of a building or Structure, but not beyond the property line except as provided in this Chapter, and must be cleared of Hazardous Vegetation, or Combustible Material, as set forth in this Chapter.
 2. Consistent with Hazardous Vegetation and Defensible Space treatment objectives, steps should be taken to minimize erosion.
 3. A greater clearance distance, up to 300-feet, than that required in this Chapter may be required when the inspection report by the Investigating Official, and supported by the Enforcement Official, includes documented information that the clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the Structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the Structure.
 4. The Responsible Person(s) who perform Hazardous Vegetation management activities that remove or dispose of Vegetation is required to comply with all federal, state, or local environmental protection laws and obtain permits when necessary. Environmental protection laws include, but are not limited to, threatened and endangered species, water quality, air quality, and cultural/archeological resources.

5. When a Structure is less than 100-feet from a property line and Hazardous Vegetation on an adjacent parcel presents a Fire Hazard for the Structure the Responsible Person of the parcel where the Fire Hazard exists shall be responsible for removing the Fire Hazard in that area on that Responsible Person's land when it is within 100-feet of the Structure. 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 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 Structure(s) is located.

6. The Responsible Person shall within a reasonable time ensure that improved Parcels and Unimproved Parcels adjacent to all roads and driveways, that have been designated by the Enforcement Official (or their designee) to be necessary for the safe ingress and egress to the area served by the road or emergency vehicle access, and the current condition of fuels on the Improved Parcel or Unimproved Parcel is assessed by the Enforcement Official as a Fire Hazard which must be treated or Abated, shall comply with the following.

a. All Ladder Fuels shall be cleared to a minimum width of a ten (10') feet wide strip of land beyond the road or driveway. Additional clearance width beyond 10' may be required by the Enforcement Official when documented information is provided by the Investigating Official that the clearance is necessary to significantly reduce the risk of transmission of flame or heat that can obstruct the road or driveway.

b. All vegetation along roads and driveways shall be maintained to an unobstructed vertical clearance height of no less than fifteen (15') feet to allow for the passage of emergency vehicles.

E. Critical Infrastructure sites shall comply with the following requirements:

1. Essential Service and At-Risk Population Structures and accessory buildings 120 square feet in size or larger that support the operations of the facility shall comply with this Chapter.

2. Individual aboveground LP-Gas and flammable liquid storage tanks greater than 2,000 gallons water capacity shall comply with the following defensible space clearance requirements:

a. A minimum 50-foot clearance on all sides of the tank when the capacity is between 2,001 and 30,000 gallons.

b. A minimum 75-foot clearance on all sides of the tank when the capacity is between 30,001 and 70,000 gallons.

- c. A minimum 100-foot clearance on all sides of the tank when the capacity exceeds 70,000 gallons.
 - d. Regardless of capacity storage tanks shall have 10-feet of clearance to bare mineral soil, or other approved non-combustible surface, and no hazardous vegetation underneath and around the immediate exterior of the tank.
 - e. Storage tanks shall comply with the defensible space requirements described in this Chapter between 10-feet and 100-feet of the tank exterior.
 3. Lumber yards, Agro-Industrial, Solid Waste and Woodworking Facilities subject to the requirements found in California Fire Code Chapter 28 shall comply with the following defensible space clearance requirements:
 - a. The storage of wood chips, hogged materials, Fines, Compost, Solid Biomass, Feedstock and Waste, Agro-Industrial and Recycle Facilities, with individual storage piles greater than 2,500 cubic feet in size, shall comply with the defensible space requirements found in this Chapter. Storage piles shall be separated a minimum of 30-Feet.
 - b. Cold Decks of unfinished logs, and exterior finished lumber storage areas, greater than 8,333 cubic feet in size, shall comply with the defensible space clearance requirements found in this Chapter when they are in use for greater than 180 calendar days. Storage piles shall be separated a minimum of 100-Feet.
 4. Free standing photovoltaic systems and equipment shall comply with the defensible space clearance requirements:
 - a. A minimum 10-foot clearance to bare mineral soil, or other approved non-combustible surface, for clusters of panels not exceeding 1,500 square feet of combined panel area.
 - b. A minimum 30-foot clearance to bare mineral soil, or other approved non-combustible surface, for clusters of panels greater than 1,500 square feet of combined panel area.
 - c. Clusters shall be separated a minimum of 20-feet.
 5. Telecommunication facilities determined by the Enforcement Official to serve as a critical infrastructure site during an emergency, shall comply with the following Defensible Space clearance requirements:
 - a. A minimum 30-foot clearance for telecommunication towers.
 - b. A minimum 100-foot clearance as described in this Chapter around accessory buildings 120 square feet in size or larger that support the operations of the facility.

6. Public and private water distribution system storage tanks and pumping facilities shall have a minimum 30-foot clearance from hazardous vegetation around and adjacent to such facilities as described in this Chapter.
7. The minimum clearance requirements described in this Section may be modified by the Enforcement Official when topographical, environmental, and hazardous vegetation conditions present on the parcel limit the ability of the Responsible Party to fully comply with this Chapter.
8. For the purpose of applying this Section the Defensible Space clearance requirements described need not extend beyond the property line when the Responsible Party does not maintain ownership of the adjoining parcel of land.

Sec. 8.09.075. - Violation.

- A. Any Responsible Person who violates a provision of this Chapter or fails to comply therewith or with any of the requirements thereof, shall be subject to remedies available under this Chapter and/or state law, including being cited by County staff. Whenever in this Code any act or omission is made unlawful, it shall include causing, maintaining, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.
- B. The imposition of any fines prescribed herein shall not preclude Abatement of any violation enforced through this Chapter by the Enforcement Official or institution of any other civil or criminal legal proceedings.
- C. Nothing in this Chapter shall be interpreted to preclude an Enforcement Official from informally encouraging citizens to comply with this Code or other applicable laws. Informal oral or written requests to encourage compliance are encouraged, as are attempts to informally negotiate or mediate issues relating to compliance.

Sec. 8.09.080. - Enforcement Officials.

The Enforcement Official shall have the authority and powers necessary to determine whether an administrative violation of the Code exists and the authority to take appropriate action to gain compliance with the provisions of the Code. The Enforcement Official shall further have authority to issue notices and orders, the power to inspect public and private property, and use the administrative remedies that are available under the Code.

Upon request by the governing body of an agency that provides fire protection services within the County, the CAO may designate specified employees of such agency as Enforcement Officials. Such designated officials shall be authorized to enforce this Chapter only pursuant to a memorandum of understanding (MOU) approved by the Board of Supervisors and the governing board of the requesting agency. Any MOU for enforcement pursuant to this Chapter shall clearly define the rights and duties of each party and shall provide for the agency to defend, indemnify, and hold the County, its officers, agents, and employees harmless from and against any and all liability, loss, damage, claims, judgments, expenses, and any other costs of defense

arising out of, resulting from, or related to the agency's actions in enforcing this Chapter. The MOU shall also specify the terms by which the CAO may revoke enforcement authority.

Sec. 8.09.081. - Investigative Officials.

The Investigative Official shall have authority to conduct inspections, recommend Abatement, and refer violations to the Enforcement Official.

Sec. 8.09.085. - Guidelines for Exercising Enforcement Authority.

- A. Administrative enforcement of the provisions of this Code and other applicable laws shall be limited to cases where:
 - 1. A complaint has been received from any person, including County personnel and representatives from other governmental agencies; or
 - 2. The violation occurs within the context of the County's oversight; or
 - 3. The enforcement action is a part of a plan for the uniform enforcement of a provision of the Code or other applicable laws within the County.
- B. A Notice of Violation and Order to Correct shall not be issued pursuant to a citizen complaint until the Enforcement Official has conducted an independent investigation and determined that there is good cause to believe that a violation has occurred.
- C. A Notice of Violation and Order to Correct imposing a fine and Abatement of the condition by the County shall be available to redress infringement of the Code or applicable laws.

Sec. 8.09.086. - Confidentiality in Connection with Citizen Complaints.

The County shall take all reasonable steps to ensure that the identity of any person making a complaint to the County concerning a violation of the Code or other applicable laws shall remain confidential. It is declared and found by the Board that the public interest served by not making the information public clearly outweighs the public interest served by disclosure of the information as is required by the Public Records Act. It shall be a misdemeanor to knowingly file a false complaint.

Sec. 8.09.090. - Inspection.

An Investigative or Enforcement Official, or personnel acting under his or her direction, may enter upon private or public property whenever necessary to enforce or administer the provisions of this Chapter; provided, however, that this right of entry and inspection shall not be construed to grant the right to enter into any dwelling or Structure which may be located on the land. Should the County determine that there is a reasonable expectation of privacy of the Responsible Person with respect to the dwelling unit to be inspected, the County may request an inspection warrant

pursuant to the provisions of Code of Civil Procedure section 1822.50 et seq., such warrant shall state the location which it covers and state the purposes of the inspection. When there is no reasonable expectation of privacy, such as with respect to an abandoned dwelling or building, the County's designated Investigative or Enforcement Official may enter onto that property without a warrant in order to inspect the property for the purposes of determining whether the provisions of this Chapter have been violated.

Sec. 8.09.100. - Enforcement.

Violations of this Chapter may be enforced, and fees and costs associated with the enforcement of this Chapter may be had, pursuant to the procedures set forth in Chapter 9.02, as amended, except as provided for below.

As an alternative to such enforcement procedures, the Enforcement Official retains the discretion to commence a meet and confer process with property owners determined to be in violation of this chapter to attempt to agree to a mutually acceptable method for abating the Waste, Weeds, Hazardous Vegetation, and Combustible Material existing on such property.

Sec. 8.09.110. - Enforcement Procedure.

A. Initial Notice of Duty to Remove and Abate Waste, Hazardous Vegetation and Combustible Material.

1. Each year the Enforcement Official shall mail written notice to all owners of parcels Countywide or within a County emphasis area or wildfire risk area stating that all Waste, Hazardous Vegetation and Combustible Material located on such parcel must be removed and or Abated as specified in Section 8.09.070 on or before the date specified in such notice.
2. Alternatively, such written notice can be mailed to any owner Countywide when inspection of the parcel reveals a violation of this Chapter, or when a complaint alleging violation(s) of this Chapter is received by the Enforcement Official.

B. Notice of Violation and Order to Correct.

1. If the meet and confer process described in Section 08.09.100 does not occur or does not result in Abatement and removal of Waste, Weeds, Hazardous Vegetation and/or Combustible Material, the Enforcement Official may commence proceedings to enforce the provisions of this Chapter when a violation is identified due to the failure of a Responsible Person for a Parcel to remove and Abate all Waste, Hazardous Vegetation and Combustible Material as required pursuant to this Chapter.
2. Enforcement proceedings are commenced by the mailing of a Notice of Violation and Order to Correct in the manner prescribed as follows: The Enforcement Official shall mail the Notice of Violation and Order to Correct to each owner of

the parcel as determined based on the last equalized assessment roll available on the date of mailing of the hazard Abatement notice, to which the violation pertains. Notification may also be accomplished by posting the Notice of Violation and Order to Correct on the property if the owner's mailing address is not available or not current.

3. The contents of the Notice of Violation and Order to Correct (“Notice”) shall include the following:
 - a. A description of the property by reference to the Assessor's parcel number as used in the records of the County Assessor, and by reference to the common name of a street or road upon which the property abuts, if the property abuts upon a road or street;
 - b. A statement that there are Hazardous Vegetation, Combustible Materials, or other Fire Hazard condition upon the property that must be abated;
 - c. A request that such Hazardous Vegetation, and/or Combustible Materials be removed or Abated by the date specified in the notice, which shall be no less than 15 calendar days following the mailing or posting of the Notice;
 - d. A statement that if such Hazardous Vegetation, and/or Combustible Materials are not removed or Abated by the property owner by the specified date that such materials may be removed under authority of the County, and the costs of such removal and Abatement may be made a legal charge against the owner or owners of the property, a lien imposed on and recorded against the property in the amount of such costs, and such costs referred to the County Auditor for collection together with property taxes on such property pursuant to the provisions of Health and Safety Code sections 14875 through 14931, and Government Code section 25845;
 - e. A statement referencing the right of the property owner to appeal the issuance of the Notice pursuant to section 8.09.120 herein;
 - f. With respect to notices which are posted, a title which reads "Notice of Violation and Order to Correct to Remove Weeds, Grass, Hazardous Vegetation, Waste and/or Other Combustible Materials," the letters of the foregoing title to be not less than one inch in height;
 - g. Notices which are posted shall be conspicuously posted in front of the property, or if the property has no frontage upon a road or street, then upon a portion of the property nearest to a road or a street most likely to give actual notice to the owner. Notices shall be posted not more than 100 feet in distance apart upon property with more than 200 feet of frontage, and

at least one notice shall be posted on each parcel with 200 or less feet of frontage;

- h. Such hazard Abatement Notice also will be sent by certified mail to the property owner of such parcel as her or his name appears on the last equalized assessment roll and to the address shown on such assessment roll.

Section 8.09.115 - Service of Notices.

Whenever a notice is required to be given under this chapter and unless specifically provided otherwise, it shall be served pursuant to the process set out in Section 9.02.120, as amended.

Sec. 8.09.116. - Recording and Service of the Notice of Violation and Order to Correct.

Any Notice of Violation and Order to Correct shall be recorded and served pursuant to the procedures in Chapter 9.02.140, et seq.

Sec. 8.09.119. - Notice of Compliance; Removal Procedures.

The Enforcement Official shall follow the procedures set forth in Chapter 9.02.170 regarding the removal procedures for any recorded notice and order.

Sec. 8.09.120. - Appeals Procedure.

Any person or entity who is adversely affected by the Notice of Violation and Order to Correct specified in Section 8.09.110 may appeal such Notice to the Enforcement Officer within 20 calendar days of the postmark on the hazard abatement notice by filing a written appeal with the Enforcement Official. Timely appeal shall stay any further action for removal or abatement until the date set for hearing, unless the weeds, hazardous vegetation, waste, or combustible material at issue presents an imminent fire hazard within 100 feet of any structure. The Enforcement Official shall set the matter for hearing before a hearing officer. The Enforcement Official shall notify the appellant by certified mail of the date and time set for such hearing, at least 15 days prior to said date. If the appellant resides outside the County, such notice of hearing shall be mailed to the appellant at least 20 days prior to the date set for the hearing. The hearing shall be conducted in accordance with the procedures set forth in section 9.02.350, et seq. of this Code.

Sec. 8.09.125. - Penalty – Infraction.

- A. Notwithstanding the provisions of any other section of this Code, violation of any of the provisions of this chapter, or failure to comply with any of the regulatory requirements of this chapter, is an infraction.
- B. Every violation of this chapter is punishable in the manner provided for in El Dorado County Ordinance Code section 9.02.210, as amended.

- C. Payment of the fine shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the County.
- D. All fines shall be payable to El Dorado County unless otherwise directed in the Notice of Violation and Order to Correct.
- E. For all delinquent unpaid administrative fines, there shall be a penalty imposed in accordance with the provisions of this chapter. The delinquency date for an administrative fine shall be 30 calendar days following the imposition of the fine or the administrative determination of the hearing officer, whichever is later.
- F. The right to and procedures for requesting an administrative hearing are detailed in section 8.09.120.

Sec. 8.09.126. - Failure to Pay a Monetary Sanction.

Any amount owed under this chapter shall bear interest at the legal annual interest rate of 10% from the date such payment was due until paid in full.

The County may take any of the actions enumerated in section 9.02.230. (Recovery of Collection Cost)

In addition, subject to authority granted by the Board of Supervisors through an appropriate resolution, the Enforcement Official or her/his designee may seek recovery of any amount owed through a small claims action, or through an action in Superior Court filed by County Counsel. Any judgment from either a small claims or Superior Court action shall be collected upon as a judgment lien pursuant to Code of Civil Procedure section 697.010, et seq.

Sec. 8.09.130. - Seasonal Designation or Reoccurring Public Nuisance.

In the case of a parcel containing a fire hazard where it has been necessary for the County to abate the nuisance in two consecutive years, and the fire hazard is seasonal or recurring, the Board of Supervisors declares such a parcel to be a seasonal public nuisance. As to such parcels constituting a seasonal public nuisance, the Enforcement Official, or her/his designee may mail a post card notice to the Responsible Person(s) of the property at the address that appears upon the current assessment roll. The notice shall contain the information proscribed in Health and Safety Code section 14900.6. If the nuisance is not abated by the Responsible Person(s) within the time specified, the County may proceed to abate the property and recover costs for doing so, pursuant to Health and Safety Code sections 149001 and 14902, and as provided for in this Chapter.

Sec. 8.09.140. - Removal of Hazardous Vegetation and Combustible Material; Purpose.

The Board finds that it is necessary to establish appropriate procedures for the administrative and summary abatement of Code violations. These sections govern the abatement procedures established in all chapters of the Code unless other procedures are specifically stated to apply.

Unless this chapter or any other chapter declares that a violation is deemed to be a nuisance, abatement by the County under this chapter may not proceed unless and until the condition or activity is declared to be a nuisance through a noticed hearing before the Board, a hearing officer under this chapter, or by a court of competent jurisdiction.

Sec. 8.09.141. - Warrant Requirement.

Unless they do so with the consent of the owner, Enforcement Officials, County staff or contractors shall not enter any property or seize and property absent a valid warrant under California Code of Civil Procedure sections 1822.50 through 1822.56 authorizing the inspection, search, or seizure, or exigent circumstances providing an exception to the warrant requirement.

Sec. 8.09.145. – Abatement.

Any condition caused, maintained, or permitted to exist in violation of any provisions of this Code may be abated by the County pursuant to the procedures set forth in Chapter 9.02 of the County Code.

Sec. 8.09.150. - Summary Abatement.

Whenever the Enforcement Official or Hearing Officer determines that an imminent threat to public health or safety exists that requires immediate correction or elimination, the Enforcement Official may exercise the following powers to summarily abate the hazard or nuisance:

- A. Order the immediate removal of any and all Weeds, Grass, Hazardous Vegetation, Waste and/or Other Combustible Materials;
- B. Make any minimal emergency repairs as necessary to eliminate any immediate threat to public health or safety;
- C. Remove the hazard or nuisance that constitutes an immediate threat to public health or safety; and/or
- D. Take any other reasonable action deemed by the Enforcement Official as appropriate under the circumstances.

Sec. 8.09.155. - Summary Abatement Procedures.

Any condition caused, maintained, or permitted to exist in violation of any provisions of this Code may be abated by the County pursuant to the procedures set forth in Chapter 9.02 of the County Code.

Sec. 8.09.160. - Recovery of Administrative Fees; Purpose.

The Board finds there is a need to recover the cost of abatement incurred by the County in its code enforcement efforts. Costs of abatement include costs reasonably related to enforcement,

including but not limited to, site inspections, travel time, investigations, telephone contacts, preparation of summaries, reports, notices, correspondence, warrants, and hearing packets, recordation of documents, and legal research and preparation for and attendance at any administrative proceedings under this chapter. The time expended by any County officer or staff to calculate the above costs and prepare itemized invoices, may also be recovered.

Sec. 8.09.161. - Accounting.

The Enforcement Officer shall keep an account of the cost of every abatement carried out and shall render a report in writing, itemized by parcel, showing the cost of abatement and the administrative costs for each parcel.

Sec. 8.09.162. - Notification of Assessment of Administrative Fees.

A. Where the recovery of the costs of abatement and/or assessment of an administrative fee is authorized under this chapter, the Enforcement Official shall provide the responsible person with a written notice assessing the costs and/or fee. The written assessment shall be served in accordance with Section 9.02.120 (Service of Notices) and shall contain the following information:

1. The amount of the administrative costs and/or fee charged;
2. The case number;
3. A deadline by which the administrative costs and/or fee must be paid;
4. The violation giving rise to the administrative costs and/or fee; and
5. The property by assessor's parcel number and street number or other description sufficient to enable identification of the property.

B. An administrative fee may be assessed as part of any administrative enforcement action as provided for in this chapter and is in addition to any fine imposed.

C. An administrative fee collected pursuant to this chapter shall not be duplicated in any other action to recover these identical fees.

D. The failure of any responsible person to receive notification under this section of the administrative costs and/or fees shall not affect the validity of any costs or fees imposed under this chapter.

Sec. 8.09.165. - Liability for Costs.

A. In any enforcement action brought pursuant to this chapter, whether by administrative proceedings, judicial proceedings, or summary abatement, each person who causes, permits, suffers, or maintains the nuisance to exist shall be liable for all costs incurred by

the county, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this chapter, whether those costs are incurred prior to, during, or following enactment of this chapter;

- B. In any action by the enforcing officer to abate a nuisance under this chapter, whether by administrative proceedings, judicial proceedings, or summary abatement, the prevailing party shall be entitled to a recovery of the reasonable attorney's fees incurred. Recovery of attorneys' fees under this subdivision shall be limited to those actions or proceedings in which the county elects, at the initiation of that action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorney's fees incurred by the county in the action or proceeding.

Sec. 8.09.170. - Collection of Costs for Abatement.

- A. When proceedings under this chapter result in the removal of weeds, grasses, hazardous vegetation, waste, or combustible material from property by the County or its agents or contractors due to the refusal of the Responsible Person to comply with this chapter, all costs incurred by the County in performing such removal may be assessed against the property. Such costs shall include the costs of labor, materials and equipment furnished by the County in removing such waste, hazardous vegetation and/or combustible material; the costs incurred by the County for payments to an independent contractor to remove such waste, hazardous vegetation and combustible material from the property; all administrative costs incurred by the County in removing such waste, hazardous vegetation and combustible material including actual costs of investigation, property inspection, boundary determination, measurement, clerical costs, related attorneys' fees, and administrative overhead costs for supervision, insurance, costs of publication, mailing and posting of notices; preparation of contracts with independent contractors to perform the abatement work; review of bids by contractors; administration of contracts for abatement activities; and other budgeted overhead items. If waste, weeds, hazardous vegetation and/or combustible material are ultimately removed from the property by the Responsible Person subsequent to the deadline for removal specified in any hazard abatement notice issued by the County, the County shall be entitled under this chapter to assess against the property all such costs incurred securing such compliance with this chapter by the Responsible Person up to and including the final date of compliance.
- B. The costs of abatement incurred by the County shall be mailed to the owner of the property demanding payment within 30 days of the date of mailing. If the costs are not paid by the responsible property owner within 30 days of the date of mailing of the notice, such costs shall be assessed against the parcel of land as a nuisance abatement lien in accordance with Health and Safety Code sections 14875 through 14931, and Government Code section 25845. The notice of lien shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, the date that the abatement was complete, and include a description of the real property subject to the lien and the amount of the abatement cost constituting the lien.

- C. In the event of a summary abatement pursuant to this Chapter, if payment is not received within 30 days of the date of mailing the notice described herein, the Enforcement Officer shall cause to be prepared and recorded in the office of the County Recorder of the County of El Dorado, a Notice of Lien. Said Notice shall contain the following:
1. An address, legal description, or other description sufficient to identify the premises.
 2. A description of the proceeding under which the special assessment was made.
 3. The amount of the assessment.
 4. A claim of lien upon the described premises.
- D. Upon the recordation of such Notice of Lien, the amount claimed shall constitute a lien upon the described premises. Such lien shall be upon a parity with the liens of State and County taxes.
- E. The Notice of Lien, after recordation, shall be delivered to the County Auditor who shall enter the amount of the lien on the assessment roll as special assessments. Thereafter the amount set forth shall 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 interest and to the same procedures for foreclosure and sale in case of delinquency, as is provided for ordinary county taxes, and all laws applicable to the levy, collection and enforcement of county taxes are hereby made applicable to such assessment.
- F. For all recoverable fees and costs that are not part of a summary abatement, the Enforcement Official or her/his designee may file an action in small claims court, or request County Counsel file an action in Superior Court for the recovery of non-summary abatement fees and costs. Any judgment obtained therein shall be collected upon as a judgment lien pursuant to Code of Civil Procedure section 697.010, et seq.

Sec. 8.09.175. - Levying of Abatement Costs Against Property.

- A. Abatement costs incurred by the County once approved by resolution of the County Board of Supervisors shall be mailed to the owner of the property demanding payment within 30 calendar days of the date of mailing. If the costs as confirmed are not paid by the responsible property owner within 30 calendar days of the date of mailing of the notice, such costs shall be assessed against the parcel of land as a nuisance abatement lien in accordance with Health and Safety Code sections 14875 through 14931, and Government Code section 25845. The notice of lien shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, set forth the date upon which the abatement of the nuisance was ordered by the County Board of Supervisors and the date that the abatement was complete, and include a description of the real property subject to the lien and the amount of the abatement cost constituting the lien. Recordation of a notice of abatement lien

pursuant to this section shall have the same effect as recordation of a money judgment recorded pursuant to Code of Civil Procedure section 697.310 et seq. and shall create a lien which has the same priority as a judgment lien on real property which shall continue in effect until released. On the order of the County Board of Supervisors, or any designee of the County of Board of Supervisors, an abatement lien created under this chapter may be released or subordinated in the same manner as a judgment lien on real property may be released or subordinated.

- B. As an alternative to, or in addition to the lien procedure detailed in Subsection A above, the abatement costs incurred by the County may be levied against the parcel of land subject to abatement activities by the County as a real property assessment in accordance with Health and Safety Code sections 14912 and 14915—14919 and Government Code Section 25845. Any assessment imposed on real property pursuant to this section may be collected at the same time and in the same manner as ordinary real property taxes are collected by the County of El Dorado, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as is provided for ordinary real property taxes. Notice of any assessment that is levied on real property pursuant to this section shall be given to the property owner by certified mail from County, and shall contain the information set forth in Health and Safety Code sections 14912 and 14915—14919 and Section 25845 of the Government Code. The County shall transmit the notice of such assessment levied on real property pursuant to this section to the County Auditor-Controller of El Dorado County with instructions to collect the assessment on the real property tax rolls for the ensuing fiscal year. Such notice shall be transmitted to the County Auditor-Controller prior to August 10 in any fiscal year.

Sec. 8.09.180. - Recovery of Collection Costs.

- A. Any person who fails to pay any obligation shall be liable in any action brought by the County for all costs incurred in securing payment of the delinquent amount, including but not limited to, administrative costs and time expended by County staff and counsel.
- B. Collection costs shall be in addition to any penalties, interest, and/or late charges imposed upon the delinquent obligation.
- C. Collection costs imposed under this provision shall be added to and become a part of the underlying obligation.
- D. Collection costs may be recovered as provided for in in this Chapter.

Sec. 8.09.185. - Effective Date

Pursuant to California Government Code section 25123, this Ordinance shall become effective thirty (30) days from the date of final passage by the Board of Supervisors.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the ____ day of _____, 2023, by the following vote of said Board:

Ayes:

Noes:

Absent:

ATTEST

KIM DAWSON

Clerk of the Board of Supervisors

Deputy Clerk

Wendy Thomas, Chair, Board of Supervisors

APPROVED AS TO FORM

DAVID LIVINGSTON

COUNTY COUNSEL

By: _____

Ted Wood

Deputy County Counsel

DRAFT