

ABATEMENT OF FIRE HAZARDS AND HAZARDOUS TREES

Chapter 3

ABATEMENT OF FIRE HAZARDS AND HAZARDOUS TREES

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23.031 Duty to Abate Fire Hazards or Hazardous Trees.

Every owner, occupant and person in control of any land or interest therein in the unincorporated area of the County of San Bernardino must abate all fire hazards and hazardous trees from such land and from all sidewalks, parkways, and easements on such land. In road easements, combustible rubbish need not be abated unless flammable vegetation is also present. All such fire hazards and hazardous trees are declared to be a public nuisance for which the costs of abatement may be specially assessed pursuant to Government Code section 25845.

Amended Ordinance 2962 (1985); Amended Ordinance 3586 (1994);

23.032 Valley Area Fire Hazard Abatement.

- (a) Valley Area means that portion of the unincorporated area of the County of San Bernardino south and west of the National Forest boundary.
- (b) Flammable vegetation in the Valley area means:
 - (1) Plants, unless pruned to remove dead material.
 - (2) Grass over four (4) inches in height.
 - (3) Tumbleweeds (Russian thistle).
- (c) Fire Hazard in the Valley Area means:
 - (1) Flammable vegetation.
 - (2) Combustible rubbish.
 - (3) Limbs and under growth up to six feet off the ground in Eucalyptus windows.

Amended Ordinance 3586 (1994);

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23.033 Alternative Abatement of Large Parcels

In the case of any parcel or contiguous parcels under the same ownership upon which exists over five (5) continuous acres of vegetation which constitutes a fire hazard, the requirements of the duty to abate fire hazards may be satisfied if there is cleared, and maintained cleared, a forty (40) foot wide strip of land at the boundaries of such land, and through such land so that there shall not be any portion of the land larger than two and one-half (1/2) acres which is not enclosed by itself within such strip, which shall be firebreak, and all of the following conditions are met:

- (a) Firebreaks are not an approved abatement method for tumbleweeds (Russian thistle).
- (b) It shall be the landowner's responsibility to notify the enforcing agency, in writing, if the landowner wants to use the firebreak provisions of this section;
- (c) All fire hazards must be removed within thirty (30) feet of any structure. Landowners are responsible for removing fire hazards on their property within thirty (30) feet of any structure, regardless of parcel or lot lines.
- (d) Where neighboring persons or properties are especially vulnerable to the effects of a fire, including, but not limited to schools, hospitals, mobilehome parks, retirement residences and chaparral/development interfaces, and larger breaks or solid disking are deemed necessary for fire protection, firebreaks which exceed forty (40) feet or solid disking of parcels larger than five (5) acres may be required by the enforcing agency.

Amended Ordinance 2962 (1985); Amended Ordinance 3586 (1994);

23.034 Mountain Area Fire Hazard Abatement.

(a) Mountain Area means that portion of the unincorporated area of the County of San Bernardino located within National Forest boundaries, whether publicly or privately owned, but does not include National Forest land.

(b) Flammable vegetation in the Mountain Area means:

- (1) On trees over twelve (12) feet in height, all foliage within six feet of the ground.
- (2) Tree limbs (not trunks) less than ten (10) feet away from chimneys.
- (3) Plants, unless pruned to remove dead material.
- (4) Grass over four (4) inches in height.
- (5) Pine needles on the ground over two (2) inches in depth.

(c) Fire Hazard in the Mountain Area means:

- (1) Flammable vegetation within ten (10) feet of a road.
- (2) Combustible rubbish.
- (3) On land with a slope of fifteen percent (15%) or less, all flammable vegetation within thirty (30) feet of all structures, including that portion of the property within thirty feet of structures on adjacent properties.
- (4) On land with a slope greater than fifteen percent (15%) or less, all flammable vegetation within one hundred (100) feet of all structures, including that portion of the property within one hundred (100) feet of structures on adjacent properties.
- (5) Where neighboring persons or properties are especially vulnerable to the effects of fire, including, but not limited to schools, hospitals, mobilehome parks, residential occupancies or chaparral/development interfaces, flammable vegetation within one hundred (100) feet of all structures.

Amended Ordinance 3586 (1994);

23.035 Desert Area Fire Hazard Abatement.

(a) Desert Area means all portions of the unincorporated area of the County of San Bernardino north and east of the National Forest boundaries.

(b) Flammable vegetation in the Desert Area means:

- (1) Tumbleweeds (Russian thistle).
- (2) Limbs and debris of salt cedar (Tamarisk) within six feet of the ground.
- (3) Plants, unless pruned to remove dead material.
- (4) Grass over four (4) inches in height.

(c) Fire Hazard in the Desert Area means:

- (1) Flammable vegetation within ten (10) feet of a road.
- (2) Tumbleweeds, regardless of distance from structures.
- (3) Combustible rubbish.
- (4) Flammable vegetation within thirty (30) feet of all structures, including that portion of the property within (30) feet of structures on adjacent properties.

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(5) Where neighboring persons or properties are especially vulnerable the effects of a fire, including, but not limited to schools, hospitals, mobilehome parks, residential occupancies or chaparral/development interfaces, flammable vegetation within one hundred (100) feet of all structures.

Amended Ordinance 3586 (1994);

23.036 Hazardous Tree Abatement Within Mountain Area.

(a) The Board of Supervisors' finds that within the Mountain Area as defined in San Bernardino County Code section 23.034(a) a unique problem arises from several factors, including storms and various forms of precipitation, causing trees to become unstable and hazardous to lives and property.

(b) Within the boundaries of the Mountain Area, the provisions of this section shall apply to any tree which constitutes a fire, health, or safety hazard or which may endanger or injure neighboring property, or the health, safety, or well-being of persons or property.

(c) Every owner, occupant or person in control of any land or interest in land within such areas of the County shall abate any hazardous tree therefrom and from all sidewalks, parkways and easements on such land.

Amended Ordinance 3586 (1994);

23.037 Enforcement

For the purpose of enforcing this chapter, the County Fire Warden may designate any person as his or her deputy in the performance of the duties enjoined upon him or her by this chapter. In addition, each of the following officers within the County of San Bernardino is hereby designated to perform the same duties within the territory of the political subdivision which they serve. Whenever the term "County Fire Warden" is used in this chapter, the following officers are included in the meaning of such phrase, except that the County Fire Warden shall coordinate all such officers in the performance of these duties:

- (a) Chiefs or Chief Engineers of all Fire Protection Districts within the County of San Bernardino and their deputies.
- (b) The San Bernardino County Agricultural Commissioner.
- (c) Other officers hereafter designated by the Board of Supervisors or the County Fire Warden.

Amended Ordinance 3586 (1994);

23.038 Notice and Order to Abate.

(a) The Board of Supervisors' finds that within the Mountain Area as defined in San Bernardino County Code section 23.034(a) a unique problem arises from several factors, including storms and various forms of precipitation, causing trees to become unstable and hazardous to lives and property.

- (1) By mailing a notice to the owner at the address shown on the latest tax roll.
- (2) By personal service to the owner as shown on the latest tax roll.
- (3) By posting the property.

(b) The form "Notice and Order to Abate Fire Hazard or Hazardous Trees" shall include, at a minimum, the following information:

- (1) List of hazards.
- (2) List of locations.
- (3) Due date by which abatement must be completed.
- (4) Appeal rights.
- (5) Landowner's name and address (situs and assessor's).
- (6) Parcel number of affected property.

(c) The Notice and Order to Abate shall be placed in the mail by the issuing agency at least thirty (30) days prior to the "due date" for abatement on the notice.

(d) A Non-Compliance Notice and Order shall be placed in the mail by the issuing agency at least ten (10) days prior to the "due date" for abatement on the notice. A Non-compliance Notice and Order is sent when the owner has partially removed the fire hazard or notified the agency that the hazard has been abated, and the agency determines that the fire hazard still exists.

Amended Ordinance 2994 (1986); Amended Ordinance 3586 (1994);

23.039 Emergency Abatement.

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When a fire hazard or hazardous tree constitutes an immediate hazard or threat of harm and the situation calls for abatement sooner than the abatement procedures herein otherwise allow, the enforcement officer listed in section 23.037 may take or cause emergency abatement of such hazard with such notice to parties concerned, or without notice, as the particular circumstances reasonably allow.

Amended Ordinance 3586 (1994);

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23.040 Appeal Procedure.

(a) Any person who is affected by the Notice and Order to Abate may appeal to the Board of Appeals as defined in subdivision (c) of this section, within the time for compliance with the order, by submitting the appeal in writing to the issuing officer or department supervisor of such officer.

(b) The written appeal must be accompanied by a fee for the cost of the appeal as established by the County fee schedule.

(c) The Board of Appeals shall consist of three (3) persons: one member shall be a designee of the County Fire Warden; one member shall be a designee of the Director of the Department of Environmental Health Services; one member shall be a member of the public appointed by the Chairperson of the Board of Supervisors.

(d) A timely appeal shall stay any further action until the appeal is determined.

(e) The officer receiving the written appeal shall inform the issuing officer, shall set the matter for hearing before the Board of Appeals and shall notify the appellant of the date set for hearing at least fifteen (15) days prior to such date.

(f) The Board of Appeals shall act on the appeal and its determination shall be final.

Amended Ordinance 3586 (1994);

23.041 Removal of Fire Hazard or Hazardous Tree by Private Contractor.

(a) If, at the end of the time allowed for compliance in the original notice and order, or as extended in cases of appeal, compliance has not been accomplished, the officer or agency issuing the notice and order may order the fire hazard or hazardous tree to be removed by a private contractor selected and approved by the enforcing agency, in the manner and under the terms specified by such enforcing agency.

(b) If a period of ninety (90) days has elapsed since the due date for abatement of the hazard listed on the Notice and Order to Abate, another Notice and Order to Abate shall be issued, and the procedures set forth in section 23.038 shall be required prior to any abatement.

Amended Ordinance 3586 (1994);

23.042 Payment for Abatement of Fire Hazard or Hazardous Tree.

(a) Billing. When the abatement has been completed, the agency or officer so causing the abatement shall render to the County Auditor an itemized statement covering work necessary for such removal. The County Auditor shall pay the same from the funds of the agency or officer causing said work to be done and the agency shall present to the property owner a demand for payment by mailing a notice to the owner at the address shown on the latest tax roll.

(b) Tax Lien for Payment. If payment is not made by or on behalf of the owner within sixty (60) days after mailing such bill, the agency shall certify to the County Auditor the demands remaining unpaid, together with the information required by law in such cases. The County Auditor shall cause the amount of the same to be entered upon the tax roll for the property from which removal was accomplished, and the said special assessment shall be included upon the next succeeding tax statement. Thereafter, the amounts of the assessment shall be collected at the same time and in the same manner as County taxes are collected, and are subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary County taxes. If any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon prior to the date on which the first installment of such taxes would become delinquent, the lien which would otherwise be imposed by this section shall not attach to such real property and the costs of abatement, as confirmed, relating to such property shall be transferred to the unsecured roll and collected by any appropriate means. If the property is tax-exempt, collection may be made by any appropriate means.

(c) Appeals. Any appeal from these charges must be filed within sixty (60) days from the date of billing by the enforcing agency. An appeal may also be filed within sixty (60) days from the date of mailing of the tax bill which shows abatement charges, if, and only if, no bill was received by the appellant. The appeal procedure shall be the same as section 23.040 of this chapter, and the Appeal Board's decision shall be final.

(d) Cancellation of Lien. All or any portion of any such special assessment, penalty, or costs heretofore entered, shall on order of the Board of Appeals be cancelled by the Auditor if uncollected, or, except in the case provided for in subdivision (5) hereof, refunded by the County Treasurer if collected, if the Board of Appeals determines that they were entered, charged or paid:

(1) More than once;

(2) Through clerical error;

(3) Through the error or mistake of the Board of Appeals or of the officer or board designated by them to give notice or to abate the fire hazard or hazardous tree, in respect to any material fact, including the case where the cost report rendered and confirmed as herein before provided shows the County abated the fire hazard or hazardous tree but such is not the actual fact;

(4) Illegally;

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(5) On property acquired after the lien date by the State or by any county, city, school district or other political subdivision and because of this public ownership, not subject to sale for delinquent taxes.

(e) Procedure for Refund of Payment. No order for a cancellation or refund under subdivision (d) of this section shall be made except on a claim:

(1) Verified by the person who paid the special assessment or his or her guardian, executor, or administrator;

(2) Filed within sixty (60) days after the error was discovered by the property owner and no more than three (3) years after making the payment sought to be refunded.

Amended Ordinance 3586 (1994);

23.043 Penalty for Violation.

(a) Unless otherwise provided, any person, firm, partnership, corporation or other entity violating any provision of this chapter shall be guilty of an infraction or misdemeanor as hereinafter specified.

(b) Each day or portion thereof such violation is in existence shall be a new and separate offense.

(c) Any person so convicted shall be:

(1) guilty of an infraction offense and punished by a fine not exceeding one hundred dollars (\$100) and not less than fifty dollars (\$50) for a first offense;

(2) guilty of an infraction offense and punished by a fine not exceeding two hundred dollars (\$200) and not less than one hundred dollars (\$100) for a second offense.

(3) guilty of a misdemeanor for the third and any additional offenses and punished by a fine not exceeding one thousand dollars (\$1,000) and not less than five hundred dollars (\$500) or six months in jail, or both.

(d) Notwithstanding the above, a first or second offense may be charged and prosecuted as a misdemeanor.

(e) Payment of any fine or service of a jail sentence shall not relieve a person, firm, partnership, corporation or other entity from the responsibility of correcting the condition resulting from the violation.

(f) In addition to the above penalties, the court may order that the guilty party reimburse the County for all of its costs of investigating, analyzing and prosecuting the enforcement action against the guilty party. The court shall fix the amount of any such reimbursement upon submission of proof of such costs by the County.

Amended Ordinance 3586 (1994);