

📖 **CHAPTER 3: ABATEMENT OF FIRE HAZARDS AND HAZARDOUS TREES**

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 **§ 23.0301** **Duty to Abate Fire Hazards or Hazardous Trees.**

Every owner or person in control of any land or interest therein in the unincorporated area of the County of San Bernardino shall abate all fire hazards and hazardous trees from such land and from all sidewalks, parkways, road easements and all other easements on such land. 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 § 25845. To provide firefighters defensible space and to minimize the spread of fire within 100 feet of a building or structure and pursuant to the California Public Resources Code § 4291, every owner and person in control of any buildings or structures in, upon, or adjoining any mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or any land that is covered with flammable material within the unincorporated area of the County of San Bernardino shall at all times do the following:

(a) Maintain a firebreak by removing and clearing away, for a distance of not less than 30 feet on each side of the building or structure or to the property line, whichever is nearer, all flammable vegetation or other combustible growth. Single specimens of trees or other vegetation may be retained provided they are well-spaced, well-pruned as defined in § [23.0304](#) for mountain areas in this Chapter, and create a condition that avoids spread of fire to other vegetation or to a building or structure.

(b) Provide a fuel break within 30 feet to 100 feet of a building or structure by disrupting the vertical and/or horizontal continuity of flammable and combustible vegetation with the goal of reducing fire intensity, inhibiting fire in the crowns of trees, reducing the rate of fire spread, and providing a safer environment for firefighters to suppress wildfire and provide structure protection in and around wildland urban interface communities. Additional fire protection or firebreak shall be made by the removal of brush, flammable vegetation, or combustible growth that is located within 100 feet from the building or structure or to the property line or at a greater distance if provided by law.

(c) Property owners who do fuel reduction activities that remove or dispose of vegetation should make every effort to properly reuse and/or recycle the resultant materials either on site or at an appropriate off site facility, without creating additional fire hazards and are 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.

(Am. Ord. 2926, passed --1985; Am. Ord. 3586, passed --1994; Am. Ord. 4058, passed - -2008; Am. Ord. 4064, passed - -2008)

 **§ 23.0302** **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 inches in height;
- (3) Tumbleweeds (Russian thistle).

(c) Fire Hazard in the Valley Area means:

- (1) Flammable vegetation;
- (2) Combustible rubbish;
- (3) Limbs and undergrowth up to six feet off the ground in Eucalyptus windrows.

(Am. Ord. 3586, passed - -1994)

§ 23.0303 **Alternative Abatement of Large Parcels.**

In the case of any parcel or contiguous parcels under the same ownership upon which exists over five 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 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 acres which is not enclosed by itself within such strip, which shall be firebreak, and all of the following conditions are also 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 30 feet of any structure. Landowners are responsible for removing fire hazards on their property within 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 40 feet or solid disking of parcels larger than five acres may be required by the enforcing agency.

(Am. Ord. 2926, passed - -1985; Am. Ord. 3586, passed - -1994)

§ 23.0304 Mountain Area Fire Hazard Abatement.

(a) Mountain Area means that portion of the unincorporated area of the County of San Bernardino located within the Fire Safety Overlay of the General Plan, whether publicly or privately owned.

(b) Flammable vegetation which constitutes a fire hazard in the Mountain Area means:

(1) All foliage and branches within six feet from the ground on trees over 12 feet in height that stand within 100 feet of structures. Limbs should be cut no less than 1/4 inch from the trunk of the tree to preserve the health of the tree.

(2) All trees that are within 30 feet of structures that are smaller than four inches in diameter that stand within ten feet from other trees, not to include low energy release deciduous ornamental trees that are pruned and free of dead or damaged foliage.

(3) All shrubs that are within 15 feet of structures that produce high-energy-release components and are considered high fire fuels, not to include low energy release deciduous ornamental plants that are well-pruned, well-spaced and free of dead or damaged foliage. High-energy-release shrubs include, but are not limited to, Manzanita, Service Berry, Mountain Whitethorn, Sage, Ironwood, Juniper Shrubs, Spanish Broom and other species as determined by the County Fire Chief/Fire Warden or their designee to constitute a fire hazard.

(4) All high-energy-release shrubs that are spaced together less than double the size of the height of the tallest shrub and stand within 30 feet of structures, (e.g. a four-foot high shrub should be spaced eight feet or more away from the next shrub, providing that the four-foot high shrub is the tallest of the two shrubs), not to include ornamental plants that are well-pruned, well-spaced and free of dead or damaged foliage. Planting of native, fire-wise, drought-resistant species is encouraged for the health of the forest.

(5) Lower foliage measured at least 18 inches up from the ground and all leaf litter and dead vegetation on and under all shrubs that stand within 100 feet of all structures.

(6) Dead branches and leaf litter in and under all plants, trees, foliage and shrubs and all flammable vegetation at all heights within 100 feet of all structures.

(7) Tree limbs (not trunks) less than ten feet away from chimneys and stovepipes.

(8) Grass over four inches in height.

(9) Pine needles, leaf litter or chipped/ground mulch on the ground over two inches in depth.

(10) Trunks or branches on the ground less than four inches in diameter, not including split and neatly stacked fire wood.

(c) Fire Hazard in the Mountain Area means:

- (1) Flammable vegetation within ten feet of a road;
- (2) Combustible rubbish, waste or discarded materials;
- (3) Leaves, needles or other dead vegetative growth on roofs or structures.

(d) When neighboring persons or properties are especially vulnerable to the effects of fire, including, but not limited to schools, hospitals, mobilehome parks, residential occupancies, it is the responsibility of the property owner to adhere to the provisions of this section when flammable vegetation stands within 100 feet, measured on the ground, of all neighboring structures. Additional clearance may be required at the discretion of the County Fire Chief/Fire Warden or their designee on buildings listed above that may be used as evacuation centers, medical facilities and/or places of public gatherings and/or critical infrastructure.

(Am. Ord. 3586, passed --1994; Am. Ord. 4058, passed - -2008; Am. Ord. 4064, passed - -2008)

 **§ 23.0305 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 inches in height.

(c) Fire Hazard in the Desert Area means:

- (1) Flammable vegetation within ten feet of a road;
- (2) Tumbleweeds, regardless of distance from structures;
- (3) Combustible rubbish;

(4) Flammable vegetation within 30 feet of all structures, including that portion of the property within 30 feet of structures on adjacent properties;

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

(Am. Ord. 3586, passed - -1994)

§ 23.0306 **Hazardous Tree Abatement Within Mountain Area.**

(a) The Board of Supervisors' finds that within the Mountain Area as defined in San Bernardino County Code § [23.0304](#)(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.

(Am. Ord. 3586, passed - -1994)

§ 23.0307 **Enforcement.**

For the purpose of enforcing this Chapter, the County Fire Chief/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 CHIEF/FIRE WARDEN** is used in this Chapter, the following officers are included in the meaning of such phrase, except that the County Fire Chief/Fire Warden shall coordinate all such officers in the performance of these duties:

(a) The Deputy Director of Code Enforcement, Fire Hazard Abatement Program and their designees.

(b) The San Bernardino County Land Use Services Director or designee.

(c) Other officers hereafter designated by the Board of Supervisors or the County Fire Chief/Fire Warden.

(Am. Ord. 3586, passed --1994; Am. Ord. 4058, passed - -2008; Am. Ord. 4064, passed - -2008)

§ 23.0308 Notice and Order to Abate.

(a) It shall be the duty of the County Fire Chief/Fire Warden or any designated person, whenever such officer deems it necessary to enforce the provisions of this Chapter, to issue a “notice and order to abate” by any or all of the following methods:

- (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” 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 30 days prior to the “due date” for abatement on the notice.

(d) A ten-day extension for compliance is sent when the owner has removed greater than 51% of the fire hazard and notified the agency that the hazard has been abated, but nevertheless the agency determines the fire hazard still exists. A ten-day extension for compliance shall be placed in the mail by the issuing agency at least ten-calendar days prior to the “due date” for abatement on the notice.

(e) Compliance will be considered “In-Progress” and the Non-Compliance Notice and Order will be held in abeyance if the responsible property owner contracts with state or federal agencies or non- profit organizations, such as Forest Care or Fire Safe Councils, that are approved by the County Fire Chief/Fire Warden as capable of providing compliance through said contract.

(Am. Ord. 2994, passed --1986; Am. Ord. 3586, passed --1994; Am. Ord. 4058, passed -
-2008; Am. Ord. 4064, passed - -2008)

§ 23.0309 **Emergency Abatement.**

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 § [23.0307](#) may take or cause emergency abatement of such hazard with such notice to parties concerned, or without notice, as the particular circumstances reasonably allow.

(Am. Ord. 3586, passed - -1994)

§ 23.0310 **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) As to appeals filed from notices and orders to abate for flammable vegetation as described in §§ [23.0304](#)(b)(7) through (10) and [23.0304](#)(c)(1) through (3) of this Chapter, the Board of Appeals shall consist of three persons: one member shall be a designee of the County Fire Chief; one member shall be a designee of the Director of the Public Health Department; one member shall be a member of the public appointed by the Chairperson of the Board of Supervisors.

(d) As to appeals filed from notices and orders to abate for flammable vegetation as described in § [23.0304](#) (b)(1) through (6) of this Chapter, the Board of Appeals shall consist of three persons: one member shall be a designee of the County Fire Chief; one member shall be a designee of the Director of the Public Health Department; and one member shall be a member of the public appointed by the member of the Board of Supervisors of the supervisorial district in which the notice of order to abate was issued.

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

(f) 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 15 days prior to such date.

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

(Am. Ord. 3586, passed --1994; Am. Ord. 4064, passed - -2008)

§ 23.0311 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 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 § [23.0308](#) shall be required prior to any abatement.

(Am. Ord. 3586, passed - -1994)

§ 23.0312 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 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, then 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 60 days from the date of billing by the enforcing agency. An appeal may also be filed within 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 § [23.0311](#) 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 error or mistake of the Board of Appeals or of the officer or board designated 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 hereinbefore provided shows the County abated the fire hazard or hazardous tree but such is not the actual fact;

(4) Illegally;

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

(Am. Ord. 3586, passed - -1994)

§ 23.0313 Enforcement Remedies and Penalties are Cumulative and Discretionary; Not Exclusive.

All remedies and penalties provided for in this Chapter shall be cumulative and discretionary, and not exclusive, in accordance with this Section and in the same manner as provided by § [11.0202](#) of the San Bernardino County Code.

(Am. Ord. 3586, passed --1994; Am. Ord. 4091, passed - -2009)

§ 23.0314 Authority to Inspect.

All persons authorized to enforce the provisions of this Chapter are authorized to conduct investigations and inspections in accordance with this Section and in the same manner as provided by § [11.0203](#) of the San Bernardino County Code.

(Ord. 4091, passed - -2009)

§ 23.0315 Continuing Violations.

Each and every day, and any portion of which, any violation of this Division is committed, continued, or permitted shall be deemed a new and separate offense and shall be punishable or actionable as set forth in this Chapter.

(Ord. 4091, passed - -2009)

§ 23.0316 Acts Including Causing, Aiding and Abetting.

Whenever in this Division any act or omission is made unlawful, it shall include causing, permitting, aiding or abetting such act or omission.

(Ord. 4091, passed - -2009)

§ 23.0317 Criminal Actions.

(a) *Criminal Penalties for Violations.* It is unlawful for any person, firm, partnership, corporation or other entity (hereafter “person”) to violate any provision of this Division constituting a public offense. Any person violating any such provision, unless as otherwise specified for certain sections or for sections within a certain chapter of this Division, shall be deemed guilty of an infraction or misdemeanor as hereinafter specified. To any person so convicted the following shall apply:

(1) A first offense, shall constitute an infraction offense and punished by a base fine not exceeding \$100.00 and not less than \$50.00.

(2) A second offense within one year shall constitute an infraction offense and punished by a base fine not exceeding \$200.00 and not less than \$100.00.

(3) The third and any additional offense within one year, shall constitute either an infraction or a misdemeanor offense, and if it is an infraction offense, shall be punishable by a base fine not exceeding \$500.00, or if a misdemeanor offense, punishable by up to six months in jail, and/or base fine not exceeding \$1,000.00.

(4) Any court costs that the court may otherwise be required to impose pursuant to applicable state law or local ordinance shall be imposed in addition to the base fine (Government Code § 25132).

(5) Notwithstanding the above, a first or second offense may be charged and prosecuted as a misdemeanor, punishable by up to six months in jail, and/or base fine not exceeding \$1,000.00.

(6) 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.

(b) *Criminal Citations.* Criminal citations shall be issued in the same manner and under the same authority as provided by § [11.0206](#)(b) of this Code.

(Ord. 4091, passed - -2009)

§ 23.0318 Civil Actions

All violations of this Division may be subject to enforcement through the initiation of a civil action in accordance with this Section and in the same manner and under the same authority as provided at § [11.0207](#) of the San Bernardino County Code.

(Ord. 4091, passed - -2009)

§ 23.0319 Administrative Citations and Penalties.

As an alternative to the criminal or civil enforcement of this Division, all violations of this Division may be subject to enforcement through the use of administrative citations in accordance with Government Code § 53069.4 and this Section, and in the same manner and under the same authority as provided at § [11.0208](#) of the San Bernardino County Code.

(Ord. 4091, passed - -2009)

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