

Chapter 8.10
ABATEMENT OF WEEDS, FLAMMABLE VEGETATION AND OTHER COMBUSTIBLE MATTER

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Prior legislation: Code 1990 § 3.5.09.

8.10.010 Findings and declarations.

The city council hereby makes the following findings:

A. The city of Calimesa has an arid climate. Annual rainfall varies from 10 to 23 inches within the San Geronio Pass area of Riverside County and the city of Calimesa. The hot, dry Santa Ana winds that commonly occur in the city contribute to the spread of fire. These local climatic conditions require that the city regulate the existence of weeds, flammable vegetation and other combustible matter and establish a year-round weed abatement program.

B. Weeds, flammable vegetation, and other combustible matter constitute a fire hazard and are a danger to the public health, safety and welfare. The city council declares that weeds, flammable vegetation, and other combustible matter are public nuisances and may be abated as provided in

this chapter. [Ord. 313 § 1, 2011; Ord. 98-4 § 1; Ord. 92-22 § 1; Code 1990 § 3.5.01.]

8.10.020 Definitions.

“Brush” means shrubs and short scrubby trees that grow close to the ground.

“Combustible matter” means heavy fuels, slash, refuse piles, dead trees or tree limbs (either standing or downed), and any other highly flammable materials that may accumulate to cause a fire hazard to people or property.

“Discing” means to remove weeds and flammable vegetation with an implement such as a harrow or plow that turns and loosens the soil with a series of disks.

“Firebreak” means an area of property cleared of all flammable vegetation or other combustible matter that acts as a barrier to slow or stop the progress of fire.

“Flammable vegetation” includes brush, Russian thistle, weeds, dry grasses of over three inches in height, or other dry invasive or noxious plants that constitute a fire hazard and endanger people or property.

“Heavy fuels” means materials of large diameter such as snag logs and large tree limbs that ignite and are consumed more slowly than flash fuels.

“Refuse piles” means accumulations of flammable vegetation, rubbish and/or scrap materials, including, but not limited to, wastepaper, wood, hay, straw, weeds, litter or other flammable waste.

“Russian thistle” means a large, bushy plant, commonly known as “tumbleweed.”

“Slash” means debris left after logging, pruning, thinning, or brush cutting, including, but not limited to, log chunks, bark, branches, stumps, and broken understory trees or brush.

“Weeds” means any of the following materials that are capable of being ignited and endangering persons or property: plants that bear seeds of a downy or wingy nature; annual grasses; sagebrush, chaparral, and any other brush that attains sufficiently large growth as to become a fire menace; and poison oak and poison ivy. [Ord. 313 § 1, 2011; Ord. 98-4 § 1; Ord. 92-22 § 1; Code 1990 § 3.5.02.]

8.10.030 Duty to abate weeds, flammable vegetation, and other combustible matter.

It shall be the duty of every owner, occupant and person in control of any private land or interest in private real property within the city of Calimesa to abate therefrom, and from all sidewalks, trails, easements, and parkways on such property, all weeds, flammable vegetation, and other combustible matter. The procedures for abatement set forth herein are not exclusive, but are in addition to other procedures set forth in this code for the abatement of nuisances. The obligation to abate all weeds, flammable vegetation, and other combustible matter shall comply with the following:

A. Any parcel, or contiguous parcels under the same ownership, of five acres or less, shall be free of all weeds and flammable vegetation. Removal of weeds and flammable vegetation shall be provided by either of the following methods:

1. The entire parcel or contiguous parcels shall be mowed so that weeds are no higher than three inches above the soil; or
2. Where fire hazard conditions, rocks or other physical obstructions make mowing impractical, the city manager or his designee may authorize abatement by discing or any similar operation that cuts into and disturbs the soil. This type of abatement shall only occur after receipt of written authorization from the city manager or his designee. Prior to any such abatement, the property must be watered in accordance with the South Coast Air Quality Management District's Rule on Fugitive Dust (Rule 403) to minimize the amount of particulate matter in the ambient air.

B. Any parcel, or contiguous parcels under the same ownership, of more than five acres shall have a firebreak of not less than 100 feet wide at the outside boundaries of the parcel, or the outside boundaries of the whole of the contiguous parcels. The creation of the firebreak shall comply with the methods described in subsection (A) of this section. In addition, firebreaks shall be maintained such that no portion of the parcel or contiguous parcels shall be larger than two and one-half acres in area without a firebreak. For land that is used primarily for the grazing of livestock or planted for the harvesting of agricultural crops, firebreaks shall be not less than 10 feet wide (instead of 100 feet wide). The city manager or his designee may require firebreaks exceeding 100 feet in width when he deems it necessary for the protection of the public safety and welfare.

C. The roof of every structure shall be free of leaves, pine needles, and flammable vegetation.

D. No portion of any tree shall be within 10 feet of the outlet of a chimney or stovepipe.

E. Any plant, tree, or shrub adjacent to or overhanging a building shall be free of dead or dying wood.

F. Any tree, brush or shrub that encroaches into the airspace immediately above a driveway or private access road shall be maintained such that no portion of the tree, brush, or shrub is lower than 13 feet above the surface of the driveway or road. In addition, all vegetative encroachments along the sides of driveways and private access roads must be maintained to preserve a minimum drive width of 12 feet.

G. Where any parcel or contiguous parcels under the same ownership are improved in a manner that prevents abatement in accordance with the requirements of this section, the city manager or his designee may authorize, or require, other means of abatement. [Ord. 313 § 1, 2011; Ord. 98-4 § 1; Ord. 92-22 § 1; Code 1990 § 3.5.03.]

8.10.040 Exemptions.

The following land is exempt from the provisions of this chapter:

- A. Habitat conservation areas and land conservancies controlled by any government agency or nonprofit entity whose purpose is to protect endangered plant species, animals, historical or archaeological sites;
- B. Any land designated by the city for use as a wildlife corridor or for habitat conservation. [Ord. 313 § 1, 2011.]

8.10.050 Notice to abate.

A. Whenever it is necessary to enforce the abatement requirements set forth in this chapter, the city manager, or his designee, may issue a “notice to abate” to the owner or owners of the parcel or contiguous parcels as shown on the Riverside County assessor’s latest equalized assessment roll (“owner of record”).

B. The notice to abate required by this section shall be sent by first class U.S. mail to the owner of record. In addition, a copy of the notice to abate shall be posted in a conspicuous place upon the property.

C. The failure of the owner or occupant to actually receive such notice to abate shall not affect the city’s power to proceed as provided in this part, nor shall it invalidate any subsequent special assessment or lien against the subject property.

D. The notice to abate required by this section shall include, at a minimum, the following information:

- 1. A description of the particular fire hazard.
- 2. The assessor’s parcel number (APN) and any applicable street addresses of the affected property so as to provide an accurate description of the subject property.
- 3. The date by which abatement must occur.

E. The notice to abate required by this section shall be in substantially the following form:

[Date of Notice to Abate]

Dear Property Owner and/or Occupant:

You are hereby required to abate from the property located at [Street Address] and identified as [APN] all weeds, flammable vegetation, and other combustible matter (“fire hazards”) in accordance with Chapter [8.10](#) of the Calimesa Municipal Code.

[For immediate threats to the public health, safety or welfare, add this language at the

beginning of the next paragraph, and change the deadline to 72 hours from the date of the Notice to Abate: "In the opinion of the City Manager, or his designated representative, the weeds, flammable vegetation or other combustible matter on the subject property constitutes an immediate threat to the public health, safety and welfare."]

If such weeds, flammable vegetation, and other combustible matter are not removed within thirty (30) calendar days from the date of this Notice to Abate, the City Manager, or his designated representative, may remove the fire hazards from the property, or cause them to be removed by public employees, private contractors, or other persons. The cost of said removal, plus an added administrative fee, shall be levied and assessed against the property and billed directly to you. If you fail to pay the City for these costs, the City may add these costs to the tax roll as a special assessment and lien on the property.

You may appeal this order, and the existence of any weeds, flammable vegetation or other combustible matter, by presenting a written appeal to the City Manager within ten (10) business days of the date of this Notice to Abate. Business days exclude Fridays, Saturdays, Sundays and national holidays. The City Manager shall set the appeal for a public hearing before a City Hearing Officer and notify the appellant of the hearing date.

Additional information regarding Weed Abatement may be found on the City website located at www.cityofcalimesa.net.

[Ord. 313 § 1, 2011; Ord. 98-4 § 1; Ord. 92-22 § 1; Code 1990 § 3.5.04. Formerly 8.10.040]

8.10.060 Immediate fire hazard.

When, in the opinion of the city manager, or his designee, an extreme fire hazard exists that constitutes an immediate threat to the public health, safety, and welfare, the city may require the removal of such hazards within 72 hours after the posting of a notice to abate on the affected parcel. Nothing herein shall authorize the entry upon private property without the owner's consent or possession of an abatement or inspection warrant, unless: (1) the city manager, or his designee, determines that there is an immediate and imminent threat of injury to any person if immediate action is not taken, or (2) neither consent nor a warrant is otherwise required by law. [Ord. 313 § 1, 2011.]

8.10.070 Appeal procedures.

A. Any person contesting the existence of weeds, flammable vegetation or combustible matter and/or the need for abatement, or otherwise adversely affected by a notice to abate may appeal to a city hearing officer by filing a written appeal with the city clerk within 10 city business days of the date of the notice to abate. For the purposes of this section, business days exclude Fridays, Saturdays, Sundays and national holidays.

B. Upon receipt of an appeal, the city clerk shall set the matter for public hearing before a city hearing officer within 20 days and provide the appellant written notice of the date, time and place of the public hearing at least 10 days prior to the hearing. A timely written appeal shall stay any further action for removal or abatement until the date set for the hearing. Appellant shall have the right to appear in person or by agent, designated in writing, at the hearing and present oral, written and documentary evidence. The hearing officer shall issue his decision at the conclusion of the hearing and the decision shall be final.

C. The city manager shall establish procedures for the selection of the city hearing officer. The hearing officer shall be selected in a manner that avoids the potential for pecuniary or other bias and in no event shall the official who issued a notice to abate or demand for payment and notice of special assessment be the administrative hearing officer. [Ord. 313 § 1, 2011; Ord. 98-4 § 1; Ord. 92-22 § 1; Code 1990 § 3.5.05. Formerly 8.10.050]

8.10.080 Removal by city.

If the occupant or owner of the property fails to abate the hazardous conditions before the deadline stated in the notice to abate or within the time allowed by a hearing officer after an appeal, the city manager, or his designee, may cause to be removed by city staff or a private contractor selected by the city manager all such weeds, flammable vegetation or other combustible matter. The cost of such abatement, plus a reasonable administrative charge, may be imposed as a special assessment upon the property. The cost so assessed shall be limited to the actual costs incurred by the city, including payment to the public employees or the contractor to remove combustible matter, costs of investigation, boundary determination, measurement, clerical and other personnel, consultants, plus an administrative cost to be determined by resolution of the city council. [Ord. 313 § 1, 2011; Ord. 98-4 § 1; Ord. 92-22 § 1; Code 1990 § 3.5.06. Formerly 8.10.060]

8.10.090 Demand for payment and notice of special assessment.

A. After the city has completed abatement pursuant to CMC [8.10.080](#), the city manager, or his designee, shall file a report stating the abatement costs, plus the reasonable administrative charge, with the city clerk.

B. The city clerk shall send, by certified U.S. mail, return receipt requested, a demand for payment and notice of special assessment to the owner of record that sets forth all abatement costs owed to the city. The demand for payment and notice of special assessment shall also be posted at a conspicuous place on the property.

C. The city clerk shall set the report for public hearing before the city council at the first regular meeting that will be held at least 30 days after the demand for payment and notice of special assessment has been sent.

D. The demand for payment and notice of special assessment shall require that the owner remit payment to the city within 30 days of the demand for payment, and shall be in substantially the

following form:

[Date]

DEMAND FOR PAYMENT AND NOTICE OF SPECIAL ASSESSMENT
FOR ABATEMENT COSTS

TO: APN / Address

RE: Collection of Abatement Costs

NOTICE IS HEREBY GIVEN that the cost of abating weeds, flammable vegetation or other combustible matter is hereby being billed directly to the property owner for collection by the City.

The total amount owed to the City is \$ _____. This amount is due and payable to the City of Calimesa on or before: [30 Days from Date of Demand for Payment]. The amount includes administrative overhead costs of \$ _____ as approved by Resolution No. _____.

Contractor invoiced costs	Administrative overhead	Total due & payable to the City

NOTICE IS FURTHER GIVEN that should you fail to remit payment to the City, any unpaid amounts shall be placed on a delinquent account list and submitted to the Calimesa City Council for consideration and action at a public hearing to be held on [TIME & DATE] at the Norton Younglove Multipurpose Senior Center, 908 Park Avenue, Calimesa, California. At said hearing, the City Council will hear any objections or protests from property owners who have not paid the total amount specified above. If you wish to object to this bill, you must appear before the City Council at the public hearing.

NOTICE IS FURTHER GIVEN that at the conclusion of the hearing, the City Council shall confirm delinquent charges as a special assessment and lien against the subject property until said amount is paid in full.

Payment should be submitted to the City of Calimesa, 908 Park Avenue, Calimesa CA 92320.

City Manager

E. At the hearing, the city council shall hear any objections or protests by persons who may be liable for the costs of abatement. The council shall add related administrative charges and make such revisions or corrections to the report as it deems justified. The council shall confirm the report by resolution. [Ord. 313 § 1, 2011; Ord. 98-4 § 1; Ord. 92-22 § 1; Code 1990 § 3.5.07. Formerly 8.10.070]

8.10.100 Special assessments and liens.

A. The city clerk shall prepare and file with the county auditor a certified copy of the city council resolution adopted pursuant to CMC [8.10.090](#).

B. The county auditor shall enter each assessment in the county tax roll opposite the subject parcel of land. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedures and sale, in case of delinquency, as municipal taxes.

C. In accordance with Section 38773.5 of the California Government Code, all laws applicable to the levy, collection, and enforcement of the municipal taxes shall be applicable to the special assessment. [Ord. 313 § 1, 2011.]

8.10.110 Hazard reduction subscription program.

The city of Calimesa's hazard reduction subscription program is intended to assist property owners who do not have the ability or time to abate weeds, flammable vegetation, or other combustible matter from their property. Under this program, property owners may agree to pay the city, or a private contractor hired by the city, to abate weeds, flammable vegetation and other combustible matter from their property. Upon execution of a written agreement between the city and property owner, a fire department official shall inspect the property and determine if the property is appropriate for inclusion into the program. If the property is included in the program, the property owner shall be responsible for all costs and fees associated with abating weeds, flammable vegetation, and other combustible matter on the property. If the property owner does not comply with the program, and the property is not in compliance with the requirements of this chapter, the fire department shall cause all weeds, flammable vegetation, and other combustible matter to be abated in accordance with this chapter. The city manager may adopt reasonable rules and regulations to administer this program. [Ord. 313 § 1, 2011.]

8.10.120 Legal action and attorneys' fees.

In addition to the remedies set forth in this chapter, the city council may bring legal action in a court of competent jurisdiction for the recovery of any monies expended by it in order to enforce the provisions of this chapter. In any such legal action, the prevailing party shall be entitled to recover the cost of such action, including, but not limited to, reasonable attorneys' fees and costs. An award of attorneys' fees to a prevailing party shall not exceed the amount of reasonable attorneys' fees incurred in the action or proceeding. [Ord. 313 § 1, 2011.]

8.10.130 Penalty for violation of chapter.

Any person who permits or allows the existence of a public nuisance on any lot or premises owned, occupied or controlled by him, or who violates any of the provisions of this chapter, is guilty of a misdemeanor and shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation is committed, continued or permitted. [Ord. 313 § 1, 2011; Ord. 98-4 § 1; Ord. 92-22 § 1; Code 1990 § 3.5.08. Formerly 8.10.080]