

McCLOUD COMMUNITY SERVICES DISTRICT

ORDINANCE NO. 28

**AN ORDINANCE REGULATING THE HAZARDOUS VEGETATION AND
COMBUSTIBLE MATERIAL ABATEMENT**

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ARTICLE 1
TITLE AND SCOPE

1.01 Title

This Ordinance shall be known as the "McCloud Community Services District Hazardous Vegetation and Combustible Material Abatement Ordinance."

1.02 Application and Scope

The provisions of this Ordinance shall apply to the unincorporated area of Siskiyou County known as McCloud Community Services District (MCSD or District), to any property owner, property manager or business property within the District.

1.03 Purpose

The McCloud Community Services district (MCSD) area is located in an area of moderate humidity and relatively low winds. Due to dense vegetation in the surrounding wild lands, approximately 70% of the MCSD Wildland-Urban Interface (WUI) is designated as *Very High Hazard Severity Zone* (Cal Fire, 2007). Approximately 30% of the WUI, primarily in the northern portion of the town is designated *Moderate or High Hazard Severity*. The terrain is generally flat to moderately sloping and is well roaded for access.

The MCSD has approximately 585 homes, 2 schools, 37 businesses (including hotels and motels), 4 churches, 5 apartment buildings, 3 RV and mobile home parks and 178 vacant lots. Approximately 386 are full time residents and 198 homes are second homes or vacation rentals. In the southern portion of MCSD, the McCloud Golf Club owns the course that serves as a natural fire break due to its extensive irrigation and maintenance.

The areas adjacent to the MCSD are primarily owned by timber companies who also have an interest in reducing the fire hazards.

MCSD has enjoyed many years without a fire directly threatening the town, but recent large fire activity in the current decade has become worrisome.

The purpose of this code is to establish the minimum requirements consistent with California State and nationally recognized good practices to safeguard public health, safety and general welfare from the hazards of fire and to provide safety and assistance to fire fighters.

ARTICLE 2 DEFINITIONS

2.01 Abatement Costs

Any and all costs incurred by the MCSD to abate the hazardous vegetation or combustible material on any property pursuant to this Ordinance, including physical abatement costs, administration fees and any additional actual costs incurred by the MCSD for the abatement proceeding, including attorney's fees, if applicable.

2.02 Defensible Space

Defensible Space is a natural and/or landscaped area, around a structure, that has been maintained and designed to reduce fire danger. Defensible space is used in the context of wildfires, especially in the Wildland-Urban Interface (WUI). This defensible space reduces the risk that fire will spread from one area to another or from a structure to landscape/wildland (or vice versa) and provides fire fighters access and a safer area, from which to defend a threatened area. Fire fighters may need to forgo attempts to protect structures without adequate defensible space, as it may be highly unsafe for personnel and less likely to succeed, especially in a large fire.

2.03 Fire Chief

The current MCSD Fire Department Chief, or the Assistant Fire Chief.

2.04 Fuel

Vegetative material, live or dead, old lumber, rotten fire wood, tossed off branches, or any other combustible material.

2.05 Ladder Fuels

A firefighting term for live or dead vegetation that allows a fire to climb up from the landscape or forest floor into the tree canopy. Common fuel ladders include tall grasses, shrubs and tree branches, both living and dead.

2.06 Modify and Abate

Shall mean any action that physically affects a tree or plant, or other flammable materials, ranging from pruning or thinning, to complete removal (other than removal of the root ball).

2.07 Native Brush

Refers to scrub vegetation, as well as any species that the Fire Chief determines to be a fire hazard. Determinations shall be made based on considerations of plant being (i) threatened or endangered; (ii) a fire, health or safety or welfare of persons or property, including neighbors.

2.08 Property Owner

Means any person(s), firm, corporation or entity, within MCSD boundaries that has any legal or equitable interest in real property, as shown on public records.

2.09 Shrub

A low, usually several-stemmed, woody plant branching from or near the ground, smaller than a tree. Certain species are considered both brush and shrubs.

2.10 Vacant Parcel

Means a parcel(s) of property currently undeveloped or unimproved by any buildings or structures.

2.11 Wildfire

A large, destructive fire that spreads quickly over woodland or brush.

2.12 Wildland-Urban Interface (WUI)

A WUI refers to the zone of transition between wildland vegetation and urban development. Communities that are within 0.5 miles (0.80 km) of the zone may also be included. These lands and communities adjacent to and surrounded by wildlands are at a higher risk of wildfires.

ARTICLE 3

APPLICABLE CALIFORNIA CODES

3.01 Applicable California Codes

Property owners and property occupants are required to comply with the following State Law:

- (a) California fire Code (CFC), Chapter 3, Section 304.1.2
Vegetation. Weeds, grass, vines or other growth that is capable of being ignited and endangering property, shall be cut down and removed by the owner or occupant of the premises. Vegetation clearance requirements in Urban-Wildland Interface areas shall be in accordance with CFC, Chapter 49, Requirements of WUI Fire Area.
- (b) California Public Resources Code (PRC), Section 4291
- (c) California Government Code (GC), Section 51182
- (d) California Building Code (BC), Section 2113.9.2; Spark Arresters
All chimneys attached to any appliance or fireplace that burns solid fuel shall be equipped with an approved spark arrester. The net free area of the spark arrester shall be not less than four times the net free area of the outlet of the chimney flue it serves. The spark arrester screen shall have heat and corrosion resistance equivalent to 12-gauge wire, 19-gauge galvanized steel or 24-gauge stainless steel. Openings shall not permit the passage of spheres having a diameter larger

than 1/2 inch nor block the passage of spheres having a diameter of less than 3/8 inch.

ARTICLE 4

DUTIES OF MCSD FIRE CHIEF

4.01 Fire Chief Responsibility to Ordinance

Included in the duties of the MCSD Fire Chief is the task of improving the health, safety and welfare of the McCloud Community Services District by initiating, supporting and enforcing all fire safety preventative measures included in the Ordinance and the codes referred to herein. The Fire Chief, or the Assistant Fire Chief, is hereby designated the enforcement officer for MCSD Hazardous Vegetation Abatement Ordinance.

ARTICLE 5

RESPONSIBILITY OF PROPERTY OWNERS

5.01 Specifics of Property Owner Compliance

The property owner is required to be responsible for complying with the Ordinance and codes, to secure the protection and safety of their structures and/or parcels, in the event of a fire.

- (a) Provide 100 feet of defensible space around all occupied structures and buildings on their property, or to the property line if it is less than 100 feet from any structure.
- (b) Modify or reduce the amount of fuel within 30 feet of any building or structure, providing separation between fuel types and/or reshaping retained fuels/vegetation by trimming. All dead, dying and loose surface fuels, including branches pinecones, grasses and grass cuttings, old lumber, rotten firewood, tossed of branches shall be eliminated. A 3-inch layer of pine needles or mulch for surface coverage is acceptable, beyond 10 feet of any structure, however, deeper depths are considered a hazard.
- (c) Removal of leaves, needles and dead materials from roofs (notably roof valleys) and gutters of structures.
- (d) Arranging planted and native trees, shrubs and other fuel sources in a way that makes it difficult for fire to transfer from one fuel source to another. This does not mean cutting down all trees and shrubs or creating a bare ring of soil across the property.
- (e) When a building is less than 100 feet from a property line and combustible vegetation on an adjacent parcel presents a fire hazard for the building, the owner of the adjacent parcel where the hazard exists shall be responsible for fuel modification on their land which is within 100 feet of the occupied structure to the extent required by these guidelines.

- (f) Shrubs and highly flammable native brush shall not be planted or maintained within 15 feet of any structure, including any deck or patio.
- (g) Property owners of vacant parcels are required to maintain the amount of fire fuels on their property consistent with the fuel treatment guidelines.
- (h) Vacant lots, within the developments, and undeveloped raw land properties, shall be abated similarly to the specifications with PRC 4291 for the space identified as 30-100 feet. All native brush and shrubs shall be maintained in a manner which minimalizes fire risk, by removing dead branches and twigs, modifying lower foliage of branches, and selectively pruning to reduce plant density, or total removal.
- (i) Horizontal spacing of shrubs (within 30' of any building or structure(s)) shall be maintained such that the space between two shrubs shall be a minimum of two times the height of the tallest shrub. Groups of shrubs clumped together shall be modified so that the diameter does not exceed 15 feet.
- (j) Isolated shrub(s), which are thinned and maintained, and are not deemed to constitute a fire hazard by the Fire Chief, will not warrant abatement.
- (k) All trees shall be pruned a minimum of 10 feet away from roof, eave or exterior siding, depending on the tree's physical or flammable characteristics and the building construction features. All branches shall be removed within 10 feet of a fireplace chimney or wood stove pipe.
- (l) Tree Spacing Guidelines for thinning are determined by flat and gently sloping. The measurement is from trunk to trunk.
 - 1) Flat or gently sloping (0-20%); 10 feet of spacing.
- (m) In areas with a continuous tree canopy, any tree taller than 45 feet should have all branches lower than ten (10) to fifteen feet from the ground pruned back to the trunk. A tree shorter than 45 feet should be pruned to remove any live or dead branches up to 1/3 of its total height.
- (n) the distance between lower tree limbs and surface fuels shall have a clearance of three times the height of the underlying brush and grasses, depending on vegetation, to prevent fire from moving from shorter fuels to taller fuels, identified as ladder fuels.
- (o) EXEMPTION: Deciduous, non-native trees and that have all forest litter removed from underneath the base of the tree, the height of pruning can be reduced by 50%.
- (p) ENVIRONMENTAL EXEMPTIONS: The brush or shrub modification must not result in:
 - 1) The taking of endangered, rare or threatened plant or animal species.
 - 2) Significant erosion and sedimentation of surface waters. The owner of each piece of real property shall, when performing modifications required by this Ordinance, keep soil disturbance to a minimum, especially on steep slopes. Erosion control techniques shall be utilized to help reduce soil erosion and plant re-growth.
- (q) Parcels, which are adjacent to roadways, and those determined by the Fire Chief, or the Assistant Fire Chief to be necessary for the safe ingress and egress to any area, may be identified for access abatement. Included are brush and small tree

- removal, and the pruning of branches of large trees that extend beyond property boundaries and overhang into easements and/or roadways.
- (r) Exposed wood piles should be at least 10 feet from any structures.
 - (s) A 3/8-inch to 1/2-inch spark arrestor shall be fitted on chimney and stove pipe caps. This will reduce the chance of burning embers escaping from your fire source and igniting a wildfire or a neighbor's home.
 - (t) Coals and ashes from fireplaces, wood stoves and outdoor fire pits shall be placed in a noncombustible container, with a tight-fitting lid, until completely extinguished. While cooling, this container should be placed at least 10 feet from any structure or combustible vegetation. No ashes or coals may be dumped in any common area or hazardous fuel area. Buried coals and ashes must be covered by at least one foot of soil and at a distance of no less than 25 feet from any structure or combustible vegetation.
 - (u) Violation of these provisions will constitute a public nuisance.

ARTICLE 6

ENFORCEMENT OF COMPLIANCE

6.01 Administration by Fire Chief, or the Assistant Fire Chief

The MCSD Fire Chief, or the Assistant Fire Chief will administer the necessary provisions of compliance and enforcement regarding the codes included in this Ordinance.

- (a) Any and all aspects of violation of this Ordinance shall be the responsibility of the property owner, including compliance costs and fines incurred.
- (b) The Fire Chief, or the Assistant Fire Chief shall assess and enforce provisions of this Ordinance with respect to Defensible Space, including trees, shrubs, debris, firewood and spark arresters, as deemed necessary for the public health, safety and welfare of the residents of the MCSD.
- (c) The Fire Chief, or the Assistant Fire Chief shall assess and enforce provisions of this Ordinance with respect to fuels including trees, shrubs, debris, firewood and grasses on all properties, both developed and undeveloped, as deemed necessary for the public health, safety and welfare of the residents of the MCSD.
- (d) For the purpose of enforcing or administering this Ordinance, the Fire Chief, or the Assistant Fire Chief may enter any real property for the purpose of inspecting the property or for summary abatement proceedings whenever the Fire Chief, or the Assistant Fire Chief is informed or has reasonable cause believe that hazardous vegetation or combustible material exists, constituting a condition dangerous or injurious to the or welfare of persons or to the public, including the environment, is a public nuisance or is otherwise in violation of this Ordinance.

6.02 Right of Entry for Inspection; Applicability - Procedure Required

- (a) Right of Entry for Inspection; Applicability-Procedure required. Whenever necessary to make an inspection to enforce this Ordinance, any pertaining resolution, or whenever there is reasonable cause to believe there exists a hazardous vegetation safety violation, within the jurisdiction of the District, the Fire Chief, or the Assistant Fire Chief, upon presentation of proper credentials, enter the property, at all reasonable times, to inspect the same or to perform any duty imposed upon him by the Ordinance. With the exception of emergency situations or when the consent of the owner and/or occupant to the inspection has been otherwise obtained, he shall give the owner and/or occupant, if they can be located after reasonable effort, verbal notice and/or a 24 hours written notice of the intention to inspect. The notice transmitted to the owner and/or occupant shall state that the property owner has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of an inspection warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry, after such request has been made, the Fire Chief, or the Assistant Fire Chief is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

6.03 Notice of Violation

When the Fire Chief, or the Assistant Fire Chief identifies any property that is in violation of the codes of this Ordinance, he or she is authorized to prepare a written notice of violation describing the conditions deemed unsafe. This notice of violation, issued pursuant to this Ordinance, shall be served upon the owner or other person responsible for the condition or violation, either by personal service, mail or by delivering the same to and leaving it with, some person of responsibility upon the premises. Upon notice of abatement the property owner has thirty (30) calendar days to complete the abatement.

6.04 Implementation of Violation Compliance

If compliance of the violation is not complied with by the designated compliance date, the Fire Chief, or the Assistant Fire Chief is authorized to abate the property with a MCSD or designated contractor. All costs related to the abatement are the responsibility of the owner.

6.05 Violation Penalties:

- (a) The enforcement remedy of civil fines and penalties established in this chapter shall be in addition to any other administrative or judicial remedy provided by law, including, but not limited to, abatement actions.
- (b) Any person violating any provision of this code, as amended from time to time, may be subject to the assessment of civil fines and penalties pursuant to the

administrative procedures established in this chapter and authorized by Government Code Section 53069.4.

- (c) In any action brought under District code against the owner of the parcel, the prevailing party shall be awarded attorney's fees and costs.
- (d) Each and every day a violation of this code exists constitutes a separate and distinct violation.
- (e) In any action brought under this code where attorney's fees and costs have been ordered, the MCSD Board of Directors may order the cost of the abatement to be specially assessed against the parcel in accordance. The assessment may be collected at the same time and in the same manner as MCSD billing and shall be subject to the same penalties and the same procedure and sale in the case of delinquency as are provided for ordinary taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to the special assessment.
- (f) Civil Fines: A violation of this Ordinance is an infraction punishable by a fine of five hundred dollars (\$500).
- (g) The owner of the property shall have the right to appeal any violations pursuant to the District's policy 1030 Public Complaints.

ARTICLE 7
EFFECTIVE DATE

This ordinance shall take effect and be in full force from and after 30 days after the date of its final passage if, before the expiration of fifteen (15) days after its final passage, (1) the text of this Ordinance as adopted by the Board of Directors is published one time in a newspaper of general circulation throughout the District; and (2) the text of this Ordinance shall be posted by the secretary in three (3) public places and for not less than thirty (30) days within the McCloud Community Services District.

This Ordinance was published in the Mt. Shasta Herald, a newspaper of local circulation on February 5, 2020 and posted February 6, 2020 in three (3) locations throughout the community. The ordinance was then presented for a second reading and final adoption at the regular meeting of the Board of Directors of the McCloud Community Services District on February 10, 2020 and at said meeting, Director Catherine Young moved the adoption of said Ordinance, which motion was seconded by Director Raymond Zanni and upon roll call was carried by the following vote:

AYES: DIRECTORS: Hanson, Richey, Rorke, Young, Zanni

NOES: DIRECTORS:

ABSENT: DIRECTORS:

ABSTAIN: DIRECTORS:

Catherine Young
Catherine Young/President of the Board

Teryl Smith
Teryl Smith/Secretary of the Board