

## **ORDINANCE NO. 2023-03**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY, STATE OF CALIFORNIA, AMENDING CHAPTERS 8.10 (“VEGETATION MANAGEMENT, DEBRIS REMOVAL AND ABATEMENT”) OF TITLE 8 (“HEALTH AND SAFETY”) OF THE CITY OF NEVADA CITY MUNICIPAL CODE, RELATING TO FIRE CONTROL, DEFENSIBLE SPACE, BURNING, AND FIREWORKS REGULATIONS**

**WHEREAS**, the City of Nevada City has established regulations related to vegetation management, debris removal and abatement within the City of Nevada City Municipal Code; and

**WHEREAS**, the State of California and County of Nevada have established regulations with regard to fire control and defensible space that apply to the unincorporated areas surrounding Nevada City; and

**WHEREAS**, the City of Nevada City desires to provide a consistent, understandable and actionable set of regulations with regard to fire control and defensible space that align with those of the State of California and County of Nevada; and

**WHEREAS**, in order to align the regulations of the City of Nevada City with those of the State of California and County of Nevada it is prudent to amend the pertinent Nevada City Municipal Code provisions so that they mirror those of the State of California and County of Nevada; and

**WHEREAS**, the City of Nevada City, California, pursuant to the provisions of the California Environmental Quality Act (“CEQA”) (Cal. Pub. Res. Code §§21000 and following) and State CEQA Guidelines (14 CCR §§15000 and following) has determined that this ordinance is not a project under CEQA pursuant to Section 15378 (b)(5) of the California Code of Regulations;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEVADA CITY DOES HEREBY ORDAIN AS FOLLOWS:**

SECTION 1. The above recitals are true and incorporated into this ordinance.

SECTION 2. Chapter 10 of Title 8 of the Nevada City Municipal Code is hereby redesignated “Chapter 8.10 - FIRE CONTROL, DEFENSIBLE SPACE, BURNING, AND FIREWORKS REGULATIONS” and amended to read as follows:

#### **8.10.010 – Purpose and Findings**

1. The City supports the improved parcel defensible space obligations found in California Public Resources Code Section (PRC) 4291. Similarly, the city supports the expanded parcel defensible space obligations found in Title 2, Chapter IV, Article 7 of the Nevada County, California County Code (NCCCC) which supplements PRC 4291, to ensure defensible space is maintained on parcels adjacent to improved parcels and along emergency

access and evacuation routes and fire access easements so that landowners benefit from defensible space on adjacent parcels where appropriate.

2. To enhance public safety and to encourage efficient enforcement and administration of defensible space obligations, this Chapter adopts within the City enforceable standards that mirror the components of PRC 4291 and NCCCC Title 2, Chapter IV, Chapter 7. These standards are enacted as local amendments to the California Building Standards Code and California Fire Code as adopted by the City in Chapters 15.04 (“Building Standards”) and 15.08 (“Fire Safety Standards and California Fire Code Amendments”) of this code. This chapter extends and supplements state law, utilizing the same requirements as provided by PRC 4291, to ensure defensible space is maintained on improved parcels, on parcels adjacent to improved parcels, and along emergency access and evacuation routes and fire access easements so that landowners benefit from defensible space on adjacent parcels.
3. During the wildland fire season as defined by the California Department of Forestry and Fire Protection (CalFire), the city generally has a dry, arid climate conducive to wildfires. The City also has a very diverse and complex landscape, which includes dry, brush-covered and grass-covered wildlands, mountainous areas, dense heavily forested properties and other terrains which are home to vital watersheds and many sensitive plant and animal species. Many of the City’s native and non-native plant species can be highly combustible during normal dry periods and have contributed to significant wildfires within the city. Difficult topography and terrain exacerbate the fire danger and the difficulty of fighting wildfires and have resulted in catastrophic fire losses to life, property and the environment.
4. Of paramount importance to the City is the protection of lives and structures from the threat of wildfire and the safety of firefighters and law enforcement during wildfires. The proper establishment of defensible space benefits property owners, public safety personnel and all citizens of the City. Defensible space dramatically increases the likelihood that structures will survive a wildfire, promotes firefighter safety during a firestorm, and generally aids in the protection of lives.
5. The purpose of this Chapter is to provide for the removal of hazardous vegetation and combustible material from around the exterior of improvements situated in the City in order to reduce the potential for fire and to promote the public health, safety and welfare. It is the further purpose of this Chapter to establish a hazardous vegetation reduction program that provides a process to identify and abate hazardous vegetation on parcels to preserve life and property, while at the same time protecting sensitive plant and animal species and protecting against significant erosion and sedimentation. The removal of hazardous vegetation in the areas subject to this Chapter is recognized as an essential action homeowners and property owners can take to increase the chances that homes, structures, and other property will survive a wildfire while also protecting the natural environment. Regular fuels management and modifications consistent with the requirements of this Chapter are necessary to achieve adequate defensible space. The defensible space required by this Chapter is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structures, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to structures on adjacent improved parcels.

6. The City has determined that open burning and fireworks present a significant hazard to the environment and to the safety of its citizens. It is in the City's best interest to prohibit open burning and the sale, use and discharge of fireworks within the City. The purpose of this Chapter is to provide for the prohibition of fireworks and open burning within the city, other than as specified in this chapter, in order to reduce the risk of ignition of adjacent vegetation or structures.
7. The Fire Department, specifically the Fire Division Chief shall be principally responsible for the enforcement of this ordinance as the lead Public Official as defined herein.

#### **8.10.020 – Application**

This Chapter shall apply to:

1. All areas of the city.
2. All Parcels adjacent to Improved Parcels where: the owner/occupant of the Improved Parcel is unable to obtain the required Defensible Space, as delineated in adopted City Codes; and the current condition of fuels on the subject Parcel is assessed by the Public Official as a hazardous fire condition. The owner of the subject Parcel shall provide the fuel modifications to meet the Defensible Space requirements of the adjacent Improved Parcel subject to applicable law including the finding that the clearing, meaning fuel modification or abatement, is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite a Structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the Structure.
3. All Parcels where:
  - A. The Parcel is adjacent to a roadway which is determined by the Public Official to be necessary for the safe ingress and egress to the area served by the roadway or fire access easement; and
  - B. The current condition of fuels on the adjacent Parcel is assessed by the Public Official as a hazardous fire condition.
  - C. The owner, occupant or other person in control of the Improved Parcel shall be responsible for fifty (50) percent of the abatement cost on the adjacent parcel if the owner of said adjacent Parcel consents in writing to the abatement.

If any part of this Chapter is in conflict with any other part of this Code, the more restrictive provision(s) shall control.

#### **8.10.030 – Definitions**

As used in this Chapter, the following definitions shall apply:

1. "Abate" or "Abatement" shall mean an act used to remove, destroy, eliminate, seize, impound, or any action taken to mitigate a public nuisance.
2. "Abatement Costs" shall mean any and all costs incurred by the City to enforce this Chapter and to abate the hazardous vegetation or combustible material on any property pursuant to this Chapter, including physical abatement costs, administration fees and any additional actual costs incurred for the abatement proceeding(s), including attorney's fees, if applicable.
3. "Approved Warming Device" shall mean a portable or fixed, outdoor, solid-fuel-burning fireplace that may be constructed of steel, concrete, clay, or other noncombustible material. It may be open in design or may be equipped with a small hearth opening and a short chimney or chimney opening in the top. All devices shall be equipped with spark-arresting screens.
4. "Biomass" shall mean all green waste material generated during the fuels treatment project. Biomass includes, without limitation, all grass, weeds, vegetation and tree trimmings.
5. "Citation" or "Administrative Citation" shall mean a civil citation issued pursuant to the Chapter stating there has been a violation of one or more provisions and setting the amount of the civil penalty to be paid by the responsible party as outline in Chapter 1.22 of this code.
6. "City" shall mean the City of Nevada City, a political subdivision of the State of California.
7. "Combustible Material" shall mean all rubbish, litter or material of any kind other than Hazardous Vegetation that is combustible and endangers the public safety by creating a fire hazard.
8. "Days" shall mean calendar days.
9. "Defensible Space" means that area described in Public Resources Code Section 4291 and as otherwise described in this Code, which is adjacent to each side of a building or Structure and must be cleared of brush, Hazardous Vegetation, or Combustible Material as set forth in this Code.
10. "Fire Hazard" shall mean any condition, arrangement, act or omission which:
  - A. 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
  - B. May obstruct, delay, hinder or interfere with the operations of a fire department or the egress of occupants in the event of fire.
11. "Fireworks" and "safe and sane fireworks" shall have the meanings ascribed to them in Sections 12500 et seq. of the California Health and Safety Code.

12. "Fuel Modification Area" shall mean a strip of land in which the following fuel reduction activities are required to occur:
  - A. Cut and remove all weeds and grasses down to four (4) inches or lower;
  - B. Prune and remove "Ladder Fuels" up to ten (10) feet or higher;
  - C. Remove all dead or decaying trees and tree limbs; and
  - D. Perform any other fire protection or maintenance activities within the Fuel Modification Area(s) consistent with the standards and requirements adopted by CalFire as authorized by PRC 4290 or as required by a Public Official.
13. "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 the property owner or his or her legal tenant.
14. "Improved Parcel" shall mean a portion of real property on which a Structure is located, the area of which is determined by the Assessor's maps and records and which may be identified by an Assessor's Parcel Number.
15. "Ladder Fuels" shall mean fuels that can carry a fire vertically between or within Combustible Material or Hazardous Vegetation.
16. "Parcel" shall mean a portion of real property of any size, the area of which is determined by the Assessor's maps and records, and which may be identified by an Assessor's Parcel Number (APN).
17. "PRC 4291" shall mean California Public Resources Code Section 4291, and any amendments thereto.
18. "Public Official" shall include the City of Nevada City Division Chief, the Fire Chief of any agency contracted for fire protection within the city, city police officers, city code enforcement officers, fire protection company officers, and trained prevention staff as may be designated by the Fire Chief or the City Manager to enforce the provisions of this Chapter.
19. "Responsible Party" shall mean an individual, association, co-partnership, political subdivision, government agency, municipality, industry, public or private corporation, firm, organization, partnership, joint venture or any other person or entity whatsoever whose act or omission caused or contributed to a violation of this Chapter.

20. "Structure" shall mean any dwelling, house, building, or other type of combustible construction, whether or not occupied, including but not limited to a wood fence located within the Defensible Space of any other Structure.
21. "Unimproved Parcel" shall mean a portion of land of any size, the area of which is determined by the Assessor's maps and records and which may be identified by an Assessor's Parcel Number (APN) upon which no Structure is located.
22. "Very High Fire Hazard Severity Zones (VHFHSZ)" shall mean means an area designated as a very high fire hazard severity zone by the State Fire Marshal pursuant to Section 51178 that is not a state responsibility area.

#### **8.10.040 – Vegetation Management Standards: General**

This section is aligned with the PRC 4291 and applies the CalFire standards to the city. The language reflects the contents of Section 4906 of the California Fire Code.

1. Maintenance. Persons owning, leasing, controlling, operating or maintaining buildings or structures in, upon or adjoining hazardous fire areas, and persons owning, leasing or controlling land adjacent to such buildings or structures, shall at all times:
  - A. Maintain an effective fuel modification zone by removing, clearing, or modifying away combustible vegetation and other flammable materials from areas within 100 feet from such buildings or structures. (See exception 3 for fire-resistive construction and other features for approval and/or a reduction of the fuel modification zone.) The fuel modification zone may be replanted with either approved irrigated, fire-resistant planting material or approved non-irrigated, drought-tolerant, fire-resistant plant material. Replanting of the fuel modification zone may be required for erosion control.
  - B. Remove portions of trees, which extend within ten (10) feet of the outlet of a chimney, stove pipe, or heater outlet.
  - C. Maintain trees adjacent to or overhanging a Structure free of deadwood.
  - D. Maintain the roof of a Structure free of leaves, needles or other dead vegetative growth.
  - E. Exceptions:
    - i. Single specimens of trees, ornamental shrubbery or similar plants used as ground covers, provided that they do not form a means of rapidly transmitting fire from the native growth to any structure.
    - ii. Grass and other vegetation located more than thirty (30) feet from buildings or structures and less than eighteen (18) inches (457 mm) in height above the ground need not be removed where necessary to stabilize the soil and prevent erosion.

- iii. With the approval of the Public Official, the width of the fuel modification zone may be reduced where fire-resistive structures or other features are constructed. However, in no case shall the fuel modification zone be reduced to less than 30 feet. See California building code Chapter 7A and international wildland-urban interface code for the minimum requirements of a fire-resistive structure.

If the owner fails to correct such conditions, the failure shall constitute a public nuisance and the Public Official is authorized to cause the same to be abated and make the expense of such abatement a lien upon the property where such condition exists.

#### **8.10.050 – Defensible Space Management**

This section is aligned with PRC 4291 and applies the CalFire standards to the city.

Defensible space zones. All existing habitable buildings and structures within the Very High Fire Hazard Severity Zone (VHFHSZ) shall maintain Defensible Space in accordance with this section. The Public Official may require additional fuel modification measures to be taken by the property owner when extreme hazardous vegetation conditions are present.

1. Zone Zero (0 - 5 feet from a Structure) - Ember Resistant. Within Zone Zero, Parcels shall be maintained in accordance with this section.

A. Vegetation. Vegetation shall be in accordance with the following:

- i. Ornamental and native shrubs shall be thinned, relocated, or removed to provide no more than fifty (50) percent density and/or coverage and shall be positioned to limit plant continuity and inhibit fire progression.
- ii. Remove all dead, dying, or diseased vegetation, including on portions of live vegetation, and dead, dying, or diseased grass, plants, shrubs, branches, leaves, and weeds.
- iii. Maintain living / green grasses or lawns to a maximum height of four (4) inches.
- iv. Maintain large shrubs and hedges exceeding six (6) feet in height such that limbs are not within four (4) feet of the ground or one-third of its height, whichever is less.
- v. Vines are to be limited on the Structure.
- vi. Vegetation under windows shall be kept to below eighteen (18) inches.
- vii. Consideration shall be given to properties with more fire-resistive construction, lower flammability plant species, and frequent irrigation.

B. Tree Maintenance. Tree maintenance shall be in accordance with the following:

- i. Trees shall be maintained (i.e., cleaned, thinned, limbed up) to reduce the spread of fire.
    - ii. Tree branches shall have six (6) feet of clearance above roofs, combustible fences, Structures, and the ground. If shrubs are located under tree branches, additional clearance equal to three (3) times the height of the shrub is needed.
    - iii. Dead, dying, or diseased trees shall be removed. The Public Official may require an evaluation by a licensed arborist with recommendations on removal of dying or diseased trees.
  - C. Balconies, Overhangs, and Porches. The underside of balconies, overhangs, and porches shall be kept clear of Combustible Material.
  - D. Organic Wood Chips and Mulch. Organic mulch and wood chip application is prohibited. Non-combustible materials such as concrete, gravel, decomposed granite, or other approved materials shall be used within this zone.
  - E. Firewood. Firewood shall not be stored within this zone.
  - F. Chimneys. All chimneys shall have a spark arrestor. All branches shall be a minimum of ten (10) feet from chimneys, stovepipe outlets, and heater outlets.
  - G. Propane Tanks or any Fixed Fuel Tank. Dead, dying, or diseased vegetation shall be removed from within ten (10) feet of propane or fixed fuel tanks.
  - H. Roofs and Gutters. Maintain the roof and gutters to be free of leaves, needles, or other vegetation.
  - I. Firefighter Access. Remove hazardous items that would hinder firefighter access to all sides of the structure.
2. Zone One (5 - 30 feet from a Structure) - Lean, Clean, and Green Zone. Within Zone One, Parcels shall be maintained in accordance with this section.
- A. Vegetation. Vegetation shall be in accordance with the following:
    - i. Ornamental and native shrubs shall be thinned, relocated, or removed to provide no more than fifty (50) percent density and/or coverage and shall be positioned to limit plant continuity and inhibit fire progression.
    - ii. Remove all dead, dying, or diseased vegetation, including on portions of live vegetation, and dead, dying, or diseased grass, plants, shrubs, branches, leaves, and weeds.



- iii. Maintain living / green grasses or lawns to a maximum height of four (4) inches.
- iv. Maintain large shrubs and hedges exceeding six (6) feet in height such that limbs are not within four (4) feet of the ground or one-third of its height, whichever is less.
- v. Consideration shall be given to properties with more fire-resistive construction, lower flammability plant species, and frequent irrigation.

B. Tree Maintenance. Tree maintenance shall be in accordance with the following:

- i. Trees shall be maintained (i.e., cleaned, thinned, limbed up) to reduce the spread of fire.
- ii. Tree branches shall have six (6) feet of clearance above roofs, combustible fences, Structures, and the ground. If shrubs are located under tree branches, additional clearance equal to three (3) times the height of the shrub is needed.
- iii. Dead, dying, or diseased trees shall be removed. An evaluation by a licensed arborist with recommendations on removal of dying or diseased trees may be required by the Public Official.

C. Organic Wood Chips and Mulch. Organic mulch and wood chips shall be kept to a depth no greater than three (3) inches.

D. Propane Tanks or any Fixed Fuel Tanks. Dead, dying, or diseased vegetation shall be removed from within ten (10) feet of propane tanks and fixed fuel tanks.

E. Firefighter Access. Remove hazardous items that would hinder existing firefighter access to all sides of the structure.

3. Zone Two (30 - 100 feet from Structure) - Fuel Reduction Zone. Within Zone Two, Parcels shall be maintained in accordance with this section.

A. Vegetation. Vegetation shall be in accordance with the following:

- i. Ornamental and native shrubs shall be thinned, relocated, or removed to provide no more than sixty (60) percent density and/or coverage and shall be positioned to limit plan continuity and inhibit fire progression.
- ii. Remove all dead, dying, or diseased vegetation, including where applicable on portions of live vegetation and dead, dying, or diseased grass, plants, shrubs, branches, leaves, and weeds.
- iii. Maintain living / green grasses or lawns to a maximum height of eighteen (18) inches.

- iv. Maintain large shrubs and hedges exceeding six (6) feet in height such that limbs are not within four (4) feet of the ground or one-third of its height, whichever is less.
- v. Consideration shall be given to properties with more fire-resistive construction, lower flammability plant species, and frequent irrigation.

B. Tree Maintenance. Tree maintenance shall be in accordance with the following:

- i. Trees shall be maintained (i.e., cleaned, thinned, limbed up) to reduce the spread of fire.
- ii. Tree branches shall have six (6) feet of clearance above roofs, combustible fences, Structures, and the ground. If shrubs are located under tree branches, additional clearance equal to three (3) times the height of the shrub is needed.
- iii. Dead, dying, or diseased trees shall be removed. An evaluation by a licensed arborist with recommendations on removal of dying or diseased trees may be required by the Public Official.
- iv. All exposed wood piles shall have a minimum of ten (10) feet of clearance down to bare mineral soil in all directions.

C. Organic Wood Chips and Mulch. Organic mulch and wood chips shall be kept to a depth of no greater than three (3) inches.

D. Propane Tanks or any Fixed Fuel Tanks. Dead, dying, or diseased vegetation shall be removed from within ten (10) feet of propane and fixed fuel tanks.

E. Firefighter Access. Remove hazardous items that would hinder existing firefighter access to all sides of the structure.

**8.10.060 – Defensible Space Maintenance on Parcels Adjacent to Improved Parcels and Along Emergency Access, Evacuation Routes, and Fire Access Ways**

This section is aligned with the Nevada County Defensible Space Ordinance and applies similar standards to the city.

These standards apply when the Defensible Space surrounding a Structure on an Improved Parcel extends into an adjacent Parcel, and when Defensible Space needs to be maintained along emergency and fire access ways and evacuation routes.

1. Hazardous Vegetation and Combustible Materials within one hundred (100) feet of a Structure (or greater as determined by the Public Official) or along roadways that serve as

primary ingress and egress routes, are hereby declared to be a public nuisance that may be abated in accordance with this Chapter, and by any other means available by law.

2. It shall be the duty of every owner, occupant, and person in control of any Parcel which is located in the city, or having any interest therein, to abate therefrom, and from all sidewalks and roadways on or immediately adjacent thereto (except for those roads accepted into the city or County maintained system), all Combustible Material and Hazardous Vegetation which constitute a fire hazard and public nuisance which may endanger or damage neighboring property or forestland.
3. The requirements of this Section shall be satisfied if the Parcel and all sidewalks and roadways on or immediately adjacent thereto (except for those roads accepted into the city or County maintained system) are cleared in accordance with a Notice to Abate by cutting brush, trimming trees, thinning trees, disking, mowing, plowing or any other method described in a Notice to Abate, or, if no Notice to Abate is issued, by removing all Hazardous Vegetation and Combustible Materials as follows:
  - A. Maintain a Defensible Space of one hundred (100) feet from each side and from the front and rear of a Structure, but not beyond the property line except as provided by law. The amount of fuel modification necessary may be based upon the flammability of the Structure as affected by building material, building standards, location, and type of vegetation. Fuels shall be maintained in a condition so that a wildfire burning under average weather conditions would be unlikely to ignite the Structure. The intensity of fuels management may vary within the one hundred (100) foot perimeter of a Structure, the most intense being with the first thirty (30) feet around a Structure. Consistent with fuels management objectives, steps should be taken to minimize erosion;
  - B. Maintain a one hundred (100) foot wide area of land around Structure(s) located on an adjacent Improved Parcel (some or all of this Defensible Space requirement may be required on an adjacent Parcel depending upon the location of the Structure on the Improved Parcel);
  - C. Maintain free of Ladder Fuels a minimum of a ten (10) foot wide strip of land beyond the shoulder of a roadway serving as primary ingress and egress to the parcel, to a height of fifteen (15) feet along the boundary of a Parcel;
  - D. Climbing vines must be removed from trees and Structures within the one hundred (100) foot defensible space zone around Structure(s);
  - E. Maintain the Parcel free of ladder fuels within the one hundred (100) foot Defensible Space area around Structure(s).
4. The Public Official may mandate additional fuels management of an area more or less than the above-referenced widths or height on a Parcel and all sidewalks and roadways on or immediately adjacent thereto (except for those roads accepted into the City or County maintained system), for the protection of public health, safety or welfare or the environment

if the Public Official finds that the additional fuels management is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite a Structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to a Structure on an Improved Parcel. The Public Official shall determine appropriate defensible space distances based upon a visual inspection of the Parcel and shall consider all factors that place the Structure(s) on the adjacent Improved Parcel at risk from an approaching fire. These factors shall include, but are not limited to, local weather conditions, fuel type(s), topography, and the environment where the adjacent parcel or the Structure(s) is located.

5. When an occupied building is less than one hundred feet from a property line and Combustible Material or Hazardous Vegetation on an adjacent parcel presents a fire hazard for the occupied building, the owner of the parcel where the fire hazard exists shall be responsible for clearing the area on that owner's land which is within one hundred feet of the occupied Structure and is needed to provide the necessary fire protection in the manner and to the extent required by the Public Official.
6. Where the terrain, condition or environment on the adjacent Parcel is such that it cannot or should not be disked or mowed, the Public Official may require, or authorize, other means of hazardous vegetation or combustible material removal.
7. No Parcel owner may allow any portion of vegetation on his or her property to interfere with street and emergency vehicle access, regardless of whether the access is along a public street or along a private residential access road. When the Public Official determines the vegetation would otherwise interfere with street or emergency vehicle access, the Public Official may provide written notice to the property owner requiring vegetation to be trimmed for a specified additional distance.
  - A. If the Parcel Owner fails to maintain these clearance requirements, the Public Official may abate this nuisance without further notice and at the Parcel Owner's expense.
  - B. This subsection shall not apply to cultivated groundcover such as green grass, ivy, succulents, or similar plants used as groundcovers, provided they do not constitute a fire hazard.
  - C. A Public Official may summarily abate weeds or hazardous growth on private property that in any way hinders emergency access and may charge the Parcel Owner for the costs of the abatement pursuant to an ordinance adopted under Government Code 39561 et seq.

#### **8.10.070 – Open Burning**

It shall be unlawful for any person to ignite, permit, or maintain an open fire within the city limits of the City of Nevada City.

This prohibition is not intended to prohibit fires in Approved Warming Devices, as defined in this Chapter.

#### **8.10.080 – Authorized Burning**

1. **Cooking Fires.** Cooking fires are defined as the burning of materials where fuel being burned is contained in manufactured outdoor fireplaces or grills used for food preparation and in accordance with this section. A permit is not required for outdoor cooking fires. Outdoor cooking fires shall be conducted within safe distances from buildings, Structures, Combustible Materials, and located on property that the individual using such device has legal authority to occupy. Fuel shall be limited to propane, natural gas, kerosene, or camp-stove fuel. Burning of solid fuels may be permitted in improved designated areas, including, but not limited to, city-provided fire pits or barbeques in parks and other public areas.
2. **Religious and Ceremonial Fires.** Religious and ceremonial fires are defined as the burning of materials for religious, ceremonial, or similar purposes and in accordance with this section. Prior to the commencement of a religious or ceremonial fire, the Fire Department shall be notified, and a permit obtained. The size and location of these fires may be modified within the approval of the Public Official. The time period of the religious or ceremonial fire shall be approved by the Public Official and shall be included on the permit. This is not intended to include “Cultural Burns”, Broadcast Burns, or similar burning for vegetation abatement or management.
3. **Training Fires.** Training fires are defined as fires set for the purpose of bona fide instruction and training of public and industrial employees in the methods of firefighting. Prior to commencement of open burning, the Fire Department shall be notified, and a permit obtained. EPA notification shall be accomplished as per their requirements. The time period of the training fire shall be approved by the Public Official and shall be included on the permit.
4. **Special Permit - Performance.** The Public Official may issue special permits to authorize burning for performance purposes. The Fire Department shall be notified, and a permit obtained. The size, type, and location of these fires may be modified within the approval of the Public Official. The time period of the event shall be approved by the Public Official and shall be included on the permit.
5. **Special Permit – Health and Public Safety.** The Fire Division Chief of the fire department of the City of Nevada City may issue special permits to authorize burning for the health and safety of the public. The requirements related to such a special permit shall be determined at the time of the issuance of the permit.

#### **8.10.090 – Fire Protection Requirements**

To provide and maintain fire protection during the use of approved warming devices or during authorized special permit burning, the following shall be required:

1. During use/operation an area within ten feet of the device shall be free and clear of flammable vegetation, combustible materials and/or refuse piles, as defined in this Chapter.
2. A responsible person, eighteen years of age or older, shall be in attendance with a shovel until fire is dead out.
3. A water hose connected to an operational water supply shall present at use/operation site.
4. The operation site shall be within two hundred fifty feet of an operational fire hydrant.
5. The operation site shall be within one hundred fifty feet of a California Fire Code compliant fire access road.

#### **8.10.100 – Exception—Special Permit Ceremonial Operations**

If an operational water supply is not present, the Public Official may determine an appropriate alternative method of fire protection for special permit ceremonial operations only.

#### **8.10.110 – Fireworks Prohibitions**

The sale, use, and discharge of fireworks, including, but not limited to, safe and sane fireworks, is prohibited within the City of Nevada City. It shall be unlawful for any person to sell, offer for sale, purchase, discharge or otherwise use fireworks within the City except as provided in this chapter.

#### **8.10.120 – Fireworks Exceptions**

1. Nothing in this Chapter shall be construed as prohibiting the sale, use, or discharge of any of the following; torpedoes, flares, or fuses by railroad or other transportation or law enforcement agencies for signal purposes of illumination; blank cartridges for ceremonial purposes, athletic, or sports events or military ceremonies or demonstrations; fireworks by permittees having a permit as hereinafter provided; agricultural and wildlife fireworks as defined in California Health and Safety Code section 12503; or to those subjects identified in subsections (a) through (d) of California Health and Safety Code section 12540.
2. Public displays of fireworks may be conducted by permit granted pursuant to 19 CCR 982.

#### **8.10.130 – Enforcement Primary Authority**

The Public Official is empowered to use any of the provisions of this Code to correct violations of this chapter.

#### **8.10.140 – Authority to Inspect**

Whenever the Public Official has cause to believe that there exists, or potentially exists, in or upon any premises any condition that constitutes a violation of this chapter, the Public Official

may, with the permission of the property owner or occupant, enter such premises at all reasonable times to inspect the premises related to defensible space/hazardous fuel management compliance. In the event the property owner or occupant refuses to allow entry of the Public Official after a request has been made, Nevada City is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry pursuant to California Code of Civil Procedure section 1822.50-1822.60.

#### **8.10.150 – Authority to Inspect Property and Request Records**

Whenever the Public Official has reasonable cause to believe that there exists on any premises any condition which constitutes a violation of this chapter, the Public Official is empowered to request owner or occupant provide records, such as but not limited to, site plans, connection agreements, operations and maintenance records, documentation of waste disposal, etc., as necessary to determine defensible space/hazardous fuel management compliance.

#### **8.10.160 – Enforcement and Administration**

Any person violating a provision of this chapter shall be subject to administrative, civil, or criminal liability as provided in this Code. When relying on Chapter 8.04 of this Code, Nevada City shall adhere to all procedures set forth therein, including, but not limited to the procedures for notice, service requirements, hearings, appeals, and issuance of citations and fines.

#### **8.10.170 – Public Nuisance Abatement**

Violation of any provision of this chapter is declared to be a public nuisance. Nevada City may, in addition to other authorized procedures set forth in this chapter, take action to abate such public nuisance in accordance with the procedures in Chapter 8.04 of the Nevada City Municipal Code when any person violates this chapter:

#### **8.10.180 – Civil Actions**

In addition to any other remedies provided in this chapter, any violation of this chapter may be enforced by civil action brought by Nevada City. In any such action, the City may seek, as appropriate and allowed by law, one or more of the following remedies:

1. A temporary restraining order, preliminary and permanent injunction;
2. Reimbursement of costs of any investigation, inspection or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and bringing action under this section;
3. Costs incurred in removing, correcting, or terminating the adverse effect(s) resulting from the violation;
4. Compensatory damages for loss or destruction of public property. Costs and damages under this subsection shall be paid to the City and shall be used exclusively for costs associated

with monitoring and establishing defensible space/hazardous fuel management or enforcing the provisions of this chapter.

#### **8.10.190 – Criminal Actions**

Any person violating any of the provisions of this chapter shall be guilty of an infraction with fines pursuant to Government Code section 36900. Each day such violation is committed or permitted to continue constitutes a separate offense and is punishable as such.

#### **8.10.200 – Non-Exclusive Remedies**

Every remedy available for the enforcement of this chapter shall be non-exclusive, and it shall be within the discretion of the City to seek cumulative remedies. Moreover, the remedies available to the City pursuant to this chapter shall not limit the right of the City to seek any other remedy that may be available at law or in equity.

#### **8.10.210 – Authority to Promulgate Reasonable Rules and Regulations**

The City Manager is authorized to adopt reasonable rules, regulations, and procedures consistent with this Chapter to enforce, interpret, and carry out the provisions of this Chapter. Such rules, regulations and procedures may vary between different areas within the City.

#### **8.10.220 – No Duty to Enforce**

Nothing in this Chapter shall be construed as imposing on a Public Official or the City any duty to issue a Notice to Abate, nor to abate any Hazardous Vegetation or Combustible Material within a Parcel's Defensible Space, nor to take any other action with regard to any unlawful Hazardous Vegetation or Combustible Material, burning, or fireworks. Neither the Public Official nor the City shall be held liable for failure to issue a Notice to Abate any unlawful Hazardous Vegetation or Combustible Material, nor for failure to abate any unlawful Hazardous Vegetation or Combustible Material, nor for failure to take any other action with regard to any unlawful Hazardous Vegetation or Combustible Material, burning, or fireworks.

**SECTION 3. ENVIRONMENTAL DETERMINATION.** The project has been reviewed for compliance with the California environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and has been found to be not a project under Section 15378 (b)(5) of the CEQA Guidelines.

**SECTION 4. INCONSISTENCIES.** Any provision of the Nevada City Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and/or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

**SECTION 5. SEVERABILITY.** If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or



clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

**SECTION 6. EFFECTIVE DATE.** This ordinance shall be in full force and effect commencing thirty (30) days after its final adoption and a summary hereof shall be published once within fifteen (15) days in The Union, a newspaper of general circulation printed and published in the County of Nevada and circulated in the City of Nevada City and hereby designated for that purpose by the City Council.

**SECTION 7.** The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published in the manner and form provided by law in The Union, a newspaper of general circulation printed and published in the City of Nevada City, State of California, which said newspaper is hereby designated for that purpose.

**APPROVED FOR INTRODUCTION AT A REGULAR MEETING** on the 8th day of March 2023, by the following vote:

**AYES: FERNÁNDEZ, PETERSEN, KLINE CECI**

**NOES:**

**ABSENT: FLEMING**

**PASSED, APPROVED, AND ADOPTED** this 22nd day of March 2023, by the following vote:

**AYES: FLEMING, FERNÁNDEZ, PETERSEN, KLINE, CECI**

**NOES:**

**ABSENT:**

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Doug Fleming, Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

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Gabrielle Christakes, Deputy City Clerk

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Dean Pucci, City Attorney

STATE OF CALIFORNIA    )  
COUNTY OF NEVADA     ) ss.  
CITY OF NEVADA CITY    )

I, Gabrielle Christakes, City Clerk of Nevada City, do hereby certify that the foregoing ordinance was introduced on the 8<sup>th</sup> day of March 2023, was regularly adopted at a meeting thereof on the 22<sup>nd</sup> day of , 2023 and was published/posted pursuant to law.

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Gabrielle Christakes, Deputy City Clerk