

**AN ORDINANCE OF THE COUNTY OF BUTTE - FIRE PREVENTION AND
PROTECTION**

The Board of Supervisors of the County of Butte ordains as follows:

Section 1. Chapter 38A of the Butte County Code is repealed and replaced as follows:

CHAPTER 38A - FIRE PREVENTION AND PROTECTION ORDINANCE

38A-1 Authority and Title.

Pursuant to the authority granted to it by sections 14930 and 14931 of the Health and Safety Code of the State of California, article I, section 1 of the Butte County Charter, article XI, section 7 of the California Constitution and sections 25845, 53069.4 and 54988 of the California Government Code, the Board of Supervisors does enact this chapter, which shall be known and may be cited as the "Fire Prevention and Protection Ordinance."

38A-2 Findings and Purpose.

(a) Butte County's geographic and climatic conditions are naturally prone to seasonal wildfires. Many of the County's native and non-native plant species can be highly flammable during normal dry periods, and when coupled with high wind events, may cause significant wildfires within the County, as demonstrated by the 2018 Camp Fire and the 2020 North Complex Fire, which resulted in catastrophic losses to life, property, and the environment.

1 (b) Of paramount importance to the Board of Supervisors and the
2 citizens of Butte County is the protection of lives and property from
3 the threat of fire, and the safety of fire and law enforcement
4 personnel during wildfires.

5 (c) It is the intent of this Chapter to encourage the owners
6 and occupants of real property in the unincorporated areas of the
7 County to maintain their properties to:

8 (1) Reduce the risk of uncontrolled fires and the harm they may
9 cause;

10 (2) Minimize the spread of any fire to other properties and
11 buildings;

12 (3) Reduce obstructions to fire suppression efforts if a fire
13 does occur;

14 (4) Increase the opportunity for firefighters to successfully
15 protect lives, residences and other valuable buildings from
16 wildfires;

17 (5) Protect populated areas, such as metropolitan areas,
18 suburban areas, and urban and rural subdivisions from encroaching
19 wildfires;

20 (6) Reduce the spread of residential and other building fires
21 into the wildland vegetation; and

22 (7) Prevent interference with fire hazard abatement activities.

23 (d) It is the further intent of the Board of Supervisors for
24 County personnel to seek and obtain voluntary compliance with this
25

1 Chapter, and to provide appropriate remedies if voluntary compliance
2 is not obtained.

3 **38A-3 Administration.**

4 This Chapter shall supplement and be in addition to the other
5 fire prevention and protection statutes, regulations, and ordinances
6 enacted by the State, the County or any other governmental agency
7 having jurisdiction, including but not limited to the California Fire
8 Code and Public Resources Code sections 4290 and 4291.

9 Except as otherwise provided, this Chapter shall be administered
10 and implemented by the Fire Chief, in conjunction with the Department
11 of Development Services, Code Enforcement Division.

12 **38A-4 Definitions.**

13 Except where the context otherwise requires, the following
14 definitions shall govern the construction of this Chapter:

15 (a) "Abatement" means mitigation or elimination of a Fire
16 Hazard and such ongoing maintenance as is necessary to prevent the
17 recurrence of a Fire Hazard.

18 (b) "Abatement Costs" means any costs or expenses reasonably
19 related to the abatement of conditions which violate this Chapter,
20 and shall include, but not be limited to, enforcement, investigation,
21 collection and Administrative Costs, and the costs associated with
22 the removal or correction of the violation.

23 (c) "Administrative Costs" means any costs or expenses
24 reasonably related to the administration of an abatement action, and
25 shall include, but not be limited to, the cost of County staff time

1 reasonably related to enforcement, for items including, but not
2 limited to, site inspections, travel time, investigations, telephone
3 contacts, and time spent preparing summaries, reports, notices, and
4 correspondence, warrants and hearing packets. The time expended by
5 staff from Development Services, Butte County Fire, and Auditor-
6 Controller calculating the above costs and preparing itemized
7 invoices showing such costs and prepare itemized invoices, may also
8 be recovered.

9 (d) "Building" means any structure or vehicle meeting at least
10 one of the following:

11 (1) Is occupied and used as a business or residence three
12 months of the year or more in any combination of days;

13 (2) Has one or more utilities connected to it, including but
14 not limited to, natural gas, propane or electricity. This includes
15 any means of connection, permitted or otherwise;

16 (3) Has three or more walls, and a roof, and is greater than
17 119 square feet in size; or

18 (4) Is used for mechanical processing.

19 The definition of a Building shall not include recreational
20 vehicles with tires in good repair, not standing on leveling jacks
21 or posts, and not otherwise meeting the above criteria.

22 (e) "Combustible Material" means seasonal and recurrent weeds,
23 stubble, brush, dry leaves, mulch, wood, tumbleweeds, rubbish,
24 recyclable material, litter or flammable materials of any kind.

25 (f) "Discing" means tilling the soil so as to turn under or

1 remove vegetation by mechanical or hand operated methods including,
2 but not limited to, tractor drawn soil tilling equipment, self
3 propelled rototilling equipment or hand hoeing.

4 (g) "Firebreak" means a continuous area of land which is
5 created and maintained in accordance with the requirements of this
6 chapter.

7 (h) "Fire Hazard" means that condition which exists when weeds,
8 grass, rank growths, or brush grow or accumulate upon a parcel and
9 create, or when dry will create, a medium for the rapid spread of
10 fire.

11 (i) "Fire Chief" means the Fire Chief of the County of Butte
12 or his or her designees.

13 (j) "Grass" means any herbaceous plant, cultivated or not,
14 which will attain, when mature, such a height as to be a medium for
15 the rapid spread of fire.

16 (k) "Hazardous Vegetation" means any vegetation that is flammable
17 and endangers the public safety by creating a Fire Hazard, including
18 but not limited to seasonal and recurrent weeds, stubble, brush, and
19 dry leaves.

20 (l) "Legal Parcel" or "parcel" means a parcel of real property
21 that may be separately sold in compliance with the Subdivision Map
22 Act (Division 2 (commencing with Section 66410) of Title 7 of the
23 Government Code), including an Improved Parcel, Unimproved Parcel,
24 and Urban Parcel as further defined herein.

1 (1) "Improved Parcel" means a parcel of land identified by an
2 assessor's parcel number upon which a Building is located.

3 (2) "Unimproved Parcel" means a parcel of land identified by an
4 assessor's parcel number upon which no Building is located.

5 (m) "Mowing" means cutting or shredding weeds, grass and other
6 vegetation by hand or mechanical methods.

7 (n) "Obstruction" means any material or object, including
8 natural growing vegetation, which is placed or allowed to accumulate
9 so as to interfere with fire suppression or the abatement of fire
10 hazards.

11 (o) "Occupant" means an adult person or an entity having a
12 possessory interest in a parcel, including a tenant, resident or
13 other person or entity having possession, use or control of the
14 parcel.

15 (p) "Owner" means an adult person or an entity having an
16 ownership interest in a parcel, but does not include persons having
17 only a security interest in a parcel.

18 (q) "Rank growth" means vegetation of any type, cultivated or
19 not, which has attained or if allowed to mature will attain, a height
20 and density to be a medium for the rapid spread of fire.

21 (r) "Urban parcel," whether improved or unimproved, means any
22 of the following:

23 (1) Those parcels located in the unincorporated areas of the
24 County that are inside the spheres of influence of the cities of
25 Biggs, Chico, Gridley, Oroville and Paradise, as such spheres are

1 established and amended from time to time by the Butte County Local
2 Agency Formation Commission;

3 (2) Those parcels located in the unincorporated areas of the
4 County that are outside of the spheres of influence referred to in
5 section (r)(1) above, but within an approved subdivision that has
6 lots six (6) acres in size or smaller, where fifty (50) percent or
7 more of the lots within such subdivision have been developed and
8 improved with residences;

9 (3) Those parcels located in the unincorporated areas of the
10 County that are outside of the spheres of influence referred to in
11 section (r)(1) above, and within the following geographical
12 boundaries in the community of Palermo: North boundary of Ophir Road
13 between Lincoln Boulevard and Upper Palermo Road, to the East boundary
14 of Upper Palermo Road and Palermo Honcut Highway between Ophir Road
15 and South Villa Avenue, to the South boundary of South Villa Avenue
16 between Palermo Honcut Highway and Occidental Avenue, to the West
17 boundary of Occidental Avenue and Wyman Avenue to the Oroville city
18 limits; and

19 (4) Those parcels located in the unincorporated areas of the
20 County that are outside the spheres of influence referred to in
21 section (r)(1) above, and within the following geographical
22 boundaries in the North Chico Specific Plan: North boundary of Rock
23 Creek, North of Keefer Road, to the East boundary of Hicks Lane to
24 the Chico city limit at the Chico Municipal Airport, to the South
25 boundary of Sycamore Creek, to the West boundary of Highway 99.

1 (s) "Utility generator" means any device, or combination of
2 devices, used to generate energy, including but not limited to, gas,
3 diesel, or propane generators, wind generators, solar powered
4 generator arrays, and hydroelectric generators. Any battery or
5 capacitor or similar storage bank is included in this definition.

6 (t) "Weed" means any plant, whether herbaceous or woody and of
7 whatever height, except a tree, which grows wild, and includes brush-
8 type plants such as manzanita and poison oak.

9 **38A-5 Duty of Owners and Occupants; Public Nuisance Declared.**

10 (a) Any person that owns, leases, controls, operates, or
11 maintains any parcel in the unincorporated area of Butte County shall
12 create Firebreaks where a Fire Hazard exists, to slow or stop the
13 spread of fire.

14 (b) Maintaining a parcel that is not in compliance with the
15 requirements set out in this Chapter is hereby declared to be
16 unlawful, and a public nuisance, which may be abated in accordance
17 with this Chapter.

18 **38A-6 Defensible Space and Hazardous Vegetation Management**

19 (a) Any person that owns, leases, controls, operates, or
20 maintains any parcel within the unincorporated area of the County
21 shall satisfy the following requirements:

22 (1) Maintain the area immediately around and adjacent to any
23 Building free of Combustible Materials. Combustible Materials shall
24 not be stored under decks and the area under decks shall be maintained
25 free of Hazardous Vegetation. Only low-growing vegetation with high-

1 moisture content, such as flowers, ground covers and green lawns,
2 free of dead vegetative debris, shall be allowed within five (5) feet
3 of any Building.

4 (2) Remove or prune flammable plants and shrubs near windows and
5 under eave vents (a recommended no-planting zone).

6 (3) Clean roofs and gutters of dead leaves, debris, and pine
7 needles.

8 (4) Provide and maintain a screen over the outlet of every
9 chimney or stovepipe that is attached to any fireplace, stove, or
10 other device that burns any solid or liquid fuel. The screen shall
11 be constructed of nonflammable material with openings not more than
12 1/2 inch.

13 (5) Maintain an area adjacent to any Building with a one-hundred
14 (100)-foot Firebreak made by removing and clearing away all Hazardous
15 Vegetation or other Combustible Material from each side of the
16 Building to the parcel boundary line, whichever is closer. Within the
17 one hundred (100)-foot Firebreak: i) weeds and dry grass shall be
18 mowed to a height of four (4) inches or less; ii) grass, brush and
19 small trees under mature trees shall be removed to reduce vertical
20 continuity; and iii) trees shall be pruned up to six (6) feet from
21 the ground. For shorter height trees, pruning shall not exceed 1/3
22 of the overall tree height. Tree placement shall be planned to ensure
23 the mature canopy is no closer than ten (10) feet to the edge of any
24 Building. Trees and shrubs shall be limited to small clusters of a
25 few each to break up the continuity of the vegetation across the

1 landscape. This subsection does not apply to single tree specimens,
2 ornamental shrubbery, or similar plants which are used as ground
3 cover and do not form a means of rapidly transmitting fire from the
4 native growth to any Building.

5 (6) Remove the portion of any tree which extends within ten (10)
6 feet of the outlet of any chimney or stovepipe. Maintain any tree
7 adjacent to or overhanging any Building free of dead and dying wood.

8 (7) Clear Hazardous Vegetation on each side of a street or
9 driveway for a horizontal distance of ten (10) feet from the edge of
10 the travel way and a vertical height of fourteen (14) feet from the
11 road surface. Vegetation within ten (10) feet of a street or driveway
12 shall be cut to (4) inches or less above ground. This applies to
13 public and private driveway(s) and any public or private streets that
14 border or bisect a parcel.

15 (8) Any portion of a parcel, improved or unimproved, within one
16 hundred (100) feet of a Building on an adjacent parcel shall comply
17 with subsection (a) (5) above in order to provide the adjacent Building
18 no less than 100 feet of defensible space.

19 (b) Firebreaks may be required adjacent to and along parcel
20 boundary lines for a width of 30 feet on any parcel when an
21 accumulation of vegetation on said parcel creates a significant Fire
22 Hazard to the adjacent parcel.

23 (c) A Firebreak for a distance of 20 feet from the edge of travel
24 way shall be required along any parcel adjacent to an identified
25

1 wildfire evacuation route as determined by the county enforcement
2 official.

3 (d) Urban Parcels as defined in section 38A-4 shall comply with
4 all Firebreak requirements specified in Section 38A-6(a-c). In
5 addition, the following requirements shall also be satisfied:

6 (1) For unimproved urban parcels that are one and one fourth
7 (1.25) acre in size or smaller Firebreaks shall be required on the
8 entire area of each parcel. On unimproved urban parcels that are
9 greater than one and one fourth (1.25) acre in size, Firebreaks shall
10 be required adjacent to and along all parcel boundary lines for a
11 maximum width of thirty (30) feet. Required firebreaks may be created
12 by mowing to a maximum height of four (4) inches, discing or removing
13 the annual weeds, grasses, rank growth and trimmings, and by removing
14 obstructions.

15 (2) All utility generators, privately owned power poles and
16 petroleum-based products (gasoline, diesel, liquid propane, etc.)
17 shall have a maintained Firebreak of no less than 10 feet in all
18 directions around, above, and below. The furthest measurement shall
19 include any connections or ground contact points. Privately owned
20 power poles and overhead distribution lines not owned or maintained
21 by a utility company shall have a maintained 10-foot clearance around
22 all conductors. Any dead, diseased, dying, damaged, or otherwise
23 unhealthy tree or limb of a tree that may fall onto or contact
24 conductors shall be mitigated as to eliminate any threat of failure
25 to the conductor wires.

1 (e) The Fire Chief may approve reduced Firebreak requirements
2 around Buildings to mitigate erosion potential on steep slopes, to
3 prevent destruction of unique wildlife habitat, endangered species
4 and/or vernal pools, or for other environmental factors. Each special
5 circumstance will be evaluated based on the facts of the situation.
6 The Fire Chief is encouraged to coordinate with soil conservation,
7 fish and wildlife, corps of engineers, water quality or other agency
8 representatives when weed abatement activities are indicated on
9 properties where significant environmental considerations may arise.

10 (f) Specimen shrubs may be retained within Firebreaks, provided
11 that:

12 (1) They are spaced at a distance equal to no less than three
13 (3) times their widest diameter and are not less than fifteen (15)
14 feet from other specimens or buildings.

15 (2) All specimens are kept free of dead wood and litter.

16 (g) Specimen trees may be retained within firebreaks provided
17 that:

18 (1) All specimens are kept free of dead wood and litter.

19 (2) All specimens shall be trimmed of limbs to a minimum of 6
20 feet from the ground or 1/3 of their height from the ground, whichever
21 is lesser.

22 (3) Crowns of adjacent specimens are not interlaced to
23 constitute a medium for the rapid spread of fire.

24 (h) Firebreaks may include fire resistive vegetation, such as
25 green lawns, ice plant, green ivy, and other plants recognized by the

1 Fire Chief as being fire resistive. Any fire resistive plants must
2 be maintained in a state to resist the spread of fire.

3 **38A-7 Notice of Existence of Fire Hazard**

4 Whenever the Fire Chief determines that a Fire Hazard exists on
5 a parcel, the Fire Chief may choose to notify the owner(s) and/or
6 occupant(s) of the parcel, through issuance of a "Courtesy Request
7 to Abate Fire Hazard." If the owner(s) and/or occupants fail to
8 voluntarily comply with Courtesy Request to Abate Fire Hazard, the
9 Fire Chief may refer the matter to Butte County Code Enforcement. In
10 all cases, the Fire Chief has the discretion to refer a parcel to
11 Code Enforcement without first issuing a Courtesy Request to Abate
12 Fire Hazard.

13 **38A-8 Administrative Abatement Procedures.**

14 (a) Whenever the Fire Chief informs Butte County Code
15 Enforcement that a public nuisance (as defined in this Chapter)
16 exists, a Code Enforcement Officer shall post a 72-Hour Notice to
17 Abate on the parcel where the public nuisance exists, and mail a copy
18 of the same to those persons shown on the latest County tax roll to
19 be the owners of the parcel. The 72-Hour Notice to Abate shall inform
20 the owner and/or tenants of the basis for the violation; explain that
21 if the violation is not corrected, the matter will be set for a
22 Nuisance Abatement Hearing; and explain that to prevent the accrual
23 of additional costs and the potential award of an administrative
24 penalty, the owner or tenant must contact the Code Enforcement Office
25 and arrange a time for a Code Enforcement Officer or the Fire Chief

1 to inspect the parcel, and confirm that the violation(s) have been
2 corrected.

3 (b) If the nuisance continues to exist after the expiration of
4 the seventy-two (72) hour period, a Code Enforcement Officer may set
5 the matter for hearing by issuing a Notice of Nuisance Abatement
6 Hearing. If the matter is set for hearing, the Code Enforcement
7 Officer shall post the parcel upon which the public nuisance exists
8 at the nearest accessible entry point to the parcel, and shall mail,
9 with a proof of service, notices to those persons known to be in
10 possession of the parcel, if any, and to persons shown on the latest
11 County tax roll to be the owners of the parcel at least ten (10) days
12 prior to the hearing. Both the mailed and posted notice shall be in
13 substantially the following form:

14 **NOTICE OF NUISANCE ABATEMENT HEARING**

15 The owner(s) and occupant(s) of real property
16 described on the latest equalized Butte County
17 tax roll as A.P. No. _____ and having a
18 street address of _____ is (are) hereby
19 notified to appear before a Hearing Officer of
20 the County of Butte at _____ on
21 _____, 20_____, at the hour of
22 _____ o'clock _____ m., to show
23 cause, if any there be, why the use of said real
24 property should not be found to be a public
25 nuisance and abated pursuant to the Butte County

1 Code Chapter 38A. The Butte County Fire Chief,
2 in conjunction with the Department of
3 Development Services, Code Enforcement
4 Division, has determined that conditions exist
5 on the above property which constitute a public
6 nuisance and violate Butte County Code
7 section(s) 38A- _____, as follows:
8 _____ . After hearing, if a violation is
9 found to have existed at the time the Notice of
10 Nuisance Abatement Hearing was posted on the
11 property, the Administrative Costs incurred in
12 prosecuting the violation, including, but not
13 limited to, the cost of the Hearing Officer, the
14 cost of prior time and expenses associated with
15 bringing the matter to hearing, attorneys' fees,
16 the cost associated with any appeals from the
17 decision of the Hearing Officer, the cost of
18 judicially abating the violation, the cost of
19 labor and material necessary to physically abate
20 the violation, the cost of securing expert and
21 other witnesses, and any Administrative
22 Penalties awarded by the Hearing Officer, may
23 become a lien against the subject property, and
24 the administrative and abatement costs and may
25 also be assessed against the property in the

1 same manner as taxes. If a lien is recorded, it
2 will have the same force and effect as an
3 abstract of judgment which is recorded as a
4 money judgment obtained in a court of law. If
5 you fail to appear at the hearing or if you fail
6 to raise any defense or assert any relevant
7 point at the time of hearing, the County will
8 assert, in later judicial proceedings to enforce
9 an order of abatement, that you have waived all
10 rights to assert such defenses or such points.
11 In preparing for such hearing, you should be
12 aware that if an initial showing is made by the
13 County representatives that is sufficient to
14 persuade the Hearing Officer that a public
15 nuisance existed on your property at the time
16 the Notice of Nuisance Abatement Hearing was
17 posted, you will then have the burden of proving
18 that no public nuisance existed on your
19 property. Therefore, you should be prepared to
20 introduce oral and documentary evidence proving
21 why, in your opinion, your use of the property
22 is not a public nuisance as defined in this
23 Chapter. A copy of the Butte County Code Chapter
24 38A relating to Fire Prevention and Protection
25 is available online at www.buttecounty.net to

1 assist you in the preparation of your
2 presentation.

3 If an initial showing sufficient to persuade the
4 Hearing Officer that a public nuisance existed
5 on your property is made by the Fire Chief and/or
6 Code Enforcement Officer, your failure to
7 sustain the burden of showing that no public
8 nuisance existed on the property may result in
9 a decision by the Hearing Officer that a public
10 nuisance did exist, and that the County is
11 entitled to recover its Administrative Costs,
12 and any Administrative Penalty that the Hearing
13 Officer deems warranted.

14 Further, if the Hearing Officer finds that a
15 public nuisance continues to exist on your
16 property, and you fail to abate the nuisance
17 promptly, the County may abate the nuisance. If
18 the County abates the nuisance, in addition to
19 being able to recover its Administrative Costs
20 and Penalties, you may be responsible for the
21 actual costs of the abatement. In either
22 circumstance, all Administrative and Abatement
23 Costs may be specially assessed against your
24 parcel by the Auditor-Controller's Office and
25 added to your tax bill as a special assessment,

1 and any Administrative Penalty may be recorded
2 against your property as a judgment lien.
3 Special assessments have the same priority, for
4 collection purposes, as other county taxes and,
5 if not paid, may result in a forced sale of your
6 property.

7 Finally, if the Hearing Officer finds that a
8 public nuisance exists on your property, a
9 violation of the Butte County Code Chapter 38A,
10 the County will contend that you are bound by
11 such finding at any subsequent judicial action
12 to enforce the Hearing Officer's order.

13 **IMPORTANT: READ THIS NOTICE CAREFULLY.**

14 IN ORDER TO PREVENT THE ACCRUAL OF COSTS AND
15 POTENTIAL ADMINISTRATIVE PENALTIES, YOU MUST
16 CONTACT THE CODE ENFORCEMENT OFFICE, AND ARRANGE
17 A TIME FOR A CODE ENFORCEMENT OFFICER TO INSPECT
18 YOUR PROPERTY, AND CONFIRM THAT THE VIOLATION(S)
19 HAVE BEEN CORRECTED.

20 FAILURE TO APPEAR AND RESPOND AT THE TIME SET
21 FORTH IN THIS NOTICE WILL LIKELY RESULT IN
22 ADMINISTRATIVE AND/OR JUDICIAL ABATEMENT AND
23 TERMINATION OF USES OF OR CONDITIONS ON YOUR
24 PROPERTY WHICH THE FIRE CHIEF CONTENDS ARE IN
25 VIOLATION OF THE BUTTE COUNTY CODE.

1 Dated: _____/_____/_____

2 BUTTE COUNTY DIRECTOR OF DEVELOPMENT SERVICES

3 By: _____

4 (c) All hearings conducted under this Chapter shall be held
5 before a Hearing Officer designated pursuant to the protocol set
6 forth in that document entitled the "Butte County Administrative
7 Hearing Officer Program." The Program is based upon an alphabetical
8 rotation through attorneys currently under contract through the
9 Program.

10 (d) At the time and place set for the hearing, the Hearing
11 Officer shall hear testimony and receive written and/or documentary
12 evidence relating to the alleged violation. Additional procedural
13 rules may be adopted by resolution of the Board of Supervisors. The
14 Director of Development Services, or his or her designee, shall record
15 the audio of the hearing, and provide a copy of the recording to the
16 Hearing Officer following the conclusion of the hearing. The Hearing
17 Officer shall preserve the record of the hearing, and all photographs
18 and demonstrative and documentary evidence introduced at the time of
19 the hearing, for a period of three (3) years.

20 (e) Within five (5) days after the hearing is closed, the Hearing
21 Officer shall render his or her written decision relating to the
22 existence or nonexistence of the alleged public nuisance. If a
23 violation is found to have existed at the time the Notice of Nuisance
24 Abatement Hearing was posted, the decision shall include a statement
25 that the County is entitled to recover its Administrative Costs and

1 any Administrative Penalty awarded by the Hearing Officer. If the
2 Hearing Officer determines that the violation continues to exist, the
3 decision shall also order that the owner of the property, or persons
4 known to be in possession of the property, abate the violation within
5 a reasonable time, not to exceed ten (10) days from the date the
6 decision is placed in the mail. The decision shall contain findings
7 of fact and conclusions of law. A copy of the decision shall be mailed
8 by certified mail, return receipt requested, to the person or persons
9 shown on the last County tax roll to be the owners of the parcel
10 which is the subject of the hearing and the occupant of such parcel,
11 if any. All other persons noticed pursuant to this section shall be
12 mailed a copy of the decision by first class mail, postage prepaid.

13 (f) The decision of the Hearing Officer shall be final and
14 conclusive on the date the certified mail set forth in subsection (e)
15 above, is deposited in the mail.

16 (g)(1) Notwithstanding any other provisions of this Code, if a
17 final decision of the Hearing Officer finds that a violation exists
18 and the public nuisance is not voluntarily abated within ten (10)
19 days of said decision being placed in the mail by the Hearing Officer,
20 the Fire Chief and/or the Director of Development Services, or his
21 or her designee, may abate the public nuisance by removing the Fire
22 Hazards from the property, pursuant to a warrant issued by a court
23 of competent jurisdiction. The owner of the property shall be
24 responsible for paying all of the County's Abatement Costs and
25 Administrative Costs, including but not limited to, those cost items

1 set forth in the notice required by subsection (a) above, and any
2 Administrative Penalties awarded by the Hearing Officer. The Fire
3 Chief and the Director of Development Services, or his or her
4 designee, shall keep an accounting of the Abatement and Administrative
5 Costs for each case. Upon completion of the abatement of the nuisance,
6 whether by the Director of Development Services or his or her
7 designee, or the owner or tenant, the Director of Development Services
8 or his or her designee shall post the property and send a bill to the
9 owner, and any persons known to be in possession of the property,
10 requesting payment of the County's Abatement and Administrative
11 Costs, as well as any Administrative Penalty. The bill shall also
12 state that failure to pay the Costs and Penalty within fifteen (15)
13 days from service of the bill may result in the recording of a lien
14 and the placement of a special assessment against the property.

15 (2) If the County's Costs and any Administrative Penalty are not
16 paid within fifteen (15) days from service of the bill, the Director
17 of Development Services shall render an itemized report to the Clerk
18 of the Board of Supervisors for submittal to the Board of Supervisors
19 for hearing and consideration regarding the proposed lien and special
20 assessment. The report shall include the names and addresses of the
21 owner of record and any persons known to be in possession of the
22 property, and an itemized account of the County's Abatement Costs,
23 Administrative Costs, and any Administrative Penalty. At least
24 fifteen (15) days prior to said hearing, the Clerk of the Board of
25 Supervisors shall give notice, with an affidavit of service, of said

1 hearing to all persons named in the Director of Development Services'
2 report and the Director of Development Services or his or her designee
3 shall post the property with a copy of the notice. The notice shall
4 describe the property by assessor's parcel number and street number
5 or other description sufficient to enable identification of the
6 property and contain a statement of the amount of the proposed lien
7 and special assessment. The notice shall also contain a statement
8 that the Board will hear and consider objections and protests to the
9 proposed lien and special assessment at the designated time and place.

10 (h) At the time and place fixed in the notice, the Board of
11 Supervisors shall hear and consider the proposed lien and special
12 assessment together with objections and protests thereto. At the
13 conclusion of the hearing, the Board of Supervisors may make such
14 modifications and revisions to the proposed lien and special
15 assessment as it deems just and may order that the proposed lien and
16 special assessment be recorded by the Director of Development Services
17 and specially assessed against the property by the Auditor-
18 Controller's Office. The lien shall have the same force, priority and
19 effect as a judgment lien and the special assessment shall have the
20 same priority as other County taxes.

21 (i) The notice of lien shall, at a minimum, identify the record
22 owner or possessor of the property, set forth the date upon which the
23 decision of the Hearing Officer was issued, describe the real property
24 subject to the lien, set forth the amount of the Costs and Penalties
25 incurred to date and, if applicable, the date upon which the abatement

1 was completed. If the abatement has not yet been completed, the notice
2 shall so state and shall also indicate that the lien is a partial
3 lien and that additional Abatement Costs will be incurred in the
4 future.

5 It is the intent of the Board of Supervisors that any Abatement
6 and/or Administrative Costs incurred after the filing of the notice
7 of abatement lien relate back to the date upon which the lien was
8 recorded for purposes of priority; however, in order to preserve its
9 rights, after all Abatement Costs and Administrative Costs have been
10 incurred and the abatement is complete, the Department of Development
11 Services shall cause a supplemental notice of abatement lien to be
12 recorded. The supplemental notice shall contain all of the information
13 required for the original notice and shall also refer to the
14 recordation date and the recorder's document number of the original
15 notice.

16 (j) The decision of the Hearing Officer or Board of Supervisors
17 may be recorded by the Director of Development Services. In the event
18 of such recordation, and in the further event that the violation is
19 corrected and all Costs and any Administrative Penalty is paid, a
20 notice of such correction shall be recorded. The Director of
21 Development Services is authorized to prepare and record a notice of
22 correction. Correction of the violation shall not excuse the property
23 owner's liability for costs incurred during the administrative
24 abatement process (Abatement Costs, Administrative Costs, and
25 Administrative Penalty as defined in this Chapter). In any action

1 to foreclose on a lien issued pursuant to this Chapter, the County
2 shall be entitled to an award of attorney's fees.

3 **38A-9 Administrative Civil Penalties.**

4 (a) In addition to any other remedies provided by County Code
5 or State Law, in the event a parcel owner fails to bring a parcel
6 into compliance after receiving a 72-Hour Notice, and the County is
7 required to issue a Notice of Nuisance Abatement Hearing, the County
8 representatives may request, and the Hearing Officer may award, an
9 Administrative Civil Penalty of up to \$1,000.

10 (b) In determining whether the award of an Administrative Civil
11 Penalty is warranted, the County representatives may present evidence
12 of, and the Hearing Officer shall consider, the nature, circumstances,
13 and gravity of the violation(s), any prior history of violations, the
14 degree of culpability of the owner and occupants, and the financial
15 burden to the person(s) upon whom the penalty will be imposed.

16 (c) At the Nuisance Abatement Hearing, the Hearing Officer shall
17 determine the total amount of the Administrative Penalty, if any, and
18 that amount shall be reflected in the decision and awarded to the
19 County. The decision of the Hearing Officer shall be final and
20 conclusive on the date the decision is deposited in the mail.

21 (d) Following the issuance of a Hearing Officer's decision,
22 the Director of Development Services, or his or her designee, may
23 compromise the amount of any administrative penalty imposed by the
24 Hearing Officer. When determining whether to compromise any penalty
25 amount, the Director, or his or her designee, shall take into

1 consideration the diligence of the parcel owner in working to correct
2 the nuisance conditions on the parcel and obtaining compliance with
3 the requirements set forth in this Chapter. The compromise shall be
4 subject to any terms and conditions prescribed by the Director, or
5 his or her designee, which may include, without limitation, a
6 condition requiring that the subject legal property and all
7 responsible parties remain free of any additional violations for a
8 specified period of time. Any person accepting a compromise penalty
9 hereunder shall be required to execute a Compromise Agreement in a
10 form approved by County Counsel.

11 **38A-10 Non-exclusive Remedy; Alternative Methods of Enforcement.**

12 This Chapter is cumulative to all other remedies now or hereafter
13 available to abate or otherwise regulate or prevent public nuisances.

14 (a) The County may, in its discretion, abate a violation of
15 this Chapter by the prosecution of a civil action, including an action
16 for injunctive relief, without first going through the administrative
17 procedures set forth herein. The remedy of injunctive relief may take
18 the form of a court order, enforceable through civil contempt
19 proceedings, prohibiting the maintenance of a violation of this
20 Chapter, or requiring compliance with other terms.

21 (b) The County may also abate a violation of this Chapter
22 through the abatement process established by Government Code Section
23 25845.

24 **38A-11 Summary Abatement.**

1 Notwithstanding any other provision of this Chapter, whenever
2 the existence of Fire Hazards on a parcel constitutes an immediate
3 threat to the public health or safety, and where the procedures set
4 forth in section 38A-8 would not result in abatement of that nuisance
5 within a short enough time period to avoid that threat, the Fire
6 Chief may direct any officer or employee of the County to summarily
7 abate the nuisance. The Fire Chief shall make reasonable efforts to
8 notify the owners or occupants of the parcel, but the formal notice
9 and hearing procedures set forth in this Chapter shall not apply. No
10 summary abatement shall occur prior to consultation with the Office
11 of County Counsel. The County may nevertheless recover its costs for
12 abating that nuisance in the manner set forth in this Chapter.

13 **38A-12 No Duty to Enforce.**

14 Nothing in this Chapter shall be construed as imposing on the
15 Fire Chief, the Director of Development Services, Code Enforcement,
16 or any employee, agent or contractor of the County of Butte, any duty
17 to abate any Fire Hazards, nor to take any other action with regard
18 to any non-compliance with the provisions of this Chapter, and neither
19 the County nor any Department Head or employee shall be held liable
20 for failure to seek abatement of a Fire Hazard, nor for alleged
21 failure to take any other action with regard to the provisions in
22 this Chapter.

23 **38A-13 Use of Money Collected Under This Chapter.**

24 All money collected for penalties for violations of this Chapter
25 and all money collected for recovery of costs of enforcement of this

1 Chapter shall be made available to the Departments, who are involved
2 in the enforcement of this Chapter.

3 Section 2. CEQA

4 The Board hereby finds that this ordinance is exempt from the
5 California Environmental Quality Act ("CEQA") pursuant to Section
6 15061(b)(3) because it can be seen with certainty that there is no
7 possibility of a significant effect on the environment from the
8 adoption of these regulations. This ordinance revises and updates
9 an existing Fire Prevention and Protection ordinance and is
10 designed to assist property owners in determining how to protect
11 their properties from fire. Where it can be seen with certainty
12 that there is no possibility that the activity in question may
13 have a significant effect on the environment, the activity is not
14 subject to CEQA. Moreover, this ordinance is also categorically
15 exempt pursuant to CEQA Guidelines Section 15308, Class 8: Actions
16 by Regulatory Agencies for Protection of the Environment, which
17 exempts actions taken by regulatory agencies, as authorized by
18 state or local ordinance, to assure the maintenance, restoration,
19 enhancement, or protection of the environment where the regulatory
20 process involves procedures for the protection of the environment.

21 Section 3. Severability

22 If any section, subsection, sentence, clause, word, or phrase
23 of this ordinance is held to be unconstitutional or otherwise
24 invalid for any reason, such decision shall not affect the validity
25 of the remainder of this ordinance. The Board of Supervisors

1 hereby declare that they would have passed this ordinance, and
2 each section, subsection, sentence, clause, word or phrase
3 thereof, irrespective of the fact that one or more sections,
4 subsections, sentences, clauses, words, or phrases be declared
5 invalid or unconstitutional.

6 Section 4. Effective Date and Publication.

7 This Ordinance shall take effect thirty (30) days after the
8 date of its passage. The Clerk of the Board of supervisors is
9 authorized and directed to publish this Ordinance before the
10 expiration of fifteen (15) days after its passage. This Ordinance
11 shall be published once, with the names of the members of the Board
12 of Supervisors voting for and against it, in a newspaper of general
13 circulation published in the County of Butte, State of California.

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2 **PASSED AND ADOPTED** by the Board of Supervisors of the County of Butte,
3 State of California, on the 9th day of February, 2021 by the following
4 vote:

5

6 **AYES:** Supervisors Lucero, Ritter, Kimmelshue, and Chair Connelly

7 **NOES:** Supervisor Teeter

8 **ABSENT:** None

9 **ABSTAIN:** None

10

Bill Connelly

Bill Connelly, Chair
Butte County Board of Supervisors

11

12

ATTEST:

13

Andy Pickett, Chief Administrative Officer
and Clerk of the Board

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By: *Andy Edsel*

Deputy

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