

## CHAPTER 15.32

### POST DISASTER ABATEMENT

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**15.32.010 Intent.** This chapter establishes abatement criteria for all buildings and structures damaged as a result of a disaster for which a local emergency has been declared by the County Board of Supervisors. It further authorizes the Department of Building and Safety as well as authorized representatives to post structures upon completion of safety assessments. (Ord. 2314 § 60, 1999; Ord. 2147 (part), 1996).

**15.32.020 Application of Provisions.** The provisions of this chapter are applicable to all buildings and structures regulated by the County of Tuolumne. (Ord. 2147 (part), 1996).

**15.32.030 Definitions.** For the purpose of this chapter, the following definitions apply:

A. **Event** shall mean any occurrence which results in the declaration of a disaster by the Board of Supervisors, including but not limited to, wind storms, earthquakes, floods, and fire.

B. **Historic Building or Structure** shall be any building or structure registered with a federal, state, county, or city government, or the register of points of interest. Historic buildings and structures shall also include those buildings and structures within a recognized historic district.

C. **State Historic Preservation Officer (SHPO)** is the person appointed by the Governor, pursuant to Section 101(b) (1) of the National Historic Preservation Act of 1966, as amended, to administer the State Historic Preservation Program. (Ord. 2147 (part), 1996).

#### **15.32.040 Abatement Criteria.**

A. **Notice of Determination.** Except as provided in subsection B. below, the Building Official shall serve a written Notice of Determination to each property owner as found

on the latest available copy of the County Assessor's Roll. Said Notice of Determination shall be delivered by hand-delivery, telephone, telegram, facsimile or other reasonable means, and shall clearly indicate that the structure is an imminent hazard and dangerous and that, as such, it constitutes a public nuisance. The notice shall set forth those factors which, in the opinion of the Building official, make the structure an imminent hazard and dangerous, and shall also include a directive from the Building Official of the specific action or actions to be taken by the property owner. The Notice shall specify that within forty-eight (48) hours from the time of issuance of the Notice of Determination, the owner or other party of record with an equitable or legal interest in said property shall abate the nuisance in accordance with the directives written in the notice of determination by the Building Official.

B. **Notice of Determination Exception.** No prior notice shall be required, when the Building Official, after considering all the facts, determines, in writing, that the structure is an imminent hazard and dangerous, and that it must be abated immediately and that time and circumstances do not permit the giving of prior notice to the owner. In those cases where time and circumstances do not permit the County to give the owner notice prior to abatement, the Building official may cause the nuisance to be abated by the County with County resources or County contractees.

C. **Appeal of Notice of Determination.** A Notice of Determination delivered by the Building Official, that a building or structure is an imminent hazard and dangerous and therefore must be abated, may be appealed by the property owner or any other party of record with an equitable or legal interest in said property. Such appeal must be made to the

Building official within 48 hours of delivery of such notice to determination by the Building Official. Such appeal shall be accompanied by a written Hazard Abatement Plan signed by a State of California Licensed Engineer or Architect stating why the engineer or architect feels the building or structure is not an imminent hazard or dangerous at this time.

Such report shall include a recommendation by the engineer or architect as to what should and/or should not be done at this time. If the Building Official accepts the proposed Hazard Abatement Plan in lieu of the Notice of Determination, the Hazard Abatement Plan must be implemented within 24 hours of acceptance by the Building Official. If the Building Official accepts an engineer's report and agrees there is no imminent hazard, the Building Official shall rescind in writing his/her former Notice of Determination.

Should the Building Official disagree with Hazard Abatement Plan, or should the Building Official disagree with the engineer's or architect's report, a hearing shall be conducted within 24 hours by the Tuolumne County Board of Appeals.

**D. Tuolumne County Board of Building Appeals Hearing.** At the hearing,, the appellant shall have the right to call witnesses,, submit evidence and to cross-examine the witnesses of the County. All witnesses shall be sworn.

A record of the entire proceedings shall be made by tape recording. Any relevant evidence may be submitted regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in the courts of this State.

At the close of this hearing, the Board of Appeals shall act to either uphold, overrule or modify the determination and order of the Building Official. The determination and order of the Building Official shall be upheld, unless the Board of Appeals finds, based upon the evidence in the record, that the Building Official erred in determining that the structure is an imminent hazard and dangerous. The decision of the Board of Appeals, with the reasons therefore, may be given orally on the record. If given orally, the decision shall be memorialized in writing and served upon the applicant within twenty-four (24) hours of the time the oral decision is rendered.

If the board of Appeals upholds the decision of the Building Official, the property owners of record shall be ordered to abate the public nuisance within the time set forth in the order. If the structure is determined not be an imminent hazard and dangerous, the Building Officials determination and order shall be vacated. The decision of the Board of Appeals shall be final on the date it is rendered.

**E. Hazard Abatement Plan.** If a Hazard Abatement Plan is approved by the Building Official, the owner or other interested party of record shall execute such plan within twenty-four (24) hours of obtaining approval of the plan from the Building Official or Public Works Engineer/Director, or his/her designee. Within twenty-four (24) hours of completion of the abatement work, the owner or other interested party of record shall provide the Building Official with a written certification that the public nuisance, as described in the Building Officials Notice of Hazard, has been abated.

If the work performed pursuant to the Hazard Abatement Plan amounts to temporary abatement, the owner or other party of record, prior to proceeding with permanent repairs, shall obtain required permits and file a damage assessment report with the Building Official. The damage assessment report shall be reviewed and approved by the Building Official before permanent repairs are performed.

**F. Failure to Perform.** In those instances where the property owner or other interested party of record either does not respond to the Building Officials Notice of Hazard or approved Hazard Abatement Plan, responds untimely, or responds timely but fails to abate the public nuisance within the required time period, the imminent hazard and dangerous structure shall be subject to immediate abatement by the Building Official.

**G. Public Nuisance.** All structures or portions thereof which, after inspection by an authorized County Official, are determined to be an imminent hazard and dangerous, either to the public, occupants of the subject structure, or to any adjacent structures, are hereby declared to be public nuisances and shall be abated by the owner in accordance with the procedures specified in Section 15,32.040 (d) & (e).

**H. Suspension of Abatement Work.** Notwithstanding any provisions herein to the contrary, the Building Official is authorized to

suspend abatement work by the County, or the County's contractees, and to allow the property owner or other party of legal interest to complete the abatement work.

I. **Change of Status.** When the conditions making a structure an imminent hazard and dangerous have been abated, the structure shall no longer be considered an imminent hazard and dangerous. However, if the abatement work is temporary in nature, as determined by the Building Official, the structure shall remain subject to the provisions of this Chapter.

J. If the owner of any building or structure has decided to demolish rather than repair, the owner, or the owner's representative, shall obtain a demolition permit. (Ord. 2147 (part), 1996).

#### **15.32.050 Hazard Abatement of Historic Buildings or Structures.**

A. Within 10 days after the event, the Building Official shall notify the State Historic Preservation Officer that one of the following actions will be taken regarding any historic building or structure determined by the Building Official to represent an imminent hazard to the health or safety of the public, or to pose an imminent threat to the public right of way:

(1) Whenever possible, as determined by the Building Official, the building or structure may be braced or shored in such a manner as to mitigate the hazard to public health or safety or the hazard to the public right of way.

(2) Whenever bracing or shoring is determined to be an unreasonable alternative, the Building Official may cause the building or structure to be condemned and immediately demolished, such condemnation and demolition may be performed in the interest of public health or safety without a condemnation hearing as required by Chapter 15.30 of this Code.

B. If, ten (10) days after the event and less than 30 days after the event, an historic building or structure is determined by the Building Official to represent a hazard to the health or safety of the public or to pose a threat to the public right of way, the Building Official may initiate condemnation proceedings in accordance with Chapter 15.04 Abatement of Dangerous Buildings of this Code. The Building Official may also notify the Federal Emergency Management Agency, in accordance with the

National Historic preservation Act of 1966, as amended, of its intent to hold a condemnation hearing.

C. If the Building Official and the owner of any historic building or structure agree that such a building or structure should be demolished, the Building Official shall submit a request to demolish to the Federal Emergency Management Agency, in accordance with the National Historic Preservation Act of 1966, as amended. Said request shall include all substantiating data. (Ord. 2147 (part), 1996).