

CITY OF COLFAX

ORDINANCE NO. 541

**AN ORDINANCE OF THE CITY OF COLFAX ADDING MUNICIPAL CODE  
CHAPTER 8.32 REQUIRING HAZARDOUS VEGETATION ABATEMENT AND  
ESTABLISHMENT OF DEFENSIBLE SPACE REGULATIONS**

The City Council of the City of Colfax does ordain as follows:

Section 1:

Colfax Municipal Code Chapter 8.32 is hereby added to the Colfax Municipal Code in the form and substance contained in the Ordinance attached hereto as Exhibit A which is incorporated herein by this reference.

Section 2. Superceding Provisions

The provisions of this Ordinance and any resolution adopted pursuant hereto shall supersede and repeal any previous Ordinance or resolution to the extent the same is in conflict herewith.

Section 3. Severability

If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by the final judgment of any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision; and such holding shall not affect the validity of the remaining portions hereof.

Section 4. California Environmental Quality Act Findings

The City of Colfax finds that, if the provisions of the California Environmental Quality Act, Public Resources Code §21000 et seq (hereinafter "CEQA") apply, the title of this ordinance would constitute a brief description of the "Project" as required by Section 15062(a)(1) of the Guidelines for Implementation of the California Environmental Quality Act published by the State of California Office of Planning and Research (the "CEQA Guidelines").

FINDING OF NO PROJECT

The City of Colfax finds that adoption of this ordinance does not constitute a "Project" as that term is defined by or used in CEQA, the CEQA Guidelines or any court or attorney general opinion construing the same. Accordingly, the City of Colfax finds that the provisions of CEQA and the CEQA Guidelines are not applicable to said action.

FINDING OF EXEMPTION

In the event that it is found that the said action constitutes a "Project" as defined by or used in CEQA or the CEQA Guidelines, which finding would be contrary to the City's opinion of its action, the City of Colfax hereby finds that said action is exempt from compliance with CEQA and the CEQA Guidelines, for the following reasons: The action falls within the exemptions provided by Senate Bill 94, and within the "common sense" CEQA exemption provided in 14 CCR 15061(b)(3) in that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the action may have a significant effect on the

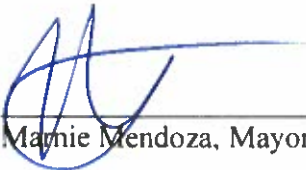
environment, the action is not subject to CEQA. CEQA Guidelines, Section 15061(b)(3). It can be seen with certainty that adoption of this ordinance and its provisions cannot possibly have a significant effect on the environment.

Section 5. Effective Date


This Ordinance, and all of its provisions, shall take effect thirty (30) days after its adoption and shall, within 15 days after its adoption, be published or posted in accordance with Section 36933 of the Government Code of the State of California with the names of those City Council members voting for and against it. Formal enforcement of the provisions of this Ordinance shall be deferred until January 1, 2021.

The foregoing Ordinance was introduced at a duly held regular meeting of the City Council of the City of Colfax held on the 26<sup>th</sup> day of February, 2020, and passed at a duly held regular meeting of the City Council held on the 11<sup>th</sup> day of March, 2020, by the following vote:

AYES: Mendoza, Lomen, Burruss, Douglass, Fatula  
NOES:  
ABSENT:

  
\_\_\_\_\_  
Mamie Mendoza, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Alfred Cabral  
City Attorney

ATTEST:

  
\_\_\_\_\_  
Jaclyn Collier  
City Clerk

**CITY OF COLFAX**

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CHAPTER 8.32 REQUIRING HAZARDOUS VEGETATION ABATEMENT AND  
ESTABLISHMENT OF DEFENSIBLE SPACE**

Colfax Municipal Code Title 8 is hereby amended by adding Chapter 8.32 as follows:

**8.32.010 Purpose and Intent**

The purposes of this Chapter are (1) to give direction, define expectations and ensure that Structures within City limits establish appropriate Defensible Space and minimize the risk posed by Hazardous Vegetation and Combustible Materials, (2) promote public safety by mitigating the risk from wildfires, and (3) establish an enforcement process and procedure to reasonably maximize compliance with the requirements established by this Chapter.

**8.32.020 Application**

The provisions of this Chapter shall apply generally to all Parcels throughout the City of Colfax, including but not limited to:

A. All Parcels adjacent to Improved Parcels where: (a) the Owner, Responsible Party or occupant of the Improved Parcel is unable to obtain the required Defensible Space; and (b) the City Official determines that the condition of fuels on the Parcel adjacent to the Improved Parcel creates a hazardous fire condition. The Owner of or Responsible Party for the Parcel adjacent to the Improved Parcel shall provide the fuel modifications needed to meet the Defensible Space requirements of the adjacent Improved Parcel subject to applicable law including the finding by the City Official that the clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the Structure on the Improved Parcel, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the Structure.

B. All Parcels where:

1. The Parcel is adjacent to a roadway or fire access easement which is determined by the City Official to be necessary for the safe ingress to and egress from the area served by the roadway or fire access easement; and

2. The current condition of fuels on the adjacent Parcel is determined by the City Official to constitute a hazardous fire condition.

C. If any part of this Chapter conflicts with any other part of this Code the more restrictive provision(s) shall control.

**8.32.030 Definitions.**

The following definitions shall apply to the provisions of this Chapter:

A. "Abate" or "Abatement" shall mean and refer to an act used to remove, destroy, eliminate, size, impound, or any action taken to mitigate or terminate a public nuisance.

B. "Abatement Costs" shall mean and refer to any and all costs incurred by the City, CalFire or any person or entity acting on their behalf to enforce the provisions of this Chapter and to Abate the Hazardous Vegetation or Combustible Material or create Defensible Space on any Parcel 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 and consultant expenses, if applicable.

C. "Citation" or "Administrative Citation" shall mean and refer to a civil citation issued pursuant to Colfax Municipal Code Chapter 1.25 stating there has been a violation of one or more provisions of this Chapter and setting the amount of the civil penalty to be paid by the Responsible Party.

D. "City" or "Colfax" shall mean and refer to the City of Colfax, a California Municipal Corporation and general law city.

E. "City Official" shall include the Colfax City Manager or his/her designee, the Colfax Community Services Director, the Colfax Chief Building Official, the Colfax Code Enforcement Officer, and the Colfax Fire Chief or person acting in his/her capacity, and any person designated by the Colfax Fire Chief to act in his/her stead.

F. "Combustible Material" shall mean and refer to all rubbish, litter or material of any kind other than Hazardous Vegetation that is combustible or flammable and endangers the public safety by creating a Fire Hazard.

G. "County" shall mean the County of Placer, a political subdivision of the State of California.

H. "Days" shall mean calendar days unless the context otherwise requires.

I. "Defensible Space" means and refers to that area described in Public Resources Code Sections 4290 and 4291 and as otherwise described in this Chapter, which is adjacent to each side of a building or Structure and must be cleared of all Combustible Material, Hazardous Vegetation, brush, flammable vegetation, or combustible growth such that it would be unlikely to ignite any Structure under normal conditions, subject however to the exceptions set forth in this Chapter.

J. "Fire Hazard" shall mean any condition, arrangement, act or omission which:

1. 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

2. May obstruct, delay, hinder or interfere with the operations of a fire department or the egress of occupants in the event of fire.

K. "Fuel Modification Area" shall mean and refer to a strip of land in which the following fuel reduction activities are required to occur:

1. Cut and remove all weeds and grasses down to a height of six (6) inches or less;
2. Prune and remove "Ladder Fuels" up to fifteen (15) feet or higher from their base;
3. "Mosaic" all stands of brush;
4. Remove all dead or decaying trees and tree limbs; and
5. Perform any other fire protection or maintenance activities within the Fuel Modification Area(s) consistent with the standards and requirements contained in Public Resources Code Section 4290 and any regulations adopted pursuant thereto, or as required by a City Official.

L. "Hazardous Vegetation" shall mean and refer to 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 creates a Fire Hazard. Hazardous Vegetation shall not include a commercial agricultural crop that is being actively grown and managed by the Parcel Owner, his or her legal tenant, or other Responsible Party.

M. "Improved Parcel" shall mean and refer to a portion of real property on which a Structure is located, the area of which Improved Parcel is determined by the Placer County Assessor's maps and records and which may be identified by an Assessor's Parcel Number.

N. "Ladder Fuels" shall mean and refer to fuels that can carry a fire vertically between or within Combustible Material or Hazardous Vegetation.

O. "Notice to Abate" shall mean and refer to a notice served upon a Responsible Party pursuant to Colfax Municipal Code Section 8.16.050.

P. "Owner" shall mean and refer to the owner as shown on the most recent equalized assessment role as owning the Parcel that is subject to proceedings or enforcement under this Chapter.

Q. "Parcel" shall mean and refer to a portion of real property of any size, whether vacant, occupied or improved, the area of which is determined by the Placer County Assessor's maps and records and which may be identified by an Assessor's Parcel Number.

R. "Responsible Party" shall mean and refer to 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 causes or contributes to a violation of this Chapter.

S. "Structure" shall mean and refer to any dwelling, house, building, or other type of combustible construction that occupies a space greater than 120 square feet and a height taller than seven feet (7') from finished grade, whether or not occupied, including but not limited to a wood or otherwise combustible fence attached to or near any other Structure.

T. "Unimproved Parcel" shall mean and refer to a portion of land of any size upon which no Structure is located, the area of which is determined by the Placer County Assessor's maps and records and may be identified by an Assessor's Parcel Number (APN) .

**8.32.040 Nuisance Declared; Duty to Abate Hazardous Vegetation and Combustible Material.**

A. Hazardous Vegetation and Combustible Materials within one hundred feet (100') of a Structure, or such greater distance as the City Official may determine, 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, in accordance with the applicable provisions of Colfax Municipal Code Chapter 8.16 or by any other means allowed by law.

B. It shall be the duty of every Owner, Responsible Party, occupant, and person in control of any Parcel or any interest therein which is located in the City to Abate therefrom, and from all sidewalks and roadways on or immediately adjacent thereto, except for those roads accepted as public roads by the City, all Combustible Material and Hazardous Vegetation which constitutes a Fire Hazard and public nuisance which may endanger or damage neighboring property or forestland, or which may otherwise endanger public health, safety and welfare within the City.

C. The requirements of this section shall be satisfied if the Parcel is cleared in accordance with the requirements of 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 Notice to Abate may include all of the following requirements and such other requirements as the City Official may impose in order to create Defensible Space or cause the removal of Combustible Materials or Hazardous Vegetation.

1. Create and maintain a Defensible Space of one hundred feet (100 ') from each side and from the front and rear of the main Structure, but not beyond the property line except as provided by law.

2. The amount of fuel modification necessary may take into account the flammability of any Structure on a Parcel 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.

3. Create and maintain a minimum of a ten-foot (10') wide Fuel Modification Area adjacent to the shoulder of any roadway serving as primary ingress to and egress from the Parcel. All trees, Hazardous Vegetation and Ladder Fuels within that

area shall be pruned and removed to a minimum height of fifteen feet (15') above the road.

4. The intensity of fuels management may vary within the one-hundred-foot (100') perimeter of the Structure, the most intense being with the first thirty feet (30') around a habitable Structure. Consistent with fuels management objectives, steps should be taken to minimize erosion.

5. Remove the portion of any tree that extends to within ten feet (10') of the outline of a chimney or stovepipe.

6. Climbing vines must be removed from trees and Structures.

7. Maintain trees, shrubs, or other plants adjacent to or overhanging a Structure free of dead or dying wood to a distance of ten feet (10') from the Structure.

8. Maintain the roof and rain gutters of a Structure and a five-foot (5') perimeter immediately around a structure free of leaves, needles, or other Hazardous Vegetation.

9. Maintain the property free of Ladder Fuels.

10. For Unimproved Parcels and vacant Parcels of one-half (1/2) acre or smaller that are not adjacent to an Improved Parcel: (a) cut and remove all weeds and grasses down to a height of six inches (6") or less; (b) prune and remove Ladder Fuels to a height of at least ten feet (10') from their base; and (c) remove all other Hazardous Vegetation.

11. For Unimproved Parcels and vacant Parcels larger than one-half acre that are not adjacent to an Improved Parcel: (a) cut and remove all weeds and grasses down to a height of six inches (6") or less; (b) prune and remove Ladder Fuels within twenty-five feet of the Parcel's property line to a height of at least ten feet (10') from their base; and (c) remove all other Hazardous Vegetation.

12. (a) Any Owner or Responsible Party operating a railroad on any Parcel shall, if ordered by the Colfax Fire Chief, the Fire Chief's designee or any other City Official, destroy, remove, modify or otherwise Abate so as not to be flammable any Hazardous Vegetation or other Combustible Material on the railroad right-of-way. The order to destroy, remove, modify or otherwise Abate Hazardous Vegetation or other Combustible Materials shall specify the location of the hazard to be destroyed, removed, modified or Abated within the right-of-way, the width of the hazard which shall not exceed the width of the right-of-way, and the time within which compliance with the order is required. The City Official having primary responsibility for fire protection of the area shall allow a reasonable period of time for compliance with an order to destroy, remove, modify or Abate Hazardous Vegetation or other Combustible Materials within the right-of-way. (b) Nothing in this section shall excuse any Owner or Responsible

Party operating a railroad within the City from complying with the requirements of this Chapter on any Parcel outside of the railroad right-of-way.

13. Whenever practical difficulties, unique circumstances or unnecessary hardship inconsistent with the general purposes of this Chapter may result from the strict and literal interpretation of the provisions of this Chapter, the City Official shall have authority to grant, upon such safeguards and conditions as the City Manager may determine, such variances from the provisions of this Chapter as may be in harmony with its general purpose and intent.

D. The City Official may mandate additional fuels management of an area more or less than the above- referenced widths or heights for the protection of public health, safety, or welfare, or the environment, if the City Official finds that the additional fuels management is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite any Structure(s), 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 City 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, current use of a Parcel, and the environment where the adjacent Parcel or the Structure(s) is located.

E. When a Structure is less than one hundred feet (100') from a property line and Combustible Material or Hazardous Vegetation on an adjacent Parcel presents a Fire Hazard for the Structure, the Owner of the Parcel where the Fire Hazard exists shall be responsible for creating Defensible Space and clearing the area on that Owner's land which is within one hundred feet (100') of the Structure and is needed to provide the necessary fire protection in the manner and to the extent required by the City Official.

F. 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.

G. No Parcel Owner or Responsible Party 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. The City Official may provide written notice to the property Owner or Responsible Party requiring vegetation to be trimmed for a specified additional distance when the City Official determines the vegetation would otherwise interfere with street or emergency vehicle access.

H. If the Parcel Owner or Responsible Party fails to maintain these clearance requirements, the City Official may Abate the nuisance without further notice and at the Parcel Owner's or Responsible Party's expense. This subsection shall not apply to cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers, provided they do not constitute a Fire Hazard.



I. Pursuant to California Health and Safety Code §14930 and Government Code §25845, as amended, a City Official may summarily Abate weeds, Combustible Materials or Hazardous Vegetation on private property that in any way hinders emergency access and may charge the Parcel Owner for the Abatement Costs.

**8.32.050 Enforcement.**

A. The provisions of this Chapter may be enforced following the Abatement Procedure provided for in Colfax Municipal Code Chapter 8.16 Article II, or any other enforcement process allowed by law.

B. In order to carry out the Abatement activities authorized by this Chapter and Colfax Municipal Code Chapter 8.16, the City Official may apply to the Placer County Superior Court for issuance of an inspection warrant pursuant to California Code Of Civil Procedure Part 3, Title 13, as amended, replaced or renumbered from time-to-time, or any other applicable provision of California law, and may Abate any nuisance as authorized in any such warrant.

**8.32.060 Abatement Lien**

A. The City Manager or his/her designee shall keep a true and accurate account of all Abatement Costs incurred in enforcing any provision of this Chapter. The amount of any unpaid Administrative Costs, plus interest, plus any other costs as provided in this Chapter or this Code may be declared a lien on such real property in accordance with the provisions of Colfax Municipal Code Chapter 8.16 Article III.

B. The City may cause any such lien to be collected at the same time and in the same manner as City taxes are collected, in addition to any other collection process authorized by Colfax Municipal Code Chapter 8.16, Article III, or other applicable provision of law.

**8.32.070 Citations, Fines and Penalty Provisions.**

A. Every Owner and Responsible Party who violates any provisions of this Chapter shall be subject to and pay administrative fines under Colfax Municipal Code Chapter 1.25. All provisions of Colfax Municipal Code Chapter 1.25 are applicable to and may be utilized by the City in the imposition, calculation and enforcement of any such administrative fines.

B. The provisions of Colfax Municipal Code Chapter 1.24 shall be applicable to any Owner or Responsible Party who violates this Chapter.

**8.32.080 Hardship.** If the Owner or Responsible Party of any Parcel establishes to the satisfaction of the City Manager that compliance with this Chapter will result in undue hardship inconsistent with the purpose or intent of this Chapter, a written request for hardship status may be submitted to the City Manager. The City Manager, after consulting with the City Fire Chief or the Fire Chief's designee, may make a hardship finding only if the Owner or Responsible Party presents facts that clearly demonstrate, in the City Manager's sole discretion, that compliance with this Chapter at the required time would result in an undue hardship.

A. For purposes of this section, “undue hardship” shall include, but not be limited to: (1) the severe illness or incapacitation of the Owner or Responsible Party; (2) the immediate transfer or removal of the Owner or Responsible Party from the state, thereby making the hiring of a contractor or performance of any work needed to achieve compliance with this Chapter impractical or overly burdensome; (3) any physical or financial situation that would render compliance with the time limits or other requirements of this Chapter extraordinarily difficult or impractical; or (4) the lack of availability of a contractor or other person to perform the work necessary to achieve compliance with this Chapter. The Owner or Responsible Party shall bear the burden of submitting documentation and proving the existence of a bona fide undue hardship to the satisfaction of the City Manager.

B. If the City Manager determines that hardship status should be granted to any applicant, the City Manager may either (1) extend the time for compliance for a reasonable time or (2) after consulting with the City Fire Chief or the Fire Chief’s designee, modify the scope of the Abatement needed to achieve compliance with the requirements of this Chapter. In no case shall the City Manager or other City Official excuse performance with the requirements of this Chapter.

C. Any Owner or Responsible Party to whom a hardship finding is granted shall be given written notice of the finding. That notice shall inform the Owner or Responsible Party that hardship status has been granted and any conditions imposed on that status.

D. Any Owner or Responsible Party who objects to the City Manager’s decision to grant or deny hardship status may appeal by following the process for appeals in Colfax Municipal Code Section 8.16.100. The provisions of Colfax Municipal Code Sections 8.16.110 through 8.16.150, inclusive, shall apply in the event of any appeal.

**8.32.090 Authority To Promulgate Reasonable Rules And Regulations.**

The City Council reserves its right to adopt reasonable rules, regulations, and resolutions consistent with this Chapter to enforce, interpret, and carry out the provisions of this Chapter. Any such rules may be adopted by Resolution or Ordinance of the City Council.