

ORDINANCE NO. 2026-2

AN ORDINANCE OF THE ARROWBEAR PARK COUNTY WATER DISTRICT ADOPTING STANDARDS FOR THE DETERMINATION, ENFORCEMENT AND ABATEMENT OF FIRE HAZARDS

The Board of Directors of the Arrowbear Park County Water District ordains as follows:

SECTION 1 – FINDINGS AND AUTHORITY

The Board of Directors of the Arrowbear Park County Water District finds and declares:

- (a) The District provides fire protection services within its jurisdiction and is authorized to prevent and abate fire hazards pursuant to authority granted under the California Water Code Section 31120 and the California Health and Safety Code, Division 12, and other applicable provisions of law.
- (b) The presence of hazardous vegetation, combustible materials, and other fire hazards constitutes a public nuisance that threatens the public health, safety, and welfare.
- (c) The District desires to establish its own program for the identification, enforcement, and abatement of fire hazards within its jurisdiction.
- (d) The procedures set forth in this Ordinance are intended to comply with applicable law governing nuisance abatement and the recovery of costs through special assessments.

SECTION 2- DUTY TO ABATE FIRE HAZARDS

Every owner, occupant and person in control of any land or interest therein within the jurisdictional boundaries of the Arrowbear Park County Water District must abate all fire hazards from such land and all sidewalks, parkways, and easements on such land. All such fire hazards are declared to be a public nuisance, the abatement of which, including the recovery of costs and the imposition of special assessments, shall be conducted pursuant to the authority granted under the California Water Code Section 31120 and the California Health and Safety Code, Division 12, and other applicable provisions of law. The District, acting through its Fire Department, is authorized to enforce this duty and to abate such nuisances pursuant to this Ordinance.

SECTION 3 - DEFINITIONS:

For the purposes of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (a) "Code" or "this code" means this Ordinance and any other applicable Arrowbear Park County Water District ordinance, the California Fire Code, the California Health and Safety Code, and any applicable condition of approval related thereto.
- (b) "Documentation of Compliance" or "Noncompliance" means the written inspection report or certification issued by the Arrowbear Lake Fire Department confirming compliance or noncompliance with applicable Defensible Space standards.
- (c) "Defensible Space" means the area within 100 feet of a structure, or to the property line, where vegetation and combustible materials must be managed to reduce wildfire exposure.
- (d) "Fire Department" means the Arrowbear Lake Fire Department.
- (e) "Fire Chief" means the Chief of the Arrowbear Lake Fire Department or their designee.
- (f) "The Board" means the Board of Directors of the Arrowbear Park County Water District.
- (g) "The District" means the Arrowbear Park County Water District.
- (h) "Assembly Bill-38 Inspection" means an on-site evaluation conducted by the Fire Department or its designee to determine compliance with Defensible Space as required by California Assembly Bill 38, for the transfer of residential property located within a State Responsibility Area (SRA) designated as a High Fire Hazard Severity Zone (HFHSZ) or Very High Fire Hazard Severity Zone (VHFHSZ).
- (i) "Combustible vegetation" means:
 - 1. Dead limbs and debris of plants.
 - 2. Dry grasses over four (4) inches in height.
 - 3. Any vegetation that is dead, whether in whole or in part, including but not limited to trees, shrubs, plants, ground cover, ivy, and similar growth.
 - 4. Any vegetation, whether native or landscaped, that in its natural state is capable of easily igniting, burning, or transmitting fire.
- (j) "Fire Hazard" means:
 - 1. Combustible or overgrown vegetation within 30 feet of all structures, including, as well as within 30 feet of structures on neighboring properties, and fences within 20 feet of any roadway. Tree limbs must be cleared within 10 feet of a chimney
 - 2. Combustible rubbish which is combustible and flammable wastes such as but

not limited to furniture, paper, wrappings, cardboard, yard clippings, leaves, dead trees, tree trimmings, unstacked wood or lumber tires, construction and demolition debris such as timbers, roofing material which if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

3. Any condition or conduct which, as reasonably determined by the Fire Chief or their designee:

(a) increases or may increase the threat of fire to a greater degree than customarily recognized as normal by persons in public service regularly engaged in preventing, suppressing or extinguishing fire or;

(b) may obstruct, delay, hinder or interfere with the operations of the Fire Department or the egress of occupants in the event of fire.

(k) "Force Abated" means abatement of a Fire Hazard by the District, including through its employees or private contractors, after notice has been provided or under conditions constituting an Immediate Hazard."

SECTION 4- ENFORCEMENT AND CIVIL ACTIONS FOR INJUNCTIVE RELIEF AND ABATEMENT

The Fire Chief may designate any member of the Arrowbear Lake Fire Department as their deputy in the performance of the duties enjoined upon him or her by this Ordinance. The District, through its counsel, may commence civil proceedings for the abatement, removal, correction, and enjoinder of any act or omission that constitutes or will constitute a violation of this Code, or any permit issued pursuant to this Code, or any condition(s) of approval for such permit granted pursuant thereto, and an order requiring the responsible person to pay civil penalties and abatement costs. Where multiple responsible persons are involved, they shall be jointly and severally liable for the civil penalties and abatement costs. In any civil action brought by the District, including but not limited to a proceeding to abate a public nuisance, whether by seeking injunctive relief and an abatement order, or other order, attorney's fees and costs of enforcement may be recovered by the prevailing party.

SECTION 5- NOTICE TO ABATE

(a) It shall be the duty of the Fire Chief or their designated person, whenever such office deems necessary to enforce the provisions of this Ordinance, to issue a Notice and Order to Abate Fire Hazard by the following methods:

1. By posting the property in a conspicuous place; and,

2. By either:

3. Mailing a Notice to the owner at the address shown on the latest tax roll or to the owner's authorized agent, or occupant.

- (a) First notice will be delivered by first class mail.
- (b) All final notices will be delivered by first class mail with certified mail and return receipt requested.
- 4. If a copy of the Notice and Order to Abate Fire Hazard is returned by the United States Postal Service unsigned or marked "unclaimed" and/or "refused" then service by first class mail shall be deemed effective; or
- 5. By personally serving the owner of the property shown on the latest tax roll.
- (b) The failure of the owner to receive such Notice shall not affect the power of the Fire Department to proceed as provided in this part, nor shall it invalidate the assessment against the subject property.
- (c) The Form "Notice and Order to Abate Fire Hazard" shall include, at a minimum, the following information:
 - 1. List of hazards.
 - 2. List of location(s), and parcel number(s) of affected property.
 - 3. Due date by which abatement must be completed.
 - 4. Appeal rights.
 - 5. Landowner's name and address (assessor parcel and/or site address).
- (d) If said items are not removed or abated by the specified time in the Notice (normally 30 days), a duly designated officer may order said items removed or abated. If the Fire Department has the above-said items removed or abated, the actual cost-plus administrative charges shall be levied and assessed against the property as a special assessment lien.
 - 1. Upon the first re-inspection after 30-45 days from First Notice, unabated properties will receive a Second/Final Notice. This will be mailed, granting an additional 14 days to abate the property.
 - 2. Upon the second re-inspection after 15-25 days from the Second/Final Notice, unabated properties will be Force Abated.
- (e) Upon completion of removing hazards, the property owner or representative should notify the Fire Department by email or in person at the Arrowbear Park County Water District office, the property identification and photos of proof of abatement.

SECTION 6 - IMMEDIATE HAZARD

When, in the opinion of the Fire Chief or their designee, an extreme fire hazard exists which constitutes an immediate threat to public health, safety, and welfare, and it is deemed necessary by the Fire Chief or his designee to abate such hazard as promptly as possible, said items shall be Force Abated, or otherwise removed by the property owner within 72 hours.

SECTION 7- APPEAL PROCEDURE

Any appeal from a Notice and Order to Abate Fire Hazard must be filed in accordance with the District's appeal procedures, as established by resolution or ordinance.

SECTION 8 - REMOVAL OF FIRE HAZARD BY THE FIRE DEPARTMENT OR PRIVATE CONTRACTOR

- (a) **Abatement by Private Contractor.**
Except for an immediate hazard as set forth in Section 6, If, at the end of the time allowed for compliance in the Second/Final Notice, compliance has not been accomplished, the Fire Department shall order the fire hazard to be removed by a private contractor selected and approved by the Fire Department, in the manner and under the terms specified by this Ordinance.
- (b) **Abatement by Fire Department.**
A representative of the Fire Department may enter upon any private property and abate any Fire Hazard found thereon, after Notice of such hazard has been issued as required by this Ordinance, or to handle an immediate hazard as set forth in Section 6, or pursuant to the court's lawful order. If access to the property is denied by the owner/agent, an abatement warrant may be served.
- (c) **Performance of Abatement by Contract, Bids, Itemized Written Reports.**
Abatement of the Fire Hazard may, at the discretion of the Fire Department, be performed by contract awarded by the Fire Department pursuant to applicable law. The contractor shall keep and submit an itemized written report for each separate parcel of land.

SECTION 9 - TIME EXTENSION

- (a) **Property Owner's Request for Extension.**
A property owner or the owner's authorized agent may request an extension of time to comply with a Notice and Order to Abate Fire Hazard. Requests must be submitted prior to the applicable compliance deadline. A designated District representative may grant an extension upon a showing of good cause. Any extension granted shall be for a period not exceeding fifteen (15) days and shall expire on the date specified by the District. No more than two extensions may be granted with respect to any Notice and Order to Abate Fire Hazard. No extension shall be granted after force abatement has been scheduled or commenced. **Time Extension Fee.** The Fire Department shall charge a fee of \$30 per parcel, per extension, for any property that a 15-day time extension has been requested by the owner/agent and

granted by the Fire Department.

SECTION 10 - PAYMENT FOR ABATEMENT OF FIRE HAZARD

(a) **Billing Invoice.**

When the abatement has been completed in accordance with Section 8 of this Ordinance, the District, through its Fire Department or other authorized District personnel, shall cause a billing invoice to be sent to the responsible party for the cost of the abatement plus all associated costs incurred by the District, including any attorneys' fees and costs, administrative costs, inspection costs, County charges, and other costs authorized by this Ordinance or by law (the "Billing Invoice"). The Billing Invoice shall be due and payable to the Arrowbear Park County Water District within 30 days after the billing date. If payment is not received within the allotted time, the District may certify the unpaid amount of the Billing Invoice, plus any additional fees, charges, or costs authorized by this Ordinance, to the San Bernardino County Auditor/Controller for collection on the tax roll as identified in the Resolution Instructing the County Auditor/Controller to Levy Fire Hazard Abatement Fees on Certain Properties.

(b) **Late Abatement Administrative Fee.**

The District shall charge a fee of \$250 per parcel, plus the cost for removal of weeds or other combustible materials, to any property owner who does not abate fire hazards before the Notice to Abate deadline.

(c) **Payment of Invoice Fee.**

The District shall levy an additional late fee of \$30 per parcel for any Invoice not remitted in full within 90 days of the billing date.

(d) **Request for Abatement Fee.**

The customer can request abatement from the District Contractor to have their parcel abated for an Administrative fee of \$150 plus the additional cost of the work performed by the contractor. This request may be made through the Fire Department's website, email, phone, or in person. This fee must be paid prior to the work being performed.

(e) **Tax lien for payment.**

If the Billing Invoice, together with any administrative fees, late fees, penalties, or other charges authorized by this Ordinance, remains unpaid after expiration of the applicable payment period and any approved extensions, the District may certify the unpaid amounts to the San Bernardino County Auditor-Controller for collection on the tax roll. Such certification shall occur after June 30 and in accordance with the County's procedures for placement on the tax roll. . The San Bernardino County Auditor shall cause the amount of the demand to be entered upon the tax roll for the property from which the removal was accomplished, and said special assessment shall be included upon the next succeeding tax statement. Thereafter, the amounts of the assessment shall be collected at the same time and in the same manner as

San Bernardino County Taxes are collected and are subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary San Bernardino County Taxes.

(f) **Tax Roll Levy Fee.**

The District shall certify to the Auditor/Controller of the County of San Bernardino, for each parcel submitted to the tax roll for collection, all actual County fees and charges incurred in connection with the establishment, administration, recording, collection, and release of the assessment, including any required notices, recording fees, and related administrative costs..

(g) **Responsibility.**

The owner of record of the property at the time a Notice and Order to Abate Fire Hazard is issued shall remain responsible for compliance with the requirements of this Ordinance unless and until the District receives written notice of a transfer of ownership.

The transfer of ownership of property shall not extinguish any obligation arising under this Ordinance or prevent the District from recovering abatement costs, fees, penalties, or assessments authorized by law. Following a transfer of ownership, the District may pursue collection of any unpaid charges through any remedy authorized by this Ordinance or applicable law, including placement of the charges on the tax roll where permitted.

Nothing in this section shall be construed to impose upon a former owner an obligation to perform corrective work on property after title has been transferred, except to the extent otherwise required by law or by written agreement with the District.

If any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if the lien of a bona fide encumbrancer for value has been created and attached thereon prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the costs of abatement, as confirmed, relating to such property shall be transferred to the unsecured roll and collected by any lawful means.

(h) **Appeals.**

Any appeals from these charges must be filed in accordance with the District's appeal procedures, as established by resolution or ordinance.

(i) **Cancellation of lien.**

All or any portion of any such assessment, penalty, or cost heretofore entered shall, on order of the District's Board Secretary, General Manager, or other District official designated by the General Manager, be canceled by the San Bernardino County Auditor if uncollected, or, except in the case provided in Subdivision (5) hereof, refunded by the San Bernardino County Treasurer if collected, if the District's Board

Secretary, General Manager, or other District official designated by the General Manager determines that they were entered, charged or paid:

1. More than once.
2. Through clerical error.
3. Through error or mistake of the District's Board Secretary, General Manager, or other District official designated by the General Manager, or an officer designated to give notice or to abate the fire hazard in respect to any material fact, including the case where the cost report rendered and confirmed as herein before provided shows the Fire Department or private contractor abate the fire hazard, but such is not the actual fact.
4. Illegally.
5. On property acquired after the lien date by the State of California or by any county, city, school district, or political subdivision and because of this public ownership, the property is not subject to sale for delinquent taxes.

(j) **Procedure for refund of payment.**

No order for a cancellation or refund under Subdivision of this section shall be made except on a claim; and

1. Verified by the person who paid the special assessment or his or her guardian, executor or administrator; and
2. Filed within sixty (60) days after the error was discovered by the property owner and no more than one (1) year after making the payment sought to be refunded.

SECTION 11 - VIOLATIONS

It shall be a misdemeanor for any person, natural or corporate, owning, possessing, or controlling any premises to fail to perform the duty set forth in Section 2 of this Ordinance, or to fail to comply with the requirements in the Notice set forth in Section 5 of this Ordinance, or to interfere with the performance of the duties herein specified for any of the officers named in this ordinance, or to refuse to allow any such officers, employees, or approved private contractors, to enter upon any premises for the purpose of removing any offending weeds or other materials herein before described, or to interfere in any manner whatever with said officers in the work or removal herein provided.

SECTION 12 - PENALTY FOR VIOLATION

- (a) Any persons violating any provision of this Ordinance shall be guilty of a

misdemeanor, punishable by a fine of not more than \$1,000 or by imprisonment not exceeding 6 months, or both fine and imprisonment. The Fire Chief and the District Attorney is authorized to use administrative citations and fines as allowed by an Ordinance of the Board of Directors in place of the violation penalties contained in this section. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

- (b) Payment of any fine or service of jail sentence shall not relieve a person, firm, partnership, corporation or other entity from the responsibility of correcting the condition which resulted in the violation.
- (c) In addition to the above penalties, the court may order that the guilty party reimburse the District for all costs of investigating, analyzing, and prosecuting the enforcement action against the guilty party. The court shall fix the amount of any such reimbursement upon submission of proof of such cost by the Fire Department.

SECTION 13 - ASSEMBLY BILL 38

- (a) Pursuant to the authority granted under California Public Resources Code Section 4291, Government Code Section 51182, and Assembly Bill 38 (2019), the District hereby establishes requirements for Defensible Space inspections associated with the transfer of residential property.
- (b) Any residential property located within the State Responsibility Area (SRA) designated as a High Fire Hazard Severity Zone (HFHSZ) or Very High Fire Hazard Severity Zone (VHFHSZ) shall be subject to an Assembly Bill-38 Inspection by the Fire Department to determine compliance with applicable Defensible Space standards.
- (c) The Assembly Bill-38 Inspection shall occur no earlier than six months prior to the close of escrow, and written Documentation of Compliance or Noncompliance shall be issued to the property owner for use during the real estate transaction.
- (d) If deficiencies are identified during the Assembly Bill-38 Inspection, the seller may complete the necessary corrective actions prior to the close of escrow. Alternatively, responsibility for completing corrective actions may be transferred to the buyer through a written agreement between the parties as authorized by applicable law. Any corrective actions assumed by the buyer shall be completed within the time period required by California law. The District shall not be responsible for enforcing or interpreting any agreement between the buyer and seller regarding allocation of responsibility for corrective actions.
- (e) The District is authorized to establish and collect fees to recover the reasonable costs of conducting an Assembly Bill-38 Inspection and issuing documentation, and failure to comply with these Defensible Space requirements may be enforced as a violation of the Fire Code through administrative citation, fines, or abatement proceedings as permitted by law.

- (f) The District's issuance of Documentation of Compliance or Noncompliance is solely for purposes authorized by applicable law and shall not constitute a representation, warranty, or guarantee regarding the condition of the property, compliance with any other law, or the rights and obligations of parties to a real estate transaction.

SECTION 14 - DATE OF EFFECT

This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 15 – CERTIFICATION

The Board Secretary of the Arrowbear Park County Water District shall certify to the adoption of this Ordinance and cause publication to occur in a newspaper of general circulation and published and circulated within the jurisdiction of the District.

SECTION 16 – CEQA

The Board of Directors finds this Ordinance is not subject to the California Environmental Quality Act (CEQA) in that the activity is covered by the general rule 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, as in this case, that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 17 – SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The Board of Directors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unconstitutional. If for any reason any portion of this ordinance is found to be invalid by a court of competent jurisdiction, the balance of this ordinance shall not be affected.