

**EFFECTIVE DATE
OF ORDINANCE**

February 21, 2024

ORDINANCE NO. 2878 N.C.S.

Introduced by: Janice Cader Thompson

Seconded by: Michael Healy

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA ADDING PETALUMA
MUNICIPAL CODE CHAPTER 10.70 TITLED HAZARDOUS VEGETATION AND RUBBISH
INSPECTION AND ABATEMENT FOR WILDFIRE SAFETY**

WHEREAS, California Public Resources Code Section 4291 which requires a person or entity that owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining a mountainous area, forest-covered lands, brush-covered lands, grass covered lands, or land that is covered with flammable material, to maintain defensible space of 100 feet from each side and from the front and rear of the structure, and which provides for required fuel modification so as to ensure that a wildfire burning under average weather conditions would be unlikely to ignite the structure on the property; and

WHEREAS, the California Fire Code Title 24, Part 9, Chapter 3, Section 304.1.2 and Section 1103.2.4 prohibits combustible waste material creating a fire hazard on vacant lots or open space, which California Fire Code has been adopted by the City; and

WHEREAS, California Government Code Sections 39501 and 39502 authorizes a city to adopt an ordinance which establishes a procedure for the removal or destruction of “dirt, rubbish, weeds, and rank growths” on real property “and make the cost of removal a lien upon the property;” and

WHEREAS, prior to adopting this ordinance, the City Council reviewed the environmental analysis prepared in accordance with CEQA and which is contained in Section 2 of this ordinance, and received and considered all written and oral comments on potential environmental effects of the ordinance which were submitted up to and at the time of the public hearing; and

WHEREAS, on January 8, 2024, City Council introduced Ordinance No. 2878 N.C.S. by a vote of 7-0 after reviewing the record.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Petaluma, as follows:

Section 1. Findings The City Council hereby finds and determines the foregoing recitals to be true and correct and hereby incorporates them into this ordinance as findings and determinations of the City Council.

Section 2. Exemptions from CEQA This ordinance is exempt from the requirements of the CEQA in accordance with the following discussion and analysis.

- A. **Common Sense Exemption.** Notwithstanding the potential of this ordinance to result in reasonably foreseeable physical change in the environment through its regulation and abatement of hazardous vegetation, this ordinance is exempt from the requirements of CEQA pursuant to the commonsense exemption in CEQA Guidelines Section 15061(b)(3) in that CEQA applies only to projects that have the potential for causing a significant effect on the environment and, in accordance with the findings and

analysis in this section, it can be seen with certainty that there is no possibility that this ordinance will have a significant effect on the environment.

This ordinance would not in and of itself directly impact that environment. Rather the proposed ordinance imposes regulatory standards for property owners to maintain their overgrown vegetation and to remove combustible material to prevent fires which is already regulated under both the California Fire Code, adopted by the City of Petaluma, and Petaluma Municipal Code Chapter 1.10 “Code Enforcement, Generally”. The removal of overgrown vegetation and rubbish helps protect the environment from potential fires and other hazards that result from accumulation of hazardous vegetation and trash. Additionally, this ordinance is permitted by state law, Government Code Sections 39501 and 39502.

- B. CEQA Guideline Section 15308 (Actions by Regulatory Agencies for Protection of the Environment).** This Ordinance is also exempt pursuant to CEQA Guideline Section 15308 this Ordinance will protect against fires and will not involve mature or scenic trees, except for forestry and fire management purposes. It is a regulatory action that will reduce the start and spread of wildfires and assure maintenance and enhancement of a natural resource in the city.
- C. CEQA Guideline Section 15304 (Minor Alterations to Land).** This project is also exempt pursuant to CEQA Guideline Section 15304 (Minor Alterations to Land) because the project involves the minor alteration of the condition of land and/or vegetation.

Section 3. Addition of Chapter 10.70 of the Petaluma Municipal Code Petaluma Municipal Code Chapter 10.70 entitled “Hazardous Vegetation and Rubbish Inspection and Abatement” is hereby added to read as follows:

Chapter 10.70

HAZARDOUS VEGETATION AND RUBBISH INSPECTION AND ABATEMENT FOR WILDFIRE SAFETY¹

10.70.010 Title and Purpose.

This chapter shall be known and may be cited as the “Hazardous Vegetation and Rubbish Abatement Ordinance.” The purpose of this chapter is to provide for the removal of hazardous vegetation and combustible material situated on real property so as to reduce the potential for fire and to promote the public health, safety and welfare of the community.

The City Council makes the following findings:

- A. It is the intent of the City Council that this chapter shall apply to the abatement of hazardous vegetation and combustible material on unimproved and improved parcels in the city;
- B. Petaluma generally has a climate conducive to wildfires and is prone to periodic dry conditions and wind events. Many of Petaluma's native and non-native plant species can be highly flammable during normal dry periods and have contributed to significant wildfires within the county. Increasingly dry conditions and severe wind events further exacerbate the fire danger and have resulted in catastrophic fire losses to life, property and the environment;

¹ This chapter is adopted pursuant to the provisions of California Government Code Sections 39501 and 39502.

- C. Petaluma has a diverse and complex landscape which includes mountainous areas or forest-covered lands, brush covered lands, grass-covered lands, and other brush covered wildlands which are home to many rare and sensitive plant and animal species;
- D. Of paramount importance to the City Council and the residents of Petaluma is the protection of lives and property from the threat of fire and the safety of fire and law enforcement personnel during wildfires;
- E. It is the purpose of this chapter to establish a hazardous vegetation and combustible material abatement program that protects the lives and property of the residents of Petaluma while at the same time protecting rare and sensitive plant and animal species and the environment;
- F. The City Council finds that hazardous vegetation or combustible material poses a danger to the health, safety and welfare of the residents in the vicinity of any real property located throughout Petaluma for the reasons set forth above. Therefore, all hazardous vegetation or combustible material located on real property within Petaluma is deemed a public nuisance and poses a hazard to the safety of the landowners, residents in the vicinity, users of public highways and to the public generally.

10.70.020 Definitions.

A. "Cost of abatement" or "cost of abating a nuisance" as used in this chapter means any and all costs incurred by the Petaluma Fire Department or Petaluma Code Enforcement Division to enforce this chapter including, but not limited to, investigation, inspections; preparation, service and/or publication of administrative notices and other related clerical costs; actual removal of hazardous vegetation and/or rubbish whether performed by the Fire Department or their contractor.

B. "Fire Chief" as used in this chapter means the Chief of the Petaluma Fire Department or their designee.

C. "Hazardous vegetation" as used in this chapter means all weeds growing upon streets, alleys, sidewalks, or private property in the city and includes any of the following:

1. Weeds which bear or may bear seeds of a downy or wingy nature;
2. Weeds and indigenous grasses, like sagebrush and chaparral, which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
3. Weeds which are otherwise noxious or dangerous;
4. Poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health;
5. Dry grass, stubble, brush, litter, or other flammable material which endangers the public safety by creating a fire hazard.
6. Hazardous vegetation described in this chapter for abatement does not apply to maintained vegetation in compliance with defensible space requirements, protected riparian zones regulated by other agencies, or other like vegetation.

D. "Rubbish," as used in this chapter, means all combustible waste or refuse matter which has been left, deposited or abandoned on any lot or parcel of land in the city, and also means noncombustible waste matter, refuse, dirt and worthless or useless articles of property left, deposited or abandoned on any lot or parcel of land in the city in such fashion or in such quantity as to be unsightly, unhealthful, dangerous to persons, or so as to interfere with the abatement of hazardous vegetation under this chapter.

E. "Street" includes public street, alley, lane, court or other place.

10.70.030 Hazardous Vegetation and Rubbish a Public Nuisance.

- A. No owner, agent, lessee or other person occupying or having charge or control of any building, lot or premises within the city shall permit hazardous vegetation or rubbish to remain upon such premises, the streets or sidewalks or upon or in front of their property.
- B. All rubbish and hazardous vegetation growing upon the streets or sidewalks or upon or in front of private property within the city is declared to be a public nuisance by the City Council and may thereafter be abated as provided by this chapter.

10.70.040 Hearing—Notice.

- A. Whenever any such rubbish or hazardous vegetation are growing upon any private property or properties or in any street within the city, the **City Council** may pass a resolution declaring the same to be a public nuisance and order the Fire Chief to give notice of the passage of such resolution as herein provided, and stating therein that, unless such nuisance is abated without delay by the destruction or removal of such rubbish or hazardous vegetation, the work of abating such nuisance will be done by the city authorities, and the expense thereof assessed upon the lots and lands from which, and/or in the front and rear of which, such hazardous vegetation or rubbish shall have been destroyed or removed.
- B. Before the passage of a resolution as described in subsection (A), the Fire Chief shall cause a notice thereof to be published in the official newspaper of the City. The notice shall also set the times and place for a public hearing thereon, which shall be not less than 5 days following the last publication of the notice. Such notice shall be in substantially the following form:

NOTICE TO DESTROY HAZARDOUS VEGETATION AND REMOVE RUBBISH

NOTICE IS HEREBY GIVEN that the Council of the City of Petaluma adopted Ordinance No. 2878 N.C.S., adding Chapter 10.70 to the Petaluma Municipal Code declaring that rubbish and noxious or dangerous hazardous vegetation growing upon or in front of any private property located within the City of Petaluma is a public nuisance.

NOTICE IS FURTHER GIVEN that property owners shall without delay remove such rubbish and noxious or dangerous hazardous vegetation, otherwise they will be removed and the nuisance will be abated by the city of Petaluma in accordance with the provisions of Chapter 10.70 of the Code of the City of Petaluma. All costs of abatement including those for inspection, administration and removal will be assessed upon the lot and lands from which or in front of which or adjacent to which such hazardous vegetation is abated and such costs will constitute a lien upon such lots or lands until paid.

NOTICE OF HEARING

All property owners having any objections or protests to the proposed removal or destruction of such hazardous vegetation or rubbish are hereby notified to attend a meeting of the City Council of the City of

Petaluma on the ____ day of ____, 20____, when the City Council will hear any objections and give consideration to the same.

For those property owners liable to be assessed for the work of abating such nuisance where the city performs the removal or destruction of such hazardous vegetation or rubbish, are also hereby notified to attend a meeting of the City Council of the City of Petaluma, tentatively scheduled for ____ day of ____, 20____, where City Council will hear and consider objections which may be raised by in accordance with Petaluma Municipal Code Section 10.70.080.

- C. The Fire Chief shall send a notice by regular United States mail of such public hearing to the owner of any parcel of real property upon which such a public nuisance exists. The notice may be sent to the owner at the address shown upon the records of the City Assessor. The mailed notice shall be in substantially the same form as the notice provided in subsection (B). The mailed notice shall be mailed at least seven days prior to the public hearing described in subsection (A) and Section 10.70.050. Failure of the Fire Chief to send such notice or of the owner to receive such notice shall not prevent the City from proceeding pursuant to this chapter.
- D. At the time it adopts the resolution pursuant to this section, City Council may also find and declare that hazardous vegetation on specified parcels of property are seasonal and recurrent nuisances. Such seasonal and recurrent nuisances shall be abated in accordance with the provisions of this chapter, provided, that upon the second and any subsequent occurrence of such nuisance on the same parcel or parcels within the same calendar year, no further hearings need be held and it shall be sufficient to mail a notice to the owners of the property.
 - 1. The notice shall refer to and describe the property and shall state that overgrown vegetation of a seasonal and recurrent nature are growing on or in front of the property, and that the same constitute a public nuisance which must be abated by the removal of said overgrown vegetation, and that otherwise they will be removed and the nuisance will be abated by the city authorities, in which case the cost of such removal shall be assessed upon the parcel and lands from which or in front of which such overgrown vegetation are removed and that upon confirmation such cost will constitute a lien upon such parcel or lands until paid.
 - 2. The notice may state that the efficient and economical control of such seasonal and recurrent nuisance requires preventive chemical control of such weeds, weed seeds and weed seedlings and that the city may require preventive chemical control of such nuisance. In the event the city is once required to abate such nuisance the city may, in addition, before and during the next following germinating season of such weeds, provide for the preventive abatement of such nuisance by using chemical control of such weeds, subject to an adopted integrated pest management plan.

10.70.050 Hearing—Action.

- A. At the time stated in the notices prescribed in Section 10.70.040, the City Council shall hear and consider all objections or protests, if any, to the proposed removal of hazardous vegetation and rubbish and may continue the hearing from time to time. Upon the conclusion of such hearing, the City Council, by motion or resolution, shall allow or overrule any or all objections, whereupon the City Council shall be deemed

to have acquired jurisdiction to proceed and perform the work of removal of hazardous vegetation and rubbish, and the decision of the City Council on the matter shall be final and conclusive.

- B. Any number of parcels of private property may be included in a resolution pursuant to this Section.

10.70.060 Failure to abate—City action—Notice.

- A. After final action has been taken by the City Council in the disposition of any protests or objections, or in case no protests or objections have been received, the City Council may order the Fire Chief to abate such nuisance and are expressly authorized to enter upon private property for that purpose.
- B. In the event the Fire Chief abates the hazardous vegetation, the rates or charges for all costs of abatement incurred by the city shall be as established by resolutions and ordinances of the City Council.
- C. Any property owner shall have the right to have any such hazardous vegetation and rubbish removed at their own expense providing the same is done prior to the arrival of the Fire Chief or such other public officer so designated or their representatives to do the same. Provided, however, that if an order to abate is issued, the Council may by resolution further order that a special assessment and lien be imposed upon said property for the costs of abatement, if any, incurred by the Petaluma Fire Department in enforcing abatement upon the property prior to the removal by the property owner.
- D. It is unlawful for any person, owner, agent of the owner, lessee or anyone in possession of any premises within the city to refuse to allow the Fire Chief or their agent, to enter upon the premises at any time during the hours of daylight of any weekday for the purpose of removing rubbish and hazardous vegetation, or to interfere in any way whatsoever with the Fire Chief or their agent, in any work which they may undertake under the provisions of this chapter.

10.70.070 Failure to abate—City action—Costs—Notice.

The Fire Chief shall keep an account of the cost of abating a nuisance pursuant to this chapter and shall render an itemized report in writing to the City Council showing the cost of abating such hazardous vegetation and rubbish on each separate lot, or in front thereof, or both; provided that before such report is submitted to the City Council, a copy of the same shall be posted for at least three days prior thereto on or near the chamber door of the council and on the city's website, together with a notice of the time when such report shall be submitted to the City Council for confirmation.

10.70.080 Failure to abate—City action—Costs—Objections.

- A. At the time fixed for receiving and considering the report described in Section 10.70.070, the City Council shall hear the same, together with any objections which may be raised by any of the property owners liable to be assessed for the work of abating such nuisance and thereupon make such modifications in the report as they deem necessary, after which, by resolution, the report shall be confirmed.
- B. The amount of the cost of abating such nuisance upon, or in the front or rear of, the various lots or parcels of land respectively referred to in such report, shall constitute special assessments against such respective lots or parcels of land, and after thus made and confirmed, shall constitute a lien on such property for the

amount of such assessments, until paid.

10.70.090 Abatement costs—Lien—Collection.

- A. After confirmation of the report pursuant to Section 10.70.080, a copy shall be given to the county auditor, who shall add the amount of the assessment to the next regular tax bill levied against the parcel.
- B. The amount of the assessment shall be collected at the time and in the manner of ordinary municipal taxes. If delinquent, the amount is subject to the same penalties and procedures of foreclosure and sale provided for ordinary municipal taxes.
- C. The Finance Director of the city is authorized to receive the amount due for the cost of abating the nuisance pursuant to this chapter, and to issue receipts therefor at any time after the confirmation of the report and until 10 days before a copy of the report shall be turned over to the county Tax Collector and Tax Assessor for placement on the county tax roll for collection.

10.70.100 Refund procedure.

The City Council may order any tax, or any portion thereof, paid pursuant to the provisions of this chapter, refunded; provided, that such tax or portion thereof is found and determined by the City Council to have been erroneously levied; and, provided further, that no such tax, or portion thereof, shall be refunded unless a claim, verified by the person who paid the tax, their guardian, executor or administrator, has been filed with the City Clerk on or before the first day of March after the date upon which such tax has become due and payable.

10.70.110 Claims for damages.

Claims for damages to property, caused by any officer or employee of the city in connection with the abatement of any nuisance pursuant to the provisions of this chapter, may be paid from the general fund if the City Council finds and determines that such damage was caused by the negligence of such officer or employee; provided, however, that no such claim for damages shall be considered or paid unless it is presented in writing and filed with the City Clerk within 180 days after such damages occurred.

10.70.120 Emergency abatement—Authority of Fire Department.

- A. In the event the Fire Chief should find that any public nuisance, described herein, within or upon or in front of any lot or parcel of land is so serious and aggravated and presents such an immediate menace or danger to the public health, safety and welfare that it is essential to protect such public health, safety and welfare that such nuisance be immediately abated without first publishing, posting or mailing notices, as provided above, and without first giving the owner or owners of said lot or parcel further time to abate the same, then in that event, the Fire Department may immediately abate said nuisance or cause the same to be abated without first having published or mailed any notices and without giving the owner or owners of the lot or parcel further time to abate the same.
- B. If the Fire Chief summarily abates such nuisance in accordance with subsection (A), they shall prepare and file in their office a written report describing the location, nature and extent of the public nuisance

and setting forth the reasons why they had to abate it immediately, as aforesaid, and he or she shall cause a copy of said report to be mailed within 14 days from and after completion of such abatement, to the owner or owners of the lot or parcel within or upon or in front of which said nuisance existed, as said owner or owners are shown on the last equalized assessment roll of the County of Sonoma.

10.70.130 Removal—Alternative methods.

The method of removing hazardous vegetation, and/or rubbish from property as herein provided shall not be an exclusive method, but shall be an alternative method, and such weeds, vines, shrubs, brush, dead or damaged trees, and/or debris may be removed from such property pursuant to the provisions of any law of the state, or any ordinance of the city applicable thereto.

Section 4. Severability If any part of this ordinance is for any reason held to be unconstitutional, unlawful, or otherwise invalid by a court of competent jurisdiction, such decision will not affect the validity of the remaining parts of this ordinance. The City Council of the City of Petaluma hereby declares that it would have passed and adopted this ordinance and each of its provisions irrespective of any part being held invalid.

Section 5. Effective Date This ordinance shall become effective thirty (30) days after the date of its adoption by the Petaluma City Council.

Section 6. Posting/Publishing of Notice The City Clerk is hereby directed to post and/or publish this ordinance or a synopsis of it for the period and in the manner required by the City Charter. The City Clerk is also hereby directed to file a Notice of Exemption concerning this ordinance with the Office of the Sonoma County Clerk in accordance with Section 15062 of the CEQA Guidelines.

INTRODUCED and ordered published and posted this 8th day of January 2024.

ADOPTED this 22nd day of January 2024 by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Kevin McDonnell, Mayor

ATTEST:

APPROVED AS TO FORM:

Caitlin Corley, City Clerk

Eric Danly, City Attorney