

ORDINANCE NO. 2024-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMECULA AMENDING TITLE 8 OF THE TEMECULA MUNICIPAL CODE REGARDING HAZARDOUS VEGETATION, AND MAKE A FINDING OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) SECTION 15061 (B)(3) (LR23-0105)

THE CITY COUNCIL OF THE CITY OF TEMECULA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Subsection E of Section 8.12.140 (Nuisances–Recovery of abatement expenses) of Chapter 8.12 (Nuisances) of Title 8 (Health and Safety) of the Temecula Municipal Code is hereby amended to read as follows:

“E. Money due to the city pursuant to this section may be recovered in an appropriate civil action. Alternatively, such liability may be enforced by special assessment or lien proceedings against the parcel of land upon which the nuisance existed as prescribed in this Code.”

Section 2. Chapter 8.16 (Hazardous Vegetation) of Title 8 (Health and Safety) is hereby amended in its entirety to read as follows:

“Chapter 8.16 Hazardous Vegetation

- § 8.16.010 Definitions.
- § 8.16.020 Duty to abate hazardous vegetation and fuel and exceptions.
- § 8.16.030 Fire hazard abatement measures.
- § 8.16.040 Enforcement of chapter by City Manager or designee.
- § 8.16.050 Notice to remove and abate.
- § 8.16.060 Appeal of abatement notice.
- § 8.16.070 Removal of combustible material by city.
- § 8.16.080 Payment for removal–Recovering costs of abatement.
- § 8.16.090 Demand for payment and notice of nuisance abatement lien, special assessment or civil debt.
- § 8.16.100 City council action following abatement cost hearing.
- § 8.16.110 Nuisance abatement liens.
- § 8.16.120 Special assessments.
- § 8.16.130 Procedure for refund of payment.
- § 8.16.140 Enforcement–Violation–Penalties.
- § 8.16.150 Legal action and attorneys’ fees.
- § 8.16.160 Effective Date of Ordinance.

8.16.010 Definitions.

For purposes of this chapter, the following terms shall have the meanings set forth below:

“Appeals board” means that body designated by the City Manager pursuant to this chapter. The officer issuing the order to abate may not sit on the appeals board. The appeals board shall hear any and all appeals regarding the determination by the city that hazardous vegetation or combustible material exists on any land or parcel of real property in the city.

“Combustible material” means a material that, in the form in which it is used and under the conditions anticipated, will ignite, burn, support combustion or release flammable vapors when subjected to fire or heat. Rubbish, litter, wood, paper, rubber, plastics, hazardous vegetation are examples of combustible materials. Combustible material also means any organic material that is capable of burning, either by fire or through oxidation.

“Defensible space” means the buffer that landowners are required to create on their property between a structure and the plants, brush, trees, and other combustible material surrounding the structure that could ignite in the event of a fire.

“Discing” means to remove weeds and flammable vegetation with an implement such as a harrow or plow that turns and loosens the soil with a series of disks.

“Fuel” means any petroleum-based products (such as tires), cultivated landscape plants, grasses, weeds, and wildland vegetation.

“Hazardous vegetation” means all dry grass, stubble, Russian thistle (tumbleweeds), brush, weeds, rank grow, sagebrush, chaparral, or other vegetation which constitutes a fire hazard. Hazardous vegetation shall also mean weeds which when mature bear wingy or downy seeds, which will attain such a large growth as to become a fire menace when dry, or which are otherwise noxious or dangerous.

“Hazard reduction office” means that physical location where the notice to remove and abate is generated.

“Hazard reduction officer” means the designee of the City Manager vested with the authority to enforce this chapter.

“Improved parcel” means a portion of land identified by an assessor’s parcel number upon which a structure is located.

“Structure” means any dwelling, house, building or other type of construction that is designed or intended for support, enclosure, shelter or protection of persons, animals, or property, having a permanent roof that is supported by walls or posts that connect to, or rest on the ground. Structure does not include structures that are less than one hundred-twenty (120) square feet in size and not used for human habitation.

8.16.020 Duty to abate hazardous vegetation and fuel and exceptions

A. It shall be the duty of every owner or person in control of any real property or interest therein to abate therefrom, and from all sidewalks, privately maintained roads, and parkways, except for those roads accepted into the city maintained system (publicly maintained roads), all

hazardous vegetation and combustible materials that constitutes a fire hazard which may endanger or damage neighboring property, or which may otherwise endanger the public health, safety and welfare within the city. Failure to comply with the requirements of this section constitutes a public nuisance. The procedures for abatement set forth herein are not exclusive, but are in addition to other procedures set forth in the Municipal Code for the abatement of nuisances. Abatement is required throughout the calendar year.

B. All improved parcels shall comply with the following requirements:

1. Maintain defensible space of one hundred (100) feet from each side and from the front and rear of each structure on the parcel, except for areas that must be avoided as required by erosion control measures, sensitive habitat or any other local, state or federal law. The requirement to maintain defensible space shall not extend beyond the property line. Defensible space shall be maintained in accordance with the requirements of Chapter 49 of the California Fire Code, Title 24, Part 9 of the California Code of Regulations and Title 14, Chapter 7, Division 1.5, Section 1299.03 of the California Code of Regulations, Title 19, Chapter 1, Division 1, Section 3.07 of the California Code of Regulations, as the same may be amended. In the event any of these provisions conflict with the requirements in this Section, the more stringent requirement shall prevail.

2. Fuels shall be maintained in a condition so that a wildfire burning under average weather conditions would be unlikely to ignite the structure. 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.

3. Remove that portion of any tree which extends within 10 feet of the outlet of any chimney or stovepipe.

4. Cut and remove all dead or dying portions of trees located adjacent to or overhanging any building.

5. Maintain the roof of any structure free of leaves, needles, or other dead vegetative growth.

6. Provide and maintain at all times a screen over the outlet of every chimney or stovepipe that is attached to any fireplace, stove, or other device that burns any solid or liquid fuel. The screen shall be constructed of nonflammable material with openings of not more than ½ inch in size.

7. No combustible material shall be placed or stored within ten (10) feet of any building or structure.

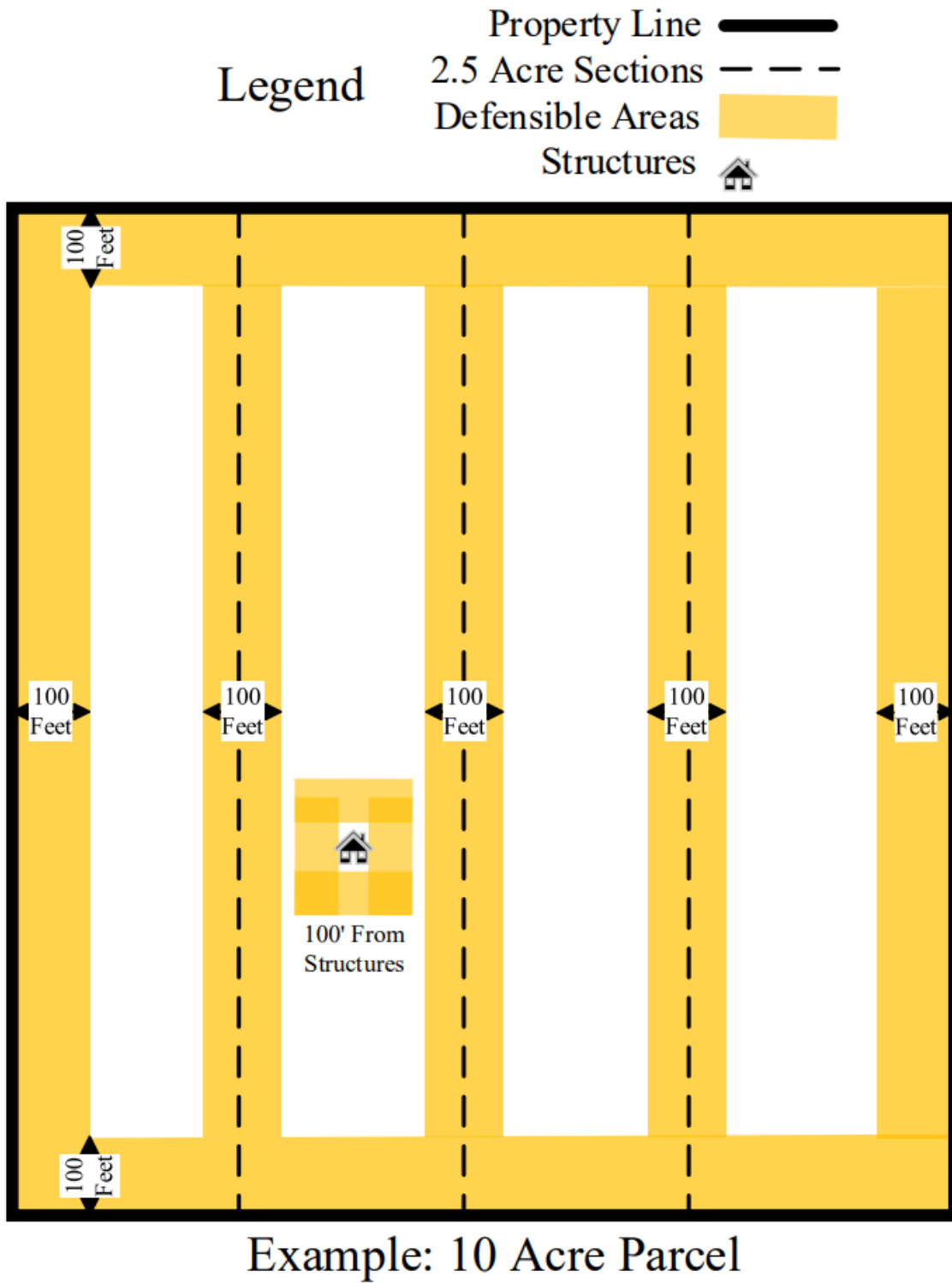
C. In the case of any parcel or contiguous parcels of real property under the same ownership consisting of five or less acres upon which hazardous vegetation, combustible materials or fuels

exist which may constitute a fire hazard, remove hazardous vegetation, combustible materials or fuels by discing or mowing the entire acreage. (See Table 1)

D. Where the acreage consists of more than five contiguous acres, maintain a one hundred (100) foot wide strip of land at the boundaries of such real property, and through such land so that there shall not be any portion of the real property larger than two and one-half acres which is not enclosed by itself within such a strip, which shall be a fire break. The city fire chief may, at their sole discretion, require firebreaks exceeding this one hundred (100) foot width or discing on parcels larger than five-acres if larger breaks or discing is necessary for the protection of the public safety and welfare. (See Table 1; Figure 1)

Table 1 Abatement Requirements Based on Parcel(s) Size		
Size of Property/Properties	Less Than Five (5) Acres Parcel or contiguous parcels of real property under same ownership consisting of less than five (5) acres	More Than Five (5) Acres Parcel or contiguous parcels of real property under same ownership consisting of more than five (5) acres
Abatement Requirements	All areas shall be disced or mowed except for areas required by erosion control plans, sensitive habitat, or other local, state, or federal regulatory requirements.	An area of at least one hundred feet (100') from the property line(s) (front, rear, side, and corner) shall be disced or mowed, except for areas required by erosion control plans, sensitive habitat, or other regulatory requirements, or an area that exists beyond the property line. Additionally, large parcels shall have a one-hundred-foot break (100') that reduces unabated portions of parcels down to 2.5-acre sections, or less. Additional discing or mowing may be required by the City Fire Chief.

Figure 1



- E. The requirements set forth in this subsection shall not apply to the following areas:
1. Areas subject to erosion control plans
 2. Areas of sensitive habitat
 3. Areas protected by other regulatory requirements
 4. Areas that exist beyond the property line.

F. Where the parcel is improved or terrain is such that it cannot be disced or mowed, the city fire chief or other designee of the City Manager may require or authorize that other means of removal be used, and that specific standards be met as set forth in this code, Public Resources Code or other recognized fire codes.

8.16.030 Fire hazard abatement measures.

A. Notwithstanding any other ordinance or resolution of the city to the contrary, any person or entity that is an owner of property in the city shall clear and abate hazardous vegetation, combustible materials, or fuels for fire protection purposes on the owner's property, unless such vegetation or landscaping is required by condition of a land use entitlement, such as a tentative tract map or development plan. Hazardous vegetation, combustible material or fuel abatement measures may include, but are not limited to, disking, scraping, grubbing, mowing or other methods of clearing to bare ground. No measure or method which is dangerous or hazardous to human health or safety shall be utilized, nor shall any activity which is contrary to any state or federal law be permitted.

B. Brush, fuel and other fire hazard abatement measures as provided in subsection A of this section shall be taken within one hundred feet of any structure but shall not extend beyond the property line.

8.16.040 Enforcement of chapter by City Manager or designee.

For purposes of enforcing the provisions of this chapter, the City Manager may designate any person or persons as his/her deputy in the performance of the duties vested upon the city fire chief by the provisions of this chapter.

8.16.050 Notice to remove and abate.

A. It shall be the duty of the city fire chief, or designee of the chief, whenever such officer deems it necessary to enforce the provisions of Sections 8.16.020 and 8.16.030 hereof, to issue a notice to remove and abate by either of the following methods:

1. By mailing the notice by first class mail to the owner of such real property as shown on the last equalized tax rolls and by personal service thereon; or

2. By mailing the notice by first class mail to the owner as shown on the last equalized tax rolls and by posting the real property; or

3. By mailing the notice by certified mail, return receipt requested, to the owner as shown on the last equalized tax rolls and to the property address where the hazardous vegetation or combustible materials exist.

B. The notice to remove shall be in substantially the form set forth below:

NOTICE TO REMOVE AND ABATE

Date: _____

What is this Notice about?

The Temecula Municipal Code (Chapter 8.16) requires you to abate your property listed below. Abatement requires you to remove combustible materials that may be flammable such as weeds, abandoned tires, dry grass, and other similar flammable materials. This letter serves as notification for the required abatement.

What property is this for?

Property Legal Description: _____

This description was taken from the Riverside County Assessor's records. Owner, parcel, and address information is listed below:

Property Owner: _____

Assessor's Parcel Number: _____

Address: _____

What do I have to do and by when?

You have thirty (30) calendar days to remove said combustible materials.

What options do I have to abate my property?

Self-Abatement	You complete the work yourself or you may hire a licensed and insured contractor to complete this work. This may be the cheapest option.
Voluntary City Abatement	You (owner/occupier) may grant the City (and employees, agents, or contractors) permission to enter your property to remove and abate combustible materials. The City will charge all costs of the abatement to you and these costs must be paid to the City. If you do not pay the costs and charges, they will be recorded as a

	<p>nuisance abatement lien against your property, placed on your property tax bill (as a special assessment and lien), or pursued as a civil debt owed to the City pursuant to Temecula Municipal Code Section 3.04.080 (Temecula Municipal Code Section 8.16.080). If you would like the City to abate your property you must contact Code Enforcement at 951-302-4144 to request abatement. If we do not hear from you in thirty (30) calendar days, the voluntary abatement option will automatically be rejected.</p>
<p>Mandatory City Abatement</p>	<p>If combustible materials are not removed, or voluntary City abatement is not requested within thirty (30) days from this Notice, the City Fire Chief (or other designee) may order abatement by public employees, private contractors, or other persons.</p> <p>All costs for abatement will be levied against the property or billed directly to the property owner. <u>In addition, you may be issued an administrative citation for violating the Municipal Code.</u></p> <p>This may be the most expensive option.</p>

You may appeal this order, and the existence of any hazardous vegetation or other combustible material, by presenting a written appeal to the Hazardous Reduction Office, [address]_____ within fifteen (15) calendar days of the date of this Notice to Abate. The Hazard Reduction Officer shall set the appeal for hearing before the Appeals Board, and shall notify the Applicant, in writing, of the hearing date at least twenty (20) calendar days before the hearing.

_____ Name of Issuing Officer

_____ Title of Issuing Officer

8.16.060 Appeal of abatement notice.

A. Appeals Procedure. Any person who is adversely affected by the determination contained in the notice set forth in Section 8.16.050 may appeal to the appeals board within fifteen (15) calendar days of the postmark on the notice to remove and abate by filing a written appeal to the Hazard Reduction Office. An appeal, timely filed and in proper form, shall stay any further action for removal or abatement until the date set for hearing. The Hazard Reduction Office shall set the

matter for hearing before the appeals board and shall notify the person appealing by mail of the date set for such hearing, at least twenty (20) calendar days prior to the hearing date. The person appealing shall have the right to appear in person, or by an agent, designated in writing, at the hearing, and present oral, written and/or photographic evidence. The appeals board shall decide the appeal and shall issue its decision, which shall be in writing.

B. Appeals Board. The appeals board is established with the membership as set forth in Section 8.16.010. Members shall serve at the pleasure of the City Manager.

8.16.070 Removal of combustible material by city.

A. Voluntary Removal by City or its Contractor. Upon receiving a notice set forth in Section 8.16.050, the owner or possessor of the property may grant the City and its employees, agents and/or contractors, permission to enter upon the property to remove and abate the hazardous vegetation or combustible material from the property within thirty (30) calendar days of the postmark of the notice. Upon completion of the removal and abatement of the hazardous vegetation or combustible material, the City shall recover from the property owner the full costs, including administrative and legal costs, of abating the hazardous vegetation or combustible material in accordance with the procedures set forth in this chapter.

B. Involuntary Removal by City or its Contractor. If, at the end of the time allowed for compliance in the original notice, or as extended in cases of appeal, or as specified by the appeals board, the property owner does not grant the City permission to enter the property pursuant to Section 8.16.070(A) or compliance has not otherwise been accomplished, the officer issuing the notice or the agency of which he is an officer may order the hazardous vegetation or combustible material to be removed by public officers or by employees of said agency, or may cause the removal to be carried out by a private contractor selected by the city in accordance with applicable statutes and in the manner and under the terms specified by the city council. The cost of such removal accompanied by a reasonable administrative charge may be recovered as set forth in Section 8.16.080.

8.16.080 Payment for removal—Recovering costs of abatement.

A. The city shall recover from the property owner the full costs, including administrative and legal costs, of abating hazardous vegetation or combustible material from any property. The City may recover the costs of abatement by any of the following methods:

1. Nuisance Abatement Lien. The city may record the costs of abatement as a nuisance abatement lien on the property pursuant to the procedures set forth in Sections 8.16.090 and 8.16.110.

2. Special Assessment. The city may impose the costs of abatement as a special assessment lien upon the property pursuant to the procedures set forth in this Sections 8.16.090 and 8.16.120.

3. Civil Collection Action. The city may recover the costs of abatement pursuant to the procedures provided in Municipal Code section 3.04.080.

B. Such costs shall be limited to the actual costs incurred by the city in enforcing abatement upon the parcels, including, but not limited to, payment to the contractor, costs of inspection and investigation, notice, boundary determination, measurement, clerical, personnel, consultant, recording or filing the costs with the County, as may be required, and an administrative cost to be set by resolution adopted by the city council on those parcels where such hazardous vegetation or combustible material has not been removed by the property owner at his or her own expense.

8.16.090 Demand for payment and notice of nuisance abatement lien, special assessment or civil debt.

A. After the City has completed abatement pursuant to Section 8.16.070, the City Manager, or his designee, shall file a report stating the abatement costs, plus the reasonable administrative charge, with the City Clerk.

B. The City shall send, by certified U.S. mail, return receipt requested, a “Demand for Payment and Notice of Nuisance Abatement Lien/Special Assessment/Civil Debt” (as applicable) to the owner of record as shown on the last equalized tax roll that sets forth all abatement costs owed to the City. The “Demand for Payment and Notice of Nuisance Abatement Lien/Special Assessment/Civil Debt” shall also be posted at a conspicuous place on the property.

C. The City Clerk shall set the report for public hearing before the City Council at a regular City Council meeting that will be held at least 45 days after the postmark on the “Demand for Payment and Notice of Nuisance Abatement Lien/Special Assessment/Civil Debt”.

D. The “Demand for Payment and Notice of Nuisance Abatement Lien/Special Assessment/Civil Debt” shall require that the owner remit payment to the City within forty-five (45) days of the Demand for Payment, and shall be in substantially the following form:

“[Date]
DEMAND FOR PAYMENT AND NOTICE OF [NUISANCE ABATEMENT LIEN / SPECIAL ASSESSMENT / CIVIL DEBT] FOR ABATEMENT COSTS

TO: APN / Address
RE: Collection of Abatement Costs

NOTICE IS HEREBY GIVEN that the cost of abating hazardous vegetation or other combustible material is hereby being billed directly to the property owner for collection by the City.

The total amount owed to the City is \$_____.

This amount is due and payable to the City of Temecula on or before: [45 Days from Date of Demand for Payment].

The amount includes administrative overhead costs of \$_____.

Itemized contractor invoiced costs	Administrative overhead	Total due & payable to the City

NOTICE IS FURTHER GIVEN that should you fail to timely remit payment to the City, any unpaid amounts shall be placed on a delinquent account list and submitted to the Temecula City Council for consideration and action at a public hearing to be held on [TIME & DATE] at Temecula City Hall, 41000 Main Street, Temecula, California 92590. At said hearing, the City Council will hear any objections or protests from property owners who have not paid the total amount specified above. If you wish to object to this bill, you must appear before the City Council at the public hearing.

NOTICE IS FURTHER GIVEN that at the conclusion of the hearing, the City Council shall confirm delinquent charges as a [nuisance abatement lien against the subject property / special assessment and lien against the subject property / civil debt owed to the City] until said amount is paid in full. Note that if the delinquent charges are confirmed as a special assessment and lien against the property and, after three (3) years, the assessment remains unpaid, the property subject to this notice may be sold by the tax collector. Payment should be submitted to the City of Temecula, 41000 Main Street, Temecula, California 92590, Attention: _____.”

E. At the hearing, the City Council shall hear any objections or protests by persons who may be liable for the costs of abatement. The Council shall add related administrative charges and make such revisions or corrections to the report as it deems justified.

8.16.100 City council action following abatement cost hearing.

At the conclusion of the public hearing described in Section 8.16.090, the city council shall do one of the following:

A. Confirm the costs of the abatement by resolution and order the costs to be recorded as a nuisance abatement lien or special assessment on the property, or recorded as a civil debt owed to the City pursuant to Municipal Code Section 3.04.080;

B. Modify the costs of the abatement by resolution and order this new figure to be recorded as nuisance abatement lien or special assessment on the property, or recorded as a civil debt owed to the City pursuant to Municipal Code Section 3.04.080; or

C. Cancel all or any portion of any such lien, special assessment, debt, penalty or costs heretofore entered, and shall order that the same be canceled by the City or county auditor-controller, as applicable, if uncollected, or, except in the case provided for in subsection (C)(5) of this section, refunded by the City or county treasurer-tax collector, as applicable, if collected, if the charges were charged or paid:

1. More than once;

2. Through clerical error;

3. Through the error or mistake of the appeals board, or of the officer, board or commission designed by them to give notice, in respect to any material fact, including the case where the cost report rendered and confirmed, as hereinbefore provided, shows the City abated the hazardous vegetation or combustible material but such is not the actual fact;

4. Illegally; or

5. On property acquired after the lien date by the state or by any county, city, school district, special district or other political subdivision, and because of this public ownership, is not subject to sale for delinquent taxes.

8.16.110 Nuisance abatement liens.

If the City Council orders the costs of abatement as a nuisance abatement lien against the property, the City Clerk shall prepare and file with the County Recorder a certified copy of the City Council resolution. The County Recorder shall record a lien against the property pursuant to the resolution. The lien shall specify the City, on whose behalf the lien is imposed, the amount of the lien, the date of the abatement order, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the parcel.

8.16.120 Special assessments.

If the City Council orders the costs of abatement be filed as a special assessment against the property, the following shall apply:

A. The City Clerk shall prepare and file with the County Auditor a certified copy of the City Council resolution adopted pursuant to Section 8.16.100.

B. The County Auditor shall enter each assessment in the county tax roll opposite the subject parcel of land. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedures and sale, in case of delinquency, as municipal taxes.

C. In accordance with Section 38773.5 of the California Government Code, all laws applicable to the levy, collection, and enforcement of the municipal taxes shall be applicable to the special assessment.

8.16.130 Procedure for refund of payment.

No order for refund shall be made except on a written claim:

A. Verified by the person who paid the special assessment, his guardian, executor or administrator; and

B. Filed within one year after making the payment sought to be refunded.

8.16.140 Enforcement—Violation—Penalties.

It shall be unlawful, subject to punishment in accordance with Chapter 1.20, 1.21, or 1.24 and in accordance with Section 8.12.180, for any person —natural or corporate —owning, possessing, occupying or controlling any lands or premises subject to the provisions of this chapter to fail to perform the duty set forth in Sections 8.16.020 or 8.16.030 of this chapter, or to fail to comply with the requirements in the notice to remove and abate as specified in Section 8.16.050 of this chapter or to interfere with the performance of the duties herein specified for any of the officers designated in this chapter or their deputies, or to refuse to allow any such officer or their deputies or employees, or approved private contractors, to enter upon any premises for the purpose of inspecting and/or removing any combustible material hereinbefore described, or to interfere in any manner whatsoever with said officers or contractors in the work of inspections and removal herein provided. Such penalties are in addition to any civil or equitable remedies available to the city to enforce the provisions of this chapter.

8.16.150 Legal action and attorneys' fees.

In addition to the remedies set forth in this Chapter, the City Council may bring legal action in a court of competent jurisdiction for the recovery of any monies expended by it in order to enforce the provisions of this Chapter. In any such legal action, the prevailing party shall be entitled to recover the cost of such action, including, but not limited to, reasonable attorneys' fees and costs. An award of attorneys' fees to a prevailing party shall not exceed the amount of reasonable attorneys' fees incurred in the action or proceeding.

8.16.160 Effective Date of Ordinance.

This ordinance shall be effective as of 12:01 a.m. on January 1, 2025.”

Section 3. Environmental Findings. The City Council hereby finds that this Ordinance is exempt from the requirements of the California Environmental Quality Act (“CEQA”) pursuant to Title 14 of the California Code of Regulations, CEQA Guidelines Section 15308 because the Code Amendments impose regulations to assure the maintenance and protection of the environment from wildfires and other environmental hazards. The Ordinance is further exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines as it can be seen with certainty that there is no possibility that the adoption of the Ordinance will have a significant effect on the environment as the Ordinance clarifies fire hazard prevention measures, abatement options, and the mechanisms for the City to recoup any costs it incurs abating the fire hazard.

Section 4. Severability. If any section or provision of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, or contravened by reason of any preemptive legislation, the remaining sections and/or provisions of this Ordinance shall remain valid. The City Council hereby declares that it would have adopted this Ordinance, and each section or provision thereof, regardless of the fact that any one or more section(s) or provision(s) may be declared invalid or unconstitutional or contravened via legislation.

Section 5. Certification. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

Section 6. Effective Date. This Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Temecula this 12th day of November, 2024.

James Stewart, Mayor

ATTEST:

Randi Johl, City Clerk

[SEAL]

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss
CITY OF TEMECULA)

I, Randi Johl, City Clerk of the City of Temecula, do hereby certify that the foregoing Resolution No. 2024- was duly and regularly adopted by the City Council of the City of Temecula at a meeting thereof held on the 12th day of November, 2024, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Randi Johl, City Clerk