

**2020 FUELS MANAGEMENT, ABATEMENT & ENFORCEMENT ORDINANCE**  
**SUMMARY**

The Fairview Fire Protection District’s new fuels management ordinance explains to property owners how the District will enforce the “abatement” rules for keeping land free of flammable weeds, grass, brush and/or dead growth. Specifically, Sections 2 through 11 of the new Ordinance describe the abatement process as follows.

**1) INITIAL INSPECTION TAKES PLACE WITHOUT BOARD ACTION**

Prior to direct involvement of the FPPD Board, the Fire Chief will oversee a series of Department seasonal initial inspections. The Chief will engage individual lots through the Department’s preexisting process to ensure abatement takes place without the need for any formal enforcement action.

**2) CHIEF ASKS DISTRICT BOARD TO DECLARE PUBLIC NUISANCE AT A REGULAR MEETING.**

As described in Section 2 of the Ordinance, where a fire hazard has not been adequately addressed by a landowner through the Department’s existing process, the Fire Chief will ask the Governing Board of the District to declare a public nuisance in a particular area.

**3) BOARD PASSES NUISANCE RESOLUTION; NOTICE TO DESTROY WEEDS IS POSTED OR MAILED WITH A HEARING DATE TO PROPERTY OWNER**

If the Governing Board agrees and takes formal action to declare a public nuisance, Section 3 requires that the District cause a “Notice to Destroy Weeds” be issued to the property owner which describes the public nuisance, the place it is located, and the date and place a hearing before the Governing Board will take place to decide whether to formally order abatement. If after receiving the Notice to Destroy Weeds, the person responsible for the property abates the

nuisance voluntarily, the hearing may be continued until the Chief can confirm full abatement and entirely terminated upon the Chief's confirmation that the nuisance is fully abated.

**4) BOARD HOLDS HEARING AND ISSUES FINDINGS AND ORDER TO ABATE**

Unless the property owner causes full, voluntarily abatement by the date of the hearing, the Board hold a hearing, make findings, and consider whether the issue and Order to Abate. The Ordinance describes in Section 4 that the Board will hear all relevant information from all interested parties before it determines whether to designate a public nuisance. If the Governing Board votes to uphold the nuisance, it will issue an order setting forth its finding(s), ordering abatement, and setting deadline for the property owner to voluntarily comply with the order at the owner's own cost. Section 5 of the Ordinance describes how, in some cases, the Governing Board may declare a nuisance to be seasonal or recurrent and that it must be abated each year without the necessity of future hearings. Once the Order issues, the General Manager will send the Order to the landowner. Section 6 describes how the property owner, upon receiving notice of the Order, may abate the nuisance prior to the expiration of the time period in the order at the owner's cost. Nevertheless, in such a case, the District may in its discretion send a Demand for Payment limited to the costs incurred until that point in time to enforce abatement. Section 7 of the Ordinance describes how, if the property owner fails to abate the nuisance by the deadline, the District will seek consent from the property owner to inspect the property and/or cause the nuisance to be abated, at the cost of the property owner. If the property owner does not provide consent to entry on the property, which the property owner is not legally required to volunteer, the District will seek a warrant to enter the land and conduct the abatement and will add this cost to the ultimate Demand for Payment.

**5) DISTRICT SEEKS CONSENT TO ENTER THE LAND AND ONLY AFTER THAT WILL CONSIDER SEEKING AN ADMINISTRATIVE WARRANT**

Once an order to abate a nuisance has been issued, the nuisance will either be abated by the property owner at the owner's own cost without need for enforcement by the District or, absent the property owner's voluntary compliance, the District will enforce the Order and conduct the abatement, which will also be conducted at the owner's cost. If the landowner does not consent, the District will seek to obtain a lawful administrative warrant to inspect the property and/or cause the nuisance to be abated.

**6) ABATEMENT WORK IS DONE BY DISTRICT VENDOR (SELECTED THROUGH ANNUAL BID PROCESS FOR WORK TO BE DONE IN HAYWARD AND FAIRVIEW FIRE PROTECTION DISTRICT)**

In the case of non-compliance, the nuisance will be abated by the District either through consensual entry or upon warranted entry. All costs expended will be documented.

**7) FINAL COST REPORT IS COMPILED AND ISSUED, DEMAND FOR PAYMENT IS ISSUED**

The District may recover the costs it incurred to hold the hearing, issue the order, and enforce the Order to Abate, which is one of the reasons the District always emphasizes voluntary compliance at every stage of this process. Section 8 describes how the District is to compile a detailed report of all costs related to the abatement, and how said report is to be sent to the property owner as a "demand for payment."

**8) IF DEMAND LEFT UNPAID, DISTRICT WILL HOLD A HEARING AND PROCESS A LIEN/SPECIAL ASSESSMENT**

Voluntary payment is advised. Section 9 describes how the District will conduct a hearing on any unpaid abatement costs, where the Board will hear all relevant information from all interested parties and order whether to uphold the report of costs incurred by the District. If the Board upholds the report on the costs of abatement, Section 10 describes how a copy of the order upholding the report will also be turned over to the County of Alameda to be collected in the same manner as county taxes. Additionally, as described in Section 10, unpaid amounts will constitute a lien on the subject property similar to a judgment lien.

