



**Fire Department
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

KUYLER CROCKER
District One
PETE VANDER POEL
District Two
AMY SHUKLIAN
District Three
EDDIE VALERO
District Four
DENNIS TOWNSEND
District Five

AGENDA DATE: July 9, 2019 - REVISED

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>

CONTACT PERSON: Annie Haynes PHONE: (559) 802-9800

SUBJECT: Fire Abatement Ordinance Amendments

REQUEST(S):

That the Board of Supervisors:
On July 9

1. Introduce and waive the first reading of an ordinance amending Chapter 11 of Part IV of the Ordinance Code of Tulare County, pertaining to abatement of fire hazardous weeds and rubbish nuisances.
2. Set the second reading for July 23, 2019.
3. Direct the Clerk to publish a summary of the ordinance before the second reading, as required by law.

On July 23

1. Waive the second reading and adopt an ordinance amending Chapter 11 of Part IV of the Ordinance Code of Tulare County, pertaining to abatement of fire hazardous weeds and rubbish nuisances.
2. Direct the Clerk to publish a summary of the ordinance and to post a full copy of the ordinance after adoption, as required by law.

SUMMARY:

Annually, the Tulare County Fire Department conducts inspections of properties located within its jurisdiction to evaluate them for fire hazardous weeds and rubbish nuisances, in violation of Part IV, Chapter 11 of the Tulare County Ordinance Code. If the Department determines that nuisance conditions exist on such properties, it will notify the property owners of the nuisance conditions and any necessary actions to abate the nuisance(s), as well as the potential consequences for failing to abate in a timely manner. If the property owner fails to abate the nuisance, the

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DATE: July 9, 2019

Department may abate the nuisance, and seek recovery of its abatement costs. The Fire Hazard Weeds and Rubbish Abatement Ordinance abatement process reduces threats to health, safety, welfare, appearance, and economic value decline in property condition(s).

The Department is currently proposing several updates to the current ordinance to improve clarity and transparency about the abatement and cost recovery process. Significant amendments/changes include the following:

- (1) Updates to the definition of the "costs of administration";
- (2) Clarifies information that should be contained in a notice and order to abate, and the process for serving notices required by this Chapter;
- (3) Extends the time for owners to abate a nuisance without penalty from fifteen business days to thirty calendar days;
- (4) Extends the time to request administrative review of a notice of violation/order from seven business days to fifteen calendar days;
- (5) Specifies information to be contained in a request for administrative review;
- (6) Specifies information to be included in a statement of expense regarding abatement activities;
- (7) Clarifies liability for the costs of abatement;
- (8) Requires a property owner or interested party to appeal the costs included in a statement of expenses, and clarifies that the Board of Supervisors may order the abatement costs to be specially assessed or liened against the property through later Board action;
- (9) Adds provisions clarifying that ordinance sections, provisions, etc., are severable and that the ordinance does not create a duty to enforce; and
- (10) Clarifies that this ordinance has been enacted pursuant to multiple statutory authorities.

These updates are in addition to updates that were made earlier this year in the County Hearing Officer ordinance relating to the appeal process.

The goal of the Fire Department is to ensure property compliance within Tulare County with regards to hazardous weeds and rubbish nuisances to minimize the risk of fire, loss of life and property. The amendments to the ordinance will allow the Fire Department to continue to meet this goal. Annually, all local responsibility areas are inspected, with approximately 2,000 properties being found to be in violation of Chapter 11 of Part IV of the Ordinance Code.

FISCAL IMPACT/FINANCING:

None.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:


The proposed amendments to the ordinance will help the Fire Department loss

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prevention activities, strengthen the Hazard Abatement Program and cost recovery process. The Safety and Security initiative will be supported by the amended ordinance, which will allow the Fire Department to continue monitoring hazardous conditions on properties throughout the County.

ADMINISTRATIVE SIGN-OFF:



Jeff McLaughlin
Division Chief, Operations

cc: County Administrative Office

Attachment(s) Fire Abatement Ordinance Amendments (Clean Copy)
Fire Abatement Ordinance Amendments (Redlined Copy)
Pre-hearing Summary of Proposed Ordinance Amendments
Post-hearing Summary of Proposed Ordinance Amendments
Power Point Presentation

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF FIRE HAZARD)
ABATEMENT ORDINANCE) Resolution No. _____
AMENDMENTS) Agreement No. _____
)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD July 9, 2019, BY THE
FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JASON T. BRITT
 COUNTY ADMINISTRATIVE OFFICER/
 CLERK, BOARD OF SUPERVISORS

BY: _____
 Deputy Clerk

* * * * *

1. Introduced and waived the first reading of an ordinance amending Chapter 11 of Part IV of the Ordinance Code of Tulare County, pertaining to abatement of fire hazardous weeds and rubbish nuisances.
2. Set the second reading for July 23, 2019.
3. Directed the Clerk to publish a summary of the ordinance before the second reading, as required by law.

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF FIRE HAZARD)
ABATEMENT ORDINANCE) Resolution No. _____
AMENDMENTS) Agreement No. _____
)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD July 23, 2019, BY
THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JASON T. BRITT
 COUNTY ADMINISTRATIVE OFFICER/
 CLERK, BOARD OF SUPERVISORS

BY: _____
 Deputy Clerk

* * * * *

1. Waived the second reading and adopt an ordinance amending Chapter 11 of Part IV of the Ordinance Code of Tulare County, pertaining to abatement of fire hazardous weeds and rubbish nuisances.
2. Directed the Clerk to publish a summary of the ordinance and to post a full copy of the ordinance after adoption, as required by law.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 11 OF PART IV OF THE
ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO ABATEMENT
OF FIRE HAZARDOUS WEEDS AND RUBBISH NUISANCES.

THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE ORDAINS AS FOLLOWS:

Section 1. Section 4-11-1000 ("Legislative Authority: Title") of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is amended to read as follows:

4-11-1000 LEGISLATIVE AUTHORITY: TITLE:

Pursuant to the authority granted it by section 25845 of the Government Code and sections 14930 and 14931 of the Health and Safety Code, the Board of Supervisors does enact this Chapter, which shall be known and may be cited as the Fire Hazardous Weeds and Rubbish Ordinance.

Section 2. Section 4-11-1020 of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is added to read as follows:

4-11-1020 NO DUTY TO ENFORCE:

Nothing in this Chapter shall be construed as imposing any duty on the County Fire Chief, or any other agency, department, or division of the County to take any specific enforcement action with respect to alleged violations of this Chapter, including issuing citations or notices of violations pursuant to this Chapter. Neither the County Fire Chief nor any other agency, department, or division of the County, or the County, shall be held liable for failure to take any specific enforcement action to correct an alleged violation of this Chapter.

Section 3. Section 4-11-1025 of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is added to read as follows:

4-11-1025 SEVERABILITY

The provisions of this Chapter are hereby declared to be severable. If any section, subsection, subdivision, sentence, clause, phrase, portion, or application of this Chapter is for any reason

held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision, and that holding shall not affect the validity of the remaining portions of this Chapter. The Board hereby declares that it would have enacted this Chapter, each section, subsection, subdivision, sentence, clause, phrase, and portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions be declared invalid.

Section 4. Section 4-11-1070 of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is amended to read as follows:

4-11-1070 DEFINITIONS:

Except where the context otherwise requires, the following definitions shall govern the construction of this Chapter:

- (a) "Weed" means any plant, whether herbaceous or woody and of whatever height, except a tree, which grows wild.
- (b) "Grass" means any herbaceous plant which is cultivated and which attains, when mature, if uncontrolled, such a height as to be a medium for the rapid spread of fire.
- (c) "Rank growth" means a cover of vegetation of any type, cultivated or not, including trees, which has attained or will, if allowed to mature, attain such a height and density as to be a medium for the rapid spread of fire.
- (d) "Rubbish" means material of whatever value placed or allowed to accumulate so as to be a medium for the rapid spread of fire.
- (e) "Cost of administration" means the cost to the County of performing the various administrative acts required under this Chapter with regard to the abatement of a public nuisance, including, without limitation, the costs of investigating such nuisance and the cost of prosecuting the public nuisance, but not including the actual cost of physically abating the nuisance. The Board of Supervisors shall establish by resolution, from time to time, the fee necessary to cover the cost of administration per parcel for a nuisance abated by the County Fire Chief.
- (f) "Board" means the Board of Supervisors of the County.

Section 5. Section 4-11-1125 ("Notice") of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is amended to read as follows:

4-11-1125 NOTICE:

Whenever the County Fire Chief determines that a nuisance described in section 4-11-1065 of this Chapter exists upon any private property within the County, he or she may prepare a notice of violation and order to abate ("notice/order"), and shall serve a copy thereof upon the owner of the real property upon which the nuisance exists, as shown on the last equalized assessment roll, or to the current owner if otherwise known to the County Fire Chief. The County Fire Chief shall also serve copies of the notice/order upon anyone known to the County Fire Chief to be in possession of the real property, and upon any mortgagee, beneficiary under a deed of trust, or other lienholders of record.

Section 6. Section 4-11-1130 ("Notice: Contents") of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is amended to read as follows:

4-11-1130 NOTICE/ORDER: CONTENTS:

The notice/order required by section 4-11-1125 of this Chapter shall:

- (a) Identify the owner of the private property upon which the nuisance exists, as the name appears on the records of the County Assessor/Clerk-Recorder.
- (b) Describe the location of such private property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property.
- (c) Identify such property by reference to the Assessor's Parcel Number.
- (d) Contain a statement that a fire hazardous condition exists and that it has been determined by the County Fire Chief to be a public nuisance described in section 4-11-1065 of this Chapter.
- (e) Contain an order specifying the repairs or corrective actions that are required to correct or abate the fire hazardous condition.
- (f) Contain a statement that the owner may within fifteen (15) calendar days after delivery or service of the notice make a request in writing to the County Fire Chief for administrative

review of the determination that the conditions on the property create a public nuisance, or to show that for some other reason those conditions should not be abated in accordance with the provisions of this Chapter. The notice/order shall include a telephone number and an Internet website (if applicable) where a property owner may obtain a copy of the administrative review request form. A copy of the request form shall also be included with the notice.

(g) Contain a statement explaining the consequences of failing to abate or request administrative review within the applicable time periods, including (i) that the notice/order will become a final order; (ii) that the County Fire Chief may send an additional "Final Notice" informing the property owner and other affected parties that because the hazard has not been abated, the property owner may be held liable for certain fire suppression or medical and rescue costs; (iii) that the County Fire Chief may abate the public nuisance at the owner's expense, not less than thirty (30) days after the date said notice/order was mailed or personally delivered; and (iv) that if the notice/order is not fully complied with within the applicable time period, the County may impose fines or penalties pursuant to this Chapter and any other applicable laws, and it may seek recovery of its civil, administrative and abatement costs, including by means of liens and/or special assessments against the subject real property that will be collected at the same time and in the same manner as ordinary real property taxes.

Section 7. Section 4-11-1135 ("Notice: Mailing: Personal Delivery") of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is amended to read as follows:

4-11-1135 NOTICE: MAILING: PERSONAL DELIVERY: POSTING:

(a) Unless otherwise required by law, the notices/orders required by this Chapter shall be served by one or more of the following methods:

(1) Personal service, by delivery to the party or attorney on whom the service is required to be made.

(2) Service by first class or certified mail. Such service shall be deemed effective two (2) days after the date of mailing. The owner of a property may be served by first class or certified mail at his or her address as it appears on the last equalized assessment roll, except that, if the records of the County Assessor/Clerk-Recorder show that the ownership has changed since the last equalized assessment roll was compiled, notice shall be mailed to the new owner.

(3) Service by posting. If service cannot with diligent effort be accomplished by personal delivery or by mail, then notice may be given by posting copies of the notice/order along the subject real property not more than one thousand (1,000) feet apart, but in no event shall fewer than two (2) signs be posted.

(b) A copy of the any notice/order served pursuant to this section may be recorded against the subject real property in the office of the County Assessor/Clerk-Recorder.

(c) If the County Fire Chief serves a notice/order pursuant to this Chapter in the manner and within the time limits required by this section, then the failure of any person to receive actual notice of any proceedings shall not affect the validity of any proceedings taken pursuant to this Chapter.

Section 8. Section 4-11-1140 ("Notice: Posting") of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is repealed.

Section 9. Section 4-11-1190 ("Administrative Review: Request") of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is amended to read as follows:

4-11-1190 ADMINISTRATIVE REVIEW: REQUEST:

(a) The owner of property upon which the County Fire Chief has determined that a nuisance described in section 4-11-1065 of this Chapter exists may request administrative review on or before the fifteenth (15th) calendar day following the date of mailing of the notice or the date on which the notice was personally delivered by filing a written request therefor with the County Fire Chief. The request for administrative review shall include the following information, and may be on a form provided by the County Fire Chief:

(1) The Property Street Address (name and number), the Assessor's Parcel Number, and the name of the owner and his or her address.

(2) A brief statement setting forth the interest the aggrieved person has in the matter relating to the imposition of the fine/penalty.

(3) A brief statement of the material facts relating to the determination of the existence of the nuisance, and/or which the aggrieved person claims support his or her contention that no administrative fine/penalty should be imposed or that an administrative

fine/penalty of a different amount is warranted; and

(4) An address at which the aggrieved person agrees notice of any additional proceedings or an order relating to imposition of the administrative fine/penalty may be received by first class mail.

(b) Unless the nuisance is abated as specified in the notice/order, or the real property owner or other party with a legally protected interest in the real property requests administrative review of the determination that a public nuisance exists within fifteen (15) calendar days after the date the notice/order was served, then the County Fire Chief's notice/order shall constitute a final administrative order or decision. It cannot be appealed and cannot be judicially reviewed, because the aggrieved person failed to exhaust available administrative remedies.

Section 10. Section 4-11-1195 ("Administrative Review: Notice") of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is amended to read as follows:

4-11-1195 ADMINISTRATIVE REVIEW: NOTICE:

If administrative review has been requested in accordance with section 4-11-1190 of this Chapter, the County Fire Chief or designee, as administrative review officer, shall set a date and time for such administrative review and send a notice thereof by regular mail at least five (5) calendar days before such date to the aggrieved person at the address set forth on his or her request.

Section 11. Section 4-11-1205 ("Administrative Review: Decision") of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is amended to read as follows:

4-11-1205 ADMINISTRATIVE REVIEW: DECISION:

At the conclusion of the administrative review, the administrative review officer may determine:

(a) That no public nuisance exists.

(b) That a public nuisance exists which should be abated in accordance with section 4-11-1260 of this Chapter. The administrative review officer shall thereupon order the nuisance abated no sooner than the fifth (5th) business day following the mailing of notice of the administrative review officer's decision.

(c) That a public nuisance exists which may be removed by some procedure proposed by the owner other than destruction of the fire hazardous plants or materials. If the administrative review officer determines that another procedure proposed by the owner may be employed to remove the public nuisance, the officer shall set a reasonable time within which the owner must complete that procedure. If the owner fails to complete the proposed procedure within the time limit set by the administrative review officer, the County Fire Chief may, upon five (5) business days' notice, sent by him or her to the owner by regular mail, commence abatement in accordance with section 4-11-1260 of this Chapter.

(d) An appropriate amount for administrative fines/penalties, if any.

Section 12. The title of Article 9 ("Abatement and Report of Cost") of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is amended to read as follows:

ARTICLE 9. ABATEMENT AND STATEMENT OF EXPENSES

Section 13. Section 4-11-1260 ("Abatement: Entering Private Property") of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is amended to read as follows:

4-11-1260 ABATEMENT: ENTERING PRIVATE PROPERTY:

If the owner has not earlier removed the nuisance and if no request for administrative review as provided by section 4-11-1190 of this Chapter is received by the County Fire Chief on or before the fifteenth (15th) calendar day following the mailing or personal delivery of the notice required by section 4-11-1125 of this Chapter, or if no notice of appeal to the County Hearing Officer after the administrative review officer's decision is filed as provided by section 4-11-1210 of this Chapter, within the time provided in Article 31 of Chapter 1 of Part I of this Code, the County Fire Chief may cause the nuisance to be abated. The County Fire Chief shall not commence the abatement until at least thirty (30) days after said notice was mailed or personally delivered to the owner. The County Fire Chief, his or her deputies, the employees of his or her department, and independent contractors hired by him or her may enter upon private property on which a nuisance described in section 4-11-1065 of this Chapter exists for the purpose of abating that nuisance. If necessary, the County Fire Chief shall apply to a court of competent jurisdiction for a warrant authorizing entry upon the subject real property for purposes of undertaking the work of abatement.

Section 14. Section 4-11-1265 ("Accounting") of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is amended to read as follows:

4-11-1265 STATEMENT OF EXPENSES:

(a) The County Fire Chief shall keep an account of the cost of every abatement carried out and shall prepare a statement of expenses in writing showing the cost of each abatement, itemized by parcel, and the applicable costs of administration. The County Fire Chief shall submit these statements of expenses to the Clerk of the Board. The statement of expenses or its supporting attachments shall include the following information:

- (1) Name(s) of the contractor(s) who performed the abatement, if any;
- (2) Dates when abatement activities were conducted on the real property, and information about what activities were conducted on which dates;
- (3) Number of individuals who worked on each type of abatement activity on the property;
- (4) Total number of hours the contractor's employees/agents spent on each type of abatement activity;
- (5) Rate for each type of abatement activity performed;
- (6) Itemized list of other fees or charges incurred in conducting the abatement, including, but not limited to, dump fees or travel fees; and
- (7) Costs of administration, including any applicable postage and attorneys' fees.

(b) Upon receipt of the statement of expenses, the Clerk of the Board shall mail a copy of the statement of expenses, and a notice explaining the right to appeal the statement of expenses to the County Hearing Officer, to the owner of the affected real property at the address provided in section 4-11-1135 of this Chapter, unless the owner has otherwise requested in writing, and to any mortgagee, lienholders of record, or beneficiary under a deed of trust.

Section 15. Section 4-11-1270 ("Hearing on Accounting: Notice: Waiver by Payment") of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is amended to read as follows:

4-11-1270 APPEAL ON STATEMENT OF EXPENSES: NOTICE: WAIVER BY PAYMENT:

(a) The owner of the affected real property, or other individual with a legally protected interest in the affected real property, may appeal for a reconsideration or modification of the statement of expenses to the County Hearing Officer. Any appeal to the County Hearing Officer shall be in writing and shall be filed with the Clerk of the Board within ten (10) calendar days after the date of mailing of the notice and statement of expenses. An appeal shall specifically set forth the grounds of the appeal. At the time of filing the appeal, the appellant shall pay a fee adequate to cover the cost of processing and hearing the appeal as established from time to time by resolution of the Board of Supervisors. The appellant may request a waiver of the fee pursuant to section 1-31-1060 of this Code.

(b) The Clerk of the Board shall mail notice to the appellant of the date and time that the County Hearing Officer will hear the appeal, which date shall be not less than (10) calendar days after the date of mailing the notice.

(c) Unless otherwise expressly stated by the owner, payment of the cost of abatement and the cost of administration without filing an appeal, or payment prior to an appeal hearing on the statement of expenses, shall be deemed a waiver of the right thereto and an admission that said statement of expenses is accurate and reasonable.

Section 16. Section 4-11-1275 ("Hearing on Accounting") of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is amended to read as follows:

4-11-1275 HEARING ON APPEAL: STATEMENT OF EXPENSES:

(a) At the time fixed by the Clerk of the Board, the County Hearing Officer shall hear the appeal on the statement of expenses. The owner may appear and be heard on the questions of whether the statement of expenses and the costs included are accurate and reasonable.

(b) The statement of expenses shall be admitted into evidence. The owner shall bear the burden of proving that the statement of expenses is not accurate and reasonable.

(c) The hearing shall be conducted in the manner prescribed in Article 31 of Chapter 1 of Part I of this Code.

Section 17. Section 4-11-1280 (“Modifications”) of Chapter 11 (“Fire Hazardous Weeds and Rubbish”) of Part IV (“Health, Safety and Sanitation”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1280 MODIFICATIONS:

The County Hearing Officer shall make such modifications in the statement of expenses as he or she deems necessary based on the evidence at the hearing, and thereafter shall confirm the statement of expenses in a written decision. The County Hearing Officer shall transmit the decision on the statement of expenses to the parties in the manner prescribed in section 1-31-1210 of this Code.

Section 18. Section 4-11-1285 (“Special Assessment and Lien”) of Chapter 11 (“Fire Hazardous Weeds and Rubbish”) of Part IV (“Health, Safety and Sanitation”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1285 LIABILITY FOR COST OF ABATEMENT: SPECIAL ASSESSMENT AND LIEN:

(a) The applicable owner of the real property shall be liable for the cost of the abatement, including the cost of administration, as so determined by the statement of expenses if such statement is not appealed, or by the County Hearing Officer if the statement of expenses is appealed.

(b) Pursuant to section 25845 of the Government Code, the Board may order that the cost of abating nuisances pursuant to this Chapter and the applicable costs of administration be placed upon the County tax roll by the County Auditor as special assessments against the respective parcels of land and collected at the same time and in the same manner as ordinary county taxes are collected, or placed on the unsecured roll, if such costs and fees are not paid (i) within five (5) days following service of the County Hearing Officer’s decision under section 4-11-1280, if the statement of expenses is appealed, or (ii) within thirty (30) days following service of the statement of expenses, if not appealed; provided, however, that the cost of abatement and the cost of administration as finally determined shall not be placed on the tax roll if paid in full prior to entry of said costs on the tax roll.

(c) The Board may also order that a notice of abatement lien be recorded against any applicable real property until such costs and fees have been paid in full.

Section 19. Section 4-11-1290 (“Violation: Penalty”) of Chapter 11 (“Fire Hazardous Weeds and Rubbish”) of Part IV (“Health, Safety and Sanitation”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1290 VIOLATION: PENALTY:

The maintenance on private property of a public nuisance as described in section 4-11-1065 of this Chapter shall constitute an infraction, punishable under section 125 of this Code if any of the following conditions are met:

- (a) Such public nuisance is not corrected within thirty (30) days after the County Fire Chief has notified the property owner of the existence of the public nuisance and there has been no timely request made to the County Fire Chief for administrative review of the determination of the existence of such public nuisance; or
- (b) If, after administrative review, the administrative review officer determines that such a public nuisance exists and such public nuisance is not corrected within five (5) business days following mailing of the notice of the administrative review officer’s decision to the property owner; or
- (c) If, after administrative review and determination by administrative review officer that such a public nuisance exists and that such public nuisance may be removed by some procedure proposed by the owner other than destruction of the fire hazardous plants or materials, the administrative review officer has set a specific time within which the owner must complete the procedure, and such public nuisance is not corrected within the period of time as set by the administrative review officer; or
- (d) If, after a hearing by the County Hearing Officer as set forth in Article 31 of Chapter 1 of Part I of this Code, the public nuisance is not corrected within the time set by the County Hearing Officer.

Section 20. The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof, and prior to the expiration of fifteen (15) days from the passage hereof a summary shall be published once in a newspaper printed and published in the County of Tulare, State of California, together with the names of the Board of Supervisors voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on the ____ day of _____, 2019, at a regular meeting of said Board duly and regularly convened on said day by the following vote:

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

COUNTY OF TULARE

By: _____
Chairman, Board of Supervisors

ATTEST:

JASON T. BRITT
County Administrative Officer/
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Approved as to Legal Form:
COUNTY COUNSEL

By: _____
Deputy
Matter No. 2019760

JET5/28/20192019760/1328110

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 11 OF PART IV OF THE
ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO ABATEMENT
OF FIRE HAZARDOUS WEEDS AND RUBBISH NUISANCES.

THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE ORDAINS AS FOLLOWS:

Section 1. Section 4-11-1000 (“Legislative Authority: Title”) of Chapter 11 (“Fire Hazardous Weeds and Rubbish”) of Part IV (“Health, Safety and Sanitation”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1000 LEGISLATIVE AUTHORITY: TITLE:

Pursuant to the authority granted it by section 25845 of the Government Code and sections 14930 and 14931 of the Health and Safety Code of the State of California, the Board of Supervisors does enact this Chapter, which shall be known and may be cited as the Fire Hazardous Weeds and Rubbish Ordinance.

Section 2. Section 4-11-1020 of Chapter 11 (“Fire Hazardous Weeds and Rubbish”) of Part IV (“Health, Safety and Sanitation”) of the Tulare County Ordinance Code is added to read as follows:

4-11-1020 NO DUTY TO ENFORCE:

Nothing in this Chapter shall be construed as imposing any duty on the County Fire Chief, or any other agency, department, or division of the County to take any specific enforcement action with respect to alleged violations of this Chapter, including issuing citations or notices of violations pursuant to this Chapter. Neither the County Fire Chief nor any other agency, department, or division of the County, or the County, shall be held liable for failure to take any specific enforcement action to correct an alleged violation of this Chapter.

Section 3. Section 4-11-1025 of Chapter 11 (“Fire Hazardous Weeds and Rubbish”) of Part IV (“Health, Safety and Sanitation”) of the Tulare County Ordinance Code is added to read as follows:

4-11-1025 SEVERABILITY

The provisions of this Chapter are hereby declared to be severable. If any section, subsection, subdivision, sentence, clause, phrase, portion, or application of this Chapter is for any reason

held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be deemed a separate, distinct, and independent provision, and that holding shall not affect the validity of the remaining portions of this Chapter. The Board hereby declares that it would have enacted this Chapter, each section, subsection, subdivision, sentence, clause, phrase, and portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions be declared invalid.

Section 4. Section 4-11-1070 of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is amended to read as follows:

4-11-1070 DEFINITIONS:

Except where the context otherwise requires, the following definitions shall govern the construction of this Chapter:

(a) "Weed" means any plant, whether herbaceous or woody and of whatever height, except a tree, which grows wild.

(b) "Grass" means any herbaceous plant which is cultivated and which attains, when mature, if uncontrolled, such a height as to be a medium for the rapid spread of fire.

(c) "Rank growth" means a cover of vegetation of any type, cultivated or not, including trees, which has attained or will, if allowed to mature, attain such a height and density as to be a medium for the rapid spread of fire.

(d) "Rubbish" means material of whatever value placed or allowed to accumulate so as to be a medium for the rapid spread of fire.

(e) "Cost of administration" means the cost to the County of ~~doing performing~~ the various administrative acts required under this Chapter, except with regard to the abatement of a public nuisance, including, without limitation, the costs of investigating such nuisance and the cost of prosecuting the public nuisance, but not including the actual cost of abatement physically abating the nuisance. The Board of Supervisors shall establish by resolution, from time to time, the fee necessary to cover the cost of administration per parcel for a nuisance abated by the County Fire Chief. ~~without administrative review. When administrative review is done by the administrative review officer or County Hearing Officer to review the determination of the County Fire Chief that a nuisance exists, the administrative review officer or County Hearing Officer shall determine the actual costs of administration attributable to the parcel. For the~~

~~purpose of determining the cost of administration, all contiguous property owned by the same person or persons shall be deemed to be a single parcel, even though the contiguous property may be designated with more than one Assessor's Parcel Number.~~

(f) "Board" means the Board of Supervisors of the County.

Section 5. Section 4-11-1125 ("Notice") of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is amended to read as follows:

4-11-1125 NOTICE:

Whenever the County Fire Chief determines that a nuisance described in section 4-11-1065 of this Chapter exists upon any private property within the County, he or she shall ~~notify the owner of the existence of the nuisance.~~ may prepare a notice of violation and order to abate ("notice/order"), and shall serve a copy thereof upon the owner of the real property upon which the nuisance exists, as shown on the last equalized assessment roll, or to the current owner if otherwise known to the County Fire Chief. The County Fire Chief shall also serve copies of the notice/order upon anyone known to the County Fire Chief to be in possession of the real property, and upon any mortgagee, beneficiary under a deed of trust, or other lienholders of record.

Section 6. Section 4-11-1130 ("Notice: Contents") of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is amended to read as follows:

4-11-1130 NOTICE/ORDER: CONTENTS:

The notice/order required by section 4-11-1125 of this Chapter shall:

- (a) Identify the owner of the private property upon which the nuisance exists, as the name appears on the records of the County Assessor/Clerk-Recorder.
- (b) Describe the location of such private property by its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property.
- (c) Identify such property by reference to the Assessor's Parcel Number.

(d) Contain a statement that a fire hazardous condition exists and that it has been determined by the County Fire Chief to be a public nuisance described in section 4-11-1065 of this Chapter.

(e) Contain an order specifying the repairs or corrective actions that are required to correct or abate the fire hazardous condition.

(e)(f) Contain a statement that the owner may within seven (7) business fifteen (15) calendar days after mailing or personal delivery or service of the notice make a request in writing to the County Fire Chief for administrative review of the determination of the County Fire Chief that the conditions existing on the property create a public nuisance, or to show that for some other reason those conditions should not be abated in accordance with the provisions of this Chapter. The notice/order shall include a telephone number and an Internet website (if applicable) where a property owner may obtain a copy of the administrative review request form. A copy of the request form shall also be included with the notice.

(f)(g) Contain a statement that, unless the owner corrects the fire hazardous condition explaining the consequences of failing to abate or requests request administrative review by the County Fire Chief within the applicable time periods, including (i) that the notice/order will become a final order; (ii) that the County Fire Chief may send an additional "Final Notice" informing the property owner and other affected parties that because the hazard has not been abated, the property owner may be held liable for certain fire suppression or medical and rescue costs; (iii) that the County Fire Chief will may abate the public nuisance at the owner's expense, not less than fifteen (15) business thirty (30) days after the date said notice/order was mailed or personally delivered. It shall also state that the cost of such; and (iv) that if the notice/order is not fully complied with within the applicable time period, the County may impose fines or penalties pursuant to this Chapter and any other applicable laws, and may seek recovery of its civil, administrative and abatement, together with a charge for the cost of administration costs, including by means of the abatement program attributable to said abatement, may be made a liens and/or special assessment added to the County assessment roll and become a lien on the assessments against the subject real property, or placed on the unsecured tax roll, that will be collected at the same time and in the same manner as ordinary real property taxes.

Section 7. Section 4-11-1135 (“Notice: Mailing: Personal Delivery”) of Chapter 11 (“Fire Hazardous Weeds and Rubbish”) of Part IV (“Health, Safety and Sanitation”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1135 NOTICE: MAILING: PERSONAL DELIVERY: POSTING:

(a) Unless otherwise The notice required by section 4-11-1125 of law, the notices/orders required by this Chapter shall be served by delivering it personally to the owner, or by one or more of the following methods:

(1) Personal service, by delivery to the party or attorney on whom the service is required to be made.

(2) Service by first class or certified mail. Such service shall be deemed effective two (2) days after the date of mailing it by regular mail to the . The owner as of a property may be served by first class or certified mail at his or her address as it appears on the last equalized assessment roll, except that, if the records of the County Assessor/Clerk-Recorder show that the ownership has changed since the last equalized assessment roll was compiled, the notice shall be mailed to the new owner.

(3) Service by posting. If service cannot with diligent effort be accomplished by personal delivery or by mail, then notice may be given by posting copies of the notice/order along the subject real property not more than one thousand (1,000) feet apart, but in no event shall fewer than two (2) signs be posted.

(b) A copy of the any notice/order served pursuant to this section may be recorded against the subject real property in the office of the County Assessor/Clerk-Recorder.

(c) If the County Fire Chief serves a notice/order pursuant to this Chapter in the manner and within the time limits required by this section, then the failure of any person to receive actual notice of any proceedings shall not affect the validity of any proceedings taken pursuant to this Chapter.

Section 8. Section 4-11-1140 (“Notice: Posting”) of Chapter 11 (“Fire Hazardous Weeds and Rubbish”) of Part IV (“Health, Safety and Sanitation”) of the Tulare County Ordinance Code is repealed.

4-11-1140 — NOTICE: POSTING:

~~If the address of the new owner is not in the County Assessor/Clerk-Recorder's records and is not otherwise discovered, notice may be given by posting copies along the subject property not more than one thousand (1000) feet apart. In no event shall fewer than two (2) signs be posted when giving notice pursuant to this section.~~

Section 9. Section 4-11-1190 ("Administrative Review: Request") of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is amended to read as follows:

4-11-1190 ADMINISTRATIVE REVIEW: REQUEST:

(a) ~~_____~~ The owner of property upon which the County Fire Chief has determined that a nuisance described in section 4-11-1065 of this Chapter exists may request administrative review on or before the ~~seventh business~~ fifteenth (15th) calendar day following the ~~day~~ date of mailing of the notice or the date on which the notice was personally delivered ~~or posted~~ by filing a written request therefor with the County Fire Chief. The request for administrative review ~~shall describe~~ include the property by street name following information, and number and Assessor's Parcel Number and give the name of the owner and his or her address. ~~may be on a form provided by the County Fire Chief:~~

(1) _____ The Property Street Address (name and number), the Assessor's Parcel Number, and the name of the owner and his or her address.

(2) _____ A brief statement setting forth the interest the aggrieved person has in the matter relating to the imposition of the fine/penalty.

(3) _____ A brief statement of the material facts relating to the determination of the existence of the nuisance, and/or which the aggrieved person claims support his or her contention that no administrative fine/penalty should be imposed or that an administrative fine/penalty of a different amount is warranted; and

(4) _____ An address at which the aggrieved person agrees notice of any additional proceedings or an order relating to imposition of the administrative fine/penalty may be received by first class mail.

(b) Unless the nuisance is abated as specified in the notice/order, or the real property owner or other party with a legally protected interest in the real property requests administrative review of the determination that a public nuisance exists within fifteen (15) calendar days after the date the notice/order was served, then the County Fire Chief's notice/order shall constitute a

final administrative order or decision. It cannot be appealed and cannot be judicially reviewed, because the aggrieved person failed to exhaust available administrative remedies.

Section 10. Section 4-11-1195 (“Administrative Review: Notice”) of Chapter 11 (“Fire Hazardous Weeds and Rubbish”) of Part IV (“Health, Safety and Sanitation”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1195 ADMINISTRATIVE REVIEW: NOTICE:

If administrative review has been requested in accordance with section 4-11-1190 of this Chapter, the County Fire Chief or designee, as administrative review officer, shall set a date and time for such administrative review and send a notice thereof by regular mail at least ~~seven (7)~~ business-five (5) calendar days before such date to the ~~owner~~ aggrieved person at the address set forth on his or her request.

Section 11. Section 4-11-1205 (“Administrative Review: Decision”) of Chapter 11 (“Fire Hazardous Weeds and Rubbish”) of Part IV (“Health, Safety and Sanitation”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1205 ADMINISTRATIVE REVIEW: DECISION:

At the conclusion of the administrative review, the administrative review officer may determine:

(a) That no public nuisance exists.

(b) That a public nuisance exists which should be abated in accordance with section 4-11-1260 of this Chapter. The administrative review officer shall thereupon order the nuisance abated no sooner than the fifth (5th) business day following the mailing of notice of the administrative review officer’s decision.

(c) That a public nuisance exists which may be removed by some procedure proposed by the owner other than destruction of the fire hazardous plants or materials. If the administrative review officer determines that another procedure proposed by the owner may be employed to remove the public nuisance, the officer shall set a reasonable time within which the owner must complete that procedure. If the owner fails to complete the proposed procedure ~~proposed~~ within the time limit set by the administrative review officer, the County Fire Chief may, upon five (5) business days’ notice, sent by him or her to the owner by regular mail, commence abatement in accordance with section 4-11-1260 of this Chapter. ~~At any administrative review in which it is determined that a public nuisance exists, whether abatement or implementation of~~

~~an alternate procedure proposed by the owner is ordered, the administrative review officer shall also determine the administrative costs incurred. The owner shall be entitled to be heard on the question of such administrative costs.~~

(d) An appropriate amount for administrative fines/penalties, if any.

Section 12. The title of Article 9 (“Abatement and Report of Cost”) of Chapter 11 (“Fire Hazardous Weeds and Rubbish”) of Part IV (“Health, Safety and Sanitation”) of the Tulare County Ordinance Code is amended to read as follows:

ARTICLE 9. ABATEMENT AND REPORT OF COST STATEMENT OF EXPENSES

Section 13. Section 4-11-1260 (“Abatement: Entering Private Property”) of Chapter 11 (“Fire Hazardous Weeds and Rubbish”) of Part IV (“Health, Safety and Sanitation”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1260 ABATEMENT: ENTERING PRIVATE PROPERTY:

If the owner has not earlier removed the nuisance and if no request for administrative review as provided by section 4-11-1190 of this Chapter is received by the County Fire Chief on or before the ~~seventh business~~ fifteenth (15th) calendar day following the mailing or personal delivery of the notice required by section 4-11-1125 of this Chapter, or if no notice of appeal to the County Hearing Officer after the administrative review officer’s decision is filed as provided by section 4-11-1210 of this Chapter, within the time provided in Article 31 of Chapter 1 of Part I of this Code, the County Fire Chief ~~shall~~ may cause the nuisance to be abated. The County Fire Chief shall not commence the abatement until at least ~~fifteen (15) business~~ thirty (30) days after said notice was mailed or personally delivered to the owner. The County Fire Chief, his or her deputies, the employees of his or her department, and independent contractors hired by him or her may enter upon private property on which a nuisance described in section 4-11-1065 of this Chapter exists for the purpose of abating that nuisance. If necessary, the County Fire Chief shall apply to a court of competent jurisdiction for a warrant authorizing entry upon the subject real property for purposes of undertaking the work of abatement.

Section 14. Section 4-11-1265 (“Accounting”) of Chapter 11 (“Fire Hazardous Weeds and Rubbish”) of Part IV (“Health, Safety and Sanitation”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1265 ACCOUNTING STATEMENT OF EXPENSES:

(a) The County Fire Chief shall keep an account of the cost of every abatement carried out and shall ~~render a report~~ prepare a statement of expenses in writing showing the cost of each abatement, itemized by parcel, to the County Hearing Officer showing the cost of abatement and the cost of administration as declared in subsection (e) of section 4-11-1070 of this Chapter, or as determined by the administrative review officer pursuant to section 4-11-1205 of this Chapter, or by the County Hearing Officer pursuant to section 4-11-1210 of this Chapter, for each parcel, and the applicable costs of administration. The County Fire Chief shall submit these statements of expenses to the Clerk of the Board. The statement of expenses or its supporting attachments shall include the following information:

(1) Name(s) of the contractor(s) who performed the abatement, if any;

(2) Dates when abatement activities were conducted on the real property, and information about what activities were conducted on which dates;

(3) Number of individuals who worked on each type of abatement activity on the property;

(4) Total number of hours the contractor's employees/agents spent on each type of abatement activity;

(5) Rate for each type of abatement activity performed;

(6) Itemized list of other fees or charges incurred in conducting the abatement, including, but not limited to, dump fees or travel fees; and

(7) Costs of administration, including any applicable postage and attorneys' fees.

(b) Upon receipt of the statement of expenses, the Clerk of the Board shall mail a copy of the statement of expenses, and a notice explaining the right to appeal the statement of expenses to the County Hearing Officer, to the owner of the affected real property at the address provided in section 4-11-1135 of this Chapter, unless the owner has otherwise requested in writing, and to any mortgagee, lienholders of record, or beneficiary under a deed of trust.

Section 15. Section 4-11-1270 (“Hearing on Accounting: Notice: Waiver by Payment”) of Chapter 11 (“Fire Hazardous Weeds and Rubbish”) of Part IV (“Health, Safety and Sanitation”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1270 APPEAL ON STATEMENT OF EXPENSES: NOTICE: WAIVER BY PAYMENT:

Upon receipt of the account of the County Fire Chief, the Clerk of the Board of Supervisors shall deposit a copy of the account pertaining to the property of each owner in the mail addressed to the owner and include therewith a notice informing the owner that, at a date and time not less than five (5) business days after the date of mailing of the notice, the County Hearing Officer will review the account and that the owner may appear at said time and be heard. The owner may waive the hearing on the accounting by paying the cost of abatement and the cost of administration to the County Fire Chief prior to the time set for the hearing by the Clerk of the Board of Supervisors.

(a) The owner of the affected real property, or other individual with a legally protected interest in the affected real property, may appeal for a reconsideration or modification of the statement of expenses to the County Hearing Officer. Any appeal to the County Hearing Officer shall be in writing and shall be filed with the Clerk of the Board within ten (10) calendar days after the date of mailing of the notice and statement of expenses. An appeal shall specifically set forth the grounds of the appeal. At the time of filing the appeal, the appellant shall pay a fee adequate to cover the cost of processing and hearing the appeal as established from time to time by resolution of the Board of Supervisors. The appellant may request a waiver of the fee pursuant to section 1-31-1060 of this Code.

(b) The Clerk of the Board shall mail notice to the appellant of the date and time that the County Hearing Officer will hear the appeal, which date shall be not less than (10) calendar days after the date of mailing the notice.

(c) Unless otherwise expressly stated by the owner, payment of the cost of abatement and the cost of administration without filing an appeal, or payment prior to said an appeal hearing on the statement of expenses, shall be deemed a waiver of the right thereto and an admission that said accounting statement of expenses is accurate and reasonable.

Section 16. Section 4-11-1275 (“Hearing on Accounting”) of Chapter 11 (“Fire Hazardous Weeds and Rubbish”) of Part IV (“Health, Safety and Sanitation”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1275 HEARING ON ACCOUNTING APPEAL: STATEMENT OF EXPENSES:

(a) At the time fixed by the Clerk of the Board, the County Hearing Officer shall ~~review the report of the County Fire Chief.~~ hear the appeal on the statement of expenses. ~~An~~ The owner may appear at said time and be heard on the questions of whether the accounting, so far as it pertains to the cost of abating a nuisance upon the land of the owner is statement of expenses and the costs included are accurate and the amounts reported reasonable. ~~The cost of administration shall also be reviewed if that matter has not previously been reviewed in an administrative review of the determination of the County Fire Chief that a nuisance existed.~~

(b) ~~The report of the County Fire Chief statement of expenses shall be admitted into evidence.~~ The owner shall bear the burden of proving that the accounting statement of expenses is not accurate and reasonable.

(c) The hearing shall be conducted in the manner prescribed in Article 31 of Chapter 1 of Part I of this Code.

Section 17. Section 4-11-1280 (“Modifications”) of Chapter 11 (“Fire Hazardous Weeds and Rubbish”) of Part IV (“Health, Safety and Sanitation”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1280 MODIFICATIONS:

The County Hearing Officer shall make such modifications in the ~~accounting statement of expenses~~ as he or she deems necessary based on the evidence at the hearing, and thereafter shall confirm the ~~report by statement of expenses in a written decision.~~ The County Hearing Officer shall transmit the decision on the statement of expenses to the parties in the manner prescribed in section 1-31-1210 of this Code.

Section 18. Section 4-11-1285 (“Special Assessment and Lien”) of Chapter 11 (“Fire Hazardous Weeds and Rubbish”) of Part IV (“Health, Safety and Sanitation”) of the Tulare County Ordinance Code is amended to read as follows:

4-11-1285 LIABILITY FOR COST OF ABATEMENT: SPECIAL ASSESSMENT AND LIEN:

(a) The applicable owner of the real property shall be liable for the cost of the abatement, including the cost of administration, as so determined by the statement of expenses if such statement is not appealed, or by the County Hearing Officer if the statement of expenses is appealed.

(b) Pursuant to section 25845 of the Government Code, ~~The Board of Supervisors may~~ order that the cost of abating nuisances pursuant to this Chapter and the ~~administrative costs as confirmed by the County Hearing Officer~~ applicable costs of administration be placed upon the County tax roll by the County Auditor as special assessments against the respective parcels of land, ~~or placed on the unsecured roll, pursuant to section 25845 of the Government Code, and collected at the same time and in the same manner as ordinary county taxes are collected, or placed on the unsecured roll, if such costs and fees are not paid (i) within five (5) days following service of the County Hearing Officer's decision under section 4-11-1280, if the statement of expenses is appealed, or (ii) within thirty (30) days following service of the statement of expenses, if not appealed;~~ provided, however, that the cost of abatement and the cost of administration as finally determined shall not be placed on the tax roll if paid in full prior to entry of said costs on the tax roll.

(c) The Board may also order that a notice of abatement lien be recorded against any applicable real property until such costs and fees have been paid in full.

Section 19. Section 4-11-1290 ("Violation: Penalty") of Chapter 11 ("Fire Hazardous Weeds and Rubbish") of Part IV ("Health, Safety and Sanitation") of the Tulare County Ordinance Code is amended to read as follows:

4-11-1290 VIOLATION: PENALTY:

The maintenance on private property of a public nuisance as described in section 4-11-1065 of this Chapter shall constitute an infraction, punishable under section 125 of this Code if any of the following conditions are met:

(a) Such public nuisance is not corrected within ~~fifteen (15)~~ thirty (30) days after the County Fire Chief has notified the property owner of the existence of the public nuisance and there has been no timely request made to the County Fire Chief for administrative review of the determination of the existence of such public nuisance; or

(b) If, after administrative review, the administrative review officer determines that such a public nuisance exists and such public nuisance is not corrected within five (5) business days

following mailing of the notice of the administrative review officer's decision to the property owner; or

(c) If, after administrative review and determination by administrative review officer that such a public nuisance exists and that such public nuisance may be removed by some procedure proposed by the owner other than destruction of the fire hazardous plants or materials, the administrative review officer has set a specific time within which the owner must complete the procedure, and such public nuisance is not corrected within the period of time as set by the administrative review officer; or

(d) If, after a hearing by the County Hearing Officer as set forth in Article 31 of Chapter 1 of Part I of this Code, the public nuisance is not corrected within the time set by the County Hearing Officer.

Section 20. The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof, and prior to the expiration of fifteen (15) days from the passage hereof a summary shall be published once in a newspaper printed and published in the County of Tulare, State of California, together with the names of the Board of Supervisors voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on the ____ day of _____, 2019, at a regular meeting of said Board duly and regularly convened on said day by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

COUNTY OF TULARE

By: _____
Chairman, Board of Supervisors

ATTEST:

JASON T. BRITT
County Administrative Officer/
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Approved as to Legal Form:
COUNTY COUNSEL

By: _____
Deputy
Matter No. 2019760

JET5/28/20192019760/1328110

ORDINANCE NO. _____

PURSUANT TO GOVERNMENT CODE SECTION 25124(b)(1), THE FOLLOWING IS A SUMMARY OF AN ORDINANCE AMENDING CHAPTER 11 OF PART IV OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO ABATEMENT OF FIRE HAZARDOUS WEEDS AND RUBBISH NUISANCES.

SUMMARY OF PROPOSED ORDINANCE

This Ordinance amends the County's fire hazardous weeds and rubbish nuisance abatement ordinance (Part IV, Chapter 11 of the Ordinance Code of Tulare County) to clarify the abatement and cost recovery processes. Significant changes include: (1) updates to the definition of the "costs of administration"; (2) clarifies information that should be contained in a notice and order to abate, and the process for serving notices required by this Chapter; (3) extends the time for owners to abate a nuisance without penalty from fifteen business days to thirty calendar days; (4) extends the time to request administrative review of a notice of violation/order from seven business days to fifteen calendar days; (5) specifies information to be contained in a request for administrative review; (6) specifies information to be included in a statement of expense regarding abatement activities; (7) clarifies liability for the costs of abatement; (8) requires a property owner or interested party to appeal the costs included in a statement of expenses, and clarifies that the Board of Supervisors may order the abatement costs to be specially assessed or liened against the property through later Board action; (9) adds provisions clarifying that ordinance sections, provisions, etc., are severable and that the ordinance does not create a duty to enforce; and (10) clarifies that this ordinance is enacted pursuant to multiple statutory authorities.

The effective date of these changes will be thirty (30) days after adoption by the Board of Supervisors.

The ordinance herein summarized will be considered by the Board of Supervisors of the County of Tulare, State of California, on **Tuesday, July 23, 2019**, at a regular public meeting of said Board. At least five (5) days prior to **Tuesday, July 23, 2019**, a certified copy of the full text of the proposed ordinance shall be posted in the office of the Clerk of the Board of Supervisors and shall be available for public inspection at that location.

COUNTY OF TULARE

By: _____
Chairman, Board of Supervisors

ATTEST: JASON T. BRITT
County Administrative Officer/
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

ORDINANCE NO. _____

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The effective date of these changes will be thirty (30) days after adoption by the Board of Supervisors.

The ordinance herein summarized was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on the **23rd day of July, 2019**, at a regular meeting of said Board duly and regularly convened on said day by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

COUNTY OF TULARE

By: _____
Chairman, Board of Supervisors

ATTEST: JASON T. BRITT
County Administrative Officer/
Clerk of the Board of Supervisors

By: _____
Deputy Clerk



Tulare County Fire Abatement Ordinance Amendment

Ordinance to Amend Chapter 11 of Part IV of the Ordinance Code of
Tulare County, Pertaining to Abatement of Fire Hazardous Weeds and
Rubbish Nuisances

Process Improvements

- ▶ Earlier this year concerns were brought up regarding the abatement process used by the Fire Department.
- ▶ The main concerns were:
 - ▶ That notices were not received by property owners;
 - ▶ That the notices did not explain the steps to be taken to remove the violations;
 - ▶ That the statement of fees from the contractor was too vague;
 - ▶ And that the timelines to remove abatement violations and/or request an administrative review were not clearly explained.
- ▶ The proposed ordinance will address each of these concerns.

Changes to Definitions

- ▶ Cost of Administration
 - ▶ Expanded the definition to clarify ambiguous language and to explain what is considered an administrative cost.
- ▶ Board
 - ▶ Added “Board” to the definitions to explain that “Board” is referring to the “Board of Supervisors” throughout the ordinance.

Changes to Notice of Violation

- ▶ The changes clarify the information that should be contained in a notice and order to abate, and the process for serving these notices.
- ▶ The Notice of Violation shall be served by one or more of the following methods:
 - ▶ Personal delivery
 - ▶ First class or certified mail
 - ▶ Posting at the physical address
- ▶ The timeline for owners to correct violations has been extended from fifteen (15) business days to thirty (30) calendar days.
- ▶ The timeline for owners to make a request for an administrative review has been extended from seven (7) business days to fifteen (15) calendar days. In addition, this language will be added to the Notice of Violation.

Changes to Administrative Review: Request

- ▶ This section now includes an explanation of what is required on the Request for Administrative Review.
- ▶ Language has been added to clarify that the notice/order, if not appealed, shall constitute a final administrative order or decision of the Fire Chief.

Changes to Statement of Expenses

- ▶ Information regarding the statement of expense for abatement activities performed by the County, or an approved vendor, will include:
 - ▶ Name of the contractor, if any
 - ▶ Dates when the abatement activities were conducted and information about what activities were conducted on which dates
 - ▶ The number of individuals who worked on each type of abatement activity on the property
 - ▶ The total number of hours spent on each type of abatement activity on the property
 - ▶ The rate for each type of abatement activity
 - ▶ Itemized list for other fees or charges incurred in conducting the abatement, including but not limited to, dump fees or travel fees
 - ▶ Costs of administration including any applicable postage and attorney's fees

Changes to Liability for Cost of Abatement

- ▶ This section has been amended to clarify liability for the costs of abatement.
- ▶ Additionally, this section has been clarified that the Board of Supervisors may order the abatement costs to be specially assessed or liened against the property through later Board action.

Additional Changes

- ▶ Clarification has been made that this ordinance is enacted pursuant to multiple statutory authorities.
- ▶ Provisions clarifying that ordinance sections, provisions, etc., are severable and that the ordinance does not create a duty to enforce.

Summary

- ▶ The clarifications made through this ordinance have addressed each concern that was presented to the Board earlier this year.
- ▶ The proposed ordinance would allow the Fire Department to continue completing hazard abatement inspections and sending abatement notices, while insuring that the property owners are accurately informed about the abatement process.
- ▶ The proposed ordinance also allows for more time to correct any violations and to request an administrative review.

