

ORDINANCE NO. _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF
TEHAMA ADDING CHAPTER 9.05 TO THE TEHAMA COUNTY CODE
PERTAINING TO FIRE**

HAZARD ABATEMENT

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

SECTION 1. Chapter 9.05 is hereby added to the Tehama County Code to
read:

Chapter 9.05

FIRE HAZARD ABATEMENT

Sections:

ARTICLE I. ADMINISTRATION

9.05.010 Authority and Title.

9.05.020 Purpose.

9.05.030 Scope.

9.05.040 Administration.

ARTICLE II. DEFINITIONS AND REQUIREMENTS

9.05.050 Definitions.

9.05.060 Declaration of Nuisance.

9.05.070 Duty of Owner(s) and Occupant(s).

9.05.080 Firebreak Requirements.

ARTICLE III. NOTICE AND HEARING

9.05.090 Notice to Abate Fire Hazard.

9.05.100 Contents of Notice.

9.05.110 Service of Notice.

9.05.120 Administrative Review.

9.05.130 Liability for Costs.

ARTICLE IV. ENFORCEMENT AND COSTS

9.05.140 Abatement by Owner or Occupant.

9.05.150 Enforcement.

9.05.160 Accounting.

9.05.170 Notice of Hearing on Accounting; Waiver by Payment.

9.05.180 Hearing on Accounting.

9.05.190 Modifications.

9.05.200 Special Assessment and Lien.

ARTICLE V. OTHER REMEDIES AND GENERAL PROVISIONS

9.05.210 Summary Abatement.

9.05.220 No Duty to Enforce.

9.05.230 Criminal Penalties.

9.05.240 Refusal to Issue Permits.

9.05.250 Remedies Cumulative.

9.05.260 Severability.

ARTICLE I. ADMINISTRATION

9.05.010 Authority and Title. Pursuant to the authority granted to it by sections 14930 and 14931 of the Health and Safety Code, article XI, section 7 of the California Constitution, and sections 25845 and 54988 of the Government Code, the Board of Supervisors does enact this chapter, which shall be known and may be cited as the "Tehama County Fire Hazard Abatement Ordinance."

9.05.020 Purpose.

(a) It is the intent of this chapter to require the owners and occupants of real property in the unincorporated area of the county to maintain said properties to:

- (1) Reduce the risk of uncontrolled fires and the harm they may cause to individuals;
- (2) Minimize the spread of any fire to other properties and buildings;
- (3) Reduce obstructions to fire suppression efforts if a fire does occur;
- (4) Increase the opportunity for firefighters to successfully protect lives; residences and other valuable buildings from wildfires;
- (5) Protect populated areas such as suburban areas, and urban and

rural subdivisions from encroaching wildfires;

- (6) Reduce the spread of residential and other building fires into the wildland vegetation and;
- (7) Compliment the beneficial effect of other adjacent fire hazard abatement activities.

(b) It is the further intent of the county to seek voluntary compliance with this Chapter and to provide remedies if such compliance is not obtained.

9.05.030 Scope. This Chapter shall supplement and shall not supersede or limit any other statute, regulation, or ordinance affecting the subject matter hereof, including, but not limited to the other fire prevention and protection statutes, regulations, and ordinances enacted by the state, the county, or any other governmental agency having jurisdiction. These regulations shall apply throughout the unincorporated area of the County of Tehama.

9.05.040 Administration. Except as otherwise provided, this chapter shall be administered, implemented, and enforced by the enforcing officer appointed by the Board of Supervisors. The Board of Supervisors may appoint one or more enforcing officers, who may be officers or employees of the County of Tehama or of another public entity acting pursuant to an agreement with the County of Tehama.

ARTICLE II. DEFINITIONS AND REQUIREMENTS

9.05.050 Definitions. Except where the context otherwise requires, the following definitions shall govern the construction of this chapter:

- (a) "Abatement" means mitigation or elimination of a fire hazard and such ongoing maintenance as is necessary to prevent the recurrence of a fire hazard, including, but not limited to, creation and maintenance of a firebreak meeting the requirements of Section 9.05.080.
- (b) "Abatement Costs" means any costs or expenses reasonably related to the abatement of conditions which violate the Tehama County Code, and shall include, but not be limited to, enforcement, investigation, collection and administrative costs, and the costs associated with the removal or correction of the violation.
- (c) "Administrative Costs" shall include the cost of county staff time reasonably related to enforcement, for items including, but not limited to, site inspections, investigations, summaries, reports, notices, telephone contacts and correspondence, as well as time expended by county staff calculating the above

costs and preparing itemized invoices showing such costs.

(d) "Agricultural Lands" means those lands in the unincorporated area of the County of Tehama where the Tehama County Zoning Code {Title 17 of the Tehama County Code) classifies their primary use for the production of crops or the grazing of livestock.

(e) "Disking" means tilling the soil so as to turn under or remove vegetation by mechanical or hand operated methods including, but not limited to, tractor drawn soil tilling equipment, self propelled rotor-tilling equipment or hand hoeing.

(f) "Firebreak" means a continuous area of land which is cleared or otherwise treated to slow or stop the spread of fire and maintained in accordance with the requirements of section 9.05.080.

(g) "Fire hazard" means that condition which exists when weeds, grass, rank growths, shrubs, trees, or trimmings grow or accumulate upon real property and do, or will when dry, create a medium for the rapid spread of fire.

(h) "Grass" means any herbaceous plant or any combination of dead weeds, grass or vegetation, cultivated or not, which will attain, when mature, such a height as to be a medium for the rapid spread of fire.

(i) "Mowing" means cutting or shredding weeds, grass and other vegetation by hand or mechanical methods.

(j) "Obstruction" means any material or object, including natural growing vegetation, which is placed or allowed to accumulate so as to interfere with fire suppression or the abatement of fire hazards. This would include but is not limited to, low hanging vegetation that affects driveway access and inoperative vehicles which are adjacent to structures.

(k) "Occupant" means an adult person, or an entity, having a possessory interest in real property, "Occupant" includes a tenant, resident, or other person or entity having possession, use, or control of the property.

(l) "Owner" means an adult person, or an entity, having an ownership interest in real property. "Owner" does not include persons having only a security interest in the property.

(m) "Parcel" means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act {Division 2 {commencing with Section 66410) of Title 7 of the Government Code).

- (n) "Parcel line" means the boundaries of the parcel.
- (o) "Pasture land" means lands suitable for grazing by livestock.
- (p) "Property line" means the boundaries of the contiguous real property under common ownership or control.
- (q) "Rank growth" means vegetation of any type, cultivated or not, 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.
- (r) "Rural lands" means those lands in the unincorporated area of the County of Tehama which are not "urban lands" or "agricultural lands" as defined in this Chapter.
- (s) "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, and includes any building, including, but not limited to, manufactured buildings, mobile homes, or modular buildings, that is used for any purpose.
- (t) "Urban lands" means those lands in the unincorporated area of the County of Tehama located in a Zoning District in which the Tehama County Zoning Code (Title 17 of the Tehama County Code) permits the creation of parcels that are less than two acres in size.
- (u) "Weeds" means vegetation which bears or may bear seeds of a downy or wingy nature; other vegetation which may attain such large growth as to become, when dry, a fire menace; vegetation otherwise noxious or dangerous, including poison oak and poison ivy in a condition of growth constituting a menace to public health; and accumulations of refuse, cuttings, trash and other combustible rubbish.

9.05.060 Declarations of Nuisance.

- (a) Unless located on a parcel containing all firebreaks required by Section 9.05.080, a fire hazard is a public nuisance that may be abated in accordance with the provisions of this Chapter.
- (b) Any other violation of this Chapter is hereby declared to be a public nuisance that may be abated in accordance with the provisions of this Chapter.

9.05.070 Duty of Owner(s) and Occupant(s).

(a) No owner or occupant of any parcel within the unincorporated area of Tehama County shall cause, permit, suffer, or maintain upon that parcel any fire hazard unless that parcel also contains all firebreaks required by Section 9.05.080.

9.05.080 Firebreak Requirements.

(a) Purpose. Firebreaks shall be created and maintained on real property, where a fire hazard exists, to slow or stop the spread of fire as provided herein.

(b) Rural lands requirement. Except as provided in subdivision (e), the firebreaks required upon rural lands shall be one-hundred (100) feet wide around all residences and other structures, or to the property line, whichever is nearer.

(c) Agricultural lands requirement. Except as provided in subdivision (d), the firebreaks required on agricultural lands shall be as follows:

- (1) On irrigated pasture and on irrigated crops and orchards, firebreaks shall not be required.
- (2) On non-irrigated pasture lands the firebreaks required shall be one hundred (100) feet around all residences and other structures, or to the property line, whichever is nearer.

(d) Urban lands requirement. Except as provided in subdivision (e), the firebreaks required on urban lands shall be as follows:

- (1) On parcels of urban lands that are one and one fourth (1.25) acre in size or smaller and unimproved with residences or other structures, a firebreak shall be required over the entire area of the parcel.
- (2) On parcels of urban lands that are more than one and one fourth (1,25) acre in size and unimproved with residences or other structures, firebreaks shall be required adjacent to and along all parcel lines for a width of thirty (30) feet.
- (3) On parcels of urban lands that are improved with residences or other structures, the firebreak requirements shall be the same as specified in subsection (b) above.

(e) Reduced Firebreak Requirements. Upon request of the owner or occupant of real property, or upon his own initiative, the enforcing officer may establish a

firebreak requirement for any real property that is reduced from the firebreak otherwise required under subdivision (b), (c), or (d). When making such a determination, the enforcing officer shall consider all of the following:

- (1) Location of structures on or in close proximity to the property.
- (2) Type, density and condition of vegetation on the property or on adjacent property.
- (3) Existence of flammable or otherwise hazardous materials on the property or on adjacent property: and
- (4) Existence of natural or other existing firebreaks on the property or on adjacent property.
- (5) The slope and other characteristics of the terrain which may make the creation and maintenance of firebreaks infeasible.
- (6) Whether a reduced firebreak requirement around residences and structures is appropriate to mitigate erosion potential on steep slopes, to prevent destruction of unique wildlife habitat, endangered species and/or vernal pools, or water courses, or for other environmental factors.

The enforcing officer shall make such determination in writing, and shall mail or personally deliver a copy of such determination to the owner or occupant of the real property. No such reduced firebreak requirement shall take effect until the owner or occupant receives such written determination from the enforcing officer. The enforcing officer may revoke or modify any reduced firebreak determination at any time.

(f) Except as otherwise provided in subdivisions (g),(h),(and (i), all required firebreaks shall be created and maintained by mowing all weeds, grass, rank growths, shrubs, trees, and trimmings therein to a maximum height of three (3) inches, or by disking or removing all weeds, grass, rank growths, shrubs, trees, and trimmings from the firebreak. All obstructions shall be removed from firebreaks.

(g) Fire resistive vegetation. Unless otherwise directed by the enforcing officer, firebreaks may include fire resistive vegetation such as green lawns, ice plant, green ivy, and other plants designated by the enforcing officer as being fire resistive. Any fire resistive plants must be maintained in a state so as to resist the spread of fire.

- (h) Shrubs. Specimen shrubs may be retained within firebreaks, provided that:
 - (1) They are spaced at a distance equal to not less than three (3) times their widest diameter, and are not less than ten (10) feet from other specimens or buildings.
 - (2) All specimens are kept free of dead wood and litter.
 - (3) All specimens shall be trimmed a minimum of two (2) feet up from the ground or one-third of their height, whichever is greater.

- (i) Trees. Specimen trees may be retained within firebreaks provided that:
 - (1) All specimens are kept free of dead wood and litter.
 - (2) All conifer specimens shall be trimmed of limbs to a minimum of one-third of their height from the ground or ten (10) feet up from the ground whichever is lesser.
 - (3) All non-conifer specimens shall have all limbs removed to a point one-third of the height to the tree above the ground or ten (10) feet up from the ground, whichever is lesser.
 - (4) Crowns of adjacent specimens are not interlaced so as to constitute a medium for the rapid spread of fire.

ARTICLE III, NOTICE AND HEARING

9.05.090 Notice to Abate Fire Hazard. Whenever the enforcing officer determines that a nuisance as described in Chapter exists on any real property within the unincorporated area of Tehama County, he or she is authorized to notify the owner(s) and/or occupant(s) of the property, through issuance of a "Notice to Abate Fire Hazard."

9.05.100 Contents of Notice. The Notice set forth in section 9.05.090 shall be in writing and shall:

- (a) Identify the owner(s) of the property upon which the nuisance exists, as named in the records of the county assessor, and identify the occupant(s), if other than the owner(s), and if known or reasonably identifiable.

- (b) Describe the location of such 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 hazard exists and that it has been determined by the enforcing officer to be a public nuisance described in this Chapter.
- (e) Describe the fire hazard that exists and the firebreak or other actions required to abate it.
- (h) Contain a statement that the owner or occupant is required to abate the fire hazard within fourteen (14) calendar days after the date that said Notice was served.
- (i) Contain a statement that the owner or occupant may, within ten (10) calendar days after the date that said Notice was served, make a request in writing to the Clerk of the Board of Supervisors for a hearing to appeal the determination of the enforcing officer that the conditions existing constitute a public nuisance, or to show other cause why those conditions should not be abated in accordance with the provisions of this Chapter.
- (j) Contain a statement that, unless the owner or occupant abates the fire hazard, or requests a hearing before the Board of Supervisors, within the time prescribed in the Notice, the enforcing officer will abate the nuisance. It shall also state that the abatement costs, including administrative costs, may be made a special assessment added to the County assessment roll and become a lien on the real property, or be placed on the unsecured tax roll.

9.05.110 Service of Notice.

- (a) The Notice set forth in section 9.05.090 shall be served by delivering it personally to the owner and to the occupant, or by mailing it by regular United States mail, together with a certificate of mailing, to the occupant of the property at the address thereof, and to any non-occupying owner at his or her address as it appears on the last equalized assessment roll, except that:
 - (1) If the records of the county assessor show that the ownership has changed since the last equalized assessment roll was completed, the Notice shall also be mailed to the new owner at his or her address as it appears in said records; or
 - (2) In the event that, after reasonable effort, the enforcing officer is

unable to serve the Notice as set above, service shall be accomplished by posting a copy of the Notice on the real property upon which the nuisance exists as follows: Copies of the Notice shall be posted along the frontage of the subject property and at such other locations on the property reasonably likely to provide notice to the owner. In no event shall fewer than two (2) copies of the Order be posted on a property pursuant to this section.

(b) The date of service is deemed to be the date of deposit in the mail, personal delivery, or posting, as applicable.

9.05.120 Administrative Review.

(a) Any person upon whom an Notice to Abate Fire Hazard has been served may appeal the determination of the enforcing officer that the conditions set forth in the Notice constitute a public nuisance to the Board of Supervisors, or may show cause before the Board of Supervisors why those conditions should not be abated in accordance with the provisions of this Chapter. Any such administrative review shall be commenced by filing a written request for a hearing with the Clerk of the Board of Supervisors within ten (10) calendar days after the date that said Notice was served. The written request shall include a statement of all facts supporting the appeal. The time requirement for filing such a written request shall be deemed jurisdictional and may not be waived. In the absence of a timely filed written request that complies fully with the requirements of this Section, the findings of the enforcing officer contained in the Notice shall become final and conclusive on the eleventh day following service of the Notice.

(b) Upon timely receipt of a written request for hearing which complies with the requirements of this Section, the Clerk of the Board of Supervisors shall set a hearing date not less than seven (7) days nor more than thirty (30) days from the date the request was filed. The Clerk shall send written notice of the hearing date to the requesting party, to any other parties upon whom the Notice was served, and to the enforcing officer.

(c) Any hearing conducted pursuant to this chapter need not be conducted according to technical rules relating to evidence, witnesses and hearsay. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. The Board of Supervisors has discretion to exclude evidence if its probative value is substantially outweighed by the probability that its admission will necessitate undue consumption of time.

(d) The Board of Supervisors may continue the administrative hearing from time to time.

(e) The Board of Supervisors shall consider the matter de novo, and may affirm, reverse, or modify the determinations contained in the Notice to Abate Fire Hazard. The Board of Supervisors shall issue a written decision in the form of a resolution, which shall include findings relating to the existence or nonexistence of the alleged fire hazard, as well as findings concerning the propriety and means of abatement of the conditions set forth in the Notice. Such decision shall be mailed to, or personally served upon, the party requesting the hearing, any other parties upon whom the Notice was served, and the enforcing officer.

(f) The decision of the Board of Supervisors shall be final and conclusive.

ARTICLE IV. ENFORCEMENT AND COSTS

9.05.130 Liability for Costs.

(a) In any enforcement action brought pursuant to this Chapter, whether by administrative proceedings, judicial proceedings, or summary abatement, each person who causes, permits, suffers, or maintains the fire hazard to exist shall be liable for all costs incurred by the county, including, but not limited to, administrative costs, and any and all costs incurred to undertake, or to cause or compel any responsible party to undertake, any abatement action in compliance with the requirements of this Chapter, whether those costs are incurred prior to, during, or following enactment of this Chapter;

(b) In any action by the enforcing officer to abate a fire hazard under this Chapter, whether by administrative proceedings, judicial proceedings, or summary abatement, the prevailing party shall be entitled to a recovery of the reasonable attorney's fees incurred. Recovery of attorneys' fees under this subdivision shall be limited to those actions or proceedings in which the County elects, at the initiation of that action or proceeding, to seek recovery of its own attorney's fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the County in the action or proceeding.

9.05.140 Abatement by Owner or Occupant. Any owner or occupant may abate the fire hazard or cause it to be abated at any time prior to commencement of abatement by, or at the direction of, the enforcing officer.

9.05.150 Enforcement.

(a) Whenever the enforcing officer becomes aware that an owner or occupant has failed to abate a fire hazard within fourteen (14) days of the date of service of the Notice to Abate Fire Hazard, unless timely appealed, or of the date of the decision of the Board of Supervisors requiring such abatement, the enforcing officer may take one or more of the following actions:

- {1} Enter upon the property and abate the nuisance by County personnel, or by private contractor under the direction of the enforcing officer. The enforcing officer may apply to a court of competent jurisdiction for a warrant authorizing entry upon the property for purposes of undertaking the work. If any part of the work is to be accomplished by private contract, that contract shall be submitted to and approved by the Board of Supervisors prior to commencement of work. Nothing herein shall be construed to require that any private contract under this Code be awarded through competitive bidding procedures where such procedures are not required by the general laws of the State of California;
- (2) Request that the County Counsel commence a civil action to redress, enjoin, and abate the public nuisance; and/or
- (3) Refer the matter to the District Attorney for prosecution under Section 9.05.230.

(b) Whenever the enforcing officer becomes aware of any other violation of this Chapter, he or she may take one or more of the following actions:

- (1) Request that the County Counsel commence a civil action to redress, enjoin, and abate the public nuisance; and/or
- (2) Refer the matter to the District Attorney for prosecution under Section 9.05.230.

9.05.160 Accounting. The enforcing officer shall keep an account of the cost of every abatement carried out and shall render a report in writing, itemized by parcel, to the Board of Supervisors showing the cost of abatement and the administrative costs for each parcel.

9.05.170 Notice of Hearing on Accounting; Waiver by Payment. Upon receipt of the account of the enforcing officer, 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 Board of Supervisors will meet to 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 enforcing officer prior to the time set for the hearing by the Board of Supervisors. Unless otherwise expressly stated by the owner, payment of the cost of abatement and the cost of administration prior to said hearing shall be deemed a waiver of the right thereto and an admission that said accounting is accurate and reasonable.

9.05.180 Hearing on Accounting.

(a) At the time fixed, the Board of Supervisors shall meet to review the report of the enforcing officer. An owner may appear at said time and be heard on the questions whether the accounting, so far as it pertains to the cost of abating a nuisance upon the land of the owner is accurate and the amounts reported reasonable. The cost of administration shall also be reviewed.

(b) The report of the enforcing officer shall be admitted into evidence. The owner shall bear the burden of proving that the accounting is not accurate and reasonable.

9.05.190 Modifications. The Board of Supervisors shall make such modifications in the accounting as it deems necessary and thereafter shall confirm the report by resolution.

9.05.200 Special Assessment and Lien. The Board of Supervisors may order that the cost of abating nuisances pursuant to this Chapter and the administrative costs as confirmed by the Board 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; 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. The Board of Supervisors may also cause notices of abatement lien to be recorded against the respective parcels of real property pursuant to section 25845 of the Government Code.

ARTICLE V. OTHER REMEDIES AND GENERAL PROVISIONS

9.05.210 Summary Abatement. Notwithstanding any other provision of this Chapter, when any fire hazard constitutes an immediate threat to public health or safety, and when the procedures set forth in Article III of this Chapter would not result in abatement of that nuisance within a short enough time period to avoid that threat, the enforcing officer may direct any officer or employee of the County to summarily abate the nuisance. The enforcing officer shall make reasonable efforts to notify the

persons identified in Section 9.05.100, but the formal notice and hearing procedures set forth in Article III shall not apply. The County may nevertheless recover its costs for abating that nuisance in the manner set forth in Article IV of this Chapter.

9.05.220 No Duty to Enforce. Nothing in this Chapter shall be construed as imposing on the enforcing officer or the County of Tehama any duty to issue an Notice to Abate Fire Hazard, nor to abate a fire hazard, nor to take any other action with regard to any fire hazard, and neither the enforcing officer nor the County of Tehama shall be held liable for failure to issue an order to abate a fire hazard, nor for failure to abate any fire hazard, nor for failure to take any other action with regard to any fire hazard.

9.05.230 Criminal Penalties.

(a) A violation of any provision of this chapter is a misdemeanor punishable by fines of not less than five hundred dollars {\$500.00} nor more than one thousand dollars (\$1,000.00), or by imprisonment for a term not to exceed six (6) months, or by both such fine and imprisonment.

(b) Unless otherwise expressly indicated, the standard of liability imposed by this Chapter is strict liability, without regard to any element of mens rea, fault, negligence or other wrongdoing.

9.05.240 Refusal to Issue Permits. No department, commission or employee of the county of Tehama vested with the duty or authority to issue or approve permits, licenses or other entitlements shall do so when there is an outstanding failure to abate a fire hazard within fourteen (14) days of the date of service of the Notice to Abate Fire Hazard, unless timely appealed, or of the date that the decision of the Board of Supervisors requiring such abatement involving the real property to which the pending application pertains. The authority to deny shall apply whether the applicant was the occupant or owner of record at the time of such violation or whether the applicant is either the current occupant or owner of record or a vendor of the current owner of record pursuant to a contract of sale of the real property, with or without actual or constructive knowledge of the violation at the time he or she acquired his or her interest in such real property. Upon notification by the enforcing officer that such a violation exists, all departments, such commissions, and employees shall refuse to issue permits or licenses or entitlements involving the premises except those necessary to abate such violation. The enforcing officer may waive the provisions of this section regarding refusal to issue if he or she determines such waiver to be required to allow necessary or desirable remedial, protective or preventative work.

9.05.250 Remedies Cumulative. All remedies provided for herein are cumulative and not exclusive, and are in addition to any other remedy or penalty

provided by law.

9.05.260 Severability. If any section, subsection, sentence, clause, portion, or phrase of this chapter is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The board hereby declares that it would have passed this chapter and each section, subsection, sentence, clause, portion, or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional.

SECTION 2. Section 9.14.011 of the Tehama County Code is hereby repealed.

SECTION 3. Section 9.14.011 is hereby added to the Tehama County Code to read:

9.14.011 Definitions.

"Accessory building" means any building used as an accessory to residential, commercial, recreational, industrial or educational purposes as defined in the California Building Code, 1989 Amendments, Chapter 11, Group M, Division 1, Occupancy that requires a building permit.

"Agriculture" means land used for agricultural purposes as defined in the county zoning ordinances.

"Building" means any structure used or intended for supporting or sheltering any use or occupancy that is de-fined in the California Building Code, 1989 Amendments, Chapter 11, except Group M, Division 1, Occupancy. For the purposes of this subchapter, building includes mobile homes and manufactured homes, churches and day care facilities.

"CDF" means California Department of Forestry and Fire Protection.

"Dead-end road" means a road that has only one point of vehicular ingress/egress, including cul-de-sacs and looped roads.

"Defensible space" means the area within the perimeter of a parcel, development, neighborhood or community where basic wildland fire protection practices and measures are implemented, providing the key point of defense from an approaching wildfire or defense against encroaching wildfires or escaping structure fires. The perimeter as used in this regulation is the area encompassing the parcel or parcels proposed for construction and/or development, excluding the physical structure itself. The area is characterized by the establishment and maintenance of emergency vehicle access, emergency water reserves, street names and building identification, and fuel modification measures.

"Development" means as defined in Section 66418.1 of the California Government Code.

"Director" means director of the department of forestry and fire protection or his/her designee.

"Driveway" means a vehicular access that serves no more than two buildings,

with no more than 3 dwelling units on a single parcel, and any number of accessory buildings.

"Dwelling unit" means any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and/or sanitation for not more than one family.

"Exception" means an alternative to the specified standard requested by the applicant that may be necessary due to health, safety, environmental conditions, physical site limitations or other limiting conditions such as re-corded historical sites, that provides mitigation of the problem.

"Fire valve" see "Hydrant."

"Fuel modification area" means an area where the volume of flammable vegetation has been reduced, providing reduced fire intensity and duration.

"Greenbelts" means a facility or land-use, designed for a use other than fire protection, which will slow or resist the spread of a wildfire. Includes parking lots, irrigated or landscaped areas, golf courses, parks, playgrounds, maintained vineyards, orchards or annual crops that do not cure in the field.

"Hammerhead/T" means a roadway that provides a "T" shaped, three-point turnaround space for emergency equipment, being no narrower than the road that serves it,

"Hydrant" means a valved connection on a water supply/storage system, having at least one two and one-half inch outlet, with male American National Fire Hose Screw Threads (NH) used to supply fire apparatus and hoses with water.

"Local jurisdiction" means any county, city/county agency or department, or any locally authorized district that issues or approves building permits, use permits, tentative maps or tentative parcel maps, or has authority to regulate development and construction activity.

"Occupancy" means the purpose for which a building or part thereof, is used or intended to be used.

"One-way road" means a minimum of one traffic lane width designed for traffic flow in one direction only.

"Roads, streets, private lanes" means vehicular access to more than one parcel; access to any industrial or commercial occupancy; or vehicular access to a single parcel with more than two buildings or four or more dwelling units.

"Roadway" means any surface designed, improved, or ordinarily used for vehicle travel.

"Roadway structures" means bridges, culverts, and other appurtenant structures which supplement the roadway bed or shoulders.

"Same Practical Effect," as used in this subchapter, except Section 9.14.071, means an exception or alternative with the capability of applying accepted wildland fire suppression strategies and tactics, and provisions for fire fighter safety, including:

- A. Access for emergency wildland fire equipment,
- B. Safe civilian evacuation,
- C. Signing that avoids delays in emergency equipment response,
- D. Available and accessible water to effectively at-tack wildfire or defend a

structure from wildfire, and

E. Fuel modification sufficient for civilian and fire fighter safety.

"Shoulder" means roadbed or surface adjacent to the traffic lane.

"State Board of Forestry (SBOF)" means a nine member board, appointed by the governor, which is responsible for developing the general forest policy of the state, for determining the guidance policies of the Department of Forestry and Fire Protection, and for representing the state's interest in federal land in California.

"State responsibility area (SRA)" means as defined in Public Resources Code Sections 4126-4127; and the California Code of Regulations, Title 14, Division 1.5, Chapter 7, Article 1, Sections 1220-1220.5.

"Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

"Subdivision" means as defined in Section 66424 of the Government Code.

"Traffic lane" means the portion of a roadway that provides a single line of vehicle travel.

"Turnaround" means a roadway, unobstructed by parking, which allows for a safe opposite change of direction for emergency equipment. Design of such area may be a hammerhead/T or terminus bulb.

"Turnout" means a widening in a roadway to allow vehicles to pass.

"Vertical clearance" means the minimum specified height of a bridge or overhead projection above the road-way.

"Wildfire" means as defined in Public Resources Code Sections 4103 and 4104.

SECTION 4. Section 9.14.071 of the Tehama County Code is hereby repealed.

SECTION 5. Section 9.14.071 is hereby added to the Tehama County Code to read:

9.14.071 Setbacks for Residences and Other Structures.

(a) (1) Except as provided in subdivision (b), any residence or other structure constructed or placed on any parcel in the unincorporated area of Tehama County that is [two/five] acres in size or larger shall be set back at least 100 feet from the parcel line.

(2) Any residence or other structure constructed or placed on any parcel in the SRA that is at least one acre in size, but smaller than [two/five] acres in size, shall be set back at least 30 feet from the parcel line.

(3) Any residence or other structure constructed or placed on any parcel in the SRA that is less than one acre in size shall be constructed or placed in a manner that provides the same practical effect as the setback otherwise required under subdivision (a) (2), as determined by the inspection authority.

(b) The inspection authority may, in their discretion, authorize the construction or placement of a residence or other structure closer to the parcel line than is otherwise permitted under subdivision (a)(1), provided that the enforcing officer determines that the residence or other structure will be constructed or placed in a manner that provides the same practical effect as the setback otherwise required under subdivision (a)(1). The inspection authority shall not authorize construction or placement of any residence or other structure closer than 30 feet from the parcel line on any parcel in the SRA that is one acre in size or larger.

(c) For purposes of this Section, "same practical effect" shall mean an alternative with the capability of providing equivalent effective attainment of the purposes set forth in Section 9.05.020 of the Tehama County Code, including:

- (1) Use of fire resistive construction methods beyond those otherwise required by law or regulation, as approved by the inspection authority;
- (2) Fuel modification adjacent to the residence or other structure beyond that otherwise required by this Chapter, as approved by the inspection authority;
- (3) Available and accessible water to effectively attack fire or defend a structure from fire, as approved by the inspection authority; or
- (4) Other means approved by the inspection authority.

(d) For purposes of this Section, "parcel" shall have the meaning set forth in Section 9.05.050, subdivision (m), of the Tehama County Code.

(e) For purposes of this Section, "parcel line" shall have the meaning set forth in Section 9.05.050, subdivision (n), of the Tehama County Code.

SECTION 6. This ordinance shall take effect thirty (30) days from the date of its adoption, and prior to the expiration of fifteen (15) days from the adoption thereof shall be published at least one time in the *Red Bluff Daily News*, a newspaper of general circulation in Tehama County.