

URGENCY ORDINANCE NO. 823

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRASS VALLEY TEMPORARILY REPEALING AND REPLACING ARTICLE II ("MISCELLANEOUS FIRE CONTROL REGULATIONS"), ARTICLE III ("PROHIBITIONS"), AND ARTICLE V ("VIOLATIONS – PENALTY") OF CHAPTER 8.16 OF THE GRASS VALLEY MUNICIPAL CODE REGARDING FIRE CONTROL REGULATIONS

Be it ordained by the Council of the City of Grass Valley:

SECTION 1. CODE AMENDMENT. Article II – Miscellaneous Fire Control Regulations, Article III – Prohibitions, and Article V – Violations – Penalty of Chapter 8.16 – Fire Control Regulations, are hereby repealed and replaced as set forth in Exhibit A attached to this Ordinance and incorporated by such reference.

SECTION 2. URGENCY FINDINGS. The Council finds that unless it adopts this ordinance to take urgent action, the Grass Valley Fire Department will lack the enforcement provisions it requires to protect against severe fire hazards caused by open burning and the widespread accumulation of combustible and flammable materials in the City limits. This urgency ordinance is necessary to immediately preserve the public peace, health, and safety.

SECTION 3. CEQA FINDINGS. As a purely administrative and regulatory action, this Ordinance will not affect the physical environment. This Ordinance is not a project within the meaning of California Environmental Quality Act (CEQA) Guidelines, California Code of Regulations, Title 14, Section 15378 because it has no potential to result in physical change in the environment, directly or indirectly. Additionally and independently, it is exempt from CEQA review under CEQA Guidelines, California Code of Regulations, Title 14, Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment and under CEQA Guidelines, California Code of Regulations, Title 14, Section 15269 as an emergency action.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this

Ordinance or its application to other persons and circumstances. The City Council of the City of Grass Valley hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

SECTION 5. EFFECT OF AMENDMENTS. It is the intent of the City Council of the City of Grass Valley that the Grass Valley Municipal Code sections affected by this Ordinance shall not be considered repealed and reenacted in their amended form; that the portions which are not altered are to be considered as having been the law from the time when they were enacted; that the new provisions are to be considered as having been enacted at the time of the amendment; and that the omitted portions are to be considered as having been repealed at the time of the amendment.

SECTION 6. EFFECTIVE DATE. This Urgency Ordinance is adopted by 4/5th vote of the City Council and shall be in full force and effect immediately after its adoption pursuant to Article VII, § 2 (c) of the Grass Valley City Charter.

SECTION 7. PUBLICATION. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published once in *The Union*, a newspaper of general circulation printed, published, and circulated within the City.

INTRODUCED and first read at a regular meeting of the City Council on the 25th day of April, 2023.

FINAL PASSAGE AND ADOPTION by the City Council was at a meeting thereof held on the 25th day of April, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINING:

Jan Arbuckle, Mayor

APPROVED AS TO FORM:

ATTEST

Michael G. Colantuono, City Attorney

Taylor Day, City Clerk

EXHIBIT A

Chapter 8.16. - FIRE CONTROL REGULATIONS

Article II. - Miscellaneous Fire Control Regulations.

8.16.200 - Vegetation Management and Yard Debris Removal.

It shall be the duty of the fire marshal of the fire department or an authorized representative and/or the director of the community development department or an authorized representative to enforce the requirements of the "vegetation management and yard debris removal" section(s).

8.16.210 - Definitions.

1. "City" shall mean the City of Grass Valley, a municipal corporation of the State of California.
2. Improved Property: Any property with a building or structure.
3. Unimproved Property: Any property without a building or structure.
4. Building or structure: Any structure used for support or shelter of any use or occupancy.
5. APN: Assessor's parcel number as assigned by the County of Nevada.
6. Fuel Modification Area: "Fuel Modification Area" shall mean a strip of land in which the following fuel reduction activities are required to occur. – Area is mowed/cleared so that "flammable vegetation" is no higher than 4" above mineral soil, free of "refuse piles" and "combustible materials", and trees shall be free of branches 6' up from the ground. If shrubs are located under tree branches an additional clearance equal to 3 times the height of the shrub shall be required. If the height of the tree does not allow the 6' and/or 3 times the shrub height of clearance, clearance shall not exceed one-third (1/3) of the overall tree height.
7. Ladder Fuels: Fuels that can carry a fire vertically between or within a fuel type.
8. Heavy Fuels: Materials of large diameter such as snag logs and tree limbs that ignite and are consumed more slowly than flash fuels such as tree needles, leaves, and grasses.

9. Flammable Vegetation: Includes, but not limited to, dead/dry tree needles and leaves, dead/dry grasses of over 4" in height, tree limbs, bushes/shrubs, trees less than 6" diameter at breast height (Dbh), manzanita, dense berry thickets, or other invasive or noxious plants, that constitute a fire hazard and/or endanger people or property.
10. Combustible Materials: Heavy fuels, slash, refuse piles, dead trees, or tree branches (either standing or downed), that constitute a fire hazard and/or endanger people or property.
11. Refuse Piles: Accumulations of flammable vegetation and/or combustible materials, rubbish and/or scrap materials, including but not limited to, wastepaper, wood, straw/hay, litter, or other flammable or combustible waste.
12. Spark Arrester: Any device which prevents the emission of flammable debris from combustion sources, such as fireplaces and woodstoves.
13. Approved Warming Device: A portable or fixed, outdoor, solid-fuel-burning fireplace that may be constructed of steel, concrete, clay, or other noncombustible material. It may be open in design or may be equipped with a small hearth opening and a short chimney or chimney opening in the top. All devices shall be equipped with a spark arrester.

8.16.220 - Abatement Procedures.

To reduce fire hazards and nuisances associated with flammable vegetation, refuse piles, and/or combustible materials upon or in front of private improved or unimproved property, the city council may conduct proceedings pursuant to Chapter 9.28 of this Code. Such proceedings may include requiring abatement of fire hazards throughout the city, entering upon private property, and performing abatement where the private property owner does not abate. The cost of such abatement will be assessed upon the nuisance property under Chapter 1.14 of this Code, and such costs will constitute a lien upon the land until paid and will be collected upon the next tax roll upon which real property taxes are collected.

8.16.230 - Duty to Abate Flammable Vegetation and Combustible Material.

It shall be the duty of every owner, occupant, or person in control of any private land, whether improved or unimproved, within the City of Grass Valley, to abate therefrom on such property, at his or her own expense, all flammable vegetation, refuse piles, and/or other combustible materials that constitute a fire hazard. The obligation to abate all flammable vegetation, refuse piles, and/or other combustible materials shall comply with the following, shall be completed by May 1 of each year, and shall be maintained through October 31 or the end of fire season as declared by the California Department of Forestry and Fire Protection (CAL FIRE) whichever comes first.

1. **IMPROVED PROPERTY:**

A. **Less Than One Acre:**

- a) The entire property shall be mowed/cleared so that "flammable vegetation", as defined in Section 8.16.210, is no higher than 4" above mineral soil.
- b) The entire property shall be free of dead and/or dry leaves and tree needles.
- c) The entire property shall be free of "refuse piles", as defined in Section 8.16.210.
- d) All plants, trees, or shrubs shall be free of dead or dying material.
- e) Maintain large shrubs and hedges exceeding 6' in height such that limbs are not within 4' of the ground or one-third (1/3) of its overall height, whichever is less.
- f) Vegetation under windows shall be kept to below 18".
- g) The roof of every building and/or structure shall be free of dead and/or dry leaves, tree needles, tree branches, and any other "flammable vegetation" as defined in Section 8.16.210.
- h) No portion of any tree shall be within 10' of the roof surface at any point, outlet of a chimney, stovepipe and/or electrical power service drop of any building and/or structure. All chimneys and stove pipes shall have a spark arrester.
- i) Trees shall be free of branches 6' up from the ground. If shrubs are located under tree branches an additional clearance equal to 3 times the height of the shrub shall be required. If the height of the tree does not allow the 6' and/or 3 times the shrub height of clearance, clearance shall not exceed one-third (1/3) of the overall tree height.
- j) Dead, dying, or diseased trees shall be removed. An evaluation by a licensed arborist with recommendations on removal of dying or diseased trees shall be required by the City.
- k) Remove all flammable vegetation, refuse piles, and/or combustible materials from under decks, balconies, and/or stairs.
- l) All waste material that is the result of vegetation management work shall be composted or hauled off site. Burning of waste material is prohibited.

B. One to Five Acres:

- a) A 30' Fuel Modification Area, as defined in Section 8.16.210, shall be provided around the entire property. The 30' Fuel Modification Area shall be measured from the property line and from the edge of the sidewalk, or from the street line if there is no sidewalk, where the property abuts any public or private rights-of-way, or fire apparatus access road.
- b) Vegetation under windows shall be kept to below 18".
- c) The roof of every building and/or structure shall be free of dead and/or dry leaves, tree needles, tree branches, and any other "flammable vegetation" as defined in Section 8.16.210.
- d) No portion of any tree shall be within 10' of the roof surfaces at any point, outlet of a chimney, stovepipe and/or electrical power service drop of any building and/or structure. All chimneys and stove pipes shall have a spark arrester.
- e) All plants, trees, or shrubs located 0'-30' from a building and/or structure shall be free of dead or dying material.
- f) Maintain large shrubs and hedges exceeding 6' in height located 0'-30' from a building and/or structure such that limbs are not within 4' of the ground or one-third (1/3) of its overall height, whichever is less.
- g) All trees located 0'-30' from a building and/or structure shall be free of branches 6' up from the ground. If shrubs are located under tree branches an additional clearance equal to 3 times the height of the shrub shall be required. If the height of the tree does not allow the 6' and/or 3 times the shrub height of clearance, clearance shall not exceed one-third (1/3) of the overall tree height.
- h) Dead, dying, or diseased trees located 0'-30' from a building and/or structure shall be removed. An evaluation by a licensed arborist with recommendations on removal of dying or diseased trees shall be required by the City.
- i) Remove all flammable vegetation, refuse piles, and/or combustible materials from under decks, balconies, and/or stairs.
- j) All waste material that is the result of vegetation management work shall be chipped and spread or hauled off site. Burning of waste material is prohibited.

C. Greater Than Five Acres:

- a) A 100' Fuel Modification Area, as defined in Section 8.16.210, shall be provided around the entire property. The 100' Fuel Modification Area shall be measured

- from the property line and from the edge of the sidewalk, or from the street line if there is no sidewalk, where the property abuts any public or private rights-of-way, or fire apparatus access road.
- b) Vegetation under windows shall be kept to below 18".
 - c) The roof of every building and/or structure shall be free of dead and/or dry leaves, tree needles, tree branches, and any other "flammable vegetation" as defined in Section 8.16.210.
 - d) No portion of any tree shall be within 10' of the roof surfaces at any point, outlet of a chimney, stovepipe and/or electrical power service drop of any building and/or structure. All chimneys and stove pipes shall have a spark arrester.
 - e) All plants, trees, or shrubs located 0'-30' from a building and/or structure shall be free of dead or dying material.
 - f) Maintain large shrubs and hedges exceeding 6' in height located 0'-30' from a building and/or structure such that limbs are not within 4' of the ground or one-third of its height, whichever is less.
 - g) All trees located 0'-30' from a building and/or structure shall be free of branches 6' up from the ground. If shrubs are located under tree branches an additional clearance equal to 3 times the height of the shrub shall be required. If the height of the tree does not allow the 6' and/or 3 times the shrub height of clearance, clearance shall not exceed one-third (1/3) of the overall tree height.
 - h) Dead, dying, or diseased trees located 0'-30' from a building and/or structure shall be removed. An evaluation by a licensed arborist with recommendations on removal of dying or diseased trees shall be required by the City.
 - i) Remove all flammable vegetation, refuse piles, and/or combustible materials from under decks, balconies, and/or stairs.
 - j) All waste material that is the result of vegetation management work shall be chipped and spread or hauled off site. Burning of waste material is prohibited.

2. UNIMPROVED PROPERTY:

A. Less Than One Acre:

- a) The entire property shall be mowed/cleared so that "flammable vegetation", as defined in Section 8.16.210, is no higher than 4" above mineral soil.
- b) The entire property shall be free of dead and/or dry leaves and tree needles.
- c) The entire property shall be free of "refuse piles", as defined in Section 8.16.210.
- d) All plants, trees, or shrubs shall be free of dead or dying material.

- e) Trees shall be free of branches 6' up from the ground. If shrubs are located under tree branches an additional clearance equal to 3 times the height of the shrub shall be required. If the height of the tree does not allow the 6' and/or 3 times the shrub height of clearance, clearance shall not exceed one-third (1/3) of the overall tree height.
- f) Dead, dying, or diseased trees shall be removed. An evaluation by a licensed arborist with recommendations on removal of dying or diseased trees shall be required by the City.
- g) All waste material that is the result of vegetation management work shall be hauled off site. Burning of waste material is prohibited.

B. One to Five Acres:

- a) A 30' Fuel Modification Area, as defined in Section 8.16.210, shall be provided around the entire property. The 30' Fuel Modification Area shall be measured from the property line and from the edge of the sidewalk, or from the street line if there is no sidewalk, where the property abuts any public or private rights-of-way, or fire apparatus access road.
- b) All waste material that is the result of vegetation management work shall be chipped and spread or hauled off site. Burning of waste material is prohibited.

C. Greater Than Five Acres:

- a) A 100' Fuel Modification Area, as defined in Section 8.16.210, shall be provided around the entire property. The 100' Fuel Modification Area shall be measured from the property line and from the edge of the sidewalk, or from the street line if there is no sidewalk, where the property abuts any public or private rights-of-way, or fire apparatus access road.
- b) All waste material that is the result of vegetation management work shall be chipped and spread or hauled off site. Burning of waste material is prohibited.

8.16.240 - Emergency Vehicle Access.

1. No property owner may allow any portion of any vegetation on his or her property to interfere with street and emergency vehicle access, regardless of whether the access is along a public street or along a private residential access road. Vegetation shall be trimmed back from the edge of the sidewalk, or from the street line if there is no sidewalk, a minimum distance of; 3' for properties less than 1 acre, 30' for properties 1-5 acres, and 100' for properties greater than 5 acres. Vegetation must also be trimmed to a minimum height of 15' – 0" above the street and emergency

vehicle access roads. The fire marshal of the fire department or an authorized representative may provide written notice to the property owner requiring vegetation to be trimmed for a specified additional distance when the fire marshal determines the vegetation would otherwise interfere with emergency vehicle access. If the property owner fails to maintain these clearance requirements, the city may abate this nuisance without further notice and at the property owner's expense. This subsection shall not apply to cultivated groundcover such as green grass, ivy, succulents, or similar plants used as groundcovers, provided they do not constitute a fire hazard.

2. Without notice, the fire marshal of the fire department or an authorized representative may also summarily abate weeds or hazardous growth on private property that in any way hinders emergency vehicle access and may charge the property owner for the costs of the abatement.

8.16.250 - City Abatement of Hazardous Vegetation and/or Yard Debris Condition(s)—Lien.

Hazardous vegetation and/or yard debris shall be abated under Chapters 1.10 and 1.11 of this Code, and costs of abatement may be recovered under Chapter 1.14 of this Code.

Article III. - Prohibitions

8.16.300 - Open Burning.

It shall be unlawful for any person to ignite, permit, or maintain an open fire within the city limits of the City of Grass Valley.

This prohibition is not intended to prohibit fires in approved warming devices, as defined in Section 8.16.210, or devices used for cooking such as barbeques that are located on property that the individual using such device has legal authority to occupy.

8.16.310 - Authorized Burning.

1. Training Burns. Fire department training burns may be permitted with the prior written approval of the chief of the fire department or an authorized representative and Northern Sierra Air Quality Management District.

2. Special Permits. The fire marshal of the fire department or an authorized representative may issue special permits to authorize burning for the health and safety of the public.
3. Special Permit. The fire marshal of the fire department or an authorized representative may issue special permits to authorize burning for professional entertainment purposes.
4. Special Permit. The fire marshal of the fire department or an authorized representative may issue special permits to authorize burning for ceremonial purposes.
5. Burning may be permitted in improved designated areas, including, but not limited to, city-provided fire pits or barbeques in parks and other public areas.

8.16.320 - Fire Protection Requirements.

To provide and maintain fire protection during the use of approved warming devices or during authorized special permit burning, the following shall be required:

1. During use/operation an area within ten feet of the device shall be free and clear of flammable vegetation, refuse piles, and/or combustible materials as defined in Section 8.16.210.
2. Responsible person, 18 years of age or older, in attendance with shovel until fire is dead out.
3. Water hose connected to an operational water supply shall be present at use/operation site.
4. Operation site shall be within 250' of an operational fire hydrant.
5. Operation site shall be within one 150' of a California Fire Code compliant fire access road.

Exception: Special permit ceremonial operations only. If an operational water supply is not present the fire marshal of the fire department or an authorized representative will determine an appropriate alternative method of fire protection.

Article V. - Violations—Penalty

8.16.500 - Penalty.

Any person who violates any of the provisions of this chapter is guilty of a misdemeanor punishable under Chapter 1.12 of this Code. Each separate day or any portion thereof during which any violation occurs or continues is a separate offense. The application of the afore-mentioned penalty shall not be held to prevent the enforced removal of the prohibited conditions.