

ORDINANCE NO. 2022-02

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY,
STATE OF CALIFORNIA, AMENDING CHAPTERS 8, 10 AND 38 OF TITLE 8 OF THE CITY
OF NEVADA CITY MUNICIPAL CODE, RELATING TO FIRE CONTROL; VEGETATION
MANAGEMENT, DEBRIS REMOVAL AND ABATEMENT; OPEN BURNING; AND
FIREWORKS**

WHEREAS, the City of Nevada City has entered into a Fire Protection Services Agreement with the City of Grass Valley; and

WHEREAS, under the Fire Protection Services Agreement Grass Valley provides fire administration, firefighter and rescue services, and EMS and emergency management services to Nevada City; and

WHEREAS, under the Fire Protection Services Agreement, Nevada City is solely responsible for fire inspections in Nevada City, as well as fire department responsibilities under the Nevada City Municipal Code and the California Fire Code as amended from time to time; and

WHEREAS, in order to coordinate provision of the specified services by Grass Valley, it is prudent to amend additional pertinent Nevada City Municipal Code provisions so that they mirror those of the Grass Valley Municipal Code; and

WHEREAS, the City of Nevada City, California, pursuant to the provisions of the California Environmental Quality Act ("CEQA") (Cal. Pub. Res. Code §§21000 and following) and State CEQA Guidelines (14 CCR §§15000 and following) has determined that this ordinance is not a project under CEQA pursuant to Section 15378 (b)(5) of the California Code of Regulations;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEVADA CITY DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and incorporated into this ordinance.

SECTION 2. Chapter 10 of Title 8 of the Nevada City Municipal Code is hereby redesignated "Chapter 8.10 - FIRE CONTROL REGULATIONS" and amended to read as follows:

Chapter 8.10 – FIRE CONTROL REGULATIONS

Article I. – Fire Prevention Bureau

8.10.110 - Establishment and duties of bureau of fire prevention.

The California Fire Code shall be enforced by the bureau of fire prevention of the fire department of the City of Nevada City which is established in Chapter 2.24 of this Code and

which shall be operated under the supervision of the chief of the fire department or an authorized representative.

8.10.120 - Appeals.

When the chief of the fire department or an authorized representative disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief to the city council of the city or a board of appeals appointed thereby within thirty days from the date of the decision appealed.

Article II. - Miscellaneous Fire Control Regulations

8.10.200 - Vegetation management and yard debris removal.

It shall be the duty of the division chief of the fire department of the City of Nevada City 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).

8.10.210 - Definitions.

1. Improved property: Any property with a building or structure.
2. Unimproved property: Any property without a building or structure.
3. Building or structure: Any structure used for support or shelter of any use or occupancy.
4. APN: Assessor's parcel number as assigned by the county of Nevada.
5. Surface fuels: Loose surface litter on the soil surface, normally consisting of fallen leaves or needles, twigs, bark, cones, and small branches that have not yet decayed enough to lose their identity; also grasses, low and medium shrubs, tree seedlings, heavier branches, and downed logs.
6. Aerial fuels: All live and dead vegetation above surface fuels, including tree branches, twigs and cones, snags, moss, and high brush. Examples include trees and large bushes.
7. Ladder fuels: Fuels that can carry a fire vertically between or within a fuel type.
8. Flammable vegetation: Includes, but not limited to, dead pine needles or leaves, dry grasses of over four inches in height, tree limbs, bushes, trees less than six inches diameter at breast height (DBH), manzanita, dense berry thickets or other dry invasive or noxious plants, that constitute a fire hazard and endanger people or property.

9. Combustible material: Heavy fuels, slash, refuse piles, dead trees, or tree limbs (either standing or downed), that constitute a fire hazard and endanger people and/or property.

10. Refuse piles: Accumulations of flammable vegetation, rubbish and/or scrap materials, including, but not limited to, wastepaper, wood, hay, straw, weeds, litter, or other flammable waste.

11. Heavy fuels: Materials of large diameter such as snag logs and large tree limbs that ignite and are consumed more slowly than flash fuels such as tree needles, leaves and grasses.

12. 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 spark-arresting screens.

13. Jurisdiction: Whenever the word "jurisdiction" is used in the California Fire Code it means the City of Nevada City, California.

14. Fire Division Chief: Whenever the words "chief of the bureau of fire prevention," "fire marshal," or "chief of the fire department," are used they shall be held to mean fire division chief.

8.10.220 - Abatement procedures.

To reduce fire hazards and nuisances associated with weeds, other 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 8.04 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 8.04 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.

8.10.230 - 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 Nevada City, to abate there from on such property, at his or her own expense, all weeds, flammable vegetation and other combustible materials that constitute a fire hazard. The obligation to abate all weeds, flammable vegetation and 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 or Unimproved Property Less Than or Equal to One Acre: The entire property shall be mowed/cleared so that "flammable vegetation" as defined in Section 8.10.210 is no higher than four inches above mineral soil, the roof of every building and/or structure shall be free of flammable vegetation. No portion of any tree shall be within ten feet of the outlet of a chimney, stovepipe and/or electrical power service drop. Any plant, tree, or shrub adjacent to or overhanging a building and/or structure shall be free of dead or dying wood. Trees shall be free of branches six feet up from the ground, if height of the tree does not allow the six feet of clearance, the division chief of the fire department of the City of Nevada City or an authorized representative will determine appropriate clearance.

2. Improved and/or Unimproved Property Greater Than One Acre: A fifteen-foot clearance zone, measured from the property line, shall be provided if the property abuts an "improved property" as defined in Section 8.10.210. A thirty-foot clearance zone, as measured from the edge of the sidewalk nearest to the property line or from the street line if there is no sidewalk, shall be provided when property abuts any public or private rights-of-way, or fire apparatus access road. For the purposes of this Section 8.10.230(2), a clearance zone means "flammable vegetation" as defined in Section 8.10.210, is no higher than four inches above mineral soil and the roof of every building and/or structure shall be free of "flammable vegetation" as defined in Section 8.10.210. No portion of any tree shall be within ten feet of the outlet of a chimney, stovepipe, and/or electrical power service drop. Any plant, tree, or shrub adjacent to or overhanging a building and/or structure shall be free of dead or dying wood. Trees shall be free of branches six feet up from the ground, if height of the tree does not allow the six feet of clearance, the division chief of the fire department of the City of Nevada City or an authorized representative will determine appropriate clearance.

8.10.240 - Emergency vehicle access.

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 must be trimmed back a minimum distance of three-feet from the edge of street line for properties less than or equal to one acre and thirty-feet from the edge of the street line for properties greater than one acre. Vegetation must also be trimmed to a minimum height of thirteen feet six inches above street pavement. The division chief of the fire department of the City of Nevada City 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 chief determines the vegetation would otherwise interfere with street or 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.

8.10.250 - City abatement of hazardous vegetation or yard debris condition(s)—Lien.

Hazardous vegetation or yard debris shall be abated under Chapter 8.04 of this Code, and costs of abatement may be recovered under Chapter 8.04 of this Code.

Article III. - Prohibitions

8.10.300 - 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 Nevada City.

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

8.10.310 - Authorized burning.

1. Training Burns. Fire department training burns may be permitted with the prior written approval of the division chief of the fire department of the City of Nevada City and Northern Sierra Air Quality Management District.

2. Special Permits. The chief of the fire department may issue special permits to authorize burning for the health and safety of the public.

3. Special Permits. The division chief of the fire department of the City of Nevada City may issue special permits to authorize burning for the health and safety of the public.

4. 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.

8.10.320 - 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, combustible materials and/or refuse piles, as defined in Section 8.10.210.

2. Responsible person, eighteen years of age or older, in attendance with shovel until fire is dead out.

3. Water hose connected to an operational water supply shall present at use/operation site.

4. Operation site shall be within two hundred fifty feet of an operational fire hydrant.

5. Operation site shall be within one hundred fifty feet of a California Fire Code compliant fire access road.

8.10.330 - Exception—Special permit ceremonial operations.

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

Article IV. - Fireworks

8.10.400 - Purpose and findings.

The City has determined that fireworks present a significant hazard to the environment and safety of its citizens and has determined that it is in the City's best interest to prohibit the sale, use, and discharge of fireworks, including "safe and sane fireworks". The purpose of this chapter is to establish a prohibition on the sale, use, and discharge of fireworks in Nevada City.

8.10.410 - Definitions.

As used herein, the words and phrases "fireworks" and "safe and sane fireworks" shall have the meanings ascribed to them in Sections 12500 et seq. of the California Health and Safety Code.

8.10.420 - Prohibitions.

The sale, use, and discharge of fireworks, including, but not limited to, safe and sane fireworks, is prohibited within the City of Nevada City. It shall be unlawful for any person to sell, offer for sale, purchase, discharge or otherwise use fireworks within the City except as provided in this chapter.

8.10.430 - Exceptions.

A.

Nothing in this Chapter shall be construed as prohibiting the sale, use, or discharge of any of the following; torpedoes, flares, or fuses by railroad or other transportation or law enforcement agencies for signal purposes of illumination; blank cartridges for ceremonial purposes, athletic, or sports events or military ceremonies or demonstrations; fireworks by permittees having a permit as hereinafter provided; agricultural and wildlife fireworks as defined in California Health and Safety Code section 12503; or to those subjects identified in subsections (a) through (d) of California Health and Safety Code section 12540.

B.

Public displays of fireworks may be conducted by permit granted pursuant to Title 19 of the California Code of Regulations.

Article V. - Violations—Penalty

8.10.500 - 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 aforementioned penalty shall not be held to prevent the enforced removal of the prohibited conditions.

SECTION 3. Chapter 8 of Title 8 of the Nevada City Municipal Code is hereby repealed.

SECTION 4. Chapter 38 of Title 8 of the Nevada City Municipal Code is hereby repealed.

SECTION 5. **ENVIRONMENTAL DETERMINATION.** The project has been reviewed for compliance with the California environmental Quality Act (CEQA), the CEQA Guidelines, and the City's environmental procedures, and has been found to be not a project under Section 15378 (b)(5) of the CEQA Guidelines.

SECTION 6. **INCONSISTENCIES.** Any provision of the Nevada City Municipal Code or appendices thereto inconsistent with the provisions of this ordinance, to the extent of such inconsistencies and/or further, is hereby repealed or modified to the extent necessary to affect the provisions of this ordinance.

SECTION 7. **SEVERABILITY.** If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

SECTION 8. **EFFECTIVE DATE.** This ordinance shall be in full force and effect commencing thirty (30) days after its final adoption and a summary hereof shall be published once within fifteen (15) days in The Union, a newspaper of general circulation printed and published in the County of Nevada and circulated in the City of Nevada City and hereby designated for that purpose by the City Council.

SECTION 9. The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published in the manner and form provided by law in The Union, a newspaper of general circulation printed and published in the City of Nevada City, State of California, which said newspaper is hereby designated for that purpose.

Introduced at a regular meeting of the City Council on the 9th day of March, 2022, by the following roll call vote:

MOTION: MINETT, FERNÁNDEZ

AYES: STRAWSER, FLEMING, FERNÁNDEZ, MINETT, PETERSEN

NOES:

ABSENT

ABSTAINED

Passed and approved at the regular meeting of the City Council on the 23rd day of March, 2022, by the following roll call vote:

AYES: STRAWSER, FLEMING, FERNÁNDEZ, MINETT, PETERSEN

NOES:

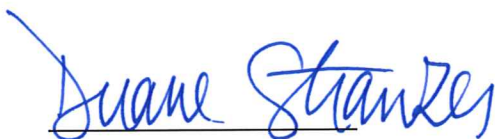
ABSENT:

ABSTAINED:

ATTEST:



Niel Locke, City Clerk



Duane Strawser, Mayor

APPROVED AS TO FORM:



Dean J. Rucci, City Attorney