

ORDINANCE NO. ORD-2021-002

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA ADDING CHAPTER 9-28 TO TITLE 9 HEALTH AND SAFETY OF THE SANTA ROSA CITY CODE PERTAINING TO FUELS MITIGATION PILE BURNING

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. The Council finds based on evidence and records presented, that this ordinance is necessary for the protection of the public peace, health, safety and welfare.

Section 2. Chapter 9-28 Fuels Mitigation Pile Burning is added to the City Code to read as follows:

“FUELS MITIGATION PILE BURNING

9-28.010 Purpose and intent.

(A) The purpose and intent of this Chapter is to allow private landowners with parcels of five (5) acres or more in size and located in the City’s Wildland-Urban Interface Fire Area to obtain a permit from the Fire Department to perform pile burning to reduce wildfire fuel hazards to accomplish a combination of fire protection and resource management goals. Private landowners with smaller parcels, both in and outside of the City’s Wildland-Urban Interface Fire Area, may similarly apply for a permit subject to approval by the Fire Chief or the designee thereof.

(B) Reducing the vegetative fuel load is a critical part of the City’s efforts to mitigate wildfire danger by focusing on removing low-lying vegetation that can carry fire to taller tree canopies - called ladder fuels - from lands close to private residences and create a more fire-resistant habitat.

(C). The goal of this Chapter is to modify fire behavior in an effort to reduce environmental damage and aid in suppressing wildfires. Benefits from fuels mitigation pile burning include: prevent loss of lives, reduce fire suppression costs, reduce private property losses and protect natural resources from devastating wildfire.

9-28.020 Application.

The provisions of this Chapter shall apply specifically to fuels mitigation pile burning on parcels over five (5) acres in size located in the City’s Wildland-Urban Interface Fire Area and, in addition, on smaller parcels both in and outside of the Wildland-Urban Interface Fire Area subject to approval by the Fire Chief or the designee thereof.

9-28.030 Definitions.

(A) “APCO” means the Air Pollution Control Officer for the Bay Area Air Quality Management

District or the designee thereof.

(B) “Bay Area Air Quality Management District”. Created by the California Legislature in 1955, the Bay Area Air Quality Management District is tasked with overseeing policies and adopting regulations for the control of air pollution within the nine (9) counties that surround the San Francisco Bay, inclusive of the City of Santa Rosa. The Bay Area Air Quality Management District also regulates burning activities within the City.

(C) “Burn permit” means a document that grants the permittee permission to burn piles to reduce wildfire fuel hazards on permissive burn days. These permits, issued by the Fire Department, specify the day(s), time and site at which pile burning may occur, as well as the type and amount of material to be burned.

(D) “District” means the Bay Area Air Quality Management District.

(E) “Fire Chief” means the Fire Chief for the Santa Rosa Fire Department or the designee thereof.

(F) “Fire Department” means the Fire Department of the City of Santa Rosa.

(G) “Fuels mitigation pile burning” means the burning of dried vegetation only.

(H) “Permissible burn day” means any day where the District does not prohibit fuels mitigation pile burning. These are days where the District has determined that weather conditions are favorable for smoke dispersion.

(I) “Regulation 5, Open Burning” means the regulations of the Bay Area Air Quality Management District which forbids pile burning within the District with certain exceptions.

(J) “Wildfire fuel hazards” means dried vegetation that has accumulated and increases the likelihood of unusually large wildland fires.

(K) “Wildland-Urban Interface Fire Area” means a geographical area in the City at significant risk from wildfires as designated on the map entitled Wildland-Urban Interface Fire Area dated January 28, 2009, and retained on file in the City Geographic Information System (GIS) and in the office of the City’s Fire Marshal. The Wildland-Urban Interface Fire Area includes Very High Fire Hazard Severity Zones recommended by the Director of the California Department of Forestry and Fire Protection pursuant to Public Resources Code Sections 4201-4204 and Government Code Sections 51175-51189.

9-28.040 Burning permit required.

(A) It is unlawful for any person to undertake or authorize the undertaking of any fuels mitigation pile burning within the City (i) at any time between May 1st and the date the Fire Chief determines in writing that the hazardous fire conditions have abated for that year and (ii) at any time that the issuance and operation of burn permits has been suspended by the Fire Chief

pursuant to section 9-28.070 due to conditions of high fire hazard within the City.

(B) Outside of the times specified in Subsection (A), it is unlawful for any person to undertake or authorize the undertaking of any fuels mitigation pile burning within the City without first obtaining a written burn permit from the Fire Department as follows:

(1) Permits for fuels mitigation pile burning shall generally be issued only to landowners or lawful occupiers on parcels five (5) acres or more in size and located in the City's Wildland-Urban Interface Fire Area.

(2) Permits for fuels mitigation pile burning may be issued to landowners or lawful occupiers on parcels under five (5) acres, both in and outside of the Wildland-Urban Interface Fire Area subject to approval by the Fire Chief or the designee thereof.

(3) In all cases, a site inspection of the property where the fuels mitigation pile burning activity will occur is required before the issuance of the permit.

(B) Once the permit has been issued and prior to any fuels mitigation pile burning activity, the person responsible for the burning activity is required to notify the Santa Rosa Fire Department's Dispatch Center prior to starting the fire.

(C) Prior to any fuels mitigation pile burning activity, the person responsible for the burning activity is also required to notify the District's APCO prior to starting the fire.

9-28.050 Hours and days for burning.

All burn permits issued pursuant to this Chapter shall restrict burning to the hours and days authorized by the District.

9-28.060 Compliance with District regulations and restrictions

All burns conducted must comply with all District burning regulations and restrictions. It should be noted that often times the District will suspend outdoor burning of any kind.

9-28-070 Suspension.

If the Fire Chief determines that conditions of high fire hazard exist within the City, the Chief may suspend the issuance of any burn permit as authorized by this Chapter or stay the effect of any such permit already issued or both for such period as the Fire Chief deems necessary. The Fire Chief shall notify Council of any such suspensions or stay by memorandum within twenty-four (24) hours following its commencement.

9-28.080 State responsibilities.

Nothing in this Chapter shall be construed as limiting or releasing the State or the California Department of Forestry and Fire Protection of any responsibility for fire prevention or

suppression under the laws of the state.

9-28.090 Effect of issuance of permit.

The issuance of any burn permit pursuant to this Chapter shall not be deemed to be a waiver of noncompliance with or authorize violation of any zoning or other law whatsoever or constitute a sanction of or permit for any public or private nuisance.

9-28.100 Burning to be under supervision of responsible person.

All fuels mitigation pile burning for which a permit is required pursuant to this Chapter shall be done under the direction and constant surveillance of a responsible person. The responsible person must be knowledgeable in the use of fire extinguishing equipment required, and familiar with the permit limitations which restrict pile burning. The responsible person shall supervise the burning material until the fire has been extinguished.

9-28.110 Fuels mitigation pile burning restrictions.

(A) Fuels mitigation pile burning shall not be conducted within fifty (50) feet of any structure and a minimum ten (10) foot clearance shall be maintained around the burn pile at all times.

(B) A water supply and long-handled shovel shall be readily available for use at any fuels mitigation pile burning.

(C) Fuels mitigation pile burning hours are from 8:00 a.m. to one hour after sunset. Pile burning is not permitted after dark. Fuels mitigation pile burning must also comply with any time limitations imposed by the District.

(D) The Fire Chief is authorized to require that fuels mitigation pile burning be immediately discontinued if the Chief determines that smoke emissions are offensive to occupants of surrounding property or if the pile burning is determined by the Chief to constitute a hazardous condition.

9-28.120 Violation-penalty.

Any person who violates or fails to comply with any provision of this Chapter, or who violates or fails to comply with any order or regulation made thereunder, or who violates any provisions of a permit issued thereunder, shall be guilty of a misdemeanor or infraction as determined by the City Attorney pursuant to Chapter 1-28. The City Attorney may seek legal, injunctive, administrative or other equitable relief to enforce this Chapter. The remedies and penalties provided in this section are cumulative and not exclusive and nothing in this section shall preclude the City from pursuing any other remedies provided by law. In addition to any relief available to the City, the City shall be entitled to recover reasonable attorneys' fees and costs incurred in enforcement of this Chapter.

9-28.130 Responsibility for enforcement.

Except as otherwise provided herein, the Fire Chief shall be responsible for enforcing the provisions of this Chapter.”

Section 3. Environmental Determination. The Council finds that the adoption and implementation of this ordinance are exempt from the provisions of the California Environmental Quality Act under Section 15061(b)3 in that the Council finds there is no possibility that the implementation of this ordinance may have significant effects on the environment.

Section 4. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. Effective Date. This ordinance shall take effect on the 31st day following its adoption.

This ordinance was introduced by the Council of the City of Santa Rosa on March 16, 2021.

IN COUNCIL DULY PASSED AND ADOPTED this 23rd day of March, 2021.

AYES: (7) Mayor C. Rogers, Vice Mayor N. Rogers, Council Members Alvarez, Fleming, Sawyer, Schwedhelm, Tibbetts

NOES: (0)

ABSENT: (0)

ABSTAIN: (0)

ATTEST: _____ APPROVED: _____
City Clerk Mayor

APPROVED AS TO FORM: _____
City Attorney