

ORDINANCE NO. _____(N.S.)
AN ORDINANCE AMENDING CHAPTER 4 OF DIVISION 8 OF TITLE 6
OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES
RELATED TO DEFENSIBLE SPACE REQUIREMENTS

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that the purpose of this ordinance is to amend the San Diego County Code of Regulatory Ordinances ("County Code") to prohibit the accumulation of Combustible Materials, vegetation that may be injurious to the health, safety, and general welfare of the public. The ordinance will ensure Defensible Space for fire suppression personnel to operate, provide greater protection to Improvements from oncoming wildfires, and allow for public nuisance abatement and/or administrative remedies when Responsible Parties allow such materials to accumulate in violation of this ordinance.

Section 2. Section 68.401 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 68.401. FINDINGS.

The Board of Supervisors makes the following findings and declarations:

~~The accumulation of Combustible Materials, vegetation, dead, dying or diseased trees, green waste, rubbish, and other materials on private property is hereby found to create a condition that is a fire hazard and potentially that may be injurious to the health, safety, and general welfare of the public. Therefore, the presence of such combustible vegetation, dead, dying or diseased trees, green waste, rubbish, and other materials on parcels as hereinafter defined is hereby declared to~~ These conditions constitute a public nuisance ~~which that~~ may be abated in accordance with the provisions of this chapter. ~~The requirements Nothing in this chapter shall replace or conflict with the authority of the County Agricultural Commissioner to eradicate noxious weeds under applicable sections of the~~ apply in addition to any other regulating statutes and ordinances heretofore or hereafter enacted by the State, the County of San Diego, or any other legal entity or agency having jurisdiction, including the San Diego County Consolidated Fire Code (CFC), California Public Resources Code and California Food and Agricultural Code. In the event of a conflict between the CFC and this chapter, this chapter shall prevail.

Section 3. Section 68.402 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 68.402. DEFINITIONS.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section:

- (a) "COMBUSTIBLE MATERIALS" means materials that will readily ignite, burn and transmit fire from the item to any structure or other material, including, but not limited to:
 - i. Combustible Vegetation, as defined herein.

- ii. Dead, dying, or diseased trees, which includes, but is not limited to, pest or pathogen infested trees, abandoned or neglected groves or other trees ~~which are~~ in a dying condition or no longer living.
 - iii. Green waste, ~~which means includes, but is not limited to,~~ organic material ~~such as~~ that includes, but is not limited to, dry grass, brush, weeds, yard trimmings, plant waste, manure, untreated wood wastes, paper products, natural fiber products, mulch and compost.
 - iv. Rubbish, ~~which means is~~ waste material including, but not limited to, waste paper and debris from construction or demolition. For the purposes of this chapter, the term "rubbish" does not include putrescible material, or material that is means rapidly decomposable by microorganisms, which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies.
- (b) "COMBUSTIBLE VEGETATION" ~~is means~~ material that in its natural state will readily ignite, burn, and transmit fire from native or landscape plants to any structure or other vegetation. Combustible ~~Vegetation~~ does not include vegetation that is well pruned and maintained so as to effectively prevent the risk of fire ignition or transmission between vegetation and/or structures.
 - (c) "DEFENSIBLE SPACE" is an area either natural or man-made, where Combustible Materials capable of allowing a fire to spread unchecked ~~has~~ have been treated, cleared or modified to slow the rate and intensity of an advancing wildfire and to create an area for fire suppression operations to occur. Except where otherwise indicated, Defensible Space shall be measured on a horizontal plane.
 - (d) "ENFORCING AGENCY" means the fire protection or municipal water district having authority to administer and enforce this chapter through enactment of a district ordinance adopting this chapter by reference.
 - (e) "FIRE ~~WARDEN~~ CODE OFFICIAL" means the ~~Deputy Chief Administrative Officer of the Public Safety Group~~ Fire Warden of the Enforcing Agency or his/her authorized representative, or other person designated by law, appointment or delegation and charged with the administration and enforcement of this chapter.
 - (f) "IMPROVEMENT" means any building or structure, permanent or temporary, that requires a permit and is erected for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind ~~located in the unincorporated area of the County of San Diego subject to this~~

~~chapter and shall include agricultural crops. For purposes of this chapter, the term "Improvement" shall not include decks, sheds less than 120 square feet that do not require a construction permit, gazebos, freestanding open-sided shade structures and similar accessory structures less than 250 square feet and 30 feet or more from a dwelling, and fences more than 5 feet from a dwelling.~~

- (g) "PARCEL" means any contiguous quantity of land in the possession of, or owned by, or recorded as the property of, the same person or entity ~~and which is located in the unincorporated area of the County of San Diego subject to this chapter but shall not include any portion of a parcel that has been in active production of agricultural crops within one growing season of that crop.~~
- (h) "RESPONSIBLE PARTY" includes, but is not limited to, any person, firm, partnership or corporation owning, renting, leasing, occupying, or otherwise controlling any ~~p~~Parcel ~~located in the unincorporated area of the County of San Diego subject to this chapter.~~
- ~~(i) "MSCP SUBAREA" means that area shown as the "County of San Diego MSCP Subarea" on the map which is "Attachment A" to the Biological Mitigation Ordinance (found at Chapter 5 of Division 6 of Title 8 of the County Code) as referenced in Section 86.502 of the County Code and on file with the Clerk of the Board of Supervisors as Document No. 0769999.~~
- ~~(j) "NOXIOUS WEED" shall mean any species of plant that is, or is liable to be, troublesome, aggressive, intrusive, detrimental, or destructive to agriculture, silviculture, or important native species, and difficult to control or eradicate, as defined in Section 5004 of the California Food and Agricultural Code.~~

Section 4. Section 68.403 of the San Diego County Code of Regulatory Ordinances is hereby titled:

SEC. 68.403. ENFORCEMENT RESPONSIBILITY / APPLICABILITY OF THIS CHAPTER.

Section 5. Section 68.403 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 68.403. ENFORCEMENT RESPONSIBILITY / APPLICABILITY OF THIS CHAPTER.

- (a) This chapter shall be applicable in ~~all the~~ unincorporated territory of the County of San Diego outside of ~~the~~ fire protection districts or municipal water districts ~~which that~~ provide fire protection services, and within the San Diego County Fire Protection District the Fire Warden. It shall be administered by the Enforcing Agency's Fire Code Official and enforced pursuant to the County's Public

Nuisance Abatement Procedure contained in Chapter 2 of Division 6 of Title 1 (commencing with Section 16.201) and/or the Administrative Remedies contained Division 8 of Title 1 (commencing with Section 18.101) of the San Diego County Code and/or any other procedure permitted by law the provisions of this chapter.

- (b) This chapter shall be applicable in the unincorporated territory of the County of San Diego within a fire protection district or municipal water district ~~which that~~ provides fire protection service if the district has adopted this ordinance by reference through enactment of its own district ordinance. In such cases, ~~administrative and enforcement responsibility shall rest with the district shall be the Enforcing Agency with sole enforcement authority, and the County shall bear no such enforcement responsibility except to the extent specifically approved by the Fire Warden through the County or another district accepts enforcement responsibility through a Memorandum of Understanding (MOU).~~

Section 6. Section 68.404 of the San Diego County Code of Regulatory Ordinances is hereby titled:

SEC. 68.404. ~~PROHIBITIONS~~ DEFENSIBLE SPACE REQUIREMENTS.

Section 7. Section 68.404 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 68.404. ~~PROHIBITIONS~~ DEFENSIBLE SPACE REQUIREMENTS.

- (a) Defensible Space for Improvements. No Each Responsible Party shall permit on a parcel, or on any adjacent sidewalks, parking areas, or streets, any accumulation of combustible vegetation, dead, dying or diseased trees, green waste, rubbish, or other flammable materials within maintain 100 feet of Defensible Space extending from the exterior perimeter of any improvement thereon, provided, however, the Fire Warden may authorize a distance less than 100 feet, but no less than 30 feet, in accordance with the exceptions found in the defensible space requirements found in the Fire Code at section 96.1.001 et seq. of the San Diego County Code, pursuant to the requirements outlined in the table below. Where the distance from the improvement to the property line of the parcel on which the improvement is located is less than the required defensible space, the responsible party shall only be required to provide the required defensible space to the property line. In addition, each Responsible Party shall maintain vertical clearance around any Improvement, including removing any overhanging tree branches, shrubs, or other plants, and clearing Combustible Materials from rooftops and gutters.

<u>Zone</u>	<u>Feet from Improvement</u>	<u>Vegetation Types</u>	<u>Vegetation Density</u>	<u>Trees</u>	<u>Plant Limbing</u>	<u>Firewood</u>
<u>1</u>	<u>0' – 5'</u>	<u>Drought and Fire-Resistant</u>	<u>Sparse</u>	<u>Prohibited</u>	<u>Not applicable</u>	<u>Prohibited</u>
<u>2</u>	<u>5' – 50'</u>	<u>See Zone 1</u>	<u>Moderate</u>	<u>Min. 10' horizontal</u>	<u>For vegetation greater than</u>	<u>Min. 30' from all improve-</u>

				<u>distance between tree crowns*, or any between tree crowns and chimneys, stovepipes, or improvements.</u>	<u>18' tall, branches must be limbed and maintained up to 6'. For vegetation shorter than 18' tall, branches must be limbed and maintained to 1/3 of the height of the vegetation.</u>	<u>ments; min 10' from property lines; stacking under tree canopies prohibited.</u>
<u>3</u>	<u>50' – 100'</u>	<u>See Zone 1</u>	<u>No more than 50% of square footage</u>	<u>See Zone 2</u>	<u>See Zone 2</u>	<u>See Zone 2</u>

*Tree crowns means the primary and secondary branches growing out of the main stem of a tree, together with twigs and foliage.

- (b) Defensible Space along Roads and Driveways. ~~No~~ Each Responsible Party shall permit on a parcel any accumulation of combustible vegetation, dead, dying or diseased trees, green waste, rubbish, or other flammable materials within maintain a minimum of 10 feet of Defensible Space from each side of the improved width of highways, private roads and a driveway or a public or private road adjacent to the Parcel though up to 20 feet may be required by the Fire Code Official, provided, however, the Fire Warden may require, after providing written notice to the responsible party, a distance greater than 10 feet in accordance with the defensible space requirements found in the Fire Code at section 96.1.001 et seq. of the San Diego County Code. If more than 10 feet of Defensible Space is required, the Fire Code Official shall notify the Responsible Party in writing and provide the basis for the requirement. In addition, all fire apparatus access roads shall have unobstructed vertical clearance of not less than 13.5 feet.
- (c) Defensible Space for Liquid Petroleum Gas Tanks or Containers. Each Responsible Party shall maintain a minimum of 10 feet of Defensible Space from all liquid petroleum gas tanks or containers with a greater than 50 lbs, or 11.4-gallon, capacity. For the purposes of this chapter, liquid petroleum gas shall mean a material composed predominantly of one or more of the following hydrocarbons: propane, propylene, butane (normal butane or isobutane) and butylenes.
- (d) Additional Defensible Space. ~~Notwithstanding the provisions of subsections (a), (b), and (c) of this section, if t~~ The Fire Warden Code Official may determines that a greater distance additional Defensible Space beyond the requirements of subsections (a), (b), and (c) of this section is necessary to protect property or the health, safety and welfare of residents of the vicinity. If the Fire Warden Code Official determines additional Defensible Space is required, the Fire Code Official shall notify

~~the may require a Responsible Party in writing and provide the basis for the requirement. to provide additional Defensible Space up to the following maximum acreages on parcels which meet the following criteria:~~

- ~~i. Two acres, on parcels located within the Pre-Approved Mitigation Area of the MSCP Subarea that are 10 acres and under in size and zoned for single family residential uses if the Fire Warden finds that the defensible space will not interfere with the assembly of the Multiple Species Conservation Plan Preserve according to the terms of the MSCP Plan and the Subarea Plan.~~
- ~~ii. Five acres, on parcels located outside the Pre-Approved Mitigation Area of the MSCP Subarea that are 10 acres and under in size and zoned for single family residential uses if the Fire Warden finds that the defensible space will not interfere with the assembly of the Multiple Species Conservation Plan Preserve according to the terms of the MSCP Plan and the Subarea Plan.~~
- ~~iii. Five acres, on parcels located outside the MSCP Subarea zoned for single family residential use and improved with a single family residence.~~

~~(e) Defensible Space along Property Lines. No responsible party shall permit on a parcel any accumulation of combustible vegetation, dead, dying or diseased trees, green waste, rubbish, or other flammable materials within 30 feet of the property line when such accumulation endangers or encroaches on the required defensible space for improvements on an adjacent property. The Fire Warden may require a distance greater than 30 feet but not to exceed 100 feet when it is determined that the greater distance is necessary to provide defensible space for improvements on an adjacent property.~~

~~(f) Combustible Vegetation. For purposes of this section, combustible vegetation does not include single specimens of trees, fire-resistant ornamental shrubbery, and other fire-resistant planting materials or cultivated ground covers which the Fire Warden determines do not form a means of rapidly transmitting fire from native or landscape plants to any improvement or other vegetation.~~

~~(g) Grading. The provisions of this chapter shall not be construed to authorize grading which does not comply with the San Diego County regulations regarding grading, clearing and watercourses found in Division 7 of Title 8 of the San Diego County Code.~~

Section 8. Section 68.405 of the San Diego County Code of Regulatory Ordinances is hereby titled:

SEC. 68.405. PUBLIC NUISANCE-REMOVAL OF COMBUSTIBLE VEGETATION.

Section 9. Section 68.405 of the San Diego County Code of Regulatory Ordinances is hereby amended to read as follows:

SEC. 68.405. PUBLIC NUISANCE-REMOVAL OF COMBUSTIBLE VEGETATION.

- (a) The removal of Combustible Vegetation shall be done using methods such as mowing, cutting, grazing and trimming that leave the plant root structure intact to stabilize the soil and prevent erosion. Removed trees shall have the stumps cut no higher than eight inches above the ground. Any chipping of trees or vegetation that is done onsite may be allowed to remain so long as it is dispersed over an area not to exceed six inches in depth. If the Fire Code Official determines that difficult terrain, danger of erosion, or other unusual circumstances make strict compliance with this section undesirable or impractical, enforcement thereof may be suspended and reasonable alternative measures shall be provided.
- (b) Areas where Combustible Vegetation is removed may be re-planted with single specimens of trees, fire-resistant ornamental shrubbery, and other fire-resistant planting materials or cultivated ground covers which do not form a means of rapidly transmitting fire from native or landscape plants to any improvement or other vegetation, to the Fire Code Official's satisfaction. Re-planting may be required for erosion control.
- (c) The removal of Combustible Vegetation shall be carried out in conformance with all federal, state and local environmental laws, regulations and agreements including, but not limited to, the Endangered Species Act, the Memorandum of Understanding between the Fish and Wildlife Service of the United States Department of the Interior, the California Department of Fish and Wildlife, the California Department of Forestry and Fire Protection, the San Diego County Fire Chief's Association, and the Fire District's Association of San Diego County and the San Diego County regulations regarding grading, clearing and watercourses found in Division 7 of Title 8 of the San Diego County Code.

~~Whenever combustible vegetation, dead, dying or diseased trees, green waste, rubbish, or other materials are allowed to grow or accumulate on a parcel, or on adjacent sidewalks, parking areas, or streets, so as to endanger improvements on such parcel or neighboring property, or the health, safety, or welfare of the residents of such parcel or adjacent parcel or vicinity, as prohibited by Section 68.404, the Fire Warden may declare a public nuisance and proceed to abate, in accordance with the Public Nuisance Abatement Procedure contained in Chapter 2 of Division 6 of Title 1 (commencing with Section 16.201) of the San Diego County Code or any other procedure permitted by law.~~

Section 9. Section 68.406 of the San Diego County Code of Regulatory Ordinances is hereby repealed and reserved.

SEC. 68.406. REMOVAL OF PROHIBITED MATERIALS.

~~The following are approved methods for the removal of prohibited materials:~~

- ~~(a) The removal of prohibited materials shall be done using methods such as mowing, cutting, grazing and trimming that leave the plant root structure intact to stabilize the soil and prevent erosion. Removed trees shall have the stumps cut no higher than eight inches above the ground. The height of weeds and annual grasses shall not exceed a height of six inches. Any chipping of trees or vegetation that is done onsite may be allowed to remain so long it is dispersed over an area not to exceed six inches in depth. If the Fire Warden determines that difficult terrain, danger of erosion, or other unusual circumstances make strict compliance with this section undesirable or impractical, enforcement thereof may be suspended and reasonable alternative measures shall be provided.~~
- ~~(b) Areas where prohibited materials are removed may be re-planted with single specimens of trees, fire resistant ornamental shrubbery, and other fire resistant planting materials or cultivated ground covers which do not form a means of rapidly transmitting fire from native or landscape plants to any improvement or other vegetation, to the Fire Warden's satisfaction. Re-planting may be required for erosion control.~~
- ~~(c) The removal of prohibited materials shall be carried out in conformance with all federal, state and local environmental laws and regulations including, but not limited to, the Endangered Species Act and the San Diego County regulations regarding grading, clearing and watercourses found in Division 7 of Title 8 of the San Diego County Code.~~

Section 10. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in the _____, a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

BY: SUEDY ALFARO, Senior Deputy County Counsel