



COUNTY OF SAN DIEGO

AGENDA ITEM

BOARD OF SUPERVISORS

NORA VARGAS
First District

JOEL ANDERSON
Second District

TERRA LAWSON-REMER
Third District

NATHAN FLETCHER
Fourth District

JIM DESMOND
Fifth District

DATE: February 28, 2023 and March 14, 2023

TO: Board of Directors, San Diego County Fire Protection District
Board of Supervisors

02

SUBJECT

ORDINANCES ADOPTING AND RATIFYING THE 2023 CONSOLIDATED FIRE CODE, REPEALING THE COUNTY FIRE CODE, AND AMENDING THE COUNTY DEFENSIBLE SPACE ORDINANCE; FIND THE ACTIONS ARE EXEMPT, OR ALTERNATIVELY, NOT PROJECTS UNDER CALIFORNIA ENVIRONMENTAL QUALITY ACT (2/28/2023 - FIRST READING; 3/14/2023 - SECOND READING UNLESS ORDINANCE IS MODIFIED ON SECOND READING) (DISTRICTS: ALL)

OVERVIEW

Based on a triennial cycle, the California Building Standards Commission publishes the California Building Standards Code (Title 24 of the California Code of Regulations). Part 9 of Title 24 is known as the California Fire Code. The California Health and Safety Code provides that counties and fire protection districts may adopt the California Fire Code by reference or establish more restrictive standards than the California Fire Code, if such changes are reasonably necessary because of local climatic, geological, or topographical conditions.

On February 25, 2020, the County of San Diego (County) enacted the previous version of the California Fire Code into the County's Code of Regulatory Ordinances (County Fire Code). On December 7, 2020, the San Diego County Fire Protection District (SDCFPD) was established, transferring fire protection services from the County to the SDCFPD. As part of today's proposed actions, the Board of Supervisors would repeal the existing County Fire Code, and the SDCFPD Board of Directors would adopt the updated 2022 California Fire Code with modifications, which shall be enforced as the 2023 Consolidated Fire Code by the SDCFPD. Additionally, the 2023 Consolidated Fire Code will incorporate fire protection requirements from the County's Defensible Space Ordinance (DSO), and the existing DSO will be amended to address that change.

There are 13 fire protection districts within the geographical area of the County, including the SDCFPD. In addition to the modifications by the SDCFPD, the Consolidated Fire Code contains modifications that one or more fire protection districts deem necessary because of local conditions. The Borrego Springs Fire Protection District recently initiated dissolution proceedings, with an intent to join the SDCFPD and will not be adopting the 2023 Consolidated Fire Code. The other 11 local fire protection districts have already approved the 2023 Consolidated Fire Code. In order to take effect within the fire districts, the 2023 Consolidated Fire Code must be either ratified,

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modified or denied by the Board of Supervisors. One of today's proposed actions is for the Board of Supervisors to ratify the 2023 Consolidated Fire Code.

If approved, the fire code standards put forth in today's proposed ordinances will increase protection of new structures and property against wildfire-related damage and loss through the adoption of progressive requirements that go beyond those required by the State. There are 58 proposed changes, including 26 that reflect changes in the State Fire Code. There are 32 additional changes proposed by the fire marshals of the local fire districts. Some of the key updates provide further clarity on outdoor fireplaces, secondary access, driveway curves, security gates, directory maps, water tanks, and defensible space.

Today's requested actions for the Board of Directors of the SDCFPD are to: (1) find modifications to the 2022 California Fire Code are reasonably necessary due to local conditions, and (2) adopt the 2023 Consolidated Fire Code.

Today's requested actions for the County Board of Supervisors are to: (1) ratify the 2023 Consolidated Fire Code adopted by the local fire districts; (2) repeal the existing County Fire Code; and (3) amend the County's DSO.

The ordinances for the Board of Directors and Board of Supervisors are being introduced today, February 28, 2023, and, if approved, will be scheduled for adoption on March 14, 2023. If any of the proposed ordinances are altered on March 14, 2023, then on that date a subsequent meeting date will be selected for adoption.

Acting as the Board of Directors of the San Diego County Fire Protection District:

**RECOMMENDATION(S)
EXECUTIVE DIRECTOR**

On February 28, 2023:

1. Find that the proposed actions are not projects as defined in the Public Resources Code section 21065 and California Environmental Quality Act (CEQA) Guidelines section 15378, or alternatively, exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) for the reasons stated in the Notice of Exemption. (Attachment A, on file with the Clerk of the Board).
2. Find that the San Diego County Fire Protection District's amendments to the California Building Standards Code are reasonably necessary because of local climatic, geological, or topographical conditions, pursuant to Health and Safety Code section 13869.7. (Attachment C, on file with the Clerk of the Board).

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3. Approve the introduction of the Ordinance (first reading), (Attachment F, on file with the Clerk of the Board), titled:

AN ORDINANCE RATIFYING THE 2023 CONSOLIDATED FIRE CODE FOR FIRE PROTECTION DISTRICTS IN SAN DIEGO COUNTY ~~(CLEAN VERSION)~~

If, on February 28, 2023, the Board of Directors takes the actions recommended in Item 3 above then, on March 14, 2023:

4. Consider and adopt the Ordinance Adopting the 2023 Consolidated Fire Code for the San Diego County Fire Protection District (second reading unless ordinance is modified on second reading).
5. If adopted, direct the Clerk of the Board to provide a certified copy of the adopted Ordinance Adopting the 2023 Consolidated Fire Code for the San Diego County Fire Protection District.

Acting as the Board of Supervisors of the County of San Diego:

**RECOMMENDATION(S)
CHIEF ADMINISTRATIVE OFFICER**

On February 28, 2023:

1. Find that the proposed actions are not projects as defined in the Public Resources Code section 21065 and California Environmental Quality Act (CEQA) Guidelines section 15378, or alternatively, exempt from CEQA pursuant to CEQA Guidelines section 15061(b)(3) for the reasons stated in the Notice of Exemption (Attachment B, on file with the Clerk of the Board).
2. Approve the introduction of the Ordinance (first reading), (Attachment F, on file with the Clerk of the Board), titled:

AN ORDINANCE RATIFYING THE 2023 CONSOLIDATED FIRE CODE FOR FIRE PROTECTION DISTRICTS IN SAN DIEGO COUNTY ~~(CLEAN VERSION)~~

3. Approve the introduction of the Ordinance (first reading), (Attachment H, on file with the Clerk of the Board), titled:

AN ORDINANCE REPEALING TITLE 9, DIVISION 6, CHAPTER 1 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATING TO THE COUNTY FIRE CODE ~~(CLEAN VERSION)~~

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4. Approve the introduction of the Ordinance (first reading), (Attachment J, on file with the Clerk of the Board), titled:

AN ORDINANCE AMENDING TITLE 6, DIVISION 8, CHAPTER 4 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES RELATING TO DEFENSIBLE SPACE REQUIREMENTS (CLEAN VERSION)

If, on February 28, 2023, the Board of Supervisors takes the actions recommended in Items 3-5 above then, on March 14, 2023:

5. Consider and adopt the Ordinance Ratifying the 2023 Consolidated Fire Code for Fire Protection Districts in San Diego County (second reading unless ordinance is modified on second reading).
6. Consider and adopt the Ordinance Repealing Title 9, Division 6, Chapter 1 of the County of San Diego Code of Regulatory Ordinances Relating to the County Fire Code (second reading, unless ordinance is modified on second reading).
7. Consider and adopt the Ordinance Amending Title 6, Division 8, Chapter 4 of the County of San Diego Code of Regulatory Ordinances Relating to Defensible Space Ordinance (second reading, unless ordinance is modified on second reading).
8. Upon adoption, direct the Clerk of the Board to provide a certified copy of the adopted Ordinance Ratifying the 2023 Consolidated Fire Code for Fire Protection Districts in San Diego County and the associated findings to the California Department of Housing and Community Development, pursuant to California Health and Safety Code section 13869.7(c).

EQUITY IMPACT STATEMENT

One aspect of fire prevention is ensuring fire codes are updated and clear to provide specific direction to customers and residents. The proposed actions will provide better direction, ensuring good customer service and equitable safety for the residents of our county. In addition, the SDCFPD recognizes the systematic impacts that inequitable policies may create for residents of the County of San Diego. More than 80% of the SDCFPD's jurisdictional area qualifies as a disadvantage unincorporated community, based on a San Diego Local Agency Formation Commission (LAFCO) report on funding, administrative, and performance of the former County Service Area No. 135 (now SDCFPD).

SUSTAINABILITY IMPACT STATEMENT

The proposed actions to adopt the County Fire Code and the Consolidated Fire Code will contribute to the County of San Diego's sustainability goal to protect the health and well-being of

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everyone in the region and advocating for environmental justice for communities that have been disproportionately impacted. Partnering with the other local unincorporated fire districts to provide one fire code will support the safety and sustainability of communities by ensuring that codes are imposed consistently to build, enhance, and maintain resiliency.

FISCAL IMPACT

There is no fiscal impact associated with these recommendations. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

This item was brought before the Fire Advisory Board on November 28, 2022, and a motion was passed unanimously to support the revisions.

BACKGROUND

2023 Consolidated Fire Code

Every three years, the State of California repeals, revises, and republishes the California Building Standards Code in its entirety, and in doing so, adopts and publishes amendments to the California Fire Code (California Code of Regulations, Title 24, and Part 9). California Health and Safety Code section 13869.7(a) allows any fire protection district to adopt more stringent standards than those in the California Fire Code, provided the district's governing body finds such modifications are reasonably necessary based upon local conditions. The proposed findings include, but are not limited to, vegetation that is highly combustible in its natural state, prevalence of hot and dry conditions at certain times of the year including exposure to Santa Ana winds, history of drought conditions, hilly and mountainous terrain that limit access and egress and increase the speed at which wildfires spread, history of severe wildfires that have caused devastating losses, potentially severe rainstorms with resultant flooding and proximity to earthquake fault zones. The legislative body of the city or county in which the fire district is located must ratify the ordinance before it can become enforceable, pursuant to Health and Safety Code section 13869.7(c).

Prior to 2001, local fire districts in the County developed their own modifications to the California Fire Code. Because fire districts operate independently from one another, each with their own fire marshal/chief and governing body, local fire codes often varied, causing unnecessary challenges for customers processing development permits through the region. To simplify these codes and provide consistency, the codes were combined in one document, the Consolidated Fire Code. The Board of Supervisors ratified the County's first Consolidated Fire Code on October 10, 2001(1).

The Consolidated Fire Code is updated every three years, consistent with triennial updates of the California Fire Code. The last update, the 2020 Consolidated Fire Code, was ratified by the Board

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on February 25, 2020 (5). In response to the 2022 California Fire Code, County Fire has been working with representatives of all 13 local fire districts to create uniformity among each district's ordinance. All local fire districts now have ordinances adopting the Consolidated Fire Code, with the exception of Borrego Springs Fire Protection District, which recently initiated dissolution proceedings, and the SDCFPD, which is proposing to adopt it today.

The fire code standards put forth in today's proposed ordinances will increase protection of new structures and property against wildfire-related damage and loss through the adoption of progressive requirements that go beyond those required by the State. There are 32 changes proposed by the Fire Marshals of the local Fire Districts to include:

1	111.4.3	Appeals	clarified process within SDCFPD
2	307.4.3	Outdoor Fireplaces	spark arrestors now required
3	307.5	Attendance Open Burning	an adult presence now required
4	326.1	Storage of Firewood	added where firewood can be stored in SDCFPD
5	503.1.2	Secondary Access	added section to clarify when it is required
6	503.2.4	Roadway Radius	now includes minimum radius on private driveways
7	503.2.5	Dead Ends	reorder sections for clarity
8	503.2.5.1	Turnarounds	clarified when required, reference to Annex A and B
9	503.3	Fire Lane Marking	reorder sections for clarity
10	503.6	Security Gates	now require back-up power to prevent entrapment
11	505.4	Directory Map	now require maps at entrance of 15 or more units
12	507.2.2	Water Tanks	clarification on when tanks can be used as an alternative
13	507.3	Fire Flow	added range of fire flow for new subdivisions
14		Waterline Extensions	clarification on when tanks can be used as an alternative
15	903.2.(a)	Fire Sprinklers	changed sprinkler discretion to a 50% rule
16	4907	Defensible Space	added reference to Annex E
17	4907.4.1	General Setbacks	provided clarity when minimum 30 feet is required
18	4907.4.3	Slope Setbacks	provided clarity on building setback from slope
19	4907.4.3	Slope Setbacks	provided clarity on building setback from slope
20	4907.9.1	Zone 0	added direction within SDCFPD
21	4907.9.2	Zone 1	added direction within SDCFPD
22	4907.9.3	Zone 2	added direction within SDCFPD
23	4907.9.4	Zones 1 and 2	added direction within SDCFPD
24	4907.9.5	Fuel Modification Zone	added direction within SDCFPD

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25	4907.10	Violations	added direction within SDCFPD
26	4907.11	Inspections	added direction within SDCFPD
27	Annex A	Residential Turnarounds	changed graphic for clarity
28	Annex B	Commercial Turnarounds	changed graphic for clarity
29	Annex C	Slope Measurements	added this graphic to better explain setback
30	Annex D	Fuel Modification	added this graphic for clarity
31	Annex E	Defensible Space	added weblinks to every District's Defensible Space Ordinance and a Countywide Fire District map
32	Annex F	Water Tanks	added this graphic for clarity

There are also 26 proposed changes that reflect changes in the State Fire Code, for a total of 58 proposed changes. For a complete set of changes refer to Attachment G, which includes a complete strike-out/underlined version of the Consolidated Fire Code.

Today's request is for the Board of Directors of the SDCFPD to consider and adopt an Ordinance Adopting the 2023 Consolidated Fire Code for applicability within the SDCFPD, including additional changes specific to SDCFPD. Because SDCFPD is now responsible for fire protection enforcement, today's action would also repeal the current County Fire Code. In addition, today's request is for the County Board of Supervisors to adopt an ordinance ratifying the 2023 Consolidated Fire Code, so it is effective within all local fire districts. The version of the Code ratified by the Board will include minor non-substantive modifications for accuracy in jurisdictional and statutory references.

Defensible Space Ordinance (DSO)

Currently, the County's DSO, located at Chapter 4 of Division 8 of Title 6 of the San Diego County Code of Regulatory Ordinances, includes a number of requirements related to combustible materials, defensible space and fuel modification. Similar requirements are included in the 2023 Consolidated Fire Code, and today's action will incorporate all DSO requirements into the Consolidated Fire Code.

Today's proposed actions will enable both County staff and fire protection districts to provide more consistent enforcement and interpretation of fire codes throughout the unincorporated area. Approval of the recommended actions will also continue to streamline the permit process by making it easier for builders to comply with the requirements in the wildland/urban interface while maintaining fire safety standards.

ENVIRONMENTAL STATEMENT

The adoption of ordinances is not a "project" as defined in the Public Resources Code section 21065 and CEQA Guidelines section 15378 and therefore is not subject to CEQA pursuant to CEQA Guidelines section 15060(c)(3). A project, as defined by CEQA, is the whole of an action

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that has the potential to result in either a direct or physical change or reasonably foreseeable indirect physical change to the environment. An action that restates or codifies existing law is not a project under CEQA because it does not cause physical changes to the environment. In addition, the ordinances do not authorize or ban any development or exempt any project from CEQA review, and therefore there is no possibility that their adoption may have a significant effect on the environment.

Alternatively, the adoption of ordinances is subject to the commonsense exemption in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that adopting the ordinances may have a significant effect on the environment.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

The County's Strategic Initiative of Sustainability, included in the 2023-2028 Strategic Plan, seeks to unify the County's efforts in environmental preservation, quality of life, economic development, education, and recreation. The action requested today will support the County's goals of maintaining high standards for quality of life by maintaining building and fire safety in the unincorporated area and will assist economic development by facilitating consistent enforcement and interpretation of the Fire Code and Consolidated Fire Code.

Respectfully submitted,



HELEN N. ROBBINS-MEYER
Chief Administrative Officer

ATTACHMENT(S)

Attachment A – CEQA Notice of Exemption for the Adoption of the 2023 Consolidated Fire Code by the San Diego County Fire Protection District

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Attachment B – CEQA Notice of Exemption for Ratification of the 2023 Consolidated Fire Code, Repeal of the County Fire Code, and Amendment of the Defensible Space Ordinance

Protection Districts in San Diego County

Attachment C – California Health and Safety Code Section 17958.7 Findings

Attachment D – An Ordinance Adopting the 2023 Consolidated Fire Code for the San Diego County Fire Protection District (Clean Version)

Attachment E – An Ordinance Adopting the 2023 Consolidated Fire Code for the San Diego County Fire Protection District (Strike-out Version)

Attachment F – An Ordinance Ratifying the 2023 Consolidated Fire Code for Fire Protection Districts in San Diego County (Clean Version)

Attachment G – An Ordinance Ratifying the 2023 Consolidated Fire Code for Fire Protection Districts in San Diego County (Strike-out Version)

Attachment H – An Ordinance Repealing Title 9, Division 6, Chapter 1 of the San Diego County Code of Regulatory Ordinances Relating to the County Fire Code (Clean Version)

Attachment I – An Ordinance Repealing Title 9, Division 6, Chapter 1 of the San Diego County Code of Regulatory Ordinances Relating to the County Fire Code (Strike-out Version)

Attachment J – An Ordinance Amending Title 6, Division 8, Chapter 4 of the San Diego County Code of Regulatory Ordinances Relating to Defensible Space Requirements (Clean Version)

Attachment K – An Ordinance Amending Title 6, Division 8, Chapter 4 of the San Diego County Code of Regulatory Ordinances Relating to Defensible Space Requirements (Strike-out Version)

Attachment L – Ratification Criteria Worksheets

Attachment M – Summary of Proposed Ordinances