

ALPINE FIRE PROTECTION DISTRICT DEFENSIBLE SPACE ORDINANCE #2023-02

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AN ORDINANCE OF THE ALPINE FIRE PROTECTION DISTRICT FOR VEGETATION MANAGEMENT AND DECLARING CERTAIN VEGETATION AND CERTAIN WASTE MATTER A PUBLIC NUISANCE AND PROVIDING FOR THE REMOVAL THEREOF

The Board of Directors of the Alpine Fire Protection District does ordain as follows:

ARTICLE I – The Alpine Fire Protection District finds and determines that the purpose of this ordinance is to prohibit the accumulation of combustible vegetation, dead, dying or diseased trees, green waste, waste matter, and other flammable/combustible materials which are dangerous to property and to the health, welfare and safety of residents. This ordinance will provide a more Defensible Space for fire suppression personnel to operate and will allow for public nuisance abatement when property owners allow combustible vegetation and other flammable materials to accumulate in violation of this ordinance.

ARTICLE II – A majority of all native vegetation within Alpine Fire Protection District constitutes a seasonal recurrent nuisance pursuant to the Health and Safety Code Section 14900.5.

ARTICLE III – The enactment of this Ordinance is pursuant to the authority of the Health and Safety Code Sections: Section 13861 (h), Section 13879, Sections 14875, et seq, and Sections 14930. Title 14 California Code of Regulations Section 1276.02, Public Resource Code Section 4290 (a), Public Resource Code Section 4291(a) – (f), 2023-01 AFPD Fire Ordinance Section 4902 – 4907.9.3, California Fire Code 2022 Chapter 49 Section 4901 – 4910.4, Government Code Sections 51175 - 51189

ARTICLE IV - ABATEMENT OF CERTAIN VEGETATION AND WASTE MATTER

WHEREAS, Health & Safety Code Section 17958.7 requires that the Fire District, before making any changes or modifications pursuant to Section 17958.5, make express findings that such changes or modifications are needed due to climatic, geographic, or topographic conditions; and,

WHEREAS, the Board of Directors of the Alpine Fire Protection District does herewith find that the District has certain climatic, geologic, and topographic features that can have a deleterious effect on emergency services such as fire protection and emergency medical services, and,

WHEREAS, the Board of Directors of the Alpine Fire Protection District finds that the modifications and changes to the California Building Standards Code and the other regulations are reasonably necessary because of the following local climatic, geological, and topographical conditions:

- 1. The ever-changing climatic conditions and the expansion of our fire season create numerous serious difficulties regarding the control of and protection against fires in the Enforcing Agency's District. The hot, dry weather typical of this area in summer and through early winter coupled with strong katabatic (Santa Ana) winds frequently results in wildfires that threaten or could threaten the Alpine Fire Protection District. Natural vegetation occurring in our region is among the most highly combustible in the world.
- 2. The topography of the Enforcing Agency's District presents problems in the delivery of emergency services, including fire protection. Hilly terrain has narrowed, winding roads with little circulation, preventing rapid access and orderly evacuation. Many of these hills are covered with highly combustible or flammable natural vegetation. In addition to access and

evacuation problems, the terrain makes delivery of water extremely difficult. Some hill areas are served by water pump systems subject to failure in fire, high winds, earthquake, and other power failure situations.

3. Due to the topography in much of the Enforcing Agency's District, roadway condition, gates, angle of approach or departure, steeply sloping roadways, unrated private bridges, and grades are common. In addition, combining potentially severe rainstorms and ground water retention of many areas of the district where there is expansive soil may produce a condition wherein the moisture content of the soil is sufficient that roadways become damaged due to soil expansion and shrinkage. All weather, paved surfaces capable of supporting the imposed loads of fire apparatus are necessary to ensure access of emergency response personnel. These roadways, gates, approach angles, steep slopes and grades can also make it difficult for fire apparatus and other emergency vehicles to access a site. It is therefore essential that these roadway accesses be provided with proper all weather, paved surfaces, angle of approach, grades, and gate access.

ARTICLE V – ENFORCING AGENCY

Alpine Fire Protection District

SEC. I. FINDINGS.

The Board of Directors makes the following findings and declarations:

The presence of Combustible Material, as defined herein, on private property may present a fire hazard and be potentially injurious to the health, safety, and general welfare of the public. In those situations, the presence of Combustible Materials constitutes a public nuisance which may be abated in accordance with the provisions of this chapter. 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 California Food and Agricultural Code. The requirements in this chapter shall apply in addition to the other regulating statutes and ordinances heretofore or hereafter enacted by the State, the County, or any other legal entity or agency having jurisdiction, including the San Diego County Consolidated Fire Code (CFC). In the event of a conflict between the CFC and this chapter, this chapter shall prevail.

SEC. II. 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 MATERIAL" is material that will readily ignite, burn and transmit fire to any structure or vegetation. Combustible material includes, but is not limited to, Dead, Dying or Diseased Trees, Green Waste, Rubbish, or other flammable material that may present a fire hazard. Combustible Material 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.
- (b) "COUNTY" shall mean the County of San Diego.
- (c) "DEAD, DYING OR DISEASED TREES" 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.
- (d) "DEFENSIBLE SPACE" is an area either natural or man-made, where Combustible Material has 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. Defensible Space shall include the maintenance of Combustible Material overhanging a building, including the roof or an outlet of a chimney or stovepipe. The amount of treatment, clearing, or modification required to maintain Defensible Space shall take into account the flammability of the Improvement as affected by building material, building standards, location, and type of Combustible Material.
- (e) "DEFENSIBLE SPACE INSPECTION FOR REAL ESTATE DISCLOSURE". Formally known as AB-38 Assembly Bill 38 Session 2019-2020. This bill requires that for the transfer of real property in Very High Wildfire mapped areas.
- (f) "ENFORCING AGENCY" shall have authority to administer and enforce this chapter. The Enforcing Agency for the SDCFPD is the Executive Director or his or her designee, for the unincorporated fire protection districts it shall be the "Fire Code Official."
- (g) "GREEN WASTE" includes, but is not limited to, organic material such as dry grass, brush, weeds, yard trimmings, plant waste, untreated wood wastes, paper products, natural fiber products, mulch and compost.
- (h) "IMPROVEMENT" means any building or structure, permanent or temporary, erected for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind located in the unincorporated parts of the county requiring a permit shall be subject to this chapter. This shall include agricultural crops and decks extending from structures. For purposes of this chapter, the term "Improvement" excludes sheds less than 120 square feet not requiring 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.
- (i) "MSCP SUBAREA" means that area shown as the "County of San Diego MSCP Subarea" on the map that 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.
- (k) "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 is located in the unincorporated areas of the county are 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.
- (1) "PUTRESCIBLE" 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.
- (m) "RESPONSIBLE PARTY" includes, but is not limited to, any person, firm, partnership or corporation owning, renting, leasing, occupying, or otherwise controlling any parcel located in the unincorporated areas of the county are subject to this chapter.
- (n) "RUBBISH" is waste material including, but not limited to, wastepaper and debris from construction or demolition. For the purposes of this chapter, the term "rubbish" does not include Putrescible material.

SEC. III. ENFORCEMENT RESPONSIBILITY/ APPLICABILITY.

- (a) This chapter shall be applicable within the unincorporated areas of Alpine, and the Enforcing Agency shall administer and enforce the provisions of this chapter.
- (b) This chapter shall be applicable within Alpine Fire Protection District providing fire protection service within the unincorporated areas of the County of San Diego. All administrative and enforcement responsibility shall rest with the Alpine Fire Protection District.

SEC. IV. DEFENSIBLE SPACE REQUIREMENTS

- (a) **Defensible Space around Improvements.** Each Responsible Party shall maintain a minimum of 100 feet of Defensible Space measured on a horizontal plane extending from the exterior perimeter of an Improvement (including decks) are subject to the provisions below.
 - i. Where an existing Improvement is located less than 100 feet from the property line, the Responsible Party shall be required to maintain Defensible Space only to the property line they legally own.
 - a. From each corner of the building/structure extending outward create and maintain three defensible space zones.
 - Zone 0 The first 5' from the exterior wall or deck extending outward on a
 horizontal plane removes all combustible vegetation and combustible
 materials in this zone. There shall be no mulch, bark, vegetation,
 combustible materials present.
 - 2. **Zone 1** Beginning at the edge of Zone 0 extending outward on a horizontal plane for 50'. Limit all vegetation to a height of 6" 18". Remove all dead materials as needed. Limb up off the ground all trees present. If the tree is over 18' in height, then the lowest branch shall be 6' above any growth present. If a tree is less than 18' in height limb up the lowest branches 1/3 tree height and limit height of growth beneath.
 - 3. **Zone 2** Beginning at the edge of Zone 1 extending outward on a horizontal plane limit the crowns of trees being within 10' of each other. Limb up all trees as per zone 1 limitations. Limit large pockets of woody fuels to 10' clustering. Cut dead growth as needed.
 - ii. Where 100 feet of Defensible Space is not possible, the Enforcement Official may authorize less than 100 feet, but not less than 50 feet or at the discretion of the Enforcing agency. In some cases, alternative measures may be required, including, but not limited to, one or more of the following:
 - a. Mitigation measures by the Responsible Party, including, but not limited to, exterior finish materials, eave construction, reductions in the number and size of openings, and/or construction of a 6-foot-fire-resistant wall near the property line.
 - b. Locating the Improvement on the Parcel so the Defensible Space is achievable when combined with an adjacent Parcel. The remainder of the Defensible Space on the adjacent Parcel may not include any Combustible Materials.

- c. Written consent from an adjacent Parcel owner(s) to clear Combustible Materials and maintain such clearing on the adjacent property to achieve 100 feet of Defensible Space from the Responsible Party's Improvement, or to allow the Responsible Party to enter the adjacent Parcel to do same as noted in PRC 4291(B).
- iii. Where the required Defensible Space cannot be achieved by (a) ii, despite a good faith effort by the Responsible Party (as determined by the Enforcement Agency), the Fire Code Official will issue notice to abate hazard to the adjacent property owner(s) to request to allow the Responsible Party to clear any Combustible Materials within the remaining Defensible Space.
- (b) **Defensible Space along Property Lines.** Each Responsible Party shall maintain a minimum of 30 feet of Defensible Space from the property line when the presence of Combustible Material endangers or encroaches on Improvements on an adjacent property. Vacant unimproved parcels may at the discretion of the fire code official have fuel breaks created and maintained surrounding the perimeter of the parcel.
- (c) **Defensible Space along Roads and Driveways.** Each Responsible Party shall maintain a minimum of 20 feet of Defensible Space along each side of the improved width measured on a horizontal plane of public roads, private roads, and driveways.
- (d) **Defensible Space along Identified Major Evacuation Routes.** Each Responsible Party shall maintain a minimum of 30 feet of Defensible Space along each side of the improved width measured on a horizontal plane of public roads, private roads, and driveways.
- (e) **Defensible Space around Ground Mounted Solar Panel Arrays**. ALL combustible materials shall be removed, and bare mineral soil shall be present extending out from each corner 10' on a horizontal plane.
- (f) **Defensible Space around LPG (propane) tanks.** ALL combustible materials shall be removed, and bare mineral soil shall be present extending out from each corner 10' on a horizontal plane.
- (g) Maintaining Defensible Space within Open Space Easements. Defensible space is required per Public Resource Code 4291. This law requires that all buildings and structures be required to maintain the minimum required clearance. If your parcel has an open space easement recorded with the County of San Diego refer to your title document in escrow paperwork for instructions. In most cases there is language present that will allow local fire code official to provide in writing permission to cut and clear into the open space. This is done on a case-by-case basis and will require a letter executed by the Alpine Fire Protection District.
- (h) **Defensible space inspection for real estate disclosure.** Conduct a detailed home ignition zone assessment on parcel. Report any and all violations on an approved disclosure report to provide to real estate agent. Compliance with PRC 4291 and AFPD Defensible Space Ordinance.
- (i) **Fuel Breaks:** The Fire Chief or his/her designee may require a fuel break on a parcel(s) of vacant land that proposes a higher threat to additional vacant parcels to slow the spread of wildfire. A written order shall be issued with prescribed instructions of the length and width of the fuel break. Any abatement of such hazards within the fuel break shall be completed within the MSCP and PAMA requirements. Landowners that are required to abate more than the MSCP or PAMA allow will have to acquire a permit from the San Diego County Grading Division.

SEC. V. ENFORCEMENT

- (a) **Notice of Violation.** Whenever Combustible Materials are allowed to grow or accumulate in violation of this chapter, so as to endanger Improvements on a Parcel or neighboring property, or the health, safety, or welfare of the residents of such Parcel or adjacent Parcels, or vicinity, the Enforcement Agency may prepare a Notice of Violation and serve a copy upon the owner of the Parcel where the violation exists.
 - i. The Notice of Violation shall note all the following:
 - a. Identify the owner of the Parcel where the violation exists.
 - b. Identify the Parcel by reference to the Assessor's Parcel Number and its commonly used street address, giving the name or number of the street, road or highway and the number, if any, of the property.
 - c. State that the Enforcement Agency has identified Combustible Material, as defined in Section 68.402 of this chapter, on the Parcel, and that such material is in violation of Section 68.404 of this chapter.
 - d. Contain an order specifying that the Combustible Material be removed or abated and the date by which such actions must be completed.
 - e. Explain the consequences of failing to comply with the Notice of Violation by the specified date, including:
 - (i) That the Notice of Violation will become a final order.
 - (ii) That the Enforcement Agency may send an additional "Final Notice" informing the property owner and other affected parties that because the violation has not been corrected, the Parcel may be declared a Public Nuisance and subject to abatement pursuant to this chapter, and the Enforcement Agency may seek recovery of its civil, administrative, and abatement costs, to the extent permitted by law.
- (b) **Public Nuisance.** If a Parcel Owner fails to correct a violation after receiving a Notice of Violation pursuant to this chapter, the Enforcement Agency 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.
- (c) Unless otherwise required by law, any notices or orders issued pursuant to this chapter shall be served by one or more of the following methods:
 - i. Personal service, by delivery to the party or attorney on whom the service is required to be made.
 - ii. Service by first class or certified mail. Such service shall be deemed effective two (2) days after the date of mailing. The owner of a Parcel may be served by first class or certified mail at the address appearing on the last equalized assessment roll, or, if the records of the County Assessor/Recorder/County Clerk show that ownership has changed since the last equalized assessment roll was compiled or the Enforcement Agency otherwise has knowledge of a new owner, the notice or order shall be mailed to the new owner.

- iii. Service by Posting. If service cannot with diligent effort be accomplished by personal delivery or by mail, then notice may be given by posting copies of the notice or order along the Parcel not more than one hundred (100) feet apart, but in no event shall fewer than one (1) sign be posted.
- iv. If the Enforcement Agency serves a notice or order pursuant to this chapter in the manner and within the time limits required by this section, then the failure of any person to receive actual notice of any proceedings shall not affect the validity of any proceedings taken pursuant to this chapter.
- (d) Administrative Citations. Alpine Fire Protection District shall issue an administrative citation as per its AFPD 2023 Fire Ordinance section 112.4.

SEC. VI. 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 Enforcement Agency 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 that do not form a means of rapidly transmitting fire from native or landscape plants to any Improvement or other vegetation, to the Enforcement Agency'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.

ARTICLE VI. - LIENS, ADMINISTRATIVE CITATIONS AND COST RECOVERY

SEC. I. COST OF ABATEMENT AND REMOVAL.

(a) Costs for abatement shall include any and all administrative costs including, but not limited to, cost of mailing, Fire District's personnel time, computer retrieval, plus contractors' abatement costs in accordance with Section 104.13 of AFPD 2023 Fire Ordinance.

SEC. II. GOVERNMENT CODE PROVISIONS ADOPTED AND COLLECTION ASSESSMENTS

(a) The provisions of the Government Code Sections 39580 through 39586 and Section 14912 of the Health and Safety Code of the State of California incorporated by reference and are

made a part of this Ordinance. The County Auditor shall enter each assessment in the County Tax Roll opposite the parcel of land. The amount of the assessment shall be collected at the time and in the manner of ordinary, municipal taxes, and if delinquent, the amount is subject to the same penalties and procedure of foreclosure and sale as provided for ordinary municipal taxes.

- (b) The Alpine Fire Protection District may force abate the problem on behalf of the landowner. Upon said forced abatement, the District may assess all related costs for cost recovery. Upon completion of the work, the District may lien the property as described in the prior paragraph or assign their interest to a private corporation as payment for the work provided.
- (c) The assignee of said claim shall be authorized to sue for collection of money due. Upon collection on said lawsuit the Alpine Fire Protection District shall receive the first monies up to what is owed to the District for services performed; after the Fire District has been satisfied, the collection facility shall be paid for their work and then the assignees shall be paid.

SEC. III. VIOLATION

(a) The owner, occupant or agent of any lot or premise within the Alpine Fire Protection District who shall permit or allow the unlawful continuance of a fire hazard and/or public nuisance as defined in Section II. of this Ordinance upon a parcel or premises owned, occupied or controlled by him/her, or who shall violate any of the provisions of this Ordinance, shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to an Administrative Citation of not more than one thousand dollars (\$1000.00) or imprisonment for a period not exceeding six (6) months, or both such fine and imprisonment as per AFPD 2023 Fire Ordinance.

ARTICLE VII - VALIDITY

SEC. I DECLARED VALID

(a) The Board of Directors hereby declares that should any section, paragraph, sentence or word of this Ordinance or the Codes or Ordinances referenced herein be declared for any reason to be invalid, it is the intent of this Board that it would have adopted all other portions of this Ordinance independent of the eliminations from any such portion as may be declared invalid.

ARTICLE VIII – RECITALS

SEC. I RECITALS

(a) That Ordinance 16-01, to the extent that the latter is or was effective, of the Alpine Fire Protection District and all other ordinances or parts of ordinances in conflict herewith is hereby repealed.

ARTICLE IX – PUBLISHED

SEC. I. PUBLISHING

(a) That the Clerk of the Board of Directors is hereby ordered and directed to cause this ordinance to be published. First read at a regular meeting of the Board of Directors of the Alpine Fire Protection District of the County of San Diego, California, held on the 16th day of May 2023. A second reading and finally adopted and ordered published in the manner required by law on 20th day of June 2023 at the hearing and meeting by the following roll call vote:

SEC. II. EFFECTIVE

(a) That this ordinance and the rules, regulations, requirements, orders, and matters established and adopted hereby shall take effect and be in full force and effect 30 days from and after the date of its final passage and adoption.

SIGNATURE PAGE:

District, Cou	unty of San Diego, State of Calif	ornia, on by the following vote:
AYES: NOES:	(0) (0)	
ABSTAIN: ABSENT:	(0) (0)	
President of t	he Board	Secretary
	Alpine Fir	e Protection District
of the Alpine		a full and true copy of Ordinance 2023-02 of the Ordinances ed by the Alpine Fire Protection District Board of Directors

Date

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Alpine Fire Protection

Clerk of the Board

TABLE TO DESCRIBE 3 ZONES AND METHOD FOR COMPLIANCE

Zone	Feet from Improvement	Vegetation Types	Vegetation Density	Trees	Plant/ Limbing	Firewood
0	0' - 5'	NONE	NONE	Prohibited	Not applicable	Prohibited
1	5' - 50'	6" – 18" in height lowest closer to the home extending out to Zone 2. Low resin content and on approved plant list. See below for link.	Moderate	Min. 10' horizontal distance between tree crowns*, or any between tree crowns and chimneys, stovepipes, or Improvements.	For vegetation greater than 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.	Min. 50' from all improvements; min 10' from property lines; stacking under tree canopies prohibited. Exposed wood piles must have a minimum of ten (10) feet of clearance in all directions.
2	50' - 100'	Natural vegetation allowed.	No more than 50% of square footage	See Zone 2 definitions	See Zone 2 definitions	See Zone 2 definitions

ILLUSTRATION OF 3 ZONES SURROUNDING IMPROVEMENTS



