

ORDINANCE 2016-01

AN ORDINANCE OF THE ALPINE FIRE PROTECTION DISTRICT RELATING TO THE DECLARATION OF CERTAIN WASTE MATTER AND/OR VEGETATION (MATTER) AS A PUBLIC NUISANCE AND PROVIDING FOR THE ABATEMENT AND/OR REMOVAL THEREOF:

The Board of Directors of the Alpine Fire Protection District ordains 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 the Alpine Fire Protection District constitutes a seasonal and 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 13861 (h), 13879 Division 12, Part 5 Sections 14875, et seq, and Division 12, Part 6, Sections 14930. Title 14 California Code of Regulations Section 1272.00, Public Resource Code Section 4290 (a), Public Resource Code Section 4291(a) – (f)

ARTICLE IV: **DEFINITIONS**

Section IV.I. “ABATEMENT”: Pursuant to this Ordinance shall be defined as the removal of a hazard(s) or nuisance as defined by this Ordinance.

Section IV.II. “BIOLOGICAL OPEN SPACE” : As defined as per the County of San Diego Zoning Department. Open Space shall also be areas beyond the 100’ defensible space of structures and beyond the 20’ off of roadways.

Section IV.III. “COMBUSTIBLE VEGETATION” is 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 includes dry grass, brush, weeds, litter, green waste or other flammable vegetation that creates a fire hazard.

Section IV.IV. “DEAD, DYING OR DISEASED TREES” include pest or pathogen infested trees, abandoned or neglected groves or other trees which are in a dying condition or no longer living.

Section IV.V. “DEFENSIBLE SPACE” is an area either natural or man-made, where material capable of allowing a fire to spread unchecked has been abated, 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.

Section IV.VI. “FUEL MODIFICATION ZONES”

Zones that will be broken down into 3 categories:

1. Weed Abatement- Small seasonal grasses along the roadway and around the yard,
2. Fuel Modification- Limbing of small limbs and hand clearing bushes off of the roadway and around the 100’ of structure.
3. Brush Management- Major clearing of large trees, heavy native brush and removing and reducing the fuel load in the defensible space zone.

Section IV.VII. “MSCP” All references of the MSCP are defined as Multiple Species Conservation Program. A comprehensive habitat conservation planning program adopted by the Board of Supervisors on October 22, 1997 which addresses multiple species habitat needs and the preservation of native vegetation for an approximate 900 square mile area in southwestern San Diego County.

Section IV.VIII. “PAMA” Pre-Approved Mitigation Area within the County of San Diego

Section IV.IX. “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.

Section IV.X. “WASTE MATTER” Waste matter is defined for this article as unused or discarded matter having no substantial value, and which is exposed to the elements not enclosed in any structure or concealed from public view. These items consist (without limitation or exclusion by enumeration) of such matter and/or material as: rubble, asphalt, and any combustible non-functioning material and waste paper and debris from construction or demolition.

ARTICLE V: ABATEMENT OF CERTAIN VEGETATION AND WASTE MATTER

Section V.I. Certain Vegetation and Other Items Declared a Public Nuisance

- (A) Any vegetation growing upon the streets, sidewalks or upon private or public property within the Alpine Fire Protection District, which by reason of its size, type, manner of growth, proximity to any building, or improvements, which when dry will with reasonable probability constitute a fire hazard, said vegetation or other items are hereby declared to be a public nuisance and shall be abated to the satisfaction of the Fire Chief or his authorized representative.
- (B) Cultivated and useful grasses and pasture shall not be declared a public nuisance. However, if the Fire Chief or his authorized representative shall determine a hazard exists adjacent to the improved property from fire exposure, should said conditions occur, an adequate firebreak may be required.

Section V.II. “WASTE MATTER ” Declared a Public Nuisance

Waste matter by reason of its location and/or character may hamper or interfere with the prevention of suppression of fire upon the premises or adjacent premises. The requirement to abate same as defined herein or by Section IV.I is hereby declared a public nuisance.

Section V.III. Notice to Abate Hazard

If it is determined that a public nuisance or fire hazard as herein defined exists on any parcel, premise, sidewalk, parking lot, street public or private, adjacent areas, right of way to all roadways, the Chief of the Fire District or their designee upon discovery shall cause a notice to be issued to abate such nuisance. Such notice shall be headed: “Notice to Abate Hazard” and shall, in legible characters, direct the abatement of the nuisance and refer to this article and section for particulars. Notices served by means other than posting as provided by this article shall contain a description of the property reasonably sufficient to identify the location of the property and location of the nuisance thereon.

Section V.IV. Notice to Abate Seasonal and Recurrent Nuisances

In the case of weeds/vegetation which have previously been declared to constitute a seasonal and/or recurring nuisance, it is sufficient to mail a post card or letter notice to the owners of the property as they and their addresses appear upon the current assessment roll. The notice shall refer to and describe the property and shall state that “nuisance” or dangerous weeds of a seasonal and recurrent nature are growing on the property and that the same constitute a public nuisance,

which must be abated by removal. If not removed by the property owner, the Fire Chief or his authorized representative shall cause the abatement by force abatement. The cost of such force abatement shall be assessed upon the lot and/or lands from which nuisance is abated. Such assistance will constitute a lien upon such lots or lands until paid or collected through tax assessment.

Section V.V. 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, waste matter, or other flammable/combustible materials within 50' feet of the property line when such accumulation endangers or encroaches on the required Defensible Space for improvements on an adjacent property. The Fire Chief or their designee may require a distance greater than 50' 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.

Section V.VI. Defensible Space along Roads and Driveways.

No responsible party shall permit on a parcel any accumulation of combustible vegetation, dead, dying or diseased trees, green waste, waste matter, or other flammable/combustible materials within 20' feet of each side of the improved width of private roads and driveways, provided, however, the Fire Chief or designee may require, after providing written notice to the responsible party, a distance greater than 20' feet in accordance with the Defensible Space requirements found in the MOU between the Fish and Wildlife Service of the United States Department of the Interior, The California Department of Fish and Game, The California Department of Forestry, The San Diego County Fire Chief's Association and the San Diego County Fire Authority.

Section V.VII. Increased Defensible Space more than 100' from structures.

The Fire Chief or his/her designee may require an increase of defensible space due to topographical or geographical concerns. If required parcels are to maintain a defensible space clearance greater than the required 100' feet to all habitable structures a written order shall be issued when this increased defensible space requirement shall be required.

Section V.VIII. Dead, Dying or Diseased Trees:

No home owner shall remove diseased trees from their property that have been tagged or identified as diseased or dying trees. Insect and pathogen infestations spread more rapidly due to incorrect treatment and disposal of the wood, limbs and branches from diseased trees. Please consult the tree removal company for proper care and disposal of any trees on your parcel.

Section V.IX. Fuel Breaks:

The Fire Chief or his/her designee may require a fuel break on a parcel(s) of vacant land that propose 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. Land owners 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.

ARTICLE VI: NOTICE TO ABATE HAZARDS, POSTING OF PROPERTY, FORCED ABATEMENT AND APPEALS.

Section VI.I. Service of Notice to Abate Hazard

The notice required by Section V.III and V.IV of this Ordinance may be served by any of the following:

- (a) By personal service on the owner, adult occupant or adult in charge of the property.
- (b) By regular mail addressed to the owner or person in charge and control of the property at the address shown on the last available assessment roll or as otherwise known. Last and final notice shall be served through certified mail.
- (c) By posting in a conspicuous place on the land or adjacent public right of way a notice in conformance with Section 14891 and similar to Section 14892 of the Health and Safety Code, not more than 100 feet in distance apart, along such right of way with at least one notice posted on each lot or parcel.

Section VI.II. Appeal to the Board of Directors

At any time after the receipt of the abatement notice and up to seven days prior to the final clearance date as specified on the notice, the owner or person occupying or controlling said lot or premise may appeal to the Alpine Fire Protection District Board of Directors. Such appeal shall be in writing and shall be filed with the Fire Marshal. At the regular or adjourned meeting of the Board of Directors not less than five (5) days, or more than thirty (30) days after receipt of such appeal, the Board shall proceed to hear such appeal and the decision of the Board of Directors thereupon shall be final and conclusive.

An administrative fee of twenty-five dollars (\$25.00) shall accompany any appeal filed. Said fee may be waived if financial inability can be reasonably shown. Application of waiver shall be in the form of a letter signed by the owner or their appropriate delegate.

If the appeal is not accompanied by the fee or application for waiver, (and acceptance thereof by Fire Marshal) then the appeal will be administratively denied. If the appeal is successful in reversing the prior demand for abatement then the above administrative fee shall be refunded to the appellant.

Section VI.III. Abatement of Nuisance by the Fire Chief

If the owner fails or neglects to abate the nuisance as herein defined within the time specified, the Fire Chief shall cause such nuisance to be removed and/or force abated pursuant to Sections 14900 and 14901 of the Health and Safety Code, a report of the proceedings and an accurate account of the costs of abating the nuisance on each separate property shall be filed in the Fire Prevention Bureau.

ARTICLE VII: LIENS, ADMINISTRATIVE CITATIONS AND COST RECOVERY

Section VII.I Cost of Abatement and Removal

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 V.IV

Section VII.II. Government Code Provisions Adopted and Collection Assessments

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.

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 assigns their interest to a private corporation as payment for the work provided.

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.

Section VII.III.Violation

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 V.1. 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 five hundred dollars (\$500.00) or imprisonment for a period not exceeding six (6) months, or both such fine and imprisonment.

ARTICLE VIII: VALIDITY

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 IX: RECITALS

That Ordinance 01-01, 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 X: PUBLISHED

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 5th day of January 2016. A second reading and finally adopted and ordered published in the manner required by law on 2nd day of February 2016 at the hearing and meeting by the following roll call vote:

ARTICLE XI: EFFECTIVE

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.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Alpine Fire Protection District, County of San Diego, State of California, on the by the following vote:

AYES: (0)
NOES: (0)
ABSTAIN: (0)
ABSENT: (0)

President of the Board

Secretary

Alpine Fire Protection District

I hereby certify that the above and foregoing is a full and true copy of Ordinance 2016-01 of the Ordinances of the Alpine Fire Protection District, as adopted by the Alpine Fire Protection District Board of Directors at a Regular Meeting held on

Jean D. Moore
Jean D. Moore, Clerk of the Board