

ORDINANCE NO. 9633 (NEW SERIES)

AN ORDINANCE AMENDING CHAPTER 4 OF DIVISION 8 OF TITLE 6 OF THE
SAN DIEGO COUNTY CODE RELATED TO REMOVAL OF COMBUSTIBLE
VEGETATION AND OTHER FLAMMABLE MATERIALS
REF: POD 03-01

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 to prohibit the accumulation of combustible vegetation, dead, dying or diseased trees, green waste, rubbish, and other flammable materials which are dangerous to property and to the health, safety, and welfare of residents. The ordinance amendment 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.

Section 2. The title of Chapter 4 of Division 8 of Title 6 of the San Diego County Code is hereby amended to read as follows:

CHAPTER 4. REMOVAL OF COMBUSTIBLE VEGETATION AND OTHER
FLAMMABLE MATERIALS

Section 3. Section 68.401 of the San Diego County Code 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 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 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 constitute 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.

Section 4. Section 68.402 of the San Diego County Code 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 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 or other flammable vegetation that creates a fire hazard.
- (b) "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.
- (c) "DIRECTOR" means the Director of Planning and Land Use or his/her authorized representative.
- (d) "GREEN WASTE" includes, but is not limited to, organic material such as yard trimmings, plant waste, untreated wood wastes, paper products, natural fiber products, mulch and compost.
- (e) "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 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 fences or similar barriers enclosing or separating areas of land.
- (f) "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.
- (g) "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.

- (h) "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.
- (i) "RESPONSIBLE PARTY" includes, but is not limited to, any person, firm, partnership or corporation owning, renting, leasing, or otherwise controlling any parcel located in the unincorporated area of the County of San Diego subject to this chapter.
- (j) "RUBBISH" is waste material including, but not limited to, garbage, waste paper, and debris from construction or demolition.

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

SEC. 68.403. ENFORCEMENT RESPONSIBILITY/APPLICABILITY.

The Director shall administer and enforce the provisions of this chapter.

This chapter shall be applicable in the following portions of the unincorporated territory of the County:

- (a) All unincorporated territory of the County of San Diego outside of the fire protection districts or municipal water districts which provide fire protection services.
- (b) Territory within a fire protection district or municipal water district which provides fire protection service if the district has adopted this ordinance by reference through enactment of its own district ordinance. In such case, administrative and enforcement responsibility shall rest with the district, and the County shall bear no such responsibility except to the extent specifically approved by the Board of Supervisors.

Section 6. Section 68.404 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.404. PROHIBITIONS/CLEARANCE REQUIREMENTS.

- (a) Clearance From Improvements.

No 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 one hundred (100) feet of the exterior perimeter of any improvement thereon, provided, however, the Director may authorize a distance less than 100 feet, but no less than 30 feet, in accordance with the exceptions found in the Clearance of Brush or Vegetative Growth From Structures requirements found in the Fire Code at Section 16 of Section 35.39100.030 of the San Diego County Code. Where the distance from the improvement to the property line of the parcel on which the improvement is located is less than the distance required to be cleared, the responsible party shall only be required to clear to the property line, however, the adjacent responsible party may be permitted or required by the Director to establish the required clearance.

(b) Clearance From 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 thirty (30) feet of the property line when such accumulation endangers property or the health, safety, or welfare of residents of the vicinity, or upon written notice of the Director to remove such accumulation, provided, however, the Director may require a distance greater than thirty (30) feet but not to exceed one hundred (100) feet when it is determined that the greater distance is necessary to protect property or the health, safety, and welfare of residents of the vicinity.

(c) Clearance From Roads and Driveways.

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 ten (10) feet of each side of the improved width of highways, private roads and driveways, provided, however, the Director may require, after providing written notice to the responsible party, a distance greater than ten (10) feet in accordance with the Clearance of Brush or Vegetative Growth From Roadways requirements found in the Fire Code at Section 17 of Section 35.39100.030 of the San Diego County Code.

(d) Additional Clearance.

Notwithstanding the provisions of subsections (a), (b), and (c) of this section, if the Director determines that a greater distance is necessary to protect property or the health, safety and welfare of residents of the vicinity, the Director may require a responsible party to provide additional clearance 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 ten acres and under in size and zoned for single family residential uses if the Director finds that the clearing 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 ten acres and under in size and zoned for single family residential uses if the Director finds that the clearing 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) 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 Director determines do not form a means of rapidly transmitting fire from native or landscape plants to any improvement or other vegetation.

- (f) 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 County Code.

Section 7. Section 68.405 of the San Diego County Code is hereby amended to read as follows:

SEC. 68.405. PUBLIC NUISANCE.

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 Director may declare a public nuisance and proceed to abate, in accordance with the Uniform Public Nuisance Abatement Procedure

contained in Chapter 2 of Division 6 of Title 1 (commencing with Section 16.201) of the County Code or any other procedure permitted by law.

Section 8. Section 68.406 of the San Diego County Code is hereby added to read as follows:

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 (8") above the ground, however, abated orchards shall have the stumps removed. Any removed tree may be chipped and left on a parcel if done in a manner that does not present a fire hazard. If the Director 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 Director'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 County Code.

Section 9. Effective Date. This ordinance shall take effect and be in force thirty (30) days after its passage, and before the expiration of fifteen (15) 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 Daily Commerce, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED this 24th day of March, 2004.