

**AN ORDINANCE OF THE VALLEY CENTER 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 Valley Center Fire Protection District does ordain as follows:

**ARTICLE I** The health and safety of the Valley Center Fire Protection District and the residents thereof, require the incorporation of the following ordinance.

**ARTICLE II** A majority of all native vegetation within the Valley Center 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 Section 13861, 13879, 14875, 14930, et seq.

**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 Valley Center 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 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 Valley Center Fire Protection 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 Valley Center Fire Protection District. Natural vegetation occurring in our region is among the most highly combustible in the world.
2. The Valley Center Fire Protection District is situated near several known major faults, each capable of generating earthquakes of significant magnitude. These are the Rose Canyon Fault, west of the District, the Elsinore Fault, and the Agua Caliente Fault, located east of the District, the Newport – Inglewood, the Coronado Banks, and the Silver Strand Faults, located generally west of the District. These faults are subject to becoming active at any time; the Valley Center Fire Protection District is particularly vulnerable to devastation should such an earthquake occur.

The potential effects of earthquake activity include isolating the Valley Center Fire Protection District from the surrounding area and restricting or eliminating internal circulation due to the potential for collapsing of highway overpasses and underpasses, along with other bridges in the district, or an earth slide, and the potential for vertical movement rendering surface travel unduly burdensome or impossible.

3. The Valley Center Fire Protection District is situated on the slopes of and at the base of the Coastal Mountains, with drainage from the eastern portion of the district, including the San Dieguito River and Keys Creek, which when flooded, could result in conditions rendering fire department's vehicular traffic access unduly burdensome or impossible.

Further, the flood conditions described above carries the potential for overcoming the ability of the fire department to aid or assist in fire control, evacuations, rescues and the Emergency tasks demands inherent in such situations. The potential for the aforementioned flooding conditions to result in limiting fire department emergency vehicular traffic, with resulting overtaxing fire department personnel, may further cause a substantial or total lack of protection against fire for the buildings and structures located within the jurisdiction.

4. The Valley Center Fire Protection District is bisected by San Diego County Highway S6 (Valley Center Road). This highway is heavily traveled by transportation vehicles carrying known toxic, flammable, explosive and hazardous materials.

The potential for release or threatened release of a hazardous material along this route and others within the district is likely given the volume-transported daily. Incidents of this nature will normally require all available emergency response personnel to prevent injury and loss of life and to prevent, as far as practicable, property loss. Emergency personnel responding to such aforementioned incidents may be unduly impeded and delayed in accomplishing an emergency response as a result of this situation. With the potential result of undue and unnecessary risk to the protection of life and public safety and, in particular, endangering residents and occupants in buildings or structures without the protection of automatic fire sprinklers.

5. The topography of the Valley Center Fire Protection District presents problems in 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.

Due to the topography in much of the Valley Center Fire Protection 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.

6. The Valley Center Fire Protection District and Southern California are semi-arid regions and experience drought conditions from time to time. Those shortages can have a severely adverse effect on water availability for firefighting.

WHEREAS, certain amendments to the California Fire Code serve to mitigate to the extent possible said deleterious effects:

WHEREAS, Section 50022.1 through 50022.10, inclusive, of the Government Code and Section 13869 of the Health and Safety Code, provide authority for the adoption by reference of codes, or portion of such codes:

WHEREAS, the health and safety of the Valley Center Fire Protection District and the residents thereof require the adoption of the following Ordinance.

WHEREAS, the formation of this Ordinance is as directed by the Health and Safety Code of the State of California, Division 12, Part 5, Abatement of Hazardous Weeds and Rubbish Sections 14875 and 14876, and Part 6, Abatement of Hazardous Weeds and Rubbish, Alternative Procedures Section 14930 through 14931.

NOW THEREFORE, the Board of Directors of the Valley Center Fire Protection District does ordain as follows;

Ordinance Number 48, of the Valley Center Fire Protection District is hereby repealed.

**SECTION 1 DEFINITIONS.**

The following words and phrases shall have the meanings respectively as described in this ordinance:

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

**FIRE HAZARD** any condition or conduct which, in the opinion of the Fire Chief or his/her designee: (a) increases or may increase the threat of fire to a greater degree than customarily recognized as normal by individuals in the public service regularly engaged in preventing, suppressing or extinguishing fire or (b) may obstruct, delay, hinder or interfere with the operations of the fire department or the egress of occupants in the event of fire.

**FUEL MODIFICATION ZONE** is a strip of land where combustible vegetation has been thinned, modified or both and partially or totally replaced with approved drought-tolerant, fire-resistant, and/or irrigated plants to provide an acceptable level of risk from vegetation fires. Fuel modification reduces radiant and convective heat, thereby reducing the amount of heat exposure on the roadway or structure and providing fire suppression forces a safer area in which to take action.

**GREEN WASTE** includes, but is not limited to, organic material such as yard trimmings, plant waste, manure, untreated wood wastes, paper products, natural fiber products, mulch and compost.

**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 and shall include agricultural crops. For purposes of this term, "improvement" shall not include fences, similar barriers isolating or separating areas of land.

**MULCH** is any chipped wood product or other combustible ground cover used in landscaping and must not be placed within 18 inches of any stucco walls or other combustible portions of a structure.

**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.

**PARCEL** means any contiguous quantity of land in the possession of, owned by, or recorded as the property of, the same persons or entity, and which is located in the unincorporated area of the County of San Diego.

**RESPONSIBLE PARTY** includes, but is not limited to, any person, firm, partnership, entity or corporation owning, renting, leasing, or otherwise controlling any parcel.

**RUBBISH** is waste material including, but not limited to, garbage, waste paper, and debris from construction or demolition.

**COMBUSTIBLE VEGETATION** is material that in its natural state will readily ignite, i. e., burn and transmit fire from native or landscape plants to any structure or other vegetation. Vegetation includes dry grass, brush, weeds, litter or other combustible vegetation that creates a fire hazard.

WASTE MATERIAL is defined as unused or discarded matter having no substantial market value, which is exposed to the elements and is not enclosed in any structure or otherwise concealed from public view, and which consists (without limitation or exclusion by enumeration) of such matter and material as rubble, asphalt, and other combustible material, or dead vegetation stock piled. Waste Material may also include inoperable vehicles or equipment, or abandoned structures constructed of combustible materials.

**SECTION 2 Certain Vegetation, And Other Items Declared a Public Nuisance**

"Weeds," as used in this part, means all unwanted vegetation growing upon streets, sidewalks or private property within the Valley Center Fire Protection District and includes any of the following, and are hereby declared a public nuisance:

- (a) Plants or vegetation, which bear seeds of a downy or wingy nature.
- (b) Sagebrush, chaparral, and any other brush or vegetation which attain such large growth as to become, when dry, a fire menace upon premises and/or to adjacent property.
- (c) Plants or vegetation, which are otherwise combustible, noxious weed or dangerous.
- (d) Plants from the genus *Toxicodendron* (e.g. poison oak or poison ivy) when the conditions of growth are such as to constitute a menace to the public health.
- (e) Dry grass, stubble and weeds.
- (f) Trees, if determined to increase the fire hazard, due to mortality, insect infestation, disease or lack of maintenance.
- (g) Dead and/or dying groves, orchards, vineyards and/or forests.
- (h) Palm Trees; all dead palm fronds including older leaves that persist on the tree.

AESTHETICS are not a consideration in determining the presence of a fire hazard.

Cultivated and useful grasses and pasture will not be declared a public nuisance. However, if the Fire Chief and/or his/her authorized representatives determine it necessary to protect adjacent improved property from fire exposure, an adequate firebreak may be required.

**SECTION 3 Waste Material Declared a Public Nuisance**

Waste material as defined in this ordinance, which by reason of its location and character would materially hamper or interfere with the prevention or suppression of fire upon the premises or adjacent premises, or the abatement of a nuisance as defined by Sec. 12510, Health and Safety Code, is hereby declared a public nuisance.

**SECTION 4 Clearance of brush or vegetative growth**

Responsible parties owning, leasing, controlling, operating or maintaining buildings or structures in, upon or adjoining areas of high fire hazard, and responsible parties owning, leasing or controlling land adjacent to such buildings or structures, shall at all times maintain their property according to this section. Any chipping that is done on site should be spread not to exceed 6 inches in depth and be maintained at least 18 inches away from any structure.

**SECTION 4.1 General Clearance**

- (a) Dry grass, stubble and weeds, which endanger the public safety by creating a fire hazard in any portion of the Valley Center Fire Protection District shall be mowed to a height not to exceed four (4) inches.
- (b) Trees; if determined to increase the fire risk due to mortality, insect infestation, disease, or lack of maintenance are considered a fire hazard and must be removed. Mature living trees must be trimmed so that limbs are a minimum of 6 feet above the ground.
- (c) Palm Trees; all dead palm fronds including older leaves that persist on the tree, forming a “skirt” of brown thatch must be removed annually; this requirement applies to all palms, regardless of their location on the property or distance from structures.
- (d) Orchards, groves or vineyards; All orchards, groves, and vineyards shall be kept in a healthy state and maintained as described below. A 20-foot firebreak shall be cleared between the perimeter, orchard trees or row of grape vines and native vegetation or ornamental landscaping. Orchards shall be kept cleaned of dead and or downed trees. Orchards and vineyards shall be free of combustible debris, dead branches and dead foliage. All dead grasses between rows of trees or vines shall be mowed not to exceed four (4) inches in height or disked to bare soil.
- (e) Any accumulation of dry grasses or other combustible vegetation within ten (10) feet of any aboveground flammable liquid or combustible gas vessel must be removed down to mineral soil.
- (f) Clearing is required thirty (30) feet from all property lines regardless of the proximity of structures or vulnerable exposures.
- (g) Where neighboring persons or properties are especially vulnerable to the effects of a fire, including, but not limited to schools, hospitals, mobilehome parks, retirement residences and chaparral/development interfaces, and larger breaks or solid disking are deemed necessary for fire protection, firebreaks which exceed forty (40) feet or solid disking of parcels larger than five (5) acres may be required.

**SECTION 4.2 Clearance of brush or vegetative growth from structures**

- (a) Maintain an effective fuel modification zone by thinning, clearing away, or modifying away combustible vegetation and other combustible materials from areas within one hundred (100) feet from any structure. The area within fifty (50) feet of a building or structure shall be cleared of vegetation that is not fire resistant and re-planted with fire-resistant plants. In the area between 50 to 100 feet from a building all dead and dying vegetation shall be removed. Native vegetation may remain in this area provided that the vegetation is modified so that combustible vegetation does not occupy more than 50% of the square footage of this area. Distances and square footage must be measured in the horizontal plane (plan view) without regard to slopes.

EXCEPTION (1): With the approval of the Fire Chief and/or his/her designee, the width of the fuel modification zone may be modified based on the hazard and topography.

- (b) Remove the portion of trees, which extend within ten (10) feet of the outlet of a chimney.
- (c) Maintain existing trees free of dead wood, and trim/prune at a minimum of ten (10) feet away from combustible construction, roofs, and wood siding of any type.
- (d) Maintain the roof of a structure free of leaves, needles or other combustible vegetative growth.
- (e) All fire-resistive tree species, planted after the adoption date of this ordinance shall be maintained with a minimum of ten (10) feet from the tree's drip line to any combustible structure.
- (f) All non-fire-resistive tree species, planted after the adoption date of this ordinance shall be maintained with a minimum of thirty (30) feet from the tree's drip line to any combustible structure.

**SECTION 4.3 Clearance of brush or vegetative growth from roadways**

- (a) Clearance at ALL Off-Site Roadways. The Fire Chief and/or his/her designee is authorized to cause the area within twenty (20) feet on each side of the improved width portions of highways, private roads and driveways, which are improved, designed, or ordinarily used for vehicular traffic to be cleared of combustible vegetation and other combustible growth and shall comply with the requirements of a fuel modification zone. The Fire Chief and/or his/her designee are authorized to enter upon private property to insure the fuel modification zone requirements are met.

EXCEPTION: Single specimens of trees, irrigated and ornamental shrubbery or cultivated ground cover such as green grass, ivy, succulents or similar plants used as ground covers, provided that they do not form a means of readily transmitting fire.

- (b) All roadways shall have a minimum of thirteen (13) feet six (6) inches vertical clearance free of vegetation. No obstruction of the road above the improved portion and below this vertical clearance level is allowed.

**SECTION 4.4 Clearance of Dead and Dying Groves and Orchards**

- (a) The Fire Chief and/or his/her designee is authorized to cause the area of the grove or orchard to be cleared of combustible vegetation and other combustible growth. The Fire Chief and/or his/her designee are authorized to enter upon private property to insure the fuel modification zone requirements are met.

**SECTION 5 Public Education**

The Valley Center Fire Protection District will conduct, to the best of their ability, yearly public education campaigns, as directed by the Fire Chief and/or his/her designee. These campaigns will be for the purpose of raising public awareness with respect to wildland fire hazards, defensible space maintenance and any other needs identified to improve and enhance the safety of the community.

**SECTION 6 Violation**

The owner, occupant, or agent of any parcel or premises within the Valley Center Fire Protection District who will permit or allow the existence of a public nuisance or fire hazard as defined in this Ordinance, upon any parcel or premises owned, occupied, or controlled by him or her, or who shall violate any of the provisions of this Ordinance, shall be guilty of a misdemeanor, punishable by a fine of not more than Five Hundred Dollars (\$500.00), or imprisonment for a period not exceeding six (6) months, or both. Each day that a violation continues after due notice has been served may be deemed a separate offense.

**SECTION 7 Notice and Order to Abate Hazard**

If it is determined that a public nuisance or fire hazard as herein defined exists on any parcel or premises, or upon any sidewalk, parking lot, parking area or adjacent to such parcel or premises, the Fire Chief and/or his/her designee will cause a notice to be issued to abate such nuisances.

Such notice will be headed: "**Notice and Order to Abate Fire Hazard**" in letters not less than ½" tall, which shall direct the abatement of the nuisance or fire hazard and refer to this article and section for particulars. Notice and Order to Abate served by means other than posting as provided by this article will contain a description of the property in general terms reasonably sufficient to identify the location of the nuisance.

**SECTION 8 Service of Notice and Order to Abate Fire Hazard**

The notice required by Division 12, Part 5 of the Health and Safety Code may be served in any of the following manners:

- (a) By personal service on the owner, occupant or person in charge or control of the property.
- (b) By regular first class postage prepaid 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.
- (c) By posting at a conspicuous place on the land or abutting public right-of-way and insertion of an advertisement at least once a week for a period of two weeks in a newspaper of general circulation in the Valley Center Fire Protection District. The posting shall be printed in such a way as to remain visible for at least 90 days without fading. Said newspaper advertisement will be a general notice that property in the Valley Center Fire Protection District has been posted in accordance with this article and contains a general statement of the effect of such posting. The date of such newspaper advertisements will not be considered in computing the appeal periods provided by this article.

**SECTION 9 Appeal, Right of, to Board of Directors**

Within ten (10) calendar days from the date of posting, mailing or personal service of the required notice, the owner or person occupying or controlling such parcels or premises affected may appeal to the Valley Center Fire Protection District Board of Directors. Such appeal will be in writing and will be filed with the Board Secretary. At the regular or adjourned meeting of the Board of Directors, not less than five (5) calendar days or more than thirty (30) calendar days thereafter, it will proceed to hear and pass upon such appeal, and the decision of the Board of Directors thereupon will be final and conclusive.

**SECTION 10 Time Limit for Removal of Nuisance**

It will be the duty of the responsible party in possession of any parcel or premises in the Valley Center Fire Protection District to abate the nuisance or fire hazard as stated within ten (10) calendar days from the date of notification as provided herein, or in case of an appeal to the Board of Directors, within ten (10) calendar days from the determination thereof, unless the same is sustained.

**SECTION 11 Abatement of Nuisance by Fire Chief**

If the owner fails or neglects to abate the nuisance as herein defined, within the time specified in the article, the Fire Chief and/or his/her designee of the Fire District, may cause such nuisances or fire hazard to be abated. Private contractors may do the abatement work. A report of the proceedings and an accurate account of the cost of abating a nuisance or fire hazard on each separate property will be filed with the Community Risk Reduction Division of the Valley Center Fire Protection District.

**SECTION 12 Expense of Abatement Report and Hearing**

The Accounting Department of the Valley Center Fire Protection District will keep an account for the costs of abatement plus an administrative fee for each parcel abated as defined in the Fees for Service ordinance. A written itemized Abatement Report showing the cost of removal and abatement of hazards shall be prepared for the Board's approval. At least three (3) calendar days prior to the date of the hearing a copy of the report will be posted in a public place at the offices of the Valley Center Fire Protection District, showing the date and time of the hearing. A copy of the report and notice of hearing date will be sent to the last known owner of the parcel as listed in the County Assessor's Office.

At the specified date and time, the Board will receive the report. In considering the report, the Board of Directors will hear it and any objections of the property owners liable to be assessed for the work of abatement. After receiving the report and hearing the objections, if any, the Board may make such modifications in the report, as it deems necessary, after which, by Board action, the report shall be confirmed. After the report has been confirmed, the District will seek cost recovery from the property owner prior to implementing the provisions of Section 13 within this Ordinance.

**SECTION 13 Government Code Provisions Adopted and Collection of Assessments**

The provisions of Section 39580 through 39586, inclusive, of the Government Code of the State of California are incorporated by reference and 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. If delinquent, the amount is subject to the same penalties and procedure of foreclosure and sale as is provided for ordinary municipal taxes.

**ARTICLE V** The Board of Directors hereby declares that facts exist pursuant to Section 36937 of the Government Code of the State of California constituting an urgency, to wit: That in order to promote and protect the public health, safety and welfare of the citizens of the Valley Center Fire Protection District by reason of certain vegetation and other items constituting a potential health and fire hazard requiring immediate regulation and control by the Fire District; That the Board of Directors does hereby determine that such facts constitute an urgency, that the passage of this ordinance is urgent due to the severity and frequency of annual vegetation within the District, and shall take effect immediately upon adoption pursuant to Section 36937 of the Government Code of the State of California



**ARTICLE VI** The Board of Directors hereby declares that should any section, paragraph, sentence or word of this ordinance or of the Codes or Ordinances referenced herein be declared for any reason to be invalid, it is the intent of the Board that it would have adopted all other portions of this ordinance independent of the elimination therefrom of any such portion as may be declared invalid.

First, read at a regular meeting of the Board of Directors of the Valley Center Fire Protection District (VCFPD) of the County of San Diego, California, held on **May 16, 2019**.

A second reading occurred at a regular meeting held on **June 20, 2019**.

A regular meeting was held **July 18, 2019** and said Ordinance was adopted and ordered published in the manner required by law by the following roll call vote:

AYES: 4 - Bell, HITCHISON, WARD, O'CONNOR

NOES: 0

ABSENT: 1 - ABRAMS

ABSTAIN: 0



Phil Bell, Board President

ATTEST:



Jeremy Abrams, Board Secretary

STEVE HITCHISON, BOARD VICE PRESIDENT