REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
SAN BERNARDINO COUNTY, CALIFORNIA
AND RECORD OF ACTION

October 7, 2008
Continued from Tuesday, September 23, 2008, Item 83

FROM: **DENNIS HANSBERGER, Third District Supervisor**
Board of Supervisors

SUBJECT: **2nd Reading/Final Adoption - ORDINANCE PERTAINING TO THE ABATEMENT OF FIRE HAZARDS AND HAZARDOUS TREES AND FIRE ACCESS ROAD OBSTRUCTIONS**

RECOMMENDATION(S)
Adopt **Ordinance No. 4058** amending Sections 23.0301, 23.0304, 23.0307 and 23.0308 of Chapter 3 of Division 3 of Title 2 of the San Bernardino County Code relating to abatement of fire hazards and hazardous trees and fire access road obstructions.
(Presenter: Peter S. Brierty, Assistant Chief/Fire Marshal, 909-936-5533)

BACKGROUND INFORMATION
The proposed ordinance amending relating to abatement of fire hazards and hazardous trees and fire access road obstructions had its first reading on September 23, 2008. The recommendation before the Board of Supervisors today will adopt this ordinance on the consent calendar.

SUPERVISORIAL DISTRICT(S)
All

w/ Ordinance
cc: Co. Fire-Brierty
BOS 3rd-Hansberger
Co. Counsel-Messer
CAO-Thies
File-SDD-Fire Districts-SBCFPD
ed 10/8/08
Ordinance No. 4058
ITEM 107

Rev 0708R1

Record of Action of the Board of Supervisors

APPROVED (CONSENT CALENDAR)
COUNTY OF SAN BERNARDINO
Board of Supervisors

MOTION	AYE 1	AYE 2	SECOND 3	ABSENT 4	MOVE 5

DENA M. SMITH, CLERK OF THE BOARD

BY _____

DATED: October 07, 2008

ORDINANCE NO. 4058

AN ORDINANCE OF THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AMENDING SECTIONS 23.0301, 23.0304, 23.0307 AND 23.0308 OF CHAPTER 3 OF DIVISION 3 OF TITLE 2 OF THE SAN BERNARDINO COUNTY CODE, RELATING TO ABATEMENT OF FIRE HAZARDS AND HAZARDOUS TREES AND FIRE ACCESS ROAD OBSTRUCTIONS.

The Board of Supervisors of the County of San Bernardino, State of California, ordains as follows:

SECTION 1. Section 23.0301 of Chapter 3 of Division 3 of Title 2 of the San Bernardino County Code is amended, to read:

23.0301 Duty to Abate Fire Hazards or Hazardous Trees.

Every owner or person in control of any land or interest therein in the unincorporated area of the County of San Bernardino shall abate all fire hazards and hazardous trees from such land and from all sidewalks, parkways, road easements and all other easements on such land. All such fire hazards and hazardous trees are declared to be a public nuisance for which the costs of abatement may be specially assessed pursuant to Government Code Section 25845. To provide firefighters defensible space and to minimize the spread of fire within one hundred (100) feet of a building or structure and pursuant to the California Public Resources Code Section 4291, every owner and person in control of any buildings or structures in, upon, or adjoining any mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or any land that is covered with flammable material within the unincorporated area of the County of San Bernardino shall at all times do the following:

(a) Maintain a firebreak by removing and clearing away, for a distance of not less than thirty (30) feet on each side of the building or structure or to the property line, whichever is nearer, all flammable vegetation or other combustible growth. Single specimens of trees or other vegetation may be retained provided they are well-spaced, well-pruned as defined in section 23.0304 for mountain areas in this chapter, and create a condition that avoids spread of fire to other vegetation or to a building or structure.

(b) Provide a fuel break within thirty (30) feet to one hundred (100) feet of a building or structure by disrupting the vertical and/or horizontal continuity of flammable and combustible vegetation with the goal of reducing fire intensity, inhibiting fire in the crowns of trees, reducing the rate of fire spread, and providing a safer environment for firefighters to suppress wildfire and provide structure protection in and around wildland urban interface communities. Additional fire protection or firebreak shall be made by the removal of brush, flammable vegetation, or combustible growth that is located within one hundred (100) feet from the building or structure or to the property line or at a greater distance if provided by law.

(c) Property owners who do fuel reduction activities that remove or dispose of vegetation should make every effort to properly reuse and/or recycle the resultant materials either on site or at an appropriate off site facility, without creating additional fire hazards and are required to comply with all federal, state or local environmental protection laws and obtain permits when necessary. Environmental protection laws include, but are not limited to, threatened and endangered species, water quality, air quality, and cultural/archeological resources.

SECTION 2. Section 23.0304 of Chapter 3 of Division 3 of Title 2 of the San Bernardino County Code is amended, to read:

23.0304 Mountain Area Fire Hazard Abatement.

(a) "Mountain Area" means that portion of the unincorporated area of the County of San Bernardino located within the Fire Safety Overlay of the General Plan, whether publicly or privately owned, and does include National Forest land.

(b) Flammable vegetation which constitutes a fire hazard in the "Mountain Area" means:

(1) All foliage and branches within six (6) feet from the ground on trees over twelve (12) feet in height that stand within one hundred (100) feet of structures. Limbs should be cut no less than one quarter (¼) inch from the trunk of the tree to preserve the health of the tree.

(2) All trees that are within thirty (30) feet of structures that are

smaller than four (4) inches in diameter that stand within ten (10) feet from other trees, not to include ornamental trees that are pruned and free of dead or damaged foliage.

(3) All shrubs that are within fifteen (15) feet of structures that produce high-energy-release components and are considered high fire fuels, not to include low energy release deciduous ornamental plants that are well-pruned, well-spaced and free of dead or damaged foliage. High-energy-release shrubs include, but are not limited to, Manzanita, Service Berry, Mountain Whitethorn, Sage, Ironwood, Juniper Shrubs, Spanish Broom and other species as determined by the County Fire Chief/Fire Warden or their designee to constitute a fire hazard.

(4) All high-energy-release shrubs that are spaced together less than double the size of the height of the tallest shrub and stand between fifteen (15) and thirty (30) feet of structures, (eg. a 4 foot high shrub should be spaced 8 feet or more away from the next shrub, providing that the 4 foot high shrub is the tallest of the two shrubs), not to include ornamental plants that are well-pruned, well-spaced and free of dead or damaged foliage. Planting of native, fire-wise, drought-resistant species is encouraged for the health of the forest.

(5) Lower foliage measured at least eighteen (18) inches up from the ground and all leaf litter and dead vegetation on and under all shrubs that stand within one hundred (100) feet of all structures.

(6) Dead branches and leaf litter in and under all plants, trees, foliage and shrubs and all flammable vegetation at all heights within one hundred (100) feet of all structures.

(7) Tree limbs (not trunks) less than ten (10) feet away from chimneys and stovepipes.

(8) Grass over four (4) inches in height.

(9) Pine needles, leaf litter or chipped/ground mulch on the ground over two (2) inches in depth.

(10) Trunks or branches on the ground less than four inches in diameter, not including split and neatly stacked fire wood.

(c) "Fire Hazard in the Mountain Area" means:

(1) Flammable vegetation within ten (10) feet of a road.

(2) Combustible rubbish, waste or discarded materials.

(3) Leaves, needles or other dead vegetative growth on roofs or structures.

(d) When neighboring persons or properties are especially vulnerable to the effects of fire, including, but not limited to schools, hospitals, mobilehome parks, residential occupancies, it is the responsibility of the property owner to adhere to the provisions of this section when flammable vegetation stands within one hundred (100) feet, measured on the ground, of all neighboring structures. Additional clearance may be required at the discretion of the County Fire Chief/Fire Warden or their designee on buildings listed above that may be used as evacuation centers, medical facilities and/or places of public gatherings and/or critical infrastructure.

SECTION 3. Section 23.0307 of Chapter 3 of Division 3 of Title 2 of the San Bernardino County Code is amended, to read:

23.307 Enforcement.

For the purpose of enforcing this chapter, the County Fire Chief/Fire Warden may designate any person as his/her deputy in the performance of the duties enjoined upon him or her by this chapter. In addition, each of the following officers within the County of San Bernardino is hereby designated to perform the same duties within the territory of the political subdivision which they serve. Whenever the term "County Fire Chief" is used in this chapter, the following officers are included in the meaning of such phrase, except that the County Fire Chief/Fire Warden shall coordinate all such officers in the performance of these duties:

(a) The Deputy Director of Code Enforcement, Fire Hazard Abatement Program and their designees.

(b) The San Bernardino County Land Use Services Director or designee.

(c) Other officers hereafter designated by the Board of Supervisors or the County Fire Chief/Fire Warden.

SECTION 4. Section 23.0308 of Chapter 3 of Division 3 of Title 2 of the San Bernardino County Code is amended, to read:

23.0308 Notice and Order to Abate.

(a) It shall be the duty of the County Fire Chief/Fire Warden or any designated person, whenever such officer deems it necessary to enforce the provisions of this chapter, to issue a "Notice and Order to Abate" by any or all of the following methods:

(1) By mailing a notice to the owner at the address shown on the latest tax roll.

(2) By personal service to the owner as shown on the latest tax roll.

(3) By posting the property.

(b) The form "Notice and Order to Abate Fire" shall include, at a minimum, the following information:

(1) List of hazards.

(2) List of locations.

(3) Due date by which abatement must be completed.

(4) Appeal rights.

(5) Landowner's name and address (situs and assessor's).

(6) Parcel number of affected property.

(c) The Notice and Order to Abate shall be placed in the mail by the issuing agency at least thirty (30) days prior to the "due date" for abatement on the notice.

(d) A ten (10) day extension for compliance is sent when the owner has removed greater than 51% of the fire hazard and notified the agency that the hazard has been abated, but nevertheless the agency determines the fire hazard still exists. A ten (10) day extension for compliance shall be placed in the mail by the issuing agency at least ten (10) calendar days prior to the "due date" for abatement on the notice.

(e) Compliance will be considered "In-Progress" and the Non-Compliance Notice and Order will be held in abeyance if the responsible property owner contracts with

State or Federal agencies or non profit organizations, such as Forest Care or Fire Safe Councils, that are approved by the County Fire Chief/Fire Warden as capable of providing compliance through said contract.

SECTION 5. This ordinance shall take effect thirty (30) days from the date of adoption.

PAUL BIANE, Chairman
Board of Supervisors

SIGNED AND CERTIFIED THAT A COPY
OF THIS DOCUMENT HAS BEEN DELIVERED
TO THE CHAIRMAN OF THE BOARD

DENA M. SMITH, Clerk of the
Board of Supervisors

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

I, DENA M. SMITH, Clerk of the Board of Supervisors of the County of San Bernardino, State of California, hereby certify that at a regular meeting of the Board of Supervisors of said County and State, held on the 7th day of October, 2008, at which meeting were present Supervisors: Mitzelfelt, Biane, Hansberger and Gonzales, and the Clerk, the foregoing ordinance was passed and adopted by the following vote, to wit:

AYES: SUPERVISORS: Mitzelfelt, Biane, Hansberger, Gonzales

NOES: SUPERVISORS: None

ABSENT: SUPERVISORS: Ovitt

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MM:jaf

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Board of Supervisors this 7th day of October, 2008.

DENA M. SMITH, Clerk of the
Board of Supervisors of the
County of San Bernardino,
State of California

Deputy

Approved as to Form:
RUTH E. STRINGER,
County Counsel

By: _____
Kenneth C. Hardy
Deputy County Counsel

Date: 9/30/08

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MM:jaf