

## Rincon del Diablo Fire Protection District

### Ordinance No. 2005-116.2

An Ordinance of the Rincon del Diablo Fire Protection District for Vegetation Management, and Declaring Certain Vegetation, and Certain Waste Matter a Public Nuisance, and Providing for the Removal Thereof

WHEREAS, California 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 Rincon del Diablo Fire Protection District does herewith find that the District has certain climatic, geologic, and topographical 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 Uniform Codes are reasonably necessary because of the following local climatic, geological, and topographical conditions:

**1.** The Rincon del Diablo 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, Escondido and Reidy Creeks which when flooded, could result in conditions rendering fire departments 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.

**2.** The Rincon del Diablo Fire Protection District is situated near several known major faults. These include the Rose Canyon Fault, the Newport-Inglewood, the Coronado Banks, and the Silver Strand Faults, located generally west of the District and the Elsinore Fault, the Agua Caliente Fault, located east of the District.

The potential effects of earthquake activity include isolating the Rincon del Diablo 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 Rincon del Diablo Fire Protection District is bisected by Interstate Highway 15, State Highway 78 and San Diego County Highway S6. These highways are 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 these routes 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.

**4.** The seasonal climatic conditions during the late summer and fall create numerous serious difficulties regarding the control of and protection against fires in the Rincon del Diablo Fire Protection District. The hot, dry weather typical of this area in summer and fall coupled with strong Santa Ana Winds frequently results in wildfires that threaten or could threaten the Rincon del Diablo Fire Protection District. Natural vegetation occurring in our region is among the most highly flammable in the world.

**5.** The topography of the Rincon del Diablo 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 Rincon del Diablo Fire Protection District, roadway condition, gates, angle of approach or departure, steeply sloping roadways 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. This produces 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 Rincon del Diablo Fire Protection District and Southern California are semi-arid regions and experience water shortages from time to time. Those shortages can have a severely adverse effect on water availability for fire fighting.

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 Rincon del Diablo Fire Protection District and the residents thereof require the adoption of this 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 Rincon del Diablo Fire Protection District does ordain as follows:

#### **PART I – AMENDMENTS TO ORDINANCE NO. 2002-116.1**

Those portions of the Rincon del Diablo Municipal Water District Administrative Code, Section 5, Uniform Fire Code, Section 8 of Ordinance No. 2002-116.1 relating to weed abatement, specifically those portions revising the California State Fire Code, Division II, SPECIAL HAZARDS, Appendix II-A, Section 16 – Clearance of Brush or Vegetative Growth from Structures, and Section 17 – Clearance of Brush or Vegetative Growth from Roadways, are amended in their entirety to read as follows:

#### **SECTION 16 – CLEARANCE OF BRUSH OR VEGETATIVE GROWTH FROM STRUCTURES AND ROADWAYS**

##### **Section 16.1** Abatement and Management of Certain Vegetation, and Certain Waste Matter

###### DEFINITIONS:

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

- (a) "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. 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) "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.
- (d) "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 or similar barriers enclosing or separating areas of land.
- (e) "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.
- (f) "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.
- (g) "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.

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

##### **Section 16.2** Certain Vegetation, And Other Items Declared a Public Nuisance

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

- (a) Plants or vegetation, which bears seeds of a downy or wingy nature, which create a fire or health hazard.
- (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 noxious weed or dangerous.

- (d) Poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health.
- (e) Dry grass, stubble, brush, litter, or other flammable material, which endangers the public safety by creating a fire hazard in any portion of the Rincon del Diablo Fire Protection District, which is adjacent to any improved property.
- (f) Cultivated and useful grasses and pasture will not be declared a public nuisance. However, if the Fire Chief or his authorized representatives determine it necessary to protect adjacent improved property from fire exposure, an adequate firebreak may be required.
- (g) Any accumulation of dry grasses or other flammable vegetation within thirty (30) feet of any aboveground flammable liquid or combustible gas vessel.
- (h) Trees, if determined to increase the fire hazard, due to mortality, insect infestation, disease, or lack of maintenance.
- (i) Dead and/or dying groves and/or forests.

### **Section 16.3. Waste Matter Declared a Public Nuisance**

Waste matter as hereinafter defined, which by reason of its location and character would materially hamper or interfere with the prevention or the 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 16.4. Waste Material Defined**

"Waste material" is defined for the purpose of this article 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, dead vegetation stock piled.

### **Section 16.5. Clearance of brush or vegetative growth from structures**

General Persons owning, leasing, controlling, operating or maintaining buildings or structures in, upon or adjoining hazardous fire areas, and persons owning, leasing or controlling land adjacent to such buildings or structures, shall at all times:

- (a) Maintain an effective fuel modification zone by thinning, clearing away, or modifying away combustible vegetation and other flammable materials from areas within one hundred (100) feet from such buildings or the fuel modification zone may be re-planted with either approved irrigated, fire-resistant planting material or approved non-irrigated, drought-tolerant, fire-resistant plant material, or thinned to reduce the hazard. Re-planting of the fuel modification zone may be required for erosion control.

#### **EXCEPTIONS:**

With the approval of the Fire District the width of the fuel modification zone may be modified based on the hazard or 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 deadwood, 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. All newly planted or planted from this date forward fire-resistant tree species shall be planted and maintained at a minimum of ten (10) feet from the tree's drip line to any combustible structure.

All newly planted or planted from this date forward non fire-resistant tree species shall be planted and maintained at a minimum of thirty (30) feet from the tree's drip line to any combustible structure.

### **Section 16.6. Clearance of brush or vegetative growth from roadways**

- (a) Clearance at Existing 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 and private streets roads which are improved, designed, or ordinarily used for vehicular traffic to be cleared of flammable vegetation and other combustible growth shall comply with the requirements of a fuel modification zone. The Fire Chief and/or his/her designee is authorized to enter upon private property to insure the fuel modification zone requirements are met.

#### **EXCEPTION:**

Single specimens of trees, 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) Clearance for New Off-Site Roadways when constructed and New On-Site Roadways. The area thirty (30) feet on each side of the improved width of highways, private road street and driveways shall comply with requirements of a fuel modification zone.

**EXCEPTION:**

1. Upon approval by the Fire District, the Roadway Fuel Modification Zones may be reduced provided it does not impair access.

**EXCEPTION**

2. Single specimens of trees, 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.

All roadways shall have a minimum of thirteen (13) feet six (6) inches vertical clearance free of vegetation.

**SECTION 17 - ABATEMENT PROCEDURES, APPEALS, ASSESSMENTS, AND VIOLATIONS**

**Section 17.1. Notice to Abate Hazard**

If it is determined that a public nuisance or fire hazard as herein defined exists on any lot or premise, or upon any sidewalk, parking lot, parking area or adjacent to such lot or premise, 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 TO ABATE HAZARD" which shall, in legible characters, direct the abatement of the nuisance or fire hazard and refer to this article and section for particulars. Notice to Abate Hazard 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 17.2. Service of Notice to Abate 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 in accordance with Section 4 of this Ordinance, and insertion of an advertisement at least once a week for a period of two weeks in a newspaper of general circulation in the Rincon del Diablo Fire Protection District. A said newspaper advertisement will be a general notice that property in the Rincon del Diablo 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 17.3.** Appeal, Right of, to Board of Directors Within ten (10) days from the date of posting, mailing or personal service of the required notice, the owner or person occupying or controlling such lots or premise affected may appeal to the Rincon del Diablo 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) days nor more than thirty (30) 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 17.4. Time Limit for Removal of Nuisance**

It will be the duty of the owner, the agent of the owner, or the person in possession of any lot or premise in the Rincon del Diablo Fire Protection District to abate the nuisance or fire hazard as stated within Thirty (30) days from the date of notification as provided herein, or in case of an appeal to the Board of Directors, within Thirty (30) days from the determination thereof, unless the same is sustained.

**Section 17.5. 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 Department 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 the nuisance or fire hazard on each separate property will be filed in the Fire Prevention Office.

**Section 17.6. Expense of Abatement Report and Hearing**

Rincon del Diablo Fire Protection District will be provided by FPS a written itemized abatement report showing the cost of removal and abatement of hazards per parcel, for the Board's approval, as defined and outlined in the District's adopted weed abatement Policies and Procedures. At least three (3) 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 Rincon del Diablo 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 17.7. 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.

**Section 17.8. Violation**

The owner, occupant, or agent of any lot or premise within the Rincon del Diablo Fire Protection District who will permit or allow the existence of a public nuisance as defined in this Ordinance, upon any lot or premise 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 and upon conviction thereof be subject to a fine of not more than Five Hundred Dollars (\$500.00), or to imprisonment for a period not exceeding six (6) months, or both.