

**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: 2<sup>nd</sup> 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

Record of Action of the Board of Supervisors  
**APPROVED (CONSENT CALENDAR)**  
COUNTY OF SAN BERNARDINO  
Board of Supervisors

MOTION	AYE	AYE	SECOND	ABSENT	MOVE
	1	2	3	4	5

DENA M. SMITH, CLERK OF THE BOARD

BY \_\_\_\_\_

DATED: October 07, 2008

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**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.

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

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

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

18  
19 **23.0304 Mountain Area Fire Hazard Abatement.**

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

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

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

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

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

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

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

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

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

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

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

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

28 (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.

- 1 (2) Combustible rubbish, waste or discarded materials.
- 2 (3) Leaves, needles or other dead vegetative growth on roofs or
- 3 structures.

4 (d) When neighboring persons or properties are especially vulnerable to

5 the effects of fire, including, but not limited to schools, hospitals, mobilehome parks,

6 residential occupancies, it is the responsibility of the property owner to adhere to the

7 provisions of this section when flammable vegetation stands within one hundred (100) feet,

8 measured on the ground, of all neighboring structures. Additional clearance may be

9 required at the discretion of the County Fire Chief/Fire Warden or their designee on

10 buildings listed above that may be used as evacuation centers, medical facilities and/or

11 places of public gatherings and/or critical infrastructure.

12 SECTION 3. Section 23.0307 of Chapter 3 of Division 3 of Title 2 of the San

13 Bernardino County Code is amended, to read:

14

15 **23.307 Enforcement.**

16 For the purpose of enforcing this chapter, the County Fire Chief/Fire Warden may

17 designate any person as his/her deputy in the performance of the duties enjoined upon him

18 or her by this chapter. In addition, each of the following officers within the County of San

19 Bernardino is hereby designated to perform the same duties within the territory of the

20 political subdivision which they serve. Whenever the term "County Fire Chief" is used in

21 this chapter, the following officers are included in the meaning of such phrase, except that

22 the County Fire Chief/Fire Warden shall coordinate all such officers in the performance of

23 these duties:

24 (a) The Deputy Director of Code Enforcement, Fire Hazard Abatement

25 Program and their designees.

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

27 (c) Other officers hereafter designated by the Board of Supervisors or the

28 County Fire Chief/Fire Warden.

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

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4 **23.0308 Notice and Order to Abate.**

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

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

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

11 (3) By posting the property.

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

14 (1) List of hazards.

15 (2) List of locations.

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

17 (4) Appeal rights.

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

19 (6) Parcel number of affected property.

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

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


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

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

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

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9 PAUL BIANE, Chairman  
Board of Supervisors

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

13 DENA M. SMITH, Clerk of the  
14 Board of Supervisors  
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18 STATE OF CALIFORNIA )  
19 ) ss.  
COUNTY OF SAN BERNARDINO )

20 I, DENA M. SMITH, Clerk of the Board of Supervisors of the County of San  
21 Bernardino, State of California, hereby certify that at a regular meeting of the Board of  
22 Supervisors of said County and State, held on the 7th day of October, 2008,  
at which meeting were present Supervisors: Mitzelfelt, Biane, Hansberger  
23 and Gonzales

24 \_\_\_\_\_, and the  
Clerk, the foregoing ordinance was passed and adopted by the following vote, to wit:

25 AYES: SUPERVISORS: **Mitzelfelt, Biane, Hansberger, Gonzales**

26 NOES: SUPERVISORS: **None**

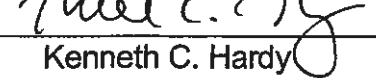
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28 ABSENT: SUPERVISORS: **Ovitt**

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

3 DENA M. SMITH, Clerk of the  
4 Board of Supervisors of the  
5 County of San Bernardino,  
6 State of California

7   
8 Deputy

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

12 By:   
13 Kenneth C. Hardy  
14 Deputy County Counsel

15 Date: 9/30/08