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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AMENDING SECTIONS 23.0301, 23.0304, 23.0307, 23.0308 AND 23.0311 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.

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

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.

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 ( $\frac{1}{4}$ ) 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 low energy release deciduous ornamental trees that are pruned and free of dead  
3 or damaged foliage.

4 (3) All shrubs that are within fifteen (15) feet of structures that  
5 produce high-energy-release components and are considered high fire fuels, not to include  
6 low energy release deciduous ornamental plants that are well-pruned, well-spaced and free  
7 of dead or damaged foliage. High-energy-release shrubs include, but are not limited to,  
8 Manzanita, Service Berry, Mountain Whitethorn, Sage, Ironwood, Juniper Shrubs, Spanish  
9 Broom and other species as determined by the County Fire Chief/Fire Warden or their  
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 within thirty (30) feet of  
12 structures, (e.g. a four (4) foot high shrub should be spaced eight (8) feet or more away  
13 from the next shrub, providing that the four (4) foot high shrub is the tallest of the two  
14 shrubs), not to include ornamental plants that are well-pruned, well-spaced and free of  
15 dead or damaged foliage. Planting of native, fire-wise, drought-resistant species is  
encouraged for the health of the forest.

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

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

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

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

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

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

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

- 1 (1) Flammable vegetation within ten (10) feet of a road.
- 2 (2) Combustible rubbish, waste or discarded materials.
- 3 (3) Leaves, needles or other dead vegetative growth on roofs or
- 4 structures.

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

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

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16 **23.0307 Enforcement.**

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

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

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

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

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

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

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

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

12 (3) By posting the property.

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

15 (1) List of hazards.

16 (2) List of locations.

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

18 (4) Appeal rights.

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

20 (6) Parcel number of affected property.

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

24 (d) A ten (10) day extension for compliance is sent when the owner has  
25 removed greater than 51% of the fire hazard and notified the agency that the hazard has  
26 been abated, but nevertheless the agency determines the fire hazard still exists. A ten (10)  
27 day extension for compliance shall be placed in the mail by the issuing agency at least ten  
28 (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

1 Order will be held in abeyance if the responsible property owner contracts with State or  
2 Federal agencies or non profit organizations, such as Forest Care or Fire Safe Councils  
3 that are approved by the County Fire Chief/Fire Warden as capable of providing  
4 compliance through said contract.

5 **23.0311 Appeal Procedure.**

6 (a) Any person who is affected by the Notice and Order to Abate may appeal to  
7 the Board of Appeals, as defined in subdivision (c) of this section, within the time for  
8 compliance with the order, by submitting the appeal in writing to the issuing officer or  
9 department supervisor of such officer.

10 (b) The written appeal must be accompanied by a fee for the cost of the appeal as  
11 established by the County Fee Schedule.

12 (c) As to appeals filed from Notices and Orders to Abate for flammable vegetation  
13 as described in Section 23.0304(b)(7)-(10) and 23.0304(c)(1)-(3) of this Chapter, the Board  
14 of Appeals shall consist of three (3) persons: one member shall be a designee of the  
15 County Fire Chief; one member shall be a designee of the Director of the Division of  
16 Environmental Health Services; and one member shall be a member of the public  
17 appointed by the Chairperson of the Board of Supervisors. (d) As to appeals filed from  
18 Notices and Orders to Abate for flammable vegetation as described in Section 23.0304  
19 (b)(1)-(6) of this Chapter, the Board of Appeals shall consist of three (3) persons: one  
20 member shall be a designee of the County Fire Chief; one member shall be a designee of  
21 the Director of the Division of Environmental Health Services; and one member shall be a  
22 member of the public appointed by the member of the Board of Supervisors of the  
23 supervisorial district in which the Notice of Order to Abate was issued.

24 (e) A timely appeal shall stay any further action until the appeal is determined.

25 (f) The officer receiving the written appeal shall inform the issuing officer, shall set  
26 the matter for hearing before the Board of Appeals and shall notify the appellant of the date  
27 set for hearing at least fifteen (15) days prior to such date.

28 (g) The Board of Appeals shall act on the appeal and its determination shall be final.

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

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5 PAUL BIANE, Chairman  
6 Board of Supervisors

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

10 DENA M. SMITH, Clerk of the  
11 Board of Supervisors

12 \_\_\_\_\_  
13  
14 STATE OF CALIFORNIA )  
15 ) ss.  
16 COUNTY OF SAN BERNARDINO )

17 I, DENA M. SMITH, Clerk of the Board of Supervisors of the County of San  
18 Bernardino, State of California, hereby certify that at a regular meeting of the Board of  
19 Supervisors of said County and State, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2008,  
20 at which meeting were present Supervisors: \_\_\_\_\_

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

23 AYES: SUPERVISORS:

24 NOES: SUPERVISORS:

25 ABSENT: SUPERVISORS:

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28 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official

1 seal of the Board of Supervisors this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

2  
3 DENA M. SMITH, Clerk of the  
4 Board of Supervisors of the  
5 County of San Bernardino,  
6 State of California

7  
8 \_\_\_\_\_  
9 Deputy

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

11 By: \_\_\_\_\_  
12 Ken Hardy  
13 Deputy County Counsel

14 Date: \_\_\_\_\_  
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