



Legislation Text

File #: 2020-0546, **Version:** 1

To: Board of Supervisors

Department or Agency Name(s): Permit Sonoma Fire Prevention

Staff Name and Phone Number: James Williams 707-565-1154

Vote Requirement: Majority

Supervisory District(s): Countywide

Title:

2:30 P.M. -Proposed Amendments to Sonoma County Code Chapter 13A, Duty to Maintain Defensible Space and Abate Hazardous Vegetation and Combustible Material

Recommended Action:

- A) Conduct a public hearing to consider proposed amendments to Chapter 13A of the Sonoma County Code, Duty to Maintain Defensible Space and Abate Hazardous Vegetation and Combustible Material.
- B) Adopt a Resolution Introducing, Reading the Title of, and Waiving Further Reading of a Proposed Ordinance (First Reading).

Executive Summary:

On April 19, 2016, Sonoma County Code Chapter 13A became enforceable in selected areas of the unincorporated County. Chapter 13A allows the Sonoma County Fire Marshal to conduct inspections for defensible space and hazardous vegetation on improved and unimproved parcels zoned for five acres or less in unincorporated Sonoma County. This item addresses proposed amendments to that ordinance. Regulations for defensible space remain essentially the same as those adopted in 2016, with no increased requirements for vegetation management. The primary purpose of Ordinance 13A is to protect lives and property from wildfire.

The ordinance modifications clarify that, in the State Responsibility Area (SRA), defensible space regulations of Title 14 of the California Code of Regulations Sections 1299.01-1299.05 (14 CCR §1299) applies to all improved parcels (Attachment 1, Map).

As adopted in 2016, Ordinance 13A regulations apply as follows:

In Local Responsibility Areas (LRA):

- Improved parcels zoned for 5 acres or less regulated by Chapter 13A
- Unimproved parcels zoned for 5 acres or less regulated by Chapter 13A

In State Responsibility Areas (SRA):

- Improved parcels regulated by California Code of Regulations §§1299.01-1299.05
- Unimproved parcels zoned for five acres or less regulated by Chapter 13A

Proposed amendments would remove the zoned for 5 acres or less restriction, creating defensible space and vegetation management duties on all parcels in unincorporated LRA, and to unimproved parcels in the SRA (improved parcels in the SRA are regulated by the more stringent requirements of 14 CCR §1299). Together with the State law, this amendment would extend the duty to maintain defensible space to property owners throughout the unincorporated area, with the exception of agricultural operations (as defined in County Code

Chapter 13-6), and legal cannabis cultivation, which the proposed ordinance would specifically exempt. The amendment would apply to dwellings but not barns and accessory structures on agricultural and cannabis cultivation properties.

The regulations of Chapter 13A help to protect lives and property by creating defensible space around residential structures (defined as dwellings, houses, or buildings) on residential properties, and roadsides. Defensible space means reducing vegetation in a 100-foot perimeter (or to the property line) from structures in order to decrease the intensity of oncoming wildfire, and provide an area from which firefighters can safely defend structures. Critical to protect homes from wildfire, defensible space includes a "lean, clean and green" zone 30 feet from buildings, and a "reduced fuels zone", which can retain more natural vegetation, from 30' to 100'.

Ordinance 13A allows for inspection and enforcement for compliance to defensible space regulations. Requirements remain essentially the same as the 2016 adopted ordinance, and address vegetation management in a defensible space radius within 100 feet of structures (or to the property line), and 10 feet from roadsides. On unimproved parcels, the ordinance includes requirements for the owner of the unimproved property to create defensible space 10 feet from structures on abutting improved properties and 10 feet from roadsides.

The current ordinance has cumbersome code enforcement procedures and imposes up to \$1,000 per day penalties for violations, which the amendments remove. The proposed changes streamline procedures so property owners have ample notice of the defensible space requirements, time to comply and resolve violations, and more reasonable penalties for continued violations. The amendment would also allow Fire Prevention staff to issue Administrative Citations through the Chapter 1 code enforcement procedures if necessary. The ordinance would align with State law defensible space penalties and with standard County code enforcement procedures.

Discussion:

Defensible Space Overview

Of the top ten most destructive fires in California history, eight occurred between 2015 and 2018. One of those fires was the Tubbs / Sonoma Complex Fire. This incident has forever changed our county, and brought to light a number of needs, including community preparedness. Multiple agencies have undertaken measures to increase readiness and planning. Residents, still recovering from the devastation of 2017, are increasingly coming together to create communities better adapted to our wildfire-prone ecosystem. A wildfire-adapted community is one in which all homes have adopted the principles of defensible space to reduce potential for home ignition.

One of the most efficient means to this end is through education. Many residents want to do the right thing; they just aren't sure what to do. However, outreach typically only captures people who are highly motivated already. By inspecting all homes in a neighborhood, vegetation management inspection programs can provide critical fire preparedness information to all. The educational aspects of inspection programs are by far the most important. Enforcement of regulations is an important tool to build fire-adapted communities. However, abatement is a last resort for fire prevention officials, and reserved for properties where owners do not comply with regulations, and whose properties pose significant risk to surrounding homes and the community.

Applicability of Defensible Space Regulations

Within unincorporated Sonoma County, lands are classified as State and Local Responsibility Areas (Attachment 1). The State Responsibility Area (SRA) is defined as "lands that are classified by the Board of Forestry pursuant to Public Resources Code Section 4125, where the financial responsibility for preventing and suppressing forest fires is primarily the responsibility of the state." In Sonoma County, the vast majority of our lands are in the SRA where CAL FIRE has primary responsibility for fire prevention and the suppression of wildfire. In the SRA, State law regulates defensible space on improved parcels through Public Resource Code Section 4291 and Title 14 of the California Code of Regulations Sections 1299.01-1299.05 (Attachment 2). Because these requirements are more stringent than those proposed in Chapter 13A, fire officials must apply these requirements in the SRA. Local fire officials cannot enforce regulations that are lesser than State law.

Local Responsibility Areas (LRA) are unincorporated areas where a local government has primary responsibility for fire prevention and suppression. Defensible Space regulations applicable to SRA areas (14 CCR §1299) do not apply in the LRA. Therefore, to enforce defensible space regulations in the LRA, ordinances need to be added to County Code. In 2016, the Board adopted Chapter 13A of the Sonoma County Code to accomplish this goal.

Proposed Amendments

In April 2020, Fire Prevention staff brought a proposed amended ordinance to the Board for a public hearing. The Board continued the item, directing staff to meet with members of the public and explain the defensible space requirements. Fire Prevention staff have met with the Farm Bureau, North Bay Builders Exchange, North Bay Realtors, Engineering Contractors Association, fire agency personnel, and representatives from the Sonoma Ecology Center and the University of California Cooperative Extension. Fire Prevention staff responded to concerns that the defensible space requirements would interfere with agricultural operations and ecological values by including an exemption for agriculture, and by adding text to ensure that regulations pertaining to sensitive habitats are taken into account by inspectors and followed by property owners.

The current ordinance applies only to parcels that are zoned for five acres or less. One of the most important amendments is to remove the five acres or less limitation. The rationale behind the five-acre limitation was to concentrate inspections in areas with greater population and housing density. However, experience has shown that the limitation can interfere with implementation of inspection programs and response to complaints because only parcels zoned for 5 acres or less can be inspected.

State law already applies stringent defensible space requirements for all residences and structures throughout the State Responsibility Area, regardless of parcel size. Amendments to the ordinance do not change the duty of all owners of improved parcels of any size in SRA to comply with State law.

The amendment would supplement State law by requiring a duty to create defensible space and abate hazardous vegetation within 100 feet of residences and within 10 feet of roadsides throughout the unincorporated LRA of the County, and to maintain unimproved parcels in both LRA and SRA, regardless of parcel size. Staff recommends updating Chapter 13A to supplement State law by applying defensible space requirements to all parcels in the unincorporated area. Agricultural operations as defined in Sonoma County Code Chapter 13-6 and cannabis cultivation are exempted, along with non-residential agricultural outbuildings such as barns, sheds and utility buildings that are located on such parcels.

Section 13A-5(a) specifies that the Board may direct the Fire Warden/Fire Marshal to limit enforcement of the

provisions of this chapter to specified areas in the unincorporated area for a specified period of time. For the current inspection season, Fire Prevention staff would recommend to the Board that we continue to concentrate the Vegetation Management Inspection Program (VMIP) to LRA parcels zoned five acres or less.

Inspection areas are determined based on a combination of factors, including influence of north east winds, fire history, and areas where due to housing density, inspections are likely to have community-wide impact. Fire Prevention staff will continue to coordinate closely with the local fire protection districts and CAL FIRE to educate the public about the importance of creating defensible space to protect homes and lives. CAL FIRE and the County of Sonoma have limited fiscal resources to implement inspection programs. Working in collaboration provides benefits to county residents by increasing the total of number of annual inspections. Future inspection areas for County Fire Prevention will be informed, in part, by risk analysis that will come from the revised Community Wildfire Protection Plan and the upcoming Multi-Jurisdiction Hazard Mitigation Plan.

As part of the Vegetation Management Inspection Program, Fire Prevention and fire district staff respond to resident complaints about vegetation hazards. This is one of the most important reasons to amend the ordinance to remove the limitation to parcels zoned for 5 acres or less. Currently, there are no regulations that would apply to improved or unimproved LRA parcels, or unimproved SRA parcels that are zoned for more than 5 acres. Consequently, staff cannot respond to vegetation complaints on those parcels. Removal of the five-acre limitation would mean resident complaints about any parcel in unincorporated LRA or SRA parcels could be inspected for compliance to regulations, using code enforcement procedures set forth in Sonoma County Code Chapter 1 or State law. Additionally, as we continue to develop more accurate risk assessment data, our inspection program should be flexible enough to target areas of highest risk regardless of zoned acreage.

The 2020 Vegetation Management Inspection Program budget includes funding for inspectors to follow up on as many as 1,400 resident complaints or property owner inspection requests. Last year, Permit Sonoma Fire Prevention Division received slightly more than 250 complaints. This year's allocated budget was designed to address more than four times that number, which should be sufficient to follow up on all complaints. If complaints do not increase as much as anticipated, these funds can be allocated to other vegetation management inspection program elements such as the Chipper Program and public education and outreach efforts.

Regulations for LRA areas and unimproved parcels vary considerably across the state. A comparison of 13A amendments to surrounding counties regulations shows that our regulations are less restrictive. 13A regulations for improved LRA structures lack several requirements, including removing or covering woodpiles within 30' of structures, and clearing around propane tanks. CAL FIRE regulations call for cutting grasses to 4" or less, while 13A requires 6" or less. For unimproved parcels, 13A requires only 10' of clearance to neighboring structures. Napa County requires 100 feet of clearance on unimproved parcels, and imposes regulations greater than SRA regulations that apply to SRA and LRA. Likewise, Marin County, at the fire official's discretion, can require up to 150 feet of fuels reduction on LRA and SRA improved and unimproved parcels. Lake County requires 30 feet of clearance on unimproved to neighboring structures, and 30' on roadsides. In Napa and Marin Counties, requirements are the same for LRA areas and SRA throughout the County. See Attachment 3 for detailed comparison of requirements.

The defensible space requirements of Chapter 13A would remain essentially the same as adopted in 2016.

Administrative changes include additional text to emphasize to property owners and inspectors that vegetation management activities in the riparian corridor should be carried out so that environmental considerations, such as water quality, erosion, wildlife, and habitat, are not compromised, and are subject to federal, state and local laws. Amendments are listed below.

1. Section 13A-1 would clarify that in the State Responsibility Area (SRA), Title 14 of the California Code of Regulations Sections 1299.01-1299.05 applies to improved parcels. These regulations are more stringent than those in Chapter 13A, and apply to all improved parcels in the SRA.
2. Section 13A-1(a) would remove a limitation to parcels zoned for less than five acres. In the LRA, this provision would allow application of 13A requirements on improved and unimproved parcels, regardless of zoned acreage. In the SRA it will allow enforcement of 13A regulations on all parcels.
3. For improved and unimproved parcels in the LRA, Sec. 13A-4 (a) and (b) set forth specific requirements for defensible space around structures and on roadsides. Note that amended requirements are essentially the same as adopted by the Board in 2016. Three minor changes in those requirements are listed below along with requirements as adopted in 2016.
4. Sec. 13A-4 (a)-Requirements for creating defensible space around structures and on roadsides for improved parcels are as follows:
 - Maintain a thirty-foot defensible space around all structures wherein
 - Grass is cut six inches or less but not to the bare soil.
 - **Previously the requirement did not mention the importance of not cutting to bare soil.**
 - Tree branches to be limbed up six feet from the ground
 - Shrubs be maintained free of dead and dying materials
 - Climbing vines to be maintained to be free of dead and dying materials or removed from trees and structures.
 - **Previously the code did not provide that well-maintained vines can remain.**
 - Additional defensible space outward to one hundred feet from all structures may be required based on steepness of the property, the amount of vegetation and the type of vegetation.
 - Maintain ten foot minimum clearance next to the roadsides.
 - Remove all portions of trees within ten feet of chimneys and stovepipe outlets.
 - Maintain trees that are adjacent to or overhanging a structure to be free of dead or dying wood.
 - Maintain roofs and gutters of any structure to be free of leaves, needles or other dead or dying wood.
 - Install a spark arrester on any chimney or stovepipe outlet.
 - Provide street address numbers that are clearly visible from the roadside, pursuant to Sonoma County Code Chapter 13.
 - **Previously 13A did not reference the Fire Safe Standards in Chapter 13 of the Sonoma County Code.**
 - Remove all tree limbs and branches within 6 feet of the ground.
 - Remove dead and dying vegetation from the property.

5. Sec. 13A-4 (b) requirements for unimproved parcels. An unimproved parcel means a “portion of land of any size, ... upon which no structure is located.” Unimproved parcels left unmanaged by property owners can put neighboring homes at risk. Sec. 13A-4 (b) would require property owners of unimproved parcels to create defensible space next to neighboring structures. These requirements remain unchanged from those adopted in 2016. For unimproved parcels throughout the unincorporated area of the County, it would require:
 - Flammable vegetation and other combustible growth within ten feet of structures and roadway frontage to be removed.
 - Dead and dying vegetation within ten feet of structures and roadway frontage to be removed.
 - Grass and combustible surface vegetation within ten feet of structures and roadway frontage to be trimmed to less than four inches in height unless necessary for erosion control.
 - Trees within ten feet of structures and roadway frontage to be pruned to at least six feet above grade.
 - All combustible material to be removed from the property.
6. Sec. 13A-4 (c)(1)(2) would exempt agricultural operations as defined in Sonoma County Code Chapter 13-6 and legal cannabis cultivation along with non-residential agricultural outbuildings located on such parcels.
7. Sec. 13A-4 would clarify the responsibility of property owners, occupants and persons in control of any improved or unimproved parcel of land in the unincorporated area of the County to comply with vegetation management as set forth in Chapter 13A to protect the health and safety of the community and the environment.
8. To protect sensitive habitat and prevent environmental damage, Section 13A-4 would clarify that vegetation management in the Riparian Corridor Combining Zone streamside conservation area can only be carried out in a manner that is subject to the allowed land uses, activities and permit requirements set forth in Chapter 26-65-040 of the Sonoma County Code. This provision requires the property owners to comply with all other federal, state and local laws, including environmental protection laws.

Section 13A-4 would also eliminate cumbersome code enforcement proceedings and \$1,000 a day penalties. Instead, the proposed Ordinance would more clearly set forth the duty of creating defensible space around structures and roadsides, and it would provide clearer procedures for notice of violation and incorporate the standard code enforcement procedures used for other code violations. It would provide an opportunity to resolve the violation, and would allow for more reasonable penalties that correspond with State law for violations of defensible space laws. Fire Prevention staff would be able to issue Administrative Citations through the Chapter 1 code enforcement procedures if necessary. The proposed ordinance would align with State law defensible space penalties and with standard County code enforcement procedures. Additionally, the proposed Ordinance would include a private right of action so a neighbor could seek their own injunctive relief if they want to do so.

Prior Board Actions:

March 29, 2016, Ordinance Adopting 13A to the County Code requiring the Abatement of Hazardous Vegetation and Combustible Material; April 19, 2016, Resolution No. 16-0118

FISCAL SUMMARY

N/A

Narrative Explanation of Fiscal Impacts:

None anticipated. Allocated funding for the Vegetation Management Inspection Program is sufficient to cover potential increases in complaint-based inspections, and current year small parcel inspection program.

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

- Attachment 1: SRA & LRA Parcels Zoned 5 Ac or Less-Map
- Attachment 2: CAL FIRE PRC 4291 Requirements for Improved SRA
- Attachment 3: Comparison Table: 13A and surrounding Counties
- Attachment 4: Chapter 13A Veg Mgmt Ord Clean Version
- Attachment 5: Chapter 13A Veg Mgmt Ord Strikeout Version
- Attachment 6: Resolution 13A
- Attachment 7: PowerPoint: Proposed amendments to CH 13A
- Attachment 8: Pre Adoption Ordinance Summary

Related Items “On File” with the Clerk of the Board:

N/A