

ATTACHMENT A

ORDINANCE NO. 2020- 6

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, AMENDING SECTION 9.04.430 (REPLACEMENT TO CHAPTER 49 REQUIREMENTS FOR WILDLAND-URBAN INTERFACE FIRE AREAS) OF THE NEWPORT BEACH MUNICIPAL CODE TO ADOPT LOCAL AMENDMENTS TO THE 2019 EDITION OF THE CALIFORNIA FIRE CODE AS SET FORTH IN TITLE 24, PART 9, OF THE CALIFORNIA CODE OF REGULATIONS

WHEREAS, Section 200 of the City of Newport Beach's ("City") Charter vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges, or procedures granted or prescribed by any law of the State of California;

WHEREAS, pursuant to Health & Safety Code Sections 17922 and 18935, the State of California Building Standards Commission ("BSC") has approved the adoption of new model codes relating to design and construction for the protection of life and property;

WHEREAS, on November 19, 2019, the City Council of the City of Newport Beach ("City Council") adopted Ordinance No. 2019-18, the 2019 Edition of the California Fire Code ("CFC") with local amendments, however, additional public outreach with the residents of the Wildlife Urban Interface Areas was necessary;

WHEREAS, local jurisdictions may amend the California Building Standards Code, which includes the 2019 CFC, as necessary to mitigate differences caused by local topographical, geographical, and climatic conditions;

WHEREAS, prior to bringing this amendment to the CFC and Title 9 of the Newport Beach Municipal Code ("NBMC"), City staff met with the public to receive additional feedback regarding changes to Chapter 49 (Requirements for Wildland-Urban Interface Fire Areas) and its associated guidelines;

WHEREAS, to aid in efficiency and clarity, Section 9.04.430 is amended with these modifications to the CFC that are correlated with the findings in Resolution No. 2020-__ adopted by the City Council of the City of Newport Beach on February 25, 2020; and

WHEREAS, when approved, the ordinance and accompanying resolution will be forwarded to the BSC and the California Department of Housing and Community Development in compliance with Health and Safety Code Section 17958.7.

NOW, THEREFORE, The City Council of the City of Newport Beach ordains as follows:

Section 1: Section 9.04.430 (Replacement to Chapter 49 Requirements for Wildland-Urban Interface Fire Areas) of Title 9 (Fire Code) of the Newport Beach Municipal Code is hereby amended to read as follows:

9.04.430 Replacement to Chapter 49 Requirements for Wildland-Urban Interface Fire Areas.

Chapter 49 is deleted in its entirety and replaced with the following:

SECTION 4901 REDUCTION OF BRUSH FROM STRUCTURES

4901.1 Scope. Each person or entity who owns, leases, controls, operates, or maintains any parcel of land within a designated Hazard Reduction Zone, Local Agency Very High Fire Hazard Severity Zone or identified Wildland-Urban Interface Areas shall comply with the requirements of this chapter to mitigate the conditions where vegetative fuels may readily transmit fire to buildings and threaten to destroy life, overwhelm fire suppression capabilities, or result in large property losses.

4901.2 Purpose. The purpose of this code is to provide minimum vegetative maintenance standards to reduce the severity of exterior wildlife exposure to buildings, and to decrease the exposure from a building fire to the wildland-urban interface area.

4901.3 General. Persons owning, leasing, controlling, operating, or maintaining buildings or structures requiring defensible spaces shall be responsible for modifying or removing non-fire resistive vegetation.

These regulations apply to all Hazard Reduction Zones, and Local Agency Very High Fire Hazard Severity Zones located within the City of Newport Beach.

SECTION 4902 DEFINITIONS

4902.1 Definitions. The following terms are defined in Chapter 2:

DEFENSIBLE SPACE.

FUEL MODIFICATION PLAN.

FUEL MODIFICATION ZONE.

HAZARD REDUCTION ZONE.

LOCAL AGENCY VERY HIGH FIRE HAZARD SEVERITY ZONE.

WILDLAND.

WILDLAND FUELS.

WILDLAND-URBAN INTERFACE AREA.

SECTION 4903 MAINTENANCE OF FUEL MODIFICATION ZONES, HAZARD REDUCTION ZONES, AND LOCAL AGENCY VERY HIGH FIRE HAZARD SEVERITY ZONES

4903.1 Compliance. Fuel Modification Zones, Hazard Reduction Zones, identified Wildland-Urban Interface Areas and Local Agency Very High Fire Hazard Severity Zones not in compliance with the City's respective guidelines and standards shall constitute a fire hazard.

4903.2 Fuel Modification Zone. All elements of the fuel modification zone shall be maintained in accordance with the approved plan and the City's Guidelines and Standards G.02 "Fuel Modification Plans and Maintenance Standard for Developments" and G.04 "Fuel Modification Plans and Maintenance Standards for Conversion from a Hazard Reduction Zone to Fuel Modification Zone".

4903.3 Hazard Reduction Zone. All elements of the Hazard Reduction Zone and identified Wildland-Urban Interface Areas shall be maintained in accordance with the City's Guidelines and Standards G.01 "Hazard Reduction Zones."

SECTION 4904 CONSTRUCTION REQUIREMENTS WITHIN HAZARD REDUCTION ZONES, AND LOCAL AGENCY VERY HIGH FIRE HAZARD SEVERITY ZONES

4904.1 General. In addition to the regulations found in Chapter 7A of the California Building Code and other relevant sections of the California Building Code, all new construction and existing structures that are increased in size by 2,000 square feet or more and exceed 50% of the area of the existing structure located on parcels of land within the City of Newport Beach Hazard Reduction Zone, and Local Agency Very High Fire Hazard Severity Zones shall be built in accordance with the regulations found in Section 4904 and 4905 of this code.

4904.2 Authority. The Fire Chief or the Fire Code Official shall have the authority to designate all Hazard Reduction Zones, and the City Council shall adopt, by ordinance, the Local Agency Very High Fire Hazard Severity Zone pursuant to Government Code Section 51179(a).

4904.3 Fuel Modification Requirements for New Construction. All new structures located on parcels of land which are designated Hazard Reduction Zones, or Local Agency Very High Fire Hazard Severity Zones shall comply with this section.

4904.3.1 Fuel Modification Requirements for Additions to Existing Structures. All additions to structures that are 2,000 square feet or more and exceed 50% of the area of the existing structure located on parcels of land which are designated Hazard Reduction Zones, or Local Agency Very High Fire Hazard Severity Zones, shall comply with this section.

4904.3.2 Plans. Fuel modification plans shall be submitted to and approved by the Fire Code Official prior to the issuance of a building permit. The plans shall be developed using the criteria set forth in the City's Guidelines and Standards G.02 "Fuel Modification Plans and Maintenance Standard" and G.04 "Fuel Modification Plans and Maintenance Standards for Conversion from a Hazard Reduction Zone to Fuel Modification Zone".

4904.3.3 Alterations. The fuel modification plan may be altered if conditions change. Any alterations to the fuel modification plan shall be approved by the fire code official.

4904.3.4 Issuance of grading or building permits. No grading permit or building permit shall be issued for new and qualifying additions to existing structures prior to approval by the fire code official of the submitted fuel modification plan as required by this section.

4904.3.5 Street widths. The minimum width of private and public streets shall not be less than 28 feet (8.53 m). Private streets and driveways serving no more than three dwellings and not exceeding 150 feet (45.72 m) in length shall not be less than 24 feet (7.32 m) in width.

SECTION 4905 BUILDING CONSTRUCTION FEATURES

4905.1 Proximity to property lines. New structures built to the requirements of Section 7A of the California Building Code shall not be less than three feet (.915 m) from an adjacent property line. Areas shall be maintained free of obstructions at all times.

Exception: Refuse cans for residential use.

4905.2 Combustible construction prohibited. No attached or detached buildings, patio covers, sheds, decks, stairs, or similar structures shall be built or placed in the 20-foot Zone A setback, as described in the City's Guidelines and Standards G.02 "Fuel Modification Plans and Maintenance Standards For Developments" unless completely constructed of non-combustible materials.

SECTION 4906 HAZARD REDUCTION ZONE/LOCAL AGENCY VERY HIGH FIRE HAZARD SEVERITY ZONE MAP

4906.1 Map. The Fire Chief and Fire Code Official shall cause an official map of the Hazard Reduction Zones to be prepared. The City Council shall adopt or has adopted by ordinance a map of the Local Agency Very High Fire Hazard Severity Zones. These maps shall be reviewed, updated or amended as deemed necessary.

SECTION 4907 USE OF EQUIPMENT IN LOCAL AGENCY VERY HIGH FIRE HAZARD SEVERITY ZONES, AND HAZARD REDUCTION ZONES

4907.1 General. Defensible space will be maintained around all buildings and structures in State Responsibility Area (SRA) as required in Public Resources Code 4290 and "SRA Fire Safe Regulations" California Code of Regulations, Title 14, Division 1.5, Chapter 7, Subchapter 2, Section 1270 *et seq.*

Buildings and structures within the Very-high Fire Hazard Severity Zones of a Local Responsibility Areas (LRA) shall maintain defensible space as outlined in Government Code Sections 51175-51189 and any local ordinance of the authority having jurisdiction.

4907.2 Equipment prohibited without a spark arrestor. Except as otherwise provided in this section, no person shall use, operate, or cause to be operated, in, upon or adjoining Local Agency Very High Fire Hazard Severity Zones, any internal combustion engine which uses hydrocarbon fuel, unless the engine is equipped with a spark arrestor as defined in Section 4907.4 of the Fire Code and maintained in effective working order, or the engine is constructed, equipped and maintained for the prevention of fire pursuant to Section 4907.2 of the Fire Code.

4907.3 Spark arrestor installation. Spark arrestors affixed to the exhaust system of engines or vehicles subject to this section shall not be placed or mounted in such a manner as to allow flames or heat from the exhaust system to ignite any flammable material.

4907.4 Spark arrestor design. A spark arrestor is a device constructed of nonflammable material specifically for the purpose of removing and retaining carbon and other flammable particles over 0.0232 of an inch (0.58 mm) in size from the exhaust flow of an internal combustion engine that uses hydrocarbon fuels or which is qualified and rated by the United States Forest Service.

4907.5 Spark arrestor exemption for vehicles. Engines used to provide motor power for trucks, truck tractors, buses, and passenger vehicles, except motorcycles, are not subject to this section if the exhaust system is equipped with a muffler as defined in the Vehicle Code of the State of California.

Turbocharged engines are not subject to this section if all exhausted gases pass through the rotating turbine wheel, there is no exhaust bypass to the atmosphere and the turbocharger is in effective mechanical condition.

SECTION 4908 RESTRICTED ENTRY TO LOCAL AGENCY VERY HIGH FIRE HAZARDOUS SEVERITY ZONES

4908.1 General. The Fire Chief or Fire Code Official shall determine and publicly announce when Local Agency Very High Fire Hazard Severity Zones shall be closed to entry and when such areas shall again be opened to entry. Entry on and occupation of Local Agency Very High Fire Hazard Severity Zones, except public roadways, inhabited areas or established trails and camp sites which have not been closed during such time when the Local Agency Very High Fire Hazard Severity Zone is closed to entry, is prohibited.

Exceptions:

1. Residents and owners of private property within Local Agency Very High Fire Hazard Severity Zones and their invitees and guests going to or being upon their lands.
2. Entry in the course of duty by peace or police officers, other duly authorized public officers, and members of a fire department.

SECTION 4909 OPEN FLAME DEVICES IN LOCAL AGENCY VERY HIGH FIRE HAZARD SEVERITY ZONES, AND HAZARD REDUCTION ZONES

4909.1 General. Welding torches, tar pots, decorative torches and other devices, machines or processes liable to start or cause a fire shall not be operated or used in or upon Local Agency Very High Fire Hazard Severity Zones, except by permit from the fire code official.

Exception: Use within habited premises which are a minimum of 30 feet (914 m) from grass or brush covered areas.

Flame-employing devices, such as lanterns or kerosene road flares, shall not be operated or used as a signal or marker in or upon a Local Agency Very High Fire Hazard Severity Zone.

Exception: The proper use of a fusee at the scene of emergencies.

SECTION 4910 OPEN FIRES OR BURNING IN LOCAL AGENCY VERY HIGH FIRE HAZARD SEVERITY ZONES, AND HAZARD REDUCTION ZONES

4910.1 General. Open fires or burning shall not be built, ignited or maintained in or upon Local Agency Very High Fire Hazard Severity Zones, identified Wildland-Urban Interface Areas and Hazard Reduction Zones, except by permit from the Fire Code Official.

Exception: Fires located within the property boundary of inhabited premise or designated campsites where such fires are built in a permanent barbeque, portable barbeque, outdoor fireplace, incinerator or grill and are a minimum of 30 feet (9.14 m) from grass or brush covered areas.

Permits shall incorporate such terms and conditions which will reasonably safeguard public safety and property. Outdoor fires or burning shall not be conducted in or upon Local Agency Very High Fire Hazard Severity Zones, identified Wildland-Urban Interface Areas, or hazard reduction zones under the following conditions:

1. When surface wind speeds are sustained at 20 MPH or wind gusts exceed 25 MPH.
2. When a person age 18 or over is not present at all times to watch and tend such fire.
3. When public announcement is made that open burning is prohibited.

4910.2 Prohibited Uses. Permanent barbeques, portable barbeques, outdoor fireplaces or grills shall not be used for the disposal of rubbish, trash, or combustible waste material.

SECTION 4911 RECREATIONAL FIRES IN LOCAL AGENCY VERY HIGH FIRE HAZARD SEVERITY ZONES

4911.1 General. Recreational fires built, installed, or maintained in Local Agency Very High Fire Hazard Severity Zones, identified Wildland-Urban Interface Areas or hazard reduction zones shall only use natural gas or propane fuel. Combustible solid fuels are prohibited regardless if a spark arrestor is utilized.

Outdoor fireplaces, permanent barbeques, and grills shall be maintained in good repair and in a safe condition at all times. Openings in such appliances shall be provided with an approved spark arrester, screen, lid, or door.

Section 2: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 3: If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared invalid or unconstitutional.

Section 4: The action proposed herein is not a project subject to the California Environmental Quality Act ("CEQA") in accordance with Section 21065 of the California Public Resources Code and Sections 15060 (c)(2), 15060 (c)(3), and 15378 of the California Code of Regulations Title 14, Division 6, Chapter 3 ("State CEQA Guidelines") because the code amendment will not result in a reasonably foreseeable physical change to the environment. Additionally, the code amendment is exempt from the CEQA pursuant to State CEQA Guidelines Section 15061(b)(3), the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. This code amendment itself does not authorize development that would directly result in physical change to the environment.

Section 5: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the Newport Beach Municipal Code shall remain unchanged and shall be in full force and effect.

Section 6: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the same to be published pursuant to City Charter Section 414. This ordinance shall be effective thirty (30) calendar days after its adoption.

This ordinance was introduced at a regularly scheduled meeting of the City Council of the City of Newport Beach held on the 11th day of February, 2020, and was adopted at a regular meeting on the 25th day of February, 2020, by the following vote to wit:

AYES: _____

NAYS: _____

ABSENT: _____

WILL O'NEILL, MAYOR

ATTEST:

LEILANI I. BROWN, CITY CLERK

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



AARON C. HARP, CITY ATTORNEY