

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL
AMENDING SECTIONS 4.12.010 AND 4.12.030 OF THE SAN RAFAEL
MUNICIPAL CODE TO ESTABLISH CITYWIDE VEGETATION
MANAGEMENT AND WILDFIRE MITIGATION STANDARDS TO HELP
REDUCE THE RISK OF A CATASTROPHIC WILDFIRE**

WHEREAS hazardous vegetation and/or combustible materials pose a significant danger to the health, safety, and welfare of the public by fueling and propelling wildfires, thereby increasing the danger to lives, property, and the environment; and

WHEREAS lack of proper vegetation management has the potential to create fire hazards that can have potentially devastating consequences for the entire community; and

WHEREAS California Government Code section 51182(a)(1) specifies that by local ordinance, rule, or regulation, a local agency may require a defensible space of more than 100 feet; and

WHEREAS research conducted by the Institute for Business and Home Safety has demonstrated that the first 0-5' around a structure (the immediate zone) poses the greatest risk to exposure to flying embers and direct flame contact; and

WHEREAS the spread and severity of fires occurring in San Rafael is of particular concern, given that the City is a predominantly hillside community where a significant number of structures are single family dwellings built on sloping terrain and are in close proximity to one another; and

WHEREAS San Rafael property owners are increasingly faced with managing hazardous fuel conditions on their property, and management and control of fire-prone vegetation is essential to the safety of life and property; and

WHEREAS as proven by the most recent devastating fire seasons of 2017, 2018, and 2020, wildfires do not respect human established boundaries such as the wildland urban interface (WUI); and

WHEREAS uniform application of all vegetation management and fire prevention related codes and ordinances has been shown to improve wildfire resilience throughout the community; and

WHEREAS Items 1, 2, and 3 of the San Rafael Wildfire Prevention and Protection Action Plan, adopted August, 2020 calls for the application of more stringent vegetation management, defensible space and fire mitigation standards citywide; and

WHEREAS it is the intent of the City Council to adopt amendments to the existing vegetation management ordinance which reduce San Rafael's wildfire vulnerability as it relates to fire-prone vegetation and remove barriers, when appropriate, for private property owners to achieve responsible management of fire-prone plant species; and

WHEREAS the City Council finds that this project is not subject to the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15304(b) and 15304(i) because the proposed Municipal Code amendments seek to allow minor alterations to land to facilitate replacement of conventional landscaping with fire resistant landscaping, and to facilitate fire fuel management activities on public and private property; and

WHEREAS notice of the San Rafael City Council public hearing on the proposed Municipal Code amendments was sent by email to all those who subscribe and on the City website as well as presented during homeowner and neighborhood association meetings, online feedback forms and social media platforms such as Nextdoor, and extensive community input was received and incorporated; and

WHEREAS, on February 1, 2021, the City Council of the San Rafael conducted a public hearing on the item and considered all oral and written comments submitted to the City regarding the item prior to taking its actions on the item;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES HEREBY ORDAIN AS FOLLOWS:

DIVISION 1: AMENDMENTS.

1) Section 4.12.010 of the San Rafael Municipal Code, entitled "Purpose and intent" is hereby amended to read in its entirety as follows:

This chapter establishes a Wildland-Urban Interface (WUI) in the city, as described in the city of San Rafael Wildland-Urban Interface (WUI) map, dated July 2, 2007, on file with the city clerk, as it may be amended hereafter from time to time by city council resolution, which is a designation of a very high severity zone as provided in Government Code Section 51179, and establishes citywide specific vegetation management standards which will be required for all properties in the WUI on or before August 1, 2021 and for properties outside the WUI by April 1, 2022 in order to create defensible space around structures that will minimize the spread of fires from wildlands to structures, from structures to wildlands, and from structures to structures.

2) Section 4.12.030 of the San Rafael Municipal Code, entitled "Vegetation Management Standards" is hereby amended to read in its entirety as follows:

A. Any person owning, leasing, controlling, operating or maintaining a property containing a structure in the City of San Rafael, and any person owning, leasing controlling, operating or maintaining a property that is adjacent to another property containing such a structure, shall at all times maintain defensible space within one hundred (100') feet of the structure as follows:

1.) Raise the crown of all trees by removing growth less than three inches (3") in diameter, from the ground up to a maximum height of 5 feet (5'), as identified by the National Fire Protection Association, provided that no crown shall be raised to a point so as to remove branches from more than the lower one-third of the tree's total height;

2.) Cut and remove all dry grasses (by means other than discing, tilling or other soil manipulation) so that their height does not exceed three inches (3").

3.) Remove or chip the wood of all dead trees and other dead vegetation from the ground that is less than three inches (3") in diameter, provided that the stump of a dead tree does not need to be removed. Chipping materials left upon the surface of the ground shall not exceed a depth of three inches (3").

4.) Remove all combustible vegetation, provided that single specimens of combustible vegetation are permitted if separated by a distance equal to two (2) times the height of the next adjacent combustible or noncombustible bush on slopes 0 to twenty percent (20%), four (4) times the height of the next adjacent combustible or noncombustible bush on slopes twenty-one (21) to forty percent (40%), and six (6) times the height of the next adjacent combustible or noncombustible bush on slopes exceeding forty percent (40%) as measured from the most outer edge of both bushes.

5.) Remove any portion of trees or brush on the property that overhang any roadway and reach within thirteen feet six inches (13'6") vertically above the roadway surface, regardless of proximity to structure.

6.) Remove combustible vegetation on the ground of the property within ten feet (10') of any highways, city streets, or private streets used for vehicle traffic or egress from the property, regardless of proximity to structure.

B. In addition, any person owning, leasing, controlling, operating, or maintaining property in the City of San Rafael shall, at all times, within the Intermediate zone (5-30ft from any structure):

1.) Maintain an effective firebreak (a strip of land in which vegetation has been modified rather than completely removed) by thinning and clearing away flammable vegetation and combustible growth from areas within thirty feet (30') of any structures.

2.) Remove all vegetation within ten feet (10') of a chimney or stovepipe outlet.

3.) Maintain woodpiles a minimum of ten feet (10') and two (2) times the height of the woodpile away from any component of the structure on the property.

4.) Mulch and other combustible ground coverings are only permitted when no contact is made with combustible exterior walls or plants. Rocks, pavers, and similar are encouraged.

5.) Remove all Junipers (genus Juniperus), Bamboo (genus Bambusa), Acacia (genus Acacia), and Italian Cypress (genus Cupressus sempervirens).

C. In addition, the following shall apply to the Immediate zone (0-5ft from any structure) on all properties owned, leased, controlled, operated, or maintained within the City of San Rafael:

1.) Maintain the roof, gutters, decks, porches, and stairways of any structure on the property free of accumulated leaves, needles, or dead vegetative growth.

2.) All vegetation within five feet (5') of structure shall be well-irrigated and maintained to eliminate any dead or dying material build-up and trimmed to prevent contact with the structure.

3.) Vines and ivy shall be well-irrigated and maintained to eliminate any dead or dying material build-up.

4.) Single specimen trees shall be permitted when well-irrigated, limbed over five feet (5') or one third of the tree height and have 5' between other tree canopies. Dead and dying branches shall not overhang any structure.

5.) Remove any combustible vegetation under the eaves, decks, or other components of the structure on the property.

6.) Ensure that vegetation is not continuous or able to serve as a fire bridge or ladder between other vegetation and the structure.

7.) Vegetation directly under windows or encroaching within two feet of windows, may not include fire hazardous species as identified by FIRESafe Marin, National Fire Protection Association or local fire officials.

8.) No vegetation shall make direct contact with combustible elements of a structure. Well maintained vegetation may contact Class A and non-combustible materials such as, but not limited to concrete, brick, and stucco.

D. Single specimen exemptions to these regulations, including for erosion control, may be granted at the discretion of the Fire Chief or their designee.

E. To the extent there is any conflict, the vegetation management standards in this section shall supersede the property development standards for protecting the natural state of property as contained in Sections 14.12.030(C) and 14.12.040 of this code.

DIVISION 2: SEVERABILITY.

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

DIVISION 3: PUBLICATION; EFFECTIVE DATE.

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the Council meeting at which it is adopted.

This Ordinance shall be in full force and effect thirty (30) days after its final passage, and the summary of this Ordinance shall be published within fifteen (15) days after the adoption, together with the names of the Councilmembers voting for or against same, in the Marin Independent Journal, a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk, a certified copy of the full text of this Ordinance along with the names of those Councilmembers voting for and against the Ordinance.

Kate Colin, Mayor

ATTEST:

LINDSAY LARA, City Clerk

The foregoing Ordinance No. _____ was introduced at a regular meeting of the City Council of the City of San Rafael on _____, and was ordered passed to print by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

and will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the _____.

LINDSAY LARA, City Clerk