EL DORADO COUNTY DEFENSIBLE SPACE ORDINANCE UPDATE

EDC Defensible Space Ordinance Background

Defensible Space Laws and Regulations in California:

Public Resources Code (PRC 4291)

- Enacted in 1965 to protect wildland and watershed areas from fire risks presented by development
- Outlines the criteria and responsibilities of property owners in creating and maintaining defensible space around structures

California Code of Regulations, Title 14 (14 CCR)

- Contains regulations adopted by the California Board of Forestry to implement PRC 4291
- Force and effect of law

California Civil Code (CIV 1102.19)

- Requires certain disclosures during real estate transactions
- Amended in 2021 to require documentation of compliance with defensible space requirements

*** Government agencies can adopt a local Ordinance for defensible space requirements, but cannot be less restrictive than State law**

EDC Defensible Space Ordinance Background

Ordinance 5101 – Vegetation Management and Defensible Space

- BOS appointed Ad Hoc Code Enforcement Committee in 2018 to review existing code enforcement process, including vegetation management issues
- Recommendation to create a County ordinance for proactive local defensible space efforts and civil rather than criminal enforcement
- Based on defensible space requirements within PRC 4291 and 14 CCR
- BOS adopted Ordinance 5101 in 2019 adding Chapter 8.09 "Vegetation Management and Defensible Space"
- CAO tasked with developing and implementing Vegetation Management Program

Ordinance 5101 – Amended in 2020

- Primary purpose to update definitions for County Emphasis Areas and Wildfire Risk Areas, and to clarify roles and responsibilities for centralized enforcement
- CAO continued to develop and implement Vegetation Management Program

In September 2021, BOS directed the CAO to convene a "Vegetation Management and Resiliency Working Group" to "initiate a robust, community-based resiliency and vegetation management program that would accelerate the current County efforts"

Defensible Space Working Group

- **Established by the Office of Wildfire Preparedness & Resilience (OWPR) Coordination Group**
- **Working Group members represent fire prevention experts and key stakeholders, including:**
  - CAL Fire Amador-El Dorado Unit
  - CAL Fire Office of State Fire Marshal
  - City of Placerville
  - City of South Lake Tahoe
  - EDC County Counsel
  - EDC Fire Chiefs Association
  - EDC Fire Prevention Officers
  - EDC Fire Safe Council
  - EDC OWPR
  - EDC Planning and Building
  - Tahoe Resource Conservation District
  - US Forest Service Tahoe Basin Management Unit
- **Main Objectives:**
  - Review of County ordinances for consistency with State law (PRC 4291 ,CCR 14, and Gov't Code 51182)
  - Evaluation of methods used to complete defensible space inspections
  - Identification of policy issues and implementation challenges
  - Recommendations on implementation strategies
  - Recommendations on updates to language within Ordinance 5101 to enhance effectiveness
- **Bi-weekly meetings since September 2022**

What Does Defensible Space Mean?

Defensible Space means the buffer that a Responsible Person is required to create on their property between a "Structure" and the plants, brush and trees or other items surrounding the "Structure" that could ignite in the event of a fire.



Vulnerable Structures in El Dorado County

Property Type	Improved Parcel Count
One-Two Family Residential Dwellings	80,986
Multi-Family Residential Dwellings	546
Mobile Home Parks	48
Commercial Structures	1,064
Industrial Structures	1,176
Miscellaneous Structures	2,896
Unassessed Structures	1,721
Total	**88,437**

Working Group Recommendations

Proposed changes to various sections throughout Ordinance 5101, including:

- **Administrative provisions:**
  - **Definitions**
  - **Findings**
- **Defensible space/hazardous vegetation removal requirements**
- **Critical infrastructure criteria**
- **State law updates**
- **Ordinance enforcement procedures**



Ordinance Title

Updated Title of Chapter 8.09 to reflect purpose of the Ordinance

Existing Title:

Vegetation Management And Defensible Space

Proposed Title:

<u>Hazardous</u> Vegetation ~~Management~~ And Defensible Space

Administrative Provisions

- Various administrative changes to further support CEQA exemption and to clarify the purpose and applicability of the Ordinance, including:
  - 4 New Findings
  - 2 Findings Modified
  - 9 New Definitions
  - 6 Definitions Modified



Definition: Responsible Person

- Revised to include local government agencies
- *Exception: public school districts*
- Ordinance does not apply to federal or state-owned lands



Definition: What is a Structure?

- Revised to apply to local government buildings
- Revised to clarify accessory buildings such as barns and detached storage buildings are included, per state law
- Clarified exception to read:

  Any freestanding outbuilding less than 120 square feet in floor area



Definition: Critical Infrastructure

Critical Infrastructure is defined to mean a use or facility classified within one or more of the following categories:

- Essential Services Facilities
- At-Risk Population Facilities
- Hazardous Materials and Solid Waste Facilities



Definition: Fire Hazard

Fire Hazard shall mean any condition, arrangement, act, or omission which:

- Increases, or may cause an increase of hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing, or extinguishing fire; or
- May obstruct, delay, hinder, or interfere with the operations of a fire department or the egress of occupants in the event of fire.



State Law Update: Residential Real Estate Transactions

- Effective July 1, 2021, a seller of a real property in a High or Very High Fire Hazard Severity Zone is required to provide the buyer with documentation stating that the property is in compliance with Section 4291 of the Public Resources Code or local vegetation management ordinances (e.g. Ordinance 5101)

- If documentation CANNOT be obtained prior to close of escrow, seller and buyer may enter into an agreement for the buyer to obtain documentation of compliance.

- Ordinance incorporates state law provisions and clarifies what is acceptable documentation, seller's obligation to provide the documentation to the buyer, and provides grace period for buyer's compliance

Defensible Space: Greater Distances Required

- In accordance with PRC 4291, clearance of greater than 100 feet may be required under certain conditions
- Current Ordinance 5101 has included this provision since 2019
- Proposed amendments clarify the distance required shall not exceed 300 feet, and shall be based on certain findings made by the Investigating Official and supported by the Enforcement Official



Defensible Space: Ingress/Egress Routes

- Subsection 8.09.070 (D)(6)
- Defensible space required for Improved/Unimproved parcels adjacent to designated roads / driveways necessary for emergency vehicle access / civilian evacuation
- Clarified to specify:
  - 10-foot clearance as measured from road edge
  - 15-foot vertical clearance over road/driveway



Critical Infrastructure

Critical Infrastructure means a use or facility classified within one or more of the following categories:

- **Essential Services Facilities include, without limitation, public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities and equipment, and government operations facilities.**
- **At Risk Population Facilities include, without limitation, pre-schools, public and private primary and secondary schools, before and after school care centers with 12 or more students, daycare centers with 12 or more children, group homes, and assisted living residential or congregate care facilities with 12 or more residents.**
- **Hazardous Materials and Solid Waste Facilities include, without limitation, any facility that could, if adversely impacted, release hazardous materials or waste in sufficient amounts during a hazard event that would create harm to people, the environment and property.**

Free Standing Photovoltaic Systems

Free standing photovoltaic systems and equipment shall comply with the defensible space clearance requirements:

- A minimum 10-foot clearance to bare mineral soil, or other approved non-combustible surface, for clusters of panels not exceeding 1,500 square feet of combined panel area
- A minimum 30-foot clearance to bare mineral soil, or other approved non-combustible surface, for clusters of panels greater than 1,500 square feet of combined panel area
- Clusters shall be separated a minimum of 20-feet



Water Distribution Systems for Fire Protection

Public and private water distribution system storage tanks and pumping facilities shall have a minimum 30-feet clearance from hazardous vegetation around and adjacent to such facilities as described in this Ordinance.

Not Intended For:

- Raw Water Conveyance
- Underground Water Transmission / Distribution
- Private Small Water Wells



Telecommunication Facilities

Telecommunication facilities determined by the Enforcement Official to serve as a critical infrastructure site during an emergency, shall comply with the following defensible space clearance requirements:

- A minimum 30-foot clearance for telecommunication towers
- A minimum 100-foot clearance as described in the Ordinance around accessory buildings 120 square feet in size or larger that support the operations of the facility



Enforcement Process

- Replace with EDC Ordinance Chapter 9.02 (Code Enforcement)
- Administrative enforcement and abatement process
- Meet and confer process



Next Steps

- **Defensible Space Working Group:**
  - Develop internal guidelines for implementing the Ordinance and conducting defensible space inspections across multiple agencies
  - Develop additional public education materials

- **OWPR:**
  - Continue to expand public education and outreach efforts for defensible space
  - Explore options to expand existing resource programs and funding to provide assistance with defensible space clearing
    - Additional support to EDC Fire Safe Council, County programs, Tahoe Basin
  - Annual update presentation to the Board on OWPR, including the Defensible Space Program and an evaluation of the Ordinance implementation

QUESTIONS / COMMENTS?