



Moraga-Orinda Fire District

TO: Board of Directors

FROM: Dave Winnacker, Fire Chief
Jeff Isaacs, Fire Marshal

DATE: February 16, 2022

SUBJECT: **Item 8.5 – Public Hearing and First Reading of Ordinance 22-02 an Ordinance of the Moraga-Orinda Fire District of Contra Costa County, California, Adopting Requirements for Undeveloped Parcels and Certain Low Density Large Developed Parcels and Findings of Fact Establishing Additional Requirements in the State Responsibility Areas and Local Responsibility Areas.**

BACKGROUND

In October 2020 MOFD Ordinance 20-01 adopting and amending the 2019 California Fire Code was adopted. Among other elements, Ordinance 20-01 included findings of fact documenting the climatic, geologic and topographical conditions which exist in the Fire District and necessitate these amendments.

In January 2022 a draft of the 2022 California Fire Code was released beginning the next fire code cycle. This will include public hearings before the MOFD Board, Orinda City Council, Moraga Town Council, and Contra Costa County Board of Supervisors.

Ordinance 22-02 is intended to establish requirements for undeveloped parcels within the Fire District outside of the fire code as part of the triennial update cycle.

AUTHORITY

The Public Resource Code (PRC) applies to State Response Areas (SRA). Section 4117 states:

Any county, city, or district may adopt ordinances, rules, or regulations to provide fire prevention restrictions or regulations that are necessary to meet local conditions of weather, vegetation, or other fire hazards. Such ordinances, rules, or regulations may be more restrictive than state statutes in order to meet local fire hazard conditions.

The Government Code applies to Local Response Areas (LRA). Section 51175(C) states:

It is not the intent of the Legislature in enacting this chapter to limit or restrict the authority of a local agency to impose more restrictive fire and public safety requirements, as otherwise authorized by law.

The Health and Safety Code 13800 also known as the Fire Protection District Law of 1987 establishes MOFD's authority to establish and enforce fire and life safety measures. Section 13861(i) states:

To establish and enforce rules and regulations for the administration, operation, and maintenance of the services listed in Section 13862.

Section 13862 states:

A district shall have the power to provide the following services:

- (a) Fire protection services.
- (b) Rescue services.
- (c) Emergency medical services.
- (d) Hazardous material emergency response services.
- (e) Ambulance services, pursuant to Division 2.5 (commencing with Section 1797).
- (f) Any other services relating to the protection of lives and property.

FINDING OF FACT

Findings of fact are included in the Ordinance which identify the Weather/Climatic, Vegetation, Geologic, and Topographical conditions which make this Ordinance necessary and establish a fire hazard within the Fire District which requires specific measures on undeveloped parcels.

PROPOSED STANDARDS

In order to reduce the risk of uncontrolled wildfire on undeveloped parcels, the following standards are proposed for undeveloped parcels:

- (a) To reduce the risk of uncontrolled wildfire, Fuel Breaks are required on Undeveloped Parcels and Developed Parcels of ten acres or greater with a density of less than two habitable structures for every ten acres of land.
- (b) For the purpose of this Ordinance, a Fuel Break requires the removal or modification of fuel, maintained on an annual or recurring basis, in a manner that will prevent the transmission of fire. Specifically:
 - Grass and weeds cut to less than 3" no later than June 1 of each year.
 - Removal of Hazardous Vegetation in the form of surface fuels.
 - Removal of non-irrigated brush.
 - Trimming of healthy trees to create no less than a 6' vertical clearance between the lower portions of the canopy and the ground or ground fuels.
 - Removal of Ladder Fuels.
 - Removal of dead or dying trees.
 - Removal of non-vegetative Combustible Material. Specifically, rubbish, litter, or material of any kind that is combustible and endangers the public safety as determined by the Fire Chief or their designee.

Fuel Break Requirements on Developed and Undeveloped Parcels.

(a) Undeveloped Parcels. A person who owns, leases, or controls one or more undeveloped parcels within the District shall comply with following fuel break standards:

i. Parcels of One Acre or Less. The entire parcel shall be maintained in accordance with the requirements for a Fuel Break.

ii. Parcels of at Least One but Less Than Ten Acres. A Fuel Break of 30 feet shall be created and maintained around the entire perimeter of the Parcel.

iii. Parcels of Ten Acres or Greater. A Fuel Break of 100 feet shall be maintained around the entire perimeter of the Parcel.

iv. Multiple contiguous parcels owned by the same Person may be treated as a single Parcel with the approval of the Chief or their designee if a Fuel Break of 100 feet is provided.

(b) Developed Parcels. A person who owns, leases, controls one or more developed parcels within the District shall comply with following Fuel Break standards:

i. Parcels of One Acre or Greater with a Density of Less Than Two Habitable Structures for Every Ten Acres of Land. A Fuel Break of 100 feet shall be provided around the entire perimeter of the Parcel.

(c) Creation of Fuel Breaks shall not result in the taking of endangered, rare, or threatened plant or animal species, significant erosion, or sedimentation of surface waters. When these or other conditions make it impractical to create and maintain a required Fuel Break, the person who owns, leases, or controls the parcel or parcels may request a Modification of the Fuel Break requirement.

Failure to comply may result in the issuance of a citation per Ordinance 21-01 or its successor ordinance.

RECOMMENDED ACTION

1) Discuss; 2) Deliberate; 3) Introduce and Waive the First Reading of Ordinance 22-02 an Ordinance of the Moraga-Orinda Fire District of Contra Costa County, California, Adopting Requirements for Undeveloped Parcels and Certain Low Density Large Developed Parcels and Findings of Fact Establishing Additional Requirements in the State Responsibility Areas and Local Responsibility Areas.; 4) Open the public hearing and accept comments from the public; 5) Close the public hearing; 6) Provide direction to Staff.

ATTACHMENTS

Attachment A – Ordinance 22-02 an Ordinance of the Moraga-Orinda Fire District of Contra Costa County, California, Adopting Requirements for Undeveloped Parcels and Certain Low Density Large Developed Parcels and Findings of Fact Establishing Additional Requirements in the State Responsibility Areas and Local Responsibility Areas.