

Kevin McCarty for Supervisor 2024
PO Box 244
Somerset, CA 95684



December 11, 2023

El Dorado County
Board of Supervisors
330 Fair Lane, Building A
Placerville, CA 95667

ATTN: El Dorado County, Board of Supervisors:

This comment is for Agenda Item #23-1644 related to Ordinance 5186 proposing amendments to Chapter 8.09 “Hazardous Vegetation and Defensible Space”. My name is Kevin W. McCarty. I am a resident of Somerset, candidate for District 2 Supervisor, and board member of the Omo Ranch Fire Safe Council, though today I speak strictly as a resident and concerned citizen.

I believe this proposed ordinance would be aptly described as the “ADA of wildfire” in that it represents an *unfunded mandate*, with noble aims and goals on the surface, but threatening to use draconian means and methods to achieve them. Everyone wants to reduce the risk of wildfire and be safe when it occurs. However, government policy always needs to be mindful that the ‘cure’ is not worse than the ‘disease’.

As a preface to my comments, it is appropriate to note that as a rural resident and board member of our local Fire Safe Council (FSC), I care deeply about increasing our community’s resilience to wildfire and generally all measures supportive of this cause. Our property lies mere miles from the ignition point of the Caldor Fire, and I believe that property owners who are demonstrably negligent in maintaining their defensible space should be on the radar of county code enforcement officials to remedy as a last resort.

With that said, by taking the 100-foot defensible space requirement under California Code and pushing active enforcement onto all individual property owners, without any financial assistance from the county, state, or federal government, the County is proposing a cure that threatens to be worse than the disease.

Ordinance 5186 as written will create code enforcement cases for a large percentage of rural property owners overnight, not just the negligent ones as a last resort. Forcing every real estate transaction to undergo an inspection by a handful of certified inspectors threatens to pose an undue burden on the people and real estate market of our county. Just as CEQA effectively created the industry of environmental reports and inspections, this ordinance proposes to do the same for vegetation / defensible space inspections, since local Fire chiefs will need the help of 3rd party contractors to meet the artificial demand.

Also regarding CEQA, a question: will this ordinance automatically serve as CEQA exemption for each instance of fuel reduction, in perpetuity? CCR section 15304 relates to “minor” alterations in the condition of land and vegetation, and references fuel management within 30 feet of a structure – up to 100 feet from a structure in “extra hazardous fire conditions”. On one hand, thousands of instances of vegetation removal – in some cases involving several acres of clearing at a time – extrapolated indefinitely into the future, would represent a *major* alteration of land conditions, not minor. Second, the ordinance applies

the 100-foot standard to all parcels in the county, even though a substantial portion of them are only within “moderate” fire safety hazard zones, thus do not merit the “extra hazardous fire conditions” upon which a section 15304 exemption is predicated. The “common sense” exemption per section 15061(b)(3) similarly only applies to projects which “can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment”. With the unlimited time period and broad scope of this ordinance, it is likely that its implementation will surely have a ‘significant effect’ on the environment. Given the exceedingly low threshold for CEQA applicability, it would seem appropriate here for the County to commission an environmental impact report.

Toward the goal of finding solutions, not just identifying problems, I advise we strive to use the ‘carrot’ instead of the ‘stick’. Instead of wielding code enforcement penalties, let’s offer tax rebates or other incentives to promote the voluntary implementation of defensible space inspections, vegetation management, and fuels reduction among property owners and members of our community. In each instance of levied fines and fees, let’s instead provide cost-sharing programs to support residents’ efforts funded via State and federal grants. Threatening people with fines should serve only as a last resort, in cases of prolonged negligence. Sections 8.09.075-085 make token reference to enforcement officials not being precluded from “informally encouraging citizens to comply”, but we owe it to our residents to expand upon and institutionalize this sequence of ‘Encouraging’ → ‘Warning’ → Notifying of Violation.

A large-scale fuel reduction project funded by a U.S. Forest Service grant is presently underway, coordinated among El Dorado County Fire Safe Council (EDCFSC) and our Resource Conservation District (RCD), to cut back trees and shrubs along miles of roadside in South County and increase wildfire resilience. We should identify and pursue similar opportunities to financially support residents’ efforts to establish defensible space within the home ignition zone, i.e. within 100 feet of permitted structures.

As a joint effort among our fire safe councils, local vegetation management contractors, and property owners, we can achieve the main goals of this ordinance and protect our homes from wildfire. At the least, let’s create a tiered system based on parcel size, with special provisions for agricultural land, and set an extended timetable for compliance. The threat of fines, fees, and liens should be reserved as a step taken only if all else fails, in extreme cases. After all, let’s remember that nearly all wildfires in recent memory started on lands owned by the federal government, who is conspicuously exempt from this ordinance.

As our families struggle to put food on the table and pay the mortgage, the notion of slapping them with a whole new system of fines and code enforcement rules is absurd, even if nominally to help reduce the threat of wildfire. We can craft a better ordinance than this, and we owe it to our residents to do so.

Thank you for your time and consideration.

Regards,



Kevin W. McCarty
Candidate, El Dorado County Supervisor District 2
www.McCarty4Supervisor.com
kevinwmccarty@pm.me