

Hazardous Vegetation and Defensible Space Ordinance Update

Frequently Asked Questions

El Dorado County is in the process of updating its current Defensible Space Ordinance. The proposed changes under the Hazardous Vegetation and Defensible Space Ordinance (Ordinance 5186) would repeal and replace the existing Ordinance 5101, Vegetation Management and Defensible Space, under Chapter 8.09 of the El Dorado County Code of Ordinances. A public hearing has been scheduled for June 18, 2024 for the County's Board of Supervisors to consider the proposed amendments and the first reading of this Ordinance.

To aid in understanding the basis of the proposed changes and how they may impact County residents, the Office of Wildfire Preparedness and Resilience (OWPR) has prepared the following responses to common questions and feedback received during this update process and the public workshops that were held.

Why is the County updating its defensible space ordinance when those requirements already exist in state law?

The primary purpose of this Ordinance update is to incorporate and consolidate all applicable defensible space laws, codes, and requirements into the County's Defensible Space Ordinance. Defensible space and fire prevention requirements have been in place in El Dorado County as early as April 1985 and most recently in County Code under Chapter 8.09 since May 2019. At the state level, defensible space requirements have been in place since 1965 under California Public Resources Code (PRC) 4291. With defensible space requirements existing in numerous state codes and the County's desire to have a proactive and localized approach to implementing the defensible space program, it was important to have all applicable requirements in a single place for County staff and residents to find and understand. Additionally, by having a local ordinance that recognizes and addresses the unique geographic and climatic characteristics of El Dorado County and can be implemented in conjunction with existing state law will allow for a more effective application and approach to mitigating wildfire risks in our County.

What does defensible space mean?

Defensible Space is defined as the buffer that a responsible person is required to create and maintain 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. While not all properties are the same, property owners are required to create and maintain a minimum of 100-feet of defensible space around each structure, as defined, on their property. Proper defensible space serves as a critical barrier to slow or halt the spread of wildfire on a homeowner's property and helps to ensure the safety of firefighters defending the home.

In some cases, and as determined by the inspector, a greater distance of up to 300-feet may be required when additional clearing is necessary to significantly reduce the risk of ignition or spread of wildfire and there is no other feasible mitigation measure.

It's important to note that defensible space does not mean completely clearing or removing all trees and vegetation within the 100-foot area of defensible space and individual property conditions can vary significantly. Information on how to create defensible space is available by visiting OWPR's website. Additionally, homeowners are encouraged to contact OWPR to schedule a defensible space evaluation to determine the specific defensible space work necessary for their property.

What is Zone 0 and when will it go into effect? Will the County have to update the Ordinance again once it's effective?

Zone 0, or the Ember Resistant Zone, significantly helps to improve a home's chance of surviving a wildfire. Zone 0 was added to the existing defensible space zones by law in 2020; however, the guidelines to implement the Zone 0 requirements are still under development. Once these regulations have been approved at the state level, they will be incorporated into the County's defensible space requirements. Generally, any updates to existing state law referenced in Chapter 8.09, including Zone 0 under PRC 4291, will be incorporated by reference.

While the County does not enforce Zone 0 requirements at this time, inspectors continue to educate homeowners on the importance of Zone 0 and proper defensible space.

What is the purpose of the good neighbor policy and is it a requirement?

It will take a community-level effort with all property owners doing their part to successfully implement defensible space throughout the county. The purpose of the Good Neighbor and Neighborhood Protection Policy is to maximize the number of homes in the County that have 100-feet of defensible space, even if a portion of that 100-feet is beyond the property line. Under this policy, the owner of the adjacent (neighboring) parcel is responsible for creating the remaining defensible space to achieve that 100-feet of clearance. This policy exceeds state minimum requirements under PRC 4291, but it increases the amount of defensible space between neighboring properties and structures.

Am I responsible for creating and maintaining defensible space on my neighbor's property?

No. You are not required to create or maintain defensible space on your neighbor's property. In accordance with the Good Neighbor and Neighborhood Protection Policy, if your structure is less than 100-feet from your property line and hazardous vegetation, as defined, on the adjacent or

neighboring parcel presents a fire hazard for your structure, the owner of the parcel where the fire hazard exists (neighbor) is responsible for removing the fire hazard in that area when it is within 100-feet of your structure.

I have more than one structure on my property. Am I required to maintain 100-foot of defensible space around each structure?

It depends. For the purposes of Chapter 8.09 and consistent with state law, a Structure is defined as any building that qualifies for occupancy classification per the County building code and includes: residential dwellings, mobile homes, commercial buildings, industrial buildings, agricultural buildings, barns, storage buildings, government buildings, and accessory buildings. However, freestanding buildings such as sheds or other outbuildings that are 120 sq. ft. or less in floor area are not considered a structure.

While creating and maintaining defensible space is encouraged around all structures, the requirements under Chapter 8.09 only apply to those structures meeting the definition above.

Why is a defensible space inspection for compliance required for real estate transactions?

In accordance with state law, any seller of real property that is located within a high or very high fire hazard severity zone is required to obtain a defensible space inspection report documenting that the property is in compliance and provide that report to the buyer prior to the close of escrow. If the property is not compliant, the seller will need to perform the necessary wildfire protection measures as specified within the inspection report and have the property inspected again prior to close of escrow. If the seller is unable to achieve compliance and have the property reinspected prior to the close of escrow, the seller and buyer shall enter into a written agreement in which the buyer agrees to take on the responsibility of meeting defensible space requirements and obtain documentation of compliance within one year from the close of escrow. Though real estate transaction requirements already exist under state law and to better protect residents and new homeowners, the County is proposing an alternative timeline whereby the buyer is required to obtain documentation of compliance within 180 days from the close of escrow.

Are all properties in the County subject to an inspection during a real estate transaction?

No. Real estate transaction inspections and documentation of compliance do not currently apply to homes that are listed or sold within moderate fire hazard severity zones, only high and very high. However, defensible space requirements exist for property owners year-round.

I have more than one structure on my property and want to sell my home. Do I have to pay a separate inspection fee for each structure?

No. The real estate transaction inspection fee, if charged by the inspecting agency, covers the cost of the inspection of the property as a whole and is not charged per structure inspected. Inspection fees vary by agency and depend on which agency conducts the inspection.

I cannot afford to hire a contractor to do defensible space work. Will the County provide any financial assistance to homeowners to complete the work to comply with its requirements?

In general, the responsibility for meeting defensible space requirements and the costs associated with it are that of the property owner. However, there are grant funded assistance programs in place through the El Dorado County Fire Safe Council (EDCFSC) to help residents complete this work and includes defensible space clearing, chipping, and hazard tree removal. The County does contribute funds annually to help support EDCFSC's programs and continues to pursue additional funding opportunities for defensible space work and other projects that help mitigate the risks of wildfire and protect communities. For additional information on the available assistance programs, please contact the EDCFSC.

How are the County's defensible space requirements, including those within the updated Ordinance, different than state law?

Local jurisdictions, such as the County, have the ability to adopt local defensible space requirements that differ from state law so long as they are not less restrictive. To better reflect fire hazards and the characteristics of the County, several of the County's defensible space requirements, both existing and updated, differ from state law. This includes:

- Real Estate Transactions – A defensible space inspection and documentation of compliance is required under current state law as noted above and specified in Civil Code section 1102.19, which was enacted after the County adopted its original defensible space ordinance. The update to this ordinance incorporates this requirement and sets a timeline of 180 days for the buyer to have the property reinspected for compliance should compliance not be achieved prior to the close of escrow and the seller and buyer entered into a written agreement transferring that responsibility.
- Good Neighbor and Neighborhood Protection Policy – Current state law requires defensible space clearance of 100-feet or to the property line. Both the County's existing and updated defensible space ordinance under this section require clearance beyond the property line on an adjacent parcel if the defined structure is less than 100-feet from the property line to achieve the total 100-foot clearance. This policy currently exists within

Chapter 8.09; however, the proposed updates clarify the policy and who is responsible for meeting its requirements.

- Clearance Along Driveways – The proposed updates include a requirement that property owners maintain vegetation clearance along private driveways at all times to allow for the safe ingress and egress of emergency vehicles. This includes a 10-foot wide strip of land beyond the edge of the driveway and a 15-foot vertical clearance height.
- Clearance Along Roadways – Similar to the driveway clearance requirement above, the proposed updates to Chapter 8.09 also include the same clearance distances along designated roadways adjacent to improved and unimproved parcels within a reasonable time, as determined by the County.
- Critical Infrastructure – The proposed updates also define and establish defensible space requirements for identified critical infrastructure facilities, including County and other local agency owned buildings, which is not a requirement under current state law. It is important to note that the state and federally owned properties are not included in these requirements as the County does not have the ability or authority to impose local requirements on state or federal agencies. However, the County continues to work with state and federal partners to identify and implement mitigation projects on state and federal lands throughout the County to help mitigate risks of wildfire and protect communities.

What is the relationship between the County’s defensible space ordinance and the adopted Oak Resources Management Plan, and are there any conflicts?

The County’s Planning and Building Department is responsible for implementing the Oak Resources Conservation Ordinance under the Oak Resources Management Plan, which provides standards related to the removal of oak resources and mitigation activities, and provides exemptions for the removal of oak resources that are determined to be a fire hazard or otherwise necessary to comply with the defensible space requirements under Chapter 8.09. Updates to both ordinances are in process to ensure consistent terminology and avoid conflicting requirements or applicability.

Will the county fine and/or abate properties?

Yes. However, the goal of this ordinance and the County’s Defensible Space Program is to create a safer and fire adapted El Dorado County through education and voluntary compliance. If compliance cannot be gained through working with the homeowner over a period of time or a property poses an imminent threat to life and safety, the County has the ability to abate a

property and place a lien on the property for the cost of the abatement subject to the enforcement procedures outlined in the Ordinance.

While conducting defensible space inspections, inspectors will take the time to educate homeowners on how to meet their defensible space requirements, achieve compliance, and protect their homes from wildfire, but in the event the homeowner is unwilling to meet requirements, the County does have the ability to enforce this Ordinance.

Why are the fine amounts not stated in the ordinance?

With the exception of the Meet and Confer process outlined in this Ordinance, the enforcement process has been updated to mirror the County’s Code Enforcement process under Chapter 9.02, including fines for violations. The purpose of this is that any subsequent updates made to Chapter 9.02 will be incorporated into Chapter 8.09 without the need to update both. Currently, fines under Chapter 9.02 are as follows:

First violation: \$100.00

Second violation: \$250.00

Third violation: \$500.00

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