STAFF REPORT

TO: Mayor and City Council
FROM: Fire Chief Tom Welch
SUBJECT: Consideration of an Ordinance to Amend Title 15 of the City of Mill Valley Municipal Code
DATE: September 6, 2018

Approved for Forwarding:

[Signature]
James C. McCann, City Manager

Issue:
Consideration of an Ordinance amending Title 15 of the Mill Valley Municipal Code.

Recommendation:
Adoption of Resolution CC-18____, and introduce the Ordinance, waving further reading.

Background:
Following the 2017 Sonoma/Napa conflagrations, which have now been eclipsed by the mega-fires currently evolving again in Lake and Shasta County, we have been actively evaluating/implementing programs and processes to ensure our lowest overall community risk possible. Our evaluation has concluded that many City of Mill Valley processes are in alignment with industry best practices as well as identified several gap areas needing attention. The result has been the development of six areas for
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Improvement endorsed by the City Council on February 5th, 2018 titled City of Mill Valley Vegetation Management: An Approved Approach.

Initiative 1 – Building Codes, Standards, and Structural Ignitability: Improve building codes and standards for the built environment. Project completed.

Initiative 2 – Hazardous Fuel Reduction: Reduction of fuels within the first 3’ of the structure and within 3’ to 30’. This will include Junipers (genus Juniperus), Bamboo, Acacia and Italian Cypress. Under consideration by City Council.

Initiative 3 – Access and Evacuation Concepts: Reduction of hazardous fuels along primary and secondary evacuation routes to facilitate a safe egress. Access projects at Marion/Hazel, Hazel/Rose and Lee/Quarry to enhance emergency response and egress. Being designed and in progress.

Initiative 4 – Public Education: Community Education by way of community meetings, mailings, classes and events such as the Mill Valley Campout. In progress

Initiative 5 – Communications: Enhance communications through modernization of the emergency siren notification infrastructure with the Long Range Acoustical Device (LRAD). We have completed initial LRAD testing and developed some basic cost estimates. We are working through system integration and processes for utilization. Additionally, we are currently purchasing satellite phones for key staff. In Progress.

According to the National Wildfire Coordinating Group, the WUI is the zone of transition between unoccupied land and human development. It is the line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels. There are approximately 99 million Americans living in 44 million structures within the urban-wildland interface (WUI). Within the City of Mill Valley, there are about 5,000 residential structures within the identified WUI area see attachment 1.

Wildland fire conflagration is not new to our region. One of the most significant predictors of particularly destructive fires is the history of fire in that area. The City of Mill Valley has its own modern history dating back to the Great Mill Valley Fire (1929) and Marin County’s Mount Vision Fire (1995). The problem persists, not because there are few fire safety guidelines, but because instructions are sometimes not fully implemented or interpreted differently. Until recently, homeowner values and motives were not recognized as necessary in achieving fire-safe home sites. The current guidelines used for the wildland/urban fire interface are fixed specifications that sometimes cannot incorporate variations in homeowner values while maintaining a given level of fire safety. The current fire conditions throughout our state and region are changing and we need to change too.
To understand the best way to make a WUI home defensible, you must first understand how a wildland fire propagates. Wildland fires move through the WUI by three primary methods:

- **Direct flame contact** – Direct flame impingement refers to the transfer of heat by direct flame exposure. Direct contact with the fire flames will heat the combustibility of building materials of the home. Depending on the exposure (time/intensity) of the flame, materials can ignite or break windows.

- **Radiant heat** – By creating defensible space around homes, we can significantly reduce the heat. Radiant heat decreases with the square of the distance. A house with 20-foot clearance from 20-foot flames will receive one-quarter of the radiant heat of a home with a 10-foot clearance. A home with 100 feet of clearance from forest or shrubs will usually have minimal impact from heat or flame. Although still at risk from ignition by embers, a home with sufficient defensible space can have minimal risk to the people in the house.

- **Embers** – According to recent research, embers are the most prolific cause of home ignition at a rate of two out of every three homes destroyed. Embers are glowing or burning pieces of vegetation or construction debris that are lofted during the wildfire. Embers can move up to a mile ahead of a firestorm. These small embers or sparks may fall on the vegetation near your home: on dry leaves, needles or twigs on the roof and then subsequently concentrated within 3 feet of the house or under the deck with subsequent ignition of vegetation or debris that could then ignite and burn down the home. If ignited, a continuous sequence of vegetation can carry flames from your landscaping to your house. The concentration of embers that land on the roof and roll off makes the removal of all flammable materials within 3 feet of the house critical.

To reduce the chances of wildland fire losses, there are two essential factors:

1. **The WUI home requires a wise selection of building materials and designs that will help the house resist the wildfire.** Chapter 7A of the California Building Code offers good direction on appropriate building materials and methods.

2. **The WUI home must have adequate defensible space, based on the careful selection, placement, and maintenance of vegetation near a structure.**
By reducing the flammability of structures, fuel treatments can be designed such that an extreme wildfire can occur in the WUI without having significant residential fire loss. Although general wildfire control efforts may not benefit from fuel treatments during extreme fire behavior, fuel modifications and ignition resistive building construction can significantly change outcomes of a wildfire. The area that primarily defines WUI ignition potential is called the home ignition zone. Wildland urban interface fuel treatments address the home ignition zone by removing flammable materials immediately adjacent (within 3-5 feet) to residences, and by decreasing the flammability of the residences themselves (for example by choice in roofing and deck materials).

On April 16, 2018, the City of Mill Valley Adopted Ordinance 1300 which regulates ignition resistive construction serves to harden our housing stock.

Discussion:

The City of Mill Valley has rightly placed our focus on creating defensible space around homes in the wildland urban interface. Currently defensible space is formed through the modification/treatments of fuels in and around structures by zones.

- **Zone 1 (Lead, Clean and Green Zone)** - is the area of maximum modification and treatment. It consists of an area of 30 feet around buildings (dwelling and accessory buildings) in which flammable vegetation is limited. The 30 feet is measured from the outside edge of the building’s eaves and any attached structures, such as decks.

- **Zone 2 (Fuel Reduction Zone)** - is an area of fuel reduction. The size of Zone 2 depends on the slope of the ground where the building is built. Typically, the defensible space should extend at least 30 to 150 feet from buildings. Within this zone, the continuity and arrangement of vegetations are modified. Stressed, diseased, dead or dying trees and shrubs are removed. Healthy trees and shrubs are thinned and trimmed. Vegetation within 10’ of the roadway, driveway and property line should be cleared and substantially thinned or removed.

- **Zone 3** - is an area of managed native vegetation and is of no particular size. It extends from the edge of Zone 2 to the property boundaries.
The City of Mill Valley Fire Department has been conducting vegetation inspections every spring/summer for over three decades. The purpose of the inspections has been to create defensible space around the home as well as provide for safe access and egress pathways to roadways. To a degree, defensible space assumes firefighters will be present to defend the structure should a wildland fire breakout. The most recent California fires have demonstrated a level of insufficient resources to protect and defend all threatened structures during a conflagration. The most recent conflagration threatening Shasta and Lake County has firefighters from a majority of the western states in attendance as well as various international partners such as Australia and New Zealand. Our defensible space messaging has focused on giving our firefighters a chance to protect/defend residential and commercial property, however, this does not reflect the reality associated with mega fires.

Given the shift in the fire environment towards more violent and volatile conflagrations, we need to modify our mindset towards developing survivable space vs. defensible space. Survivable space is the modification of landscape design, fuels, and building materials that would make a home ignition caused by wildfire less likely and occur without direct firefighter intervention. Our recent building code changes add value to this goal.

The City of Mill Valley Fire Department proposes adjustments to ordinances that enable the creation of survivable properties during a wildland conflagration:

- **Zone 1A (Structural (Home) Ignition Zone)** – Create hardscape (gravel, concrete, pavers or bare ground) or fire resistive plantings such as appropriately irrigated succulent plantings are allowed within Zone 1A or within the first 3’ surrounding the building.
• **Zone 1 (Lean Clean and Green Zone)** – From 3’ – 30’ (up to 150’ based on topographical features). Remove surface fuels and flammable vegetation to eliminate the pathway for fire spread to the buildings. Remove Juniper, Bamboo, Acacia, and Italian Cypress within the first 30’ of the buildings.

• **Zone 3 (Fuel Reduction Zone)** – From 150’ to the property line the goal is to diminish heavy fuel loading by removing dead standing/fallen trees, surface fuels (logs, accumulation of dean materials) and prune to remove a laddering effect of fuels.

**Plantings:**

Planting alternatives within the first 30’ of the buildings will be necessary for the community. The FIREsafe Marin website ([https://www.firesafemarin.org/plants/fire-resistant](https://www.firesafemarin.org/plants/fire-resistant)) contains the most contemporary listing of fire resistant plantings to be allowed within the first 30 feet of the buildings.

How do we accomplish **survivable space** in the WUI environment?

**Education:** Appropriate education is the first key towards achieving a survivable and adaptive fire community. Given our community, we anticipate that approximately 80% of the WUI parcels will comply when educated on the issues, methods, and practices for improving the survivability of their home. Education needs to include:

- Neighborhood hazard assessment visits
  - Demonstration properties throughout neighborhoods
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- Pop-up neighborhood meetings
- Handouts and mailings, and short videos
- Seminars such as the “Fire in Marin” class

Compliance: Inspections are necessary to outline the residential expectations within the community, neighborhood, and homeowner. This program includes:

- Establishment of expectations and time frames by the Mill Valley City Council.
- Enforcement inspections of each parcel through our current formalized process outlined in the Mill Valley Municipal Code.
- Non-compliance could lead to citations, fines and liens.

Education, inspection and compliance will be large and necessary parts of this proposal. Our firefighters have handled initial our annual vegetation inspection and follow-up, however, the changes proposed will require substantially more effort. For future consideration, we think that outside help (non-safety) may be necessary aid in the elements of the program and to see some of the more complex compliance cases to fruition. Although we anticipate a $20,000 budget to hire seasonal employees, we request additional time to refine the budget and scope of work for this program.

Proposal for consideration:

Consider amending the Mill Valley Municipal Code as it relates to vegetation management (attachment 2).

Within six months of approval by the City Council we intend to:

- Conduct a website and neighborhood educational campaign.
- Vegetation management home mailings
- Door to door community visits with information about disaster preparedness and vegetation management.
- Develop the inspection and compliance enforcement options and protocols.
- Starting on May 1, 2019: Conduct approximately 5,000 individual parcel inspections and start the compliance process as necessary.
  - Require the establishment of a structure ignition zone clean-up 3'.
  - Require the removal of Bamboo, Acacia, Juniper and Cypress from within 30' of the residential buildings.

Outreach thus far:

When proposing additional safety rules that affect individual homeowners, community outreach is essential. Before this proposal, we have socialized this concept:

- At six geographically specific community meetings:
  - Community Center x 2 Invited 2500 households
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- Edna McGuire School | Invited 1500 households
- Park School | Invited 900 households
- Old Mill School | Invited 600 households
- Outdoor Art Club | Invited 567 households

- The Mill Valley Fire Department, along with the Emergency Preparedness Commission have been invited to and attend eight community/neighborhood meetings. These informational meetings largely covered the same information provided during the above listed geographical meeting. Specifically, the meetings covered the proposed vegetation programs among other preparedness topics. The locations thus far visited include:
  - Marsh Dr. Neighborhood
  - Manzanita Pl. Neighborhood
  - Tamalpais Dr. Neighborhood
  - Marlin Ave. Neighborhood
  - Myrtle Ave. Neighborhood
  - Ryan St. Neighborhood
  - Magee Ave. Neighborhood
  - Mill Valley Rotary

Thus far, our feedback has been supportive for making our neighborhoods safe through proper vegetation management in and around the homes.
Inspection/Enforcement:
The Mill Valley Fire Inspectors are by law allowed to inspect private property from public domain areas such as the street or walkway serving the front door. Note: We will be examining inspection options including self-certifying and will return for adjustments as necessary. The California Fire Code provides direction to perform an inspection if the inspector sees or suspects the building or premise contains a “hazardous condition.” Permission may be granted by the occupant to conduct the inspection, however, if entry is denied, an inspection warrant or other remedy must be first obtained prior to conducting the inspection.

City of Mill Valley Fire Department – Current Practices:
Following the six-month of community education/outreach effort, we will start an inspection/compliance process. This process will follow our current practices outlined in the Mill Valley Municipal Code – Title 8 and Title 15.

- The first inspection occurs
  - Typically, the occupant (or property owner) is provided with 14 days to comply
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- The second inspection occurs on or shortly after 14 days
  - Typically, the occupant is provided with an additional seven days to comply
- The third inspection occurs after 7 days
  - Referral to code compliance where the occupant (or property owner) is provided 72 hours to comply with financial penalties.
  - Abatement can occur at the cost to the municipality with a lien placed on the parcel.

Conclusion:

The City of Mill Valley is in the midst of a sea change as it relates to the creation of survivable space versus defensible space. The recent mega fires have demonstrated, at least in the early hours, a level of resource shortages that necessitate this move to strengthen our community preparedness and resiliency. Although we cannot mitigate all of the risks for Mill Valley residents, we can take productive steps to dramatically improve the odds that our community survives.

This proposal is in alignment with City Council stated Core Values:

- The health and safety of residents
- Preservation of the community’s high quality of life
- A healthy natural environment with emphasis on conservation, open space, climate protection and sustainability.
- A balanced, inclusive, and open approach to policy-making and city leadership.
- Citizen participation that promotes open communication, mutual respect, and the development of community leaders.
- Operational excellence.

Fiscal Impacts:

Funds to provide the educational programs are provided through the Municipal Services Tax. We are actively seeking grants and community partnerships to fund opportunities that assist members of the community who do not possess the resources to complete the necessary work.

Our entire proposal represents a working together approach and one of the six program initiatives we are pursuing to strengthen the whole community. Currently, the City of
Mill Valley works to relieve the strain on residents by offering to chip and haul bio waste. Approximately one million Municipal Services Tax (MST) dollars are allocated over the next two-year budget for hazardous fuels removal, with a portion allocated to this program.

Other opportunities throughout Marin County include the Novato Fire Protection District approach/program titled Vegetation Management Matching Grant Program (VMMGP). This program utilizes a matching District funds designed to grant support projects that involve the use of a chipper service and/or fire fuels removal.

Attachments:
1 – City of Mill Valley Adopted WUI Map
2 – Draft Ordinance
ORDINANCE NO. 2018-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILL VALLEY
AMENDING CHAPTER 15.04 OF THE MILL VALLEY MUNICIPAL CODE TO
MODIFY SECTION 4907 OF THE CALIFORNIA FIRE CODE

WHEREAS, on November 7, 2016, the City Council of the City of Mill Valley adopted by reference the current 2016 California Fire Code of Regulations Title 24, Part 9, as modified by Ordinance No. 1286; and

WHEREAS, the 2017 conflagration in Sonoma and Napa has caused many communities, including Mill Valley, to conduct internal reviews and identify areas where additional attention is needed to enhance fire safety; and

WHEREAS, the City Council wishes to amend Section 4907 of California Fire Code (CFC) to address defensible space of residential and commercial buildings located within the Wildland Urban Interface Fire Area; and

WHEREAS, pursuant to Sections 17958.5, 17958.7, and 18941.5 of the California Health and Safety Code, the City Council finds that the modifications to the 2016 CFC contained herein are reasonably necessary because of local climatic, geological, or topographical conditions, as described more specifically in Section 1 below.

NOW, THEREFORE, the City Council of the City of Mill Valley does hereby ordain as follows:

SECTION 1. Section 15.04.010 of Chapter 15.04 of the Mill Valley Municipal Code is hereby deleted and replaced to read as follows:

"15.04.010 Justification.

The City Council recognizes that the City of Mill Valley has within its borders and along its boundaries, significant areas of grass, brush and heavily forested lands. These hazardous conditions present an exceptional and continuing fire danger to the residents of the community due to the difficulty of the terrain and topography of the area, much of it consisting of boxed canyons with steep, brush-covered slopes; narrow winding streets used by residents of the area and the Fire Department for ingress and egress; steep hills which hinder Fire Department response time; older and inadequate water systems in certain areas of the community; and the location of buildings and structures with relation to these dangerous areas.

The City Council also recognizes that a great number of structures located within the City of Mill Valley were built in the late 1800's and early 1900's, thus lacking the built-in protection of modern construction. Many of the residential structures had been built on steep slopes with boxed
canyons and large percentages are located in areas of heavy natural growth. Many structures (new and old) are constructed of highly combustible material, which offer little resistance to fire and could contribute to the spread of fire.

The City Council also recognizes the fact that the community has been plagued many times in the late 1800's and early 1900's by brush and forest fires, which not only threaten destruction, but on a number of occasions devastated large portions of the town. The desire of the community to preserve natural vegetation has resulted in the encroachment of brush and grass on fire roads, trails, breaks and streets within the City, thus rendering such separations ineffective against the spread of fires. Natural growth, which is highly flammable during the summer and fall months, encroaches upon many properties, thus posing a potential fire threat to many structures and creating a substantial hindrance to the control of such fires.

The City Council also recognizes that the geological features create an increased risk from flooding, hillside runoff and debris flows due to a combination of factors including periodic heavy winter rainfalls and tidal fluctuations. Low lying areas can also subject to liquefaction following an earthquake.

The City Council also recognizes that, seismically, the City sits between two active earthquake faults (San Andreas and Hayward) and numerous potentially active faults. Fire following an earthquake has the potential of causing greater loss of life and damage than the earthquake itself. Should a significant seismic event occur, public safety resources would have to be prioritized to mitigate the greatest threat, and may not be available for every structural fire. In such event, individual structures should be equipped to help in mitigating the risk of damage.

Finally, the City Council recognizes that, in the event that the Fire Department is called to respond to a fire emergency in any of these areas, its response time to an emergency is increased by reason of the difficulties herein stated. In recognition thereof and acting pursuant to California Health and Safety Code Section 17958.5 and 17958.7, the City Council finds that the fire protection requirements of this ordinance as such requirements modify state required regulations adopted pursuant to the California Health and Safety Code Section 17922 are hereby reasonably necessary because of local climatic, geological and topographical conditions.

The following table represents findings of fact relative to climate, topography, or geology, for each addition, deletion or amendment to the 2016 California Fire Code:

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SECTION 2. The paragraphs within Section 15.04.120 of the Mill Valley Municipal Code adding a new Section 4907.2 to Chapter 49 of the CFC, and which begin with “Section 4907.2 is hereby added...” and end with “EXCEPTION 2: When approved by...”, are hereby amended to read as follows:

"Section 4907.2 is hereby added to Chapter 49 and shall read as follows:

Section 4907.2 Fire Hazard Reduction. Commencing on the effective date of this Section unless stated otherwise, any person who owns, leases, controls or maintains any building or structure, and/or lands within specific Wildland Urban Interface areas of the jurisdiction of the City of Mill Valley shall comply with the following:

1. Cut and remove all pyrophytic combustible vegetation. Commencing May 1, 2019, pyrophytic combustible shall include all Junipers (genus Juniperus), all species of Bamboo (clumping or running), Acacia (genus Acacia) and Italian Cypress (genus Cupressus), from:
   a. within 10 feet from property lines and driveways;
   b. within 30 feet of residential or commercial buildings; and
   c. 30 feet up to 150 feet from residential or commercial buildings when topographic or combustible vegetative types necessitate removal, as determined by the Fire Code Official.
   d. Exceptions:
i. When approved by the Fire Chief or his/her designee, single specimens of trees, ornamental shrubbery or similar plants used as ground covers need not be removed, provided that they do not form a means of rapidly transmitting fire from the native growth to any structure.

ii. When approved by the Fire Chief or his/her designee, grass and other vegetation located more than 30 feet (9144 mm) from buildings or structures less than 18 inches (457 mm) in height above the ground need not be removed where necessary to stabilize soil, and prevent erosion.

2. Commencing May 1, 2019, clear and create hardscape (gravel, concrete, brick, pavers or bare ground) within the first 3 feet surrounding any residential or commercial building or structure.

   a. Exceptions:
      i. Succulents, which are defined as drought resistant plants with water storing properties, may be planted within the first 3 feet surrounding any residential or commercial structure.

3. Remove piles of accumulated dead vegetation on the property.

4. Cut and remove tree limbs that overhang wood decks and roofs.

5. Remove that portion of any tree which extends within 10 feet of any chimney or stovepipe.

6. Clean any leaves and needles from roof and gutters.

7. Raise the crowns of all trees by cutting and removing growth less than 3-inches in diameter, from the ground up to a maximum height of 10 feet, 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.

8. Vegetation clearance requirements for new construction and substantial remodels in Wildland-Urban Interface Areas shall be in accordance with the 2006 International Wildland-Urban Interface Code, as amended by the City of Mill Valley.”

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Mill Valley hereby declares that it would have adopted this ordinance and each section, subsection, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases, or portions thereof may be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared severable.

SECTION 4. CEQA. The City Council of the City of Mill Valley finds that the adoption of this ordinance is exempt from the California Environmental Quality Act pursuant to Section 15061(b)(3) of Title 14 of the California Code of Regulations because it has no potential for causing a significant effect on the environment.
SECTION 5. Effective Date and Publication. This ordinance shall become effective thirty (30) days after its adoption. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published or posted in the manner prescribed by law.

SECTION 6. The City Clerk is hereby directed to cause a copy of this ordinance to be filed with the California Building Standards Commission as required by Health and Safety Code Section 17958.7.

INTRODUCED at a regular meeting of the City Council of the City of Mill Valley on the ___ day of ______ 2018, and

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Mill Valley on this ___ day of ________ 2018, by the following vote:

AYES:
NOES:
ABSENT:

_______________________________
Stephanie Moulton-Peters, Mayor

Attest:

_______________________________
Kelsey Rogers, City Clerk/Administrative Assistant