



## Defensible Space – State Law

**Amended Public Resources Code (PRC) 4291 and Government Code (GC) 51182**

Public Resources Code 4291; Government Code Section 51175-51189

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### ***Governor's Office Info.***

Effective January 1, 2005, if you live in a wildland area in California you need to know about changes in the following laws. Governor Schwarzenegger signed into law on September 23, 2004, Senate Bill 1369. This in the following manner:

- Increase the minimum clearance (defensible space) requirement from 30' to 100'.
- Provide for state law, or local ordinance, rule or regulation to specify requirements of greater than 100'.
- Allows insurance companies to require home/building owners to maintain firebreaks greater than 100'.
- Homeowners Responsibility is key to fire safety whether it be Outside the Home, or Inside the Home.

**Outside**, wildland fire safety begins with creating and maintaining clearance around your home; cutting weeds and dry grass before 10 a.m. when the humidity is higher and temperatures cooler to reduce the chance of fire; and following proper guidelines for burning debris on your property, or when enjoying a campfire.

**Inside**, basic fire safety begins with checking the battery in your smoke detector; practicing fire drills with your family; ensuring that your burglar bars have quick release mechanisms; and keeping working fire extinguishers available.

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**BILL NUMBER: SB 1369**

CHAPTERED  
CHAPTER 720

FILED WITH SECRETARY OF STATE SEPTEMBER 23, 2004  
APPROVED BY GOVERNOR SEPTEMBER 23, 2004  
PASSED THE SENATE AUGUST 17, 2004  
PASSED THE ASSEMBLY AUGUST 9, 2004  
AMENDED IN ASSEMBLY JUNE 17, 2004  
AMENDED IN ASSEMBLY JUNE 1, 2004  
AMENDED IN SENATE MAY 12, 2004  
AMENDED IN SENATE MARCH 26, 2004  
AMENDED IN SENATE MARCH 22, 2004

INTRODUCED BY: Senator Kuehl

FEBRUARY 18, 2004

An act to amend Section 51182 of the Government Code, and to amend Section 4291 of the Public Resources Code, relating to fire protection.

**LEGISLATIVE COUNSEL'S DIGEST**

**SB 1369, Kuehl. Fire protection.**

(1) Existing law requires any person who owns, leases, controls, operates, or maintains any occupied dwelling or occupied structure in, upon, or adjoining any mountainous area, forest-covered land, brush-covered land, grass-covered land, or any land that is covered with flammable material, which area or land is within a very high fire hazard severity zone designated by the local agency, as provided, to, among other things, maintain around and adjacent to the occupied dwelling or occupied structure additional fire protection or firebreaks made by removing all brush, flammable vegetation, or combustible growth that is located from 30 to 100 feet from the occupied dwelling or occupied structure or to the property line, whichever is nearer, as may be required by the local agency if the agency finds that, because of extra hazardous conditions, a firebreak of only 30 feet around the occupied dwelling or occupied structure is not sufficient to provide reasonable fire safety.

(2) Existing law requires a person that owns, leases, controls, operates, or maintains a building or structure, in, upon, or adjoining any mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or any land that is covered with flammable material, to, among other things, maintain around and adjacent to the building or structure additional fire protection or a firebreak, by removing all brush, flammable vegetation, or combustible growth that is located from 30 to 100 feet from the building or structure or to the property line, whichever is nearer, as may be required by the Director of Forestry and Fire Protection, if he or she finds that, because of extra hazardous conditions, a firebreak of only 30 feet around the building or structure is not sufficient to provide reasonable fire safety. For purposes of these requirements, "person" is defined as any agency of the state, county, city, district, or other local public agency, and any individual, firm, association, partnership, business trust, corporation, limited liability company, or company.

**(3)** This bill would define "person" for purposes of (2) above to instead mean a private individual, organization, partnership, limited liability company, or corporation.

This bill would revise (1) and (2), above, to require persons subject to (1) or (2) to remove all brush, flammable vegetation, or combustible growth that is located within 100 feet from the occupied dwelling or occupied structure, or building or structure, as applicable, or to the property line, or at a greater distance if required by state law, or local ordinance, rule, or regulation.

The bill would require an owner, prior to constructing a new dwelling or structure that will be occupied, or reconstructing an occupied dwelling or occupied structure damaged by fire in a very high fire hazard severity zone (see (1) above), the construction or rebuilding of which requires a building permit, to obtain from the local building official, a specified certification regarding compliance with state and local building standards, and to provide a copy of the certification, upon request, to the insurer providing course of construction insurance coverage. The bill would require the owner, upon completion of construction or rebuilding, to obtain from the local building official, a copy of the final inspection report, as specified, and to provide a copy of the report, upon request, to the property insurance carrier that insures the dwelling or structure. The bill would impose similar requirements upon an owner, prior to constructing a new building or structure or rebuilding a building or structure damaged by fire in one of the areas specified in (2) above. Because the bill would expand the definition of a crime, the bill would impose a state-mandated local program.

**(4)** Existing law provides that a local agency having jurisdiction of property violating the conditions described in (2) above is required to notify the owner of the property to correct the conditions. If the owner fails to correct the conditions, the local agency is authorized to cause the corrections to be made, and the expenses incurred become a lien on the property when recorded, as specified, in the county recorder's office in the county in which the real property is located.

The bill would authorize the Director of Forestry and Fire Protection to authorize the removal of vegetation not consistent with these and related requirements. The bill would authorize a lien upon the building, structure, or grounds for the expense of the removal of that vegetation, as specified.

**(5)** The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 51182 of the Government Code is amended to read:

51182. (a) Any person who owns, leases, controls, operates, or maintains any occupied dwelling or occupied structure in, upon, or adjoining any mountainous area, forest-covered land, brush-covered land, grass-covered land, or any land that is covered with flammable material, which area or land is within a very high fire hazard severity zone designated by the local agency pursuant to Section 51179, shall at all times do all of the following:

(1) Maintain around and adjacent to the occupied dwelling or occupied structure a firebreak made by removing and clearing away, for a distance of not less than 30 feet on each side thereof or to the property line, whichever is nearer, all flammable vegetation or other combustible growth. This paragraph does not apply to single specimens of trees, ornamental shrubbery, or similar plants that are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any dwelling or structure.

(2) Maintain around and adjacent to the occupied dwelling or occupied structure additional fire protection or firebreaks made by removing all brush, flammable vegetation, or combustible growth that is located within 100 feet from the occupied dwelling or occupied structure or to the property line, or at a greater distance if required by state law, or local ordinance, rule, or regulation. This section does not prevent an insurance company that insures an occupied dwelling or occupied structure from requiring the owner of the dwelling or structure to maintain a firebreak of more than 100 feet around the dwelling or structure if a hazardous condition warrants such a firebreak of a greater distance. Grass and other vegetation located more than 30 feet from the dwelling or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion.

(3) Remove that portion of any tree that extends within 10 feet of the outlet of any chimney or stovepipe.

(4) Maintain any tree adjacent to or overhanging any building free of dead or dying wood.

(5) Maintain the roof of any structure free of leaves, needles, or other dead vegetative growth.

(6) Provide and maintain at all times a screen over the outlet of every chimney or stovepipe that is attached to any fireplace, stove, or other device that burns any solid or liquid fuel. The screen shall be constructed and installed in accordance with the California Building Standards Code.

(7) Prior to constructing a new dwelling or structure that will be occupied or rebuilding an occupied dwelling or occupied structure damaged by a fire in such zone, the construction or rebuilding of which requires a building permit, the owner shall obtain a certification from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards, including those described in subdivision (b) of Section 51189, and shall provide a copy of the

certification, upon request, to the insurer providing course of construction insurance coverage for the building or structure. Upon completion of the construction or rebuilding, the owner shall obtain from the local building official, a copy of the final inspection report that demonstrates that the dwelling or structure was constructed in compliance with all applicable state and local building standards, including those described in subdivision (b) of Section 51189, and shall provide a copy of the report, upon request, to the property insurance carrier that insures the dwelling or structure.

(b) A person is not required under this section to maintain any clearing on any land if that person does not have the legal right to maintain the clearing, nor is any person required to enter upon or to damage property that is owned by any other person without the consent of the owner of the property.

**SEC. 2.** Section 4291 of the Public Resources Code is amended to read:

4291. A person that owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining any mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or any land that is covered with flammable material, shall at all times do all of the following:

(a) Maintain around and adjacent to the building or structure a firebreak made by removing and clearing away, for a distance of not less than 30 feet on each side of the building or structure or to the property line, whichever is nearer, all flammable vegetation or other combustible growth. This subdivision does not apply to single specimens of trees, ornamental shrubbery, or similar plants that are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any building or structure.

(b) Maintain around and adjacent to the building or structure additional fire protection or firebreak made by removing all brush, flammable vegetation, or combustible growth that is located within 100 feet from the building or structure or to the property line or at a greater distance if required by state law, or local ordinance, rule, or regulation. This section does not prevent an insurance company that insures a building or structure from requiring the owner of the building or structure to maintain a firebreak of more than 100 feet around the building or structure. Grass and other vegetation located more than 30 feet from the building or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion.

(c) Remove that portion of any tree that extends within 10 feet of the outlet of a chimney or stovepipe.

(d) Maintain any tree adjacent to or overhanging a building free of dead or dying wood.

(e) Maintain the roof of a structure free of leaves, needles, or other dead vegetative growth.

(f) Provide and maintain at all times a screen over the outlet of every chimney or stovepipe that is attached to a fireplace, stove, or other device that burns any solid or liquid fuel. The screen shall be constructed of nonflammable material with openings of not more than one-half inch in size.

(g) Prior to constructing a new building or structure or rebuilding a building or structure damaged by a fire in such an area, the construction or rebuilding of which requires a building permit, the owner shall obtain a certification from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards, including those described in subdivision (b) of Section 51189 of the Government Code, and shall provide a copy of the certification, upon request, to the insurer providing course of construction insurance coverage for the building or structure. Upon completion of the construction or rebuilding, the owner shall obtain from the local building official, a copy of the final inspection report that demonstrates that the dwelling or structure was constructed in compliance with all applicable state and local building standards, including those described in subdivision (b) of Section 51189 of the Government Code, and shall provide a copy of the report, upon request, to the property insurance carrier that insures the dwelling or structure.

(h) Except as provided in Section 18930 of the Health and Safety Code, the director may adopt regulations exempting structures with exteriors constructed entirely of nonflammable materials, or conditioned upon the contents and composition of same, he or she may vary the requirements respecting the removing or clearing away of flammable vegetation or other combustible growth with respect to the area surrounding those structures.

No exemption or variance shall apply unless and until the occupant thereof, or if there is not an occupant, the owner thereof, files with the department, in a form as the director shall prescribe, a written consent to the inspection of the interior and contents of the structure to ascertain whether this section and the regulations adopted under this section are complied with at all times.

(i) The director may authorize the removal of vegetation that is not consistent with the standards of this section. The director may prescribe a procedure for the removal of that vegetation and make the expense a lien upon the building, structure, or grounds, in the same manner that is applicable to a legislative body under Section 51186 of the Government Code.

(j) As used in this section, "person" means a private individual, organization, partnership, limited liability company, or corporation.

**SEC. 3.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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SENATE RULES COMMITTEE      **SB 1369**  
Office of Senate Floor Analysis  
1020 N Street, Suite 524  
(916) 445-6614      Fax: (916) 327-4478

Author: Kuehl (D)  
Amended: 6/17/04  
Vote: 21

SENATE NATURAL RES. & WILD. COMMITTEE : 6-2, 3/23/04  
AYES: Kuehl, Alpert, Bowen, Ortiz, Sher, Torlakson  
NOES: Oller, Hollingsworth  
NO VOTE RECORDED: Denham

SENATE APPROPRIATIONS COMMITTEE : 8-1, 5/3/04  
AYES: Alpert, Bowen, Burton, Escutia, Johnson, Karnette, Machado, Murray  
NOES: Aanestad  
NO VOTE RECORDED: Battin, Ashburn, Poochigian, Speier

SENATE FLOOR : 25-12, 5/18/04  
AYES: Alarcon, Alpert, Bowen, Burton, Cedillo, Chesbro, Ducheny, Dunn, Escutia, Figueroa, Florez, Karnette, Kuehl, Machado, Murray, Ortiz, Perata, Romero, Scott, Sher, Soto, Speier, Torlakson, Vasconcellos, Vincent  
NOES: Aanestad, Ackerman, Ashburn, Battin, Brulte, Hollingsworth, Johnson, Margett, McClintock, Morrow, Oller, Poochigian  
NO VOTE RECORDED: Denham, McPherson, Vacancy

ASSEMBLY FLOOR : 53-17, 8/9/04 - See last page for vote

SUBJECT : Fire protection

SOURCE : Planning and Conservation League  
Sierra Club California

DIGEST : This bill requires a person who owns property within either state fire prevention and suppression responsibility areas, or local responsibility areas where the homes are in very high fire hazard severity zones, to create a firebreak of 100 feet around any structures on his/her property and to provide proof of building certification to his/her insurance carrier.

Assembly Amendments- require the owner of new construction and owners who are re-building structures damaged in very high fire hazard severity zones to obtain certification from the local building official that the structure complies with all applicable state and local building standards and to provide proof, upon request, to their insurance carriers that the construction complies with all applicable state and local building standards, within state fire prevention and suppression responsibility areas, and local responsibility areas when the homes are in very high fire hazard severity zones. The Senate version required the owners to self-certify to their insurance company.

ANALYSIS :

Existing law:

1. Requires any person who owns, leases, controls, operates or maintains any building or structure in, or adjoining, any mountainous area, or forest-covered lands,

brush covered lands, or any land which is covered with flammable material, within state fire prevention and suppression responsibility areas, to:

A. Maintain, around any building or structure, a firebreak made by removing all flammable vegetation or other combustible growth, by no less than 30 feet on each side.

B. Maintain a wider firebreak which is located 30 feet to 100 feet from any structure, if the Director of the State Department of Forestry and Fire Protection (DFFP) determines there are extra hazardous conditions.

2. Defines "person" as any agency of the state, county, city, district or other local public agency and any individual, firm, association, partnership, business trust, corporation, limited liability company or company.

**This bill:**

1. Requires any person who owns, leases, controls, operates or maintains any occupied building or occupied structure in, or adjoining, any mountainous area, or forest-covered lands, brush covered lands, or any land which is covered with flammable material, within state fire prevention and suppression responsibility areas, and local responsibility areas when the homes are in very high fire hazard severity zones to maintain, around any building or structure, a firebreak made by removing all flammable vegetation or other combustible growth, located within 100 feet from the structure.

2. Allows property insurance carriers to require firebreaks greater than 100 feet if a hazardous condition warrants such a firebreak, within state fire prevention and suppression responsibility areas, and local responsibility areas when the homes are in very high fire hazard severity zones.

3. Requires the owner of new construction and owners who are rebuilding structures damaged in very high fire hazard severity zones to obtain certification from the local building official that the structure complies with all applicable state and local building standards and to provide proof, upon request, to their insurance carriers that the construction complies with all applicable state and local building standards, within state fire prevention and suppression responsibility areas, and local responsibility areas when the homes are in very high fire hazard severity zones.

4. Allows the Director of DFFP to:

A. Authorize the removal of vegetation in order to comply with the firebreak requirements of this bill.

B. Prescribe a procedure for the removal of that vegetation and make the expense a lien upon the offending property.

5. Defines "person" to mean a private individual, organization, partnership, limited liability company or corporation.

Comments . According to the author's office, as a result of the 2003 Southern California fires, homes and other structures within regions vulnerable to wildfire should have more protection from future wildfires. Numerous reports have identified the lack of enforceable firebreak legislation as a major factor in the spread of wildfire.



Scientific research supports this increase in firebreak size. According to Jack D. Cohen, Ph.D., United States Department of Agriculture Forest Research Physical Scientist, "My research results indicate that the big flames of high intensity wildland fires do not directly ignite homes at separation distances beyond 100 feet."

(Cohen, Thoughts on the Wildland-Urban Interface Problem,2003).

It is important to acknowledge the role of the insurance industry in coping with the risk of wildfires and property. This bill decreases exposure of the industry to fire-related losses allowing insurance carriers to make case-by-case determinations as to whether minimum firebreak clearances are inadequate. This bill further decreases the industry's exposure by allowing insurance carriers to enforce the building standards of the recently enacted AB 1216 (Vargas), which apply to homes in very high fire hazard severity zones in both state and local responsibility areas.

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT : (Verified 8/10/04)

Planning and Conservation League (co-source)  
Sierra Club California (co-source)  
California Forestry Association  
CDF Firefighters  
Defenders of Wildlife  
Regional Council of Rural Counties  
State Department of Forestry and Fire Protection

ARGUMENTS IN SUPPORT : DFFP Firefighters support the bill because of the extended firebreaks in very high fire severity zones. That organization also believes that the bill reflects a sensible approach to fire science and the "practical, real world responsibility of responding to an alarm."

The Sierra Club and the Planning and Conservation League support the firebreak and the building code provisions of the bill. They contend that the firebreak language will assist homeowners in protecting their homes and that building code compliance "is one of the most important actions that can be taken to avoid loss of property during a fire."

ASSEMBLY FLOOR :

AYES: Aghazarian, Berg, Bermudez, Calderon, Canciamilla, Chan, Chavez, Chu, Cohn, Corbett, Correa, Daucher, Diaz, Dutra, Dutton, Frommer, Garcia, Goldberg, Hancock, Jerome Horton, Shirley Horton, Jackson, Kehoe, Koretz, La Malfa, Laird, Leslie, Levine, Lieber, Liu, Longville, Maddox, Maldonado, Matthews, Montanez, Mullin, Nakano, Nation, Negrete McLeod, Oropeza, Parra, Pavley, Reyes, Richman, Salinas, Simitian, Spitzer, Steinberg, Vargas, Wiggins, Wolk, Yee, Nunez.

NOES: Benoit, Bogh, Campbell, Cogdill, Cox, Harman, Haynes, Houston, Keene, Maze, McCarthy, Mountjoy, Nakanishi, Plescia, Runner, Strickland, Wyland

NO VOTE RECORDED: Bates, Dymally, Firebaugh, La Suer, Leno, Lowenthal, Pacheco, Ridley-Thomas, Samuelian, Wesson

CP:mel 8/10/04 Senate Floor Analyses

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## COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 1369

AUTHOR : Kuehl

TOPIC : Fire protection.

### TYPE OF BILL :

Inactive  
Non-Urgency  
Non-Appropriations  
Majority Vote Required  
State-Mandated Local Program  
Fiscal  
Non-Tax Levy

### BILL HISTORY

2004

Sept. 23 Chaptered by Secretary of State. Chapter 720, Statutes of 2004.  
Sept. 23 Approved by Governor.  
Aug. 20 Enrolled. To Governor at 2 p.m.  
Aug. 17 Senate concurs in Assembly amendments. (Ayes 21. Noes 9. Page 5019.) To enrollment.  
Aug. 10 In Senate. To unfinished business.  
Aug. 9 Read third time. Passed. (Ayes 53. Noes 17. Page 6943.) To Senate.  
July 2 Read second time. To third reading.  
July 1 From committee: Do pass. (Ayes 18. Noes 1.)  
June 17 Read second time. Amended. Re-referred to Com. on APPR.  
June 16 From committee: Do pass as amended, but first amend, and re-refer to Com. on APPR. (Ayes 9. Noes 0.)  
June 1 From committee with author's amendments. Read second time. Amended. Re-referred to committee.  
May 27 To Com. on NAT. RES.  
May 18 In Assembly. Read first time. Held at Desk.  
May 18 Read third time. Passed. (Ayes 25. Noes 12. Page 3749.) To Assembly.  
May 12 Read second time. Amended. To third reading.  
May 11 From committee: Do pass as amended. (Ayes 8. Noes 1. Page 3573.)  
Apr. 26 Hearing postponed by committee. Set for hearing May 3.  
Apr. 20 Set for hearing April 26.  
Apr. 19 Set, first hearing. Failed passage in committee. (Ayes 6. Noes 1. Page 3351.) Reconsideration granted.  
Mar. 30 Set for hearing April 19.  
Mar. 26 Read second time. Amended. Re-referred to Com. on APPR.  
Mar. 25 From committee: Do pass as amended, but first amend, and re-refer to Com. on APPR. (Ayes 6. Noes 2. Page 3123.)  
Mar. 22 From committee with author's amendments. Read second time. Amended. Re-referred to committee.  
Mar. 9 Set for hearing March 23.  
Mar. 4 To Com. on N.R. & W.  
Feb. 19 From print. May be acted upon on or after March 20.  
Feb. 18 Introduced. Read first time. To Com. on RLS. for assignment. To print.

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CALIFORNIA CODES  
**PUBLIC RESOURCES CODE**  
**SECTION 4291-4299**

**4291.** A person that owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining any mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or any land that is covered with flammable material, shall at all times do all of the following:

(a) Maintain around and adjacent to the building or structure a firebreak made by removing and clearing away, for a distance of not less than 30 feet on each side of the building or structure or to the property line, whichever is nearer, all flammable vegetation or other combustible growth. This subdivision does not apply to single specimens of trees, ornamental shrubbery, or similar plants that are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any building or structure.

(b) Maintain around and adjacent to the building or structure additional fire protection or firebreak made by removing all brush, flammable vegetation, or combustible growth that is located within 100 feet from the building or structure or to the property line or at a greater distance if required by state law, or local ordinance, rule, or regulation. This section does not prevent an insurance company that insures a building or structure from requiring the owner of the building or structure to maintain a firebreak of more than 100 feet around the building or structure. Grass and other vegetation located more than 30 feet from the building or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion.

(c) Remove that portion of any tree that extends within 10 feet of the outlet of a chimney or stovepipe.

(d) Maintain any tree adjacent to or overhanging a building free of dead or dying wood.

(e) Maintain the roof of a structure free of leaves, needles, or other dead vegetative growth.

(f) Provide and maintain at all times a screen over the outlet of every chimney or stovepipe that is attached to a fireplace, stove, or other device that burns any solid or liquid fuel. The screen shall be constructed of nonflammable material with openings of not more than one-half inch in size.

(g) Prior to constructing a new building or structure or rebuilding a building or structure damaged by a fire in such an area, the construction or rebuilding of which requires a building permit, the owner shall obtain a certification from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards, including those described in subdivision (b) of Section 51189 of the Government Code, and shall provide a copy of the certification, upon request, to the insurer providing course of construction insurance coverage for the building or structure. Upon completion of the construction or rebuilding, the owner shall obtain from the local building official, a copy of the final inspection report that demonstrates that the dwelling or structure was constructed in compliance with all applicable state and local building standards, including those described in subdivision (b) of Section 51189 of the Government Code, and shall provide a copy of the report, upon request, to the property insurance carrier that insures the dwelling or structure.

(h) Except as provided in Section 18930 of the Health and Safety Code, the director may adopt regulations exempting structures with exteriors constructed entirely of

nonflammable materials, or conditioned upon the contents and composition of same, he or she may vary the requirements respecting the removing or clearing away of flammable vegetation or other combustible growth with respect to the area surrounding those structures.

No exemption or variance shall apply unless and until the occupant thereof, or if there is not an occupant, the owner thereof, files with the department, in a form as the director shall prescribe, a written consent to the inspection of the interior and contents of the structure to ascertain whether this section and the regulations adopted under this section are complied with at all times.

(i) The director may authorize the removal of vegetation that is not consistent with the standards of this section. The director may prescribe a procedure for the removal of that vegetation and make the expense a lien upon the building, structure, or grounds, in the same manner that is applicable to a legislative body under Section 51186 of the Government Code.

(j) As used in this section, "person" means a private individual, organization, partnership, limited liability company, or corporation.

#### **4291.1.**

(a) Notwithstanding Section 4021, a violation of Section 4291 is an infraction punishable by a fine of not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500). If a person is convicted of a second violation of Section 4291 within five years, that person shall be punished by a fine of not less than two hundred fifty dollars (\$250), nor more than five hundred dollars (\$500). If a person is convicted of a third violation of Section 4291 within five years, that person is guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars (\$500). If a person is convicted of a third violation of Section 4291 within five years, the department may perform or contract for the performance of work necessary to comply with Section 4291 and may bill the person convicted for the costs incurred, in which case the person convicted, upon payment of those costs, shall not be required to pay the fine. If a person convicted of a violation of Section 4291 is granted probation, the court shall impose as a term or condition of probation, in addition to any other term or condition of probation, that the person pay at least the minimum fine prescribed in this section.

(b) If a person convicted of a violation of Section 4291 produces in court verification prior to imposition of a fine by the court, that the condition resulting in the citation no longer exists, the court may reduce the fine imposed for the violation of Section 4291 to fifty dollars (\$50).

**4292.** Except as otherwise provided in Section 4296, any person that owns, controls, operates, or maintains any electrical transmission or distribution line upon any mountainous land, or forest-covered land, brush-covered land, or grass-covered land shall, during such times and in such areas as are determined to be necessary by the director or the agency which has primary responsibility for fire protection of such areas, maintain around and adjacent to any pole or tower which supports a switch, fuse, transformer, lightning arrester, line junction, or dead end or corner pole, a firebreak which consists of a clearing of not less than 10 feet in each direction from the outer circumference of such pole or tower. This section does not, however, apply to any line which is used exclusively as telephone, telegraph, telephone or telegraph messenger call, fire or alarm line, or other line which is classed as a communication circuit by the Public Utilities Commission. The director or the agency which has primary fire protection

responsibility for the protection of such areas may permit exceptions from the requirements of this section which are based upon the specific circumstances involved.

**4293.** Except as otherwise provided in Sections 4294 to 4296, inclusive, any person that owns, controls, operates, or maintains any electrical transmission or distribution line upon any mountainous land, or in forest-covered land, brush-covered land, or grass-covered land shall, during such times and in such areas as are determined to be necessary by the director or the agency which has primary responsibility for the fire protection of such areas, maintain a clearance of the respective distances which are specified in this section in all directions between all vegetation and all conductors which are carrying electric current:

(a) For any line which is operating at 2,400 or more volts, but less than 72,000 volts, four feet.

(b) For any line which is operating at 72,000 or more volts, but less than 110,000 volts, six feet.

(c) For any line which is operating at 110,000 or more volts, 10 feet.

In every case, such distance shall be sufficiently great to furnish the required clearance at any position of the wire, or conductor when the adjacent air temperature is 120 degrees Fahrenheit, or less. Dead trees, old decadent or rotten trees, trees weakened by decay or disease and trees or portions thereof that are leaning toward the line which may contact the line from the side or may fall on the line shall be felled, cut, or trimmed so as to remove such hazard. The director or the agency which has primary responsibility for the fire protection of such areas may permit exceptions from the requirements of this section which are based upon the specific circumstances involved.

**4294.** A clearing to obtain line clearance is not required if self-supporting aerial cable is used. Forked trees, leaning trees, and any other growth which may fall across the line and break it shall, however, be removed.

**4295.** A person is not required by Section 4292 or 4293 to maintain any clearing on any land if such person does not have the legal right to maintain such clearing, nor do such sections require any person to enter upon or to damage property which is owned by any other person without the consent of the owner of the property.

**4296.** Sections 4292 and 4293 do not apply if the transmission or distribution line voltage is 750 volts or less.

**4296.5.**

(a) Any person or corporation operating a railroad on forest, brush, or grass-covered land shall, if ordered by the director or the agency having primary responsibility for fire protection of the area, destroy, remove, or modify so as not to be flammable any vegetation or other flammable material defined by regulation of the director to be a fire hazard on the railroad right-of-way. The director shall adopt regulations establishing fire prevention hazard reduction standards for broad geographic areas by fuel type, slope, and potential for ignition from hot or flaming exhaust, carbon particles, hot metal, burning signal devices, burning tobacco, and other similar potential sources of ignition.

(b) The order to destroy, remove, or modify vegetation or other flammable material shall specify the location of the hazard to be destroyed, removed, or modified within the

right-of-way, the width of the hazard which shall not exceed the width of the right-of-way, and the time within which compliance with the order is required.

(c) The director or the agency having primary responsibility for fire protection of the area shall allow a reasonable period of time for compliance with an order to destroy, remove, or modify vegetation or other flammable material.

**4297.** Upon the showing of the director that the unrestricted use of any grass-covered land, grain-covered land, brush-covered land, or forest-covered land is, in the judgment of the director, a menace to life or property due to conditions tending to cause or allow the rapid spread of fires which may occur on such lands or because of the inaccessible character of such lands, the Governor through the director, may, by a proclamation, which declares such condition and designates the area to which, and the period during which the proclamation shall apply, require that such area be closed to hunting and fishing and to entry by any person except a person that is within one of the following classes:

(a) Owners and lessees of land in the area.

(b) Bona fide residents in the area.

(c) Persons engaged in some bona fide business, trade, occupation, or calling in the area and persons employed by them in connection with such business, trade, occupation, or calling.

(d) Authorized agents or employees of a public utility entering such area for the purpose of operating or maintaining public utility works or equipment within the area.

(e) Members of any organized firefighting force.

(f) Any federal, state or local officer in the performance of his duties.

(g) Persons traveling on public roads or highways through the area.

**4298.** The proclamation by the Governor shall be released to the wire news services in the state, and shall be published at least once in a newspaper of general circulation in each county which contains any lands covered by the proclamation. Notice of closure shall also be posted on trails or roads entering the area covered by the proclamation. The closure shall be effective upon issuance of the proclamation by the Governor. Each notice shall clearly set forth the area to be subject to closure and the effective date of such closure. The closure shall remain in full force and effect until the Governor shall by order terminate it. The notice of such termination shall follow the same procedure by which such closure was effected. The order of termination shall be effected upon issuance.

**4299.** A person who violates Section 4297 or 4298 is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) nor more than two thousand dollars (\$2,000) or by imprisonment in the county jail for not less than 10 days nor more than 90 days or both the fine and imprisonment. All state and county law enforcement officers shall enforce orders of closure.

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CALIFORNIA CODES  
**GOVERNMENT CODE**  
**SECTION 51175-51189**

**51175.** The Legislature hereby finds and declares as follows:

(a) Fires are extremely costly, not only to property owners and residents, but also to local agencies. Fires pose a serious threat to the preservation of the public peace, health, or safety. Since fires ignore civil boundaries, it is necessary that cities, counties, special districts, state agencies, and federal agencies work together to bring raging fires under control. Preventive measures are therefore needed to ensure the preservation of the public peace, health, or safety.

(b) The prevention of fires is not a municipal affair, as that term is used in Section 5 of Article XI of the California Constitution, but is instead, a matter of statewide concern. It is the intent of the Legislature that this chapter apply to all local agencies, including, but not limited to, charter cities, charter counties, and charter cities and counties. This subdivision shall not limit the authority of a local agency to impose more restrictive fire and panic safety requirements, as otherwise authorized by law.

(c) 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 panic safety requirements, as otherwise authorized by law.

**51176.** The purpose of this chapter is to classify lands in the state in accordance with whether a very high fire hazard is present so that public officials are able to identify measures that will retard the rate of spread, and reduce the potential intensity, of uncontrolled fires that threaten to destroy resources, life, or property, and to require that those measures be taken.

**51177.** As used in this chapter:

(a) "Director" means the Director of Forestry and Fire Protection.

(b) "Very high fire hazard severity zone" means an area designated by the director pursuant to Section 51178 that is not a state responsibility area.

(c) "Local agency" means a city, county, city and county, or district responsible for fire protection within a very high fire hazard severity zone.

(d) "Single specimen tree" means any live tree that stands alone in the landscape so as to be clear of buildings, structures, combustible vegetation, or other trees, and that does not form a means of rapidly transmitting fire from the native growth to any occupied dwelling or structure.

(e) "State responsibility areas" means those areas identified pursuant to Section 4102 of the Public Resources Code.

**51178.**

(a) The director shall identify areas in the state as very high fire hazard severity zones based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas. Very high fire hazard severity zones shall be based on fuel loading, slope, fire weather, and other relevant factors.

**(b)** On or before January 1, 1995, the director shall identify areas as very high fire hazard severity zones in the Counties of Alameda, Contra Costa, Los Angeles, Marin, Napa, Orange, Riverside, San Bernardino, San Francisco, San Mateo, Santa Barbara, Santa Clara, Solano, Sonoma, and Ventura. This information shall be transmitted to all local agencies with identified very high fire hazard severity zones within 30 days.

**(c)** On or before January 1, 1996, the director shall identify areas as very high fire hazard severity zones in all other counties. This information shall be transmitted to all local agencies with identified high fire hazard severity zones within 30 days.

**51178.5.** Within 30 days after receiving a transmittal from the director that identifies very high fire hazard severity zones, a local agency shall make the information available for public review. The information shall be presented in a format that is understandable and accessible to the general public, including, but not limited to, maps.

**51179.**

**(a)** A local agency shall designate, by ordinance, very high fire hazard severity zones in its jurisdiction within 120 days of receiving recommendations from the director pursuant to subdivisions (b) and (c) of Section 51178. A local agency shall be exempt from this requirement if ordinances of the local agency, adopted on or before December 31, 1992, impose standards that are equivalent to, or more restrictive than, the standards imposed by this chapter.

**(b)** A local agency may, at its discretion, exclude from the requirements of Section 51182 an area identified as a very high fire hazard severity zone by the director within the jurisdiction of the local agency, following a finding supported by substantial evidence in the record that the requirements of Section 51182 are not necessary for effective fire protection within the area.

**(c)** A local agency may, at its discretion, include areas within the jurisdiction of the local agency, not identified as very high fire hazard severity zones by the director, as very high fire hazard severity zones following a finding supported by substantial evidence in the record that the requirements of Section 51182 are necessary for effective fire protection within the area.

**(d)** Changes made by a local agency to the recommendations made by the director shall be final and shall not be rebuttable by the director.

**(e)** The State Fire Marshal shall prepare and adopt a model ordinance that provides for the establishment of very high fire hazard severity zones.

**(f)** Any ordinance adopted by a local agency pursuant to this section that substantially conforms to the model ordinance of the State Fire Marshal shall be presumed to be in compliance with the requirements of this section.

**(g)** A local agency shall post a notice at the office of the county recorder, county assessor, and county planning agency identifying the location of the map provided by the director pursuant to Section 51178. If the agency amends the map, pursuant to subdivision (b) or (c) of this section, the notice shall instead identify the location of the amended map.

**51180.** For the purposes of Division 3.6 (commencing with Section 810) of Title 1, vegetation removal or management, undertaken in whole or in part, for fire prevention or suppression purposes shall not be deemed to alter the natural condition of public



property. This section shall apply only to natural conditions of public property and shall not limit any liability or immunity that may otherwise exist pursuant to this chapter.

**51181.** The director shall periodically review the areas in the state identified as very high fire hazard severity zones pursuant to this chapter, and as necessary, shall make recommendations relative to very high fire hazard severity zones. This review shall coincide with the review of state responsibility area lands every five years and, when possible, fall within the time frames for each county's general plan update. Any revision of areas included in a very high fire hazard severity zone shall be made in accordance with Sections 51178 and 51179.

**51182.**

**(a)** Any person who owns, leases, controls, operates, or maintains any occupied dwelling or occupied structure in, upon, or adjoining any mountainous area, forest-covered land, brush-covered land, grass-covered land, or any land that is covered with flammable material, which area or land is within a very high fire hazard severity zone designated by the local agency pursuant to Section 51179, shall at all times do all of the following:

**(1)** Maintain around and adjacent to the occupied dwelling or occupied structure a firebreak made by removing and clearing away, for a distance of not less than 30 feet on each side thereof or to the property line, whichever is nearer, all flammable vegetation or other combustible growth. This paragraph does not apply to single specimens of trees, ornamental shrubbery, or similar plants that are used as ground cover, if they do not form a means of rapidly transmitting fire from the native growth to any dwelling or structure.

**(2)** Maintain around and adjacent to the occupied dwelling or occupied structure additional fire protection or firebreaks made by removing all brush, flammable vegetation, or combustible growth that is located within 100 feet from the occupied dwelling or occupied structure or to the property line, or at a greater distance if required by state law, or local ordinance, rule, or regulation. This section does not prevent an insurance company that insures an occupied dwelling or occupied structure from requiring the owner of the dwelling or structure to maintain a firebreak of more than 100 feet around the dwelling or structure if a hazardous condition warrants such a firebreak of a greater distance. Grass and other vegetation located more than 30 feet from the dwelling or structure and less than 18 inches in height above the ground may be maintained where necessary to stabilize the soil and prevent erosion.

**(3)** Remove that portion of any tree that extends within 10 feet of the outlet of any chimney or stovepipe.

**(4)** Maintain any tree adjacent to or overhanging any building free of dead or dying wood.

**(5)** Maintain the roof of any structure free of leaves, needles, or other dead vegetative growth.

**(6)** Provide and maintain at all times a screen over the outlet of every chimney or stovepipe that is attached to any fireplace, stove, or other device that burns any solid or liquid fuel. The screen shall be constructed and installed in accordance with the California Building Standards Code.

**(7)** Prior to constructing a new dwelling or structure that will be occupied or rebuilding an occupied dwelling or occupied structure damaged by a fire in such zone, the construction or rebuilding of which requires a building permit, the owner shall obtain a certification from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards, including those described in subdivision (b) of Section 51189, and shall provide a copy of the certification, upon request, to the insurer providing course of construction insurance coverage for the building or structure. Upon completion of the construction or rebuilding, the owner shall obtain from the local building official, a copy of the final inspection report that demonstrates that the dwelling or structure was constructed in compliance with all applicable state and local building standards, including those described in subdivision (b) of Section 51189, and shall provide a copy of the report, upon request, to the property insurance carrier that insures the dwelling or structure.

**(b)** A person is not required under this section to maintain any clearing on any land if that person does not have the legal right to maintain the clearing, nor is any person required to enter upon or to damage property that is owned by any other person without the consent of the owner of the property.

### **51183.**

**(a)** The local agency may exempt from the standards set forth in Section 51182 structures with exteriors constructed entirely of nonflammable materials, or conditioned upon the contents and composition of the structure, and may vary the requirements respecting the removing or clearing away of flammable vegetation or other combustible growth with respect to the area surrounding the structures. In no case shall this subdivision be deemed to authorize a local agency to vary any requirement that is a building standard subject to Section 18930 of the Health and Safety Code, except as otherwise authorized by law.

**(b)** No exemption or variance shall apply unless and until the occupant thereof, or if there be no occupant, then the owner thereof, files with the local agency a written consent to the inspection of the interior and contents of the structure to ascertain whether the provisions of Section 51182 are complied with at all times.

### **51183.5.**

**(a)** A transferor of real property that is located within a very high fire hazard severity zone, designated pursuant to this chapter, shall disclose to any prospective transferee the fact that the property is located within a very high fire hazard severity zone, and is subject to the requirements of Section 51182.

**(b)** Disclosure is required pursuant to this section only when one of the following conditions is met:

**(1)** The transferor, or the transferor's agent, has actual knowledge that the property is within a very high fire hazard severity zone.

**(2)** A map that includes the property has been provided to the local agency pursuant to Section 51178, and a notice is posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the local agency.

**(c)** In all transactions that are subject to Section 1103 of the Civil Code, the disclosure required by subdivision (a) of this section shall be provided by either of the following means:

(1) The Local Option Real Estate Disclosure Statement as provided in Section 1102.6a of the Civil Code.

(2) The Natural Hazard Disclosure Statement as provided in Section 1103.2 of the Civil Code.

(d) If the map or accompanying information is not of sufficient accuracy or scale that a reasonable person can determine if the subject real property is included in a very high fire hazard zone, the transferor shall mark "Yes" on the Natural Hazard Disclosure Statement. The transferor may mark "No" on the Natural Hazard Disclosure Statement if he or she attaches a report prepared pursuant to subdivision (c) of Section 1103.4 of the Civil Code that verifies the property is not in the hazard zone. Nothing in this subdivision is intended to limit or abridge any existing duty of the transferor or the transferor's agents to exercise reasonable care in making a determination under this subdivision.

(e) Section 1103.13 of the Civil Code shall apply to this section.

(f) The specification of items for disclosure in this section does not limit or abridge any obligation for disclosure created by any other provision of law or that may exist in order to avoid fraud, misrepresentation, or deceit in the transfer transaction.

#### **51184.**

(a) Section 51182 shall not apply to any land or water area acquired or managed for one or more of the following purposes or uses:

(1) Habitat for endangered or threatened species, or any species that is a candidate for listing as an endangered or threatened species by the state or federal government.

(2) Lands kept in a predominantly natural state as habitat for wildlife, plant, or animal communities.

(3) Open space lands that are environmentally sensitive parklands.

(4) Other lands having scenic values, as declared by the local agency, or by state or federal law.

(b) This exemption applies whether the land or water area is held in fee title or any lesser interest. This exemption applies to any public agency, any private entity that has dedicated the land or water areas to one or more of those purposes or uses, or any combination of public agencies and private entities making that dedication.

(c) This section shall not be construed to prohibit the use of properly authorized prescribed burning to improve the biological function of land or to assist in the restoration of desired vegetation.

(d) In the event that any lands adjacent to any land or water area described in subdivision (a) are improved such that they are subject to Section 51182, the obligation to comply with Section 51182 shall be with the person owning, leasing, controlling, operating, or maintaining the occupied dwelling or occupied structure on the improved lands. All maintenance activities and other fire prevention measures required by Section 51182 shall be required only for the improved lands, not the land and water areas described in subdivision (a).

#### **51185.**

(a) A violation of Section 51182 is an infraction punishable by a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500).

(b) If a person is convicted of a second violation of Section 51182 within five years, that person shall be punished by a fine of not less than two hundred fifty dollars (\$250) nor more than five hundred dollars (\$500).

(c) If a person is convicted of a third violation of Section 51182 within five years, that person is guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars (\$500).

**51186.** The local agency having jurisdiction of property upon which conditions regulated by Section 51182 are being violated shall notify the owner of the property to correct the conditions. If the owner fails to correct the conditions, the local agency may cause the corrections to be made, and the expenses incurred shall become a lien on the property that is the subject of the corrections when recorded in the county recorder's office in the county in which the real property is located. The priority of the lien shall be as of the date of recording. The lien shall contain the legal description of the real property, the assessor's parcel number, and the name of the owner of record as shown on the latest equalized assessment roll.

**51187.** Any violation of Section 51182 may be considered a public nuisance pursuant to Section 38773.

**51188.** In the instance of conflict between this chapter and any provision of state law that allows a regional planning agency to regulate very high fire hazard severity zones, this chapter shall prevail.

**51189.**

(a) The Legislature finds and declares that space and structure defensibility is essential to effective fire prevention. This defensibility extends beyond the vegetation management practices required by this chapter, and includes, but is not limited to, measures that increase the likelihood of a structure to withstand intrusion by fire, such as building design and construction requirements that use fire resistant building materials, and provide protection of structure projections, including, but not limited to, porches, decks, balconies and eaves, and structure openings, including, but not limited to, attic and eave vents and windows.

(b) No later than January 1, 2005, the State Fire Marshal, in consultation with the Director of Forestry and Fire Protection and the Director of Housing and Community Development, shall, pursuant to Section 18930 of the Health and Safety Code, recommend building standards that provide for comprehensive space and structure defensibility to protect structures from fires spreading from adjacent structures or vegetation and vegetation from fires spreading from adjacent structures.

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**Title 24** California Code of Regulations (California Building Standards Code)  
**Part 9 - 2001 California Fire Code**

Contains fire-safety-related building standards referenced in other parts of Title 24. This Code is preassembled with the 2000 Uniform Fire Code of the Western Fire Chiefs Association.

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**CDF Info.**

When you create a fire safe landscape for at least 100 feet around your house, you will reduce the chance of a wildfire spreading onto your property and burning through to your home. This is the basis for creating a "defensible space" - an area that will help protect your home and provide a safety zone for the firefighters who are battling the flames.

Clearing all flammable vegetation a minimum of 100 feet around your home and other structures will not only provide you with the greatest chance for survival, it is also required by California law.

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**USFS Info.**

**Communities at Risk**

During the 2000 fire season wildfires burned millions of acres throughout the United States. These fires dramatically illustrated the threat to human lives and development. Under Executive Order, the National Fire Plan was created as a cooperative, long-term effort of the USDA Forest Service, Department of the Interior, and the National Association of State Foresters, to protect communities and restore ecological health on Federal lands.

A major component of the National Fire Plan was funding for projects designed to reduce fire risks to people and their property. A fundamental step in realizing this goal was the identification of areas that are at high risk of damage from wildfire. Federal fire managers authorized State Foresters to determine which communities were under significant risk from wildland fire on Federal lands.

The California Department of Forestry and Fire Protection undertook the task of generating the state's list of communities at risk. With California's extensive urban Wildland-Urban Interface situation the list of communities extends beyond just those on Federal lands.

Three main factors were used to determine wildland fire threat to Wildland-Urban Interface areas of California.

① **Ranking Fuel Hazards** = ranking vegetation types by their potential fire behavior during a wildfire.

② **Assessing the Probability of Fire** = the annual likelihood that a large damaging wildfire would occur in a particular vegetation type.

③ **Defining Areas of Suitable Housing Density that Would Create Wildland-Urban Interface Fire Protection Strategy Situations** = areas of intermingled wildland fuels and urban environments that are in the vicinity of fire threats. The Fire-Threatened Communities in California list includes a total of 1,283 communities. Of those, 843 are adjacent to federal lands (USDA Forest Service, Bureau of Land Management, Department of Defense, etc.) and are indicated as such with an "F" in the Fed. Threat column. The Hazard Level Code included on the list designates a community's fire threat level with 3 indicating the highest threat.

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**~END~**