

CALIFORNIA CODES
GOVERNMENT CODE
SECTION 51175-51189

51175. The Legislature hereby finds and declares as follows:

(a) Wildfires are extremely costly, not only to property owners and residents, but also to local agencies. Wildfires pose a serious threat to the preservation of the public peace, health, or safety. The wildfire front is not the only source of risk since embers, or firebrands, travel far beyond the area impacted by the front and pose a risk of ignition to a structure or fuel on a site for a longer time. 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 wildland 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 public 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 public 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) "Defensible space" means the area adjacent to a structure or dwelling where wildfire prevention or protection practices are implemented to provide defense from an approaching wildfire or to minimize the spread of a structure fire to wildlands or surrounding areas.

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

(c) "Fuel" means any combustible material, especially petroleum-based products and wildland fuels.

(d) "Fuel management" means the act or practice of controlling flammability and reducing resistance to control of fuels through mechanical, chemical, biological, or manual means or by fire, in support of land management objectives.

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

(f) "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 vegetation to an occupied dwelling or structure or from an occupied dwelling or structure to vegetation.

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

(h) "Vegetation" means all plants, including trees, shrubs, grass, and perennial or annual plants.

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

(j) "Wildfire" means an unplanned, unwanted wildland fire, including unauthorized human-caused fires, escaped wildland fire use events, escaped prescribed fire projects, and all other wildland fires where the objective is to extinguish the fire.

51178. 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 including areas where Santa Ana, Mono, and Diablo winds have been identified by the Department of Forestry and Fire Protection as a major cause of wildfire spread.

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) A person who owns, leases, controls, operates, or maintains an 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 defensible space no greater than 100 feet from each side of the structure, but not beyond the property line unless allowed by state law, local ordinance, or regulation and as provided

in paragraph (2). The amount of fuel modification necessary shall take into account the flammability of the structure as affected by building material, building standards, location, and type of vegetation. Fuels shall be maintained in a condition so that a wildfire burning under average weather conditions would be unlikely to ignite the structure. This paragraph does not apply to single specimens of trees or other vegetation that are well-pruned and maintained so as to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to a structure or from a structure to other nearby vegetation. The intensity of fuels management may vary within the 100-foot perimeter of the structure, the most intense being within the first 30 feet around the structure. Consistent with fuels management objectives, steps should be taken to minimize erosion.

(2) A greater distance than that required under paragraph (1) may be required by state law, local ordinance, rule, or regulation. Clearance beyond the property line may only be required if the state law, local ordinance, rule, or regulation includes findings that such a clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. Clearance on adjacent property shall only be conducted following written consent by the adjacent landowner.

(3) An insurance company that insures an occupied dwelling or occupied structure may require a greater distance than that required under paragraph (1) if a fire expert, designated by the fire chief or fire official from the authority having jurisdiction, provides findings that such a clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. The greater distance may not be beyond the property line unless allowed by state law, local ordinance, rule, or regulation.

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

(5) Maintain any tree, shrub, or other plant adjacent to or overhanging any building free of dead or dying wood.

(6) Maintain the roof of any structure free of leaves, needles, or other vegetative materials.

(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 that 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 coverage 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 manage fuels on land if that person does not have the legal right to manage fuels, nor is a person required to enter upon or to alter property that is owned by any other person without the consent of the owner of the property.

(c) The Department of Forestry and Fire Protection shall develop, periodically update, and post on its Internet Web site a guidance document on fuels management pursuant to this chapter. Guidance shall include, but not be limited to, regionally appropriate vegetation management suggestions that preserve and restore native species, minimize erosion, minimize water consumption, and permit trees near homes for shade, aesthetics, and habitat; and suggestions to minimize or eliminate the risk of flammability of nonvegetative sources of combustion such as woodpiles, propane tanks, wood decks, and outdoor lawn furniture.

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 management of fuels surrounding the structures in those cases. This subdivision does not authorize a local agency to vary a requirement that is a building standard subject to Section 18930 of the Health and Safety **Code**, except as otherwise authorized by law.

(b) An exemption or variance under subdivision (a) shall not apply

unless and until the occupant of the structure, or if there is no occupant, then the owner of the structure, files with the local agency a written consent to the inspection of the interior and contents of the structure to ascertain whether Section **51182** is 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 site and structure defensibility is essential to reduce the risk of structure ignition as well as for effective fire suppression by firefighters. This need to establish defensibility extends beyond the site fuel management practices required by this chapter, and includes, but is not limited to, measures that increase the likelihood of a structure

to withstand ignition, such as building design and construction requirements that use fire resistant building materials, and provide standards for reducing fire risks on structure projections, including, but not limited to, porches, decks, balconies and eaves, and structure openings, including, but not limited to, attic, foundation, and eave vents, doors, 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 site and structure fire risk reduction to protect structures from fires spreading from adjacent structures or vegetation and to protect vegetation from fires spreading from adjacent structures.