

WUI VEGETATION CODE WORKGROUP

REGULAR MEETING

SEPTEMBER 3, 2025

9:00 AM

Redwood Room – 2180 Milvia St. 6th Floor North

Fire Chief's Representative- Asst. Chief Colin Arnold

Assistant Chief David Winnacker
Richard Illgen
George Perez-Velez

Eric Weaver
Margit Roos-Collins

AGENDA

Preliminary Matters

Call to Order

Approval of the August 27 Minutes

Public Comment on Non-Agenda Matters

AGENDA MATTERS *All Regular agenda matters are for discussion and possible action.*

- 1. Action:** **Discussion of existing local amendments to ensure clarity**

Written Materials: Gov. Code 51175-51189
Summary of Proposed State Changes
General Guidance for Creating Defensible Space
Vegetation Ordinance, Annotated
Resident Assistance Program Factsheet
- 2. Action:** **Identify and Clarify AMMR Process, Clarify modification process (including local conditions and evidence to support the same practical effect**

Written Materials: COB Workgroup AMMR PPT
State Appendix A1-A5
BMC 1.28

3. Action: Upcoming Meeting Schedule, including Sept 24th.

**Written Materials:
Presentation:**

WORK GROUP REPORTS

Adjournment

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to the Wildland Urban Interface Division of the Berkeley Fire Department, wildfire@berkeleyca.gov 510-981-5620.

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: E-mail addresses, names, addresses, and other contact information are not required but, if included in any communication to a City board, commission, or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission, or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission, or committee for further information.

Any writings or documents provided to a majority of the commission regarding any item on this agenda will be made available for public inspection at Berkeley Fire Department located at 2100 Martin Luther King Jr. Way Berkeley, CA.

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair-accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

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I hereby certify that the agenda for this regular/special meeting of the Berkeley City's Disaster and Fire Safety Commission was posted at the front of the Division of Training, 997 Cedar Street, as well as on the City's website, three days prior to the scheduled Commission meeting.

**SECRETARY SIGNATURE**

*Colin Arnold*

Code: Section: [Up^](#) [Add To My Favorites](#)**GOVERNMENT CODE - GOV****TITLE 5. LOCAL AGENCIES [50001 - 57607]** ( Title 5 added by Stats. 1949, Ch. 81. )**DIVISION 1. CITIES AND COUNTIES [50001 - 52203]** ( Division 1 added by Stats. 1949, Ch. 81. )**PART 1. POWERS AND DUTIES COMMON TO CITIES AND COUNTIES [50001 - 51298.5]** ( Part 1 added by Stats. 1949, Ch. 81. )**CHAPTER 6.8. Moderate, High, and Very High Fire Hazard Severity Zones [51175 - 51189]** ( Heading of Chapter 6.8 amended by Stats. 2021, Ch. 375, Sec. 2. )**[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.

(Amended by Stats. 2008, Ch. 366, Sec. 1. Effective January 1, 2009.)

**[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.

(Added by Stats. 1992, Ch. 1188, Sec. 1. Effective January 1, 1993.)

**[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, including petroleum-based products, cultivated landscape plants, grasses, and weeds, and wildland vegetation.

(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 as a very high fire hazard severity zone by the State Fire Marshal 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.

*(Amended by Stats. 2021, Ch. 382, Sec. 1.5. (SB 63) Effective January 1, 2022.)*

**51178.** The State Fire Marshal shall identify areas in the state as moderate, high, and 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. Moderate, high, and very high fire hazard severity zones shall be based on fuel loading, slope, fire weather, and other relevant factors including areas where winds have been identified by the Office of the State Fire Marshal as a major cause of wildfire spread.

*(Amended by Stats. 2021, Ch. 382, Sec. 2.5. (SB 63) Effective January 1, 2022.)*

**51178.5.** Within 30 days after receiving a transmittal from the State Fire Marshal that identifies fire hazard severity zones pursuant to Section 51178, a local agency shall make the information available for public review and comment. The information shall be presented in a format that is understandable and accessible to the general public, including, but not limited to, maps.

*(Amended by Stats. 2021, Ch. 382, Sec. 3.5. (SB 63) Effective January 1, 2022.)*

**51179.** (a) A local agency shall designate, by ordinance, moderate, high, and very high fire hazard severity zones in its jurisdiction within 120 days of receiving recommendations from the State Fire Marshal pursuant to Section 51178.

(b) (1) 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 State Fire Marshal, 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.

(2) A local agency may, at its discretion, include areas within the jurisdiction of the local agency, not identified as moderate and high fire hazard severity zones by the State Fire Marshal, as moderate and high fire hazard severity zones, respectively.

(3) A local agency shall not decrease the level of fire hazard severity zone as identified by the State Fire Marshal for any area within the jurisdiction of the local agency, and, in exercising its discretion pursuant to paragraph (2), may only increase the level of fire hazard severity zone as identified by the State Fire Marshal for any area within the jurisdiction of the local agency.

(c) The local agency shall transmit a copy of an ordinance adopted pursuant to subdivision (a) to the State Board of Forestry and Fire Protection within 30 days of adoption.

(d) Changes made by a local agency to the recommendations made by the State Fire Marshal shall be final and shall not be rebuttable by the State Fire Marshal.

(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 State Fire Marshal 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.

*(Amended by Stats. 2022, Ch. 574, Sec. 10. (AB 211) Effective September 27, 2022.)*

**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.

*(Added by Stats. 1992, Ch. 1188, Sec. 1. Effective January 1, 1993.)*

**51181.** The State Fire Marshal 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.

*(Amended by Stats. 2021, Ch. 225, Sec. 7. (AB 9) Effective January 1, 2022.)*

**51182.** (a) A person who owns, leases, controls, operates, or maintains an occupied dwelling or occupied structure 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) (A) Maintain defensible space of 100 feet from each side and from the front and rear of the structure, but not beyond the property line except as provided in subparagraph (B). The amount of fuel modification necessary shall consider the flammability of the structure as affected by building material, building standards, location, and type of vegetation. Fuels shall be maintained and spaced in a condition so that a wildfire would be unlikely to ignite the structure. This subparagraph 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 or to interrupt the advance of embers toward a structure. The intensity of fuels management may vary within the 100-foot perimeter of the structure, with more intense fuel reductions being used between 5 and 30 feet around the structure, and an ember-resistant zone being required within 5 feet of the structure, based on regulations promulgated by the State Board of Forestry and Fire Protection, in consultation with the Office of the State Fire Marshal, to consider the elimination of materials in the ember-resistant zone that would likely be ignited by embers. The regulations may also alter the fuel reduction required between 5 and 30 feet to integrate the ember-resistant zone into the requirements of this section. Consistent with fuels management objectives, steps should be taken to minimize erosion, soil disturbance, and the spread of flammable nonnative grasses and weeds.

(B) A greater distance than that required under subparagraph (A) may be required by state law, local ordinance, rule, or regulation. Fuel modification beyond the property line may only be required by state law, local ordinance, rule, or regulation in order to maintain 100 feet of defensible space from a structure. Fuel modification on adjacent property shall only be conducted following written consent by the adjacent landowner. Any local ordinance related to fuel modification shall be in compliance with all applicable state laws, regulations, and policies. Any local ordinance may include provisions to allocate costs for any fuel modification beyond the property line.

(C) An insurance company that insures an occupied dwelling or occupied structure may require a greater distance than that required under subparagraph (A) if a fire expert, designated by the fire chief or fire official from the authority having jurisdiction, provides findings that the fuel modification 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.

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

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

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

(5) Before 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 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 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) (1) The State Board of Forestry and Fire Protection, in consultation with the Office of the State Fire Marshal, shall develop, periodically update, and post on its internet website a guidance document on fuels management pursuant to this chapter. The guidance document shall include, but not be limited to, regionally appropriate vegetation management suggestions that preserve and restore native species that are fire resistant or drought tolerant, or both, minimize erosion, minimize the spread of flammable nonnative grasses and weeds, minimize water consumption, and permit trees and shrubs 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, decks, and outdoor lawn furniture.

(2) On or before January 1, 2023, the State Board of Forestry and Fire Protection, in consultation with the Office of the State Fire Marshal, shall update the guidance document to include suggestions for creating an ember-resistant zone within five feet of a structure based on regulations promulgated by the State Board of Forestry and Fire Protection, in consultation with the Office of the State Fire Marshal, to consider the elimination of materials in the ember-resistant zone that would likely be ignited by embers. Existing and new structures shall meet the same standard for the ember-resistant zone, but regulations shall allow the staging of work for existing structures to support implementation of the ember-resistant zone and address the costs of compliance.

(d) For purposes of this section, a structure for the purpose of an ember-resistant zone shall include any attached deck. This section does not limit the authority of the State Board of Forestry and Fire Protection or the Office of the State Fire Marshal to require the removal of fuel or vegetation on top of or underneath a deck pursuant to this section.

*(Amended by Stats. 2024, Ch. 982, Sec. 1. (SB 504) Effective January 1, 2025.)*

**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.

*(Amended by Stats. 2008, Ch. 366, Sec. 5. Effective January 1, 2009.)*

**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.

*(Amended by Stats. 1999, Ch. 876, Sec. 7. Effective January 1, 2000.)*

**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).

*(Added by Stats. 1992, Ch. 1188, Sec. 1. Effective January 1, 1993.)*

**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).

*(Added by Stats. 1992, Ch. 1188, Sec. 1. Effective January 1, 1993.)*

**51186.** (a) 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.

(b) (1) Each local agency having jurisdiction of property upon which conditions that are regulated by Section 51182 apply shall make reasonable efforts to provide notice to affected residents within the jurisdiction of the local agency describing the requirements added by the amendments to paragraph (1) of subdivision (a) of Section 51182 made in Assembly Bill 3074 of the 2019–20 Regular Session before the imposition of penalties for violating those requirements.

(2) (A) The requirement for an ember-resistant zone pursuant to Section 51182 shall not take effect for new structures until the State Board of Forestry and Fire Protection updates the regulations, pursuant to paragraph (1) of subdivision (a) of Section 51182, and the guidance document, pursuant to paragraph (2) of subdivision (c) of Section 51182.

(B) The requirements for an ember-resistant zone pursuant to Section 51182 shall take effect for existing structures three years after the effective date for the new structures.

*(Amended by Stats. 2024, Ch. 982, Sec. 2. (SB 504) Effective January 1, 2025.)*

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

*(Added by Stats. 1992, Ch. 1188, Sec. 1. Effective January 1, 1993.)*

**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.

*(Added by Stats. 1992, Ch. 1188, Sec. 1. Effective January 1, 1993.)*

**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 withstanding ignition, such as building design and construction requirements that use fire resistant building materials, and 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 31, 2020, the State Fire Marshal, in consultation with the director and the Director of Housing and Community Development, shall, pursuant to Section 18930 of the Health and Safety Code, recommend updated 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, based on information learned from the 2017 wildfire season.

(c) (1) No later than January 31, 2020, the State Fire Marshal, in consultation with the director and the Director of Housing and Community Development, shall develop a list of low-cost retrofits 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. The Department of Forestry and Fire Protection shall incorporate the list in its fire prevention education and outreach efforts.

(2) In addition to the requirements of paragraph (1), the list shall include a guidance document, including regionally appropriate vegetation management suggestions that preserve and restore native plant species that are fire resistant or drought tolerant, or both.

(d) (1) The Office of the State Fire Marshal shall develop a model defensible space program that shall be made available for use by a city, county, or city and county in the enforcement of the defensible space provisions of Section 51182 of this code and subdivision (a) of Section 4291 of the Public Resources Code. In the development of this program, the State Fire Marshal shall consult with representatives from local, state, and federal fire services, local government, building officials, utility companies, the building industry, insurers and insurance research organizations, and the environmental community. Components of the program shall include, but not be limited to, all of the following:

(A) General guidelines for creating and maintaining defensible space around specified structures, including appropriate guidelines and definitions for vegetation management.

(B) Provisions for fuel modification beyond the property line, including on unimproved lots, in order to maintain 100 feet of defensible space from a structure.

(C) Suggested minimum qualifications needed for enforcement personnel.

(D) Enforcement mechanisms for compliance with and maintenance of defensible space requirements, including, but not limited to, the following:

- (i) Site inspections.
- (ii) Procedures for notifying a property owner of a violation.
- (iii) Timelines for corrective action by a property owner and for reinspection.
- (iv) Citations requiring abatement of a violation and subsequent removal of a fire hazard within the defensible space boundaries.
- (v) Suggested administrative procedures that allow for appeal of the citation by the property owner.

(2) If a defensible space program is adopted, the local agency for enforcement of this program may recover the actual cost of abatement and may cause a notice of abatement lien to be recorded in the county in which the real property is located. The notice shall, at a minimum, identify the record owner or possessor of the property, set forth the last known address of the record owner or possessor, set forth the date upon which abatement was ordered by the local agency and the date the abatement was completed, and include a description of the real property subject to the lien and the amount of the abatement cost.

(3) The model defensible space program required pursuant to this subdivision shall be updated whenever the State Board of Forestry and Fire Protection substantially updates the guidance documents created pursuant to subdivision (c) of Section 51182 of this code and subdivision (e) of Section 4291 of the Public Resources Code.

(4) In order to develop and implement this subdivision and support any required update of the guidance documents identified in subdivision (c) of Section 51182 of this code and subdivision (e) of Section 4291 of the Public Resources Code, the Office of the State Fire Marshal is authorized to expend funds from the Building Standards Administration Special Revolving Fund, upon an appropriation by the Legislature, pursuant to Section 18931.7 of the Health and Safety Code.

*(Amended by Stats. 2021, Ch. 382, Sec. 5. (SB 63) Effective January 1, 2022.)*

# Staff Overview: Revisions to Proposed Rule Text Defensible Space Zone 0 for July 24, 2025

## I. Overview

AB 3074 (Friedman) of 2020 required the Board of Forestry and Fire Protection to develop regulations adding an ember-resistant zone to the state's defensible space regulations. The statute called for this new "Zone 0" to require more intensive mitigations within the first five feet of a home or other building to reduce the potential for structure ignition.

Following passage of AB 3074, Board staff began working with various stakeholders to develop a proposal for Zone 0. Since March 2025, the Board of Forestry's Zone 0 Committee has held four public workshops to gather input and comments on draft regulatory text to establish the new ember-resistant zone, consistent with AB 3074, SB 504 of 2024 and the Governor's Executive Order [N-18-25](#).

The Zone 0 Committee's most recent version of the draft rule text reflects revisions made in response to public input. The Committee's goal is to propose regulations for Board adoption that will create a safer, less fire-prone environment, thereby reducing the likelihood and vulnerability of structures and neighborhoods to fires. The Committee recognizes, however, the need to balance numerous potentially competing interests, including the benefits of residential landscaping such as providing shade, habitat, and aesthetics.

Through public comment feedback and the best available science, the Committee also recognizes that local and regional differences exist in California, including variations in topography, climate, plant ecology, lot sizes, and structure density. These variations make it important to provide flexibility for local jurisdictions to develop alternative methods for compliance with Zone requirements, and these revisions reflect this need.

The Zone 0 committee encourages stakeholders and the public to provide feedback and propose revisions at the July 24 workshop or in writing at [PublicComments@bof.ca.gov](mailto:PublicComments@bof.ca.gov). Information on the workshop can be found [here](#).

## II. Summary of Key Revisions

**Trees:** The updated draft text clarifies that individual trees are allowed in Zone 0 provided they are well-pruned and maintained so as to effectively manage fuels and fuel ladders, consistent with Public Resources Code Section 4291. (**See Page 4, lines 1-25 of draft rule plead**)

**Alternative methods of compliance:** The updated draft text provides for alternative methods of compliance in both the State Responsibility Area and the Local Responsibility

Area that take into account location variation. (**See Page 7, lines 21-24 of draft rule plead.**)

# General Guidelines for Creating Defensible Space

State Board of Forestry and Fire Protection (BOF)  
California Department of Forestry and Fire Protection

Adopted by BOF on February 8, 2006  
Approved by Office of Administrative Law on May 8, 2006



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## A. Purpose of Guidelines

Recent changes to Public Resources Code (PRC) 4291 expand the defensible space clearance requirement maintained around buildings and structures from 30 feet to a distance of 100 feet. These guidelines are intended to provide property owners with examples of fuel modification measures that can be used to create an area around buildings or structures to create defensible space. A defensible space perimeter around buildings and structures provide firefighters a working environment that allows them to protect buildings and structures from encroaching wildfires as well as minimizing the chance that a structure fire will escape to the surrounding wildland. These guidelines apply to any person who 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, and located within a State Responsibility Area.



*Effective defensible space*

The vegetation surrounding a building or structure is fuel for a fire. Even the building or structure itself is considered fuel. Research and experience have shown that fuel reduction around a building or structure increases the probability of it surviving a wildfire. Good defensible space allows firefighters to protect and save buildings or structures safely without facing unacceptable risk to their lives. Fuel reduction through vegetation management is the key to creating good defensible space.

Terrain, climate conditions and vegetation interact to affect fire behavior and fuel reduction standards. The diversity of California's geography also influences fire behavior and fuel reduction standards as well. While fuel reduction standards will vary throughout the State, there are some common practices that guide fuel modification treatments to ensure creation of adequate defensible space:

- Properties with greater fire hazards will require more clearing. Clearing requirements will be greater for those lands with steeper terrain, larger and denser fuels, fuels that are highly volatile, and in locations subject to frequent fires.
- Creation of defensible space through vegetation management usually means reducing the amount of fuel around the building or structure, providing separation between fuels, and or reshaping retained fuels by trimming. Defensible space can be created removing dead vegetation, separating fuels, and pruning lower limbs.
- In all cases, fuel reduction means arranging the tree, shrubs and other fuels sources in a way that makes it difficult for fire to transfer from one fuel source to another. It does not mean cutting down all trees and shrubs, or creating a bare ring of earth across the property.
- A homeowner's clearing responsibility is limited to 100 feet away from his or her building or structure or to the property line, which ever is less, and limited to their land. While individual property owners are not required to clear beyond 100 feet, groups of property owners are encouraged to extend clearances beyond the 100 foot requirement in order to create community-wide defensible spaces.
- Homeowners who do fuel reduction activities that remove or dispose of vegetation are required to comply with all federal, state or local environmental protection laws and obtain permits when necessary. Environmental protection laws include, but are not limited to, threatened and endangered species, water quality, air quality, and cultural/archeological resources. For example, trees removed for fuel reduction that are used for commercial purposes require permits from the

California Department of Forestry and Fire Protection. Also, many counties and towns require tree removal permits when cutting trees over a specified size. Contact your local resource or planning agency officials to ensure compliance.

The methods used to manage fuel can be important in the safe creation of defensible space. Care should be taken with the use of equipment when creating your defensible space zone. Internal combustion engines must have an approved spark arresters and metal cutting blades (lawn mowers or weed trimmers) should be used with caution to prevent starting fires during periods of high fire danger. A metal blade striking a rock can create a spark and start a fire, a common cause of fires during summertime.

Vegetation removal can also cause soil disturbance, soil erosion, regrowth of new vegetation, and introduce non-native invasive plants. Always keep soil disturbance to a minimum, especially on steep slopes. Erosion control techniques such as minimizing use of heavy equipment, avoiding stream or gully crossings, using mobile equipment during dry conditions, and covering exposed disturbed soil areas will help reduce soil erosion and plant regrowth.

Areas near water (riparian areas), such as streams or ponds, are a particular concern for protection of water quality. To help protect water quality in riparian areas, avoid removing vegetation associated with water, avoid using heavy equipment, and do not clear vegetation to bare mineral soil.

## **B. Definitions**

**Defensible space:** The area within the perimeter of a parcel where basic wildfire protection practices are implemented, providing the key point of defense from an approaching wildfire or escaping structure fire. The area is characterized by the establishment and maintenance of emergency vehicle access, emergency water reserves, street names and building identification, and fuel modification measures.

**Aerial fuels:** All live and dead vegetation in the forest canopy or above surface fuels, including tree branches, twigs and cones, snags, moss, and high brush. Examples include trees and large bushes.

**Building or structure:** Any structure used for support or shelter of any use or occupancy.

**Flammable and combustible vegetation:** Fuel as defined in these guidelines.

**Fuel Vegetative material, live or dead, which is combustible during normal summer weather.** For the purposes of these guidelines, it does not include fences, decks, woodpiles, trash, etc.

**Homeowner:** Any person who 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, and located within a State Responsibility Area.

**Ladder Fuels:** Fuels that can carry a fire vertically between or within a fuel type.

**Reduced Fuel Zone:** The area that extends out from 30 to 100 feet away from the building or structure (or to the property line, whichever is nearer to the building or structure).

**Surface fuels:** Loose surface litter on the soil surface, normally consisting of fallen leaves or needles, twigs, bark, cones, and small branches that have not yet decayed enough to lose their identity; also grasses, forbs, low and medium shrubs, tree seedlings, heavier branches and downed logs.

## C. Fuel Treatment Guidelines

The following fuel treatment guidelines comply with the requirements of 14 CCR 1299 and PRC 4291. **All persons using these guidelines to comply with CCR 1299 and PRC 4291 shall implement General Guidelines 1., 2., 3., and either 4a or 4b., as described below.**

### General Guidelines:

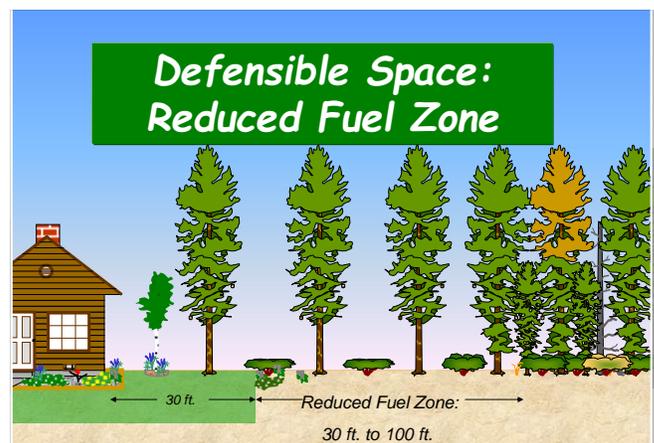
1. Maintain a firebreak by removing and clearing away all flammable vegetation and other combustible growth within 30 feet of each building or structure, with certain exceptions pursuant to PRC §4291(a). Single specimens of trees or other vegetation may be retained provided they are well-spaced, well-pruned, and create a condition that avoids spread of fire to other vegetation or to a building or structure.
2. Dead and dying woody surface fuels and aerial fuels within the Reduced Fuel Zone shall be removed. Loose surface litter, normally consisting of fallen leaves or needles, twigs, bark, cones, and small branches, shall be permitted to a depth of 3 inches. This guideline is primarily intended to eliminate trees, bushes, shrubs and surface debris that are completely dead or with substantial amounts of dead branches or leaves/needles that would readily burn.
3. Down logs or stumps anywhere within 100 feet from the building or structure, when embedded in the soil, may be retained when isolated from other vegetation. Occasional (approximately one per acre) standing dead trees (snags) that are well-space from other vegetation and which will not fall on buildings or structures or on roadways/driveways may be retained.
4. Within the Reduced Fuel Zone, one of the following fuel treatments (4a. or 4b.) shall be implemented. Properties with greater fire hazards will require greater clearing treatments. Combinations of the methods may be acceptable under §1299(c) as long as the intent of these guidelines is met.

### 4a. Reduced Fuel Zone: Fuel Separation

In conjunction with General Guidelines 1., 2., and 3., above, minimum clearance between fuels surrounding each building or structure will range from 4 feet to 40 feet in all directions, both horizontally and vertically.

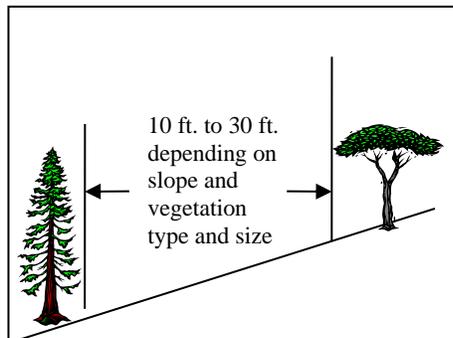
Clearance distances between vegetation will depend on the slope, vegetation size, vegetation type (brush, grass, trees), and other fuel characteristics (fuel compaction, chemical content etc.). Properties with greater fire hazards will require greater separation

between fuels. For example, properties on steep slopes having large sized vegetation will require greater spacing between individual trees and bushes (see Plant Spacing Guidelines and Case Examples below). Groups of vegetation (numerous plants growing together less than 10 feet in total foliage width) may be treated as a single plant. For example, three individual manzanita plants growing together with a total foliage width of eight feet can be “grouped” and considered as one plant and spaced according to the Plant Spacing Guidelines in this document.

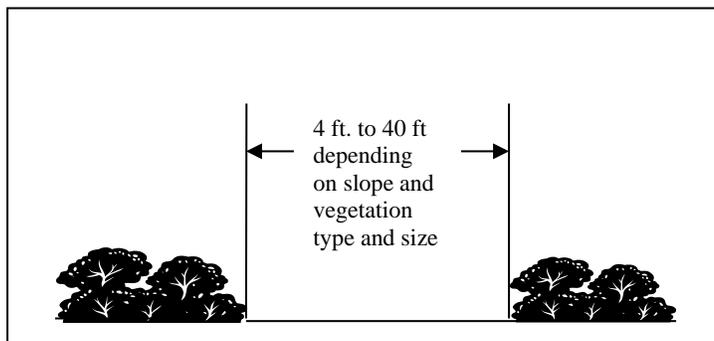


Grass generally should not exceed 4 inches in height. However, homeowners may keep grass and other forbs less than 18 inches in height above the ground when these grasses are isolated from other fuels or where necessary to stabilize the soil and prevent erosion. Clearance requirements include:

- Horizontal clearance between aerial fuels, such as the outside edge of the tree crowns or high brush. Horizontal clearance helps stop the spread of fire from one fuel to the next.



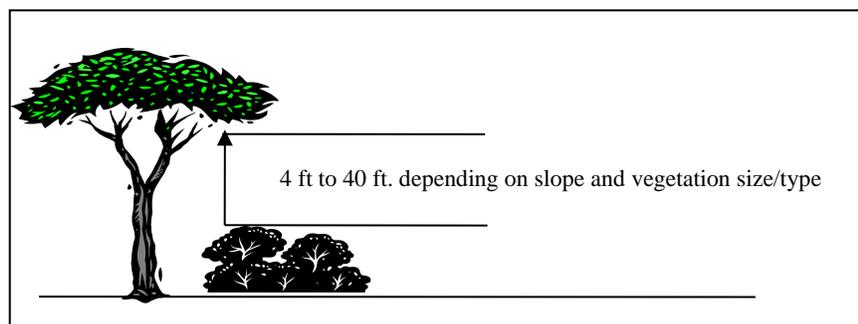
Trees



Shrubs

Horizontal clearance between aerial fuels

- Vertical clearance between lower limbs of aerial fuels and the nearest surface fuels and grass/weeds. Vertical clearance removes *ladder fuels* and helps prevent a fire from moving from the shorter fuels to the taller fuels.



Vertical clearance between aerial fuels



Effective vertical and horizontal fuel separation  
*Photo Courtesy Plumas Fire Safe Council.*

## Plant Spacing Guidelines

Guidelines are designed to break the continuity of fuels and be used as a “rule of thumb” for achieving compliance with Regulation 14 CCR 1299.

| Trees            | <b>Minimum horizontal space<br/>from edge of one tree canopy to the edge of the next</b>                                  |                                 |
|------------------|---------------------------------------------------------------------------------------------------------------------------|---------------------------------|
|                  | Slope                                                                                                                     | Spacing                         |
|                  | 0% to 20 %                                                                                                                | 10 feet                         |
|                  | 20% to 40%                                                                                                                | 20 feet                         |
| Greater than 40% | 30 feet                                                                                                                   |                                 |
| Shrubs           | <b>Minimum horizontal space between edges of shrub</b>                                                                    |                                 |
|                  | Slope                                                                                                                     | Spacing                         |
|                  | 0% to 20 %                                                                                                                | 2 times the height of the shrub |
|                  | 20% to 40%                                                                                                                | 4 times the height of the shrub |
| Greater than 40% | 6 times the height of the shrub                                                                                           |                                 |
| Vertical Space   | <b>Minimum vertical space between top of shrub and bottom of lower tree branches:<br/>3 times the height of the shrub</b> |                                 |

*Adapted from: Gilmer, M. 1994. California Wildfire Landscaping*

### **Case Example of Fuel Separation: Sierra Nevada conifer forests**

Conifer forests intermixed with rural housing present a hazardous fire situation. Dense vegetation, long fire seasons, and ample ignition sources related to human access and lightning, makes this home vulnerable to wildfires. This home is located on gentle slopes (less than 20%), and is surrounded by large mature tree overstory and intermixed small to medium size brush (three to four feet in height).

Application of the guideline under 4a. would result in horizontal spacing between large tree branches of 10 feet; removal of many of the smaller trees to create vertical space between large trees and smaller trees and horizontal spacing between brush of six to eight feet (calculated by using 2 times the height of brush).



## Case Example of Fuel Separation: Southern California chaparral

Mature, dense and continuous chaparral brush fields on steep slopes found in Southern California represents one of the most hazardous fuel situations in the United States. Chaparral grows in an unbroken sea of dense vegetation creating a fuel-rich path which spreads fire rapidly. Chaparral shrubs burn hot and produce tall flames. From the flames come burning embers which can ignite homes and plants. (Gilmer, 1994). All these factors results in a setting where aggressive defensible space clearing requirements are necessary.



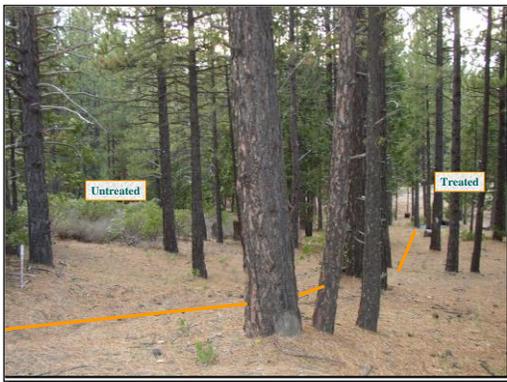
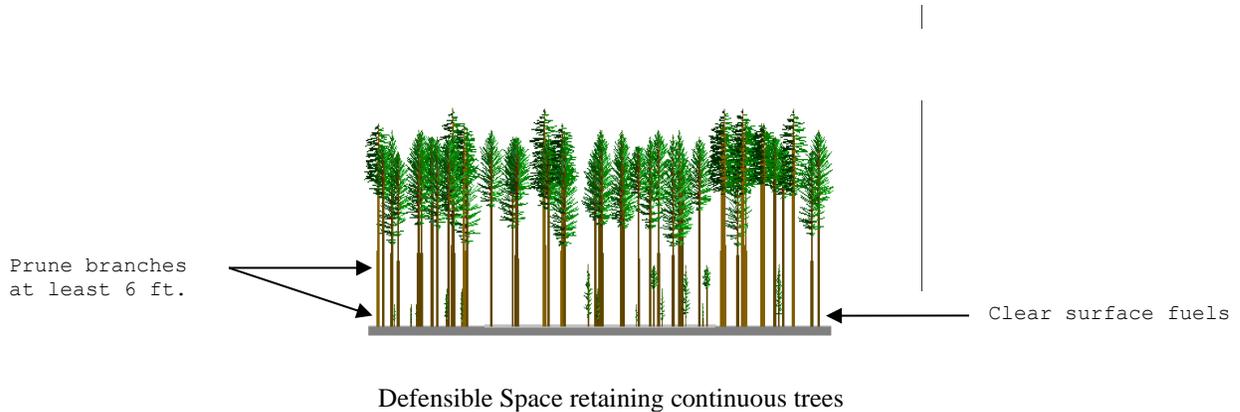
Steep slopes (greater than 40%) and tall, old brush (greater than 7 feet tall), need significant modification. These settings require aggressive clearing to create defensible space, and would require maximum spacing. Application of the guidelines would result in 42 feet horizontal spacing (calculated as 6 times the height of the brush) between retained groups of chaparral.



#### **4b. Reduced Fuel Zone: Defensible Space with Continuous Tree Canopy**

To achieve defensible space while retaining a stand of larger trees with a continuous tree canopy apply the following treatments:

- Generally, remove all surface fuels greater than 4 inches in height. Single specimens of trees or other vegetation may be retained provided they are well-spaced, well-pruned, and create a condition that avoids spread of fire to other vegetation or to a building or structure.
- Remove lower limbs of trees (“prune”) to at least 6 feet up to 15 feet (or the lower 1/3 branches for small trees). Properties with greater fire hazards, such as steeper slopes or more severe fire danger, will require pruning heights in the upper end of this range.



*Photo Courtesy Plumas Fire Safe Council.*

Defensible space with continuous tree canopy by clearing understory and pruning

*Authority cited: Section 4102, 4291, 4125-4128.5, Public Resource Code. Reference: 4291, Public Resource Code; 14 CCR 1299 (d).*

ATTACHMENT 1

**Chapter 49 of the California Fire Code is adopted in its entirety subject to the modifications thereto which are set forth below.**

**CHAPTER 49 – REQUIREMENTS FOR WILDLAND-URBAN INTERFACE FIRE AREAS**

**SECTION 4902 DEFINITIONS**

**Section 4902.1 General.** *For the purpose of this chapter, certain terms are defined as follows:*

**DIRECTOR.** Director of the California Department of Forestry and Fire Protection (CAL FIRE).

**FIRE PROTECTION PLAN.** A document prepared for a specific premises, project or development, either existing or proposed for a Wildland-Urban Interface (WUI) area. It describes ways to minimize and mitigate potential for loss from wildfire exposure.

**FIRE HAZARD SEVERITY ZONES.** Geographical areas designated pursuant to California Public Resources Codes, Sections 4201 through 4204 and classified as Very High, High, or Moderate in State Responsibility Area or as Local Agency Very High Fire Hazard Severity Zones designated pursuant to California Government Code, Sections 51175 through 51189.

The California Code of Regulations, Title 14, Section 1280 entitles the maps of these geographical areas as "Maps of the Fire Hazard Severity Zones in the State Responsibility Area of California."

**FLATLANDS MITIGATION AREA (ZONE 1)** encompasses the entire City of Berkeley except for areas in the Hills Mitigation Area, Panoramic Mitigation Area and Grizzly Peak Mitigation Area.

**FUEL BREAK.** A natural or human caused change in fuel characteristics which affects fire behavior so that fires burning into them can be more readily controlled (NWCG PMS 205).

**FIRE-RESISTANT VEGETATION.** Plants, shrubs, trees and other vegetation that exhibit properties, such as high moisture content, little accumulation of dead vegetation, and low sap or resin content, that make them less likely to ignite or contribute heat or spread flame in a fire than native vegetation typically found in the region.

[Note: The following sources contain exam

ples of types of vegetation that can be considered fire-resistant vegetation (Fire-resistant Plants for Home Landscapes, A Pacific Northwest Extension publication; Home Landscaping for Fire, University of California Division of Agriculture and Natural Resources; Sunset Western Garden Book)].

**GRIZZLY PEAK MITIGATION AREA (ZONE 4)** encompasses those areas of the city east of Grizzly Peak Boulevard to the city boundary.

Commented [A1]: Clarify the numbers associated with zones

ATTACHMENT 1

Homes addressed on, or with a structural frontage on either side of Grizzly Peak Boulevard are included in the area.

The Grizzly Peak Mitigation Area is designated as a Very-High Fire Hazard Severity Zone.

**HILLS MITIGATION AREA (ZONE 2)** encompasses those areas designated as Very High or High Fire Hazard Severity Zones that are not included in the Grizzly Peak Mitigation Area or Panoramic Mitigation Area.

This area includes areas of the City east / north east of the line formed by these roads. Homes addressed on, or with a structural frontage on either side of these road segments are included in the zone:

- a. The Arlington Avenue from the Kensington Border to Marin Avenue
- b. Sutter Street from the Southern portal of the Northbrae Tunnel to Eunice Street
- c. Eunice Street from Sutter Street to Spruce Street
- d. Spruce Street from Eunice Street to Hearst Avenue
- e. Gayley Road from Hearst Avenue to Stadium Rim Way
- f. Piedmont Avenue from Stadium Rim Way to Dwight Way
- g. Warring Street from Dwight Way to Derby Street
- h. Belrose Avenue from Derby Street to Garber Street
- i. Claremont Boulevard from Garber Street to Claremont Avenue
- j. Claremont Avenue from Claremont Boulevard to the Oakland Border
- k. Tunnel Road from Ashby Avenue to the Oakland Border

**IGNITION-RESISTANT MATERIAL.** A type of building material that complies with the requirements in Section 704A.2 in the California Berkeley Building Code.

**LOCAL RESPONSIBILITY AREAS (LRA).** Areas of the state in which the financial responsibility of preventing and suppressing fires is the primary responsibility of a city, county, city and county, or district.

**PANORAMIC MITIGATION AREA (ZONE 3)** encompasses those areas of the city bounded by the line formed by these roads and by the City Limit to the east.

The entirety of the Panoramic Mitigation Area is designated as a Very High Fire Hazard Severity Zone. Homes addressed on, or with a structural frontage on either side of these road segments are included in the zone:

- a. Canyon Road from the Oakland border to Stadium Rim Way
- b. Stadium Rim Way from Canyon Road to Bancroft Way
- c. Bancroft Way from Stadium Rim Way to Prospect Street
- d. Prospect Street from Bancroft Way to Bancroft Steps
- e. Bancroft Steps from Prospect Street to Warring Street
- f. Bancroft Way from Warring Street to Piedmont Avenue

## ATTACHMENT 1

- g. Piedmont Avenue from Bancroft Way to Dwight Way
- h. Dwight Way from Piedmont Avenue to the Oakland border

**STATE RESPONSIBILITY AREA (SRA).** Lands that are classified by the Board of Forestry pursuant to Public Resources Code Section 4125 where the financial responsibility of preventing and suppressing wildfires is primarily the responsibility of the state.

**WILDFIRE.** Any uncontrolled fire spreading through vegetative fuels that threatens to destroy life, property, or resources as defined in Public Resources Code, Sections 4103 and 4104.

**WILDFIRE EXPOSURE.** One or a combination of radiant heat, convective heat, direct flame contact and burning embers being projected by vegetation fire to a structure and its immediate environment.

**WILDLAND-URBAN INTERFACE (WUI).** A geographical area identified by the state as a "Fire Hazard Severity Zone" in accordance with the Public Resources Code, Sections 4201 through 4204, and Government Code, Sections 51175 through 51189, or other areas designated by the enforcing agency to be at a significant risk from wildfires.

### **SECTION 4903 PLANS**

**Section 4903.3 Submittal, approval and fees.** When required to submit a Fire Protection Plan or Vegetation Management Plan for any reason the responsible party shall prepare or cause to be prepared a Fire Protection Plan in accordance with the latest standards of the Berkeley Fire Department. The Fire Protection Plan shall be submitted to, reviewed and approved by the Berkeley Fire Department and shall be enforced and maintained by the responsible party or their designated agent. The Berkeley Fire Department may charge an appropriate fee for the review, approval and processing of the Fire Protection Plan in accordance with the hourly rate established by City Council resolution.

**Commented [A2]:** Can this be clearer so that the public understands that this is NOT the annual inspection process

### **SECTION 4905 WILDFIRE PROTECTION BUILDING CONSTRUCTION**

**Section 4905.2 Construction methods and requirements within established limits.** Within the limits established by law, construction methods intended to mitigate wildfire exposure shall comply with the wildfire protection building construction requirements contained in the ~~California Building Standards Code~~ Berkeley Building Code and Berkeley Residential Code, including the following:

1. ~~California Building Code, Chapter 7A.~~ Chapter 7A of the Berkeley Building Code (B.B.C), Berkeley Municipal Code Section 19.28.030.
2. ~~California Residential Code Section R337 of the Berkeley Residential Code (B.R.C.), Berkeley Municipal Code Section 19.29.050.~~
3. California Referenced Standards Code, Chapter 12-7A.

### **SECTION 4907 DEFENSIBLE SPACE**

Property owners are not required or authorized by this code to enter the properties of another person to implement the requirements of this Section.

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**Section 4907.3 Requirements.**

5. The Fire Code Official may require a space up to 100 feet from structures located on adjacent properties. property owner to perform hazardous vegetation and fuel management on their land to maintain defensible

**Commented [A3]:** Does this apply to VMPs during new construction

**Commented [A4]:** Can this be more clear to reflect the expectations in 4707.4

**Section 4907.4 Mitigations Required.**

A person who owns, leases, controls, operates, or maintains lands shall at all times maintain:

1. Zone 1: 5 to 30 feet from any structure:

- a. Remove any privacy hedges or contiguous vegetation that will create a pathway for fire to reach a Structure.
- b. Maintain 6 feet of vertical clearance between branches and all other parts of trees overhanging the roof or other portion of any Structure or attached deck.
- c. Maintain any tree, shrub, or other plant adjacent to or overhanging any Structure or attached deck free of dead branches, dead limbs, or other Combustible Material.
- d. Maintain the roof and roof gutters of any structure, and the surface of any attached deck free of leaves, needles, or other vegetative materials.
- e. Maintain trees to remove Ladder Fuels so that foliage, twigs, or branches are greater than 8 feet above the ground or surface fuels.
- f. Remove all branches within 10 feet of any chimney or stovepipe outlet.
- g. Storage of firewood, lumber, or other Combustible Material is not permitted.
- h. Keep low-growing shrubs, no higher than 6 feet in height, spaced apart or in small groupings of no more than 3 shrubs with a maximum aggregate diameter of 10 feet. Shrub groupings must be separated from other shrubs or shrub groupings by 15 feet such that no continuous path of vegetation is created. Where shrubs are located below or within a tree's drip line, the lowest tree branch shall be a minimum of three times the height of the understory shrubs or 10 feet, whichever is greater.
- i. If there are multiple structures, such as a shed, hot tub, and playset, ensure these structures are spaced at least 10 feet apart. Have at most three (3) of these structures within 30 feet of a building or structure.
- j. Relocate exposed firewood piles outside of Zone 1 unless they are completely covered in a fire-resistant material.

**Commented [A5]:** Additional specifics or clarity on what constitutes a pathway for fire given that ZZ is established

**Commented [A6]:**

**Commented [A7]:** Is 8' consistent throughout the code?

**Commented [A8]:** Review for clarity, include small trees in definition, and review separation distance science. Consider defining drip line

**Commented [A9R8]:**

**Commented [A10]:** Clarification on property lines

2. Zone 2: 30 to 100 feet from any structure:

ATTACHMENT 1

- a. All exposed wood piles must have a minimum of ten feet (10 ft.) of clearance, down to bare mineral soil, in all directions.
  - b. Create horizontal and vertical spacing among shrubs and trees using the "Fuel Separation" method, the "Continuous Tree Canopy" method or a combination of both to achieve defensible space clearance requirements. Further guidance regarding these methods is contained in the State Board of Forestry and Fire Protection's, "General Guidelines for Creating Defensible Space, February 8, 2006," incorporated herein by reference.
3. For both Zones 1 and 2:
- a. Remove vegetative and combustible material capable of transmitting fire to a structure as determined by the Fire Code Official.
  - b. Dead and dying woody surface fuels and aerial fuels shall be removed. Loose surface litter, normally consisting of fallen leaves or needles, twigs, bark, cones, and small branches, shall be permitted to a maximum depth of three inches (3 in.).
  - c. Cut annual grasses and forbs down to a maximum height of four inches (4 in.).
  - d. Non-irrigated brush is not permitted.
  - e. Vertical Spacing: Limb trees by removing hanging bark, debris and branches that are within six feet (6 ft.) of the ground, or three times the height of the understory vegetation, whichever is greater. Where a tree is not adaptable to limbing to the height described above, use a combination of limbing and/or modify and remove fuels adjacent to and underneath the tree to provide clearance above grade that is equivalent to three times the height of the tallest understory fuel.
  - f. Maintain horizontal spacing between shrubs:
    - i. Flat or mild slope (less than 20%): Two times the height of the shrub.
    - ii. Mild to moderate slope (20-40%): Four times the height of the shrub
    - iii. Moderate to steep slope (greater than 40%): Six times the height of the shrub
  - g. Maintain space between tree canopies:
    - i. Flat or mild slope (less than 20%): 10 feet.
    - ii. Mild to moderate slope (20-40%): 20 feet.
    - iii. Moderate to steep slope (greater than 40%): 30 feet.
  - h. New trees shall be planted and maintained so that the tree's drip line at maturity is a minimum of 10 feet from any structure or the canopy of other trees.

**Commented [A11]:** Should this language be moved to 3 as it applies to both zones. Discuss the conflict between Fuel Separation and Continuous Tree Canopy methods. Consider adding the reference as an appendix

**Commented [A12]:** Clarify timing here or elsewhere as forbs are defined. Consider clarifying forbs in definitions

**Commented [A13]:** Revisit to clarify what this means in our jurisdiction.

**Commented [A14]:** In conflict with the 8' standard that precedes this. Have an informal conversation about what informs the vertical spacing standard.

**Commented [A15]:** In conflict with Continuous Tree Canopy section

**Section 4907.6 Specific requirements.** Effective January 1, 2026 the Grizzly Peak Mitigation Area and Panoramic Mitigation Area shall be subject to 4907.6 instead of 4907.4.

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A person who owns, leases, controls, operates, or maintains lands shall at all times maintain:

1. Zone 0: 0 to 5 feet from any structure:

- a. Maintain all areas within five (5) horizontal feet of any structure, outbuildings, attached deck or stairs, and the area under attached decks and stairs free of vegetative and non-vegetative combustible material.
  - i. This includes but is not limited to shrubs, vegetative ground cover, climbing vines, combustible boards, timbers, firewood, debris, synthetic lawn, wood mulch products, playsets, plastic trash and recycle cans, trellises, pergolas, shade coverings, planters, attached window boxes, privacy walls, boats, RVs, and other material that could be ignited by embers, radiant heat, or direct flame.
  - ii. Hardscape materials, such as gravel, pavers, concrete, and other noncombustible mulch materials are permitted.
  - iii. Exception: Plants in pots are allowable if they are in areas that are not directly beneath, above, or adjacent to a window or eave; are kept in an unaffixed, non-combustible pot or container that is no larger than 5-gallon capacity; and set apart by 1.5 times the height of the plant or 12 inches, whichever is greater, from the structure and each other. These plants shall be no greater than 18 inches in height. Dead or dying material on, around and under the plants shall be removed.
  - iv. Exception: Hot tubs may be installed within five (5) horizontal feet of a structure, provided they comply with all Zone 0 clearance requirements applicable to structures.
- b. No trees are permitted in Zone 0.
- c. Exception: If the bole of a tree is present within Zone 0, that tree is permitted if it is taller than the adjacent Building or Structure's roof ridgeline, does not have any dead and dying branches;
  - i. All live tree branches shall be kept:
    1. Ten feet (10') above the adjacent building or structure's roof ridgeline;
    2. Ten feet (10') away from chimneys and stovepipe outlets; and
    3. Five feet (5') away from the sides of any Building, Structure, attached deck or stairs, and hot tubs within five (5) feet of a structure.
- d. The roof and rain gutters of a Building or Structure shall be kept clear of leaves, needles, and vegetative material.

Commented [A16]: Clarify vegetation types

Commented [A17]: Consider adding "unless"

Commented [A18]: Track BOF language about single specimen and consider science that informs that decisions. Bole

ATTACHMENT 1

- e. Existing fences that are directly attached to a Building or Structure shall have a five foot (5 ft) non-combustible span at the point of attachment. After the effective date of this regulation, no new sections of combustible fence (parallel or perpendicular) are permitted within 5 feet of a building or structure including an attached deck.
  - f. Outbuildings are not permitted in Zone 0, unless constructed according to the standards in Chapter 7A (commencing with Section 701A.1) of Part 2 of Title 24 of the California Code of Regulations. Outbuildings that meet these standards shall be considered part of the Building or Structure.
2. Zone 1: 5 to 30 Feet from any structure:
- a. Remove any privacy hedges or contiguous vegetation that will create a pathway for fire to reach a Structure.
  - b. Keep low-growing shrubs, no higher than 6 feet in height, spaced apart or in small groupings of no more than 3 shrubs with a maximum aggregate diameter of 10 feet. Shrub groupings must be separated from other shrubs or shrub groupings by 15 feet such that no continuous path of vegetation is created. Where shrubs are located below or within a tree's drip line, the lowest tree branch shall be a minimum of three times the height of the understory shrubs or 10 feet, whichever is greater.
  - c. If there are multiple structures, such as a shed, hot tub, and playset, ensure these structures are spaced at least 10 feet apart. Have at most three (3) of these structures within 30 feet of a building or structure.
  - d. Relocate exposed firewood piles outside of Zone 1 unless they are completely covered in a fire-resistant material.
3. Zone 2: 30 to 100 feet from any structure:
- a. All exposed wood piles must have a minimum of ten feet (10 ft.) of clearance, down to bare mineral soil, in all directions.
  - b. Create horizontal and vertical spacing among shrubs and trees using the "Fuel Separation" method, the "Continuous Tree Canopy" method or a combination of both to achieve defensible space clearance requirements. Further guidance regarding these methods is contained in the State Board of Forestry and Fire Protection's, "General Guidelines for Creating Defensible Space, February 8, 2006," incorporated herein by reference.
4. For both Zones 1 and 2:
- a. Remove vegetative and combustible material capable of transmitting fire to a structure as determined by the Fire Code Official.
  - b. Dead and dying woody surface fuels and aerial fuels shall be removed. Loose surface litter, normally consisting of fallen leaves or needles, twigs, bark, cones, and small branches, shall be permitted to a maximum depth of three inches (3 in.).
  - c. Cut annual grasses and forbs down to a maximum height of four inches (4 in.).

ATTACHMENT 1

- d. Non-irrigated brush is not permitted.
- e. Vertical Spacing: Limb trees by removing hanging bark, debris and branches that are within six feet (6 ft.) of the ground, or three times the height of the understory vegetation, whichever is greater. Where a tree is not adaptable to limbing to the height described above, use a combination of limbing and/or modify and remove fuels adjacent to and underneath the tree to provide clearance above grade that is equivalent to three times the height of the tallest understory fuel.
- f. Maintain horizontal spacing between shrubs:
  - i. Flat or mild slope (less than 20%): Two times the height of the shrub.
  - ii. Mild to moderate slope (20-40%): Four times the height of the shrub
  - iii. Moderate to steep slope (greater than 40%): Six times the height of the shrub
- g. Maintain space between tree canopies:
  - i. Flat or mild slope (less than 20%): 10 feet.
  - ii. Mild to moderate slope (20-40%): 20 feet.
  - iii. Moderate to steep slope (greater than 40%): 30 feet.
- h. New trees shall be planted and maintained so that the tree's drip line at maturity is a minimum of 10 feet from any structure or the canopy of other trees.

**Commented [A19]:** This is in conflict with the Continuous Tree Canopy. Consider to strike.



# Berkeley Fire Department

## DEFENSIBLE SPACE RESIDENT ASSISTANCE PROGRAM (RAP)

This program will provide eligible property owners with an inspection and contractor support to:

- 1) Resolve hazardous vegetation conditions
- 2) Ensure defensible space compliance



### What is Defensible Space?

Defensible Space is the area around structures that inhibits fire spread because of the type and arrangement of landscaping present. Pairing multiple strategies like removing combustibles around structures, minimizing continuous vegetation, and properly maintaining existing vegetation all contribute to effective defensible space zones.

### What is the Resident Assistance Program?

The RAP helps residents achieve defensible space compliance by providing financial assistance or coordination assistance with contractors. Coordination could include scheduling or advising on how to achieve defensible space.

### The RAP provides

- Prescribed treatments located between 0 and 30 feet of structures on property, prioritizing hazards within 5 feet of structures.
- Removal of all dead vegetation including plants, grass, and debris.
- Pruning and thinning of tree branches

### Funding Details

Funding for this project provided by the California Department of Forestry and Fire Protection's (CAL FIRE) Wildfire Prevention Grants Program.



### The RAP does not provide

- Large and small diameter tree removal.
- Treatments beyond 30 feet of structures.
- Hardscaping, like replacing combustible bark or mulch with pavers, gravel, or concrete.
- Replacing combustible fencing, gates, arbors.

Apply for the RAP using the webpage below:  
<https://bit.ly/4mjjiyR>

To learn more about our programs, visit:  
<https://www.berkeleyfiresafe.org>

# Defensible Space Resident Assistance Program (RAP) 2025

## Process

- 1 Submit Application and proof of eligibility as needed
- 2 Application will be reviewed for eligibility by Berkeley Fire staff
- 3 Complete the Right of Entry form via your DSI account
- 4 Receive a full-access inspection by BFD staff
- 5 Contractors are scheduled by BFD or connected with residents based on need
- 6 Upon completion, properties will be re-inspected to document completed work



### APPLY NOW

PLEASE HAVE REQUIRED DOCUMENTATION READY PRIOR TO APPLICATION SUBMISSION

## Eligibility and Requirements

All residents must reside in the Grizzly Peak or Panoramic Mitigation Areas to qualify.

### Financial Assistance

To qualify for contractor assistance, you must meet one of three criteria and provide supporting documentation.

See Income Eligibility Chart Below

|                       |                 |
|-----------------------|-----------------|
| 65+ Years old         | DL/Proof of age |
| Physical Disability   | Explanation     |
| Financial Limitations | Proof of Income |

### Coordination Assistance

To qualify for coordination assistance, you must meet one of three criteria.

|                           |   |
|---------------------------|---|
| Language Barrier          | ✓ |
| Don't know where to start | ✓ |
| Don't have a contractor   | ✓ |

## Income Eligibility Chart

\*The 2025 State Income Limits provided by Department of Housing and Community Development (HCD)

| Household Size | 1                              | 2                               | 3                               | 4                               | 5                               | 6                               | 7                               | 8                               |
|----------------|--------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|---------------------------------|
| Income         | At or Below<br><b>\$87,550</b> | At or Below<br><b>\$100,050</b> | At or Below<br><b>\$112,550</b> | At or Below<br><b>\$125,050</b> | At or Below<br><b>\$135,100</b> | At or Below<br><b>\$145,100</b> | At or Below<br><b>\$155,100</b> | At or Below<br><b>\$165,100</b> |

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# Alternate Means and Measures

# Purpose

The purpose of an Alternative Means and Methods Request (AMMR) is to permit alternatives to requirements in the code when substantiated with supporting evidence (including but not limited to tests, reports, engineering analysis). An AMMR is intended to be used when technical or physical limitations prevent code requirements from being met or to allow performance-based alternatives with evidence justifying the proposal meets or exceeds the intent of the code, it is not meant to be a waiver of code requirements without providing equivalent alternative

# Basis in Code

## **1.11.2.4 Request for Alternate Means of Protection**

*Requests for approval to use an alternative material, assembly or materials, equipment, method of construction, method of installation of equipment or means of protection shall be made in writing to the enforcing agency by the owner or the owner's authorized representative and shall be accompanied by a full statement of the conditions. Sufficient evidence or proof shall be submitted to substantiate any claim that may be made regarding its conformance. The enforcing agency may require tests and the submission of a test report from an approved testing organization as set forth in California Code of Regulations, Title 19, to substantiate the equivalency of the proposed alternative means of protection.*

*When a request for alternate means of protection involves hazardous materials, the authority having jurisdiction may consider implementation of the findings and recommendations identified in a Risk Management Plan (RMP) developed in accordance with Title 19, Division 2, Chapter 4.5, Article 3.*

*Approval of a request for use of an alternative material, assembly of materials, equipment, method of construction, method of installation of equipment or means of protection made pursuant to these provisions shall be limited to the particular case covered by request and shall not be construed as establishing any precedent for any future request.*

# Existing Process

BMC 19.48.010

## Adoption of the California Fire Code.

A. The California Fire Code, 2022 edition, as adopted in Title 24, Part 9 of the California Code of Regulations, including Chapter 1 (excluding Section 103), Chapter 3, Section 503 of Chapter 5, Sections 1103.5.6 through 1103.5.6.3 (new sections as created by BMC 19.48.020, Amendments to the California Fire Code), Appendix Chapters D, E, F, L (as amended by BMC 19.48.020, Amendments to the California Fire Code) and O published by the International Code Council not included in the California Building Standards Code, are adopted by this reference into this Chapter, and are hereby adopted and made a part of this Chapter as though fully set forth herein, subject to the modifications thereto which are set forth this ordinance. One copy of this Code is on file in the office of the City Clerk of the City of Berkeley.

B. This chapter shall be known as the "Berkeley Fire Code" and shall be referred to in this chapter as "this code."

Form #102



**APPLICATION FOR ALTERNATIVE MATERIALS, DESIGN AND METHODS OF CONSTRUCTION**

Pursuant to California Building Code 104.11 or California Residential Code R104.11, as adopted by the City of Berkeley, the undersigned requests consideration and approval of the alternative materials, design, and/or methods of construction for the following:

**Project Information**

Project Address:

Brief Project Description:

| Construction Type    | Occupancy Group      | Square Footage       | No. of Stories       | No. of Residential Units |
|----------------------|----------------------|----------------------|----------------------|--------------------------|
| <input type="text"/>     |

Project Details:

Permit Application Number (if applicable):

**1. Description of Specific Alternative (attach any additional supporting documentation):**

**2. Code Sections and Requirements the Applicant is Seeking an Alternative to:**

**3. Justification of the Alternative:**

**4. List of Attached Documentation:**

**Building and Safety**  
1947 Center St. 3<sup>rd</sup> floor  
Berkeley, CA 94704  
510-981-7440 TTY 6903  
[buildingandsafety@berkeleyca.gov](mailto:buildingandsafety@berkeleyca.gov)

Last Revised 09/12/23

# Modifications

# Purpose

Modifications to the California Fire Code serve to adapt the code's application to individual situations where strict adherence would be impractical, ensuring the spirit and intent of the code are upheld without compromising public health, life, and fire safety. Modifications are granted for special individual reasons, allowing for alternative solutions that meet or exceed the code's safety objectives while addressing unique circumstances, such as those involving existing buildings or specific site conditions.

# Basis in Code

## **[A] 104.9 Modifications**

Where there are practical difficulties involved in carrying out the provisions of this code, the fire code official shall have the authority to grant modifications for individual cases, provided that the fire code official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the files of the department of fire prevention.

## f Appeals

**SECTION A101****GENERAL****A101.1 Scope.**

A board of appeals shall be established within the jurisdiction for the purpose of hearing applications for [modification of the requirements of this code pursuant to the](#) provisions of Section 111. The board shall be established and operated in accordance with this section, and shall be authorized to hear evidence from appellants and the fire code official pertaining to the application and intent of this code for the purpose of issuing orders pursuant to these provisions.

**A101.2 Application for appeal.**

Any person shall have the right to appeal a decision of the fire code official to the board. An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equally good or better form of construction is proposed. The application shall be filed on a form obtained from the fire code official within 20 days after the notice was served.

**A101.2.1 Limitation of authority.**

The board shall not have authority to waive requirements of this code or interpret the administration of this code.

**A101.2.2 Stays of enforcement.**

Appeals of notice and orders, other than Imminent Danger notices, shall stay the enforcement of the notice and order until the appeal is heard by the board.

**A101.3 Membership of board.**

The board shall consist of five voting members appointed by the chief appointing authority of the jurisdiction. Each member shall serve

## Appeals

The board shall consist of five voting members appointed by the chief appointing authority of the jurisdiction. Each member shall serve for **[NUMBER OF YEARS]** years or until a successor has been appointed. The board member's terms shall be staggered at intervals, so as to provide continuity. The fire code official shall be an ex officio member of said board but shall not vote on any matter before the board.

### **A101.3.1 Qualifications.**

The board shall consist of members who are qualified by experience and training to pass on matters pertaining to hazards of fire, explosions, hazardous conditions or fire protection systems, and are not employees of the jurisdiction.

### **A101.3.2 Alternate members.**

The chief appointing authority is authorized to appoint two alternate members who shall be called by the board chairperson to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for board membership, and shall be appointed for the same term or until a successor has been appointed.

### **A101.3.3 Vacancies.**

Vacancies shall be filled for an unexpired term in the same manner in which original appointments are required to be made.

### **A101.3.4 Chairperson.**

The board shall annually select one of its members to serve as chairperson.

### **A101.3.5 Secretary.**

The chief appointing authority shall designate a qualified clerk to serve as secretary to the board. The secretary shall file a detailed record of all proceedings, which shall set forth the reasons for the board's decision, the vote of each member, the absence of a member and any failure of a member to vote.

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### **A101.3.5 Secretary.**

The chief appointing authority shall designate a qualified clerk to serve as secretary to the board. The secretary shall file a detailed record of all proceedings, which shall set forth the reasons for the board's decision, the vote of each member, the absence of a member and failure of a member to vote.

### **A101.3.6 Conflict of interest.**

A member with any personal, professional or financial interest in a matter before the board shall declare such interest and refrain from participating in discussions, deliberations and voting on such matters.

### **A101.3.7 Compensation of members.**

Compensation of members shall be determined by law.



### **A101.3.8 Removal from the board.**

A member shall be removed from the board prior to the end of their terms only for cause. Any member with continued absence from regular meetings of the board may be removed at the discretion of the chief appointing authority.

## **1.4 Rules and procedures.**

The board shall establish policies and procedures necessary to carry out its duties consistent with the provisions of this code and applicable law. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be presented.

## **1.5 Notice of meetings.**

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**A101.5 Notice of meetings.**

The board shall meet upon notice from the chairperson within 10 days of the filing of an appeal or at stated periodic intervals.

**A101.5.1 Open hearing.**

All hearings before the board shall be open to the public. The appellant, the appellant's representative, the fire code official and any person whose interests are affected shall be given an opportunity to be heard.

**A101.5.2 Quorum.**

Three members of the board shall constitute a quorum.

**A101.5.3 Postponed hearing.**

When five members are not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

**A101.6 Legal counsel.**

The jurisdiction shall furnish legal counsel to the board to provide members with general legal advice concerning matters before them for consideration. Members shall be represented by legal counsel at the jurisdiction's expense in all matters arising from service within the scope of their duties.

**A101.7 Board decision.**

The board shall only modify or reverse the decision of the fire code official by a concurring vote of three or more members.

## of Appeals

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### **A101.6 Legal counsel.**

The jurisdiction shall furnish legal counsel to the board to provide members with general legal advice concerning matters before consideration. Members shall be represented by legal counsel at the jurisdiction's expense in all matters arising from the service scope of their duties.

### **A101.7 Board decision.**

The board shall only modify or reverse the decision of the fire code official by a concurring vote of three or more members.

#### **A101.7.1 Resolution.**

The decision of the board shall be by resolution. Every decision shall be promptly filed in writing in the office of the fire code official within three days and shall be open to the public for inspection. A certified copy shall be furnished to the appellant or the representative and to the fire code official.

#### **A101.7.2 Administration.**

The fire code official shall take immediate action in accordance with the decision of the board.

### **A101.8 Court review.**

Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision by the office of the chief administrative officer.



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## Chapter 1.28

### ADMINISTRATIVE CITATIONS

## Sections:

- 1.28.010 Purpose and applicability.**
- 1.28.020 Enforcement officer--Defined--Authority.**
- 1.28.030 Administrative citation.**
- 1.28.040 Amount of fines.**
- 1.28.050 Payment of the fine.**
- 1.28.060 Hearing request.**
- 1.28.070 Advance deposit hardship waiver.**
- 1.28.080 Hearing officer.**
- 1.28.090 Hearing procedures.**
- 1.28.100 Hearing officer's decision.**
- 1.28.110 Late payment charges.**
- 1.28.120 Recovery of administrative citation fines and costs.**
- 1.28.130 Right to judicial review.**
- 1.28.140 Notices.**

#### **1.28.010 Purpose and applicability.**

A. This chapter provides for administrative citations as provided in Government Code Section [53069.4](#).

B. The remedies provided by this chapter are in addition to all other legal remedies, criminal or civil, which may be pursued by the City to address any violation of this code.

C. Use of this chapter shall be at the sole discretion of the City. (Ord. 6710-NS § 2, 2002)

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**1.28.020 Enforcement officer--Defined--Authority.**

- A. For purposes of this chapter, "enforcement officer" shall mean any City employee or agent of the City with the authority to enforce any provision of this code.
- B. Enforcement officers shall have authority to issue administrative citations pursuant to this chapter. (Ord. 6710-NS § 2, 2002)

**1.28.030 Administrative citation.**

- A. Whenever an enforcement officer charged with the enforcement of any provision of this code determines that a violation of that provision has occurred, the enforcement officer may issue an administrative citation to any person responsible for the violation.
- B. Each administrative citation shall contain the following information:
1. The date of the violation;
  2. The address or a definite description of the location where the violation occurred;
  3. The section of this code violated and a description of the violation;
  4. The amount of the fine for the code violation;
  5. A description of the fine payment process, including a description of the time within which and the place to which the fine shall be paid;
  6. An order prohibiting the continuation or repeated occurrence of the code violation described in the administrative citation;
  7. An order to correct the code violation described in the administrative citation if said violation is correctable as described in Section [1.20.030](#);
  8. A description of the administrative citation review process, including the time within which the administrative citation may be contested and the place from which a request for hearing form to contest the administrative citation may be obtained and an advance deposit waiver; and

9. The name and signature of the citing enforcement officer.

C. In addition to the administrative citation and penalty authorized by this chapter, an order to correct a violation under subdivision B.7 of this section may be enforced as set forth in the chapter applicable to that violation.

D.

1. In cases involving a continuing violation pertaining to building, plumbing, electrical, or other similar structural or zoning issues that do not create an immediate danger to health or safety, a reasonable time not to exceed six months shall be provided to remedy or correct the violation prior to imposition of fines or penalties. In determining what is a reasonable time, the City may consider the estimate of local professionals including licensed contractors. In the case of such violations, the time within which the violation must be corrected in order to avoid a fine shall also be specified on the administrative citation.

2. In cases where a citation is based solely on a person's failure to have obtained a permit or license from the City other than for a regulated business activity, and the person has not previously been cited for the same violation, the citation shall specify a reasonable time to obtain the permit or license, and the penalty shall not exceed \$50.00 if the cited person shows proof of correction to the enforcing officer within the time established for obtaining the permit or license. This subdivision shall apply to violations of Title [23](#) only at the option of the enforcement officer. (Ord. 6836-NS § 1 (part), 2005; Ord. 6710-NS § 2, 2002)

### **1.28.040 Amount of fines.**

A. The amounts of the fines for code violations imposed pursuant to this chapter shall be set forth in the schedule of fines established by resolution of the City Council.

B. The schedule of fines shall specify any increased fines for repeat violations of the same code provision by the same person within 36 months from the date of an administrative citation.

C. The schedule of fines shall specify the amount of any late payment charges imposed for the payment of a fine after its due date. (Ord. 6710-NS § 2, 2002)

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**1.28.050 Payment of the fine.**

- A. The fine shall be paid to the City within 30 days from the date of the administrative citation.
- B. Payment of a fine under this chapter shall not excuse or discharge any continuation or repeated occurrence of the code violation that is the subject of the administrative citation. (Ord. 6710-NS § 2, 2002)

**1.28.060 Hearing request.**

- A. Any recipient of an administrative citation may contest the existence of a violation of the code, that they are the responsible party or any order issued under Section [1.28.030.B](#) by completing a request for hearing form and returning it to the City within 21 days from the date of the administrative citation, together with an advance deposit of the fine or notice that a request for an advance deposit hardship waiver has been filed pursuant to Section [1.28.070](#).
- B. The person requesting the hearing shall be notified of the time and place set for the hearing at least ten days prior to the date of the hearing.
- C. If the enforcement officer submits an additional written report concerning the administrative citation to the hearing officer for consideration at the hearing, a copy of this report also shall be served on the person requesting the hearing at least five days prior to the date of the hearing. (Ord. 6836-NS § 2 (part), 2005; Ord. 6710-NS § 2, 2002)

**1.28.070 Advance deposit hardship waiver.**

- A. Any person who intends to request a hearing under Section [1.28.060](#) and who is financially unable to make the advance deposit of the fine as required in Section may file a request for an advance deposit hardship waiver.
- B. The request shall be filed with the City on an advance deposit hardship waiver application form within ten days of the date of the administrative citation.

C. The requirement of depositing the full amount of the fine as described in Section [1.28.060.A](#) shall be stayed unless or until the City makes a determination not to grant the advance deposit hardship waiver.

D. The City may grant the advance deposit hardship waiver only if the cited party submits a sworn declaration, together with any supporting documents or materials, which demonstrates their financial inability to deposit with the City the full amount of the fine in advance of the hearing.

E. If the City determines not to issue an advance deposit hardship waiver, the cited party shall remit the deposit to the City within ten days of the date of that decision or 30 days from the date of the administrative citation, whichever is later.

F. The City shall issue a written determination of its reasons for granting or denying an advance deposit hardship waiver. This written determination shall be final.

G. The written determination shall be served upon the applicant for the advance deposit hardship waiver by first class mail. (Ord. 6710-NS § 2, 2002)

### **1.28.080 Hearing officer.**

The City Manager shall designate the hearing officer for administrative citation hearings. (Ord. 6710-NS § 2, 2002)

### **1.28.090 Hearing procedures.**

A. No hearing to contest an administrative citation before a hearing officer shall be held unless the fine has been deposited in advance in accordance with Section [1.28.060](#) or an advance deposit hardship waiver has been granted in accordance with Section [1.28.070](#).

B. A hearing before the hearing officer shall be set for a date that is not less than 15 days and not more than 30 days from the date that the request for hearing is filed in accordance with the provisions of this chapter.

- 
- C. At the hearing, the party contesting the administrative citation shall be given the opportunity to testify and to present evidence concerning the administrative citation.
- D. The failure of any recipient of an administrative citation to appear at the administrative citation hearing shall constitute a forfeiture of the fine, a failure to exhaust their administrative remedies and consent to any order issued pursuant to Section [1.28.030.B.6](#) and [B.7](#).
- E. The administrative citation and any additional report submitted by the enforcement officer shall constitute *prima facie* evidence of the respective facts contained in those documents. If the party contesting the citation presents evidence to the contrary, the burden of proof shall shift to the enforcement officer.
- F. The hearing officer may continue the hearing and request additional information from the enforcement officer or the recipient of the administrative citation prior to issuing a written decision. (Ord. 6836-NS § 3 (part), 2005; Ord. 6710-NS § 2, 2002)

### **1.28.100 Hearing officer's decision.**

- A. After considering all of the testimony and evidence submitted at the hearing, the hearing officer shall issue a written decision to uphold, reduce or cancel the administrative citation and shall list in the decision the reasons for that decision. The decision of the hearing officer shall be final.
- B. If the hearing officer determines that the administrative citation should be upheld, then the fine amount on deposit with the City shall be retained by the City.
- C. If the hearing officer determines that the administrative citation should be upheld and the fine has not been deposited pursuant to an advance deposit hardship waiver, the hearing officer shall set forth in the decision a payment schedule for the fine.
- D. If the hearing officer determines that the administrative citation should be canceled or reduced and the fine was deposited with the City, then the City shall promptly refund the amount of the deposited fine or the amount paid in excess of the reduced fine, together with interest at the average rate earned on the City's portfolio for the period of time that the fine or excess fine amount was held by the City.

E. The recipient of the administrative citation shall be served with a copy of the hearing officer's written decision.

F. The employment, performance evaluation, compensation and benefits of the hearing officer shall not be directly or indirectly conditioned upon the amount or number of administrative citation fines upheld by the hearing officer. (Ord. 6710-NS § 2, 2002)

### **1.28.110 Late payment charges.**

Any person who fails to pay to the City any fine imposed pursuant to the provisions of this chapter on or before the date that fine is due also shall be liable for the payment of any applicable late payment charges set forth in the schedule of fines, as well as interest at the legal rate. (Ord. 6710-NS § 2, 2002)

### **1.28.120 Recovery of administrative citation fines and costs.**

The City may collect any past due administrative citation fine or late payment charge by use of all available legal means, including, but not limited to, means available for the collection of judgments, liens and actions for recovery of money. The City also may recover its collection costs. (Ord. 6710-NS § 2, 2002)

### **1.28.130 Right to judicial review.**

A. Any person aggrieved by an administrative decision of a hearing officer on an administrative citation may obtain review of the administrative decision by filing a petition seeking review in accordance with Government Code Section [53069.4](#).

B. The City is prohibited from seeking review of an administrative decision of a hearing officer on an administrative citation pursuant to Government Code Section [53069.4](#).

C. No administrative decision of a hearing officer on an administrative citation shall estop the City Council or any other board or commission or officer or employee of the City from

exercising their independent authority and judgment in any other forum within or outside the City. (Ord. 7081-NS § 1, 2009; Ord. 6710-NS § 2, 2002)

### **1.28.140 Notices.**

A. Whenever a notice or report is required to be given or provided under this chapter, unless different provisions herein are otherwise specifically made, such notice may be given either by personal delivery thereof to the person to be notified or by deposit in the United States Mail, in a sealed envelope postage prepaid, addressed to such person to be notified at their last-known business or residence address as the same appears in the public records or other records pertaining to the matter to which such notice is directed. Service by mail shall be deemed to have been completed at the time of deposit in a U.S. mail box.

B. Failure to receive any notice specified in this chapter does not affect the validity of proceedings conducted hereunder.

C. Proof of giving any notice may be made by the certificate of any officer or employee of the City, or by affidavit of any person over the age of 18 years, which shows service in conformity with this code or other provisions of law applicable to the subject matter concerned. (Ord. 6710-NS § 2, 2002)

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**The Berkeley Municipal Code is current through Ordinance 7957-NS, passed April 15, 2025.**

Disclaimer: The City Clerk's Office has the official version of the Berkeley Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.berkeleyca.gov](http://www.berkeleyca.gov)

[Hosted by General Code.](#)

