

California state law regarding the establishment and maintenance of “defensible space” is found in Public Resources Code (PRC) Section 4291. The actual text of that section, which was updated in 2005, is found below. The California Department of Forestry and Fire Protection (CAL FIRE) is responsible for enforcement of PRC 4291. CAL FIRE has also prepared practical guidelines for implementation of “defensible space” in various kinds of settings; these are summarized in a brochure that is found online at:

http://www.fire.ca.gov/CDFBOFDB/pdfs/Copyof4291finalguidelines9_29_06.pdf

CALIFORNIA PUBLIC RESOURCES CODE SECTION 4291

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

(1) Maintain defensible space no greater than 100 feet from each side of the structure, but not beyond the property line unless allowed by state law, local ordinance, or regulation and as provided in paragraph (2). The amount of fuel modification necessary shall take into account the flammability of the structure as affected by building material, building standards, location, and type of vegetation. Fuels shall be maintained in a condition so that a wildfire burning under average weather conditions would be unlikely to ignite the structure. This paragraph does not apply to single specimens of trees or other vegetation that are well-pruned and maintained so as to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to a structure or from a structure to other nearby vegetation. The intensity of fuels management may vary within the 100-foot perimeter of the structure, the most intense being within the first 30 feet around the structure. Consistent with fuels management objectives, steps should be taken to minimize erosion.

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

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

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

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

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

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

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

(2) An exemption or variance under paragraph (1) shall not apply unless and until the occupant of the structure, or if there is not an occupant, the owner of the structure, files with the department, in a form as the director shall prescribe, a written consent to the inspection of the interior and contents of the structure to ascertain whether this section and the regulations adopted under this section are complied with at all times.

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

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

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

4291.1. (a) Notwithstanding Section 4021, a violation of Section **4291** is an infraction punishable by a fine of not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500). If a person is convicted of a second violation of Section **4291** within five years, that person shall be punished by a fine of not less than two hundred fifty dollars (\$250), nor more than five hundred dollars (\$500). If a person is convicted of a third violation of Section **4291** within five years, that person is guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars (\$500). If a person is convicted of a third violation of Section **4291** within five years, the department may perform or contract for the performance of work necessary to comply with Section **4291** and may bill the person convicted for the costs incurred, in which case the person convicted, upon payment of those costs, shall not be required to pay the fine. If a person convicted of a violation of Section **4291** is granted probation, the court shall impose as a term or condition of probation, in addition to any other term or condition of probation, that the person pay at least the minimum fine prescribed in this section.

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

4291.3. Subject to any other applicable provision of law, a state or local fire official, at his or her discretion, may authorize an owner of property, or his or her agent, to construct a firebreak, or implement appropriate vegetation management techniques, to ensure that defensible space is adequate for the protection of a hospital, adult residential care facility, school, aboveground storage tank, hazardous materials facility, or similar facility on the property. The firebreak may be for a radius of up to 300 feet from the facility, or to the property line, whichever distance is shorter.