

**County and State Codes Related to**

**Habitat Protection and**

**Wildland Fire Prevention**

**in Cambria**

Compiled by the Cambria Forest Committee

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This is a compendium of the more important and relevant San Luis Obispo County and California State codes that relate to the protection of the unique Monterey pine and coast live oak forest habitat that Cambria falls within and the prevention of wildland fires in Cambria.

In the Table of Contents, the county and state codes are presented separately, each with a tab. The single county Title (Tab A) mainly focuses on habitat protection, whereas the three state codes (Tabs B – D) are each divided into color-coded sections in the Table of Contents that mainly address 1) wildland fire prevention, 2) vegetation, habitat, and wildland protection, 3) administration of the code, and 4) utility (power) poles and lines. All the sections of each code are arranged numerically.

In general, state agencies enforce state codes and county departments enforce county codes. The Cambria Community Services District can enforce state codes by resolution. This compilation is for general information only. Codes are sometimes updated, and district resolutions are often renewed yearly, thus it is recommended that the latest versions be consulted: (county: <http://services.sloclerkrecorder.org/code/countycode.cfm>; state: <http://www.leginfo.ca.gov/calaw.html>; 2009 services district resolution: <http://www.cambriacsd.org/Library/Website/board/3.26.09%20Agenda%20Packet%20complete.pdf>).

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## **COUNTY CODES**

## Title 23 COASTAL ZONE LAND USE

### Chapter 23.05 SITE DEVELOPMENT STANDARDS

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#### **23.05.060 Tree removal.**

The purpose of these standards is to protect existing trees and other coastal vegetation from indiscriminate or unnecessary removal consistent with local coastal plan policies and pursuant to Section 30251 of the Coastal Act which requires protection of scenic and visual qualities of coastal areas. Tree removal means the destruction or displacement of a tree by cutting, bulldozing, or other mechanical or chemical methods, which results in physical transportation of the tree from its site and/or death of the tree. (Ord. 2344 § 1 (Exh. A) (part), 1988)

#### **23.05.062 Tree removal permit required.**

No person shall allow or cause the removal of any tree without first obtaining a tree removal permit, as required by this section:

(1) When Required. Plot plan approval (Section 23.02.030), is required before the removal or replacement of any existing trees except for tree removal under circumstances that are exempt from tree removal permit requirements pursuant to subsection (2) of this section, and except for the following types of tree removal, which are instead subject to minor use permit approval:

(A) Riparian vegetation near any coastal stream or wetland. (See Section 23.07.174 for additional standards);

(B) Proposed for removal when not accompanied by a land use permit for development;

(C) Located in any appealable area as defined by Section 23.01.043(3);

(D) Located in any sensitive resource area (where the identified resources are trees) as shown on official combining designation maps (Part III of land use element);

(E) Where tree cutting will cumulatively remove more than six thousand square feet of vegetation as measured from the canopy of trees removed.

(2) Exceptions to Tree Removal Permit Requirements. A tree removal permit is not required for the removal of trees that are:

(A) Identified and approved for removal in an approved land use permit or approved subdivision improvement drawings; provided, that such removal is subject to the standards of Section 23.05.064;

(B) In a hazardous condition which presents an immediate danger to health or

property; or

(C) With trunks measuring less than eight inches in diameter at four feet above grade; or

(D) To be removed in preparation for agricultural cultivation and crop production in an agriculture land use category; or

(E) To be removed as part of management practice in orchards of commercial agricultural production.

(3) Application Content. Land use permit applications that propose tree removal are to include all information specified by Sections 23.02.030(2) or 23.02.033 where applicable, and the following:

(A) The size, species and condition (e.g., diseased, healthy, etc.) of each tree proposed for removal;

(B) The purpose of removal;

(C) The size and species of any trees proposed to replace those intended for removal. (Ord. 2344 § 1 (Exh. A) (part), 1988

### **23.05.064 Tree removal standards.**

Applications for tree removal in accordance with Section 23.05.062 are to be approved only when the following conditions are satisfied:

(1) Tagging Required. Trees proposed for removal shall be identified for field inspection by means of flagging, staking, paint spotting or other means readily visible but not detrimental to a healthy tree.

(2) Removal Criteria. A tree may be removed only when the tree is any of the following:

(A) Dead, diseased beyond reclamation, or hazardous;

(B) Crowded, with good horticultural practices dictating thinning;

(C) Interfering with existing utilities, structures or right-of-way improvements;

(D) Obstructing existing or proposed improvements that cannot be reasonably designed to avoid the need for tree removal;

(E) Inhibiting sunlight needed for either active or passive solar heating or cooling, and the building or solar collectors cannot be oriented to collect sufficient sunlight without total removal of the tree;

(F) In conflict with an approved fire safety plan where required by Section 23.05.080;

(G) To be replaced by a tree that will provide equal or better shade, screening, solar efficiency or visual amenity within a ten-year period, as verified in writing by a registered landscape architect, licensed landscaping contractor or certified nurseryman.

(3) Replacement. Any tree removed to accommodate new development or because it is a safety hazard shall be replaced, in a location on the site and with a species common to the community, as approved by the planning director.

(4) Tree Removal Within Public View Corridors. Tree removal within public view corridors (areas visible from collector or arterial roads) shall be minimized in accordance with Visual and Scenic Resources Policy 5.

(5) Preservation of Trees and Natural Vegetation. New development shall incorporate design techniques and methods that minimize the need for tree removal. (Ord. 2344 § 1 (Exh. A) (part), 1988)



**STATE HEALTH AND SAFETY CODE**

### **13879. Hazardous weeds and rubbish; abatement**

A district board may abate hazardous weeds and rubbish pursuant to Part 5 (commencing with Section 14875). For that purpose, the district board shall be deemed to be a "board of supervisors" and district employees shall be deemed to be the "persons" designated by Section 14890.

### **14875. Weeds defined**

"Weeds," as used in this part, means vegetation growing upon streets, sidewalks, or private property in any county, including any fire protection district and may include any of the following:

- (a) Vegetation that bears seeds of a downy or wingy nature.
- (b) Vegetation that is not pruned or is otherwise neglected so as to attain such large growth as to become, when dry, a fire menace to adjacent improved property.
- (c) Vegetation that is otherwise noxious or dangerous.
- (d) Poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health.
- (e) Dry grass, stubble, brush, litter, or other flammable material which endangers the public safety by creating a fire hazard in an urbanized portion of an unincorporated area which has been zoned for single and multiple residence purposes.

### **14876. Public nuisance**

Weeds may be declared a public nuisance and may be abated as provided in this part.

### **14880. Declaration of public nuisance**

Whenever weeds are growing upon any street, sidewalk, or on private property in any county, the board of supervisors, by resolution, may declare the weeds a public nuisance.

### **14892. Form**

The notice shall be substantially in the following form:

NOTICE TO DESTROY WEEDS.

Notice is hereby given that on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, the board of supervisors of \_\_\_\_\_ County passed a resolution declaring that noxious or dangerous weeds were growing upon or in front of the property on, or nearest to

\_\_\_\_\_ Street (or Road), in said county, and more particularly described in said resolution and that the same constitute a public nuisance which must be abated by the removal of said noxious or dangerous weeds, otherwise they will be removed and the nuisance will be abated by the county authorities, in which case the cost of such removal shall be assessed upon the lots and lands from which or in front of which such weeds are removed, and such cost will constitute a lien upon such lots or lands until paid. Reference is hereby made to said resolution for further particulars.

All property owners having any objections to the proposed removal of such weeds are hereby notified to attend a meeting of the board of supervisors of said county, to be held (give date), when their objections will be heard and given due consideration.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_,  
(Title of officer, board or commission causing notices to be posted.)

### **14896. Mailing notice**

As an alternative to posting and publication, notice in the form required in Section 14892 may be mailed to the property owners as their names and addresses appear from the last equalized assessment roll, or as they are known to the clerk.

### **14898. Hearing**

At the time stated in the notices, the board of supervisors shall hear and consider all objections or protests, if any, to the proposed removal of weeds, and may continue the hearing from time to time.

### **§ 14899. Action of board on objections**

Upon the conclusion of the hearing the board shall allow or overrule any or all objections, whereupon the board shall acquire jurisdiction to proceed and perform the work of removal, and the decision of the board on the matter is final, except as provided in Sections 14920 and 14921 of this code.

### **14900. Abatement order**

After final action is taken by the board on the disposition of any protests or objections or in case no protests or objections are received, the board shall order the officer, board or commission causing the notices to be posted to abate the nuisance, or to cause it to be abated by having the weeds removed.

### **14900.6. Notice of seasonal and recurrent nuisance; postcard notice; contents**

In the case of weeds which have previously been declared to constitute a seasonal and recurring nuisance, it is sufficient to mail a postcard notice to the owners of the property as they and their addresses appear upon the current assessment roll.

The notice shall refer to and describe the property and shall state that noxious or dangerous weeds of a seasonal and recurrent nature are growing on or in front of the property, and that the same constitute a public nuisance which must be abated by the removal of said noxious or dangerous weeds, and that otherwise they will be removed and the nuisance will be abated by the county authorities, in which case the cost of such removal shall be assessed upon the lot and lands from which or in front of which such weeds are removed and that such cost will constitute a lien upon such lots or lands until paid.

### **14901. Authority to enter upon property**

The officer, board or commission, and his or its assistants, deputies, employees, or contracting agents, or other representatives may enter upon private property for the purpose of removing the weeds.

### **14902. Removal of weeds by owner; imposition of special assessment and lien where order to abate issued**

Before the arrival of the officer, board, or commission, or their representatives, any property owner may remove weeds at his or her own expense. Nevertheless, in any case in which an order to abate is issued, the board by resolution or motion may further order that a special assessment and lien be imposed pursuant to Section 14912. In that case the assessment and lien shall be limited to the costs incurred by the responsible agency in enforcing abatement upon the parcels, including investigation, boundary determination, measurement, clerical, and other related costs.

### **14905. Account and itemized report of cost of abatement for each lot or parcel of land**

The officer, board or commission abating the nuisance shall keep an account of the cost of abatement in front of or on each separate parcel of land and shall render an itemized report in writing to the board of supervisors showing the cost of removing the weeds on or in front of each separate lot or parcel of land, or both.

### **14910. Hearing**

At the time fixed for receiving and considering the report, the board shall hear it and any objections of any of the property owners liable to be assessed for the work of abatement.

**14912. Special assessment and lien**

The amount of the costs for abating the nuisance in front of or upon the various parcels of the land mentioned in the report as confirmed and the amount of the costs incurred by the responsible agency in enforcing abatement upon the parcels, including investigation, boundary determination, measurement, clerical and other related costs, shall constitute special assessments against the respective parcels of land, and are a lien on the property for the amount of the respective assessments. Such lien attaches upon recordation in the office of the county recorder of the county in which the property is situated of a certified copy of the resolution of confirmation. The assessment may be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of municipal ad valorem taxes shall be applicable to such assessment, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of such taxes would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the costs of abatement and the costs of enforcing abatement, as confirmed, relating to such property shall be transferred to the unsecured roll for collection.

**14915. Transmittal of report to county auditor; entry of assessments**

A copy of the report, as confirmed, shall be turned over to the auditor of the county, on or before the tenth day of August following such confirmation, and the auditor shall enter the amounts of the respective assessments against the respective parcels of land as they appear on the current assessment roll.

**STATE PUBLIC RESOURCES CODE**

#### **4290. Regulations implementing minimum fire safety standards related to defensible space applicable to state responsibility area lands**

(a) The board shall adopt regulations implementing minimum fire safety standards related to defensible space which are applicable to state responsibility area lands under the authority of the department. These regulations apply to the perimeters and access to all residential, commercial, and industrial building construction within state responsibility areas approved after January 1, 1991. The board may not adopt building standards, as defined in Section 18909 of the Health and Safety Code, under the authority of this section. As an integral part of fire safety standards, the State Fire Marshal has the authority to adopt regulations for roof coverings and openings into the attic areas of buildings specified in Section 13108.5 of the Health and Safety Code. The regulations apply to the placement of mobile homes as defined by National Fire Protection Association standards. These regulations do not apply where an application for a building permit was filed prior to January 1, 1991, or to parcel or tentative maps or other developments approved prior to January 1, 1991, if the final map for the tentative map is approved within the time prescribed by the local ordinance. The regulations shall include all of the following:

- (1) Road standards for fire equipment access.
- (2) Standards for signs identifying streets, roads, and buildings.
- (3) Minimum private water supply reserves for emergency fire use.
- (4) Fuel breaks and greenbelts.

(b) These regulations do not supersede local regulations which equal or exceed minimum regulations adopted by the state.

#### **4291. Buildings and structures**

(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 nonvegetative 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. Violations of § 4291; fines; probation**

(a) Notwithstanding Section 4021, a violation of Section 4291 is an infraction punishable by a fine of not less than one hundred dollars (\$100), nor more than five hundred dollars (\$500). If a person is convicted of a second violation of Section 4291 within five years, that person shall be punished by a fine of not less than two hundred fifty dollars (\$250), nor more than five hundred dollars (\$500). If a person is convicted of a third violation of Section 4291 within five years, that person is guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars (\$500). If a person is convicted of a third violation of Section 4291

within five years, the department may perform or contract for the performance of work necessary to comply with Section 4291 and may bill the person convicted for the costs incurred, in which case the person convicted, upon payment of those costs, shall not be required to pay the fine. If a person convicted of a violation of Section 4291 is granted probation, the court shall impose as a term or condition of probation, in addition to any other term or condition of probation, that the person pay at least the minimum fine prescribed in this section.

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

### **4292. Power lines, firebreaks**

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

### **4293. Fire protection responsibility, power line owners or operators**

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

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

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

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

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

#### **§ 4295. Maintenance of clearing**

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

**STATE GOVERNMENT CODE**

### **39501. Compelling removal of dirt, rubbish, weeds, etc.; removal by city; lien**

The legislative body may compel the owner, lessee, or occupant of buildings, grounds, or lots to remove dirt, rubbish, weeds, and rank growths from buildings or grounds and adjacent sidewalks. If he defaults, after notice prescribed by the legislative body, it may authorize the removal or destruction of the dirt, rubbish, weeds, and rank growths at his expense by a city officer. The legislative body may prescribe a procedure for the removal or destruction and make the expense a lien upon the buildings or grounds.

### **39502. Removal of obstructions or noxious materials; lien**

By ordinance the legislative body may:

(a) Require and provide for the removal of grass, weeds, or other obstructions from the sidewalks, parkings, or streets and make the cost of removal a lien upon the abutting property.

(b) Require or provide for the removal from property, lands, or lots of all weeds, rubbish, or other material dangerous or injurious to neighboring property or the health or welfare of residents of the vicinity and make the cost of removal a lien upon the property.

(c) Provide for the enforcement of the lien by the sale of the property or otherwise.

### **39560. Definitions**

(a) "Superintendent" means street superintendent, his assistants and deputies, or other public officer designated by the legislative body to perform the duties imposed by this article upon the superintendent.

(b) "Weeds" means weeds which when mature bear wingy or downy seeds, which will attain such a large growth as to become a fire menace when dry, or which are otherwise noxious or dangerous.

(c) "Street" includes public street, alley, lane, court or other place.

(d) "In front of which the nuisance exists" includes to the rear of or abutting the property upon which the nuisance exists.

### **39561. Authority to declare nuisance and abate**

The legislative body may declare by resolution as public nuisances, and abate:

- (a) All weeds growing upon the streets, sidewalks, or private property in the city.
- (b) All rubbish, refuse, and dirt upon parkways, sidewalks, or private property in the city.

### **39561.5. Weeds included**

"Weeds," as used in this article, includes any of the following:

- (a) Weeds which bear seeds of a downy or wingy nature.
- (b) Sagebrush, chaparral, and any other brush or weeds which attain such large growth as to become, when dry, a fire menace to adjacent improved property.
- (c) Weeds which are otherwise noxious or dangerous.
- (d) Poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health.
- (e) Dry grass, stubble, brush, litter, or other flammable material which endangers the public safety by creating a fire hazard.

### **39562. Resolution declaring nuisance; contents**

The resolution shall:

- (a) Refer to the street by its commonly known name.
- (b) Describe the property upon which or in front of which the nuisance exists by giving its lot and block number according to the official or city assessment map.

#### **39562.1. Weeds on specified parcels of property as seasonal and recurrent nuisances; abatement**

At the time it adopts the resolution as provided for by Sections 39561 and 39562, the legislative body may also find and declare that weeds on specified parcels of property are seasonal and recurrent nuisances.

Such seasonal and recurrent nuisances shall be abated in accordance with the provisions of this article, provided, that upon the second and any subsequent occurrence of such nuisance on the same parcel or parcels within the same calendar year, no further hearings need be held and it shall be sufficient to mail a post card notice to the owners of the property as they and their addresses appear upon the current assessment roll.

The notice shall refer to and describe the property and shall state that noxious or dangerous weeds of a seasonal and recurrent nature are growing on or in front of

the property, and that the same constitute a public nuisance which must be abated by the removal of said noxious or dangerous weeds, and that otherwise they will be removed and the nuisance will be abated by the city authorities, in which case the cost of such removal shall be assessed upon the parcel and lands from which or in front of which such weeds are removed and that upon confirmation such cost will constitute a lien upon such parcel or lands until paid.

### **39562.2. Preventive abatement of seasonal and recurrent weed nuisances; chemical control**

In any case where cities are authorized to abate weeds pursuant to the provisions of this chapter and where the legislative body finds and declares that weeds on specified parcels of property are seasonal and recurrent nuisances as provided in Section 39562.1, the legislative body may provide for the preventive abatement of such seasonal and recurrent nuisance as provided in this section.

The notice required by Section 39562.1 shall, in addition to containing all other required matters, state that the efficient and economical control of such seasonal and recurrent nuisance requires preventive chemical control of such weeds, weed seeds and weed seedlings and that the city may require preventive chemical control of such nuisance.

In the event the city is once required to abate such nuisance the city may, in addition, before and during the next following germinating season of such weeds, provide for the preventive abatement of such nuisance by using chemical control of such weeds.

### **39564. Notices; posting**

After passage of the resolution, the superintendent shall cause notices to be conspicuously posted on or in front of the property on or in front of which the nuisance exists. He shall post:

- (a) One notice to each separately owned parcel of property of not over fifty feet frontage.
- (b) Not more than two notices to any such parcel of one hundred feet frontage or less.
- (c) Notices at not more than one hundred feet apart if the frontage of such a parcel is greater than one hundred feet.

### **39565. Notices; heading**

The heading of the notices shall be "Notice to destroy weeds and remove rubbish, refuse, and dirt" in letters not less than one inch in height.

**39566. Notices; form**

The notice shall be substantially in the following form:

NOTICE TO DESTROY WEEDS AND REMOVE RUBBISH, REFUSE, AND DIRT

Notice is hereby given that on the ..... day of ..... 19.., the (name of the legislative body) passed a resolution declaring that noxious or dangerous weeds were growing upon or in front of the property on this street, and that rubbish, refuse, and dirt were upon or in front of property on this street, in ....., and more particularly described in the resolution, and that they constitute a public nuisance which must be abated by the removal of the weeds, rubbish, refuse, and dirt. Otherwise they will be removed and the nuisance abated by the city and the cost of removal assessed upon the land from or in front of which the weeds, rubbish, refuse, and dirt are removed and will constitute a lien upon such land until paid. Reference is hereby made to the resolution for further particulars. A copy of said resolution is on file in the office of the city clerk.

All property owners having any objections to the proposed removal of the weeds, rubbish, refuse, and dirt are hereby notified to attend a meeting of the (name of the legislative body) of (city or town) to be held (give date), when their objections will be heard and given due consideration.

Dated this ..... day of .....,  
19.. .....,  
Street Superintendent (City of .....,)

**39567. Notices; time for posting**

The notices shall be posted at least five days prior to the time for hearing objections by the legislative body.

**39567.1. Alternative method; mailing written notices; duty of county assessors; list of property owners**

As an alternative to posting notice of the resolution and notice of the meeting when objections will be heard, the legislative body may direct the city clerk to mail written notice of the proposed abatement to all persons owning property described in the resolution. The city clerk shall cause such written notice to be mailed to each person to whom such described property is assessed in the last equalized assessment roll available on the date the resolution was adopted by the legislative body.

In cities where the county assessor performs the functions of city assessor, the



county assessor, at the request of the city clerk, shall within 10 days thereafter mail to the city clerk a list of the names and addresses of all of the persons owning property described in the resolution. The address of the owners shown on the assessment roll shall be conclusively deemed to be the proper address for the purpose of mailing such notice. The city shall reimburse the county for the actual cost of furnishing such list and the cost shall be a part of the costs of abatement.

The notices mailed by the city clerk shall be mailed at least five days prior to the time for hearing objections by the legislative body.

The notices mailed by the city clerk shall be substantially in the form provided by Section 39566, except, that notices shall be signed by the city clerk and the heading of the notice need not comply with Section 39565.

### **39568. Hearing; continuances**

At the time stated in the notices, the legislative body shall hear and consider all objections to the proposed removal of weeds, rubbish, refuse, and dirt. It may continue the hearing from time to time.

### **39569. Ruling on objections; jurisdiction to proceed**

By motion or resolution at the conclusion of the hearing the legislative body shall allow or overrule any objections. At that time the legislative body acquires jurisdiction to proceed and perform the work of removal.

### **39571. Abatement order**

If objections have not been made or after the legislative body has disposed of those made, it shall order the superintendent to abate the nuisance by having the weeds, rubbish, refuse, and dirt removed. The order shall be made by motion or resolution.

### **39572. Entry to abate**

The superintendent may enter upon private property to abate the nuisance. Government Code (Refs & Annos)

### **39573. Abatement by owner; imposition of special assessment and lien when order to abate issued**

Before the superintendent arrives, any property owner may remove the weeds, rubbish, refuse, and dirt at his own expense. Nevertheless, in any case in which an order to abate is issued, the legislative body by motion or resolution may further order that a special assessment and lien be imposed pursuant to Section 39577. In that case the assessment and lien shall be limited to the costs incurred by the responsible agency in enforcing abatement upon the parcels, including investigation, boundary determination, measurement, clerical and other related

costs.

### **39574. Costs; account; report**

The superintendent shall keep an account of the cost of abatement in front of or on each separate parcel of land where the work is done by him. He shall submit to the legislative body for confirmation an itemized written report showing such cost.

### **39576. Cost report; hearing; disposition**

At the time fixed for receiving and considering the report, the legislative body shall hear it with any objections of the property owners liable to be assessed for the abatement. It may modify the report if it is deemed necessary. The legislative body shall then confirm the report by motion or resolution.

### **39577. Costs; special assessment; lien; exception**

The cost of abatement in front of or upon each parcel of land and the costs incurred by the responsible agency in enforcing abatement upon the parcels, including investigation, boundary determination, measurement, clerical and other related costs, constitutes a special assessment against that parcel. After the assessment is made and confirmed, a lien attaches on the parcel upon recordation of the order confirming the assessment in the office of the county recorder of the county in which the property is situated, except that if any real property to which such lien would attach has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of such taxes as imposed by Section 39578 would become delinquent, then the lien which would otherwise be imposed by this section shall not attach to such real property and the costs of abatement and the costs of enforcing abatement, as confirmed, relating to such property shall be transferred to the unsecured roll for collection

### **39586. Damages from negligence in abatement; authority to pay; claims**

If the legislative body finds that property damage was caused by the negligence of a city officer or employee in connection with the abatement of a nuisance pursuant to this article, a claim for such damages may be paid from the city general fund. Claims therefore are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of this code.

### **39587. Alternative procedure**

The proceedings provided by this article are an alternative to any procedure established by ordinance pursuant to Article 1 (commencing with Section 39500).

## **51177. Definitions**

As used in this chapter:

- (a) "Defensible space" means the area adjacent to a structure or dwelling where wildfire prevention or protection practices are implemented to provide defense from an approaching wildfire or to minimize the spread of a structure fire to wildlands or surrounding areas.
- (b) "Director" means the Director of Forestry and Fire Protection.
- (c) "Fuel" means any combustible material, especially petroleum-based products and wildland fuels.
- (d) "Fuel management" means the act or practice of controlling flammability and reducing resistance to control of fuels through mechanical, chemical, biological, or manual means or by fire, in support of land management objectives.
- (e) "Local agency" means a city, county, city and county, or district responsible for fire protection within a very high fire hazard severity zone.
- (f) "Single specimen tree" means any live tree that stands alone in the landscape so as to be clear of buildings, structures, combustible vegetation, or other trees, and that does not form a means of rapidly transmitting fire from the vegetation to an occupied dwelling or structure or from an occupied dwelling or structure to vegetation.
- (g) "State responsibility areas" means those areas identified pursuant to Section 4102 of the Public Resources Code.
- (h) "Vegetation" means all plants, including trees, shrubs, grass, and perennial or annual plants.
- (i) "Very high fire hazard severity zone" means an area designated by the director pursuant to Section 51178 that is not a state responsibility area.
- (j) "Wildfire" means an unplanned, unwanted wildland fire, including unauthorized human-caused fires, escaped wildland fire use events, escaped prescribed fire projects, and all other wildland fires where the objective is to extinguish the fire.

## **51178. Identification of very high fire hazard severity zones; criteria**

The director shall identify areas in the state as very high fire hazard severity zones based on consistent statewide criteria and based on the severity of fire hazard that is expected to prevail in those areas. Very high fire hazard severity zones shall be based on fuel loading, slope, fire weather, and other relevant factors including areas where Santa Ana, Mono, and Diablo winds have been identified by the Department

of Forestry and Fire Protection as a major cause of wildfire spread.

**51182. Occupied dwellings or structures in, upon, or adjoining specified areas or lands within very high fire hazard severity zones; maintenance; new construction or rebuilding**

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

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

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

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

allowed by state law, local ordinance, rule, or regulation.

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

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

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

(7) Prior to constructing a new dwelling or structure that will be occupied or rebuilding an occupied dwelling or occupied structure damaged by a fire in that zone, the construction or rebuilding of which requires a building permit, the owner shall obtain a certification from the local building official that the dwelling or structure, as proposed to be built, complies with all applicable state and local building standards, including those described in subdivision (b) of Section 51189, and shall provide a copy of the certification, upon request, to the insurer providing 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) The Department of Forestry and Fire Protection shall develop, periodically update, and post on its Internet Web site a guidance document on fuels management pursuant to this chapter. Guidance shall include, but not be limited to, regionally appropriate vegetation management suggestions that preserve and restore native species, minimize erosion, minimize water consumption, and permit trees near homes for shade, aesthetics, and habitat; and suggestions to minimize or eliminate the risk of flammability of nonvegetative sources of combustion such as woodpiles, propane tanks, wood decks, and outdoor lawn furniture.

**51183. Exemption from maintenance standards; inspection of structure; written consent of occupant or owner**

(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.

**51184. Application of maintenance standards to specified land or water areas**

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

- (1) Habitat for endangered or threatened species, or any species that is a candidate for listing as an endangered or threatened species by the state or federal government.
- (2) Lands kept in a predominantly natural state as habitat for wildlife, plant, or animal communities.
- (3) Open space lands that are environmentally sensitive parklands.
- (4) Other lands having scenic values, as declared by the local agency, or by state or federal law.

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

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

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

**51185. Violations of maintenance requirements; penalties**

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

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

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

**51186. Violations; notification to owner to correct conditions; failure to correct**

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

**51187. Violations considered public nuisance**

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

**51188. Conflicts with other provisions of state law**

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.