

2020-2021

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June 21, 2021

Board of Forestry and Fire Protection  
Attn: Edith Hannigan  
Land Use Planning Program Manager  
P.O. Box 944246  
Sacramento, CA 94244-2460

Submitted via e-mail to [PublicComments@BOF.ca.gov](mailto:PublicComments@BOF.ca.gov)

Re: State Minimum Fire Safe Regulations, 2021

Dear Members of the Board of Forestry and Fire Protection:

Thank you for the opportunity to submit comments on the State Minimum Fire Safe Regulations, 2021 which are the subject of the public hearing to be held by the Board on June 22, 2021 at 9:30 AM, on behalf of the League of California Cities. The League of California Cities is an association of nearly all of California's 482 cities, which seeks to expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

California is experiencing a decades in the making housing supply and affordability crisis. Housing affordability and homelessness are among the most critical issues facing California cities. Affordably priced homes are out of reach for many people and housing is not being built fast enough to meet the current or projected needs of people living in the state. Cities lay the groundwork for housing production by planning and zoning new projects in their communities based on extensive public input and engagement, and state housing laws.

In fact, cities are mandated by state law to plan and zone for more than two million additional homes over the next few years. Cities must also approve and permit new homes consistent with locally adopted and state certified housing plans, even in State Responsibility Areas (SRA) and Local Responsibility Areas (LRA) subject to the proposed State Minimum Fire Safe Regulations, 2021.

We would appreciate your consideration of making the following changes to the draft regulations:

1. Section 1270.06. Exception to Standards. The Subdivision Map Act<sup>1</sup> vests in local agencies the regulation and control of the design and improvement of subdivisions. Each local agency must adopt an ordinance that regulates and controls the initial design and improvement of land for which the Act requires a tentative and final or parcel map. A map is required to divide land for the purposes of sale, lease or financing. Control is exercised through the imposition of conditions that ensure compliance with the Act and the local ordinance that implements the Act.

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<sup>1</sup> Gov't Code Secs. 66410-66499.58

A local agency may not refuse to approve a final map because the subdivider has failed to meet a condition which requires the subdivider to construct or install offsite improvements on land in which neither the subdivider nor the local agency has sufficient title or interest to permit the improvements to be made. In such cases, unless the local agency chooses to acquire the land, the local agency must relieve the subdivider of the condition.<sup>2</sup>

**Proposal:** Add an exception to Section 1270.06 that would allow the Inspection Entity to grant an exception to a standard which requires the applicant to make changes to land in which neither the applicant nor the Inspection Entity has sufficient title or interest to permit the changes to be made unless the State chooses to acquire the necessary interest in land that would allow for compliance with the standard.

2. Section 1273.00 Purpose and Application. The State Housing Element Law<sup>3</sup> requires counties and cities to prepare and implement housing elements to “assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goal;” and to “ensure that each local government cooperates with other local governments in order to address regional housing needs.” Statewide housing need is determined by a process conducted by the Department of Finance and the Department of Housing and Community Development (HCD). HCD then allocates the statewide need to the regions. Then each region allocates to each city and county within its region, its share of the regional need.

A city’s housing element must include an inventory of land suitable for residential development that can be developed for housing within the planning period and that is sufficient to provide for the city share of the regional housing need for all income levels. The inventory of land identifies land by parcel and assigns the units that can be accommodated on that parcel and the income level to be served by the housing. Housing elements are submitted to HCD for review and approval.

**Proposal:** Add Section 1273.00(d)

(d) Notwithstanding any other provision of this section, the provisions of this Article and Article 3 (Signing and Building Numbering) shall not apply to New Roads, Driveways or Road or Driveway Structures, or Existing Roads, Driveways or Road or Driveway Structures requires to serve Building construction or Development on one or more parcels listed on a local jurisdiction’s inventory of land suitable for residential development prepared pursuant to Section 65583.2 of the Government Code.

3. Section 1270.01(ee): Definition of Residential Unit. Section 1270.03(c) states that the regulations do not apply to the creation of accessory or junior accessory dwelling units that comply with Government Code sections 65852.2 or 65852.22 or any local ordinances enacted thereunder. If this is the intent of this section, we request that it be made more explicit.

**Proposal:** Amend Section 1270.01(ee):

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<sup>2</sup> Gov’t Code Sec. 66462.5

<sup>3</sup> Gov’t Code Secs. 65580-65589.3



1270.01(ee) *Residential Unit*. Any Building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and/or sanitation for one or more persons except for accessory or junior accessory dwelling units that comply with Government Code sections 65852.2 or 65852.22 or any local ordinances enacted thereunder . Manufactured homes, mobile homes, and factory-built housing are considered residential units, ~~unless being sited or installed as an accessory or junior accessory dwelling unit in accordance with § 1270.03(d) (Scope — Exemptions — ADUs).~~

In addition to these changes to the regulations, we would like to take this opportunity to ask the Board to propose an amendment to Public Resources Code 4291. As you are aware, Section 4291 requires a property owner to maintain defensible space from each side and from the front and rear of a structure on certain specified lands. The League of California Cities has been advised that imposing a requirement to maintain defensible space on undeveloped property would help reduce wildland fire risk and therefore request that the Board consider proposing an amendment to Section 4291 to make this change.

Thank you for the opportunity to comment on the regulations and for your consideration of our proposed changes.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Rhine".

Jason Rhine  
Assistant Legislative Director