

ORDINANCE NO. 7,066–N.S.

REPEALING ORDINANCE NO. 7,039–N.S AND AMENDING SECTION 19.48.020 OF
THE BERKELEY MUNICIPAL CODE

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Ordinance No. 7,039–N.S. is hereby repealed.

Section 2. That subdivisions NN and TT of Section 19.48.020 of the Berkeley Municipal Code are amended to read as follows:

NN. Section 903.2.21 Environmental Safety –Residential District [Amended subsection] Any new construction requiring a permit determined to be \$100,000 or more in construction costs or new additions to existing structures shall be required to install automatic fire sprinklers throughout the existing structure. For the purpose of this subsection “Environmental Safety – Residential District” shall mean those areas designated as such on the Official Zoning Map of the City of Berkeley, as it may be amended from time to time.

TT. Section 907.3.1.7 Group R-2 An automatic and manual fire alarm system shall be installed and maintained in existing Group R-2 occupancies three or more stories in height or with 16 or more dwelling units or sleeping units. Congregate residences shall retrofit existing manual-only fire alarm systems with automatic fire detection. Other types of R-2 occupancies (such as apartment buildings) shall retrofit existing manual-only fire alarm systems with automatic fire detection when the existing fire alarm control unit is replaced for any reason.

Automatic detection shall be accomplished by use of a smoke detector (or heat detector as approved), which is system connected and electronically supervised. Detectors shall be installed in all interior corridors and common areas.

EXCEPTIONS:

1. Where each living unit is separated from other contiguous living units by fire barriers having a fire-resistive rating of not less than 0.75 hour, and where each living unit has either its own independent exit or its own independent stairway or ramp discharging at grade.
2. Deleted.
3. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units and are protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, provided that dwelling units either have a means of egress

door opening directly to an exterior exit access that leads directly to the exits or are served by open-ended corridors designed in accordance with Section 1023.6, Exception 4.

Section 3. That new subdivisions OO-1, PP-1 and FFF through LLL are added to Section 19.48.020 of the Berkeley Municipal Code to read as follows:

OO-1. Section 907.2.8.2 Automatic fire alarm system. An automatic fire alarm system shall be installed throughout all interior corridors and common areas. The detection device for this purpose shall be a smoke detector (or heat detector as approved), which is system connected and electronically supervised.

EXCEPTION: Deleted

PP-1. Section 907.2.9 Group R-2. An automatic and manual fire alarm system shall be installed and maintained in Group R-2 occupancies three or more stories or sixteen (16) or more sleeping units or:

1. Deleted.
2. When any dwelling unit or sleeping unit is located more than one story below the highest level of exit discharge of exits serving the dwelling unit or sleeping unit; or
3. Deleted.

EXCEPTIONS:

1. A fire alarm system is not required in buildings not more than two stories in height where all dwelling units or sleeping units and contiguous attic and crawl spaces are separated from each other and public or common areas by at least 1-hour fire partitions and each dwelling unit or sleeping unit has an exit directly to a public way, exit court or yard.
 - 2.2 Deleted.
3. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units and are protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, provided that dwelling units either have a means of egress door opening directly to an exterior exit access that leads directly to the exits or are served by open-ended corridors designed in accordance with Section 1023.6, Exception 4

FFF. Section 4708 Materials and Construction Methods for Exterior Wildfire Exposure. Refer to Chapter 7A of 19.28.050 Berkeley Municipal Code, Berkeley Building Code for requirements.

GGG. Section 4709 Standards of Quality. Refer to Chapter 7A of 19.28.050 Berkeley Municipal Code, Berkeley Building Code for requirements.

HHH. Section 4710 Materials, Systems and Methods of Construction. Refer to Chapter 7A of 19.28.050 Berkeley Municipal Code, Berkeley Building Code for requirements.

III. Section 4711 Exterior Walls. Refer to Chapter 7A of 19.28.050 Berkeley Municipal Code, Berkeley Building Code for requirements.

JJJ. Section 4712 Decking, Floors and Underfloor Protection. Refer to Chapter 7A of 19.28.050 Berkeley Municipal Code, Berkeley Building Code for requirements.

KKK. Section 4713 Ancillary Buildings and Structures. Refer to Chapter 7A of 19.28.050 Berkeley Municipal Code, Berkeley Building Code for requirements.

LLL. Section 4714 Suppression and Control of Wildland-Urban Interface Fire Areas

SECTION 4714 SUPPRESSION AND CONTROL OF WILDLAND-URBAN INTERFACE FIRE AREAS

4714.1 Permit. The Fire Chief is authorized to stipulate conditions for permits. Permits shall not be issued when public safety would be at risk, as determined by the Fire Chief.

4714.2 Restricted Entry. The Fire Chief shall determine and publicly announce when Wildland-Urban Interface Fire Areas shall be closed to entry and when such areas shall again be opened to entry. Entry on and occupation of Wildland-Urban Interface Fire Areas, except public roadways, inhabited areas or established trails and camp sites which have not been closed during such time when the Wildland-Urban Interface Fire Areas are closed to entry, is prohibited.

EXCEPTIONS: 1) Residents and owners or private property within Wildland-Urban Interface Fire Areas and their invitees and guests going to or being upon their lands; 2) Entry, in the course of duty, by peace officers, and other duly authorized public officers, members of a fire department and members of the United States Forest Service.

4714.3 Trespassing on Posted Property

4714.3.1 General. When the Fire Chief determines that a specific area within a Wildland-Urban Interface Fire Areas presents an exceptional and continuing fire danger because of the density of natural growth, difficulty of terrain, proximity to structures or accessibility to the public, such areas shall be

closed until changed conditions warrant termination of closure. Such areas shall be posted as hereinafter provided.

4714.3.2 Signs. Approved signs prohibiting entry by unauthorized persons and referring to this section shall be placed on every closed area.

4714.3.3 Trespassing. Entering and remaining within areas closed and posted is prohibited.

EXCEPTION: Owners and occupiers of private or public property within closed and posted areas, their guests or invitees, and local, state and federal public officers and their authorized agents acting in the course of duty.

4714.4 Smoking. Lighting, igniting or otherwise setting fire to or smoking tobacco, cigarettes, pipes or cigars in Wildland-Urban Interface Fire Areas are prohibited.

EXCEPTION: Places of habitation or within the boundaries of established smoking areas or campsites as designated by the Fire Chief.

4714.5 Spark Arresters. Chimneys used in conjunction with fireplaces, barbecues, incinerators or heating appliances in which solid or liquid fuel is used, upon buildings, structures or premises located within Wildland-Urban Interface Fire Areas shall be provided with a spark arrester. See Berkeley Building Code Section 704A1.6 for specifications.

4714.6 Tracer Bullets, Tracer Charges, Rockets and Model Aircraft. Tracer bullets and tracer charges shall not be possessed, fired or caused to be fired into or across Wildland-Urban Interface Fire Areas. Rockets, model planes, gliders and balloons powered with an engine, propellant or other feature liable to start or cause fire shall not be fired or projected into or across Wildland-Urban Interface Fire Areas.

4714.7 Explosives and Blasting. Explosives shall not be possessed, kept, stored, sold, offered for sale, given away, used, discharged, transported or disposed of within Wildland-Urban Interface Fire Areas except by permit from the chief.

4714.8 Fireworks. Fireworks shall not be used or possessed in Wildland-Urban Interface Fire Areas. The Fire Chief is authorized to seize, take, remove or cause to be removed fireworks in violation of this section.

EXCEPTION: Fireworks allowed by the Fire Chief under permit when not prohibited by applicable local or state laws, ordinances and regulations.

4714.9 Apiaries. Lighted and smoldering material shall not be used in connection with smoking bees in or upon Wildland-Urban Interface Fire Areas except by permit from the Fire Chief.

4714.10 Open-Flame Devices. Welding machines, tar pots, decorative torches and other devices, machines or processes liable to start or cause fire shall not be operated or used in or upon Wildland-Urban Interface Fire Areas, except by permit from the Fire Chief.

EXCEPTION: Use within habited premises or designated campsites that are a minimum of 30 feet (9144 mm) from grass-, grain-, brush- or forest-covered areas.

Flame-employing devices, such as lanterns or kerosene road flares, shall not be operated or used as a signal or marker in or upon Wildland-Urban Interface Fire Areas.

EXCEPTION: The proper use of fuses at the scenes of emergencies or as required by standard railroad operating procedures.

4714.11 Outdoor Fires. Outdoor fires shall not be built, ignited or maintained in or upon Wildland-Urban Interface Fire Areas, except by permit from the Fire Chief.

EXCEPTION: Outdoor fires within habited premises or designated campsites, where such fires are built in a permanent barbecue, portable barbecue, outdoor fireplace, incinerator or grill and are minimum of 30 feet (9144 mm) from a grass-, grain-, brush or forest-covered area.

Permits shall incorporate such terms and conditions, which will reasonably safeguard public safety and property. Outdoor fires shall not be built, ignited or maintained in or upon Wildland-Urban Interface Fire Areas under the following conditions:

1. When high winds are blowing,
2. When a person age 17 or over is not present at all times to watch and tend such fire, or
3. When public announcement is made that open burning is prohibited. Permanent barbecues, portable barbecues, outdoor fireplaces or grills shall not be used for the disposal of rubbish, trash or combustible waste material.

4714.12 Incinerators and Fireplaces. Incinerators, outdoor fireplaces, permanent barbecues and grills shall not be built, installed or maintained in Wildland-Urban Interface Fire Areas without prior approval of the chief. Incinerators, outdoor fireplaces, permanent barbecues and grills shall be maintained in good repair and in a safe condition at all times. Openings in such appliances shall be provided with an approved spark arrester, screen or door.

EXCEPTION: When approved, unprotected openings in barbecues and grills necessary for proper functioning.

4714.13 Clearance of Brush and Vegetative growth from Electrical Transmission Lines.

4714.13.1 General. Clearance of brush and vegetative growth from electrical transmission and distribution lines shall be in accordance with Section 4714.13.

EXCEPTION: Section 4714.13 does not authorize persons not having legal right of entry to enter on or damage the property of others without consent of the owner.

4714.13.2 Support Clearance. Persons owning, controlling, operating or maintaining electrical transmission or distribution lines shall have an approved program in place that identifies poles or towers with equipment and hardware types that have a history of becoming an ignition source, and provides a combustible free space consisting of a clearing of not less than 10 feet (3048 mm) in each direction from the outer circumference of such pole or tower during such periods of time as designated by the chief.

EXCEPTION: lines used exclusively as telephone, telegraph, messenger call, alarm transmission or other lines classed as communication circuits by a public utility.

4714.13.3 Electrical Distribution and Transmission Line Clearances.

4714.13.3.1 General. Clearances between vegetation and electrical lines shall be in accordance with Section.

4714.13.3.2 Trimming clearance. At the time of trimming, clearances not less than those established by Table A-1 should be provided. The radial clearances

shown below are minimum clearances that should be established, at time of trimming, between the vegetation and the energized conductors and associated live parts.

EXCEPTION: The Fire Chief is authorized to establish minimum clearances different than those specified in Table A-1 when evidence substantiating such other clearances is submitted to the Fire Chief and approved.

TABLE 4714-A-1 – MINIMUM CLEARANCES BETWEEN VEGETATION AND ELECTRICAL LINES AT TIME OF TRIMMING

Line Voltage	MINIMUM RADIAL CLEARANCE FROM CONDUCTOR (feet) x 304.8 mm
400 – 72,000	4
72,001 – 110,000	6
110,001 – 300,000	10
300,001 or more	15

4714.13.3.3 Minimum clearance to be maintained. Clearances not less than those established by Table A-2 shall be maintained during such periods of time as designated by the Fire Chief. The site specific clearance achieved, at time of pruning, shall vary based on species growth rates, the utility company specific trim cycle, the potential line sway due to wind, line sway due to electrical loading and ambient temperature, and the tree's location in proximity to the high voltage lines.

EXCEPTION: The Fire Chief is authorized to establish minimum clearances different than those specified by Table A-2 when evidence substantiating such other clearances is submitted to the Fire Chief and approved.

TABLE 4714-A-2 – MINIMUM CLEARANCES BETWEEN VEGETATION AND ELECTRICAL LINES TO BE MAINTAINED

Line Voltage	MINIMUM CLEARANCE (inches) x 25.4 mm
750 – 35,000	6
35,001 – 60,000	12
60,001 – 115,000	19
115,001 – 230,000	30-1/2
230,001 – 500,000	115

4714.13.3.4 Electrical power line emergencies. During emergencies, the utility company shall perform the required work to the extent necessary to clear the hazard. An emergency can include situations such as trees falling into power lines, or trees in violation of Table A-2.

4714.13.3.5 Correction of Condition. The Fire Chief is authorized to give notice to the owner of the property on which conditions regulated by Section 4714.14 exist to correct such conditions. If the owner fails to correct such conditions, the legislative body of the jurisdiction is authorized to cause the same to be done and make the expense of such correction a lien on the property where such condition exists.

4714.14 Clearance of Brush or Vegetative Growth from Structures

4714.14.1 General. Persons owning, leasing, controlling, operating or maintaining buildings or structures in, or upon Wildland-Urban Interface Fire Areas, and persons owning, leasing or controlling land adjacent to such buildings or structures, shall at all times:

1. Maintain an effective firebreak by removing and clearing away flammable vegetation and combustible growth from areas within 30 feet (9144 mm) of such buildings or structures.

EXCEPTION: Single specimens of trees, ornamental shrubbery or similar plants used as ground covers, provided that they do not form a means of rapidly transmitting fire from the native growth to any structure.

2. Maintain additional fire protection or firebreak by removing brush, flammable vegetation and combustible growth located from 30 feet (9144 mm) from such buildings or structures to the property line, when required by the Fire Chief because of extra hazardous conditions causing a firebreak of only 30 feet (9144 mm) to be insufficient to provide reasonable fire safety;

EXCEPTION: Grass and other vegetation located more than 30 feet (9144 mm) from buildings or structures and less than 18 inches (457 mm) in height above the ground need not be removed where necessary to stabilize the soil and prevent erosion.

3. Remove portions of trees which extend with 10 feet (3048 mm) of the outlet of chimney.

4. Maintain trees adjacent to or overhanging a building free of deadwood; and

5. Maintain the roof of a structure free of leaves, needles or other dead vegetative growth.

6. Brush and debris does not need to be completely removed, but may be chipped into pieces less than three (3) inches in length, provided that the resulting mulch is less than five (5) deep.

7. The trunks of eucalyptus trees are to be maintained so that they are free of hanging bark and debris to a height of at least eight (8) feet.

4714.14.2 Corrective Actions. The executive body is authorized to instruct the Fire Chief to give notice to the owner of the property upon which conditions regulated by Section 4714.14 exist to correct such conditions. If the owner fails to correct such conditions, the executive body is authorized to cause the same to be done and make the expense of such correction a lien upon the property where such condition exists.

4714.15 Clearance of Brush or Vegetative Growth from Roadways. The Fire Chief is authorized to cause areas within 10 feet (3048 mm) on each side of portions of highways and private streets which are improved, designed or ordinarily used for vehicular traffic to be cleared of flammable vegetation and other combustible growth. The Fire Chief is authorized to enter upon private property to do so.

EXCEPTION: Single specimens of trees, ornamental shrubbery or cultivated ground cover such as green grass, ivy, succulents or similar plants used as ground covers, provided that they do not form a means of readily transmitting fire.

4714.16 Unusual Circumstances. If the Fire Chief determines that difficult terrain, danger of erosion or other unusual circumstances make strict compliance with the clearance of vegetation provisions of Section 4714 undesirable or impractical, enforcement thereof may be suspended and reasonable alternative measures shall be provided.

4714.17 Dumping. Garbage, cans, bottles, papers, ashes, refuse, trash, rubbish or combustible waste material shall not be placed, deposited or dumped in or upon Wildland-Urban Interface Fire Areas or in, upon or along trails, roadways or highways in Wildland-Urban Interface Fire Areas.

EXCEPTION: Approved public and private dumping areas.

4714.18 Disposal of Ashes. Ashes and coals shall not be placed, deposited or dumped in or upon Wildland-Urban Interface Fire Areas.

EXCEPTIONS: 1. In the hearth of an established fire pit, camp stove or fireplace; 2. In a noncombustible container with a tight-fitting lid, which is kept or maintained in a safe location not less than 10 feet (3048mm) from combustible vegetation or structures; 3. Where such ashes or coals are buried and covered with 1 foot (304.8mm) of mineral earth not less than 25 feet (7620 mm) from combustible vegetation or structures.

4714.19 Use of Fire Roads and Firebreaks. Motorcycles, motor scooters and motor vehicles shall not be driven or parked upon, and trespassing is prohibited upon, fire roads or firebreaks beyond the point where travel is restricted by a cable, gate or sign, without the permission of the property owners. Vehicles shall not be parked in a manner, which obstructs the entrance to a fire road or firebreak.

EXCEPTION: Public officers acting within their scope of duty. Radio and television aerials, guy wires thereto, and other obstructions shall not be installed or maintained on fire roads or fire breaks unless located 16 feet (4877 mm) or more above such fire road or firebreak.

4714.20 Use of Motorcycles, Motor Scooters and Motor Vehicles. Motorcycles, motor scooters and motor vehicles shall not be operated within Wildland-Urban Interface Fire Areas, without a permit by the Fire Chief, except upon clearly established public or private roads. Permission from the property owner shall be presented when requesting a permit.

4714.21 Tampering with Fire Department Locks, Barricades and Signs. Locks, barricades, seals, cables, signs and markers installed within Wildland-Urban Interface Fire Areas, by or under the control of the Fire Chief, shall not be tampered with, mutilated, destroyed or removed. Gates, doors, barriers and locks installed by or under the control of the Fire Chief shall not be unlocked.

4714.22 Liability for Damage. The expenses of fighting fires, which result from a violation of 4714, shall be charged against the person whose violation of 4714 caused the fire. Damages caused by such fires shall constitute a debt of such person and are collectable by the Fire Chief in the same manner as in the case of an obligation under a contract, expressed or implied.

Section 4. Copies of this Bill shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within fifteen days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.

At a regular meeting of the Council of the City of Berkeley held on November 18, 2008, this Ordinance was passed to print and ordered published by posting by the following vote:

Ayes: Anderson, Capitelli, Maio, Moore, Olds, Worthington, and Wozniak.

Noes: None.

Absent: Bates.