

California Fire Safety Laws and the FHDS Form

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Fire Hardening and Defensible Space

- ▶ What is Fire Hardening?
- ▶ What is Defensible Space
- ▶ Revised Form FHDS

WILDFIRE IS COMING.
ARE YOU...

READY?



<https://www.readyforwildfire.org/prepare-for-wildfire/get-ready/hardening-your-home/>

HARDENING YOUR HOME

FLYING EMBERS CAN DESTROY HOMES UP TO A MILE AHEAD OF A WILDFIRE. PREPARE (HARDEN) YOUR HOME NOW BEFORE FIRE STARTS.

SOME THINGS YOU CAN DO TO HARDEN YOUR HOME:

Roof: Your roof is the most vulnerable part of your home. Homes with wood or shingle roofs are at high risk of being destroyed during a wildfire.

Build your roof or re-roof with materials such as composition, metal or tile. Block any spaces to prevent embers from entering and starting a fire.

Vents: Vents on homes create openings for flying embers.

- Cover all vent openings with 1/8-inch to 1/4-inch metal mesh. Do not use fiberglass or plastic mesh because they can melt and burn.
- Protect vents in eaves or cornices with baffles to block embers. (Mesh is not enough.)

Eaves and Soffits:

Eaves and soffits should be protected with ignition-resistant or non-combustible materials.

Windows: Heat from a wildfire can cause windows to break even before the home ignites. This allows burning embers to enter and start fires inside. Single-paned and large windows are particularly at risk.

- Install dual-paned windows with one pane of tempered glass.
- Consider limiting the size and number of windows that face large areas of vegetation.

Decks: Surfaces within 10 feet of the building should be built with ignition-resistant, non-combustible, or other approved materials.

- Remove all combustible items from underneath your deck.

Exterior Walls: Wood products such as boards, panels or shingles are common siding materials. However, they are combustible and not good choices for fire-prone areas.

- Build or remodel your walls with ignition-resistant building materials, such as stucco, fiber or cement siding, fire-retardant-treated wood, or other approved materials.
- Be sure to extend materials from the foundation to the roof.

Rain Gutters: Screen or enclose rain gutters to prevent accumulation of plant debris.

Patio Cover: Use the same ignition-resistant materials for patio covers as a roof.

Fences: Consider using ignition-resistant or non-combustible fence materials to protect your home during a wildfire.

DEFENSIBLE SPACE ZONES



<https://www.readyforwildfire.org/prepare-for-wildfire/get-ready/defensible-space/>

DEFENSIBLE SPACE

Creating and maintaining defensible space is essential for increasing your home's chance of surviving a wildfire. It's the buffer that homeowners are required to create on their property between a structure and the plants, brush and trees or other items surrounding the structure that could catch fire. This space is needed to slow the spread of wildfire and improves the safety of firefighters defending your home.

Two zones make up the required 100 feet of defensible space:

ZONE 1—Extends 30 feet out from buildings, decks, and other structures

- 1 Remove all dead plants, grass and weeds.
- 2 Remove dead or dry leaves and pine needles from your yard, roof and rain gutters.
- 3 Trim trees regularly to keep branches a minimum of 10 feet from other trees.
- 4 Remove dead branches that hang over your roof. And keep branches 10 feet away from your chimney.
- 5 Relocate exposed woodpiles outside of Zone 1 unless they are completely covered in a fire resistant material.
- 6 Remove or prune flammable plants and shrubs near windows.
- 7 Remove vegetation and items that could catch fire from around and under decks.
- 8 Create a separation between trees, shrubs and items that could catch fire, such as patio furniture, swing sets, etc.

ZONE 2—Extends 30 to 100 feet from buildings and other structures

- 9 Cut or mow annual grass down to a maximum height of 4 inches.
- 10 Create horizontal spacing between shrubs and trees. (See diagram)
- 11 Create vertical spacing between grass, shrubs and trees. (See diagram)
- 12 Remove fallen leaves, needles, twigs, bark, cones, and small branches. However, they may be permitted to a depth of 4 inches if erosion control is an issue.

BOTH ZONES—0 to 100 feet from buildings and other structures

- 13 Mow before 10 a.m., but never when it's windy or excessively dry.
- 14 Protect water quality. Do not clear vegetation near waterways to bare soil. Vegetation removal can cause soil erosion—especially on steep slopes.



Home Fire Hardening Disclosure Law

- ▶ AB 38/California Civil Code 1102.6f
- ▶ Went into effect January 1st, 2021
- ▶ Applies to:
 - ▶ Residential 1 - 4 unit properties
 - ▶ Within high or very high fire zones
 - ▶ Built before 2010
 - ▶ Same cancellation rights and exemptions as TDS



Home Fire Hardening Disclosure Law

- ▶ Required general notice about home hardening
- ▶ Seller must answer questions specifying which home hardening features the home lacks that make the home vulnerable to wildfire and flying embers
 - ▶ Based on the seller's actual knowledge.

Defensible Space Law

- ▶ AB 38/California Civil Code 1102.19
- ▶ Effective as of July 1st, 2021
- ▶ Applies to sales of Residential 1-4 unit Properties
 - ▶ Located in High or Very High Fire Hazard Severity Zones
 - ▶ *Unless* Seller is exempt from the TDS
- ▶ Unlike Fire Hardening disclosure, year built does not matter

Defensible Space Law

- ▶ Requires documentation of compliance with state or local defensible space laws OR for buyer to agree to obtain the documentation of compliance.
 - ▶ Public Resources Code Section 4291
 - ▶ Local Vegetation Management Ordinances
- ▶ Slightly different requirements depending on whether local jurisdiction has an ordinance requiring owner to obtain proof of compliance
- ▶ Watch out for local ordinances with actual point of sale requirement



FIRE HARDENING AND DEFENSIBLE SPACE DISCLOSURE AND ADDENDUM (C.A.R. Form FHDS, Revised 6/22)

This is a disclosure and addendum to the Purchase Agreement, OR ☐ Other _____ ("Agreement"), dated _____, on property known as _____ ("Property"), in which _____ is referred to as Buyer, and _____ is referred to as Seller.

1. **LAW APPLICABILITY:** If this property does not meet the conditions stated in **paragraph 1A** or **1B**, there is no requirement to complete the subsequent applicable paragraphs.

A. **Home Fire Hardening Disclosure:** The Notice and disclosure of vulnerabilities in **paragraph 2** are only required for sellers of residential properties if: (i) the Property contains one to four units; (ii) the seller is required to complete a Real Estate Transfer Disclosure Statement (C.A.R. Form TDS); (iii) the Property is located in either a **high or very high** fire hazard severity zone; and (iv) the improvement(s) on the Property were constructed before January 1, 2010. IF ANY OF THESE FOUR CONDITIONS IS NOT MET, SELLER DOES NOT HAVE TO ANSWER THE QUESTIONS IN **PARAGRAPH 2B**.

B. **Defensible Space Compliance:** The disclosures and requirements specified in **paragraph 3** are only required for sellers of residential properties if (i) the Property contains one to four units; (ii) the seller is required to complete a Real Estate Transfer Disclosure Statement (C.A.R. Form TDS); and (iii) the Property is located in either a **high or very high** fire hazard severity zone. IF ANY OF THESE THREE CONDITIONS IS NOT MET, **PARAGRAPH 3 DOES NOT HAVE TO BE COMPLETED**.

C. **Fire Hazard Severity Zone Status:** It may be possible to determine if a property is in a **high or very high** fire hazard severity zone by consulting with a natural hazard zone disclosure company or reviewing the company's report. This information may also be available through a local agency where this information should have been filed. Cal Fire has a "Fire Hazard Severity Zone Viewer" where you can input the Property address to determine which fire hazard zone, if any, that the Property is located in. A link to the viewer can be found on CalFire's website at <https://www.fire.ca.gov/dspace/>.

2. **FIRE HARDENING DISCLOSURE** (Paragraph 2B is only required to be completed if all four conditions in paragraph 1A are met):

A. **FIRE HARDENING STATUTORY NOTICE:** "THIS HOME IS LOCATED IN A HIGH OR VERY HIGH FIRE HAZARD SEVERITY ZONE AND THIS HOME WAS BUILT BEFORE THE IMPLEMENTATION OF THE WILDFIRE URBAN INTERFACE BUILDING CODES WHICH HELP TO FIRE HARDEN A HOME. TO BETTER PROTECT YOUR HOME FROM WILDFIRE, YOU MIGHT NEED TO CONSIDER IMPROVEMENTS. INFORMATION ON FIRE HARDENING, INCLUDING CURRENT BUILDING STANDARDS AND INFORMATION ON MINIMUM ANNUAL VEGETATION MANAGEMENT STANDARDS TO PROTECT HOMES FROM WILDFIRES, CAN BE OBTAINED ON THE INTERNET WEBSITE [HTTP://WWW.READYFORWILDFIRE.ORG](http://WWW.READYFORWILDFIRE.ORG)".

B. **FIRE HARDENING VULNERABILITIES:** Are you (Seller) aware of the following features that may make the home vulnerable to wildfire and flying embers...

- | | |
|---|--|
| (1) Eave, soffit, and roof ventilation where the vents have openings in excess of one-eighth of an inch or are not flame and ember resistant..... | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| (2) Roof coverings made of untreated wood shingles or shakes..... | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| (3) Combustible landscaping or other materials within five feet of the home and under the footprint of any attached deck..... | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| (4) Single pane or non-tempered glass windows..... | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| (5) Loose or missing bird stopping or roof flashing..... | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| (6) Rain gutters without metal or noncombustible gutter covers..... | <input type="checkbox"/> Yes <input type="checkbox"/> No |

Revised Forms: Fire Hardening and Defensible Space Disclosure and Addendum

- Removed advisory language to WFDA
- Lists requirements for paragraph 2 and 3
- Fire Hardening questions reformatted to follow SPQ/TDS format



3. DEFENSIBLE SPACE DISCLOSURE AND ADDENDUM:

(Paragraph 3 is only required to be completed if all three conditions in paragraph 1B are met) (The Defensible Space Decision Tree (C.A.R. Form DSDT) may be consulted for additional information on how to complete this paragraph).

A. **LOCAL COMPLIANCE REQUIREMENTS:** The Property (☐ IS, ☐ is NOT) subject to a local vegetation management ordinance requiring defensible space around an improvement on the Property. (Paragraphs 3B and 3C must be completed regardless of the answer to paragraph 3A if the conditions in paragraph 1B are met.)

B. **SELLER REPRESENTATION OF PROPERTY COMPLIANCE** (with the applicable State defensible space requirement or local vegetation management ordinance hereafter, State or local defensible space law) at the time of Seller signature:

(1) Seller is UNWARE of whether the Property is in compliance with the applicable State or local defensible space law. Seller does NOT have a report prepared by an Authorized Defensible Space Inspector.

OR (2) ☐ Property IS in compliance with State or local defensible space law, whichever is applicable. If State law applies, Seller must have obtained compliance within the last 6 months. Seller shall Deliver to Buyer documentation of compliance within 3 (or ____) Days after Seller's execution of this FHDS form or the time specified in paragraph 3N(1) of the Agreement, whichever occurs last. If this paragraph is checked, also check paragraph 3C(5) below.

OR (3) ☐ Property is NOT in compliance with State or local defensible space law, whichever is applicable. If Seller has, or agrees to obtain, a report prepared by an Authorized Defensible Space Inspector, Seller shall Deliver such report to Buyer within 3 (or ____) Days after Seller's execution of this FHDS form or the time specified in paragraph 3N(1) of the Agreement, whichever occurs last.

C. **BUYER AND SELLER AGREEMENT REGARDING WHICH PARTY SHALL OBTAIN COMPLIANCE WITH APPLICABLE STATE OR LOCAL DEFENSIBLE SPACE REQUIREMENTS:**

(1) **BUYER RESPONSIBILITY – NO LOCAL ORDINANCE.** Buyer shall obtain documentation of compliance with the State defensible space law within one year of Close Of Escrow.*

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FIRE HARDENING AND DEFENSIBLE SPACE DISCLOSURE AND ADDENDUM (FHDS PAGE 1 OF 2)



OR (2) ☐ **BUYER RESPONSIBILITY – LOCAL VEGETATION MANAGEMENT ORDINANCE IN EFFECT** which requires compliance as a result of a sale of the Property. The local ordinance allows either Seller or Buyer to obtain documentation of compliance. Buyer shall comply with the requirements of the ordinance after Close Of Escrow.

OR (3) ☐ **BUYER RESPONSIBILITY – LOCAL VEGETATION MANAGEMENT ORDINANCE IN EFFECT** which does NOT require compliance as a result of a sale of the Property. Buyer shall obtain documentation of compliance with the State defensible space law within one year of Close Of Escrow,* or if applicable comply with the local requirement after Close Of Escrow.

OR (4) ☐ **SELLER RESPONSIBILITY – LOCAL VEGETATION MANAGEMENT ORDINANCE IN EFFECT** which requires compliance as a result of a sale of the Property. The local ordinance requires Seller to obtain documentation of compliance prior to Close of Escrow. Seller shall obtain document of compliance prior to the time for Buyer's final verification of condition.

OR (5) ☐ **SELLER RESPONSIBILITY – STATE OR LOCAL COMPLIANCE ALREADY COMPLETE.** If state law applies, Seller has obtained documentation of compliance with State defensible space requirement within the last 6 months;

OR (6) ☐ **SELLER RESPONSIBILITY – AGREEMENT TO OBTAIN STATE COMPLIANCE.** Seller shall obtain documentation of compliance and Deliver to Buyer prior to the time for Buyer's final verification of condition.

D. The local agency from which a copy of the documentation in paragraph 3B(2), 3B(3), 3C(4), 3C(5), or 3C(6), as applicable, may be obtained is _____, which may be contacted at _____.

* The requirement to provide documentation of compliance with State defensible space requirements only applies if there is a state or local agency, or other governmental entity, or qualified non-profit entity in the jurisdiction where the Property is located that is authorized to inspect the Property and provide documentation of compliance ("Authorized Defensible Space Inspector").

Revised Forms: Fire Hardening and Defensible Space Disclosure and Addendum

- 3A. The first question
- 3B. A disclosure of known status
- 3C. Agreement. 3 buyer options and 3 seller options
- Default to buyer to comply after COE
- If local, buyer unless local law requires seller to comply
- Auto-fill from DSDT but only if in zipCommunity
- #4 if inspection report obtained whether or not in seller possession



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New Forms: Defensible Space Decision Tree

DEFENSIBLE SPACE DECISION TREE
COMPLETION INSTRUCTION FOR PARAGRAPH 3 OF C.A.R. FORM FHDS, 6/2022
(C.A.R. Form DSDT, 6/22)

- Bundled with FHDS
- Can auto-fill FHDS, but only if using zipCommunity (Share tool) in zF
- <https://www.car.org/en/riskmanagement/live>



Question	Direction	Additional Information
Step 1 Is property located in an area where a local (city or county) defensible space or vegetation management program applies?	<ul style="list-style-type: none"> • <input type="checkbox"/> If Yes, check the "IS" box in 3A and then go to step 2. • <input type="checkbox"/> If No, check the "is NOT" box in 3A and then go to step 4. • If seller does not know, see the next column and find out. 	How do you find out if your property is in a local zone? <ul style="list-style-type: none"> • https://egis.fire.ca.gov/FHSZ/; • Contact your local fire marshal; • Contact your Natural Hazard Disclosure Company rep; • Contact CalFire @ https://www.fire.ca.gov/dspace/
Step 2 (If Yes to step 1) Does seller have a report prepared by a Authorized Defensible Space Inspector?	<ul style="list-style-type: none"> • <input type="checkbox"/> If Yes, and the report documents the property is in compliance, effective on the date of sale, check paragraphs 3B(2) and 3C(5) and, if applicable, complete 4, THEN SIGN FORM. • <input type="checkbox"/> If Yes, and the report documents the property is NOT in compliance or the compliance status will no longer be effective as of the date of sale, check paragraph 3B(3) and go to step 3. • <input type="checkbox"/> If No, paragraph 3B(1) applies and go to step 3. 	
Step 3 (If Yes to steps 1 or 2 AND seller does not have a defensible space report or seller does have a report but the property is not in compliance or the compliance status will not be in effect on the date sale) Does the local law require compliance with the law as a result of a sale of the property?	<ul style="list-style-type: none"> • <input type="checkbox"/> If No, and seller does not know if the property is in compliance with the local law, and seller will not pay to bring the property into compliance with local law, 3B(1) applies and check 3C(3) and, if applicable, complete 4, THEN SIGN FORM. • <input type="checkbox"/> If No and seller knows the property is not in compliance with the local law and seller will not pay to bring the property into compliance with local law; check 3B(3) and 3C(3) and, if applicable, complete 4, THEN SIGN FORM. • <input type="checkbox"/> If No and seller does not know if the property is in compliance with the local law, and seller agrees to bring the property into compliance with local law, 3B(1) applies and check 3C(6) and, if applicable, complete 4, THEN SIGN FORM. • <input type="checkbox"/> If No and seller knows the property is not in compliance with the local law, and seller agrees to bring the property into compliance with local law, check 3B(3) and 3C(6) and, if applicable, complete 4, THEN SIGN FORM. • If Yes, go to step 3.1. 	<p>If 3C(3) is checked, before buyer agrees and signs the FHDS, buyer is advised to find out how much it will cost to bring the property into compliance with defensible space laws. [See notes below the chart to find out how.]</p> <p>If 3C(6) is checked, seller is advised to find out how much it will cost to bring the property into compliance with defensible space laws. [See notes below the chart to find out how.]</p>

New Forms: Defensible Space Decision Tree

DEFENSIBLE SPACE DECISION TREE COMPLETION INSTRUCTION FOR PARAGRAPH 3 OF C.A.R. FORM FHDS, 6/2022 (C.A.R. Form DSDT, 6/22)

Question	Direction	Additional Information
Step 3.1 (A local law applies and requires compliance as a result of the sale of the property) Does the law require seller to obtain documentation of compliance?	<ul style="list-style-type: none"> <input type="checkbox"/> If Yes, check 3B(3) and 3C(4), and complete 3D and 4, if applicable, THEN SIGN THE FORM. <input type="checkbox"/> If No, and seller will not bring property into compliance before close of escrow, check 3B(3) and 3C(2), and, if applicable, complete 4, THEN SIGN THE FORM. 	<p>If 3C(4) is checked, seller is advised to find out how much it will cost to bring the property into compliance with defensible space laws. [See notes below the chart to find out how.]</p> <p>If 3C(2) is checked, before buyer agrees and signs the FHDS, buyer is advised to find out how much it will cost to bring the property into compliance with defensible space laws. [See notes below the chart to find out how.]</p>
Step 4 (No local law applies) Does seller have a report prepared by an Authorized Defensible Space Inspector within 6 months prior to the contract for sale?	<ul style="list-style-type: none"> <input type="checkbox"/> If No, and seller will not pay to bring the property into compliance with the State law, 3B(1) and 3C(1) apply, and, if applicable, complete 4, and sign form <input type="checkbox"/> If No, and seller will agree to bring the property into compliance with the State law, 3B(1) applies and check 3C(6), and, if applicable, complete 4, THEN SIGN FORM. <input type="checkbox"/> If Yes, and the report documents the property is in compliance with the State law, check paragraphs 3B(2) and 3C(5), complete 3D, and, if applicable, complete 4, THEN SIGN FORM. <input type="checkbox"/> If Yes, and the report documents the property is NOT in compliance with the State law, check paragraph 3B(3) and go to step 4.1. 	<p>If 3C(6) is checked, seller is advised to find out how much it will cost to bring the property into compliance with defensible space laws. [See notes below the chart to find out how.]</p> <p>If 3C(1) applies, before buyer agrees and signs the FHDS, buyer is advised to find out how much it will cost to bring the property into compliance with defensible space laws. [See notes below the chart to find out how.]</p>
Step 4.1 (No local law applies and property not in compliance with State defensible space requirements) Will seller pay to bring the property into compliance?	<ul style="list-style-type: none"> <input type="checkbox"/> If No, 3C(1) applies, and, if applicable, complete 4, THEN SIGN FORM. <input type="checkbox"/> If Yes, check 3C(6), if applicable, complete 4, THEN SIGN FORM. 	<p>If 3C(1) applies, before buyer agrees and signs the FHDS, buyer is advised to find out how much it will cost to bring the property into compliance with defensible space laws. [See notes below the chart to find out how.]</p> <p>If 3C(6) is checked, seller is advised to find out how much it will cost to bring the property into compliance with defensible space laws. [See notes below the chart to find out how.]</p>

How to find out if seller has obtained documentation of compliance?

- Buyer can ask seller for a copy of a report and certificate of compliance from an Authorized Defensible Space Inspector, such as CalFire.
- Seller who obtained a report but did not keep a copy can contact Authorized Inspector who prepared the report and certification of compliance, such as CalFire.

How to find out if property is in compliance with State or local law and how much it will cost to bring a property into compliance?

- Buyer or seller can review the report prepared for the seller;
- Buyer or seller can hire a non-governmental Authorized Defensible Space inspector to prepare a report;
- Buyer can, with seller's consent, hire a government Authorized Defensible Space Inspector (see <https://www.fire.ca.gov/dspace/>);
- Seller can hire a government Authorized Defensible Space Inspector (see <https://www.fire.ca.gov/dspace/>).

How to find out if seller has obtained documentation of compliance?

- Buyer can ask seller for a copy of a report and certificate of compliance from an Authorized Defensible Space Inspector, such as CalFire.
- Seller who obtained a report but did not keep a copy can contact Authorized Inspector who prepared the report and certification of compliance, such as CalFire.

WILDFIRE DISASTER ADVISORY
(For use with properties in or around areas affected by a wildfire)
(C.A.R. Form WFDA, Revised 6/22)

Revised Forms:
Wildfire Disaster
Advisory
(WFDA)

5. **FIRE HARDENING AND DEFENSIBLE SPACE ADVISORY:**

- A. California law requires certain disclosures be made concerning a property's compliance with safeguards that may minimize the risk of a structure on the property catching fire (fire hardening) and that an agreement be reached concerning compliance with requirements that the area surrounding structures be maintained to minimize the risk of the spread of wildfires (defensible space). The fire hardening and defensible space laws only apply if, among other requirements, the property is located in either a **high or very high fire** hazard severity zone. If there exists a final inspection report covering fire hardening or defensible space compliance, such a report may need to be provided to the buyer. C.A.R. Form FHDS may be used to satisfy the legal requirements.
- B. **WHERE TO LOCATE INFORMATION:** Seller has the obligation to determine if compliance with the fire hardening and defensible space requirements are applicable to Seller and the property. It may be possible to determine if a property is in a **high or very high** fire hazard severity zone by consulting with a natural hazard zone disclosure company or reviewing the company's report. This information may also be available through a local agency where this information should have been filed.

- Advisory language added from former FHDS form
- Seller may choose to use FHDS even if not required.

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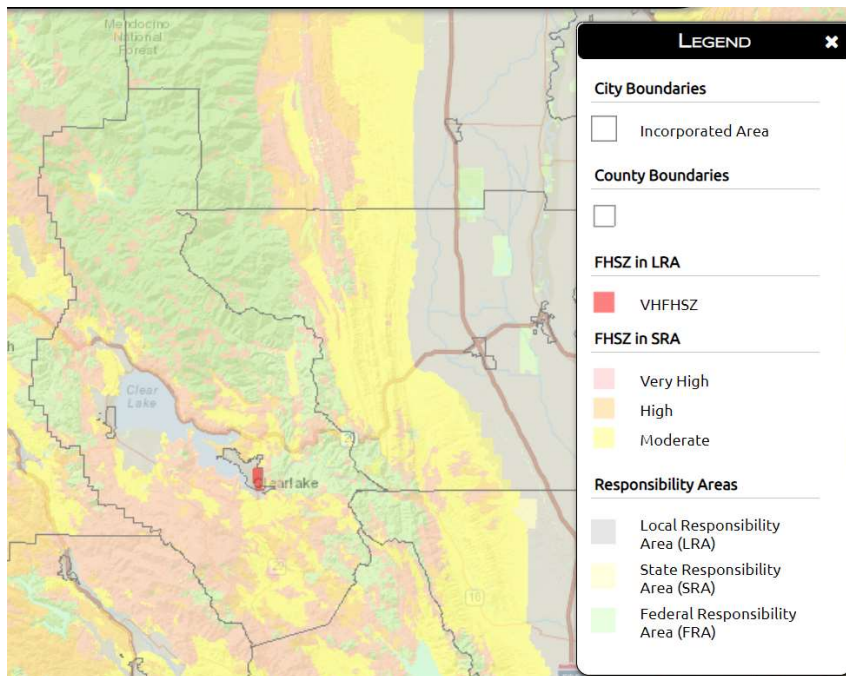
WILDFIRE DISASTER ADVISORY (WFDA PAGE 1 OF 2)



C. Even if the Property is not in either of the zones specified above, or if the Seller is unable to determine whether the Property is in either of those zones, if the Property is in or near a mountainous area, forest-covered lands, brush covered lands, grass-covered lands or land that is covered with flammable material, a Seller may choose to make the disclosures because a Buyer might consider the information material. Reports in the Seller's possession that materially affect the value and desirability of the property shall be Delivered as provided by the contract.



Fire Safety and Defensible Space Resources



- ▶ LCAOR Resources - <https://www.lcaor.com/wildfire-resources/>
- ▶ FHSZ Viewer - <https://egis.fire.ca.gov/FHSZ/>
- ▶ Lake County Fire Safe Council - <https://firesafelake.org/>
- ▶ CalFire Defensible Space Info - <https://www.fire.ca.gov/dspace>



Questions?