



Monterey County Board of Supervisors

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Salinas, CA 93901
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Board Order

Upon motion of Supervisor Potter, seconded by Supervisor Salinas and carried by those members present, the Board of Supervisors hereby:

Adopted Resolution 16-224 to:

- a. Approve Soberanes Fire Recovery Guidelines to support the processing of permits for the rebuilding of structures destroyed or damaged by the 2016 Soberanes/Chimney Fire for a 5-year period; and
- b. Authorize the Director of Resource Management Agency to extend the five-year timeframe for applying these Guidelines, not to exceed August 31, 2026.

PASSED AND ADOPTED on this 23rd day of August 2016, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 79 for the meeting on August 23, 2016.

Dated: September 7, 2016
File ID: RES 16-047

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By *Dennis Hancock*
Deputy

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Resolution No. 16-224

- Resolution of the Board of Supervisors:)
- a. Approving Fire Recovery Guidelines to support the processing of permits for the rebuilding of structures destroyed or damaged by the 2016 Soberanes/Chimney Fire for a 5-year period; and)
 - b. Authorizing the Resource Management Agency Director to extend the timeframe for applying these Guidelines.....)
(REF160050/Soberanes/Chimney Fire))

I. RECITALS

1. July 22, 2016, a fire started near the Soberanes Creek area of Garrapata State Park, damaging or destroying many residences and outbuildings.
2. On July 23, 2016, the County Administrative Officer executed a proclamation declaring a Local Emergency relating to the 2016 Soberanes Wildfire in Monterey County.
3. On July 26, 2016, the Board of Supervisors adopted a resolution confirming and ratifying the declaration of a Local Emergency relating to the 2016 Soberanes Wildfire in Monterey County.
4. On July 26, 2016, the Acting Governor issued a Proclamation of a State of Emergency for Monterey County, specifically identifying the 2016 Soberanes/Chimney Fire, which burned tens of thousands of acres of land, threatened thousands of homes and other structures and caused the evacuation of residents.
5. This fire and the related evacuations have caused a substantial financial hardship to those whose property were damaged from the fire and may contribute to a substantial loss of revenue to businesses in these areas.
6. The County anticipates that structures will be damaged or destroyed by natural disasters and includes regulations in the Coastal and Inland Zoning Ordinances to ensure that the process of rebuilding what was lost is not an onerous process.
7. The Coastal Zoning Regulations, in Section 20.70.120.H of Title 20 of the Monterey County Code, include the following exemption from the requirement to obtain a Coastal Development Permit for conforming structures:

“The replacement of any structure, other than a public works facility, destroyed by natural disaster. Such replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10%, and shall be sited in the same location on the affected property as the destroyed structure. Structures which are destroyed by natural disaster in the Carmel Meadows and Carmel Point areas may be rebuilt to their original height and

bulk of that existing prior to the disaster. Applicant shall provide proof of previous dimensions.

As used in this subdivision, "natural disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.

As used in this subdivision, "bulk" means total interior cubic volume as measured from the exterior surface of the structure."

8. The Coastal Zoning Regulations, in Section 20.68.050 of Title 20, include the following language to address non-conforming uses and structures destroyed by natural disaster:

"20.68.050 DAMAGED OR DESTROYED LEGAL NONCONFORMING STRUCTURES.

If at any time any structure in existence at the time any provision of this Title becomes applicable to it, which does not conform to this Title, be damaged or destroyed by fire, explosion, act of God, or act of public enemy, the land and structure shall be subject to all the regulations specified by this Title for the district in which said land and structure are located, except that such structure may be rebuilt to a total floor area and volume not exceeding that of the structure destroyed and the use may continue as herein provided for nonconforming uses, if a Coastal Development Permit is first secured.

Replacement structures meeting the following criteria shall not require a Coastal Development Permit:

- 1. they conform to all of the applicable zoning requirements; and*
- 2. they are proposed for the same use as the destroyed structure; and*
- 3. they do not exceed the floor area, height, or bulk of the destroyed structure by more than 10%; and*
- 4. they are sited in substantially the same location on the affected property as the destroyed structure."*

9. The Inland Zoning Regulations, in Section 21.68.050 of Title 21 of the Monterey County Code, include the following language to address non-conforming uses and structures destroyed by natural disaster:

"21.68.050 - Damaged or destroyed legal nonconforming structures.

If at any time any structure in existence at the time any provision of this Title becomes applicable to it, which does not conform to this Title, be damaged or destroyed by fire, explosion, act of God, or act of public enemy, the land and structure shall be subject to all the regulations specified by this Title for the district in which said land and structure are located; except that such structure may be rebuilt to a total floor area and volume not exceeding that of the structure destroyed and the use may continue as herein provided for

nonconforming uses, if a Use Permit is first secured.”

10. The Board of Supervisors adopted a Fee Waiver Resolution in August, 2000 (Revised Complete Board Order Resolution July 10, 2013), which waives fees in the following circumstance:

“Permit fees for the repair or reconstruction of property and structures damaged or destroyed by an act or event that has been declared a disaster by the Board of Supervisors where insurance is inadequate to pay the applicable fees.”
11. The rebuilding of the structures damaged or destroyed by the fire, without adequate review of the site and construction plans, could be detrimental to the health, safety, and general welfare of persons residing or working in the neighborhood of such proposed use; or be detrimental or injurious to property and improvement in the neighborhood; or to the general welfare of the County.
12. To preserve the health, safety, and general welfare of the public and those that would reoccupy structures in the fire area, it is necessary for proposals to rebuild in these areas be reviewed by county staff for consistency with current regulations and safety standards.
13. These procedures are intended to establish minimum requirements to safeguard the public health, safety, and general welfare through structural strength, stability, and safety to life and property from fire and other hazards attributed to the built environment.
14. Constructing buildings to code will ensure the rebuilding of damaged structures will meet the minimum Building Code standards to protect the health, safety and general welfare of the occupants and the public.
15. The County has analyzed the financial implications of waiving fees for the reconstruction of these structures and identified that, should fees be waived to allow reconstruction, the source of funding for staff time to review, issue and inspect permits associated with the reconstruction would be the General Fund.
16. The adoption of these guidelines is statutorily exempt from the California Environmental Quality Act (CEQA). Section 15269 of the CEQA Guidelines establishes a Statutory Exemption for Emergency Projects including, but not limited to, projects to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed by the Governor.

II. DECISION

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors hereby adopts the following Soberanes/Chimney Fire Recovery Guidelines to support the processing of permits for the rebuilding of structures destroyed or damaged by the Fire Incident, including providing for fee waivers as described herein.

Soberanes/Chimney Fire Recovery Guidelines

General Guidance

1. All proposals to reconstruct or repair structures damaged or destroyed by the Soberanes/Chimney Fire of 2016 (“the Soberanes/Chimney Fire” or “the Fire”) shall be processed ahead of all projects outside the fire areas currently under review.

Staff Assistance

1. The County designates the Resource Management Agency (RMA) Permit Coordinator as the point of contact to ensure consistent and expeditious processing of all applications for reconstruction of destroyed or damaged structures resulting from the Soberanes/Chimney Fire. Each land use department, RMA-Planning, RMA- Building Services, RMA-Public Works, Environmental Health Bureau, and Water Resources Agency, shall assign a staff member, creating a Recovery Team, to assist the property owners whose properties contained structures that were damaged or destroyed.
2. The Recovery Team shall conduct an in-office meeting with a property owner and their representatives as the top priority ahead of all other requests to the maximum extent feasible upon receiving a phone call for such a meeting.
3. RMA-Building Services and RMA-Planning, along with the Environmental Health Bureau, shall conduct a coordinated site visit for all proposed reconstruction of destroyed structures or for those damaged such that the foundation, water system, or septic systems have been damaged to the point of requiring replacement or substantial repair.
4. The Recovery Team shall coordinate reviews, site visits, and inspections with the appropriate local fire agency to ensure that the site is safe for entry, temporary residences, debris removal, construction, and habitation.

Reentry

1. Prior to County employees traveling to sites damaged by the fires, safety clearance shall be provided by the appropriate agency, including the fire department, incident command, Environmental Health Bureau, or law enforcement agencies.
2. County teams sent out to allow entry to a site shall assess the safety of access to the site, the integrity of the building site, and the stability of soils and vegetation.
3. County teams sent out to analyze site reconstruction or repair shall assess the soil and slope stability characteristics, water system integrity, feasibility of reusing the septic system, identify potential inconsistencies with County policies relating to health and safety, and determine whether the reconstruction or repair proposed can be carried out in a manner meeting the requirements of the applicable Zoning Ordinance, building and fire codes, and all applicable health regulations.
4. The County may request expert assistance to assess the safety of entry, damage assessment, demolition, construction, temporary habitation, or permanent habitation of these sites at the property owner’s expense.
5. Subsequent to Reentry steps numbers 1 through 4, or in conjunction with those site assessments, the County Recovery Team shall visit each site to assess potential issues related to rebuilding structures or allowing temporary residences. Any Land Use Advisory Committee activities that include a site visit shall occur only after the County has determined

that the site appears safe pursuant to Reentry steps numbers 1 through 4.

6. Temporary residences will be allowed subject to the following:
 - a. The Building Official must determine that the structure has been destroyed or is otherwise uninhabitable.
 - b. The residence that was damaged or destroyed was a legal residence.
 - c. The temporary residence will be located at or near the destroyed residence and will not involve major earthmoving, disturbance to archaeological or other sensitive resources, or be in an area deemed to be unsafe by the Building Official.
 - d. The property owner enters into an agreement with the County guaranteeing that the temporary residence will be removed from the property, or have the utilities disconnected in the case of a Recreational Vehicle or Trailer, following completion of a permanent residence or within three (3) years, whichever is sooner.
 - e. The temporary residence must be connected to septic and water systems acceptable to the Environmental Health Bureau prior to occupancy.
 - f. The property must be properly addressed and signed at the site pursuant to the requirements of the Fire Department and the County.
 - g. For mobile homes, California Department of Housing and Community Development approved foundation systems or other engineered foundation systems approved by RMA-Building Services is required.
 - h. All required building inspections must be obtained, and a final occupancy inspection be conducted prior to occupancy.

Recovery

1. DAMAGED OR DESTROYED STRUCTURES – PERMIT FEES

Applications to repair, demolish, reconstruct or rebuild any permitted or legal non-conforming structure damaged or destroyed by the Fire, as listed in Section 1(a) Fire Recovery Categories, shall not pay fees at the time of submittal. Additionally, all appurtenant permits, such as tree removal for hazardous trees, grading, well permits, septic permits, onsite waste water system permits, permits for storage and/or disposal of hazardous materials and hazardous waste, encroachment permits, address numbering applications, slope exceptions, temporary power, temporary occupancy, and any other permits that might be needed to bring any structure or parcel back to its original condition shall not be subject to up-front fees.

Fees covered under this section include all County land use fees including RMA-Planning, RMA-Building Services, RMA-Environmental Services, RMA-Revenue Services, Environmental Health Bureau, County Counsel, and Water Resources Agency.

1(a) FIRE RECOVERY CATEGORIES

- Rebuilding of a non-conforming use pursuant to Section 20.68.050 or 21.68.050; or
- Meets the requirements for an exemption found in Section 20.70.120.H; or
- A relocated building site would better meet policies (General Plan, Local Coastal Program Land Use Plan) and would meet all Zoning (Coastal Implementation Plan) requirements.

2. PERMITTED OR LEGAL NON-CONFORMING STRUCTURES - INSURED

Permit fees related to repair, demolition, or reconstruction of an insured, permitted structure damaged or destroyed by the Fire, as listed in Section 1(a). Fire Recovery Categories, are eligible for waiver, as described below. Additionally, all appurtenant permits, such as tree removal for hazardous trees, grading, well permits, septic permits, encroachment permits, address numbering applications, slope exceptions, temporary power, temporary occupancy, and any other permits that might be needed to bring an insured structure or parcel back to its original permitted condition are eligible for waiver, as described below.

The County, through its RMA-Permit Center, will waive permit fees related to repair, demolition, or reconstruction of an insured, permitted structure damaged or destroyed by the Fire or appurtenant permits needed to bring an insured, permitted structure or parcel back to its original condition according to the following steps:

- 1) Applicant does not pay fees upfront at permit initialization or issuance. Applicant is issued a fee invoice to submit to insurance carrier. A hold is placed on the permit record preventing final inspection until settlement of fees.
- 2) Applicant submits fees as a claim to insurance carrier.
- 3) Insurance carrier processes claim.
- 4) Applicant remits any fees covered by insurance carrier to RMA-Permit Center prior to final inspection.
- 5) Applicant submits fee waiver request form for any fees not covered by insurance carrier prior to final inspection. Applicant must submit insurance carrier claim rejection letter at time of fee waiver request.
- 6) Once fees are remitted and/or fee waiver is approved, the hold on final inspection is removed, allowing final inspection to proceed.

3. PERMITTED OR LEGAL NON-CONFORMING STRUCTURES - UNINSURED

Permit fees related to repair, demolition, or reconstruction of an uninsured, permitted structure damaged or destroyed by the Fire, as listed in Section 1(a). Fire Recovery Categories, are eligible for waiver, as described below. Additionally, all appurtenant permits, such as tree removal for hazardous trees, grading, well permits, septic permits, encroachment permits, address numbering applications, slope exceptions, temporary power, temporary occupancy, and any other permits that might be needed to bring an uninsured, permitted structure or parcel back to its original condition are eligible for waiver, as described below.

The County, through its RMA-Permit Center, will waive permit fees related to repair, demolition, or reconstruction of an uninsured, permitted structure damaged or destroyed by the Fire or appurtenant permits needed to bring an uninsured, permitted structure or parcel back to its original condition according to the following steps:

- 1) Applicant does not pay fees upfront at permit initialization or issuance.
- 2) Applicant is issued a fee invoice. A hold is placed on the permit record preventing final inspection until settlement of fees.
- 3) Applicant submits fee waiver request form along with a letter to RMA-Permit Center detailing the uninsured status of the structure.
- 4) Once fee waiver is approved, the hold on final inspection is removed, allowing final inspection to proceed.

4. UNPERMITTED STRUCTURES

Permit fees related to repair, demolition, or reconstruction of an unpermitted structure damaged or destroyed by the Fire, as listed in Section 1(a) Fire Recovery Categories, are not eligible for

waiver. Additionally, all appurtenant permits, such as tree removal for hazardous trees, grading, well permits, septic permits, encroachment permits, address numbering applications, slope exceptions, temporary power, temporary occupancy, and any other permits that might be needed to bring an unpermitted structure or parcel back to its original condition are not eligible for waiver.

The County, through its RMA-Permit Center, will process fee payment related to repair, demolition, or reconstruction of unpermitted structures damaged or destroyed by the Fire or appurtenant permits needed to bring unpermitted structures or parcel back to its original condition according to the following steps:

- 1) Applicant does not pay fees upfront at permit initialization (submittal).
- 2) Applicant is issued a fee invoice to submit to insurance carrier (if insured). A hold is placed on the permit record preventing final inspection until settlement of fees.
- 3) Applicant remits any fees due to RMA-Permit Center prior to final inspection.
- 4) Once fees are remitted, the hold on final inspection is removed, allowing final inspection to proceed.

All permits to repair, demolish, reconstruct or rebuild unpermitted structures damaged or destroyed by the Fire, as listed in Section 1(a) Fire Recovery Categories, shall not be subject to fee surcharges applied to work done without a permit.

5. Fees waivers do not include a waiver of any environmental documents needed to rebuild or repair structure(s) for a property owner who has chosen to 1) relocate their building site, 2) increase the structure size, beyond that allowed by Monterey County Code Sections 20.68.050, or 20.70.120.H, or 3) permit structures that had not received permits.
6. In the event of a conflict between, on the one hand, the fees and fee waiver policies previously adopted by the Board of Supervisors and, on the other hand, the fee and fee waiver provisions of these Soberanes/Chimney Fire Recovery Guidelines, these Guidelines prevail.
7. Any proposal to modify, alter, replace, or add onto a structure damaged or destroyed by the Fire shall undergo a regular permit process as outlined in the Monterey County Code, unless it meets the exemptions found in Monterey County Code Sections 21.68.050, 20.68.050 or 20.70.120.H. All permits for reconstruction or repair shall be expedited by the Recovery Team. Any proposed structure not meeting these exemptions will be subject to meeting all requirements of the Monterey County Code.
8. The property owner shall provide sufficient information to determine the property location, access route, size and location of structures, and details regarding the water system, septic system, and utilities.
9. The information required to be included in the submittal package shall be as determined by the Recovery Team for any particular property. A typical submittal list shall be prepared for all properties and shall disclose which reports are at the discretion of the Recovery Team. Any proposal to build outside the pre-existing footprint, or on sites where unique circumstances could cause adverse impacts to health, safety, or resources, may be subject to additional studies.
10. Tree removal shall be subject to a determination that the proposal is consistent with applicable

policies and all findings required by the applicable ordinance can be made.

11. All structures proposed to be reconstructed, repaired in a manner altering its appearance, or where the repaired structure includes a proposed addition, or contains a non-conforming use meeting the requirements of Sections 21.68.050, 20.68.050 or 20.70.120.H, shall be processed as a Design Approval. Design review shall be limited to compliance with these guidelines.
12. The Building Code establishes requirements for foundation and soils investigation reports for all new building and structures. Upon written request from the designer of record, the Building Official may consider requests for modification of requirements when special individual reasons exist that make these requirements not necessary to obtain compliance with California Building Standards Code.
13. Pursuant to state law, all new buildings and structures and alteration or repairs to existing building and structures shall comply with the current California Code of Regulations, including the California Building Standards Code with such modifications as County has adopted, and all governing local rules and policies in place at the time plans are submitted.
14. Applications to reconstruct or repair structures must be submitted by September 1, 2021 to qualify under these guidelines.

BE IT FURTHER RESOLVED that these guidelines and the provisions contained herein shall expire on August 31, 2021, unless otherwise extended by the Resource Management Agency Director, not to exceed August 31, 2026.

PASSED AND ADOPTED upon motion of Supervisor Potter, seconded by Supervisor Salinas carried this 23rd day of August 2016, by the following vote, to wit:

AYES: Supervisors Armenta, Phillips, Salinas, Parker and Potter

NOES: None

ABSENT: None

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 79 for the meeting on August 23, 2016.

Dated: August 30, 2016
File Number: RES 16-047

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By Denise Hancock
Deputy