



Legislation Details (With Board Report)

File #: ORD 20-026 **Name:** Urgency Ordinance Debris Removal
Type: Ordinance **Status:** Health Department - Consent
File created: 10/22/2020 **In control:** Board of Supervisors
On agenda: 10/27/2020 **Final action:** 10/27/2020

Title: Consider adoption of an urgency ordinance establishing regulations for the conduct of wildfire debris removal resulting from the 2020 Monterey County Fires in the unincorporated area. (ADDED VIA ADDENDA)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Exhibit 1 Draft Urgency Ordinance, 3. Item No. 31.1 Completed Board Order and Ordinance No. 5346

Date	Ver.	Action By	Action	Result
10/27/2020	1	Board of Supervisors		

Consider adoption of an urgency ordinance establishing regulations for the conduct of wildfire debris removal resulting from the 2020 Monterey County Fires in the unincorporated area. (ADDED VIA ADDENDA)

RECOMMENDATION:

It is recommended that the Board of Supervisors:

Consider adoption of an urgency ordinance establishing regulations for the conduct of wildfire debris removal resulting from the 2020 Monterey County Fires in the unincorporated area.

SUMMARY/DISCUSSION:

The wildfire events known as the River Fire which began on August 16, 2020, the Carmel Fire which began on August 18, 2020 and the Dolan Fire, which began on August 19, 2020, destroyed structures and threatened numerous residences and hundreds of acres of valuable wildland and watershed resulting in evacuation and displacement of residents, road closures, areas of isolation, damage to property and utility systems, damage to critical infrastructure and endangerment of species. On August 17, 2020, the Monterey County Administrative Officer (CAO) proclaimed the existence of a local emergency because of the River Fire, updating it on August 18, 2020 to include the Carmel Fire and subsequently updating and ratified it again on August 25, 2020 to include the Dolan Fire.

As of October 12, 2020, the River Fire burned over 48,000 acres, destroyed and damaged 43 homes, and is 100% contained, the Carmel Fire burned almost 6,700 acres, destroyed and damaged 80 homes, and is 100% contained, and the Dolan Fire burned over 124,924 acres, and is 98% contained. Due to the destruction of private buildings, the River, Carmel and Dolan Fires (collectively, the “Monterey County Fires”) have created an accumulation of ash debris, much of which has been determined to be contaminated with heavy metals and asbestos. The potential for widespread toxic exposures and threats to public health and the environment exists in the aftermath of a major wildfire disaster. Debris and ash from residential structure fires can contain hazardous substances and the health effects of hazardous substances releases after a wildfire are well documented. This includes combustible materials and household hazardous waste and chemicals that potentially can produce hazardous materials, all which pose immediate and long-term health threats.

The circumstances of the accumulation of contaminated debris as a result of the Monterey County Fires, by reason of the magnitude, are or are likely to be beyond the control of the services, personnel, equipment and facilities of any single local government, requiring the combined forces of a mutual aid region or regions to abate.

On September 3, 2020, the Monterey County Health Officer proclaimed a local health emergency finding that conditions that increase risk of exposure to hazardous waste and threaten the health and safety of the public exist in the areas burned by the Monterey County Fires. Pursuant to the provisions of section 101085 of the California Health and Safety Code, Monterey County is in need of other political subdivisions and State agencies to provide mutual aid, including personnel, equipment and other available resources. A second proclamation was ratified by the Board of Supervisors on September 10, 2020. This proclamation directs that all assisting state agencies, in particular the State Department of Toxic Substances Control, Office of Emergency Services, the California Department of Resources Recycling and Recovery, and all appropriate County agencies, in particular the Environmental Health Bureau of the Monterey County Health Department, utilize and employ personnel, equipment, and facilities for the performance of any and all activities consistent with the direction of the Incident Commanders for the Monterey County Fire incidents. It further directs that all persons are to heed the directions of emergency officials with regard to this emergency in order to protect their health and safety, including temporary or extended evacuations of identified dwelling units during hazardous waste demolition and removal efforts, further and/or expanded access restrictions on property owners and the public into areas identified to be contaminated, and the removal of contaminants and debris of those parcels of which an agreement as to the remediation efforts has not been determined or identified by the respective property owners.

Due to these declarations, a two-phase Government Sponsored Debris Removal Program developed by the State of California, in cooperation with the Federal Emergency Management Agency and the federal Environmental Protection Agency, has been prepared to assist with debris removal. Phase 1 involves the mandatory removal and disposal of household and other hazardous waste at no cost to property owners. Phase 2 involves removal of other debris also at no cost to property owners, however, property owners may opt out of Phase 2 and cause the debris removal to be performed by private contractors. As such, to ensure that debris disposal is safely removed and disposed of, Monterey County seeks to adopt urgency regulations governing debris removal and disposal that would otherwise be included in the Phase 2 Government Program but will be performed by property owner's Private Program.

Owners are urged to participate in the Phase 2 Government Program as it results in the removal of wildfire debris at no out-of-pocket cost to them however, owners choosing to opt-out of Phase 2 assume the responsibility of removal of debris at their own expense and consequence. The removal process is outlined in sections 3, items A through H of the draft urgency ordinance identified as Exhibit 1 and attached to this staff report.

CEQA:

The adoption of the urgency ordinance is statutorily exempt from the California Environmental Quality Act pursuant to CEQA Guidelines pursuant to Public Resources Code Sections 21080(b)(3) and (b)(4) regarding projects to maintain, repair, restore, or replace property or facilities damaged or destroyed as a result of a declared disaster, or actions to mitigate or prevent an emergency, and CEQA Guidelines Section 15269(a) regarding maintaining, repairing, restoring, demolishing, or replacing property or facilities damaged or destroyed as a result of a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Section 8550 of the Government Code.

While this work is not directly in support of a Health Department Strategic Initiative, it is in support of one of the ten essential public health services, specifically, (6), enforce laws and regulations that protect health and ensure safety.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel has approved the draft ordinance as to form.

FINANCING:

There is no direct financial impact to the County from this ordinance. Staff time associated with the implementation of this ordinance will be absorbed by County departments. No augmentation is requested.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Robin Kimball, Management Analyst II, 755-1297

Approved by:

Date: _____

Elsa Jimenez, Director of Health, 755-4526

Attachments:

Exhibit 1 Draft Urgency Ordinance