



A Tradition of Stewardship  
A Commitment to Service

Agenda Date: 11/10/2020

Agenda Placement: 10B

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors

**FROM:** David Morrison - Director  
Planning, Building and Environmental Services

**REPORT BY:** Thomas Zeleny, Chief Deputy County Counsel - 707-253-4234

**SUBJECT:** Urgency Ordinance for Removal of Fire Debris from Private Property

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### **RECOMMENDATION**

Director of Planning Building and Environmental Services requests approval of an urgency ordinance establishing requirements for the removal of fire debris from private property damaged by the LNU Lightning Complex Fire and the Glass Fire. (4/5 Vote Required)

### **EXECUTIVE SUMMARY**

The California Office of Emergency Services (CalOES) requires local government to have a private property debris removal program as a condition of providing debris management assistance. This urgency ordinance is a component of the private property debris removal program. The urgency ordinance authorizes the Director of PBES to establish deadlines for debris removal, utilize public and private alternatives for debris removal, and prohibit debris removal without a prior hazardous waste inspection. Fire debris that is not removed by deadlines established by the Director is considered a public nuisance due to the health hazard it presents, and may be abated pursuant to existing provisions in the Napa County Code.

### **PROCEDURAL REQUIREMENTS**

1. Open Public Hearing.
2. Staff reports.
3. Public comments.
4. Close Public Hearing.
5. Clerk reads the Ordinance Title.
6. Motion, second, discussion and vote to waive the balance of the reading of the ordinance.
7. Motion, second, discussion and vote to adopt the ordinance.

**FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact? No

County Strategic Plan pillar addressed:

**ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is statutorily exempt from CEQA as authorizing maintenance, repair, restoration, demolition or replacement of property or facilities damaged or destroyed by a disaster during a state of emergency declared by the Governor, and as authorizing actions to mitigate or prevent an emergency, both pursuant to Public Resources Code section 21080 and CEQA Guidelines section 15269.

**BACKGROUND AND DISCUSSION**

The California Office of Emergency Services (CalOES) requires local government to have a private property debris removal program as a condition of providing debris management assistance. For residential properties damaged by the LNU Lightning Complex (Hennessey) Fire, the California Department of Toxic Substances Control (DTSC) has completed Phase 1 for the inspection and removal of household hazardous waste. The California Department of Resources Recycling and Recovery (CalRecycle) will begin Phase 2 within the Hennessey Fire area to remove fire debris from damaged residential properties who agree to sign a Right of Entry (ROE) agreement. Non-residential property owners will need to hire their own contractors and obtain approval of a Debris and Ash Removal (DAR) Plan from PBES, as commercial property is generally ineligible for assistance under FEMA guidelines, unless an exception is granted.

Phase 1 waste removal by DTSC has started on properties damaged by the Glass Fire. The County has applied for State assistance for Phase 2 debris removal for properties damaged by the Glass Fire, but a response is still pending. If Phase 2 is approved for the Glass Fire, non-residential properties and residential owners who do not wish to participate in the CalRecycle program will require approval of a DAR Plan by the County.

This draft urgency ordinance is a component of a private property debris removal program required by CalOES. It is based on similar ordinances used by other California counties in response to wildfire disasters. The urgency ordinance includes the following provisions:

- | Expires when all debris removal is completed for both the Hennessey and Glass Fires;
- | Prohibits removal of any fire debris from a property until the DTSC has completed Phase 1;
- | Allows owners to participate in the Phase 2 program administered by CalRecycle upon submittal of an ROE form;
- | Establishes an Alternative Program where the County can approve DAR Plans based on the same standards required by CalOES;
- | Requires owners who do not participate in the CalRecycle Phase 2 program to obtain approval of a DAR Plan from the County;
- | Prohibits fire debris removal without approval of either an ROE form or a DAR Plan;
- | Requires the County to certify when implementation of a DAR Plan has been completed;
- | Allows cities and towns to administer fire debris removal within their own jurisdictions;
- | Places a hold on any building permit for a structure damaged in the Glass or Hennessey Fire until fire

debris removal is complete;

- | Authorizes the PBES Director to set a deadline for owners to submit either a ROE form or a DAR Plan, and to declare properties that have not submitted either document to be declared a nuisance and a health hazard;
- | Authorizes the PBES Director to set a deadline for owners to complete work under a DAR Plan, and to declare properties that have not complete fire debris removal by the deadline to be declared a nuisance and a health hazard;
- | Ensures that urgent clean-up may still be required by the County Health Officer, regardless of the deadline established by the PBES Director;
- | Establishes that any intentional violation of this Ordinance would be treated as an infraction or misdemeanor, subject to the imposition of costs and penalties, while unintentional violations would be treated as infractions;
- | Authorizes the PBES Director to determine that if a violation is an immediate threat to public health and safety, the County may summarily abate the violation and charge the cost of abatement to the property owner; and
- | Authorizes County Counsel to take legal action to abate nuisances without further approval from the Board of Supervisors.

Staff recommends that the Board of Supervisors adopt the draft urgency ordinance, as may be modified or amended.

#### **SUPPORTING DOCUMENTS**

A . Urgency Ordinance for removal of fire debris

CEO Recommendation: Approve

Reviewed By: Helene Franchi