



## **County of Santa Cruz Board of Supervisors**

### **Agenda Item Submittal**

**From:** Health Services Agency: Environmental Health Division

(831) 454-4000

**Subject:** Urgency Ordinance To Establish Debris Removal Program

**Meeting Date:** October 20, 2020

### **Recommended Actions:**

Adopt an urgency ordinance adding Chapter 7.140 to the Santa Cruz County Code to establish a program for debris removal related to the CZU August Lightning Complex Fires.

### **Executive Summary**

The CZU August Lightning Complex Fires ("Fires") have caused unprecedented damage and destruction in the San Lorenzo Valley and the North Coast of the County, resulting in the loss or severe damage of over 900 homes and hundreds of other structures, as well as displacement of their owners and occupants. The removal of debris from the Fires creates unique concerns due to the potential presence of hazardous materials and the large scale of the incident. The volume of fire debris that must be removed poses extensive public health and environmental risks, and cleanup must begin immediately to prevent hazardous waste from being spread once the winter rains arrive. This Ordinance ensures that properties affected by the Fires are made safe and ready for reconstruction or repair, and provides for the orderly removal of debris through either: (1) a Government Program operated through the State Office of Emergency Services (CalOES); or (2) a Private Contractor Program for property owners that do not participate in the Government Program.

### **Background**

The Fires began on Saturday, August 15, 2020. The Emergency Operations Center (EOC) was activated on August 18, 2020, to assist with managing the impacts. The County's Director of Emergency Services proclaimed a local emergency related to the Fires on August 19, 2020. Later that day, the Director supplemented that proclamation and requested state and federal assistance. The Board of Supervisors ratified the emergency proclamation on August 25, 2020.

The scope of the disaster caused by the Fires, including the destruction of more than 900 homes, and the evacuation of thousands of people, caused the Governor to proclaim a State of Emergency and declare the County eligible for a Fire Management Assistance Grant and other relief programs. Further, the President of the United States declared the existence of a major disaster in the State of California and ordered Federal aid to supplement State and local recovery efforts in the areas affected by wildfires, including those in Santa Cruz County.

Based on the risk to public health posed by the fire debris, on August 26, 2020, the

County Health Officer declared the existence of a local health emergency under Health & Safety Code section 101080. The Board of Supervisors ratified the declaration on September 1, 2020. The local emergency and local health emergency are both still in effect at this point in time.

### **Analysis**

As expressed more fully in the findings contained in the attached draft Ordinance, there is an urgent need to address the potential for widespread toxic exposures and threats to the environment as a result of the Fires, specifically around hazardous waste from building materials, paint, gasoline, and other chemicals that were released when homes burned. It is essential to begin orderly removal of these substances, which are mixed generally in the debris created by the Fires, before the winter rains begin to spread the material and exacerbate the health risks. The proposed Ordinance would ensure that properties affected by the Fires are made safe and ready for reconstruction or repair, and it provides for the orderly and timely administration of debris removal. Staff has been working around the clock with local, state, and federal partners on both the Government Program and the Private Contractor Program.

Property owners participating in the Government Program need only execute a Right of Entry agreement allowing CalOES and their designated contractors to begin work. All cleanup services will be provided free of cost to the property owner as quickly as possible and in a way that is protective of public health. If property owners have homeowner's insurance that specifically calls out a line item for debris removal, this amount will be collected to offset costs and to comply with federal law prohibiting the duplication of benefits. If property owners have no such line item but may have other insurance coverage, the County would only seek to recover any remaining coverage after the property owner rebuilds. Property owners participating in the Government Program would not be required to obtain permits or provide approvals for debris cleanup other than the Right of Entry agreement.

The proposed Ordinance also creates a Private Contractor Program for those that do not participate in the Government Program. Those participating in the Private Contractor Program are subject to meeting the same standards used in the Government Program, as set forth in the guidance found here: <http://www.co.santa-cruz.ca.us/FireRecovery/EHResources.aspx>. The Private Contractor Program will require an application with a work plan that identifies the appropriate contractors. After the plan is approved and the work is completed, the property owner will submit a certification to the County for approval. Upon approval, the property will be safe and ready for rebuilding.

Given the urgency with which debris removal must begin, the Ordinance authorizes the setting of deadlines for participating in the above-described programs.

One common question is whether property owners will be able to re-build on existing fire-damaged foundations. Consistent with CalOES and CalRecycle guidance and Santa Cruz County Planning Department requirements, under the proposed approach contractors must either completely remove and dispose of the foundation or acknowledge that they understand that they will be responsible to remove it later if the Building Official cannot approve it for re-use.

Staff's goal is to protect public health, to make the requirements clear and consistent in Santa Cruz County, and to facilitate rebuilding as quickly as possible. If property owners have unique circumstances, they may submit a work plan that addresses those unique circumstances.

Based on the imminent threat to the safety and welfare of the community and the environment caused by the Fires, there is also a need for immediate enforcement as to those properties who remain outside of the two recognized debris removal programs. The proposed Ordinance provides for enforcement mechanisms for those unwilling to remediate debris on their properties, including summary abatement as well as authorization for judicial enforcement where appropriate. For those property owners that have not elected to participate in an approved program, the Ordinance also provides for recovery of all clean-up costs, expenses, and attorney's fees to pursue any necessary abatement action.

The Santa Cruz County Administrative Office is the lead department responsible for the overall management of the debris removal process. In this role, the County Administrative Officer will rely on the support of, and delegate responsibility to, other County departments including, but are not limited to, the Health Services Agency's Division of Environmental Health Services on matters related to the health and safety of the public, the environment, and septic and well matters, the Planning Department on matters related to engineering review, County Counsel on legal issues, and other County departments as required.

Adoption of this urgency ordinance requires a 4/5 vote of the Board of Supervisors.

**Strategic Plan Element**

4.B. Sustainable Environment: Natural Resources:

Ensuring removal of fire debris through the adoption of this Ordinance protects natural resources, including water, air, forests, coastline and agricultural lands, a goal of the strategic plan.

**Submitted by:**

Mimi Hall, Director of Health Services Agency

**Recommended by:**

Carlos J. Palacios, County Administrative Officer

**Attachments:**

- a Urgency Ordinance Adding SCCC Chapter 7.140
- b SCC Fire Recovery Environmental Health Resources (web link)