



# Mendocino County

## Legislation Text

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File #: 20-1153, Version: 1

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**To: Board of Supervisors**

**From:** Executive Office and County Counsel

**Meeting Date:** December 8, 2020

**Department Contact:** Darcie Antle

**Phone:** 463-4441

**Department Contact:** Matthew Kiedrowski

**Phone:** 463-4441

**Item Type:** Regular Agenda

**Time Allocated for Item:** 15 min

**Agenda Title:**

Discussion and Possible Action Including Adoption of Urgency Ordinance Establishing Requirements and Procedures for Removal of Fire Debris and Hazard Trees from Private Property Following the August Complex and Oak Fires

(Sponsors: Executive Office and County Counsel)

**Recommended Action/Motion:**

Adopt Urgency Ordinance establishing requirements and procedures for the removal of fire debris and hazard trees from private property following the August Complex and Oak Fires; and authorize Chair to sign same.

**Previous Board/Board Committee Actions:**

On November 14, 2017, the Board of Supervisors adopted an urgency ordinance establishing requirements and procedures for the removal of fire debris from private property following the Redwood Valley Fire.

**Summary of Request:**

Government Code section 25131 provides that ordinances shall become effective thirty (30) days from the date of final passage, except for certain ordinances which become effective immediately. An ordinance for the immediate preservation of the public peace, health, or safety, which contains a declaration of the facts constituting the urgency, and is passed by a four-fifths vote of the board of supervisors, shall take effect immediately. Government Code section 25131 specifies that an urgency ordinance may be passed immediately upon introduction.

The August Complex and Oak Fires have burned thousands of acres in Mendocino County and destroyed dozens of residences and other structures. As a result, the debris resulting from the fire contains hazardous substances in the ash of the burned structures and poses a significant present and future hazard to public health and safety and to the environment unless it is addressed and managed in a timely manner. The approaching rain and snow season threatens to spread the hazardous substances in the ash of the burned structures and could thereby pollute and contaminate the drinking water supply of the affected areas of Mendocino County. In addition, trees burned in the fires present a significant danger to the health, safety and welfare of the public by creating additional fuel for future fires, pose a hazard to firefighters, first responders and the public, and suffer an increased risk of pest infestation.

In order to address the removal of fire debris and hazard trees expeditiously to minimize public health and environmental impacts, the proposed ordinance creates programs for the abatement of fire debris and hazard trees and provides for the orderly administration of private and public cleanup programs. For fire debris, persons must participate in either a State operated program or a County-operated program. For hazard trees, persons must participate in either a government operated program or a private removal program. The proposed ordinance includes enforcement mechanisms that authorize abatement of fire debris or hazard trees as needed, and the ability to declare a public nuisance.

The ordinance provides that it is exempt from the California Environmental Quality Act (CEQA). Public Resources Code section 21080(b)(3) exempts actions to maintain, repair, restore or replace property damaged as a result of a declared disaster; CEQA Guidelines section 15269 contains a similar exemption. As recited in the ordinance, the Governor has declared a state of emergency. The primary purpose of this ordinance is to address the abatement of public nuisances created by the fire debris that is not removed in a timely manner. Further, Public Resources Code section 21080(b)(4) exempts actions to mitigate or prevent an emergency. This ordinance is intended to address the abatement of fire debris containing hazardous substances in a timely manner, including preventing such debris from contaminating water sources. In addition, CEQA Guidelines sections 15307 and 15308 exempt projects taken to assure the maintenance and restoration of natural resources and the environment, respectively. As stated above, the purpose of the ordinance is to address the abatement of fire debris containing hazardous substances in a swift manner so as to prevent the spread of such substances into the environment, including waterways.

The ordinance must be adopted on at least a 4/5 vote of the Board. As required by Government Code section 25131, the ordinance contains recitals and findings substantiating the need to adopt this ordinance on an urgency basis.

**Alternative Action/Motion:**

Do not adopt the proposed ordinance; refer the matter to staff for additional research and alternatives.

**Supervisory District:** All

**vote requirement:** 4/5ths

**Supplemental Information Available Online At:** N/A

**Fiscal Details:**

**source of funding:** Disaster Recovery

**current f/y cost:** Unknown at this time

**annual recurring cost:** TBD

**budget clarification:** The need for this ordinance is due to two Federal Declared Fires in Mendocino County 2020. The cost of enforcing this ordinance is unknown at this time. It is estimated at \$140,000.00 per parcel for private property debris removal, with an expectation of FEMA and Cal OES reimbursement up to 75% for eligible expenses.

**budgeted in current f/y:** No

**if no, please describe:** Emergency response

**revenue agreement:** No

**Agreement/Resolution/Ordinance Approved by County Counsel:** Yes

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**CEO Liaison:** Executive Office

**CEO Review:** Yes

**CEO Comments:**

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Executed By: Atlas Pearson, Deputy Clerk I  
Date: **DECEMBER 10, 2020**

**Final Status:**Direction Given to Staff

