



Mendocino County

Legislation Text

File #: 17-1073, **Version:** 1

To: Board of Supervisors

From: Planning and Building Services and Environmental Health

Meeting Date: November 14, 2017

Department Contact: Trey Strickland

Phone: 234-6639

Department Contact: Nash Gonzalez

Phone: 234-6650

Item Type: Regular Agenda

Time Allocated for Item: 30 Mins

Agenda Title:

Discussion and Possible Adoption of Urgency Ordinance Establishing Requirements and Procedures for the Removal of Fire Debris from Private Property and Nuisance Abatement Following the Redwood Complex Fire

Recommended Action/Motion:

Adopt Urgency Ordinance establishing requirements and procedures for the removal of fire debris from private property and nuisance abatement following the Redwood Complex Fire; and authorize Chair to sign same.

Previous Board/Board Committee Actions:

None.

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 Redwood Complex Fire has burned over 35,000 acres and destroyed several hundred residences and other structures. As a result, the debris resulting from the Redwood Complex 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. Additionally, 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 order to address the removal of fire debris expeditiously and swiftly to minimize public health and environmental impacts, the proposed ordinance is offered to address the abatement of the fire debris and provides for the orderly administration of the Private Cleanup Program in coordination with the Public Cleanup Program. This ordinance requires all affected property owners to participate in either the Public or Private Cleanup Programs. The Private Cleanup Program contains certain requirements to ensure a consistent

approach to fire debris cleanup and removal. This ordinance alters the proposed Private Cleanup Program by providing that upon the approval of a Debris Removal Application and Plan by Environmental Health, a demolition permit is not required from Planning & Building Services. It also provides that the Private Cleanup Program standards are a requirement of this ordinance, rather than a requirement through the demolition permit process. There are no permit fees associated with this process unless set by the Board of Supervisors.

The initial submittal deadline for choosing to participate in the Private Cleanup Program is November 16, 2017, and the initial submittal deadline for choosing to participate in the Public Cleanup Program through the U.S. Army Corps of Engineers is November 13, 2017. Failure by an affected property owner to choose one of these programs by the initial deadline may result in abatement action by the County.

The intent of the urgency ordinance is to protect public health and the environment through required participation in either the Public or Private Cleanup Programs, and through the enforcement provisions contained in the attached ordinance, which authorizes the Director of Environmental Health, the Director of Planning and Building Services, the designee of either, and any code enforcement officer of the Department of Planning and Building Services to commence abatement actions as needed.

This ordinance provides for the declaration of a “public nuisance” if an affected property or properties are not being cleaned up in accord with this ordinance. This will enable the County to timely address the nuisance caused by the remaining fire debris and ash through administrative abatement. For the purpose of protecting public health and the environment, the County of Mendocino may abate a public nuisance declared by the attached ordinance by removing fire debris and performing any other work necessary to remove the public health hazard caused by fire debris. The responsibility for the costs of enforcement by the County will be on the affected property owner.

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.

Supplemental Information Available Online at: N/A

Fiscal Impact:

Source of Funding: N/A

Current F/Y Cost: Approx. \$2,000,000

Budgeted in Current F/Y: No

Annual Recurring Cost: 3-5 years,
unknown cost

Supervisory District: All

Vote Requirement: 4/5's

Agreement/Resolution/Ordinance Approved by County Counsel: Yes

CEO Liaison: Janelle Rau, Deputy CEO

CEO Review: Yes

CEO Comments:



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Executed By: Nadia Tipton

Final Status: **Adopted**

Date: November 15, 2017

Executed Item No.: **Ordinance** Number: 4398

Note to Department:

Executed Documents Returned to

Department: Originals _____ Copies

_____ Hand Delivered _____ Interoffice

Mail _____ Executed Agreement Sent to

Auditor? Y/N