

ORDINANCE NO. 4515

**AN EMERGENCY ORDINANCE OF THE COUNTY OF VENTURA
ESTABLISHING LOCAL STANDARDS AND PROCEDURES FOR
CLEANUP OF DEBRIS GENERATED BY THE THOMAS FIRE**

The Board of Supervisors of the County of Ventura hereby ordains as follows:

Section 1. This ordinance shall be known as the Thomas Fire Debris Removal Emergency Ordinance.

Section 2. Emergency Findings. This urgency ordinance is adopted pursuant to California Government Code sections 25123(d) and 25131 and shall take effect immediately upon its approval by at least a four-fifths vote of the Board of Supervisors. The Board of Supervisors finds that this ordinance is necessary for the immediate preservation of the public peace, health and safety, based upon the following facts:

1. A large number of residential structures have burned in the Thomas Fire.
2. 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 and commercial structure fires can contain hazardous substances and the detrimental health effects of hazardous substances releases after a wildfire are well-documented.
3. The combustion of building materials such as siding, roofing tiles, and insulation can result in dangerous ash that contains asbestos, heavy metals, and other hazardous materials. Household hazardous waste such as paint, gasoline, cleaning products, pesticides, compressed gas cylinders, and chemicals may have been stored in homes, garages, or sheds that may have also burned in the fire, also producing hazardous materials.
4. Exposure to hazardous substances may lead to acute and chronic detrimental health effects, and may potentially cause long-term detrimental public health and environmental impacts. Uncontrolled hazardous materials and debris pose significant threats to public health through inhalation of dust particles and contamination of drinking water supplies. Improper handling can expose workers to toxic materials, and improper transport and disposal of fire debris can spread hazardous substances throughout the community.

5. Standards and removal procedures are needed immediately to protect the environment and public health, and to facilitate coordinated and effective mitigation of the risks to the environment and public health from the health hazards generated in the Thomas Fire disaster.
6. On December 8, 2017, pursuant to California Health and Safety Code sections 101040 and 101080, the County Health Officer issued a Declaration of a Local Emergency and Order Prohibiting the Endangerment of the Community through the Unsafe Removal, Transport and Disposal of Fire Debris (the "Declaration").
7. The Declaration prohibits removal of fire debris from residential properties without first obtaining a hazardous materials inspection from the United States Environmental Protection Agency or the California Department of Toxic Substances Control. Pending the enactment of additional requirements to address the Thomas Fire clean up, the Declaration requires authorization from the County of Ventura Environmental Health Division before removing fire debris and providing debris bins to property owners for the purposes of the removal of fire debris.
8. It is essential that this ordinance become immediately effective in order to mitigate the harm that could be caused to the public health and safety and to the environment from improper disturbance, removal and/or disposal of debris containing hazardous materials, and to facilitate the orderly response to the Thomas Fire.

Section 3. Removal of Fire Damaged Debris from Private Property.

1. Definitions. For purposes of this ordinance:
 - a. Board shall mean the Board of Supervisors of the County of Ventura.
 - b. Director shall mean the Director of the County of Ventura Environmental Health Division or his or her designee.
 - c. OES Program shall mean the fire damage debris clearance program operated by the California Office of Emergency Services for the Thomas Fire in conjunction with other state and federal agencies.
 - d. Local Fire Debris Removal Program (Program) shall mean the requirements for inspections and clean up established by the County of Ventura for structures within the unincorporated area of Ventura County damaged or destroyed by the Thomas Fire.

- e. Removal of fire debris shall mean and include all cleanup of fire debris resulting from the damage to or destruction of structures in the Thomas Fire, including removal, transport and disposal of fire debris, but it shall not include the removal of personal property from residential sites unless such removal of personal property involves cleanup and the removal of ash from the property.

2. Term of this Ordinance.

This ordinance shall take effect immediately upon adoption and shall remain in effect until the cleanup of fire debris has been completed on all properties in the unincorporated areas damaged by the Thomas Fire.

3. Prohibition on Removal of Fire Debris from Private Property.

No fire debris from damaged or destroyed structures shall be removed from private property unless and until a hazardous materials inspection has been conducted either by the U.S. Environmental Protection Agency or California Department of Toxic Substance Control through the California Office of Emergency Services' fire debris clearance program, or by an entity approved by the Local Fire Debris Removal Program.

4. Removal of Fire Debris through the Local Fire Debris Removal Program.

- (a) The Director shall administer the Program in the unincorporated areas of Ventura County under the supervision of the County Executive Officer. The Director shall utilize the state and federal standards and cleanup goals of the OES Program as the standards for the Local Removal Program. Under the supervision of the County Executive Office, the Director may administratively update these standards as necessary to address ongoing changes to efficiently remove hazardous fire debris from the community.
- (b) The Local Program shall require an application that identifies the appropriate licensed contractors that will perform the work and the submission of plans that demonstrate that the standards established in the Program will be met. Work shall not begin until the County of Ventura approves the application.
- (c) Upon completion of the work described in the approved plans, the property owner shall submit a Property Clean-up Completion Certification to the Director.
- (d) Notwithstanding any contrary provision in the Ventura County Building Code, a County of Ventura demolition permit may be required for ash debris removal work for which the Director has issued an approval allowing such work to proceed.

(e) The City of San Buenaventura shall administer its own alternative program within its jurisdictional boundaries. Pursuant to the Declaration, the Director shall be notified of applications within the City's Debris Removal Program, and compliance with the City's program is sufficient for the Declaration.

6. Hold on Building Permits.

(a) No County of Ventura building permit to repair or reconstruct a fire damaged structure or private infrastructure damaged or destroyed by the Thomas Fire shall be issued until fire debris cleanup is completed on the affected property and a Property Clean-up Certification required by the Program is approved and submitted to the County of Ventura Building Official.

7. Deadlines and Enforcement.

(a) Owners of properties on which there is fire ash and debris from structures damaged or destroyed in the Thomas Fire must submit a Local Fire Debris Removal application to the County no later than February 8, 2018. Properties that have fire ash and debris from structures damaged or destroyed in the Thomas Fire that have not submitted an application for the Program by that date are hereby declared a public nuisance and health hazard.

(b) Clean-up of properties enrolled in the Program must be completed no later than June 1, 2018. Properties enrolled in the Program that have fire ash and debris from the Thomas Fire after that deadline are hereby declared a public nuisance and health hazard.

(c) The Director may change the deadlines set in subsections 7(a) and (b), above, in exigent circumstances or as necessary and appropriate to facilitate the cleanup, avoid undue hardship and protect public health and safety.

(d) The Board's intent is to facilitate orderly remediation of a large-scale disaster. Nothing in these deadlines shall limit the authority of the County of Ventura or any County of Ventura official to abate hazards more quickly where required by exigent circumstances. Nothing in this ordinance shall limit the authority of the County of Ventura or any County of Ventura official to take any enforcement action or pursue any available remedies, including, without limitation, requiring preventive measures as defined in Health and Safety Code section 101040.

(e) Enforcement and Abatement

(1) Authority to Summarily Abate. The Director is authorized to enter property and summarily abate any public nuisance under this ordinance.

- (2) Emergency Abatement Authorized. If a nuisance under this ordinance constitutes an immediate and serious threat of harm to public health or safety, the Director may enter the property and summarily abate the nuisance without compliance with the procedures prescribed elsewhere in this ordinance, except that the Director shall give the owner of the subject property such notice and opportunity to be heard as are feasible and appropriate under the circumstances. Immediately following summary abatement, the Director shall notify the owner of the subject property of the abatement.
- (3) Summary Abatement Procedures.
- (i) Pre-Abatement Notice. Prior to commencing abatement, the Director shall issue a Summary Abatement Notice and Order with reasonable notice. The Notice and Order shall be given to the property owner(s) as listed on the last equalized tax roll. A summary of the Notice and Order shall be posted in a conspicuous location on the property to be abated at least 10 days prior to the summary abatement action.
- (ii) Appeal and Waiver. The property owner(s) or any person or entity having a legal interest in the property may submit a written appeal of the Director's Order to the Director no later than 10 days from the date of mailing of the Notice and Order. The written appeal shall state the basis for the appeal. The Director shall review the appeal and shall issue a written decision no later than 10 days after receipt. The Director's decision shall uphold, rescind or modify the determination of the Notice and Order. Failure to appeal within the time prescribed shall constitute a waiver of the right to contest the summary abatement.
- (iii) Post Abatement Notice. After the summary abatement is completed, the Director shall serve the property owner(s) with a post abatement notice that sets forth: (a) The actions taken by the County; (b) the reasons for the actions; (c) a report of the costs of abatement with a demand that the costs of abatement be paid within sixty (60) days; and (d) that a lien against the property will be recorded for failure to pay within the prescribed time frame in (c).
- (4) Judicial Enforcement Action. County Counsel is authorized to initiate suits to abate public nuisances as defined in this ordinance without further Board approval.
- (5) Remedies not exclusive. The remedies identified in this ordinance are in addition to and do not supersede or limit any and all other remedies, civil or criminal, available at law or in equity.

Section 4. Adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to California Public Resources Code Section 21080(b)(3) regarding projects to maintain, repair, restore, or replace property or facilities damaged or destroyed as a result of a declared disaster and section 21080(b)(4) regarding 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 California Government Code.

Section 5. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section 6. This Ordinance shall be and the same is hereby declared to be in full force and effect immediately upon its passage by a four-fifths or greater vote. A fair and accurate summary of this ordinance shall be published once before the expiration of 15 days after said passage, with the names of the Supervisors voting for or against the same, in a newspaper of general circulation published in the County of Ventura, State of California.

PASSED AND ADOPTED this 26 day of December, 2017, by the following vote:

AYES: Supervisors Bennett, Parks, Long, Foy

NOES: Supervisors 0

ABSENT: Supervisors Zaragoza


VICE Chair, Board of Supervisors
County of Ventura

ATTEST:

Michael Powers,
Clerk of the Board of Supervisors



By: Lou James
Deputy Clerk of the Board