



**MEMORANDUM**  
**COUNTY EXECUTIVE OFFICE**  
**OFFICE OF EMERGENCY SERVICES**  
County of Placer

**TO:** Honorable Board of Supervisors **DATE:** September 28, 2021  
**FROM:** Todd Leopold, County Executive Officer  
**BY:** Dave Atkinson, Assistant Director of Emergency Services  
**SUBJECT:** Urgency Ordinance | River Fire Debris Removal Program

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**ACTION REQUESTED**

Introduce, waive oral reading and adopt an urgency ordinance establishing standards for the removal of debris generated as a result of the River Fire.

**BACKGROUND**

On August 31, 2021, your Board ratified the declaration of a Local Health Emergency due to hazardous waste in the form of debris and debris ash from the fire and the potential contamination of residential food and water supplies resulting from River Fire. The debris and ash from residential structure fires can contain hazardous substances and the health effects of hazardous substances released after a wildfire of this type are well documented.

There is an urgent need to mitigate the harm to public health and the environment from the improper disturbance, removal, transport and/or disposal of hazardous waste, fire debris and hazard trees resulting from the River Fire, to create and implement clear standards and procedures for removal of fire debris and hazard trees, and to facilitate coordinated, timely, and effective mitigation of the risks to public health and the environment from the health hazards generated by the River Fire.

As noted in the staff report from August 31, 2021, a formal request to the California Office of Emergency Services was made for the state to authorize assistance to survivors with the removal of household hazardous waste and other private property debris removal. This request was approved and properties impacted by the River Fire are now entitled to be covered by the state's two-phased Consolidated Debris Removal Program.

In Phase 1, teams of experts from the California State Department of Toxic Substances Control (DTSC) inspect properties and remove any household hazardous waste that may pose a threat to human health, animals, and the environment such as batteries, asbestos siding, and paints. Phase 1 work was completed in Nevada County on September 10, 2021, and DTSC is scheduled to move on to Placer County the following week.

In Phase 2, property owners will have two options. The first option is to allow CalOES, CalRecycle, and CalEPA to conduct fire-related debris removal from properties. This includes the removal of all debris, debris ash, compromised concrete foundations, and contaminated soils. Debris will be removed using best practices to mitigate the migration of ash and other

contaminants from the site as well as soil testing to ensure the site has been fully remediated from the fire impacts and is returned ready to the property owner ready for construction.

Property owners that do not wish to participate in the state-run option may choose to undertake the debris removal using their contractor at their own expense. This work would follow the same standards as the state-run option.

This urgency ordinance would set standards for the safe removal of ash, fire debris, building materials, sediments such as sands and gravel, hazardous trees, burned vehicles, the remains of chemicals like pesticides and paints, electronics, and asbestos. The ordinance would also ensure that properties affected by the River Fire are made safe and ready for reconstruction and provides for the orderly administration of the State-run program in coordination with the alternative County program.

The anticipated start of the rainy season offers little time to mitigate further environmental contamination resulting from the River Fire, including contamination of the Bear River watershed, and, therefore, time is of the essence in removing hazardous waste, fire debris and hazard trees from affected properties.

Pursuant to Article XI, section 7 of the California Constitution and Government Code section 25845, the County may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety and welfare of its residents. Government Code section 25123(d) authorizes the adoption of an urgency ordinance for the immediate preservation of the public peace, health, or safety, where there is a declaration of the facts constituting the urgency and the ordinance is adopted by a four-fifths vote of your Board.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE**

Adoption of this ordinance is exempt from the provisions of the California Environmental Quality Act (“CEQA”) pursuant to California Public Resources Code Section 21080, subdivisions (b)(3) and (b)(4) and State CEQA Guidelines Section 15269, subdivisions (a) and (c). The River Fire and their aftermath constitute a sudden unexpected occurrence, involving clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services under California Public Resources Code Section 21060.3 and State CEQA Guidelines Section 15359.

### **FISCAL IMPACT**

Staff time and other expenses associated with debris removal from the River Fire can be covered by the existing FY 21/22 operating budgets for County Office of Emergency Services and the Health and Human Services Environmental Health Division. Further, these costs are anticipated to be eligible for use as matching funds for the County's portion of the River Fire recovery reimbursement.

Honorable Board of Supervisors  
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**ATTACHMENTS**

Attachment 1 - Urgency Ordinance

# Before the Board of Supervisors County of Placer, State of California

**In the matter of:** An Ordinance establishing regulations for the conduct of wildfire hazard tree and debris removal, resulting from the 2021 River Fire.

Ordinance No.: \_\_\_\_\_

The following urgency ordinance was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held September 28, 2021, by the following vote:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

\_\_\_\_\_  
Chair, Board of Supervisors

Attest:

\_\_\_\_\_  
Clerk of said Board

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WHEREAS, Pursuant to Article XI, Section 7 of the California Constitution, the County of Placer ("County") may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its residents; and

WHEREAS, Pursuant to Government Code Section 25123, to protect against an immediate threat to the public safety, health, and welfare, the County may adopt an urgency ordinance that takes effect immediately; and

WHEREAS, Section 101080 of the California Health and Safety Code empowers the County Health Officer to declare a Local Health Emergency if he or she reasonably determines that conditions of exposure to hazardous waste exist that pose an immediate threat to the public health, and requires the Local Health Emergency to expire after seven days unless ratified by the Board of Supervisors, and requires the Board of Supervisors to review the need for continuing the Local Health Emergency at least once every 30 (thirty) days and proclaim the termination of the Local Health Emergency at the earliest possible date that conditions warrant the termination; and

WHEREAS, Conditions of extreme peril to the safety of persons and property within the County were caused by the River Fire which started near the City of Colfax on August 4, 2021. The fire consumed two thousand six hundred and nineteen (2,619) acres and destroyed forty-nine (49) homes and damaged another nine in the County. This is in addition to significant acreage of timber that was burned; and

WHEREAS, On August 10, 2021, the Placer County Board of Supervisors adopted resolution 2021-280 ratifying the proclamation of local emergency resulting from the impacts of the River Fire; and

WHEREAS, On August 24, 2021, the Interim Health Officer declared a local health emergency in response to the assessment of the potential public health risks; and

WHEREAS, On August 5, 2021, pursuant to Government Code Section 8625, California Governor Newsom proclaimed state of emergency in the State of California, and in the Counties of Siskiyou, Nevada and Placer, due to the fire(s) around the State, including the River Fire in the Counties of Placer and Nevada; and

WHEREAS, In destroying private structures, the River Fire has created an accumulation of Fire Debris, much of which has been determined to be contaminated with household hazardous waste, heavy metals and other hazardous materials; and

WHEREAS, The potential for widespread toxic exposures and threats to public health and the environment exists in the aftermath of a major fire disaster. Debris and ash from residential structure fires contain hazardous substances that may lead to acute and chronic health problems and may have serious environmental impacts; and

WHEREAS, The combustion of building materials such as siding, roofing tiles, and insulation results in dangerous ash that may contain asbestos, heavy metals, and other hazardous materials, and household hazardous waste such as paint, gasoline, cleaning products, pesticides, and other chemicals that may have burned in the fire also produces hazardous materials; and

WHEREAS, Exposure to hazardous substances may lead to acute and chronic health effects, and may cause long-term public health and environmental impacts; and

WHEREAS, Uncontrolled hazardous materials and debris pose significant threats to public health through inhalation of dust particles and contamination of drinking water supplies, and improper handling of hazardous materials can expose workers to toxic materials and improper transport and disposal of Fire Debris can spread hazardous substances throughout the community; and

WHEREAS, Dead and dying trees damaged by the River Fire and at risk of falling may threaten the health, safety and welfare of workers conducting debris removal and residents of

the affected properties, as well as the general public if the trees are at risk of falling onto a public right of way or public infrastructure and

WHEREAS, The anticipated start of the rainy season offers little time to mitigate further environmental contamination resulting from the Fire, including contamination of the watershed, and, therefore, time is of the essence in removing hazardous waste, Fire Debris and Hazard Trees from affected properties; and

WHEREAS, Pursuant to Article XI, Section 7 of the California Constitution and Government Code Section 25845, the County may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety and welfare of its residents; and

WHEREAS, Government Code Section 25123(d) authorizes the adoption of an urgency ordinance for the immediate preservation of the public peace, health, or safety, where there is a declaration of the facts constituting the urgency and the ordinance is adopted by a four-fifths vote of the Board; and

WHEREAS, There is an urgent need to mitigate the harm to public health and the environment from the improper disturbance, removal, transport and/or disposal of hazardous waste, Fire Debris and Hazard Trees resulting from the Fire, to create and implement clear standards and procedures for removal of Fire Debris and Hazard Trees, and to facilitate coordinated, timely, and effective mitigation of the risks to public health and the environment from the health hazards generated by the River Fire.

THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER, STATE OF CALIFORNIA  
ORDAINS AS FOLLOWS:

#### Section 1. Definitions

- A. "Alternative program." For purposes of this article, the term "alternative program" shall mean the requirements for inspections, clean up and disposal established by the county for property owners that opt out of or are ineligible for a state program.
- B. "Board." The term "board" means the Placer County board of supervisors.
- C. "County." The term "county" shall be defined as the county of Placer.
- D. "County building official." The term "county building official" means the chief building official as defined in Placer County Code Section 2.08.010(H).
- E. "County health officer." The term "county health officer" means the Placer County public health officer as defined in Placer County Code Section 2.08.010(T).
- F. "Director." The term "director" shall be defined as the director of environmental health division for Placer County, or any person as designated by the chief executive officer of the county.
- G. "Fire debris." The term "fire debris" means ash or other debris, resulting from the River Fire that is intended to be discarded but does not include structures or portions thereof.
- H. "Hazard trees." The term "hazard trees" means wildfire-damaged trees that have been so damaged by the fires that their structural integrity is compromised, and they pose an immediate threat of falling onto work crews or obstructing their access to the debris clearance site, or of falling onto a public right of way or a public improved property.
- I. "Removal of fire debris and hazard tree." The term "removal of fire debris and hazard trees" as used in this article includes all cleanup of debris from structures and hazard trees resulting from the River Fire, including removal, transport and disposal of fire

debris and hazard trees, but it does 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.

- J. "Right of entry permit." The term "right of entry permit" means the fire debris and hazard tree removal right-of-entry permit (for providing fire debris and hazard trees removal on private property under the State Debris and Hazard Tree Removal Program) approved by the California Office of Emergency Services for use in the cleanup after the River Fire.
- K. "State debris and hazard tree removal program" or "state program" means the fire debris and hazard trees removal program operated by the California Office of Emergency Services ("Cal OES") for the River Fire area in conjunction with other State and Federal agencies and involving the removal and disposal of fire debris and hazard trees on eligible private property at no cost to the property owner.

## Section 2. Effective date and findings

In light of the findings and declarations set forth in this ordinance, the board declares that this ordinance is adopted in compliance with Government Code Section 25123 and is necessary as an urgency measure for immediately preserving the public health, safety and welfare.

Accordingly, this ordinance is adopted as an urgency ordinance and shall take effect and be in force immediately upon its approval by at least four-fifths vote of the board of supervisors pursuant to Government Code Section 25123(d), and shall remain in effect until the later of the cleanup of all fire debris on all fire-damaged properties from the River Fire or the completion of all enforcement matters related to this ordinance, if any.

## Section 3. Prohibition on removal of fire debris from private property

No removal of fire debris and hazard trees shall occur unless and until a hazardous materials inspection meeting applicable department of toxic substances control guidelines has been conducted. Notwithstanding the foregoing, hazard trees may be removed from vacant properties or properties on which no structures were damaged without a hazardous materials inspection, subject to the other requirements of this ordinance.

## Section 4. Removal of fire debris and hazard trees

- A. State program. Property owners that, pursuant to the rules established by the state program are eligible for the removal of some or all of the fire debris and hazard trees on their properties through the state program, may elect to use the state program by submitting a right of entry permit to the director, which includes an assignment of any insurance proceeds covering the costs of the fire debris and hazard trees removal. Such right of entry permit must be submitted to the director by the deadline as provided by the director. The director may extend this deadline as necessary and appropriate to facilitate the cleanup avoid undue hardship, and to protect public health and safety, and to the extent any such extensions are approved by the state program.

B. Alternative program.

- i. Administration. The director shall administer the alternative program. The director shall utilize applicable state and/or federal standards for the safe removal and disposal of fire debris and hazard trees, consistent with the cleanup goals of the state program, and incorporate additional requirements as necessary to address changes in conditions, needs, or technologies in order to effectively remove fire debris and hazard trees from the community. The director shall prepare procedures and requirements for the removal of fire debris and hazard trees and make such procedures and requirements available to the public. The director shall also adopt an application that discloses the appropriate licensed contractors and appropriate plans to meet such procedures and requirements.
- ii. Participation. Property owners that are not eligible for the state program or who elect not to participate in the state program for the removal of some or all of the fire debris and hazard trees on their properties must comply with the requirements of the alternative program. Under the alternative program, before any fire debris and hazard trees are removed from a property, the owner shall submit the application adopted by the director to the director. Work shall not begin until the director approves the application and the property owner obtains all applicable permits from the county building official.
- iii. Completion. The director shall establish an end date or deadline by which properties in the alternative program must be cleaned up. Upon the completion of the removal of fire debris and hazard trees under the alternative program, the property owner shall submit to the director documentation that demonstrates the removal of fire debris and hazard trees was completed in compliance with applicable standards and requirements as established by the director.
- iv. Deadline. The director shall establish an end date or deadline by which property owners who are not participating in the state program must submit an alternative program application to the director in accordance with Section 4.B.ii of this ordinance. Such properties that have fire debris from structures damaged or destroyed in the River Fire or hazard trees damaged or destroyed in the River Fire that have not submitted an application for the alternative program by that date are hereby declared a public nuisance and health hazard and shall be subject to nuisance abatement.
- v. Extensions. The director may extend deadlines under the alternative program as necessary and appropriate to facilitate the avoid undue hardship, and to protect public health and safety.

C. Restrictions on building permits. No building permit from the county to demolish, repair, or reconstruct a structure that has been damaged or destroyed by the River Fire shall be issued until fire debris and hazard trees cleanup is completed on the affected property in accordance with the alternative program or the state program and said clean-up is confirmed to be completed by the director. Any permit for the demolition, repair, or reconstruction of a structure that has been damaged or destroyed by the River Fire shall be held in abeyance and not acted upon until fire debris and hazard trees cleanup is completed on the affected property and completion is confirmed to the county building official, either through the alternative program or the state program. Notwithstanding the foregoing, a demolition or miscellaneous permit issued by the county building official may be required for removal of fire debris involving the removal of buildings, structures, or portions thereof, as determined by the county building official.

D. Exigent circumstances. The board's intent is to facilitate an orderly remediation of large-scale disasters. Nothing in the deadlines as set forth by this ordinance shall

limit the authority of the county or any county official to abate hazards more quickly where required by exigent circumstances. Nothing in this ordinance shall limit the authority of the county or any county 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. Nuisance abatement.

- i. Civil abatement. Any property deemed a public nuisance in accordance with this ordinance shall be subject to nuisance abatement, pursuant to Section 17.62.160 and other applicable laws.
- ii. Summary abatement. In addition to any other nuisance abatement procedures provided by law, the director and county health officer and their designee are authorized to enter onto any property deemed a public nuisance under this ordinance. If the county health officer finds that the property constitutes an immediate threat to public health or safety, the director may summarily abate the nuisance upon satisfaction of the summary abatement procedures set forth below, as applicable.
  - a. Pre-abatement notice. Unless emergency conditions preclude doing so, the director shall issue a summary abatement notice and order with 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 ten (10) days prior to the summary abatement action.
  - b. 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 or the director's designee, by United States mail, overnight mail, or personal delivery, no later than fifteen (15) days from the date the director mailed or delivered the notice and order. The written appeal shall state the basis for the appeal. The director or the director's designee shall review the appeal, if the appeal is timely, and shall issue a written decision no later than ten (10) days after receipt. The director's or the designee's decision on the appeal shall uphold, rescind or modify the determination of the notice and order. The director's or the designee's decision on the appeal shall be final. A copy of the director's or the designee's determination shall be delivered, promptly upon its issuance, to the appellant by United States mail or personal delivery at the address listed on the last equalized tax roll or such other address provided by the appellant. Failure to appeal within the time prescribed shall constitute a waiver of the right to contest the summary abatement.
  - c. Post-abatement notice. After the summary abatement is completed, the director shall promptly deliver to the property owner(s) a post-abatement notice indicating: (a) the action taken by the county; (b) the reasons for the actions; (c) the costs of the abatement and a request that the costs be paid by the property owner(s) to the county within sixty (60) days; and (d) that a lien will be recorded against the property if the property owner(s) fail(s) to pay the requested abatement costs within sixty (60) days. The post-abatement notice shall be delivered by United States mail or personal delivery.

- F. 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 5. Environmental determination

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), which applies to projects undertaken, carried out by, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, Government Code Sections 8550 et seq., and Public Resources Code Section 21080(b)(4) regarding specific actions necessary to prevent or mitigate an emergency. These exemptions are also reflected in State CEQA Guidelines Section 15269(a) and (c). The River Fire and their aftermath constitute a sudden unexpected occurrence, involving clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services under California Public Resources Code Section 21060.3 and State CEQA Guidelines Section 15359.

## Section 6. Severability

If any provision of this ordinance or the application thereof to any person, property, or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid provisions or application thereof, and to this end, the provisions of this urgency ordinance are hereby declared to be severable.

## Section 7. Publication

The clerk is directed to publish this ordinance, or a summary thereof, within fifteen (15) days in accordance with Government Code Section 25124.