

ANALYSIS

This is an urgency ordinance, which requires a four-fifths vote by the Board of Supervisors for adoption. This ordinance implements the Declaration of a Local Health Emergency and Order Prohibiting the Endangerment of the Community through the Unsafe Removal, Transport and Disposal of Fire Debris, which was issued by the Los Angeles County Health Officer on November 5, 2020 and was ratified by the Board of Supervisors on November 10, 2020. The ordinance prohibits private property owners in the unincorporated area of the County of Los Angeles (within the Bobcat Fire and the Lake Fire burn areas) from removing fire debris until their properties are inspected for hazardous materials by a State, federal, or local agency, and any hazardous materials are properly removed.

The ordinance also provides that property owners who are eligible to participate in the government-sponsored fire debris clearance program may opt in to that program by submitting a right of entry form. Property owners who do not participate in the government-sponsored program must comply with the requirements set forth by the Director of Public Works under the supervision of the Chief Executive Officer for the removal of fire debris from their properties.

The ordinance also provides a summary process to abate nuisance conditions on properties that have not been timely cleared of fire debris upon a finding by the County Health Officer that the property constitutes an immediate threat to public health or safety. Under the summary abatement procedures, the Director must give notice of any findings to the property owners, and the property owners are afforded an opportunity to submit an expedited appeal.

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Acting County Counsel

By 

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JCW:mv

Requested: 11/02/20
Revised: 11/19/20

ORDINANCE NO. 2020-0067U

An urgency ordinance, known as the Bobcat Fire and the Lake Fire Debris Removal Emergency Ordinance, to implement the requirements for Fire Debris removal resulting from the Bobcat and the Lake Fire as set forth in the November 5, 2020 Declaration by the County Health Officer, which was ratified by the Board of Supervisors on November 10, 2020.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Urgency Findings.

This urgency ordinance is adopted pursuant to 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 structures have been damaged or destroyed by the Bobcat Fire and the Lake 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 materials and the detrimental health effects of hazardous-materials 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 materials 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 materials 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 the public health from the health hazards generated in the Bobcat Fire and the Lake Fire.

6. On November 5, 2020, pursuant to Health and Safety Code sections 101040 and 101080, the County Health Officer issued a Declaration of a Local Health Emergency and Order Prohibiting the Endangerment of the Community through the Unsafe Removal, Transport and Disposal of Fire Debris (the "Declaration"). The Board of Supervisors ratified the Declaration on November 10, 2020.

7. The Declaration prohibits property owners from removing Fire Debris resulting from the Bobcat Fire, the Lake Fire, and concurrent fires in Los Angeles

County without first obtaining a hazardous-materials inspection from either the United States Environmental Protection Agency, the California Department of Toxic Substances Control, or the Los Angeles County Fire Department's Certified Unified Program Agency. Pending the enactment of additional requirements to address the Bobcat Fire and the Lake Fire clean up, the Declaration: (1) requires authorization from the Los Angeles County Fire Department before providing debris bins to property owners for the purposes of the Removal of Fire Debris; and (2) for property owners who do not participate in the Government-sponsored Program, such as commercial property owners and residential owners who opt out of this program, prohibits the Removal of Fire Debris without approval from the County.

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 Bobcat Fire and the Lake Fire.

SECTION 2. Requirements of Removal of Fire-Damaged Debris.

A. Definitions.

For purposes of this ordinance:

"Board" means the Board of Supervisors of the County of Los Angeles.

"Bobcat Fire" means the Bobcat Fire, which started on September 6, 2020 and burned more than 114,000 acres in the Los Angeles County unincorporated area, as well as portions of the Angeles National Forest.

"County" means the County of Los Angeles.

"Declaration" means the Declaration of a Local Health Emergency and Order Prohibiting the Endangerment of the Community through the Unsafe Removal, Transport and Disposal of Fire Debris, which was issued by the Los Angeles County Health Officer on November 5, 2020 and was ratified by the Board of Supervisors on November 10, 2020.

"Director" means the Director of the Los Angeles County Department of Public Works or his designee.

"Fire Debris" means ash or other debris, including Hazard Trees, resulting from the Bobcat Fire, the Lake Fire, or concurrent fires, that is intended to be discarded but does not include structures or portions thereof.

"Government-sponsored Program" means the private property debris removal program administered by the County of Los Angeles for the Bobcat Fire and the Lake Fire in conjunction with other local, State, and federal agencies.

"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.

"Lake Fire" means the Lake Fire, which started on August 12, 2020 and burned more than 31,000 acres in the Los Angeles County unincorporated area, as well as portions of the Angeles National Forest near Lake Hughes.

"Local Fire Debris Removal Program" or "Local Program" means the local requirements established under this ordinance for removal of Fire Debris, other than hazardous materials, within the unincorporated area of Los Angeles County for property owners who are not participating in the Government-sponsored Program for the removal of some or all of the Fire Debris on their properties.

"Person" means and includes an individual, firm, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

"Removal of Fire Debris" means and includes any cleanup of Fire Debris created by the Bobcat Fire and the Lake Fire, including the removal, transport, and disposal of such Fire Debris, 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.

B. Term of this Ordinance.

This ordinance shall take effect immediately upon adoption and shall remain in effect until the Removal of Fire Debris has been completed on all properties in the unincorporated areas of the County damaged by the Bobcat Fire and the Lake Fire.

C. Prohibition on Removal of Fire Debris Prior to Hazardous Waste Assessment and Removal.

No Person shall remove Fire Debris from private property within the unincorporated areas of the County unless and until one of the following agencies has conducted a hazardous materials inspection: the United States Environmental

Protection Agency, the California Department of Toxic Substances Control, or the Los Angeles County Fire Department's Certified Unified Program Agency, either itself or through a Los Angeles County Fire Department Certified Contractor. Upon notification that a property owner is required to remove hazardous materials from the property, such property owner shall remove such hazardous materials in compliance with all requirements of the California Department of Toxic Substances Control and/or the Los Angeles County Fire Department before the removal of any Fire Debris from the property. 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.

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

1. The Director shall administer the Local Program in the unincorporated areas of Los Angeles County under the supervision of the Chief Executive Officer. In so doing, the Director shall utilize State and federal standards for the safe removal and disposal of Fire Debris, consistent with the cleanup goals of the Government-sponsored Program, and incorporate additional requirements as necessary to address changes in conditions, needs, or technologies in order to effectively remove Fire Debris from the community. The Director shall prepare procedures and requirements for the Removal of Fire Debris and make such procedures and requirements available to the public.

2. Property owners that, pursuant to rules established by the Government-sponsored Program that will be set forth in guidelines provided by the

Director, are eligible for the public removal of some or all of the Fire Debris on their properties through the Government-sponsored Program, may elect such public removal by submitting a right of entry form to the Director, which includes an assignment of any insurance proceeds covering costs of Fire Debris removal. Once approved by the Director, the right of entry form shall function as the sole permit and authorization for participation in the Government-sponsored Program. Notwithstanding any contrary provision in the Los Angeles County Code, no County approvals or permits for Fire Debris removal are required for properties participating in the Government-sponsored Program, other than the right of entry form. Such right of entry form must be submitted to the Director by December 31, 2020. The Director may extend this deadline in exigent circumstances, or as necessary and appropriate to facilitate the cleanup, avoid undue hardship, and protect public health and safety, and to the extent any such extensions are approved by the Government-sponsored Program.

3. Property owners that are either not eligible for the Government-sponsored Program or who elect not to participate in it for the removal of some or all of the Fire Debris on their properties must comply with the requirements of the Local Program for the Removal of Fire Debris. Under the Local Program, before any Fire Debris is removed from a property, the owner shall submit an application to the Director that identifies the appropriate licensed contractors that will perform the work along with plans that demonstrate that the standards and requirements established for the Local Program will be met. Work shall not begin until the Director approves the application and the property owner obtains all applicable permits from the County Building Official.

4. Upon completion of the Removal of Fire Debris under the Local Program, the property owner shall submit to the Director documentation that demonstrates that the Removal of Fire Debris was completed in compliance with applicable standards and requirements.

5. A demolition or miscellaneous permit issued by the County Building Official may be required for Removal of Fire Debris or work involving the removal of buildings, structures, or portions thereof, as determined by the Director.

E. 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 Bobcat Fire or the Lake Fire shall be issued until Fire Debris cleanup is completed on the affected property in accordance with the Local Program. Any permit for the demolition, repair, or reconstruction of a structure that has been damaged or destroyed by the Bobcat Fire or the Lake Fire shall be held in abeyance and not acted upon until Fire Debris cleanup is completed on the affected property and completion is confirmed to the County Building Official, either through the Local Program or the Government-sponsored Program.

F. Deadlines for Removing Fire Debris Under the Local Program.

1. Owners of properties within the unincorporated area of the County on which there is Fire Debris from structures or Hazard Trees damaged or destroyed in the Bobcat Fire or the Lake Fire and who are not participating in the Government-sponsored Program for the Removal of Fire Debris must submit a Local Fire Debris Removal Program application to the Director in accordance with subsection D.3. of

Section 2 of this ordinance no later than January 31, 2021. Such properties that have Fire Debris from structures damaged or destroyed in the Bobcat Fire or the Lake Fire that have not submitted an application for the Local Program by that date are hereby declared a public nuisance and health hazard.

2. Clean-up of properties enrolled in the Local Program must be completed no later than March 15, 2021.

3. The Director may extend the deadlines set in subsections F.1. and F.2., above, in exigent circumstances or as necessary and appropriate to facilitate the cleanup, avoid undue hardship, and protect public health and safety.

4. The Board's intent is to facilitate orderly remediation of large-scale disasters. Nothing in these deadlines 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.

G. Nuisance Abatement.

1. Civil Abatement.

Any property deemed a public nuisance in accordance with this ordinance shall be subject to nuisance abatement, pursuant to Chapter 23 of Title 1 of the Los Angeles County Code and other applicable laws.

2. Summary Abatement.

a. Authority to Abate.

In addition to any other nuisance abatement procedures provided by law, the Director and Health Officer are authorized to enter onto any property deemed a public nuisance under this ordinance. If the 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 in subsection G.2.b. below, as applicable.

b. Summary Abatement Procedures.

(i) Pre-Abatement Notice. Prior to commencing summary abatement, the Director shall provide to the property owner(s), no less than twenty (20) days prior to the commencement of summary abatement, a Summary Abatement Notice and Order ("Notice and Order"). The Notice and Order shall be delivered by United States mail or personal delivery to the property owner(s), as listed on the last equalized tax roll, and to anyone known to the Director to be in possession of the property. A copy of the Notice and Order shall also be posted, at least twenty (20) days prior to the commencement of summary abatement, in a conspicuous location on the property subject to the summary abatement. The Director, in his sole discretion, may withdraw the Notice and Order at any time prior to completion of summary abatement.

(ii) Written Appeal by Property Owner(s) and Determination Thereof by Director. No later than fifteen (15) days after the date that the

Director mailed or personally delivered the Notice and Order, the property owner(s) or any person or entity having a legal interest in the property may submit, by United States mail, overnight mail, or personal delivery, a written appeal of the Notice and Order to the Director. Any written appeal shall state all grounds upon which the appeal is based. Failure to submit a written appeal within the time prescribed constitutes a waiver of the right to contest the summary abatement. If a written appeal is timely submitted, the Director shall exercise best efforts to issue a written determination within ten (10) days of receiving the written appeal, which determination, in the Director's sole discretion, may either uphold, rescind, or modify the Notice and Order. A copy of the Director'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.

(iii) 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 actions 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.

3. 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 3. 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 Chapter 7 of Division 1 of Title 2 of the Government Code and also pursuant to 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 Bobcat Fire and the Lake 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.

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 interim ordinance are hereby declared to be severable.

SECTION 4. Immediate Effect.

This ordinance shall be effective immediately upon its passage by a four-fifths or greater vote.

[BOBCATANDLAKEFIREREMOVALJWCC]

SECTION 5 This ordinance shall be published in The Daily Commerce a newspaper printed and published in the County of Los Angeles.



Hilda F. Solis
Chair

ATTEST:

Celia Zavala

Celia Zavala
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that at its meeting of November 24, 2020 the foregoing ordinance was adopted by the Board of Supervisors of said County of Los Angeles by the following vote, to wit:

Ayes

Supervisors Hilda Solis
Mark Ridley-Thomas
Sheila Kuehl
Janice Hahn
Kathryn Barger

Noes

Supervisors None

Effective Date: November 24, 2020

Operative Date:

Celia Zavala

Celia Zavala
Executive Officer -
Clerk of the Board of Supervisors
County of Los Angeles

I hereby certify that pursuant to
Section 25103 of the Government Code,
delivery of this document has been made.

CELIA ZAVALA
Executive Officer
Clerk of the Board of Supervisors

By [Signature]
Deputy



APPROVED AS TO FORM:
RODRIGO A. CASTRO-SILVA
Acting County Counsel

By [Signature]
Lester J. Tolnai
Chief Deputy County Counsel