



Legislation Text

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Receive an update from the Incident Command Unit regarding the LNU Lightning Complex Fire recovery efforts, including debris removal; Affirm the continuance of the proclamation of a local health emergency due to the LNU Lightning Complex Fires; Affirm Health Officer Order No. 2020-LNU-02 related to the fire impacted area; Adopt an urgency ordinance amending Ordinance 2020-1811 to allow issuance of building permits associated with Temporary Emergency Dwellings in compliance with Health Officer Order No. 2020-LNU-02 and any subsequent updates (4/5 votes required); and Adopt a resolution to extend Fee Waivers for fire impacted area for hazardous materials assessments and inspections of; temporary connections to a septic system or well; and temporary power poles; and waive charges by the Assessor/Recorder for copies of grant deeds, quit claims, or deeds of reconveyance through January 31, 2021

Published Notice Required? Yes ☐ No ☒
Public Hearing Required? Yes ☐ No ☒

DEPARTMENTAL RECOMMENDATION:

Incident Command staff recommends that the Board:

- 1) Receive an update regarding the LNU Lightning Complex response and recovery efforts and current status of state and federal guidance regarding debris removal and funding requests;
- 2) Continue the proclamation of a local health emergency due to the LNU Lightning Complex Fires;
- 3) Affirm Health Officer Order No. 2020-LNU-02 related to re-entry and clean-up within the fire impacted area, which includes standards for occupancy of Temporary Emergency Dwellings (TEDs) on a property during and after Phase II clean-up operations;
- 4) Read the proposed ordinance by title only and waive further reading by majority vote;
- 5) Adopt an urgency ordinance amending Ordinance 2020-1811 to allow issuance of temporary building permits for occupancy of residences and TEDs during and after clean-up activities in compliance with Health Officer Order No. 2020-LNU-02 and any subsequent updates (4/5 vote required); and
- 6) Adopt a resolution to extend Fee Waivers for fire impacted area for hazardous materials assessments and inspections of; temporary connections to a septic system or well; and temporary power poles; and waive charges by the Assessor/Recorder for copies of grant deeds, quit claims, or deeds of reconveyance through January 31, 2021.

SUMMARY:

Clean-up and recovery activities continue to occur on fire damage properties within the LNU Lightning Complex fire burn area. The Discussion section of this report provides an overview of the status of Phase I and Phase II cleanup activities.

Previously, use of a Temporary Emergency Dwelling (TED), such as a recreational vehicle, on a parcel with fire damaged or destroyed home that was uninhabitable was only allowed after issuance of Environmental Health clearance that Phase II cleanup had been completed. The Incident Command Staff, along with staff

from other fire affected counties, has worked with CalOES to receive general guidance and additional flexibility on processes to allow placement and occupancy TEDs on fire affected properties during Phase II cleanup, resulting in Health Officer Order 2020-LNU-02 presented to the Board for affirmation today. The Discussion section contains more detail on the provisions included in the Health Order to ensure the safety of residents residing on a property during cleanup activity and workers performing the clean-up.

On September 1, 2020 the Board adopted an Urgency Ordinance establishing requirements for debris removal in the burn areas (Ordinance# 2020-1811). This ordinance restricts building permits from being issued until all clean-up is completed on a property. In order to accommodate occupancy TEDs on a property in compliance with Health Officer Order 2020-LNU-02 during Phase II clean-up activity, building permits for temporary power and Environmental Health permits for temporary connection to an approved, functioning sewage disposal system and water supply are needed. Therefore Ordinance 2020-1811 must be amended to allow issuance of these type of permits to allow a TED to be occupied/placed in accordance with Health Officer Order 2020-LNU-02. Permits for repairs associated with permanent use of a system, or to repair fire damage to a well or septic system, can be issued only after Phase II clean-up is completed in order to protect workers, public, and the environment.

Also, on September 1, 2020 the Board also adopted Resolution #2020-173 temporarily waiving fees through October 31, 2020 for certain types of permits such as temporary power poles and assessment of well and septic systems for properties in the burn area and on copy charges for certain types of legal documents and deeds needed by residents who lost homes in the fire. Privately funded Phase II clean-up activities are ongoing, and government funded Phase II clean-up has yet to begin. The need for issuance of temporary power poles and assessments of, and temporary connection to, a well and/or septic system is anticipated to continue into early next year. Staff recommends extending the fee waiver in the fire impacted area through January 31, 2021 and including waiving any cost recovery or permit fees associated with temporary connection of a TED to an approved method of sewage disposal or water supply. Temporary connection to an on-site septic system or water supply may only occur if they are undamaged by the fire and approved for use by Environmental Health. If all properties with destroyed homes utilized a TED, this action results in a loss of at least \$86,112 in permit fees for approval and inspection of the temporary connection. Such temporary connections must be removed upon occupancy of the permanent dwelling and the permanent dwelling will require a connection permit and inspection. Staff recommends permit fees be charged for such permanent connections or repairs to septic systems and wells if required, as these costs should be recoverable by the property owner through their insurance.

FINANCIAL IMPACT:

The extent of the financial impact from the LNU fire continues to be evaluated by the Auditor's Office and a final estimate is not yet available. Staff will update the Board once this information is known.

As stated on October 6, 2020, federal and State reimbursement is anticipated for damage to roads and infrastructure although it will not cover 100% of the costs. Repairs for damage to Lake Solano Park will generally be covered by insurance and staff have had initial contacts with insurance agents. Remaining costs would be covered utilizing funds from the 5 Million dollar contingency established for fire recovery.

The costs associated with preparing the agenda item are nominal and absorbed by the department's FY2020/21 Preliminary Budget.

DISCUSSION:

Status of Phase I Hazardous Materials Assessment and Clean-Up Activity

Phase I hazardous waste assessments and cleanups were performed first by the County's contractor, NRC

Group, and then, after approval of FEMA funding, by the Department of Toxic Substance Control (DTSC). As of October 16, 2020, Phase I cleanup of hazardous materials has been completed on 382 parcels. Of the remaining 11 parcels identified as still needing Phase I cleanup, five of these are commercial sites (primarily towers along Blue Ridge Road) that are not covered by DTSC cleanup criteria, two sites have private bridge that have burnt down and are not accessible for clean-up crews, three sites are not accessible and owners have not responded to contacts, and one site was recently identified. DTSC has informed the Department of Resource Management that they will return within two weeks to clean up the remaining sites, if access is possible.

Status of Phase II Fire Debris Clean-Up Activity

Once Phase I cleanup activity is completed, then Phase II cleanup can commence. Property owners must choose and notify Environmental Health of which option they will choose to clean-up their property under Phase II: a government sponsored cleanup, or “Opt-In”, or a private clean-up option, or “Opt-Out”. Property owners should complete the Phase II Debris Removal and Determination Form to notify Environmental Health of their choice. This form can be found by following the link for ongoing recovery updates under Debris Removal and Rebuilding under Property Recovery at www.SolanoCountyRecovers.org [<about:blank>](#), or by going directly to the Department of Resource Management’s 2020 LNU Lightning Complex Fire web page and selecting the Disaster Debris Removal Phase 2 tab (www.solanocounty.com/depts/rm/2020_lnu_lightning_complex_fire/debris_removal_phase_2.asp [<about:blank>](#)). Other forms can be found on this web page also, including the Opt-Out application and Work Plan, Phase 2 debris removal checklist and a Disaster Debris Removal Program Exemption Application, used for parcels where non-residential structures less than 120 square feet, fences, and non-structural wood materials that did not contain paint, pesticides, herbicides, propane or other similar hazardous substances were burned.

Opt-In: Solano County has now received formal notice from CalOES that it has been approved for Phase II funding by FEMA, which allows for the Opt-In government sponsored program to occur. As of October 16, 2020 CalOES, had not provided specific details on what will be included within the government clean-up option and property owners may still be responsible for portions of some clean-up costs, though the cost to the homeowner should be greatly reduced from privately funded clean-up activities. CalRecycle will be the state agency responsible for overseeing the contractor(s) performing Phase II cleanup work. As of October 16, 2020, CalRecycle was still in the process of securing contracts and a schedule for commencing the clean-up activities had not been provided. Because the government contractors will be performing work, no workplan is required to be submitted to, or approved by, the County. As of October 16, 2020, Environmental Health had received 45 Opt-In forms from property owners. CalOES will be establishing a date by which property owners must chose to Opt-In at a later date, which the Board must include within its Ordinance. Once this information is received, staff will return to the Board with a recommended Ordinance amendment incorporating the CalOES Opt-In deadline date.

Opt-Out. Property owners can also choose to Opt-out and privately perform their own Phase II clean-up. If this option is chosen, then a work plan is required to be submitted and approved by Environmental Health prior to the work commencing. The work plan ensures that private clean up follows health and safety standards established by the County (based on prior government clean-up options in other counties impacted by fires), that appropriately licensed contractors are used, that all waste is handled and disposed of properly and that the site is safe for rebuilding after the cleanup is completed. As of October 16, 2020, 69 Phase II Work Plans have been approved and 1 property has received clearance from Environmental Health that Phase II cleanup is complete.

Occupancy of a TED on a property after and during Phase II clean-up.

Originally, due to health and safety reasons, CalOES stated that placement and occupancy of a TED could

only occur after Phase II clean-up was completed. Solano County staff, along with those from other counties, continued to request flexibility in this position given the regional short term housing shortage, the impact on fire displaced families, and that many properties impacted by the fire are of sufficient size to allow occupancy away from fire debris and clean-up work activity which affords an appropriate level of public health protection. This resulted in CalOES providing recent verbal guidance that the Health Officer could specify criteria for occupancy during Phase II activities on larger lots provided such criteria were consistent throughout a county, did not contradict other orders or ordinances, and were reasonably protective of the public's health. The attached Public Health Officer Order 2020-LNU-02 provides the standards for occupying a home or TED after and during Phase II clean-up operations that meet these three criteria.

To occupy a parcel, whether Phase II is completed or not, Phase I assessment and clean-up of hazardous waste must be complete, there must be no other health and safety hazards on the parcel, and proper addressing must be provided at the street, on or by any residence or TED and at any fork in a driveway. A TED, which is a recreational vehicle or a mobile/manufactured home, may be occupied after Phase II cleanup if a home was destroyed by the fire. One TED is allowed per destroyed house, but no more than two are allowed per parcel and each TED may only be occupied by the person(s) displaced from the on-site home destroyed by the fire. A permit for a temporary power pole is required, and the TED may only be occupied up to 18 months after permit issuance. The TED must be placed 30' from property lines and 100' from any neighboring burn pile. An approved method of sewage disposal and water supply must be provided, which can include connection to the on-site systems or other method approved by Environmental Health. A TED can only be initially permitted and its ongoing use allowed only if it does not create a nuisance condition.

A TED can be occupied on parcels 1 acre or larger during Phase II clean-up operations if they meet the above requirements and the following:

- 150' setback from any on site fire debris pile (to allow the minimum 100' setback from all debris removal equipment);
- Have separate access to the burn pile or residents must refrain from using a shared access during Phase II work activity. Residents shall keep vehicle windows rolled up and use interior air recirculation as needed when driving within 150' of burn pile;
- Temporary fencing or other spatial/physical barrier is provided between the residence or TED and the fire debris area;
- Residents will shelter in home (residence or TED) while on the parcel and except for performing essential agricultural, work, or home/yard/vehicle maintenance or repair tasks;
- All residents shall wear appropriate PPE when outside; and
- Outdoor intakes for heating and air conditioning shall not be used when Phase II work is occurring.

An application for a TED upon completion of Phase II and a method to apply on-line temporary power pole building permit can be found at the Department of Resource Management's 2020 LNU Lightning Complex Fire website at www.solanocounty.com/depts/rm/2020_lnu_lightning_complex_fire/default.asp <about:blank>.

Erosion Control

The fire impacted 42,000 acres within Solano County, destroying vegetation that typically acts as a natural buffer to suppress rainfall run-off and reduce the potential for flooding within the watershed. To address this, County staff have been working closely with staff from the Solano Resource Conservation District (Solano RCD), USDA National Resource Conservation Service (NRCS) and Solano County Water Authority (SCWA) to develop plans and programs for assisting residents with erosion control and preparation for winterization. Solano RCD, working with NRCS, has created a signup page where residents impacted by fire can register for a post wildfire recovery site visit by these organizations. Solano RCD also set up a donation collection site for the purchase of rice straw to be set up at various sites and available for erosion control efforts in the affected

areas. County Staff have also participated in informational and organizational meetings with Solano RCD, NRCS, SCWA, and City of Vacaville to help determine strategies to protect the watersheds in the affected area, and the roads, and properties within them. This will be an ongoing process as the fire recovery continues and until natural vegetation once again takes hold and grows back.

ALTERNATIVES:

The Board could choose not to receive the update, affirm Health Officer Order No. 2020-LNU-02, amend Ordinance 2020-1811 and/or adopt a resolution to extend and add certain fee waivers. Such action is not recommended as there will be many steps in the recovery process from the LNU Lightning Complex Fire and it will be important for the Board to receive timely updates on progress that is being made and the recommended actions will assist staff in providing services to residents impacted by the LNU Lightning Complex fire.

OTHER AGENCY INVOLVEMENT:

In addition to the CAO's office, the Sheriff's Department, Department of Resource Management, and County Counsel, numerous other County Departments have been involved in the recovery process along with consultation with CALOES and FEMA. Staff have also consulted with staff from other currently and previously fire impacted counties for general information on debris clean-up and re-occupancy criteria and with staff from Solano RCD, NRCS, SCWA and the City of Vacaville on erosion control

CAO RECOMMENDATION:

APPROVE DEPARTMENTAL RECOMMENDATION