

AN URGENCY ORDINANCE OF THE COUNTY OF BUTTE ADDING CHAPTER 54,
"NORTH COMPLEX FIRE RECOVERY CODE" AND AMENDING SECTIONS 1-7, 41-1,
41-3 and 41-5 OF THE BUTTE COUNTY CODE

4/5 VOTE REQUIRED

The Board of Supervisors of the County of Butte ordains as follows:

Section 1. Chapter 54 is added to the Butte County Code as follows:

CHAPTER 54 - NORTH COMPLEX FIRE RECOVERY

Article I. Findings and Title

Section 54-1. 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, in consultation with the Local Health Officer, finds that this Ordinance is necessary for the immediate preservation of the public peace, health and safety, based upon the following facts:

A. On August 17, 2020, lightning strikes sparked the Bear Fire and the Claremont Fire, both in Plumas County. Conditions of extreme peril to the safety of persons and property within the County of Butte were caused by wildfire known as the North Complex Fire when the Bear and Claremont Fires merged and progressed into the County of Butte on the 8th day of September, 2020, at which time the Board of Supervisors was not in session. A map depicting the North Complex Fire area is attached hereto as Exhibit A.

B. California Government Code Section 8630 empowers the County

1 Administrator to proclaim the existence of a local emergency
2 when the county is affected or likely to be affected by a public
3 calamity, subject to ratification by the Board of Supervisors
4 at the earliest practicable time.

5 C. On September 9, 2020, the Assistant Chief Administrative Officer
6 of the County of Butte proclaimed the existence of a local
7 emergency within the county due to the North Complex Fire.

8 D. On August 18, 2020, the Governor of the State of California
9 proclaimed a State of Emergency for multiple fires caused by
10 lightning strike, including what would grow into the North
11 Complex Fire pursuant to the California Emergency Services Act,
12 commencing with Section 8550 of the Government Code.

13 E. On August 22, 2020, the President of the United States approved
14 a disaster declaration for the State of California relating to
15 the wildfires, providing assistance from many federal agencies,
16 including FEMA;

17 F. On September 11, 2020, Dr. Robert Bernstein, the County of
18 Butte's Local Health Officer, issued a Declaration of Health
19 Emergency pursuant to California Health and Safety Code section
20 101080. Dr. Bernstein's declaration stated that the local health
21 emergency was a consequence of the debris resulting from the
22 North Complex Fire that contains hazardous material in the ash
23 of the burned qualifying structures. The purpose of the
24 Declaration was to address the immediate threat to the public
25 health and the imminent and proximate threat of the introduction
26 of contagious, infectious or communicable disease, chemical

1 agents, non-communicable biologic agents, toxins and/or
2 radioactive agents present at the time in the North Complex Fire
3 area. The threats included (1) the enormous amount of fire debris
4 present in the North Complex Fire area, including respirable-
5 size ash and other debris containing hazardous materials
6 including radioactive materials that have been demonstrated in
7 the past to be present in ash and debris from qualifying
8 structures, (2) the threat of infectious or communicable disease
9 and/or non-communicable biologic agents due to animal carcasses,
10 radioactive waste and perishable foods, (3) the potential
11 contamination or destruction of the residential and commercial
12 water supply in the North Complex Fire area and (4) the potential
13 pollution of the drinking water in or around the North Complex
14 Fire area if weather conditions caused the spread of the
15 hazardous materials in the ash and debris of burned qualifying
16 structures.

17 G. On September 14, 2020, Dr. Bernstein issued a Hazard Advisory
18 strongly suggesting residents should not reside on property with
19 qualifying structures damaged or destroyed by the North Complex
20 Fire until the property had been cleared of hazardous waste, ash
21 and debris and certified clean by the Department of Public
22 Health, Environmental Health Division. When the evacuation
23 orders are lifted, the Department of Public Health will make
24 health and safety information available to residents who choose
25 to visit their property to collect valuables. The re-entry
26 information will cover the dangerous conditions and toxic

1 materials present in the North Complex Fire area. The re-entry
2 information is intended to improve and protect public health and
3 safety from the hazards likely to be encountered during the
4 visit, and are not intended to encourage long-term habitation.
5 The purpose of the Hazard Advisory was to address the public
6 health hazards present at the time in the North Complex Fire
7 area, including (1) the enormous amount of fire debris present
8 in the North Complex Fire area, (2) the hazardous materials and
9 probable radioactive materials present in ash and debris from
10 qualifying structures, (3) the lessened but still present threat
11 of infectious or communicable disease-causing agents and/or non-
12 communicable disease-causing agents due to animal carcasses,
13 radioactive waste and perishable foods, (4) the potential
14 contamination or destruction of the residential and commercial
15 water supply in the North Complex Fire area and (5) the potential
16 pollution of the drinking water in or around the North Complex
17 Fire area if weather conditions caused the spread of the
18 hazardous materials in the ash and debris of burned qualifying
19 structures.

20 H. On September 15, 2020, the Board of Supervisors adopted
21 Resolution No. 20-111 ratifying the Assistant Chief
22 Administrative Officer's proclamation of the existence of a
23 local emergency in the County of Butte. The resolution also
24 requested that the State of California waive regulations that
25 may hinder response and recovery efforts, as well as make
26 available assistance under the California Disaster Assistance

1 Act or any other state funding, and that the Federal Government
2 expedite access to federal resources and any other appropriate
3 federal disaster relief program.

4 I. On September 15, 2020, the Board of Supervisors ratified Dr.
5 Bernstein's Declaration of a Local Health Emergency.

6 J. As of September 18, 2020, the North Complex Fire has consumed
7 over 287,000 acres and has led to the destruction of over 1,200
8 structures including residences and commercial buildings, and
9 resulted in evacuation orders or warnings which impacted over
10 20,000 residents. As a result, the North Complex Fire has created
11 an enormous amount of debris while causing the deaths of 15
12 people. The North Complex Fire is still burning through the
13 County and despite firefighters' best efforts, the wildfire has
14 not been contained. Evacuation orders are currently in place and
15 numerous severe public health and safety hazards are present in
16 the North Complex Fire area, including many blocked roads from
17 fallen power lines, burned trees and vehicles, no available
18 utilities, no available public services and the presence of
19 human remains and animal carcasses.

20 K. There exists the potential for widespread toxic exposures and
21 threats to public health and the environment in the aftermath
22 of a major wildfire disaster, and debris and ash from residential
23 and commercial structure fires contain hazardous materials and
24 the harmful health effects of hazardous materials produced by a
25 wildfire are well-documented.

26 L. The combustion of building materials such as siding, roofing

1 tiles, and insulation results in dangerous ash that may contain
2 asbestos, heavy metals and other hazardous materials. Household
3 hazardous waste such as paint, gasoline, cleaning products,
4 pesticides, compressed gas cylinders, and chemicals may have
5 been stored in homes, garages, or sheds that may have burned in
6 the fire, also producing hazardous materials.

7 M. Exposure to hazardous materials may lead to acute and chronic
8 health effects and may cause long-term public health and
9 environmental impacts. Uncontrolled hazardous materials and
10 debris pose significant threats to public health through
11 inhalation of dust particles and contamination of drinking water
12 supplies. Improper handling can expose residents and workers to
13 toxic materials, and improper transport and disposal of fire
14 debris can spread hazardous substances throughout the community.

15 N. Standards and removal procedures are needed immediately to
16 protect the public safety, health and environment, and to
17 facilitate coordinated and effective mitigation of the risks to
18 the public health and environment from the health hazards
19 generated by the North Complex Fire disaster.

20 O. The North Complex Fire has created hazardous waste conditions
21 in the County of Butte in the form of contaminated debris from
22 household hazardous waste/materials and structural debris
23 resulting from the destruction of thousands of structures. This
24 hazardous waste debris poses a substantial present or potential
25 hazard to human health and the environment until the property
26 is certified clean. The accumulated exposure to hazardous waste

1 debris over an extended period of time poses a severe hazard to
2 human health.

3 P. The Department of Toxic Substances Control has issued reports
4 regarding the assessment of burn debris from wildfires in the
5 past. The studies of burned residential homes and structures
6 from large scale wildland fires indicated that the resulting ash
7 and debris can contain asbestos and toxic concentrated amounts
8 of heavy metals such as antimony, arsenic, cadmium, copper,
9 lead, and zinc. Additionally, the ash and debris may contain
10 higher concentrations of lead if the home was built prior to
11 1978 when lead was banned from household paint in the United
12 States. The reports indicated that the residual ash of burned
13 residential homes and structures has high concentrations of
14 heavy metals that can be toxic and can have significant impacts
15 to individual properties, local communities, and watersheds if
16 the ash and debris is not removed safely and promptly.

17 Q. It is essential that this Urgency Ordinance become immediately
18 effective to mitigate the harm that could be caused to the public
19 health and safety and to the environment from the improper
20 disturbance, removal and/or disposal of debris containing
21 hazardous materials, and to facilitate the orderly response to
22 the North Complex Fire disaster.

23 Section 54-2. Title.

24 This Chapter shall be known and may be cited as the North Complex
25 Fire Recovery Code.

26 **Article II. Debris Removal**

1 Section 54-10. Definitions.

2 Board. The term "Board" means the Board of Supervisors.

3 Director. The term Director shall mean the Butte County Director of
4 Public Health and his/her designee.

5 Qualifying structure. For the purposes of this Article, the term
6 "qualifying structure" shall mean a structure of 120 square feet and
7 over.

8 Removal of Fire Debris. The term "removal of fire debris" as used in
9 this Article includes all cleanup of fire debris from structures
10 resulting from the North Complex Fire, including removal, transport
11 and disposal of fire debris, but it does not include the removal of
12 personal property from residential sites unless such removal of
13 personal property involves cleanup and the removal of ash from the
14 property.

15 Section 54-11. Effective Period.

16 This Article relating to debris removal shall take effect immediately
17 upon adoption and shall remain in effect until the removal of fire
18 debris has been completed on all properties damaged by the North
19 Complex Fire, subject to modification by the Board.

20 Section 54-12. Prohibition on Removal of Fire Debris from Private
21 Property.

22 The removal of fire debris from qualifying structures on private
23 property is prohibited at this time. This prohibition shall not
24 apply to properties that only contained non-qualifying structures,
25 including but not limited to sheds, canopies, carports, well
26 houses, greenhouses, chicken coops or fencing. Whether fire debris

1 derives from a qualifying or non-qualifying structure shall be
2 determined by the Director.

3 Section 54-13. County Development Permits.

4 A. No application for a County Development permit in the North
5 Complex Fire area for a parcel containing fire debris from a
6 qualifying structure shall be considered complete until the applicant
7 has been issued a completion certificate by the Department of Public
8 Health, Environmental Health Division.

9 B. This Section shall not apply to permits for wells or septic
10 systems with the Environmental Health Division of Public Health.
11 Applicants are prohibited from installation of such systems unless
12 it is completed pursuant to the guidance of the Environmental Health
13 Division of Public Health.

14 Section 54-14. Remedies Not Exclusive. The remedies identified are
15 in addition to and do not supersede or limit any and all other
16 remedies, civil or criminal. The remedies provided in this Article
17 shall be cumulative and not exclusive.

18 Section 2. Sub-Section 1-7(b) of the Butte County Code is amended
19 to read as follows:

20 "Notwithstanding any provision of this Code to the contrary in
21 subsection (a) of this section or in chapters 4, 10, 11, 13,
22 14, 19, 23B, 24, 26, 26A, 26B,
23 27, 28, 28A, 28B, 31, 32, 33, 37, 38, 53 or 54, whenever any
24 provision in any of said chapters provides that any act is
25 prohibited or made or declared to be unlawful or a misdemeanor or
26 an infraction, or requires the doing of any act or declares the

1 failure to do any act unlawful or a misdemeanor or an infraction,
2 the violation of such provision may be charged as an infraction
3 and punishable as specified in section 41-5 of this Code. This
4 subsection shall apply to the violation of any provision described
5 herein, including but not limited to the following sections of
6 this Code: 4-1, 4-1.1,4-1.2, 4-1.3, 4-1.5, 4-2, 4-3, 4-13, 10-
7 1, 10-2, 10-8, 10-22, 11-2, 11-4, 11-5, 11-6, 11-7, 11-8, 11-
8 10, 11-11, 11-18, 13-3, 13-104(a), 14-1, 14-4, 14-5, 14-12, 14-
9 15, 14-21, 14-28, 14-30, 14-47, 14-48, 14-61, 14-80, 14-91, 19-
10 3, 19-4, 19-5, 19-7, 19-18, 23B-3, 23B-10, 24-4, 24-5, 24-6, 24-
11 36.2, 24-63.1, 24-68, 26-6, 26A-4, 26A-12, 26B-5, 27-6, 28-4, 28A-
12 2, 28B-2, 31-1, 31-5, 31-7.5, 31-8, 31-8.5, 31-11, 32-10, 33-
13 3, 33-4, 37-7, 37-8, 37-9, 37-16, 37-22, 37-23, 38-4, 53-12 and
14 54-12."

15 Section 3. Section 41-1 of the Butte County Code is amended as
16 follows:

17 "The following policies and procedures are adopted to implement a
18 program of enforcement of Butte County's zoning, building,
19 sanitation and other ordinances contained in the following
20 chapters of this Code: Chapter 10, Highways and Streets; Chapter
21 11, Junk Dealers, Pawnbrokers and Secondhand Dealers; Chapter 13,
22 Grading and Mining; Chapter 14, Motor Vehicles and
23 Traffic; Chapter 19, Sewage Disposal; Chapter 23B, Water
24 Wells; Chapter 24, Zoning; Chapter 26, Buildings; Chapter 26A,
25 Underground Utility Districts; Chapter 28A, Mobilehome and
26 Mobilehome Lot Standards; Chapter 28B, State Housing Law

1 Requirements; Chapter 31, Solid Waste Collection, Management and
2 Recycling; Chapter 32, Naming of Streets and Highways; Numbering
3 Properties and Principal Buildings; Chapter 33, Groundwater
4 Conservation; Chapter 37, Underground Hazardous Substance Storage
5 Facilities; Chapter 41A, Noise Control; Chapter 50, Stormwater
6 Ordinance; Chapter 53, Camp Fire Disaster Recovery; and Chapter
7 54, North Complex Fire Recovery."

8 Section 4. Section 41-3 of the Butte County Code is amended as
9 follows:

10 (a) Enforcement Duties: Each code enforcement officer shall
11 have the duty to enforce the provisions of Chapters 10, 11,
12 13, 14, 19, 23B, 24, 26, 26A, 31, 32, 33, 37, 41, 41A,
13 50, 53 and 54 of this Code.

14 (b) Right of Entry. Whenever necessary to enforce any of the
15 provisions of said chapters, or whenever a code enforcement
16 officer has reasonable cause to believe that there exists in
17 or upon any premises any such violation which makes such
18 premises unsafe, dangerous or hazardous, the code enforcement
19 officer may enter such premises at all reasonable times to
20 inspect the same or to perform any duty imposed upon the code
21 enforcement officer by this chapter; provided, that if such
22 premises be occupied, he or she shall first identify himself
23 or herself as a Butte County Code Enforcement Officer and
24 request entry; and if such premises be unoccupied, he or she
25 shall first make a reasonable effort to locate the violator
26 and request entry. If such entry is refused, the code

1 enforcement officer shall have recourse to every remedy
2 provided by law to secure entry.

3 (c) Issuance of Citations.

4 (1) Each code enforcement officer is hereby authorized to
5 issue citations for violations of the provisions of the
6 chapters of this Code which they have the duty to enforce.
7 Upon referral of a matter by the affected department to the
8 appropriate code enforcement officer, the code enforcement
9 officer shall contact the alleged violator; and, unless the
10 violation has then been abated, the code enforcement
11 officer shall issue a citation to the violator.

12 (2) Prior to issuance of a citation, the code enforcement
13 officer shall identify himself or herself as a county code
14 enforcement officer. The code enforcement officer shall
15 then request the alleged violator, and the alleged violator
16 shall be required, to present his or her driver's license
17 or other satisfactory evidence of his or her identity for
18 examination.

19 (3) The citation shall state a time and date and place at
20 which the alleged violator shall appear in court to answer
21 the charges stated in the citation. The appearance date
22 shall be at least ten (10) days after the date of the
23 citation.

24 Section 5. Section 41-5 of the Butte County Code is amended as
25 follows:

1 "(a) Violations Charged and Punished as Infractions:

2 Notwithstanding any provision of this Code to the contrary in
3 Chapters 10, 11, 13, 14, 19, 23B, 24, 26, 26A, 28A, 28B, 31, with
4 the exception of Section 31-63 of Article VII of Chapter 31, 32,
5 33, 37, 41, 41A, 50, 53 and 54, whenever any provision in any of
6 such chapters provides that any act is prohibited or made or
7 declared to be unlawful or a misdemeanor or an infraction, or
8 requires the doing of any act or declares the failure to do any
9 act unlawful or a misdemeanor or an infraction, the violation of
10 such provision may be charged as an infraction punishable by
11 imposition of the following fines:

12 (1) Upon a first conviction, a fine of one hundred dollars
13 (\$100.00);

14 (2) Upon a second conviction of violating the same chapter of
15 this Code within the twelve (12) month period immediately
16 preceding the commission of the current violation, a fine of two
17 hundred dollars (\$200.00);

18 (3) Upon a third conviction of violating the same chapter of this
19 Code within a twelve (12) month period immediately preceding the
20 commission of the current violation, a fine of five hundred
21 dollars (\$500.00).

22 (b) Each Day a Separate Offense. Each and every day or portion
23 thereof that a person violates or continues to violate any such
24 provision of any of such chapters constitutes a separate offense
25 and may be charged and punished separately without awaiting
26 conviction of any prior violation.

1 (c) Misdemeanors. Any violation which may be otherwise charged and
2 punishable as an infraction pursuant to subsection (a) of this
3 section may be charged and punishable as a misdemeanor if the
4 defendant has been convicted of three (3) or more violations of
5 the same chapter of this Code within the twelve (12) month period
6 immediately."

7 Section 6. CEQA Exemption. Adoption of this Ordinance is exempt
8 from the provisions of the California Environmental Quality Act
9 (CEQA) pursuant to California Public Resources Code section
10 21080(b)(3) regarding projects to maintain, repair, restore, or
11 replace property or facilities damaged or destroyed as a result of
12 a declared disaster and Section 21080(b)(4) regarding actions to
13 mitigate or prevent an emergency, and CEQA Guidelines Section
14 15269(a) regarding maintaining, repairing, restoring, demolishing,
15 or replacing property or facilities damaged or destroyed as a
16 result of a disaster stricken area in which a state of emergency
17 has been proclaimed by the Governor pursuant to the California
18 Emergency Services Act, commencing with Section 8550 of the
19 California Government Code.

20 Section 7. Severability. If any section, subsection, sentence,
21 clause, or phrase of this Ordinance is for any reason held to be
22 unconstitutional or invalid, such decision shall not affect the
23 validity of the remaining portion of this Ordinance. The Board of
24 Supervisors hereby declares that it would have passed this Ordinance
25 and every section, subsection, sentence, clause or phrase thereof
26 irrespective of the fact that any one or more sections, subsections,

1 sentences, clauses or phrases be declared unconstitutional or
2 invalid.

3 Section 8. Effective Date and Publication. This Ordinance shall be
4 and the same is hereby declared to be in full force and effect
5 immediately upon its passage by a four-fifths (4/5) or greater vote.

6 The Clerk of the Board of Supervisors is authorized and directed to
7 publish this Ordinance before the expiration of fifteen (15) days
8 after its passage. This Ordinance shall be published once, with the
9 names of the members of the Board of Supervisors voting for and
10 against it, in a newspaper of general circulation published in the
11 County of Butte, State of California. Pursuant to Government Code
12 section 25124, a complete copy of this Ordinance is on file with the
13 Clerk of the Board of Supervisors and is available for public
14 inspection and copying during regular business hours in the office
15 of the Clerk of the Board of Supervisors, 25 County Center Drive,
16 Oroville, California.

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1 **PASSED AND ADOPTED** by the Board of Supervisors of the County of
2 Butte, State of California, on the 23rd day of September, 2020 by
3 the following vote:

4
5 **AYES:** Supervisors Connelly, Lucero, Ritter, and Chair Lambert

6 **NOES:** None

7 **ABSENT:** Supervisor Teeter

8 **ABSTAIN:** None

9 
10 STEVE LAMBERT, Chair
Butte County Board of Supervisors

11 **ATTEST:**

12
13 **SHARI MCCRACKEN**, Chief Administrative Officer
and Clerk of the Board

14
15 By: 
Deputy

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