

**ORDINANCE NO. 2018-002**

**AN EMERGENCY ORDINANCE OF THE  
CITY COUNCIL OF THE CITY OF SAN  
BUENAVENTURA, CALIFORNIA,  
ESTABLISHING LOCAL STANDARDS AND  
PROCEDURES FOR CLEANUP OF DEBRIS  
GENERATED BY THE THOMAS FIRE;  
ESTABLISHING ENFORCEMENT  
STANDARDS AND AUTHORIZING THE  
ABATEMENT OF PUBLIC NUISANCES  
FOLLOWING THE ISSUANCE OF AN  
INSPECTION AND ABATEMENT WARRANT**

The Council of the City of San Buenaventura does ordain as follows:

**Section 1. Title.**

This Ordinance shall be known as the "Thomas Fire Debris Removal Emergency Ordinance."

**Section 2. Emergency Findings.**

This urgency ordinance is adopted pursuant to the San Buenaventura City Charter Section 706 and shall take effect immediately upon its approval by at least a four-fifths vote of the City Council, except if less than all seven members are present, a unanimous vote shall be required. The City Council finds that this ordinance is necessary for the immediate preservation of the public peace, health and safety, based upon the following facts:

- A. A large number of residential structures have burned in the Thomas Fire.
- B. 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.

- C. 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.
- D. 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.
- E. 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.
- F. 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 “Public Health Declaration”). The County Health Officer serves as the Health Officer for the unincorporated portions of Ventura County as well as for the incorporated cities.

- G. The Public Health Declaration prohibits removal of fire debris from residential properties without first obtaining 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 as set forth in this Ordinance, the Public Health Declaration required 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.
  
- H. 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) City shall mean the City of San Buenaventura.
  
  - b) City Council shall mean the City Council of the City of San Buenaventura.



- c) City Manager shall mean the City Manager or the designee thereof for the City of San Buenaventura.
- d) Director shall mean the City's Director of Public Works or his or her designee.
- e) Hearing Officer shall mean that individual designated by the City Manager to hear appeals properly and timely filed pursuant to this Ordinance.
- f) 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.
- g) Local Fire Debris Removal Program (Local Program) shall mean the requirements for inspections and clean up established by the City of San Buenaventura for structures within the City damaged or destroyed by the Thomas Fire.
- h) Removal of the 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 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 City 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 Emergency Services' fire debris clearance program, or by an entity approved by the Local Program.

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

- (a) The Director shall administer the Local Program in the City under the supervision of the City Manager. The Director shall utilize the state and federal standards and cleanup goals of the OES Program as the standards for the Local Program. Under the supervision of the City Manager, the Director may administratively update those 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 Local Program will be met. Work shall not begin until the City, by and through the Director, 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 City of San Buenaventura's Building Code or elsewhere in the City's Municipal Code, a City demolition permit may be required for ash debris removal work for which the Director has issued an approval allowing such work to proceed.
- (e) Pursuant to the Public Health Declaration, the County of Ventura's Director of Environmental Health Division or his/her designee shall be notified of applications within the City's Local Program.

**5) Hold on Building Permits.**

- (a) No City of San Buenaventura 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 Local Program is approved and submitted to the City's Building Official.

**6) 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 City 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 Local Program by that date are hereby declared a public nuisance and health hazard.
- (b) Clean-up of properties enrolled in the Local Program must be completed no later than June 1, 2018. Properties enrolled in the Local



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 6)(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 City Council's intent in enacting this provision is to facilitate orderly remediation of a large-scale disaster. Nothing in these deadlines shall limit the authority of the City of San Buenaventura or any City of San Buenaventura 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 on an emergency basis 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 proper owner(s) or any person or entity having a legal interest in the property (Property Owner) may submit a written appeal of the Director's Notice and Order to the City Clerk no later than 10 days from the date of mailing and/or posting of the Notice and Order. The written appeal shall state the basis for the appeal. The City Clerk shall schedule a hearing with the Hearing Officer on the appeal to be held no more than 15 days from the receipt by the City Clerk of a timely and properly submitted appeal. The Hearing Officer



shall review the appeal and shall issue a written decision no later than five days after the hearing. The Hearing Officer'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. Failure to appear at the hearing shall limit the Hearing Officer to consider only the written materials submitted by the Property Owner; however, the City shall be entitled to present evidence supporting its case at the hearing.

- (iii) If the Hearing Officer upholds or modifies the Director's Notice and Order, the Director shall cause an application to be filed with the Superior Court of California for an Inspection and Abatement Warrant pursuant to California Code of Civil Procedure Section 1822.50 *et seq.* for each parcel, and, upon issuance, to cause the parcel to be inspected and the public nuisance to be abated by the removal of fire debris in a fashion meeting the requirements of this Ordinance.
- (iv) 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 City;
  - (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) All costs of enforcement incurred by the City to enforce this Ordinance, and costs of abatement of the public nuisance incurred by the City, shall be the liability of the owners(s) of the property and shall be broken down by parcel. The Director is directed to keep an account of the cost incurred by the City to inspect and abate the public nuisance on each parcel, and to prepare an Itemized Report of the costs incurred by the City. The Itemized Report shall be posted for at least three days on or near the regular place of posting of City notices together with a notice of the time when such Itemized Report shall be submitted to the City Council for confirmation. At the time fixed for receiving and considering the Itemized Report, the City Council shall hear the same together with any objections which may be raised by the property owner(s) of each parcel, and shall confirm the Itemized Report with any modifications or amendments made by the City Council.
  
- (5) After confirmation of the Itemized Report, the Director shall transmit the confirmed Itemized Report to the County of Ventura Assessor and the Tax Collector, whereupon it shall be the duty of such officers to add the amounts to the

assessment of the respective lots and parcels of land for municipal purposes. In the event the assessment for the abatement, rubbish removal, or any other assessment authorized by this Ordinance is placed on the tax roll, a charge of two dollars for administrative expenses shall be added to the assessment in order to compensate the City for the cost of collection from property owner(s) who failed to pay the original assessment within a reasonable time. The amounts of the respective assessments shall be entered upon the tax roll opposite the respective parcels of land, and thereafter such amount shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in the case of delinquency as provided for ordinary municipal taxes of the City.

- (6) The Treasurer of the City is authorized to receive the amount due for the cost of abating the nuisance pursuant to this Ordinance, and to issue receipts therefore at any time after the confirmation of the Itemized Report and until ten days before a copy of the Itemized Report shall be turned over to the County Tax Collector and Tax Assessor for placement on the County tax roll for collection.
- (7) Judicial Enforcement Action. The City Attorney is authorized to initiate suits to abate public nuisances as defined in this Ordinance without further City Council approval.



- (8) 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. CEQA 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(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. Severability Clause.**

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have passed this ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

#### **Section 6. Effective Date.**


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 City Councilmembers voting for or against the same, in a newspaper of general circulation.

PASSED and ADOPTED this 8 day of January 2018.

  
NEAL ANDREWS, MAYOR

ATTEST:

  
ANTOINETTE M. MANN, MMC, CRM  
CITY CLERK

APPROVED AS TO FORM  
Gregory G. Diaz, City Attorney

By:  11/21/2018  
GREGORY G. DIAZ Date  
City Attorney

CERTIFICATION

STATE OF CALIFORNIA            )  
COUNTY OF VENTURA         )    SS.  
CITY OF SAN BUENAVENTURA    )

I, ANTOINETTE M. MANN, City Clerk of the City of San Buenaventura, DO HEREBY CERTIFY that the foregoing is a full, true, and correct copy of Ordinance No. 2018-002 that was introduced and adopted by said City Council at a regular meeting held January 8, 2018, by the following vote:

AYES:     Councilmembers Nasarenko, Weir, Tracy, Heitmann, Monahan  
          Deputy Mayor LaVere and Mayor Andrews

NOES:     None.

ABSENT:  None.

I further certify that said Ordinance No. 2018-002 was published as required by law in the VENTURA COUNTY STAR, a newspaper of general circulation printed and published in said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Buenaventura, California.

*Antoinette M Mann*

Antoinette M. Mann, MMC, CRM  
City Clerk  
City of San Buenaventura, California

*January 10, 2018*

Date Attested

