

ORDINANCE NO. _____

AN URGENCY ORDINANCE OF THE COUNTY OF SANTA BARBARA AMENDING ARTICLE V, CHAPTER 17 OF THE SANTA BARBARA COUNTY CODE TO ADD SECTIONS 17-73 through 17-75 TO ALLOW THE DIRECTOR OF PUBLIC WORKS TO AUTHORIZE, WHEN IT CONSTITUTES AN IMMEDIATE THREAT TO LIFE, PUBLIC HEALTH, AND SAFETY, ACTIONS NECESSARY TO ENTER PRIVATE PROPERTY IMPACTED BY DEBRIS FLOWS FROM THE THOMAS FIRE AND WORK WITHIN 100 FEET OF THE TOP OF BANK OF STREAM CHANNELS IN ORDER TO CLEAR DEBRIS AND OTHER OBSTRUCTIONS FROM WITHIN STREAM CHANNELS.

The Board of Supervisors of the County of Santa Barbara hereby ordains as follows:

SECTION 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 of Supervisors finds that this ordinance is necessary for the immediate preservation of the public peace, health and safety, based upon the following declaration of facts constituting the urgency:

1. The Thomas Fire burned the major watersheds in the Montecito and Carpinteria areas from the Santa Barbara/Ventura County line and caused massive burn scars, exacerbating the potential this winter for more mud and debris flows to occur quickly and with little, if any, time to evacuate;
2. Further details about these emergencies are included in the January 8, 2018 Local Declaration of Emergency, December 5, 2017 State of Emergency Declaration by Governor Brown (amended to add Santa Barbara County on December 7, 2017), January 12, 2018 Executive Order B-46-18 by Governor Brown, and the December 8, 2017 Presidential Declaration of Emergency by President Trump;
3. The January Storm caused dangerous flash flooding, erosion, and substantial mud and debris flows throughout the burn scar areas, forcing the evacuation of residents;
4. The mud and debris flows have caused fatalities, damaged critical infrastructure, destroyed homes, and forced the closure of major highways and local roads, including Highway 101;
5. While the 11 debris basins worked, and were highly effective, they were overwhelmed by the enormous amount of debris (rocks, sediment, and trees) which now choke the stream channels downstream;
6. The stream channels are for the most part natural / unimproved channels that are now severely impacted with debris and thus cause a serious risk to public health and safety and threats to more damage to public infrastructure;
7. While Santa Barbara County Crews (Transportation and Flood Control) took immediate action to open bridges and some channels, these operations restored capacity only for base flows and many channels presently are not capable of handling future flows for larger storms;
8. The County continues to work diligently with the assistance of State and Federal agencies to clear sediment and debris from creeks, streams, and debris basins in the Montecito area, however, immediate action by the County, local agencies and districts, and State and Federal agencies to clear debris and other obstructions from stream channels is

necessary to avert impending peril during the rainy season and essential to safeguard public health and safety from the immediate threat of flooding;

9. Clearing the stream channels is expected to take weeks and until abated, the following risks remain:
 - a. Highway 101 will be subject to closure again, and potential for mud and debris to extend closure of this major freeway and cause additional costs for cleanup;
 - b. State Route 192 will be subject to closure and more damages and cause additional costs for cleanup;
 - c. Local roadways and bridges are subject to additional damage, debris loading, and damages to bridges. Closures will impact emergency response equipment and cause additional costs and strand residents unable to evacuate;
 - d. Public utilities like water, power, gas, telephone, sewer, and cable would be damaged again after just being restored; and
 - e. More damages to homes and property as well as an overall risk to public health and safety.
10. There is no other way to immediately and reasonably correct the public nuisance of sediment, debris or other obstruction within stream channels because many of the properties in question have been under mandatory evacuation since January 8, 2018 and currently remain in a Long Term Exclusion Area;
11. The Board of Supervisors finds that the benefits granted by this urgency ordinance are in the best interest of the County, and do not amount to a gift of public funds prohibited by the California Constitution, because the benefit of properly functioning natural and artificial watercourses serves public purposes and benefits each member of the community; and
12. The emergency authorities provided in Section 2, below, are in addition to and not in restraint of other emergency powers held by the County Executive Officer, the County Public Works Director, or the County Road Commissioner.

SECTION 2. Article V of Chapter 17 of the Santa Barbara County Code is hereby amended to add sections 17-73 through 17-75, inclusive, which read as follows:

Sec. 17-73. - Public nuisance declared.

In areas of the Montecito Community Plan Area impacted by the Thomas Fire and subsequent debris flows, any sediment, debris or other obstruction that is clogging stream channels shall constitute a public nuisance and immediate threat to public health or public safety, because before expected winter storms it affects the flood safety of an entire community or neighborhood, or a considerable number of persons.

Sec. 17-74. – Summary Nuisance Abatement.

- (a) If the County Executive Officer (CEO) determines that immediate stream-clearing actions are necessary to protect life, public health or public safety, the CEO may dispense with the notice and hearing requirements of the public nuisance administrative appeal procedures otherwise set forth in this Article and:
 - i. Authorize actions necessary to enter private property and work within 100 feet of the top of bank of stream channels in order to clear

- sediment, debris or other obstructions from within stream channels;
and
- ii. Authorize entry onto private property for that purpose by other emergency responders including: County employees; local agencies and districts; and State and Federal Agencies, in order to summarily abate the nuisance as described above.
- (b) During abatement activities, the CEO or their designee shall post notice on the private property to inform the owner of the abatement activities.
 - (c) Following summary abatement, at the earliest time prudent once the immediate threats to life, public health, and safety no longer exist, the CEO or their designee shall notify the owner of the subject property of the abatement at their address as it appears on the last equalized assessment roll of the County or as otherwise known by the CEO.
 - (d) The CEO or their designee shall take all reasonable steps available under the circumstances of the emergency to avoid duplication of benefits to property owners having insurance that would otherwise cover this sediment and debris removal.

Sec. 17-75. – Effective Date.

Sections 17-73 through 17-75 shall remain in effect and operative until May 1, 2018, unless extended or renewed.

SECTION 3, Publication. Before the expiration of 15 days after passage of this urgency ordinance, a summary of it shall be published once together with the names of the members of the Board of Supervisors voting for and against the same in the *Santa Barbara News-Press*, a newspaper of general circulation published in the County of Santa Barbara in compliance with Government Code Section 25124.

SECTION 4, Severability. If any provision of this urgency ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions of this urgency ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this urgency ordinance are severable. The Board of Supervisors hereby declares that it would have adopted this urgency ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5, Effective Date. This urgency ordinance shall take effect and be in full force immediately upon adoption by at least a four-fifths vote of the Board of Supervisors pursuant to Government Code Section 25123 and shall remain in effect and operative until May 1, 2018.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this the 30th day of January, by the following vote:

AYES:

NOES:

ABSTAIN:

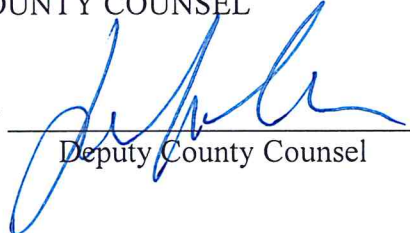
ABSENT:

DAS WILLIAMS, CHAIR
BOARD OF SUPERVISORS
COUNTY OF SANTA BARBARA

ATTEST:
MONA MIYASATO, COUNTY EXECUTIVE OFFICER
CLERK OF THE BOARD

By _____
Deputy Clerk

APPROVED AS TO FORM:
MICHAEL C. GHIZZONI
COUNTY COUNSEL

By  _____
Deputy County Counsel