



# MARIPOSA COUNTY

Planning · 209-966-5151



## **ORDINANCE 2017-1128**

MEETING: September 12, 2017

TO: The Board of Supervisors

FROM: Sarah Williams, Planning Director

RE: Ordinance Extending Ordinance 1126 - Interim Urgency Ordinance

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### **RECOMMENDATION AND JUSTIFICATION:**

Adopt an Ordinance Extending for 10 Months and 15 Days, Ordinance 1126, an Interim Urgency Ordinance Establishing a New Mariposa County Code Chapter 18.05 for Post Disaster Recovery.

This extension, until August 6, 2018, is needed to give staff time to complete the processing of a County Code text amendment. Staff will prepare and process necessary documents, including a resolution, ordinance and CEQA determination, to amend Mariposa County Code to establish a new Chapter 18.05 for Post-Disaster Recovery. Processing will include scheduling and noticing public hearings for the Planning Commission and Board of Supervisors.

This public hearing to consider an extension has been noticed, pursuant to the requirements established by California Government Code Section 65858(a) and Mariposa County Code, Zoning, Section 17.132.020.

### **BACKGROUND AND HISTORY OF BOARD ACTIONS:**

August 8, 2017 the Board of Supervisors adopted Ordinance 1126, a 45-day interim urgency ordinance establishing a new Mariposa County Code Chapter 18.05 for Post Disaster Recovery.

The urgency ordinance will expire on September 22, 2017.

### **ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Without an extension, staff will be unable to complete Board Direction and the Interim Urgency Ordinance will expire. Adoption of a new Interim Urgency Ordinance will be necessary.

### **FINANCIAL IMPACT:**

**No Financial Impact will result from the recommended action.**

### **ATTACHMENTS:**

**BOS.170912.Ord 1126 EXT (DOCX)**

### **CAO RECOMMENDATION**

Requested Action Recommended

*Dallin Kimble*  
Dallin Kimble, County Administrative Officer 9/7/2017

**RESULT: ADOPTED [UNANIMOUS]**

**MOVER:** Merlin Jones, District II Supervisor

**SECONDER:** Rosemarie Smallcombe, District I Supervisor

**AYES:** Smallcombe, Jones, Long, Cann, Menetrey



**MARIPOSA COUNTY ORDINANCE NO. 1128**

**AN ORDINANCE EXTENDING INTERIM URGENCY  
ORDINANCE 1126 ESTABLISHING A NEW MARIPOSA  
COUNTY CODE, CHAPTER 18.05 FOR POST-DISASTER  
RECOVERY**

**WHEREAS**, on July 16, 2017, the Detwiler Fire, a wildland fire, started in Hunters Valley, Mariposa County, approximately 15 miles north-northwest of the town of Mariposa. The rapidly expanding fire was not contained by initial attack, escaped containment efforts several times over the following 12 days, and forced the evacuation of thousands of residents; and

**WHEREAS**, the Detwiler Fire ultimately consumed 81,826 acres of land within Mariposa County and impacted 796 parcels; and

**WHEREAS**, a local state of emergency was declared on July 18, 2017, and a supporting resolution was passed by the Board of Supervisors on July 25, 2017; and

**WHEREAS**, a State Emergency Proclamation was requested and approved by California Governor Brown on July 18, 2017; and

**WHEREAS**, a Local Public Health Emergency was declared by the County Health Officer on July 21, 2017 and approved by the Board of Supervisors on July 25, 2017; and

**WHEREAS**, Mariposa County has adopted Ordinance 1126 establishing interim urgency procedures and standards to address post-disaster recovery efforts, including provisions for temporary replacement housing for persons displaced by a disaster; and

**WHEREAS**, during this extended interim urgency period, county staff is directed to prepare and process necessary documents, including a resolution, ordinance and CEQA determination, to amend Mariposa County Code to establish a new Chapter 18.05 for Post-Disaster Recovery. Staff is directed to process this project pursuant to County Code, which includes scheduling and noticing public hearings for the Planning Commission and Board of Supervisors; and

**WHEREAS**, Ordinance 1126 expires on September 22, 2017.

**NOW, THEREFORE, THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY**, a political subdivision of the State of California, does ordain as follows:

**Section I:** During the dates this Interim Urgency Ordinance is effective, the provisions of Attachment 1 shall remain in effect.

**Section II:** The purpose of this Interim Urgency Ordinance is to protect the public safety, health and welfare of the citizens of Mariposa County and is based upon the following findings:

- A. The Board of Supervisors hereby finds and declares that the ordinance promotes public health, safety, and general welfare of County residents by providing an expedited process to help County residents, whose homes are damaged or destroyed in a disaster, to obtain or establish safe temporary housing in-county, while repairing or rebuilding their homes and clearing hazardous debris.

- B. The County has received multiple inquiries regarding the establishment of temporary replacement housing, since the date the Detwiler Fire started. The establishment of temporary replacement housing is not currently allowed by Mariposa County Code, without the issuance of a building permit for a single family dwelling. The Board finds that the establishment of these county code provisions for temporary replacement housing, with minimum relevant and necessary standards, will protect impacted residents and neighborhoods, enable quick re-occupation of properties, while addressing potential hazards to public health, safety, and welfare.
- C. There are immediate temporary public facility needs following a disaster, including for timely removal of debris, stabilization of soils, erosion control and re-establishment of public services. The establishment of temporary public facility needs following a disaster is not currently addressed by Mariposa County Code. The Board finds that the establishment of these county code provisions for temporary public facility needs will enable critical facilities to be established immediately during a disaster, and enable nuisance impacts to be addressed. The process will ensure adequate site restoration following the disaster.
- D. The Board of Supervisors finds the action to adopt this urgency ordinance to be consistent with the Mariposa County General Plan, which includes a number of policies to support the ordinance. The General Plan includes land use goals regarding continued use of legally established uses, safety element goals protecting public health and safety, housing goals and policies to reduce costs of housing while protecting the public health and safety and goals to accommodate special needs housing, including providing emergency shelter.

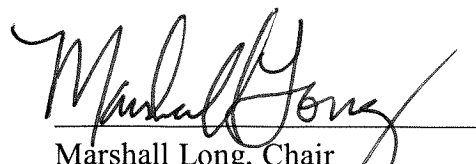
**Section III:** Failure to adopt this ordinance may result in significant human health and safety impacts to Mariposa County residents impacted by the Detwiler Fire.

**Section IV:** Based on the foregoing, the Board of Supervisors does hereby declare this extension of Urgency Ordinance 1126 is necessary to protect the public health, safety, and welfare following a locally declared disaster.

**Section V:** This order extending Interim Urgency Ordinance 1126 is under the authority of California Government Code Section 65858 and shall become effective immediately upon adoption and shall be in effect for 10 months and 15 days from September 22, 2017 unless extended pursuant to California Government Code § 65858.

**PASSED AND ADOPTED** on this 12<sup>th</sup> day of September, 2017 by the following vote:

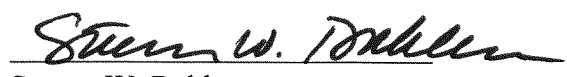
AYES: SMALLCOMBE, JONES, LONG, CANN, MENETREY  
 NOES: NONE  
 ABSTAINED: NONE  
 EXCUSED: NONE

  
 Marshall Long, Chair  
 Mariposa County Board of Supervisors

**ATTEST:**

**APPROVED AS TO FORM:**

  
 René LaRoche  
 Clerk of the Board

  
 Steven W. Dahlem  
 County Counsel

# ATTACHMENT 1

## Chapter 18.05

### Post-Disaster Recovery

#### Sections:

- 18.05.010 Purpose
- 18.05.020 Declaration of emergency; duration
- 18.05.030 Definitions
- 18.05.040 Temporary replacement housing on-site
- 18.05.050 Replacement of damaged or destroyed housing or other structures
- 18.05.060 Repair Criteria
- 18.05.070 Temporary replacement housing off-site
- 18.05.080 Fees; Replacement of damaged or destroyed housing or other structures
- 18.05.090 Debris removal; site approval required
- 18.05.100 Temporary facilities for post-disaster recovery
- 18.05.110 Severability and pre-emption

#### 18.05.010 Purpose.

The purpose of this chapter is to facilitate the establishment of temporary replacement housing for residents who have lost their homes due to a disaster and to establish procedures for rebuilding structures damaged or destroyed as a result of a disaster. This chapter is also intended to protect the public health and safety of the residents within a declared disaster area, and to provide for temporary facilities for post-disaster recovery operations.

#### 18.05.020 Declaration of emergency; duration.

The provisions of this chapter are applicable for a period of two (2) years following the date of action by the Board of Supervisors to declare a local emergency following a disaster. These provisions shall take precedence over any conflicting ordinances in the Mariposa County Code that would apply in the absence of the emergency. By resolution of the Board of Supervisors, the provisions of this chapter may be extended for one (1) additional year.

#### 18.05.030 Definitions.

The following terms as used in this chapter shall have the following meanings, unless the context in which a term is used plainly requires another meaning:

A. "Disaster" means a wildfire, flood, earthquake, or other natural or human-caused event that damages or destroys dwellings or other property and displaces people, and which is the basis for a declared local state of emergency.

B. "Footprint" means the area that falls directly beneath and shares the perimeter of a structure and any area in which debris from a destroyed building or structure remained after the disaster.

C. "Recreational vehicle" means a motor home, travel trailer, truck

camper, or camping trailer which is self-contained and designed for human habitation for recreational or emergency occupancy; which is self-propelled, truck-mounted, or permanently towable on California roadways; and which is a California Department of Motor Vehicles licensed vehicle.

D. "Displaced resident or residents" means a Mariposa County resident or residents whose residential dwelling has been destroyed or damaged by a disaster, such that the resident(s) cannot occupy the dwelling as determined by the Building Department. Displaced resident(s) may be required to provide verification to the Building Department, to substantiate their eligibility for permits as described in this chapter. Evidence may consist of a driver's license or other government-issued identification card or utility bill, etc. with a physical address showing the resident resided on a legal parcel impacted by the disaster.

E. "Health Department" shall mean the Director of the Health Department or designee

F. "Building Department" shall mean the Director of the Building Department or designee.

G. "Planning Department" shall mean the Director of the Planning Department or designee.

#### **18.05.040 Temporary replacement housing on-site.**

Temporary replacement housing for displaced resident(s), consisting of a recreational vehicle or recreational vehicles, as defined herein, located on a legal parcel which sustained damage as a result of a disaster shall be authorized by the Building Department subject to the following provisions:

A. Except as provided in Section 18.05.040.B, temporary replacement housing authorized pursuant to this chapter shall no longer be used in lieu of permanent housing within two (2) years of the date of the Board of Supervisors' action declaring the local emergency, unless a one-year (1 year) extension is granted by the Board of Supervisors pursuant to section 18.05.020, in which case it shall be removed within three (3) years.

B. Temporary replacement housing shall no longer be used in lieu of permanent housing immediately following issuance by the Building Department of a final inspection or certificate of occupancy for a permanent replacement dwelling unit on-site.

C. Temporary replacement housing may only be occupied by a displaced resident or residents.

D. Temporary replacement housing shall meet the following standards:

1. The property owner or the property owner's authorized agent shall apply for a permit from the Building Department.

2. The permit shall only be considered for a parcel on which a permitted or legally established residence was destroyed, or substantially or partially damaged and uninhabitable as determined by the Building Department as a result of the disaster. Proof that a destroyed or damaged residence was permitted or legally established shall be verified by the Building Department based on prior finalized building permit or assessor's records, or other documentation satisfactory to the Building Department.

3. No more than two (2) recreational vehicles used for temporary replacement housing shall be permitted per parcel.

4. If the temporary replacement housing is utilized prior to approval by the Health Department of the site as being free of all public hazards and toxic debris, the following provisions shall apply:

a. A waiver of County liability, approved as to legal form

and sufficiency by County Counsel, shall be signed by the property owner and any authorized agent.

b. The temporary replacement housing shall be located a minimum of one hundred and fifty (150) feet from the footprint of any damaged structure and in a manner that does not impede the debris removal process. Lesser setbacks may be approved by the Health Department on a case by case basis.

c. The property owner and all occupants shall implement mitigation measures adequate to prevent exposure of hazardous wastes and safety risks to humans and animals, as determined necessary by the Health Department.

5. Except as provided in Section 18.05.040.D.4, a permit for temporary replacement housing shall not be issued by the Building Department until the site is approved by the Health Department as being free of all public hazards and all toxic debris or residue caused by the disaster.

6. The temporary replacement housing shall be located outside the boundaries of any recorded easements and may be located within the Zoning Ordinance required setback areas such that placement of the temporary replacement housing will allow for unobstructed reconstruction on the site.

7. The temporary replacement housing shall be connected to an approved source of water meeting one of the following criteria:

a. Public water supply;

b. Existing well provided that it has been approved by the Health Department as safe for domestic consumption; or

c. Other water source approved by the Health Department.

8. The temporary replacement housing shall be connected to an approved sewage disposal system meeting one of the following criteria:

a. Public sewer system;

b. Existing on-site sewage disposal system that has been approved by the Health Department to be intact, adequately sized, and functioning following the disaster;

c. Temporary holding tank with a contract with a pumping company for regular pumping. A copy of the contract shall be provided to the Health Department; or

d. Other method of sewage disposal approved by the Health Department.

9. The temporary replacement housing shall be connected to an approved source of electricity meeting one of the following criteria:

a. Permitted electrical service hook-up; or

b. Other power source approved by the Building Department.

10. Temporary replacement housing shall not be located in either of the following areas:

a. a flood hazard area established by separate action of the Board of Supervisors or other authorized Federal, State, or local official; or

b. an area affected by the disaster which, due to hazards to health and safety directly or indirectly resulting from the disaster, require in-depth study before allowing rebuilding of any kind as determined by the Building Department or Health Department.

11. The temporary replacement housing allowed by this chapter may be converted to temporary construction housing upon issuance of a building permit for a permanent residence, pursuant to County Code Section



15.10.270.B.

**18.05.050 Permanent replacement of damaged or destroyed housing or other structures.**

Structures damaged or destroyed by a disaster may be replaced pursuant to the following provisions:

A. Structures illegally constructed before the disaster may only be reconstructed if all current and applicable state and local requirements are satisfied.

B. Structures legally constructed before the disaster may be reconstructed provided all current and applicable state and local requirements are satisfied, including Zoning Ordinance provisions for nonconforming structures.

C. Prior to the issuance of a Building Permit, the site of the structure shall be approved by the Health Department as being free of all public hazards and toxic debris or residue caused by the disaster.

D. Replacement of mobile homes or manufactured homes shall comply with the National Manufactured Housing Act (42 U.S. C. §5401 et. seq.), the Special Occupancy Parks Act (Health and Safety Code §18860), the Manufactured Housing Act of 1980 (Health and Safety Code §§18020 et seq.), current California Code of Regulations, Title 25 standards, and Mariposa County Code Section 17.108.095.

E. A garage or storage building may be permitted as an accessory structure prior to the issuance of a permit for a single family dwelling on any parcel on which a residence was destroyed by a disaster.

**18.05.060 Repair criteria.**

Permitted of legally established structures that have been damaged as the result of a disaster shall be repaired in accordance with the following criteria:

A. When the estimated value of repair is less than fifty percent (50%) of the replacement value of the structure, the damaged elements may be repaired. Any repairs must comply with the current California Code of Regulations, Title 24 standards.

B. When the estimated value of repair is fifty percent (50%) or more of the replacement value of the structure, the entire structure shall be brought into conformance with the current California Code of Regulations, Title 24 standards.

C. Determinations made relative to the provisions within this section shall be the authority of the Building Department.

**18.05.070 Temporary replacement housing off-site.**

Installation of temporary replacement housing off-site for displaced resident(s), consisting of a recreational vehicle or recreational vehicles, as defined herein, may be authorized by the Building Department subject to the following provisions:

A. A maximum of two (2) recreational vehicles shall be authorized on a privately owned parcel which is off-site from the disaster and which is zoned for primary residential use as determined by the Planning Department.

B. Except as provided in Section 18.05.070.C, temporary replacement housing off-site authorized pursuant to this section shall no longer be used in lieu of permanent housing within two (2) years of the date of the Board action declaring the local emergency, unless a one-year (1 year) extension is granted by the Board of Supervisors pursuant to 18.05.020, in

which case it shall be removed within three (3) years.

C. Temporary replacement housing off-site shall no longer be used in lieu of permanent housing immediately following issuance by the Building Department of a final inspection or certificate of occupancy for a permanent replacement dwelling unit for the displaced resident or residents.

D. The permit for temporary replacement housing off-site shall only be considered for a displaced resident who occupied a permitted or legally established residence that was destroyed, or substantially or partially damaged and uninhabitable as determined by the Building Department as a result of the disaster. Proof that a destroyed or damaged residence was permitted or legally established shall be verified by the Building Department based on prior finalized building permit or assessor's records, or other documentation satisfactory to the Building Department.

E. Temporary replacement housing shall be occupied by a displaced resident or residents.

F. Temporary replacement housing off-site shall be located outside the boundaries of any recorded easements and shall comply with all Zoning Ordinance setback requirements.

G. Temporary replacement housing off-site shall meet the following standards:

1. The property owner or the property owner's authorized agent shall apply for a permit from the Building Department.

2. The temporary replacement housing off-site shall be connected to an approved source of water meeting one of the following criteria:

a. Public water supply;

b. Existing well provided that it has been approved by the Health Department as safe for domestic consumption; or

c. Other water source approved by the Health Department.

3. The temporary replacement housing off-site shall be connected to an approved sewage disposal system meeting one of the following criteria:

a. Public sewer system;

b. Existing on-site sewage disposal system that has been approved by the Health Department to be intact and functioning following the disaster and adequately sized;

c. Temporary holding tank with a contract with a pumping company for regular pumping. A copy of the contract shall be provided to the Health Department; or

d. Other method of sewage disposal approved by the Health Department.

4. The temporary replacement housing off-site shall be connected to an approved source of electricity meeting one of the following criteria:

a. Permitted electrical service hook-up; or

b. Other power source approved by the Building Director.

5. Temporary replacement housing off-site shall not be located in either of the following:

a. a flood hazard area established by separate action of the Board of Supervisors or other authorized Federal, State, or local official; or

b. an area affected by the disaster which, due to hazards to health and safety caused by the disaster, require in-depth study before allowing rebuilding of any kind as determined by the Building Department or Health Department.

**18.05.080 Fees; replacement of damaged or destroyed housing or other structures.**

A. All current permit fees apply, including demolition permit fees, unless otherwise modified or waived by the Board of Supervisors.

B. During the time period when this chapter is applicable pursuant to Section 18.05.020, application plan check fees that are normally paid at the time an application is submitted may be deferred by the Building Department, at the applicant's request, and paid at the time the permit is issued.

C. The current process for determining school impact fees, which involves the Mariposa County Unified School District, shall be followed.

**18.05.090 Debris removal; site approval required.**

1. All hazardous materials and debris, including but not limited to household hazardous wastes, asbestos, ash from burned structures, metals, damaged or destroyed vehicles, and all public hazards shall be removed prior to reconstruction or reuse of property damaged by the disaster and shall, in all cases, be removed and disposed of within one hundred eighty (180) days of the disaster for which the local state of emergency was declared unless the Health Department grants a discretionary ninety (90) day extension upon a showing of good cause. Debris removal and disposal shall comply with all laws and regulations and shall be within the time period described herein. Upon completion of debris removal, the site shall be approved by the Health Department as being free of all toxic debris or residue caused by the disaster.

2. A demolition permit for hazardous materials and debris removal may be required by the Building Department, unless a county-approved hazardous materials and debris removal program is utilized by the property owner.

**18.05.100 Temporary facilities for post-disaster recovery.**

Temporary facilities necessary for the timely removal of debris, stabilization of soils, erosion control, and other needs as determined by the agency or agencies directing post-disaster recovery and clean-up operations may be established as needed. Temporary facilities may include staging areas for equipment, vehicles, and storage on private property. Temporary facilities may also include off-site processing and storage, recycling, or other handling of disaster-generated debris. Temporary facilities are subject to all of the following provisions:

A. The duration of the temporary facilities shall not exceed the time period established by Section 18.05.020 or the duration of the local emergency, whichever is more.

B. Temporary facilities shall be subject to issuance of an administrative use permit pursuant to County Code Chapter 17.114, prior to establishment or within 30 days of establishment.

C. In addition to the requirements established by County Code Chapter 17.114, approval of temporary facilities shall be based upon a finding that the site zoning allows for public uses and the proposed temporary facilities provide or address an immediate public need or immediate public purpose.

D. The administrative use permit shall identify the expiration date of the approval and shall specify clean-up and restoration provisions for the site upon termination of the use.

E. The administrative use permit may address impacts resulting from

the temporary use, including but not limited to dust, noise, water quality, traffic safety, lighting, trespass and any secondary impacts.

F. Alternative sites that may be available resulting in fewer impacts shall be considered prior to issuance of an administrative use permit.

G. Temporary facilities on public land shall be subject to the authorization of the agency managing said land.

**18.05.120 Severability and pre-emption.**

A. If any section, subsection, sentence, clause, or phrase of this chapter, is for any reason held to be invalid, unlawful, or unconstitutional, such invalidity or unconstitutionality shall not affect the validity, lawfulness, or constitutionality of any or all other portions of this chapter.

B. To the extent that any part of this chapter conflicts with any portion of an executive order signed by the Governor of the State of California related to a disaster for which this chapter is invoked, the executive order shall control.