

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Resolution No: 08 – 250

Adopt the Basin Complex Recovery Guidelines to support the)
processing of permits for the rebuilding of structures destroyed)
by the Basin Complex Fire Incident and the Indians Fire)
Incident.)
(Fire Recovery Guidelines/Big Sur Coast Land Use Plan,)
Greater Monterey Peninsula Area Plan, Cachagua Area Plan,)
South County Area Plan and Central Salinas Valley Area)
Plan/PD080635))

I. RECITALS

1. On June 8, 2008, a fire started in the Los Padres National Forest, eventually growing to burn over 80,000 acres of land, damaging or destroying at least two residences and 13 outbuildings as of July 14, 2008.
2. On June 21, 2008, a fire started in the Big Sur area from lightning strikes. This fire quickly spread into the Los Padres National Forest, causing the eventual evacuation of much of the coast between Palo Colorado Canyon and Lucia. As of July 14, 2008, this fire had grown to over 120,000 acres and damaged or destroyed 27 residences and 34 other buildings.
3. On June 24, 2008, the Monterey County Board of Supervisors adopted Resolution 08-236, ratifying the County Administrative Officer’s Declaration of a Local Emergency relating to the June 2008 wildfires in the County.
4. On June 23, 2008, the Governor of the State of California declared a State of Emergency related to wildfires around the state, including the County of Monterey.
5. On June 28, 2008, the President of the United States declared an emergency for the State of California and ordered federal aid to supplement State and local response efforts. This declaration was amended twice, on July 4, 2008 and on July 9, 2008.
6. On July 8, 2008, the Monterey County Board of Supervisors adopted Resolution 08-244, which extended the Board of Supervisors Ratification of Local Emergency Proclamation relating to the June 2008 wildfires in the County.
7. These fires and the related evacuations have caused substantial loss of revenue to businesses in these areas and the fire damage causes a substantial financial hardship to those whose property is damaged from the fire.
8. The County anticipates that structures will be damaged or destroyed by natural disasters and includes regulations in the Coastal and Inland Zoning Ordinances to ensure that the process of rebuilding what was lost is not an onerous process.

9. The Coastal Zoning Regulations, in Section 20.70.120.H, include the following language as an exemption from the requirement to obtain a Coastal Development Permit for conforming structures:

“The replacement of any structure, other than a public works facility, destroyed by natural disaster. Such replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10%, and shall be sited in the same location on the affected property as the destroyed structure. Structures which are destroyed by natural disaster in the Carmel Meadows and Carmel Point areas may be rebuilt to their original height and bulk of that existing prior to the disaster. Applicant shall provide proof of previous dimensions.

As used in this subdivision, "natural disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.

As used in this subdivision, "bulk" means total interior cubic volume as measured from the exterior surface of the structure.”

10. The Coastal Zoning Regulations, in Section 20.68.050, include the following language to address non-conforming uses and structures destroyed by natural disaster:

“20.68.050 DAMAGED OR DESTROYED LEGAL NONCONFORMING STRUCTURES.

If at any time any structure in existence at the time any provision of this Title becomes applicable to it, which does not conform to this Title, be damaged or destroyed by fire, explosion, act of God, or act of public enemy, the land and structure shall be subject to all the regulations specified by this Title for the district in which said land and structure are located, except that such structure may be rebuilt to a total floor area and volume not exceeding that of the structure destroyed and the use may continue as herein provided for nonconforming uses, if a Coastal Development Permit is first secured.

Replacement structures meeting the following criteria shall not require a Coastal Development Permit:

1. they conform to all of the applicable zoning requirements; and
2. they are proposed for the same use as the destroyed structure; and
3. they do not exceed the floor area, height, or bulk of the destroyed structure by more than 10%; and
4. they are sited in substantially the same location on the affected property as the destroyed structure.”

11. The Inland Zoning Regulations, in Section 21.68.050, include the following language as an exemption to allow the reconstruction of a non-conforming structure if the rebuilt structure cannot conform to current regulations:

**“21.68.050 DAMAGED OR DESTROYED LEGAL
NONCONFORMING STRUCTURES.**

If at any time any structure in existence at the time any provision of this Title becomes applicable to it, which does not conform to this Title, be damaged or destroyed by fire, explosion, act of God, or act of public enemy, the land and structure shall be subject to all the regulations specified by this Title for the district in which said land and structure are located; except that such structure may be rebuilt to a total floor area and volume not exceeding that of the structure destroyed and the use may continue as herein provided for nonconforming uses, if a Use Permit is first secured.”

12. The Board of Supervisors has adopted a Fee Waiver Resolution in August, 2000 that states that the following qualifies for a fee waiver:

“Permit fees for the repair or reconstruction of property and structures damaged or destroyed by an act or event that has been declared a disaster by the Board of Supervisors where insurance is inadequate to pay the applicable fees.”

13. The rebuilding of the structures damaged or destroyed by the fires could be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use; or be detrimental or injurious to property and improvement in the neighborhood; or to the general welfare of the County.
14. To preserve the health, safety, and general welfare of the public and those that would reoccupy structures in the fire area, it is necessary for proposals to rebuild in these areas be reviewed by county staff for consistency with current regulations and safety standards.
15. To establish minimum requirements to safeguard the public health, safety and general welfare through structural strength, stability, and safety to life and property from fire and other hazard attributed to the built environment.
16. Constructing buildings to code will ensure the rebuilding of damaged structures will meet the minimum Building Code standards to provide a safe built environment and protect the health, safety and general welfare of the occupants and the public.
17. The County has analyzed the financial implications of waiving fees for the reconstruction of these structures and identified that, should fees be waived to allow reconstruction, the source of funding for staff time to review, issue and inspect permits associated with the reconstruction would need to be funded by the General Fund.

II. DECISION

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors hereby adopts the following Basin Complex Recovery Guidelines to support the processing of permits for the

rebuilding of structures destroyed or damaged by the Basin Complex Fire Incident, including amending the Board Policy on fee waivers as described herein.

Basin Complex Recovery Guidelines

General Guidance

1. All proposals to reconstruct or repair structures damaged or destroyed by the Basin Complex Fire of 2008 shall be processed ahead of all projects outside the fire areas currently under review.
2. All damaged or destroyed structures, for which the county has no record, shall be presumed to be a legal structure unless the County has evidence to the contrary.
3. The Planning Department shall consult with the California Coastal Commission to ensure that the process outlined in these guidelines will not require modifications to the certified Local Coastal Program.

Staff Assistance

1. The County shall provide a single phone line at the Resource Management Agency and a website for inquiries related to repair or reconstruction of structures damaged or destroyed by the Basin Complex Fire.
2. The County will designate a single point of contact for each land use department to ensure consistent and expeditious processing of all applications for reconstruction of destroyed or damaged structures resulting from the Basin Complex fire. The Planning, Building Services, and Public Works Departments, Environmental Health Division, and Water Resources Agency shall assign a staff member, creating a Recovery Team, to assist the property owners whose properties contained structures that were damaged or destroyed.
3. The Recovery Team shall meet with a property owner and their representatives within two working days of receiving a phone call for such a meeting, including a site visit if requested.
4. The Building Services and Planning Departments, along with the Environmental Health Division shall conduct a coordinated site visit for all proposed reconstruction of destroyed structures or those damaged such that foundation, water system, or septic systems have been damaged to the point of requiring replacement or substantial repair.
5. The Recovery Team shall coordinate reviews, site visits, and inspections with the appropriate local fire agency to ensure that the site is safe for entry, temporary residences, debris removal, construction, and habitation.

Reentry

1. Prior to County employees traveling to sites damaged by the fires, safety clearance shall be provided by the appropriate agency, including the fire department, incident command, Environmental Health Division, or law enforcement agencies.

2. County teams sent out to allow entry to a site shall assess the safety of access to the site, the integrity of the building site, and the stability of soils and vegetation.
3. County teams sent out to analyze site reconstruction or repair shall assess the soil and slope stability characteristics, water system integrity, feasibility of reusing the septic system, identify potential inconsistencies with county policies relating to health and safety, and determine whether the reconstruction or repair proposed can be carried out in a manner meeting the requirements of the Zoning Ordinance, building and fire codes, and all applicable health codes.
4. The County may request expert assistance to assess the safety of entry, damage assessment, demolition, construction, temporary habitation, or permanent habitation of these sites at the property owner's expense.
5. Subsequent to Reentry steps numbers 1 through 4, or in conjunction with those site assessments, the County Recovery Team shall visit each site to assess potential issues related to rebuilding structures or allowing temporary residences. Any Land Use Advisory Committee activities that include a site visit shall occur only after the County has determined that the site appears safe pursuant to Reentry steps numbers 1 through 4.
6. Temporary residences will be allowed subject to the following:
 - a. The Building Official must determine that the structure has been destroyed or is otherwise uninhabitable.
 - b. The residence that was damaged or destroyed was a legal residence.
 - c. The temporary residence will be located at or near the destroyed residence and will not involve major earthmoving, disturbance to archaeological or other sensitive resources, or be in an area deemed be unsafe by the Building Official.
 - d. The Property Owner enters into an agreement with the County guaranteeing that the temporary residence will be removed from the property, or have the utilities disconnected in the case of a Recreational Vehicle or Trailer, following completion of a permanent residence or within three (3) years, whichever is sooner.
 - e. The temporary residence must be connected to septic and water systems acceptable to the Division of Environmental Health prior to occupancy.
 - f. The property must be properly addressed and signed at the site pursuant to the requirements of the Fire Department.
 - g. For mobile homes, State HCD approved foundation systems or other Engineered foundation systems approved by the Building Services Department is required.
 - h. All required building inspections must be obtained, and a final occupancy inspection be conducted prior to occupancy.

Recovery

1. All permits to repair, demolish, reconstruct or rebuild a structure damaged or destroyed by the Fires, as listed below, shall not be subject to fees related to repair, demolition, or reconstruction for the following categories, unless the property owner's insurance

company provides reimbursement for permit fees without reducing the amount of money available for construction:

For the Big Sur Coast Land Use Plan area:

- ✚ Meets the requirements for an exemption found in Section 20.68.050; or
- ✚ Meets the requirements for an exemption found in Section 20.70.120.H; or
- ✚ A relocated building site would better meet LCP policies and would meet all Coastal Implementation Plan requirements.
- ✚ Rebuilding of a non-conforming use pursuant to Section 20.68.050.

For the Central Salinas Valley Area Plan area, or other affected non-coastal areas:

- ✚ Meets the requirements for rebuilding a non-conforming use or structure, as found in Section 21.68.050; or
- ✚ Meets all the regulations for a ministerial permit to rebuild the structure.
- ✚ Rebuilding of a non-conforming use pursuant to Section 21.68.050.

The County agrees to waive all fees up front and any fees owed to the County shall be prior to issuance of final inspection of the project. The proposed fee waiver would include all appurtenant permits, such as tree removal for hazardous trees, grading, well permits, septic permits, slope exceptions, and any other permits that might be needed to bring a structure back to its original condition. The fee waiver would not include a waiver of any environmental documents needed to rebuild or repair structure(s) for a property owner who has chosen to 1) relocate their building site, or increase the structure size, beyond that allowed by Monterey County Code Sections 20.68.050, or 20.70.120.H, or 2) relocate their building site in the non-coastal area.

2. Any proposal to modify, alter, replace, or add onto a structure damaged or destroyed by the fire shall undergo a regular permit process as outlined in the Monterey County Code, unless it meets the exemptions found in Monterey County Code Sections 20.68.050, 20.70.120.H, or 21.68.050. All permits for reconstruction or repair shall be expedited by the Recovery Team. Any proposed structure not meeting these exemptions will be subject to meeting all requirements of the Monterey County Code.
3. The property owner shall provide sufficient information to determine the property location, access route, size and location of structures, and details regarding the water system, septic system, and utilities.
4. The information required to be included in the submittal package shall be as determined by the Recovery Team for any particular property. A typical submittal list shall be prepared for all properties and shall disclose which reports are at the discretion of the Team. Any proposal to build outside the pre-existing footprint, or on sites where unique circumstances could cause adverse impacts to health, safety, or resources, may be subject to additional studies.
5. Tree removal shall be subject to a determination that the proposal is consistent with applicable policies and all findings required by the applicable ordinance can be made.
6. In a Design Control, Visual Sensitivity, or Site Plan Review zoning district, all structures proposed to be reconstructed, repaired in a manner altering its appearance, or where the repaired structure includes a proposed addition or contains a non-conforming use meeting

the requirements of Sections 20.68.050, 20.70.120.H or 21.68.050, shall be processed as a design approval. The design review shall be limited to compliance with these guidelines.

- 7. The Building Code establishes requirements for foundation and soils investigation reports for all new building and structures. Upon written request from the designer of record, the Building Official may consider requests for modification of requirements when special individual reasons exist that make these requirements impractical. .
- 8. Pursuant to state law, all new Buildings and structures and alteration or repairs to existing building and structures shall comply with the current California Code of Regulations and all governing local rules and policies.
- 9. Applications to reconstruct or repair structures must be submitted by July 22, 2010 to qualify under these guidelines. Permits must be issued prior to July 22, 2011. qualify under these guidelines. Permits must be issued prior to July 22, 2011. Either of these dates may be extended by further action of the Board of Supervisors.

BE IT FURTHER RESOLVED that these guidelines and the provisions contained herein shall expire on July 22, 2011, unless otherwise extended by the Board of Supervisors.

PASSED AND ADOPTED on this 22nd day of July, 2008, upon motion of Supervisor Potter, seconded by Supervisor Salinas, by the following vote, to-wit:

AYES: Supervisors Armenta, Calcagno, Salinas, Mettee-McCutchon, Potter
 NOES: None
 ABSENT: None

I, Annette D'Adamo, Acting Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 74 for the meeting on July 22, 2008.

Dated: July 23, 2008

Annette D'Adamo, Acting Clerk of the Board of Supervisors
County of Monterey, State of California

By 
Deputy