

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of Declaring a State of
Emergency and Declaring Emergency
Measures for Abatement of
Hazardous Waste and Debris
Removal



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WHEREAS, ORS 401.309 authorizes the governing body of a county to declare, by ordinance or resolution, that a state of emergency exists within the county. The ordinance or resolution must limit the duration of the state of emergency to the period of time during which the conditions giving rise to the declaration exist or are likely to remain in existence. And the county in this state may, by ordinance or resolution, establish procedures to prepare for and carry out any activity to prevent, minimize, respond to or recovery from an emergency. The ordinance or resolution shall describe the conditions required for the declaration of a state of emergency; and,

WHEREAS, ORS 401.305 provides authority for Clackamas County to act as an emergency management agency, including authority to establish policies and protocols for defining and directing responsibilities during time of emergency; and

WHEREAS, Clackamas County has enacted a local ordinance (County Code Chapter 6.03) pursuant to the authority granted by ORS Chapter 401, that provides for executive responsibility in times of emergency and specifically delegates authority to declare a state of emergency to the County Chair, Vice-Chair (if Chair is unavailable), Remaining Board Member(s) (if Vice-Chair is unavailable) and County Administrator or designee (if Remaining Board Member(s) is unavailable); and

WHEREAS, on September 8, 2020 Governor Kate Brown approved an emergency conflagration declaration EO-20-41 for the Beachie Creek, Lionshead, and Holiday Farm Fire and determined that a threat to a life, safety, and property exists due to fire, and the threat exceeds the firefighting capabilities of local firefighting personnel and equipment. The declaration authorizes the Oregon Office of State Fire Marshal to mobilize resources to assist local resources battling the fire; and

WHEREAS, ORS 433.441(4) provides that if a state of emergency is declared as authorized under ORS 401.165, the Governor may implement any action authorized by ORS 433.441 to 433.452, which include actions relating to public health emergencies; and

WHEREAS, a federal emergency declaration was granted on September 10, 2020;

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WHEREAS, on September 14, 2020 Governor Kate Brown requested a Presidential Disaster Declaration for the ongoing wildfires in Oregon. The request included operational response support, such as additional communications resources, damage assessment teams, search and rescue (SAR) support, debris management, as well as shelter and medical assistance. Individual assistance for the counties and tribes was also included in the request.

WHEREAS, on September 16, 2020 the President approved the Disaster Declaration and made federal emergency aid available to the state to supplement state, tribal and local recovery efforts in the areas affected by wildfires and straight-line winds beginning on Sept. 7, 2020 and continuing.

WHEREAS, the Presidential Disaster Declaration makes federal funding available to affected individuals in Clackamas, Douglas, Jackson, Klamath, Lane, Lincoln, Linn and Marion counties and federal assistance through FEMA's Public Assistance program available to Benton, Clackamas, Columbia, Coos, Deschutes, Douglas, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, Linn, Marion, Multnomah, Tillamook, Wasco, Washington and Yamhill counties.

WHEREAS, the Clackamas County Board of County Commissioners hereby finds as follows:

1. Debris and ash from structure fires can contain hazardous substances. For example, building materials such as siding, roofing tiles, insulation, or household items such as paint, gasoline, cleaning products, pesticides, compressed gas cylinders, and chemicals can result in dangerous ash that contains asbestos, heavy metals, and other hazardous materials; and,

2. Such waste is a threat to achieving a beneficial recovery from these fires for the community and to public health because it is hazardous and can cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, disposed of, or otherwise managed; and,

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3. Hazardous debris that remains after a wildfire can expose residents to toxic materials, improper transport and disposal of fire debris can create dangerous health impacts to workers removing the debris, such debris can threaten water supplies, and such harmful material can spread throughout the community at large impacting health and the ability for our communities to recover from the fires; and,

4. A person with heart or lung disease, an older adult, children (including teenagers), a person with diabetes, and pregnant women are particularly vulnerable to the presence of such hazardous waste; and,

5. The threat to public health creates the immediate need to facilitate assistance and undertake preventive measures to protect the health of people and the environment and to inform the affected public of any potential health issues associated with the hazardous waste created by the wildfires, thereby warranting the declaration of the existence of a local health emergency; and,

6. Regardless of cause, any commercial or domestic structure fires which have or will occur in Clackamas County from the time the Beachie Creek, Dowty, Graves Creek, Riverside, Unger, and Wilhoit Fires began until the conclusion of the local health emergency will significantly contribute to the hazardous waste load; and,

7. Assistance to private property owners and to others within Clackamas County is needed for timely implementation of necessary preventative measures to protect public health and the environment; and,

8. The scope and breadth of the Beachie Creek, Dowty, Graves Creek, Riverside, Unger, and Wilhoit Fires hazardous waste cleanup requires a rapid response due to the large area affected, the location of the fire, the number of structures damaged or destroyed and the imminent threat to public health; and,

9. The potential beginning of the rainy season offers little time to mitigate further environmental contamination, including contamination of the watershed, and, therefore, time is of the essence in removing hazardous waste from property sites; and,

10. That the protection of the County's natural resources and watershed from fire related debris runoff needs to be addressed; and,

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11. Immediate action is necessary to ensure the most complete recovery from the recent fires and 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 hazardous waste, including but not limited to toxic, flammable, corrosive, and reactive materials from property sites located within the Beachie Creek, Dowty, Graves Creek, Riverside, Unger, and Wilhoit Fires area because such debris can create dangerous health impacts.

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. A state of emergency exists in Clackamas County due to the hazardous waste and materials created by the Beachie Creek, Dowty, Graves Creek, Riverside, Unger, and Wilhoit Fires, and that such condition may be exacerbated by the ongoing fires and upcoming rainy season and will continue until the conclusion of this emergency.

2. In connection with the foregoing declaration of emergency, Board of County Commissioners orders that immediate action be taken to remove the hazardous waste from property sites within the Beachie Creek, Dowty, Graves Creek, Riverside, Unger, and Wilhoit Fires area that are toxic, flammable, corrosive, or reactive and create an imminent threat to public health and safety and to the ability for Clackamas County to recover from the fires.

3. A state of emergency is declared in Clackamas County commencing on or about 10 am on the 8th day of October 2020.

4. This declaration of emergency shall expire on January 8, 2021.

DATED this 8th day of October, 2020.

BOARD OF COUNTY COMMISSIONERS

Jim Bernard, Chair

Recording Secretary