

# LEGAL RESPONSIBILITY FOR REMOVING DEBRIS FROM PRIVATE PROPERTY

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## Fact Sheet

**PUBLIC ASSISTANCE PROGRAM**  
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### LEGAL RESPONSIBILITY FOR REMOVING DEBRIS FROM PRIVATE PROPERTY

The purpose of this fact sheet is to explain how an eligible applicant must demonstrate it has the legal responsibility to remove debris from private property. Public Assistance Program regulations require that applicants be legally responsible for performing work for which they seek reimburse from FEMA.

FEMA regulations authorize the provision of assistance for debris removal from publicly and privately owned lands and waters when it is in the “public interest” to do so, and the work is performed by an eligible applicant with legal responsibility for the work. State and local governments have inherent legal authority over public property and FEMA has determined that it is in the public interest to remove disaster-related debris from public property, including public rights-of-way. Therefore, reimbursement for these costs is eligible under FEMA’s Public Assistance Program. The removal of debris from private property may be in the public interest when it is required to eliminate or lessen an immediate threat to life and safety, to reduce a threat of additional damage to improved property or to promote economic recovery of the community at large. FEMA evaluates requests for debris removal from private property on a case-by-case basis.

In addition to meeting one of the above criteria for private property debris removal, an eligible applicant must demonstrate that it has the legal responsibility to remove the debris. Usually, a state or local government has broad discretion under its police powers to take a variety of actions to protect its citizens from harm. This discretion is often codified in local laws, ordinances, or codes. For purposes of the Public Assistance Program, the community must demonstrate the legal basis upon which it exercised or intends to exercise its discretion following a major disaster or emergency.

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If the community has determined that debris on private property presents a health and safety hazard and FEMA concurs, the community must follow the same legal procedure it uses in non-disaster situations to eliminate, remove or abate hazards. For example, if a community's nuisance abatement ordinance requires the community to eliminate a hazard and charge the owner for the cost if the owner fails to abate the hazard, we would expect the community to follow this procedure in a post-disaster environment. If the ordinance gives the community discretion to waive the cost of abating the hazard (i.e. not charging the property owner), FEMA will review the community's historical application of the ordinance to determine if the community has in the past waived its costs for abating a hazard on private property. Disasters where there is a high concentration of debris on private property over a widespread area presenting an immediate health and safety hazard may not warrant a community applying its ordinary ordinance process precisely. In these cases, FEMA will evaluate the community's demonstration of legal responsibility to remove debris from private property on a case-by-case basis. The community must provide detailed information, including copies of relevant laws, codes and ordinances, explaining its legal authority for removing debris from private property.

A community's condemnation of property and/or obtaining signed rights-of-entry and hold harmless agreements from property owners do not demonstrate the community's legal responsibility for the purposes of the Public Assistance Program.