# **ORDINANCE NO. \_\_\_\_\_\_**

**AN URGENCY ORDINANCE OF THE**

**NAPA COUNTY BOARD OF SUPERVISORS**

**AMENDING CHAPTER 8.80 ENTITLED**

**2017 NAPA FIRE COMPLEX DISASTER RECOVERY**

**OF THE NAPA COUNTY CODE**

The Napa County Board of Supervisors, State of California, ordains as follows:

SECTION ONE. AUTHORITY.

This urgency ordinance is adopted pursuant to Government Code Section 25123 (d) and shall take effect immediately upon its approval by at least four-fifths vote of the Board of Supervisors.

SECTION TWO. EMERGENCY FINDINGS.

The Board of Supervisors hereby finds, determines and declares that this ordinance is necessary for the immediate preservation of the public peace, health and safety, based upon the following facts:

A. Conditions of extreme peril to the safety or persons and property within Napa County were caused by fast-moving and widespread fires in Berryessa Highlands, referred to as the 2018 Steele Fire, commencing on July 28, 2018, at which time the Board of Supervisors was not in session.

B. Government Code Section 8630 and Napa County Code Section 2.80.060 (a)(2) authorize and empower the Napa County Executive Officer/Director of Emergency Services to proclaim the existence of or threatened existence of a local emergency when the County is affected or likely to be affected by a public calamity and the Board of Supervisors is not in session, subject to ratification by the Board of Supervisors within seven (7) days.

C. On July 28, 2018, Edmund G. Brown Jr., Governor of the State of California, proclaimed a State of Emergency in several counties, including in Napa County due to the 2018 Steele Fire.

D. On August 7, 2018, the Assistant County Executive Officer of Napa County proclaimed the existence of a local emergency within Napa County.

E. On August 9, 2018, the Napa County Health Official proclaimed the existence of a local health emergency within Napa County;

F. On August 14, 2018, the Board of Supervisors adopted Resolution No. 2018-\_\_\_ ratifying the Assistant County Executive Officer’s proclamation of the existence of a local emergency within Napa County.

G. As a result of the 2017 Napa Fire Complex the Board of Supervisors adopted Urgency Ordinance No. 1424 adding a new Chapter 8.80 entitled “2017 Napa Fire Complex Disaster Recovery” to the Napa County Code to provide various policies related to use, occupancy and construction of dwellings and other structures to allow for the fastest possible reconstruction of structures lost or damaged as a result of the 2017 Napa Fire Complex;

H. The Board of Supervisors has previously found that Napa County is experiencing a housing crisis. Even prior to the 2017 Napa Fire Complex and the 2018 Steele Fire, there existed in the unincorporated area of the County a lack of rental housing that is affordable to lower and moderate income residents.

I. Destruction of housing in other nearby counties, including Lake, Sonoma and Mendocino Counties further exacerbates the ability of persons who live and work in Napa County and have been displaced by the recent fires to relocate to other housing.

J. In order to assist property owners and residents impacted by the Steele Fire, the Board of Supervisors desires that policies and provisions of Napa County Code Chapter 8.80 provided to persons and businesses affected by the 2017 Napa Fire Complex also be made available to those impacted by the 2018 Steele Fire.

K. The Director of the PBES Department has prepared a list of approximately 8 property owners who have lost their homes or other structures as a result of the 2018 Steele Fire. The Board of Supervisors desires to provide these property owners immediate and expedited assistance with the rebuilding process.

L. It is essential that the changes made by this ordinance to the Napa County Code and various County policies related to use, occupancy and construction of dwellings and other structures be implemented immediately to allow the fastest possible transition of displaced residents and property owners to reconstruct structures lost or damaged by the 2018 Steele Fire and return to their properties. The changes are summarized below.

SECTION THREE. AMENDMENTS TO CHAPTER 8.80 ENTITLED NAPA COMPLEX

FIRE DISASTER RECOVERY.

Chapter 8.80 entitled 2017 Napa Fire Complex Disaster Recovery, is hereby amended as set forth in Exhibit “A” to this ordinance.

SECTION FOUR. SEVERABILITY.

It is hereby declared to be the intention of the Board of Supervisors that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, section, paragraph or sentence of this ordinance shall be declared unconstitutional or invalid by a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance.

SECTION FIVE. EFFECTIVE DATE.

This urgency ordinance is adopted pursuant to Government Code Section 25123 (d) and shall take effect immediately upon its approval by at least four-fifths vote of the Board of Supervisors.

## SECTION SIX. CEQA COMPLIANCE.

The Board of Supervisors finds that adoption of this ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080 (b)(3) regarding projects to maintain, repair, restore, or replace property or facilities damaged or destroyed as a result of a declared disaster and Section 21080 (b)(4) regarding actions to mitigate or prevent an emergency, and CEQA Guidelines Section 15269 (a) regarding maintaining, repairing, restoring, demolishing or replacing property or facilities damaged or destroyed as a result of a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Section 8550 of the Government Code.

SECTION SEVEN. REPORT.

The Director of PBES is hereby directed to prepare and submit to the Board of Supervisors a written report regarding the number of rebuilding permits, processing time and effectiveness of the recovery measures provided in this ordinance within one year after adoption of this ordinance.

SECTION EIGHT. PUBLICATION.

A summary of this ordinance shall be published at least once 5 days before adoption and at least once before the expiration of 15 days after its passage in the Napa Valley Register, a newspaper of general circulation published in Napa County, together with the names of members voting for and against the same.

**[REMAINDER OF THIS PAGE INTENTIONALLY]**

The foregoing urgency ordinance was introduced, read and passed at a regular meeting of the Napa County Board of Supervisors, State of California, held on August \_\_\_, 2018, by the following four-fifths vote:

AYES: SUPERVISORS

NOES: SUPERVISORS

ABSTAIN: SUPERVISORS

ABSENT: SUPERVISORS

NAPA COUNTY, a political subdivision of the

State of California

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

BRAD WAGENKNECHT, Chair of the

Board of Supervisors

Attachment:

* Exhibit A

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| --- | --- | --- |
| APPROVED AS TO FORM  Office of County Counsel  By: *Laura J. Anderson (e-sgn)*  Deputy County Counsel  By: *Erin Cossen*  County Code Services  Date: August 9, 2018 | APPROVED BY THE NAPA COUNTY  BOARD OF SUPERVISORS  Date:  Processed By:    Deputy Clerk of the Board | ATTEST: JOSE LUIS VALDEZ  Clerk of the Board of Supervisors  By: |

I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD STREET ROOM 310, NAPA, CALIFORNIA ON \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, DEPUTY

JOSE LOUISE VALDEZ, CLERK OF THE BOARD

EXHIBIT “A” - REDLINED

Section One. The Title of Chapter 8.80 (2017 Napa Fire Complex) of the Napa County is Code is amended to read as follows:

Chapter 8.80 Disaster Recovery

Section Two. Section 8.80.010 (Purpose and Intent) of Chapter 8.80 of the Napa County Code is amended to read in full as follows:

8.80.010 - Purpose and Intent.

The purpose and intent of this chapter is to establish procedures to facilitate expediency in the process of rebuilding, repairing or replacing structures that were damaged or lost as a result of the 2017 Napa Fire Complex and the 2018 Steele Fire disasters. Notwithstanding any other provisions that may conflict, this section shall control with respect to redevelopment or repair of structures and properties that incurred damage during the 2017 Napa Fire Complex and the 2018 Steele Fire disasters.

Section Three. Section 8.80.020 (Definitions) of Chapter 8.80 of the Napa County Code is amended to read in full as follows:

8.80.020 - Definitions.

For purposes of this chapter, the following definitions shall apply:

“Department” means the planning, building and environmental services department.

“Designated public roads” shall mean those roads identified in Napa County General Plan Community Character Element Figure CC-3.

“Director” means the director of the planning, building and environmental services department or the director’s designee.

The “Fire” or “Fire disaster” means the 2017 Napa Fire Complex and the 2018 Steele Fire and natural occurrences related to or caused by the fire.

“Fire-damaged property” means property on which a structure was declared by the director to be unsafe to use or occupy, as a result of the fire disaster.

“Fire-damaged structure” means a structure that was declared by the director to be unsafe to use or occupy, as a result of the fire disaster.

“Major ridgeline” or “Minor ridgeline” shall have the same definition as contained in Section 18.106.020 (Definitions).

“Substantial views” shall have the same definition as contained in Section 18.106.020 (Definitions).

“Unique topographic or geologic features” shall mean the following landforms: Mt. St. Helena, Stag's Leap, Calistoga Palisades, Round Hill, Mt. George and Mt. St. John.

Section 4. Section 8.80.140 (Legal Nonconformities on Fire-Damaged Properties) of Chapter 8.80 of the Napa County Code is amended to read in full as follows:

8.80.140 - Legal Nonconformities on Fire-Damaged Properties.

A. Except as provided herein, Chapter 18.132 (Legal Nonconformities) shall apply to fire-damaged properties.

B. A fire-damaged structure that was a legal nonconformity prior to the fire may be relocated if the director determines that such relocation would enhance opportunities for use of renewable energy sources, decrease the area of impervious surfaces on the property, or would reduce the extent of nonconformity with the minimum setbacks from utilities contained in Section 13.28.040 (Clearance from other facilities).

C. “Voluntary abandonment” for fire-damaged properties shall mean cessation of the use or portion thereof for six consecutive months or twelve nonconsecutive months in any two-year period or, if the use is seasonal, for more than one season. However, if the cessation is caused by the destruction in whole or in part of conforming or legal nonconforming facilities or structures that are essential to continuation of the use, and that destruction was caused by the fire disaster, then the use shall be deemed voluntarily abandoned unless recommenced as follows: before December 31, 2019 for the 2017 Napa Fire Complex or before December 31, 2020 for the 2018 Steele Fire, if a building permit is not required to repair the structure or facility; or within two years of final inspection if a building permit is required for the fire-damaged structure and such permit is obtained before May 1, 2019 for the 2017 Napa Fire Complex or before May 1, 2020 for the 2018 Steele Fire. Upon a showing of good cause, the director may extend by six months the timelines within which a building permit must be obtained or a final inspection conducted.

D. The provisions for waiver of hearing, and waiver of notice and hearing in subsections (C) (1) and (2), respectively, of Section 18.132.050 (Certificate of present extent of legal nonconformity - Application - Procedure) shall apply to both residential and non-residential fire-damaged properties.

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