

Additions are underlined.
Deletions are ~~struck through~~.
Revision markers are noted in left
or right margins as vertical lines.

ORDINANCE NO. ____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF
NAPA COUNTY, STATE OF CALIFORNIA, AMENDING
SECTIONS 8.80.020 (DEFINITIONS); 8.80.040 (APPLICABILITY);
8.80.050 (EFFECTIVE PERIOD); SECTION 8.80.070 (APPLICABILITY OF THE
VIEWSHED PROTECTION PROGRAM TO FIRE-DAMAGED PROPERTIES);
8.80.130 (CONSERVATION REGULATIONS FOR FIRE-DAMAGED
PROPERTIES); AND SECTION 8.80.140 (LEGAL NONCONFORMITIES ON
FIRE-DAMAGED PROPERTIES) OF CHAPTER 8.80 (DISASTER RECOVERY)
OF TITLE 8 (HEALTH AND SAFETY) OF THE NAPA COUNTY CODE**

WHEREAS, on November 21, 2017, the Napa County Board of Supervisors (the Board) adopted Ordinance No. 1424 adding a new Chapter 8.80 entitled “2017 Napa Fire Complex Disaster Recovery” to the Napa County Code; and

WHEREAS, Ordinance No. 1424 was adopted as an urgency measure in response to the 2017 Napa Fire Complex that consumed well over 144,000 acres and lead to the damage or destruction of over 1,200 homes, accessory structures and businesses. Ordinance No. 1424 was intended to provide the fastest possible transition of displaced residents and property owners to reconstruct lost or damaged structures; and

WHEREAS, on July 28, 2018, the 2018 Steele Fire occurred causing damage and destruction to homes and structures in the unincorporated area of Napa County; and

WHEREAS, on August 14, 2018, the Board adopted Ordinance No. 1434 as an urgency measure amending Chapter 8.80 (now entitled “Disaster Recovery”) of the County Code to provide property owners impacted by the 2018 Steele Fire relief and assistance with rebuilding lost or damaged structures; and

WHEREAS, to provide continued and further relief to property owners and residents impacted by the 2017 Napa Fire Complex and the 2018 Steele Fire, the Board now desires to amend Chapter 8.80 to: (1) extend the effective period of Ordinance Nos. 1424 and 1434; (2) clarify the aerial mapping that will be used for vegetation canopy retention requirements in fire-damaged areas that require earthmoving activities; and (3) make other minor clerical corrections.

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

SECTION 1. Section 8.80.020 (Definitions.) of Chapter 8.80 (Disaster Recovery) 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:

"Burn area" means the land burned over by wildland fire.

"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 or the 2018 Steele Fire and natural occurrences related to or caused by the fire.

"Fire-damaged property" means land within the burn area of the 2017 Napa Fire Complex or the 2018 Steele Fire or 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 2. Section 8.80.040 (Applicability.) of Chapter 8.80 (Disaster Recovery) of the Napa County Code is amended to read in full as follows:

8.80.040 - Applicability.

Except where so stated in this chapter, this ordinance shall apply to land within the burn area of the fire disaster and to each parcel existing as of October 1, 2017, on which one or more

buildings were destroyed, or for which the director declared one or more structures to be unsafe to use or occupy, as a result of the fire disaster.

SECTION 3. Section 8.80.050 (Effective period.) of Chapter 8.80 (Disaster Recovery) of the Napa County Code is amended to read in full as follows:

8.80.050 - Effective period.

The provisions in this chapter shall expire on December 31, 2022, unless otherwise specified herein, and shall be of no further force or effect unless extended or modified by the board of supervisors.

SECTION 4. Section 8.80.070 (Applicability of the Viewshed Protection Program to fire-damaged properties.) of Chapter 8.80 (Disaster Recovery) of the Napa County Code is amended to read in full as follows:

8.80.070 - Applicability of the Viewshed Protection Program to fire-damaged properties.

A. Applicability of Viewshed Protection Manual. Each replacement, expanded or new structure, or any replacement, improved or new roadway on fire-damaged properties shall be subject to review for compliance with applicable provisions of the Design Manual, as that document is referenced and defined in Section 18.106.020 (Definitions.), if the portion of the property on which the structure or roadway is proposed is:

1. Located on a major or minor ridgeline; or
2. Located on a slope of fifteen or more percent. For purposes of this section, the slope in the area of disturbance shall be calculated using the slope determination methodology described in Section 18.108.060, for any proposed building or road site.

B. Relationship to Previously Approved Use Permits and Small Lot Subdivisions. All structures and small lot subdivisions meeting the requirements of subsection (D) of Section 18.106.030 (General Provisions.) are exempt from the requirements of this chapter.

C. Relationship to Prior Approvals Pursuant to Chapter 18.106. All residential structures or accessory structures for which approval was granted pursuant to Chapter 18.106 (Viewshed Protection Program.), and were subsequently damaged, destroyed or deemed unsafe to occupy as a result of the fire disaster, may be rebuilt in accordance with the prior approval and are exempt from this chapter. Requests for modifications to plans that were previously granted approval pursuant to Chapter 18.106 shall be subject to review by the director in accordance with this chapter.

SECTION 5. Section 8.80.130 (Conservation regulations for fire-damaged properties.) of Chapter 8.80 (Disaster Recovery) of the Napa County Code is amended to read in full as follows:

8.80.130 - Conservation regulations for fire-damaged properties.

A. Unless otherwise exempt under County Code Section 18.108.050 (V), Chapter 18.108 (Conservation Regulations) shall apply to a fire-damaged property, except that the zoning administrator shall be authorized to hear and decide requests for exceptions to the conservation regulations in the form of a use permit pursuant to Section 18.108.040 (Exceptions.).

B. For purposes of calculating the Vegetation Retention Requirements contained in subsection (C) of County Code Section 18.108.020 (Vegetation Retention Requirements.) for any earthmoving activity as defined in Section 18.108.030 (Definitions.) occurring on fire-damaged property in the Agricultural Watershed zoning district and outside of a sensitive domestic water supply drainage as defined in Section 18.108.030 (Definitions.), the vegetation canopy cover shall be as configured on the parcel existing on June 19, 2018.

SECTION 6. Section 8.80.140 (Legal Nonconformities on Fire-Damaged Properties.) of Chapter 8.80 (Disaster Recovery) 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, 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 December 31, 2022. 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.

SECTION 7. This ordinance shall be interpreted so as to be consistent with all applicable federal, State, and County laws, rules, and regulations. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion of this ordinance is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. If any provision of this ordinance is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this ordinance that can be given effect without the invalid application. Any singular term shall include the plural and any plural term shall include the singular. All references to County and State code sections shall mean those code sections, including any amendments, in effect at the time of their application. The title and captions of the various sections in this ordinance are for convenience and organization only, and are not intended to be referred to in construing the provisions of this ordinance. The provisions of this ordinance shall be liberally interpreted in order to give effect to its purposes.

SECTION 8. As further set forth in the staff report accompanying this ordinance, the Board of Supervisors finds that adoption of this ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Categorical Exemption Class 8 (“Actions by Regulatory Agencies for Protection of the Environment”) which may be found in the guidelines for the implementation of the CEQA at 14 CCR § 15308 and the General Rule in that it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore the CEQA is not applicable. [See guidelines for the implementation of the CEQA at 14 CCR § 15061(b)(3)].

SECTION 9. This ordinance shall be effective thirty (30) days from and after the date of its passage.

SECTION 10. A summary of this ordinance shall be published at least once five 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.

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The foregoing ordinance was introduced and read at a regular meeting of the Board of Supervisors of Napa County, State of California, held on the ____ day of _____, 2019, and passed at a regular meeting of the Board of Supervisors of Napa County, State of California, held on the ____ day of _____, 2019, by the following vote:

AYES: SUPERVISORS _____

 NOES: SUPERVISORS _____

 ABSTAIN: SUPERVISORS _____

 ABSENT: SUPERVISORS _____

NAPA COUNTY, a political subdivision of the State of California

 RYAN GREGORY, Chair of the Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: _____ Deputy County Counsel</p> <p>By: _____ County Code Services</p> <p>Date: _____</p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed By: _____ Deputy Clerk of the Board</p>	<p>ATTEST: JOSE LUIS VALDEZ Clerk of the Board of Supervisors</p> <p>By: _____</p>
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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 _____, 2019.

 JOSE LUIS VALDEZ, CLERK OF THE BOARD