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

**AN URGENCY ORDINANCE OF THE**

**NAPA COUNTY BOARD OF SUPERVISORS**

**AMENDING CHAPTER 8.80 OF**

**THE NAPA COUNTY CODE ENTITLED**

**DISASTER RECOVERY**

The Napa County Board of Supervisors ordains as follows:

**SECTION 1. AUTHORITY.**

This Urgency Ordinance is adopted pursuant to Government Code Section 25123(d), the states of emergency declared by the Governor and the Napa County Executive Officer, and the local health emergency declared by the Napa County Health Officer.

**SECTION 2. 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, or safety, based upon the following facts:

A. Conditions of extreme peril to the safety or persons and property within the communities of Deer Park, Angwin, St. Helena, Calistoga and other locations in Napa County were caused by fire on September 27, 2020, collectively referred to as the 2020 Glass Fire.

B. On September 27, 2020, the County Executive Officer of Napa County proclaimed the existence of a local emergency within Napa County due to the 2020 Glass Fire.

C. On September 28, 2020, the Governor proclaimed a State of Emergency to exist in California due to fires burning statewide.

D. On September 28, 2020, the Napa County Health Officer proclaimed the existence of a local health emergency within Napa County due to an imminent and proximate threat to public health posed by the 2020 Glass Fire.

E. On October 1, 2020, the Napa County Board of Supervisors ratified the local health emergency declared by the Napa County Health Officer and the state of local emergency declared by the Napa County Executive Officer, pursuant to Resolution No. 2020-123.

F. In response to destructive wildfires in Napa County in 2017, the Board of Supervisors added Chapter 8.80 to the Napa County Code to adopt 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 wildfires.

G. The Board of Supervisors amended Chapter 8.80 of the Napa County Code on August 14, 2018, in response to the 2018 Steele Fire, to allow the victims of that fire to utilize the accelerate process in Chapter 8.80 to reconstruct their homes.

H. The Board of Supervisors amended Chapter 8.80 of the Napa County Code on September 15, 2020, in response to the 2020 LNU Lightning Complex Fire, to allow the victims of that fire to utilize the accelerate process in Chapter 8.80 to reconstruct their homes.

I. The Board of Supervisors previously found that Napa County is experiencing a housing crisis. Even prior to the 2017 Napa Fire Complex, the 2018 Steele Fire and the 2020 LNU Lighting Complex Fire, there has been a lack of rental housing in the unincorporated area of the County that is affordable to lower and moderate income residents.

J. Destruction of housing in neighboring counties further exacerbates the ability of persons who live or work in Napa County to find affordable housing, and for those who have been displaced by the recent fires to find new housing.

K. In order to assist property owners and residents impacted by the 2020 Glass 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 wildfires, the 2018 Steele Fire, and the 2020 LNU Lightning Complex Fire also be made available to those impacted by the 2020 Glass Fire.

L. The Director of the PBES Department has prepared a list of approximately 357 property owners who have lost their homes or other structures as a result of the 2020 Glass Fire. The Board of Supervisors desires to provide these property owners immediate and expedited assistance with the rebuilding process.

M. It is essential that the changes made by this Ordinance to the Napa County Code be implemented immediately to allow the fastest possible transition of displaced residents and property owners to reconstruct structures lost or damaged by the 2020 Glass Fire and return to their properties.

N. Approximately 1,800 acres of vineyards have been lost or damaged as a result of the 2020 Glass Fire and approximately 31 wineries have been destroyed or damaged. The Board of Supervisors desires to provide property owners with a streamlined process for replanting damaged or destroyed vineyards and for rebuilding wineries.

**SECTION 3. AMENDMENTS TO CHAPTER 8.80 ENTITLED DISASTER RECOVERY.**

Chapter 8.80 entitled Disaster Recovery, is hereby amended as set forth in Exhibit “A” to this Ordinance.

**SECTION 4. 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 5. EFFECTIVE DATE.**

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

## **SECTION 6. 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, 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, and CEQA Guidelines Sections 15301 regarding minor alterations of existing facilities and 15302 regarding limited new small facilities.

**SECTION 7. PUBLICATION.**

Within 15 days after adoption, the full text of this Ordinance shall be published in the Napa Valley Register along with the names of those Supervisors voting for and against the Ordinance, and a certified copy of the full text of this Ordinance shall be posted in the Office of the Clerk of the Board of Supervisors along with the names of those Supervisors voting for and

against the Ordinance.

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 November \_\_\_, 2020, by the following four-fifths vote:

AYES: SUPERVISORS

NOES: SUPERVISORS

ABSTAIN: SUPERVISORS

ABSENT: SUPERVISORS

NAPA COUNTY, a political subdivision of the

State of California

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

DIANE DILLON, Chair of the

Board of Supervisors

Attachment:

* Exhibit A (tracked and clean)

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| APPROVED AS TO FORM  Office of County Counsel  By: *Laura J. Anderson (e-sign))*  Deputy County Counsel  By: *Meredith Trueblood (e-sign)*  County Code Services  Date: November 6, 2020 | 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 LUIS VALDEZ, CLERK OF THE BOARD

DOCS\EMERG SVCS\2020 SEPT GLASS FIRE\URGENCY AMDT 8.80 GLASS FIRE FINAL CLEAN REV 11.6.20,DOC

EXHIBIT “A” - REDLINED

Section One. 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 and vineyards that were damaged or lost as a result of the 2017 Napa Fire Complex, the 2018 Steele Fire, the 2020 LNU Lightning Complex (Hennessey) Fire, and the 2020 Glass 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, the 2018 Steele Fire, the 2020 LNU Lightning Complex Fire and the 2020 Glass Fire disasters.

Section Two. 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:

“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.

“Fire” or “Fire disaster” means the 2017 Napa Fire Complex, the 2018 Steele Fire, the 2020 LNU Lightning Complex Fire or the 2020 Glass Fire and natural occurrences related to or caused by the fires.

“Fire-damaged property” means land within the burn area of the 2017 Napa Fire Complex, the 2018 Steele Fire, the 2020 LNU Lightning Complex Fire, the 2020 Glass 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.

“Fire-damaged vineyard” means only that area of a vineyard land or the individual vines that were either destroyed or directly damaged as a result of the fire.

“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 Three. Section 8.80.060 (General standards for rebuilding on fire-damaged properties.) of Chapter 8.80 (Disaster Recovery) of the Napa County Code is amended in full to read as follows:

**8.80.060 - General standards for rebuilding on fire-damaged properties.**

A.  Except as provided herein, the development regulations, permitted uses and conditionally permitted uses for any fire-damaged property shall be the development regulations, permitted uses and conditionally permitted uses of the zoning district in which the property is located.

B.  The requirement for a twenty-eight-foot road setback from the centerline of private roads, as specified in Section 18.112.100 (Private Roads), shall be waived for any fire-damaged property.

C.  Single-family residences located in the RS, RM, RC or PD zoning districts shall not be subject to compliance with subsection (A)(1) of Section 18.110.050, provided that the paved surface to be utilized for off-street parking for the residence is no greater than forty percent of the total surface area of the minimum required front yard and does not encroach into a corner side yard.

D.  Site plan approval shall not be required for residential and residential accessory structures on fire-damaged properties but instead shall be integrated into the building permit process. The requirements of Section 18.140.030 (Processing application—Conditions of approval) shall not apply to building permits for any single-family dwelling unit, guest cottage, accessory dwelling unit or accessory residential structure, nor for any agricultural use of land or buildings as defined in Section 18.08.040 (Agriculture).

E.  Prior to determining that a project meets the criteria contained in this chapter, the department may require the submittal of additional information including, but not limited to, a photo or computer simulation of the project and associated improvements or documentation of the location and size of structures existing prior to the fire. F. If there is insufficient area on a fire-damaged property to locate a mobile home or recreational vehicle while clean-up and rebuilding occurs, one may be placed temporarily at an off-site commercial zoned property, subject to compliance with all of the provisions in Napa County Policy Manual Section 12B (Temporary Housing).

SectionFour. Section 8.80.040 (Applicability.) of Chapter 8.80 (Disaster Recovery) of the Napa County Code is amended in full to read as follows:

**8.80.040 – Applicability.**

Except where so stated in this chapter, this ordinance shall apply to land within the burn area for each fire disaster and to each parcel existing as of the date of the applicable fire disaster, 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.

SectionFive. 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:

**Section 8.80.130 - Conservation Regulations for Fire-Damaged Properties and Fire-Damaged Vineyards.**

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.

C. Except as provided herein, Chapter 18.108 (Conservation Regulations) shall apply to fire-damaged vineyards.

D. Fire-damaged vineyards with an existing approved erosion control plan may replant the vineyard in accordance with the previously approved erosion control plan without the requirement of a Track II application.

E. Fire-damaged vineyards that have been legally established without an erosion control plan may replant the vineyard without the requirement of a Track II application provided that there is no expansion of the vineyard footprint, there is no change in vineyard row direction, and no new subsurface drainage is installed unless necessary to correct an existing erosion or water quality problem.

F. Fire-damaged vineyards involving replants under one acre and under five percent are allowed without a Track II application.

SectionSix. 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, would improve fire access and/or defensibility, 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, before December 31, 2020 for the 2018 Steele Fire, before December 31, 2022 for the 2020 LNU Lightning Complex Fire and Glass 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 December 31, 2022 for the 2017 Napa Fire Complex and the 2018 Steele Fire, before December 31, 2024 for the 2020 LNU Lightning Complex Fire and Glass 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.

Section Seven. A new Section 8.80.170 (Streamlined Rebuilding on Fire-Damaged Properties.) of Chapter 8.80 (Disaster Recovery) of the Napa County Code is added to read in full as follows:

8.80.170 –Streamlined Rebuilding on Fire-Damaged Properties.

1. Except as provided herein, Chapter 18.124 (Use Permits.) shall apply to fire-damaged properties.
2. Previously established conditionally approved uses on fire-damaged properties may be relocated and processed as an Administrative Permit, if the director determines all of the following that:
3. Any relocated structures do not exceed an aggregate total of ten thousand square feet;
4. There is no cumulative increase in paved or impervious ground surface area;
5. The relocated uses are located in a previously disturbed area, within the approved winery development area;
6. The relocated use complies with all applicable County regulations and does not require any exceptions and/or variances;
7. The relocated use complies with all mitigation measures previously imposed (if any) and does not result in any new potential environmental impacts under CEQA;
8. The relocated uses would result in no intensification of the previously approved use; and
9. The relocated uses would provide greater fire safety than the previously established use, through improved access, better defensibility, or other fire prevention measures.

EXHIBIT “A” - CLEAN

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E.  Prior to determining that a project meets the criteria contained in this chapter, the department may require the submittal of additional information including, but not limited to, a photo or computer simulation of the project and associated improvements or documentation of the location and size of structures existing prior to the fire.

F. If there is insufficient area on a fire-damaged property to locate a mobile home or recreational vehicle while clean-up and rebuilding occurs, one may be placed temporarily at an off-site commercial zoned property, subject to compliance with all of the provisions in Napa County Policy Manual Section 12B (Temporary Housing).

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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.

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F. Fire-damaged vineyards involving replants under one acre and under five percent are allowed without a Track II application.

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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, before December 31, 2020 for the 2018 Steele Fire, before December 31, 2022 for the 2020 LNU Lightning Complex Fire and Glass 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 December 31, 2022 for the 2017 Napa Fire Complex and the 2018 Steele Fire, before December 31, 2024 for the 2020 LNU Lightning Complex Fire and Glass 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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A. Except as provided herein, Chapter 18.124 (Use Permits.) shall apply to fire-damaged properties.

B. Previously established conditionally approved uses on fire-damaged properties may be relocated and processed as an Administrative Permit, if the director determines all of the following that:

1. Any relocated structures do not exceed an aggregate total of ten thousand square feet;
2. There is no cumulative increase in paved or impervious ground surface area;
3. The relocated uses are located in a previously disturbed area, within the approved winery development area;
4. The relocated use complies with all applicable County regulations and does not require any exceptions and/or variances:
5. The relocated use complies with all mitigation measures previously imposed (if any) and does not result in any new potential environmental impacts under CEQA;
6. The relocated uses would result in no intensification of the previously approved use; and
7. The relocated uses would provide greater fire safety than the previously established use, through improved access, better defensibility, or other fire prevention measures.