



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 11/10/2020

Agenda Placement: 11A

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors

FROM: David Morrison - Director
Planning, Building and Environmental Services

REPORT BY: David Morrison, Director, Planning, Building & Environmental Servi - (707) 253-4805

SUBJECT: Resolution Amending the County Policy Manual and Urgency Ordinance Amending Chapter 8.80 of the County Code

RECOMMENDATION

Director of Planning, Building, and Environmental Services requests the following:

1. Adoption of a resolution amending Part I, Section 12B of the County Policy Manual, "Rebuilding After a Disaster" to provide additional regulatory flexibility to accommodate fire recovery, and amending Part I, Section 12C of the County Policy Manual, "Maintain Safe and Healthy Business Operations During the COVID-19 Pandemic" to provide additional flexibility for business owners to accommodate physical distancing;
2. Adoption of an urgency ordinance amending Chapter 8.80 of the County Code regarding Disaster Recovery, for actions related to the Glass Fire (4/5 Vote Required); and
3. Discussion and direction on any additional COVID-19 and/or fire recovery relief measures.

EXECUTIVE SUMMARY

In March 2020, local state and federal declarations of public health emergency were declared as a result of the COVID-19 pandemic. The scale of the current disaster has been global. The County continues to aggressively pursue assessment, monitoring, testing, and caring for people who are infected and/or affected by COVID-19. Over the past three months, the County has been greatly impacted by the LNU Lightning Complex (Hennessey) and Glass Fires. Additional measures need to be taken by the County to address the economic and health effects created by the pandemic and fires. The actions before the Board today will provide further help to homeowners, farmers, and businesses.

Adoption of the resolution will amend the Part I, Section 12B of the County Policy Manual to extend erosion control deadlines, ensure the safety of temporary housing on fire-damaged property, and allow destroyed wineries to

temporarily relocate their operations to alternate "host" winery sites. Adoption of the resolution will also amend Part I, Section 12C of the County Policy Manual to expedite temporary tent permit processing and require that three sides of temporary tents remain open.

Adoption of the urgency ordinance will allow property owners and residents with property damaged or destroyed by the 2020 Glass Fire to avail themselves of the same expedited rebuild process as has been applied to fire damaged properties from prior fires under County Code Chapter 8.80, as well as streamline the replanting of damaged vineyards, and allow destroyed wineries to temporarily relocate their operations to alternate "host" winery sites.

PROCEDURAL REQUIREMENTS

1. Staff report.
2. Public comments.
3. Motion, second, discussion, and vote on the Resolution.
4. Motion, second, discussion, and vote on the Urgency Ordinance (4/5 vote),
5. Discussion and direction on any additional COVID and fire recovery relief measures.

FISCAL & STRATEGIC PLAN IMPACT

Is there a Fiscal Impact? No

County Strategic Plan pillar addressed: Livable Economy for All
Vibrant and Sustainable Environment

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable. The proposed action allows for the minor modification of existing private facilities, involving negligible or no expansion of the existing use, as provided for under 14 California Code of Regulations 15301 (State CEQA Guidelines) - Class 1 Categorical Exemption. The proposed action allows for the construction of limited numbers of new, small facilities or structures, as provided for under 14 California Code of Regulations 15303 (State CEQA Guidelines) - Class 3 Categorical Exemption. The proposed action allows for the minor alteration of private land, water, and vegetation, as provided for under 14 California Code of Regulations 15304 (State CEQA Guidelines) - Class 4 Categorical Exemption. The proposed action involves the issuance of permits for ministerial projects as provided for under 14 California Code of Regulations 15268 (State CEQA Guidelines) - Statutory Exemptions. The proposed action involves emergency projects as provided for under 14 California Code of Regulations 15269 (State CEQA Guidelines).

BACKGROUND AND DISCUSSION

COVID-19

On March 4, 2020, Governor Newsom issued an emergency proclamation for the State of California due to the COVID-19 pandemic. On March 12, 2020, the County Public Health Officer declared a local health emergency. On March 13, 2020, the County Executive Officer acting as the Director of Emergency Services issued a Proclamation

of Local Emergency. On March 13, 2020, President Trump declared a nationwide emergency pursuant to Section 501(b) of the Stafford Act. On March 17, 2020, the Board of Supervisors adopted a resolution ratifying the actions of the County Executive Officer and the Director of Emergency Services, and declared a local health emergency and a local emergency throughout all jurisdictions within Napa County due to the threat of COVID-19. On August 28, 2020, Governor Newsom released the "Blueprint for a Safer Economy," a system that uses various health metrics to classify all California Counties based on their level of risk and limits business and individual activities accordingly. Napa County is currently classified in the Orange (moderate risk) tier.

On May 19, 2020, the Board of Supervisors adopted Resolution 2020-72, which added Section I, Part 12C of the County Policy Manual titled "Maintaining Safe and Healthy Business Operations During the COVID-19 Pandemic." The policy addressed a variety of issues, including the California Environmental Quality Act (CEQA), code compliance, parking, temporary structures, and temporary on-site areas.

The scale of the disaster over the past eight months has been global, with far-reaching social, economic, and environmental consequences. Throughout the pandemic, the County has aggressively provided assessment, monitoring, testing, and caring for people who are infected and/or affected by COVID-19. The County has also worked with businesses and the State to allow businesses and schools to re-open, while enforcing the provisions of the County Health Order to limit the spread of the disease. Both the State and local responses to the pandemic will continue to evolve based on new information and metrics,

Over the past several months, businesses and individuals have been able to move many of their activities outdoors, where increase air circulation and opportunity for distancing reduce the potential transmission of COVID-19. With the County currently included in the Orange Tier, most businesses are allowed to operate at minimal indoor capacity.

However, additional measures are needed to allow businesses flexibility in supplementing indoor space with temporary outdoor areas.

HENNESSEY AND GLASS FIRES

Following the 2017 Napa Complex Fire, the Board of Supervisors adopted Resolution No. 2017-174, which added Part 1: Section 12B to the County Policy Manual regarding procedures for "Rebuilding After a Disaster." This new policy established a variety of procedures and protocols for streamlining and reducing regulatory barriers for those who wished to rebuild within fire-damaged areas.

The Board of Supervisors adopted Urgency Ordinance No. 1424 on November 21, 2017, 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. On the same day, the Board adopted Resolution No. 2017-182, which clarified temporary housing requirements and extended deadlines related to fire rebuilding in the County Policy Manual.

On May 8, 2018, the Board adopted Resolution No. 2018-52 amending the Napa County Policy Manual regarding County reduced fees for displaced residents and property owners to reconstruct structures lost or damaged by the 2017 Napa Fire Complex.

On August 14, 2018, the Board of Supervisors adopted Ordinance No. 1434 which amended Chapter 8.80 to extend its provisions to the families affected by the 2018 Steele Fire. On the same day, the Board adopted Resolution No. 2018-109 which amended the County Policy Manual to extend the 30% fee waiver for building permits to reconstruction in all future disasters.

On May 21, 2019, the Board of Supervisors adopted Ordinance No. 1441, which extended the expiration of the

emergency provisions for disaster victims who wish to rebuild their residence for an additional 3 years. It also brought Chapter 8.80 into consistency with Ordinance No. 1438 (Water Quality and Tree Protection Ordinance), which amended Chapter 18.108 of the County Code (Conservation Regulations).

On September 15, 2020, the Board adopted Ordinance 1461 and Resolution 2020-115 to further amend the County Code and Policy Manual, to make changes responding to the LNU Lightning (Hennessey) Fire. These changes added the Hennessey Fire to the list of disasters covered by policy, allowed extended the erosion control deadline from October 15 to November 15, allowed for temporary housing to be located at an off-site location due to property constraints, prioritized the processing of generator permits, and clarified the language in several areas.

The LNU Lightning Complex (Hennessey) fire began burning on August 17, 2020, east of Lake Hennessey. On August 19, 2020, the County CEO/Director of Emergency Services and Napa County Public Health Officer issued proclamations of Local Emergency and Local Health Emergency in response to the fire. The Board of Supervisors ratified and continued the proclamations on August 20, 2020. The Governor declared a State of Emergency for Napa County on August 18, 2020. The President issued a Major Disaster Declaration for Napa County on August 22, 2020.

The Glass Fire began burning on September 27, 2020, near Bell Canyon Reservoir. On September 27, 2020, the County CEO/Director of Emergency Services and Napa County Public Health Officer issued proclamations of Local Emergency and Local Health Emergency in response to the fire. Governor Newsom declared a State of Emergency for Napa County on September 28, 2020. The Board of Supervisors ratified and continued the proclamations on October 1, 2020.

The two fires burned more than 200,000 acres in Napa County. To date, over 650 homes have been destroyed, over 1,800 acres of vineyards damaged, and dozens of businesses partially damaged or destroyed. Each fire has unique characteristics and the communities that they impact have different needs and responses. Additional measures are required to address the specific challenges raised in the Hennessey and Glass fires.

RECOMMENDATION

There are three requested actions: (1) amend Part 1: Section 12B of the County Policy Manual entitled "Rebuilding After a Disaster," and Section I, Part 12C of the County Policy Manual entitled "Maintaining Safe and Healthy Business Operations During the COVID-19 Pandemic;" (2) amend Chapter 8.80 of the County Code entitled "Disaster Recovery;" and (3) discuss and provide direction on any additional measures to provide regulatory relief for businesses affected by COVID-10 and/or wildfires. The requested changes to the Policy Manual and County Code are summarized as follows:

The proposed amendment to Section I, Part 12C of the County Policy Manual would make the following changes (see Attachment A):

- | State that the provisions of the policy would remain in effect until the Declaration of Local Emergency expires;
- | Suspends winterization inspections for graded areas Countywide;
- | Extends the deadline for applying erosion control measures on slopes of more than 5% from November 15 to December 15;
- | Requires that temporary housing placed on any property with a structure destroyed in the wildfires must be placed at least 150 feet from the fire debris pile;
- | Requires that property owners requesting temporary alternative uses file a Notice of Intent rather than an Emergency Permit; and
- | Allows existing undamaged and legally entitled wineries to file a Notice of Intent to "host" tasting, marketing,

and retail sales for any winery that was damaged by wildfire, so long as the overall legally entitled intensity of the host winery is not increased.

The proposed amendment to Section I, Part 12C of the County Policy Manual would make the following changes (see Attachment A):

- | Require regular review of the policy by the Board to address future changes in response to the pandemic;
- | State that the provisions of the policy would remain in effect until the Declaration of Local Emergency expires;
- | Allow temporary tents to be open on three sides, instead of the current requirement that all four sides be open;
- | Require that the County process temporary tent permits within three business days; and
- | Delete the provision that allowed winery tasting rooms to remain open until 7:00 PM, through October 31, 2020.

The proposed amendment to Chapter 8.80 of the County Code would make the following changes (see Attachment B):

- | Adds the Glass Fire to the list of disasters to which this chapter applies;
- | Adds a definition for "fire-damaged vineyard;"
- | Clarifies that the provisions of this chapter apply to parcels and structures as they existed on the date that the applicable disaster began;
- | Adds new provisions specifying the circumstances under which fire-damaged vineyards can be replanted without further County review;
- | Allows the relocation of non-conforming fire-damaged structures if the new location would improve fire access and/or defensibility; and
- | Creates a new section that specifies the criteria to allow conditionally approved uses on fire-damaged properties to be relocated on the same property through an Administrative Permit approved by the PBES Director.

Government Code Section 25123 (d) provides that an urgency ordinance for the immediate preservation of public peace, health and safety may be adopted by at least four-fifths vote and shall take effect immediately.

ADDITIONAL ISSUES FOR DISCUSSION AND DIRECTION

Various industry groups have requested further measures related to regulatory relief for COVID-19 and/or fire impacts, in addition to those recommended by staff. These requests require more discussion and analysis by staff, and require coordination with multiple County departments and outside agencies, before a recommendation can be made. Staff is requesting discussion and direction for the following requests to help prioritize workloads:

1. Advocate to the San Francisco Regional Water Quality Control Board (RWQCB) to waive Wastewater Discharge Requirements (WDRs) for wildfire impacted properties;
2. Advocate for the State Insurance Commissioner to require insurance companies to provide coverage for undamaged properties within or near fire-damaged areas;
3. Allow recovery measures to remain in effect through 2023;
4. Allow wine tastings and events to take place subject only to infrastructure limitations like parking, septic capacity, fire, health and safety standards, and applicable County Code requirements pertaining to noise, health department, etc.;
5. Assign a staff person within PBES to act as a single point of contact for TTB (Alcohol and Tobacco Tax and

- Trade Bureau) and ABC (Alcoholic Beverage Control) referrals;
6. Clarify that the removal of brush piles, trees, and debris associated with firebreaks created in response to the recent wildfires is permitted and will not result in enforcement or liability;
 7. Expand all winery tasting room hours to include mornings and evenings, 9 AM to 7 PM, subject only to limitations of infrastructure;
 8. Expand tasting areas to include all areas of the winery footprint that comply with ADA (Americans with Disabilities Act) requirements;
 9. Establish a fire safety design review process for new construction;
 10. Implement a streamlined permit process for water storage tanks and reservoirs;
 11. Provide additional support to the Assessor's Office to process requests to defer property taxes and have properties reassessed to reflect post-disaster values;
 12. State that landowners do not face liability or County enforcement when taking protective actions during an emergency, such as grading, emergency tree removal, or other efforts for fire and damage prevention;
 13. Support Firewise groups to reduce fuel load in rural areas through the removal of invasive species, prescribed burns, chipping programs, and enforced requirements for defensible space; and
 14. Suspend the by-appointment requirement for wine tasting for all wineries

SUPPORTING DOCUMENTS

- A . Attachment A - Draft Resolution to Amend the County Policy Manual (red-line)
- B . Attachment B - Draft Ordinance to Amend the County Code
- C . Attachment C - Draft Resolution to Amend the County Policy Manual (clean)

CEO Recommendation: Approve

Reviewed By: Helene Franchi