

CHAPTER 40A -KINCADE FIRE DISASTER RECOVERY

Article I. - General.

Sec. 40A-1. - Title.

This chapter shall be known as the Kincade Fire Disaster Recovery Ordinance.

Sec. 40A-2. - Purpose.

This chapter is enacted for the purpose of modifying and temporarily suspending various county housing, permitting and health and safety provisions and policies, to expedite recovery and rebuilding from the Kincade Fire and to ensure that displaced persons are housed in safe, healthy, and habitable housing during the recovery period.

Sec. 40A-3. - Administration.

This chapter shall be administered under the direction of the board of supervisors, by and through the director and other departments specified herein.

Sec. 40A-4. – Implementation.

- A. The director may establish administrative standards for use in implementing this chapter. Any administrative standards established pursuant to this chapter shall be made available to the public on the website of the permit and resource management department and upon request at the department.
- B. The director may reduce permit fees for like kind reconstruction on fire-damaged lots to reflect the reduced cost of processing reconstruction permits on previously developed lots. For purposes of this chapter, “permit fees” does not include development fees as defined in chapter 26 of this code.

Sec. 40A-5. – Term and Expiration.

- A. Except as may be otherwise specified herein, this chapter and all its provisions shall expire and be of no further force or effect on December 31, 2021, unless extended or modified by the board of supervisors.
- B. Except as may be otherwise specified herein, no temporary emergency housing or temporary residential use that is authorized by this chapter shall be used for housing after the expiration date of this chapter.

Sec. 40A-6. Conflict with state law and regulations.

- A. This ordinance is not intended and shall not be interpreted to conflict with the laws or constitution of the State of California.
- B. Nothing in this chapter is intended to supersede or suspend regulatory requirements or authority of the state Department of Housing and Community Development to regulate residential use of recreational vehicles as special occupancy parks or otherwise, except as

such provisions may be suspended or modified by state law, executive order or emergency proclamation by the governor.

Secs. 40A-7—40A-19. - Reserved.

Article II. - Glossary.

Sec. 40A-20. - Purpose.

This article provides definitions of terms and phrases used in this chapter that are technical or specialized, or that may not reflect common usage. If any definition in this article conflicts with definitions in other provisions of this code, the definitions herein shall control for the purposes of this chapter. If a word is not defined in this article, the director shall determine the correct definition.

Sec. 40A-21. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Kincade Fire burn area" refers to all of that land contained within the perimeter of the Kincade Fire as mapped by CALFIRE.

"CALFIRE." California Department of Forestry and Fire Protection or successor agency.

"Director." The director of the permit and resource management department of the county, or his or her authorized representative.

"Displaced person(s)." A county resident or residents whose primary dwelling was destroyed by the Kincade Fire, or whose primary dwelling was so damaged by the Kincade Fire that said dwelling is uninhabitable. Displaced person(s) may, in the discretion of the director, be required to provide verification to the county to substantiate eligibility for uses, permits and/or approvals described in this chapter. Required evidence of displacement may include a driver's license or other government-issued identification card, utility bill, or similar document demonstrating that as of October 22, 2019, the resident's primary dwelling was on a fire-damaged lot in the Kincade Fire burn area. Agricultural employees who as of October 22, 2019 resided in employer-provided housing or other shelter on a now fire-damaged lot shall be deemed displaced persons without necessity of providing documentary evidence of displacement.

"Effective date." The date of board adoption of this chapter.

"Fire-damaged lot." A lot, as defined in section 26-02-140 of this code, that contained a legal permitted or legal non-conforming structure as of October 22, 2019 that was damaged or destroyed by the Kincade Fire.

"Kincade Fire." The wildfire that began in Sonoma County on October 23, 2019 and was designated as the "Kincade Fire" by CALFIRE, as referenced in board of supervisors resolution 19-1657, adopted October 31, 2019, and the October 25, 2019 Proclamation of a State of Emergency by Governor Gavin Newsom.

"Reconstruction." Replacement or substantial repair, on the same fire-damaged lot and with no change in use, of a conforming or legal non-conforming structure that was either destroyed by the Kincade Fire or was so structurally damaged that the structure cannot be inhabited or occupied.

"Recreational vehicle." A motor home, travel trailer, truck camper or camping trailer that is (1) self-contained and designed for human habitation for recreational or emergency occupancy; (2) self-propelled, truck-mounted, or permanently towable on California roadways; and (3) a California Department of Motor Vehicles licensed vehicle; or a similar vehicle or structure as determined by the director.

"Repair." Repair of a structure damaged by the Kincade Fire, with no change in use.

"Residential zoning district." Those zoning districts identified in articles 16-24 of chapter 26 of this code. For purposes of this chapter only, a lot located in the coastal zone and CC combining district is not located in a "residential zoning district."

"Residential lot." A legal lot located in any zoning district provided in chapter 26 of this code that is either located in a residential zoning district or contains a dwelling, excluding lots located in the coastal zone and CC combining district.

"Temporary emergency housing." For purposes of this chapter, "temporary emergency housing" shall include a recreational vehicle as defined in this section, or a manufactured home as defined in Sec. 40A-51, that is occupied by one or more displaced persons in accordance with the requirements of this chapter.

Secs. 40A-22—40A-29. - Reserved.

Article III. – Temporary Emergency Housing

Sec. 40A-30. -Recreational vehicles.

- A. Use of recreational vehicles for reconstruction of dwellings. During the term of this chapter, a recreational vehicle may be used by displaced persons as temporary emergency housing on a legal lot in a residential zoning district, subject to compliance with the standards and requirements of this section.
- B. Standards. Except as may be otherwise provided in this chapter, use of a recreational vehicle as temporary emergency housing under this section shall require a county permit or other applicable approval, and shall meet all the following standards.
 1. The lot owner(s) or lot owner's authorized agent shall obtain from the permit and resource management department a zoning permit and any other approvals required to authorize the temporary emergency housing use. Written consent of the lot owner is required in all cases.
 2. Temporary emergency housing use of recreational vehicles pursuant to this section is limited to vehicles not on a permanent foundation and used to house displaced persons.
 3. Recreational vehicles shall be located outside the boundaries of any recorded easements.
 4. The recreational vehicle shall be connected to an approved source of water meeting one of the following criteria:
 - a. Public water supply;

- b. Existing well, provided that it has been approved by the director as safe for domestic consumption; or
 - c. Other water source approved by the director.
 5. The recreational vehicle shall be connected to an approved sewage disposal system meeting one (1) of the following criteria:
 - a. Public sewer system;
 - b. Existing on-site sewage disposal system that has been approved by the director to be intact, adequately sized, and functioning following the Kincade Fire;
 - c. Temporary holding tank, serviced under contract with a pumping company for regular pumping. A copy of the contract shall be provided to the director; or
 - d. Other method of sewage disposal approved by the director.
 6. The recreational vehicle shall be connected to an approved source of electricity meeting one (1) of the following criteria:
 - a. Permitted electrical service hook-up; or
 - b. Other power source approved by the director.
 7. Recreational vehicles used as temporary emergency housing under this chapter shall not be allowed on any lot with health and safety hazards, as determined in the discretion of the director.
 8. Recreational vehicles for residential use on lots outside the Kincade Fire burn area shall comply with all zoning ordinance (chapter 26) and riparian setback requirements.
 9. Additional standards recreational vehicles on fire-damaged lots.
 - a. Unless otherwise provided herein, no recreational vehicle or other temporary emergency housing may be permitted or located on a fire-damaged lot until the lot is approved for reconstruction by the county or other government agency with appropriate authority.
 - b. Use of recreational vehicles as temporary emergency housing on fire-damaged lots shall only be permitted on lots on which a permitted or legal nonconforming dwelling was destroyed or rendered uninhabitable by the Kincade Fire. The legal permitted or legal nonconforming status of a destroyed or damaged dwelling shall be verified by the director.
 - c. Recreational vehicles may be located on fire-damaged lots within zoning ordinance (chapter 26) setback areas, excluding riparian setback areas, if such location is necessary to allow for unobstructed reconstruction on the lot.
- C. Removal and disconnection. Every recreational vehicle used as temporary emergency housing pursuant to this chapter shall be disconnected from sewer, septic, water and/or power

connections and removed from the lot on which it is located no later than the expiration date of this chapter.

Sec. 40A-31. - Recreational vehicles, tent camps and campgrounds in K zones.

- A. Permitted use. Subject to the limitations provided in this section, during the term of this chapter recreational vehicles, tent camps and campgrounds shall be permitted on lots located in the ‘K’ zoning district outside the Kincade Fire burn area and coastal zone. Such use shall require an administrative permit and administrative design review. No permit shall be issued for any lot with health and safety hazards, as determined by the director. Compliance with the minimum standards for sewage disposal, water connection, electrical connection and setbacks set forth in section 40A-30.B is required.
- B. Occupancy. Notwithstanding any contrary provision of this code, during the term of this chapter recreational vehicles, tent camps and campgrounds located on lots meeting the requirements of sec. 40A-31.A may be occupied by displaced persons three hundred sixty-five (365) days per year. Transient occupancy is not precluded for uses allowed pursuant to this section, but all transient use shall remain subject to the payment and reporting of transient occupancy tax.

Sec. 40A-32. – Temporary emergency housing in the PF, M1, M2 and MP zoning districts.

- A. Permitted uses. Notwithstanding any contrary provision of this code, during the term of this chapter multiple units or groups of manufactured homes and recreational vehicles shall be allowed as temporary emergency housing on privately owned lots in the PF, M1, M2 and MP districts outside the Kincade Fire burn area and coastal zone, provided that such uses meet all the requirements of this section.
- B. Permit. Temporary emergency housing under this section shall require a temporary use permit and administrative design review prior to initiating the use. No permit shall be issued for any lot on which the director has determined that there are health and safety hazards.
- C. Standards and occupancy. Temporary emergency housing authorized pursuant to this section shall meet or exceed the standards specified in section 40A-30.B. Occupancy may be year-round, and is limited to displaced persons. Transient occupancy and other visitor-serving use of temporary emergency housing is not permitted.
- D. Removal. No later than the expiration date of this chapter, use of temporary emergency housing authorized by this section shall cease and the operator and lot owner shall remove, to the satisfaction of the director, all utility and other installations made to accommodate the use. Permits and other approvals issued pursuant to this chapter shall require timely cessation and removal, but in no event shall a permit that is silent as to removal be interpreted as a waiver of the cessation and removal requirement. Execution of a covenant to perform removal tasks, satisfactory in form to the director and county counsel, shall be required prior to issuance of a permit for the proposed temporary emergency housing use. A bond or undertaking sufficient to cover costs of removal and restoration may be required, in the discretion of the director.

Sec. 40A-33. - Expansion of existing mobile home parks.

Existing mobile home parks authorized by use permit outside the coastal zone may expand within the existing permitted site to a maximum permitted residential density of one hundred thirty-five percent (135%) of the density established by the zoning map, subject to issuance of a zoning permit and any other approval(s) deemed necessary by the director. No permit shall be issued for any lot for which the director has determined that there are health and safety hazards.

Secs. 40A-34—40A-39. - Reserved.

Article IV. - Additional Housing and Recovery Provisions

Sec. 40A-40. - Suspension of occupancy limits on seasonal farmworker housing.

Chapter 26 of this code allows seasonal and extended seasonal farmworker housing in certain agricultural zoning districts to be occupied for not more than one hundred eighty (180) days in any calendar year, subject to regulation under Title 25 of the California Code of Regulations. Notwithstanding these provisions, during the term of this chapter seasonal farmworker housing and extended seasonal farmworker housing may be occupied for up to three hundred sixty-five (365) days per year, provided that such farmworker housing shall remain subject to all other applicable regulations, limitations and standards, including habitability requirements. However, park and traffic mitigation fees described in section 26-88-010(1)(13) of this code shall not become due or payable as the result of any temporary extension of seasonal occupancy.

Sec. 40A-41. - Rental of existing guest houses, pool houses and residential accessory structures.

Notwithstanding any contrary provision in this code and during the term of this chapter, existing legally permitted guest houses, pool houses, and residential accessory structures may be rented as temporary housing for persons displaced by the Kincade Fire, but shall remain subject to all other existing regulations and limitations, including habitability standards. Residential occupancy of such structures shall no longer be a legal use under the county code after the expiration of this chapter provided in sec. 40A-5. In all such cases, the lot owner shall be responsible for notifying tenants of the temporary nature of the housing.

Sec. 40A-42. - Rental of existing marketing accommodations, farmstays, bed and breakfast inns, resorts, retreats, camps or other similar uses.

Notwithstanding any contrary provision in this code or use permit conditions, during the term of this chapter only, marketing accommodations, farmstays, bed and breakfast inns, resorts, retreats, camps and similar visitor serving uses may be used as housing for displaced persons.

Sec. 40A-43. - Use and rental of existing dwellings and recreational vehicles on agricultural lots.

A. Existing dwellings. Notwithstanding any contrary provision in this code, existing main or primary dwellings on agricultural lots and farm family dwellings as defined in chapter 26 may be used by or rented to displaced persons, provided that such use or rental does not displace agricultural employees or farmworkers.

- B. Recreational vehicles. Notwithstanding any contrary provision of this code and during the term of this chapter only, up to two recreational vehicles may be used as temporary emergency housing for displaced persons on lots in LIA, LEA and DA zoning districts outside the coastal zone and Kincade Fire burn area, subject to the permitting requirements, term limits, and standards in sec. 40A-30 above. A county permit or other administrative approval shall be required prior to initiating use of recreational vehicles under this section. Use of recreational vehicles as temporary emergency housing shall not be allowed on any lot with health and safety hazards, as determined in the discretion of the director.

Sec. 40A-44. - Fee waivers for accessory dwelling units.

- A. During the term of this chapter, building and zoning permit fees shall be waived for any new accessory dwelling unit (ADU) that is constructed on a fire-damaged lot along with a reconstructed single-household dwelling, provided that the ADU meets all other applicable standards, including section 26-88-060 (accessory dwelling units).

Sec. 40A-45. - Safe parking.

Safe parking programs for persons displaced by the Kincade Fire may be permitted as provided in sec. 40-44 of this code.

Sec. 40A-46. - Legal nonconforming uses and structures.

- A. Dwellings damaged or destroyed by the Kincade Fire.
1. Structures on lots exceeding allowable density. Legal nonconforming dwellings destroyed or rendered uninhabitable by the Kincade Fire that exceeded allowable density for the applicable lot may be reconstructed and expanded in floor area by ten percent (10%) of the original floor area, subject to compliance with applicable well and septic standards.
 2. Original footprint. Nonconforming residential structures destroyed or rendered uninhabitable by the Kincade Fire need not be reconstructed on the original foundation footprint. Structures that conform to allowable density may be reconstructed and expanded, subject to lot coverage and setback requirements and to all other applicable requirements of the code, provided that the improvements do not increase the existing nonconforming portion of the structure.
 3. geologic hazard area. notwithstanding any contrary provision of this code, the following provisions shall apply to reconstruction of single-family dwellings on fire-damaged lots located in the geologic hazard area:
 - a. a geologic report is not required for reconstruction of a single-family dwelling in the geologic hazard area, provided that all other applicable requirements shall continue to apply.
 - b. Setback from active faults or the surface trace thereof is not required for reconstruction of a single-family dwelling located in the geologic hazard area, provided that all other applicable requirements shall continue to apply.

- c. Consistent with state law, this subsection shall be limited to apply only to reconstruction of single-family dwellings.
- d. For purposes of this subsection only:
 - i. “Geologic hazard area” shall mean the 'G' geologic hazard area combining district, as provided in article 70 of chapter 26 of this code.
 - ii. "Geologic report" shall mean a fault study prepared or required pursuant to general plan policy PS-1f and sec. 26.70.030 of this code.
 - iii. “Single-family dwelling” shall have the same meaning as in state Public Resources Code section 2621.6, subsections (a)(2)(A)-(B) and (b).

Sec. 40A-47. - Prohibition on the establishment and operation of new vacation rentals.

Notwithstanding any contrary provision of this code, the establishment or operation of any vacation rental not previously permitted and legally operating shall be prohibited within the Kincade Fire burn area. Lots on which a fully approved and permitted vacation rental was legally operating prior to the Kincade Fire may continue to operate upon reconstruction if lot ownership has not changed and if the number of guestrooms within the vacation rental does not change. Hosted rentals, as defined in chapter 26, may be established and operated upon granting of a hosted rental permit and registration for transient occupancy taxes.

Secs. 40A-48, 40A-49. - Reserved.

Article V. - Reconstruction and Repair of Fire-Damaged Structures.

Sec. 40A-50. - Design review.

A. Scenic Landscape Units.

1. Design standards. The director shall establish ministerial design standards for review of applications for reconstruction and repair of residential structures.
2. Reconstruction and repair of dwellings and other residential structures. Notwithstanding any contrary provisions of this code, applications for reconstruction and repair of residential structures on fire-damaged lots located in an SR combining district and also within a scenic landscape unit as shown in the general plan open space element shall require review and approval by the director. Applications that conform to the design standards established under section 40A-50.A shall be approved. The director's decision shall be final and the provisions of section 26-92-040(a)-(b) of this code shall not apply. Applications that do not comply with the design standards established under section 40A-50.A shall be subject to administrative design review under chapter 26 of this code.

B. Commercial and industrial structures. Notwithstanding any contrary provisions of this code, applications for reconstruction of commercial and industrial structures on fire-damaged lots

may, in the discretion of the director, be subject to administrative design review pursuant to chapter 26 of this code. If the director determines that administrative design review is not appropriate or otherwise not applicable, the application for reconstruction shall require design review under chapter 26 of this code.

Sec. 40A-51. - Residential use of manufactured homes.

Manufactured homes may be used as temporary emergency housing on fire-damaged lots by displaced persons where an application and site plan for reconstruction of the primary dwelling has been submitted to the permit and resource management department and the use complies with the standards set forth in section 40A-30.B, except that the manufactured home may be placed on a pad or foundation. Upon completion of the permanent residential structure, and as a condition of receiving final inspection and approval for occupancy of the permanent residential structure, the manufactured home and any installed pad or foundation shall be removed. For purposes of this section only, the definition of manufactured home in section 26.02.040 of this code shall apply. Nothing in this section shall preclude use of a manufactured home on a permanent foundation as the primary dwelling or accessory dwelling unit, provided that the manufactured home complies with all applicable requirements of this code.

Sec. 40A-52. - Groundwater availability.

Compliance with section 7-12 of this code shall not be required for reconstruction of a legal permitted or legal nonconforming dwelling on a fire-damaged lot.