

ORDINANCE NO. ()

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING CHAPTER 40 OF THE SONOMA COUNTY CODE TO EXTEND THE APPLICABILITY OF THE CHAPTER FOR TWO YEARS AND TO MODIFY SELECT PROVISIONS

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

Section I. Purpose and Findings.

A. The Board finds and declares that adoption of this ordinance is necessary to protect the health, safety, and welfare, by providing continued recovery provisions to those affected by the 2017 Sonoma Complex Fire and continuing efforts to make housing available to directly and indirectly displaced residents to the maximum feasible extent, based on the following facts.

- 1) The Sonoma Complex Fire began on October 8, 2017 and resulted in loss of life, the consumption of more than 110,000 acres, and the destruction of approximately 5,200 homes.
- 2) The Board of Supervisors previously found that Sonoma County is experiencing a housing crisis. Even prior to the Sonoma Complex Fire, there was a severe lack of rental housing in the unincorporated area that is affordable to lower and moderate income residents.
- 3) The housing units destroyed by the Sonoma Complex Fire increased this rental housing shortage and also severely reduced the number of owner occupied housing units in the County.
- 4) The destruction of housing units in nearby counties, including Lake, Napa, Solano and Mendocino counties, further limits the ability of fire-displaced Sonoma County residents to relocate to other housing.
- 5) On October 24, 2017, the Board of Supervisors adopted an urgency ordinance adding Chapter 40, Sonoma Complex Fire Disaster Recovery, to the Sonoma County Code, to remain in effect until December 31, 2019, unless extended or modified by the Board of Supervisors.
- 6) Chapter 40 was intended to address the housing and rebuilding needs of fire survivors and other County residents affected by the Sonoma Complex Fire. Although some provisions of Chapter 40 are no longer necessary and are deleted by this ordinance, the Sonoma Complex Fire recovery effort is still continuing. Extending and amending Chapter 40 provides critically needed ongoing support for Sonoma County residents affected by the disaster.
- 7) For most fire survivors who are still rebuilding or seeking replacement housing, insurance coverage for additional living expenses, primarily rent for interim

housing, will expire in October 2019. This loss of coverage will result in additional financial challenges for displaced families that have not yet finished rebuilding.

- 8) The County of Sonoma desires to extend certain of the provisions for fire recovery set forth in Chapter 40 on the Sonoma County Code (Sonoma Complex Fire Disaster Recovery) for an additional two years.

B. In accordance with the provisions of law, on September 5, 2019, the Planning Commission held a duly noticed public hearing on this ordinance, at which time all interested persons were given an opportunity to be heard. The Planning Commission considered the proposed ordinance, staff report and public testimony and comments, determined that the proposed modifications to Chapter 40 are necessary and appropriate, and adopted Resolution 19-0008 recommending approval of the ordinance as set forth in Exhibit A. The Board concurs in and hereby incorporates by reference the findings set forth in Planning Commission Resolution 19-0008.

C. The Board further finds that the ordinance is substantially consistent with pertinent provisions of the Sonoma County General Plan. The ordinance does not authorize creation of new, permanent residential use or density and does not change existing land use. Furthermore, the temporary prohibition on establishment and operation of new vacation rentals within the burn area, as defined, is consistent with Housing Element provisions providing that the County should avoid the loss of existing housing stock and residential land to vacation rental use. This ordinance extends the existing prohibition on the conversion of remaining housing stock and residential land in the burn areas to vacation rental use, during the term of Chapter 40 only.

D. Environmental determination. The Board further finds and determines that the proposed action is exempt from the California Environmental Quality Act ("CEQA"), as discussed below.

- 1) California Code of Regulations, title 14 ("CEQA Guidelines") §15301 exempts the maintenance, operation and/or permitting of existing facilities. This ordinance allows existing dwellings on agricultural parcels, existing guest houses and residential accessory structures, and recreational vehicles to continue to be used as interim housing for displaced persons, for a limited time period and subject to the standards and requirements in Chapter 40 and applicable permits. This ordinance also extends a Chapter 40 provision allowing year-round occupancy of existing seasonal and extended seasonal farmworker housing, during the effective period of Chapter 40.
- 2) CEQA Guidelines §15302 exempts projects involving replacement or reconstruction of existing structures on the same site and having substantially the same purpose and capacity as the structure replaced. This ordinance would modify and extend those existing provisions of Chapter 40 related to reconstruction of legal nonconforming uses and structures and to use of ministerial design standards to residential reconstruction in scenic landscape units.

- 3) CEQA Guidelines §15303 exempts construction of limited numbers of new, small facilities or structures and the conversion of existing small structures from one use to another. This ordinance would allow existing legally permitted guest houses, pool houses, and other habitable residential accessory structures to be rented to displaced persons on an interim basis until Chapter 40 expires. It also allows interim residential use of certain existing visitor-serving uses, including marketing accommodations, farmstays, bed and breakfast inns, resorts, retreats and camps, until Chapter 40 expires.
- 4) CEQA Guidelines §15305 exempts minor alterations in land use limitations in areas with an average slope of less than 20% which do not result in any changes in land use or density. Allowing existing seasonal and extended seasonal farmworker housing to be occupied year-round until the expiration of Chapter 40 is a temporary change in land use limitations that does not change land use or density. This ordinance's provisions governing reconstruction of legal nonconforming residential structures and use of ministerial design standards to review of applications to rebuild residential structures also do not change land use or density. Similarly, allowing existing farm family dwellings, marketing accommodations, farmstays, bed and breakfast inns, resorts, retreats and camps to be used for interim housing does not change land use or density; residential use of these facilities is temporary and the permitted land use does not change. In all cases, these temporary allowances for housing would expire on or before the expiration date of Chapter 40.
- 5) CEQA Guidelines §15061(b)(3) provides that a project is exempt from CEQA if where it can be seen with certainty that there is no possibility that the action proposed may have a significant effect on the environment. There is no possibility that extending the expiration date of specified existing permits, tentative maps, and similar land use entitlements, as provided in Chapter 40, may have a significant effect on the environment. Each of the potentially extended entitlements was previously reviewed under CEQA, and all conditions of approval, including CEQA mitigation measures, continue to apply. The only change to any of the potentially affected projects is an extension of time.

Section III. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section IV. This Ordinance shall be and the same is hereby declared to be in full force and effect on and after January 1, 2020 and shall be published once before the expiration of fifteen (15) days after the date of its passage, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California.

In regular session of the Board of Supervisors of the County of Sonoma, adopted this 22nd day of October, 2019, on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

Gorin: Zane: Gore: Hopkins: Rabbitt:

Ayes: Noes: Absent: Abstain:

WHEREUPON, the Chair declared the above and foregoing Ordinance duly adopted and

SO ORDERED.

Chair, Board of Supervisors
County of Sonoma

ATTEST:

Sheryl Bratton,
Clerk of the Board of Supervisors