



Legislation Text

File #: 2020-0894, **Version:** 2

To: Board of Supervisors

Department or Agency Name(s): Permit Sonoma

Staff Name and Phone Number: Cecily Condon 565-1958

Vote Requirement: 4/5th

Supervisory District(s): All

Title:

1:30 - P.M. Urgency Ordinance Adding Chapter 40C, LNU Lightning Complex Disaster Recovery, to Sonoma County Code

Recommended Action:

Hold public hearing. After close of public hearing, find the proposed ordinance exempt from CEQA under Public Resource Code §§ 21080(b)(3)-(4) and CEQA Guidelines §§ 15269(a),(c), and approve the proposed ordinance. (4/5th Vote Required)

Executive Summary:

Damage assessment of the LNU Lightning Complex Fires is ongoing. To date, the LNU Lightning Complex Fire burned over 57,569 acres and destroyed an estimated 298 structures, including approximately 158 residential structures and one infrastructure structure. An additional estimated 30 structures were damaged, including about 10 residential structures. The ordinance before the Board would add a new Chapter 40C to the Sonoma County Code, titled LNU Lightning Complex Disaster Recovery, to address immediate and interim housing needs for fire-displaced persons and to streamline reconstruction.

Chapter 40C is based on Chapter 40A, which your Board adopted in response to the 2019 Kincadee Fire, but reflects limited changes that are based on lessons learned in the ongoing process of recovery from the 2017 & 2019 wildfires as well as the different circumstances stemming from the LNU Lightning Complex Fire. Chapter 40C applies inland countywide with some provisions for lots within the LNU Lightning Complex Fires perimeters as designated by CalFire, excepting lots within the Coastal Zone. Reconstruction and emergency permitting provisions within the coastal zone have been previously adopted into the Local Coastal Program as allowed by the Coastal Act. Additional modification to the coastal zoning code Chapter 26C of the County Code would require certification by the California Coastal Commission.

Discussion:

Staff recommends adoption of the attached urgency ordinance to adopt proposed Chapter 40C. As drafted, all provisions of Chapter 40C would expire on December 31, 2022, unless extended or modified by the Board of Supervisors. The draft ordinance includes the following provisions to meet the immediate and interim housing needs of those displaced by the LNU Lightning Complex Fire:

- Permitting use of recreational vehicles (defined to include motor homes, travel trailers, truck campers, camping trailers, and similar vehicles that meet enumerated criteria) as temporary emergency housing

in residential zoning districts outside the coastal zone, subject to specified standards. Use of an RV on a lot in the LNU Lightning Complex Fire burn area would not be permitted until the lot is cleared for reconstruction.

- Allowing year-round occupancy of RVs, tent camps and campgrounds in K zoning districts, subject to specified standards and with a zoning permit.
- Allowing groupings of RVs and manufactured homes as temporary emergency housing in Public Facilities, M1, M2, and MP zoning districts outside the coastal zone, subject to temporary use permit.
- Suspending occupancy limits on seasonal and extended seasonal farmworker housing so that such housing may be occupied year-round.
- Allowing existing guest houses, pool houses, and other habitable residential accessory structures, as well as marketing accommodations, farmstays, bed and breakfast inns, resorts, retreats, camps and similar uses, to be used as temporary housing.
- Allowing temporary housing use and rental of existing dwellings and RVs on agricultural lots, subject to specified limitations.
- Prohibiting establishment of new vacation rentals within the LNU Lightning Complex Fire burn area.
- Waiving permitting fees for accessory dwelling units constructed along with a reconstructed primary dwelling within the LNU Lightning Complex Fire burn area.
- Specifying requirements for reconstructing legal nonconforming structures.
- Streamlining design review for reconstruction of fire-damaged structures in scenic landscape units.

Coastal Zone Emergency /Recovery Tools

Within the Coastal Zone, an estimated five structures, including three single-family homes and two accessory structures, were destroyed by the Meyers fire, part of the LNU Lightning Complex Fires that began August 17, 2020. The proposed new County Code Chapter 40C, LNU Lightning Complex Disaster Recovery, does not apply to parcels within the Coastal Zone because the County does not have authority to adopt regulations that would temporarily modify otherwise applicable provisions of the Local Coastal Program or County Code Chapter 26C (Coastal Zoning Resource Districts) without first obtaining approval from the California Coastal Commission. However, the ability to replace structures lost to the fires within the Coastal Zone will be facilitated through existing Local Coastal Program provisions for replacement and repair necessary as a result of disaster or emergency.

There are provisions in Chapter 26C that would allow damaged and destroyed structures and infrastructure within the Coastal Zone to be rebuilt without the requirement to obtain a Coastal Permit.

1. - Exemptions and categorical exclusions. Sec. 26C-340.1. - Coastal Administrative Manual Attachment

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The Public Resources Code exempts certain activities from Coastal Permits. In regards to fire damaged structures, the following exemptions would apply for the purposes of reconstruction or repair of existing damaged structures.

Sec. 26C-340.1.a(1) Replacement of any legal, conforming structure, destroyed by fire or acts of God, provided, however that the County may establish reasonable conditions to mitigate adverse impacts on coastal resources.

Sec. 26C-340.1.a(7) Repair and maintenance activities which do not result in an addition to or enlargement or expansion of the object of such activities, except as otherwise specified in Subchapter 7, Title 14, California Administrative Code and any amendments thereafter adopted

Emergency Coastal Permits - Section 26C-341.2

The Coastal Zoning Code allows for emergency coastal permits to be issued by the director. An emergency permit may be issued to authorize an applicant to proceed with remedial, immediate, temporary work responding to a verified emergency. An emergency is defined by the Coastal Act as a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential services. An emergency coastal permit will not be applicable in most standard rebuild situations, it may apply in certain circumstances.

Coastal Act Section 30610

Additionally, two provisions below may be utilized to facilitate reconstruction as found in the Coastal Act Section 30610, Developments authorized without permit.

1. Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.
2. The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure.

Coastal Act Definitions:

(A) "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.

(B) "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(C) "Structure" includes landscaping and any erosion control structure or device which is similar to that which

existed prior to the occurrence of the disaster.

(D) “Public works facility” means

(a) All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.

(b) All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities. For purposes of this division, neither the Ports of Hueneme, Long Beach, Los Angeles, nor San Diego Unified Port District nor any of the developments within these ports shall be considered public works.

(c) All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.

(d) All community college facilities.

Prior Board Actions:

On August 21, 2020, the Board adopted Resolution No. 2020-0877 ratifying the Director of Emergency Services’ proclamation of the existence of a local emergency.

FISCAL SUMMARY

Narrative Explanation of Fiscal Impacts:

NA

Narrative Explanation of Staffing Impacts (If Required):

NA

Attachments:

Att 1: Draft LNU Complex Fires Ordinance

Att 2: LNU Complex Fires Chapter 40C

Related Items “On File” with the Clerk of the Board:

NA