



Legislation Text

File #: 2021-1351, **Version:** 1

To: Board of Supervisors

Department or Agency Name(s): Permit Sonoma

Staff Name and Phone Number: Ross Markey, 565-2543

Vote Requirement: 4/5th

Supervisory District(s): Countywide

Title:

1:00 P.M. Urgency Ordinance to Amend and Extend Sonoma County Code Chapters 40 (Sonoma Complex Fire Disaster Recovery) and 40A (Kincade Fire Disaster Recovery).

Recommended Action:

Hold a public hearing. After the public hearing is closed, find that the proposal is exempt from CEQA and adopt an ordinance amending specified portions and extending the expiration of Chapters 40 and 40A for one year. (4/5th Vote Required)

Executive Summary:

Following the October 2017 Sonoma Complex Fire and 2019 Kincade Fire, the Board of Supervisors adopted several ordinances to assist recovery. Many of these ordinances are contained within Chapters 40 and 40A of the Sonoma County Code, titled Sonoma Complex Fire Disaster Recovery and Kincade Fire Disaster Recovery, respectively. Chapters 40 and 40A will expire on December 31 2021, unless extended by the Board of Supervisors. Permit Sonoma recommends extending most provisions in Chapter 40 and 40A for an additional year, to expire on December 31, 2022, because measures to facilitate rebuilding and provide for temporary housing are still needed. The recommended modifications to each chapter are outlined in this report.

Chapters 40C (LNU Lightning Complex Fires Recovery) and 40D (Glass Incident Disaster Recovery) were both adopted in 2020 and are set for expiration on December 31, 2022. Both ordinances include similar recovery provisions to those recommended for extension for Chapters 40 and 40A.

Discussion:

The recommended action:

- A. **Extends specified recovery provisions for an additional one year to facilitate the rebuilding effort.** In addition to the 2017 Complex Fire and 2019 Kincade Fire, the County experienced catastrophic flooding in 2019, the LNU Lightning Complex Fires and Glass Fire in 2020, and the global COVID-19 pandemic. Sonoma County Fire survivors who have chosen to rebuild and have experienced delays for several reasons, including absence of available contractors and materials stemming from prior wildfire rebuilding efforts, and most recently, shutdowns and global supply chain issues related to the COVID-19 pandemic. Other reasons for delay include outstanding insurance claims, high construction costs, and delays due to variable weather including atmospheric rivers and drought.

As of November 2021, 60.8% of parcels with structures lost in the Sonoma Complex Fire have completed rebuilding at least one structure; another 27.5% have issued permits and are under construction; 5.5% have approved rebuild plans with permits issued; and, 6% are in the plan review process. 0.2% of permits were withdrawn.

As of November 2021, 17.2% of parcels with structures lost in the Kincade Fire have completed rebuilding of at least one structure; another 59.4% have issued permits and are under construction; 7.8% have approved rebuild plans with permits issued; and, 15.6% are in the plan review process.

Provisions included to aid in rebuilding and recovery:

1. Suspending occupancy limits on seasonal and extended seasonal farmworker housing so that such housing may be occupied year-round.
2. 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.
3. Allowing temporary housing use and rental of existing dwellings and RVs on agricultural lots, subject to specified limitations.
4. Waiving permitting fees for accessory dwelling units constructed along with a reconstructed primary dwelling within the burn areas.
 - i. Chapter 40 (2017 Complex Fire) includes provisions for fee waivers when a reconstructed single-family dwelling that was previously connected to public sewer service is built to the originally permitted dimensions without changing the footprint or square footage of the original dwelling, building permit processing fees shall be waived for an accessory dwelling unit that is incorporated into the interior of the building.
 - ii. Chapter 40A (Kincade Fire) includes provisions for waiver of building and zoning permit fees 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).
5. Specifying requirements for reconstructing legal nonconforming structures.
6. Streamlining design review for reconstruction of fire-damaged structures in scenic landscape units.

- B. **Residential Use of Recreational Vehicles (RVs) and Manufactured Homes.** Chapters 40 and 40A include limited allowances for the residential use of RVs and manufactured homes as interim housing. These provisions have been well utilized, with more than 175 permits issued for the placement of RVs and manufactured homes as interim housing since 2017. This allows fire survivors to remain on their home sites during the rebuild process. While the vast majority of RV permits were issued in the 8 months after the 2017 Complex Fire, Permit Sonoma has continued to issue permits at a reduced level through 2021. With 40% of parcels still in stages of rebuilding from the 2017 Complex Fire and over 80% of parcels still rebuilding from the Kincade Fire, the Department anticipates ongoing demand for RV permits. Staff recommends preserving the Chapter 40 and 40A interim RV housing provisions within burn areas.

Provisions for allowing use of recreational vehicles:

1. 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. Chapter 40 includes additional provisions to allow for emergency housing availability for “secondarily displaced person(s)” who lost their housing as an indirect result of the Sonoma Complex Fire due to circumstances such as early termination of rental leases and rent increases exceeding 5% per year.
2. Allowing year-round occupancy of RVs, tent camps and campgrounds in K zoning districts, subject to specified standards and with a zoning permit.
3. 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.

C. **Continues Prohibition on New Vacation Rentals in the Burn Area.** Chapters 40 and 40A both include provisions to restrict new short term vacation rentals within the burn area. Immediately following the fires, the Board of Supervisors adopted an urgency measure prohibiting new vacation rentals county-wide in order to make more housing available to fire survivors. In its review of this action on January 23 of 2018, the Board chose not to extend the countywide prohibition because so many existing vacation rental owners had leased their properties to fire survivors. Instead, on October 23, 2018, the Board amended Chapter 40 to prohibit new vacation rentals within the burn area only, to prevent the loss of residential lands and existing housing stock to visitor serving uses. The measure was also intended to reduce speculative investment in and development of lots in the burn area for the purpose of creating new visitor oriented use.

Sonoma County remains in a housing crisis. Permit Sonoma staff continue to receive frequent inquiries from investors interested in purchasing a lot within the burn area and developing a short-term vacation rental rather than a long-term residential unit. With affected neighborhoods still struggling to rebuild, staff recommends continuing the ban on new vacation rentals in the burn area. Existing and previously permitted vacation rentals are not restricted by this ordinance. Hosted rentals would continue to be allowed, including in rebuilds, and investors could still purchase lots to build as residences and use them as long-term rentals until expiration of Chapters 40 and 40A.

Chapters 40C LNU Lightning Complex Fires Recovery and 40D Glass Incident Disaster Recovery, adopted in 2020, both include a prohibition on new vacation rental permits within the respective burn areas set to expire on December 31, 2022.

During the July 20, 2021, Vacation Rental Ordinance Update workshop, your Board Directed staff to implement a Vacation Rental license program, develop land use regulations for avoiding Vacation Rental impacts to housing stock, neighborhood character, and public safety, and enhance performance standards with regard to impacts to access, public safety, and wildfire evacuation. New vacation rental permits following the future adoption of a revised vacation rental ordinance would be subject to existing prohibition areas, such as those proposed for extension under this urgency ordinance.

Section 40-60 is not included in the proposed extension of Chapter 40. This section is not directly related to

rebuilding or temporary housing for affected residents, and would require additional CEQA analysis. Section 40-60 would expire as of December 31, 2021, but expiration of the section would not affect the validity of extensions received while Section 40-60 was in effect.” Record of the provisions of Section 40-60 adopted under Ordinance 6289 on October 22, 2019, remain on file with Permit Sonoma and may be reviewed by staff and the public with regard to tentative maps and other entitlements that were valid and not expired as of December 12, 2017, that were subject to the provisions of Section 40-60.

Strategic Plan:

N/A

Prior Board Actions:

During the October 2017 Sonoma Complex Fire, the Board of Supervisors adopted Resolution 17-0389 declaring a state of emergency and directing county staff to review and consider waivers to other regulations to further fire recovery and rebuilding. In the following weeks, the Board adopted multiple urgency and ordinances to assist recovery. Together these Ordinances formed Chapter 40:

- Ordinance No. 6210 on 10-24-2017
- Ordinance No. 6212 on 10-31-2017
- Ordinance No. 6213 on 11-7-2017
- Ordinance No. 6215 on 12-12-2017
- Ordinance No. 6248 on 10-23-2018
- Chapter 40 was modified and extended by your board via Ordinance No. 6289 on 10-22-19.

On November 5, 2019, your Board adopted Ordinance No. 6290 to add Chapter 40A, the Kincade Fire Disaster Recovery Ordinance, to the Sonoma County Code.

Your Board has since adopted Ordinance 6325 on September 15, 2020, in response to the LNU Lightning Complex fires; and, Ordinance 6329 on November 17, 2020, in response to the Glass Incident fire.

FISCAL SUMMARY

Expenditures	FY21-22 Projected	FY 22-23 Projected
Budgeted Expenses		
Additional Appropriation Requested	162,491	162,491
Total Expenditures	\$162,491	\$162,491
Funding Sources		
General Fund/WA GF	\$162,491	\$162,491
State/Federal		
Fees/Other		
Use of Fund Balance		
Contingencies		
Total Sources	\$162,491	\$162,491

Narrative Explanation of Fiscal Impacts:

Fee waiver estimates are based on the assumption of full build-out of ADU's built along with a reconstructed single-household dwelling on remaining fire-damaged lots within the Kincade Fire burn area. This assumption uses published fee estimates for an 840 square foot ADU with a 240 square foot carport (Estimated Residential Permit Fees 7/1/21 - 12/31/21). Rate of ADU construction is estimated based on current Kincade Fire Rebuild Status statistics published through the County's GIS system. 11% of rebuilt lots have included an ADU: 122 parcels damaged by the fire have no rebuild activity currently; assuming 11% of remaining parcels construct an ADU that would equal 14 ADU's X \$23,213 in estimated fees for a total of \$324,982 divided over the FY's 21-22 & 22-23.

Chapter 40 provisions for ADU fee waivers require that parcels be located within an area served by public sewer and that a portion of the floor area of the rebuilt single-household residence be converted to an ADU. Limited data is available for parcels that utilized this provision and with 94% of parcels with rebuild activity in the 2017 Complex Fire burn area have issued permits, it is not estimated that Chapter 40 fee waivers will have an impact on the fee estimate provided above.

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

Att 1: ZCE21-0015 Ordinance with Exhibits A and B, Chapters 40 and 40A - Clean for publication

Related Items "On File" with the Clerk of the Board:

- A. Previously adopted ordinances related to fire recovery Nos. 6210, 6212, 6213, 6215, 6248, 6289, 6290, 6325, and 6329.
- B. Draft ZCE21-0015 Ordinance - includes edits and comments
- C. Draft Exhibit A Ch40 - includes edits and comments
- D. Draft Exhibit B Ch40A - includes edits and comments