

Section 1. Purpose.

The purpose and intent of this chapter is to establish procedures to facilitate expediency in the process of rebuilding, repairing or replacing structures that were damaged or lost as a result of the 2017 Napa Fire Complex disaster. Notwithstanding any other provisions that may conflict, this section shall control with respect to redevelopment or repair of structures and properties that incurred damage during the 2017 Napa Fire Complex disaster.

Section 2. Applicability.

Except where so stated in this chapter, this ordinance shall apply to each legal parcel existing as of October 1, 2017, on which one or more buildings were destroyed, or for which the director of the planning, building and environmental services department (PBES) or the director's designee declared one or more structures to be unsafe to occupy, as a result of the Napa Complex fires. Such structures shall be defined as fire-damaged properties for purposes of this chapter.

Section 3. General Standards for Residential Development on Fire-Damaged Properties.

- A. The development regulations, permitted uses and conditionally permitted uses for any fire-damaged property shall be the development regulations, permitted uses and conditionally permitted uses of the zoning district in which the property is located.
- B. The requirement for 28-foot road setback from the centerline of private roads, as specified in section 18.112.100 (Private Roads) of this code, shall be waived for any fire-damaged property.
- C. Location and design requirements for off-street parking. Required parking spaces shall not be located in: 1) the required minimum front yard; 2) any required landscape setback or area provided by an applicable specific plan; or 3) any required exterior side yard. Single-family residences located in the RS, RM, RC or PD districts shall not be subject to compliance with this subsection; provided, that the paved surface to be utilized for off-street parking for the residence is no greater than 40 percent of the total surface area of the minimum required front yard and does not encroach into a corner side yard.
- D. Site plan approval shall not be required for residential and accessory structures on fire-damaged properties but instead shall be integrated into the building permit process. The requirements of section 18.140.030 (Processing application – conditions of approval) of this code shall not apply to building permits for any single-family dwelling unit, guest cottage, accessory dwelling unit or accessory residential structure, nor for any agricultural use of land or buildings as defined in section 18.08.040 (Agriculture) of this code.

Section 4. Applicability of the Viewshed Protection Program for Fire-Damaged Properties.

- A. Each replacement, expanded or new structure, or any replacement, improved or new roadway shall be subject to review for compliance with the Design Manual, as that document is referenced and defined in section 18.106.020 of this code, if the portion of the property on which the structure or roadway is proposed is:
 - 1. Located on a major or minor ridgeline as defined in section 18.106.020 of this code; or
 - 2. Located a slope of 15 or more percent. For purposes of this section, the slope in the area of disturbance shall be calculated using the slope determination methodology

described in Exhibit A of Resolution No. 94-19, as may be amended, for any proposed building or road site.

- B. Relationship to Previously Approved Use Permits and Small Lot Subdivisions. All structures described in a use permit approved prior to January 10, 2002, the effective date of Ordinance Number 1189 establishing the Napa County Viewshed Protection Program, shall not be subject to the requirements of this chapter. Parcels in small lot subdivisions (defined as groups of at least five parcels of less than two acres each for the purposes of this section) established prior to November 17, 2005, the effective date of Ordinance Number 1268 amending the Viewshed Protection Program, shall not be subject to the requirements of this chapter.
- C. Relationship to Prior Approvals Pursuant to this Chapter. All residential structures or accessory structures for which zoning approval was granted pursuant to this chapter, but that were subsequently damaged, destroyed or deemed unsafe to occupy as a result of the 2017 Napa Fire Complex disaster or related natural disaster, may be rebuilt in accordance with the prior zoning approval. Requests for modifications to plans that were previously granted zoning approval pursuant to this chapter shall be subject to review by the director in accordance with this chapter.
- D. Relationship to Use Permit Applications. Applications requiring the issuance of a use permit or use permit modification, as required by the code, will be reviewed for their adherence to the requirements of this chapter during the application process for the issuance of the use permit or use permit modification.

Section 5. Projects Subject to Administrative Review under the Viewshed Protection Program for Fire-Damaged Properties.

- A. General Provisions. Applications for a building permit or grading permit that meet the criteria in [section 4.A](#) of this chapter shall be submitted to the department for review by the director of PBES. If the application, either as submitted, or upon the inclusion of specified measures, meets the criteria specified in subsection (B) or (C) of this section, planning staff shall certify that the project complies with the applicable provisions of this chapter and the project shall be cleared for continued processing pursuant to Title 15 (Buildings and Construction) of this code. Planning staff may require the submittal of additional information including, but not limited to, a photo or computer simulation of the project and associated improvements, prior to determining that the project meets the criteria contained in this chapter.
- B. Visibility Determination. If planning staff determines that the road or structure would not be visible from any of the designated public roads identified in the Napa County General Plan, Community Character Element Figure CC-3, because of the road's or structure's relationship to surrounding topography or existing vegetation, then the project shall be cleared for further processing pursuant to the code. If the determination was made based on existing vegetation coverage, then the property owner, prior to the issuance of a building or grading permit, shall be required to execute and record in the county recorder's office a use restriction, in a form approved by county counsel, requiring the extent of the mapped natural landcover type or the existing vegetation on the property to be maintained, or replaced with equivalent vegetation, by the owner or the owner's successors, so as to prevent substantial views of the project from any designated public road. "Substantial views" shall have that same definition as written in section 18.106.020 of this code.
- C. Administrative Criteria. A project shall be certified and cleared for further processing, if the planning staff determines that a project meets all of the following conditions:

1. The highest point of the proposed structure is located more than 25 vertical feet below a major or minor ridgeline;
2. The project as designed and sited meets all of the following standards and is consistent with the Design Manual:
 - a. The height of the building is 24 or fewer feet as measured from finished grade along fifty percent or more of the longest wall as viewed from any designated public road;
 - b. The improvement(s), including any required earthmoving or grading associated with the structure or roadway, shall minimize removal of existing vegetation with emphasis on preserving mature trees. If the improvements require the removal of any tree with a diameter of six or more inches at breast height, the permit applicant shall submit a detailed landscaping plan specifying the location and replacement of trees and vegetation in a manner that screens the improvements from substantial views from designated public roads and provides for defensible space in conformance with state law;
 - c. The project site is located within a conifer forest, hardwood forest or hardwood woodland area mapped by the state of California, and a significant portion of naturally vegetated lands on-site has been retained to provide opportunity for natural screening of the development from substantial views from designated public roads;
 - d. Landscaping will be installed and designed to screen the project from substantial views from designated public roads;
 - e. The project lighting, including site lighting, has been designed to minimize off-site visibility and glare;
 - f. The exterior color treatment of the structure will blend with the color of surrounding vegetation and landforms; and
 - g. Exterior windows and trim are nonreflective; and
 - h. Roof angles and composition are designed to conform to existing landforms and landscape;
3. The project as sited and designed is consistent with the Design Manual to reduce its visual impact on the views of major and minor ridgelines as viewed from any designated public road and unique topographic or geologic features. The following landforms will be considered to be unique topographic or geologic features for the purposes of this subsection: Mt. St. Helena, Stag's Leap, Calistoga Palisades, Round Hill, Mt. George and Mt. St. John;
4. The project requires fewer than 2,000 cubic yards of earthwork if the average slope of the area of disturbance is less than 10 percent or 1,000 cubic yards if the average slope is 10 percent or greater, and the overall limits of grading do not extend beyond one and one-half acres of land;
5. Future structures, including roads, driveways, wastewater disposal systems, and necessary earthmoving to construct project improvements will be located to avoid environmentally sensitive areas as defined by Section 18.08.270 of the code;
6. A detailed landscape plan has been prepared that incorporates the criteria set forth in the Design Manual for provision of defensible space and substantial screening of the structure or road; and
7. The project as designed is consistent with Chapter 18.108 (Conservation Regulations) of this code.

- D. Prior to the issuance of a building permit for any project authorized under this section, the property owner shall be required to execute and record in the county recorder's office a use restriction, in a form approved by county counsel, requiring building exteriors, and existing and proposed covering vegetation, as well as any equivalent level of replacement vegetation, to be maintained by the owner or the owner's successors so as to maintain conformance with either subsection (B) or (C) of this section.
- E. Administrative review and approval or denial pursuant to this section shall be considered a ministerial final action and not subject to appeal pursuant to chapter 2.88 of this code.
- F. Projects that do not satisfy the administrative criteria and standards contained above shall be subject to review and approval under **section 6 or 7** of this chapter.

Section 6. Projects Subject to Review by the Zoning Administrator under the Viewshed Protection Program for Fire-Damaged Properties.

- A. If a project does not meet the criteria in **section 5** of this chapter, the project shall not be cleared for further processing unless the zoning administrator can make the following findings with respect to the project.
 1. If the highest point of the proposed project is located more than 25 vertical feet below a major or minor ridgeline, that measures have been included in the project to reduce its visual impact on the major or minor ridgeline through use of existing natural vegetation, landscaping, topographical siting, architectural design, and colortone;
 2. If the highest point of the proposed structure is within 25 vertical feet of a major or minor ridgeline, that the existing vegetation, proposed landscaping, topographical siting, architectural design, and colortone screen the predominant portion of the proposed structure;
 3. The proposed structure, access roads and other site improvements are sited and designed to minimize adverse effects on views from designated public roads;
 4. The proposed structure, access road and other site improvements, including earthmoving or grading, and benches or shelves minimize the removal of vegetation;
 5. The siting and design of site improvements and access roads minimize grading and alteration of natural landforms and topography;
 6. A landscape and/or vegetation retention plan in conformance with the Design Manual has been submitted and approved for the site that would provide maximum screening from designated public roads through preservation of existing vegetation and the planting of new vegetation and provide for defensible space in conformance with state law;
 7. The proposed structure and associated improvements substantially conform with the Design Manual in order to reduce their visual impact on the views of major and minor ridgelines as viewed from any designated public road and unique topographic or geologic features as viewed from any county road. The following landforms will be considered to be unique topographic or geologic features for the purposes of this subsection: Mt. St. Helena, Stag's Leap, Calistoga Palisades, Round Hill, Mt. George and Mt. St. John; and
 8. The project as designed or modified is consistent with the requirements of chapter 18.108 (Conservation Regulations) of this code.
- B. Prior to the issuance of a building permit for any project authorized under this section, the property owner shall be required to execute and record in the county recorder's office a use restriction, in a form approved by county counsel, requiring building exteriors, and existing and

- proposed covering vegetation, as well as any equivalent level of replacement vegetation, to be maintained by the owner or the owner's successor so as to maintain conformance with subsection (A) of this section;
- C. The decision of the zoning administrator shall be final unless an appeal has been filed by the applicant or any interested person pursuant to Chapter 2.88 of this code.
 - D. If one or more of the findings in subsection (B) of this section cannot be made, the application shall be forwarded to the planning commission for a possible exception pursuant to [section 7](#).

Section 7. Exceptions to the Viewshed Protection Program for Fire-Damaged Properties.

Upon application by the property owner of a site, an exception one or more of the requirements contained in subsection (A) of [section 6](#) may be granted by the planning commission. Such exception may be granted if, after conducting a public hearing and reviewing available building sites on the subject property, the planning commission makes all of the following findings:

- A. Compliance with the provisions of subsection (A) of [section 6](#) would result in greater visual impact than would the proposed construction on the proposed building site;
- B. Compliance with the provisions of subsection (A) of [section 6](#) would result in greater impact on existing landforms and landscape than would the proposed construction on the proposed building site;
- C. Measures have been included in the project to reduce its visual impacts as seen from any designated public roads. Such measures include but are not limited to:
 - 1. Installation of landscaping designed to screen the project from view of designated public roads;
 - 2. Low level lighting on buildings and site which minimize off-site visibility and glare;
 - 3. Nonreflective exterior windows and window frames;
 - 4. Use of earth tone colors on building exteriors;
 - 5. Roof angles and composition designed to conform with the existing land forms and landscape; and
 - 6. Building height has been designed to minimize the silhouetting against the sky when viewed from any designated public road or open space owned or managed by a public agency or land trust.
- D. Prior to the issuance of a building permit for any project authorized under this section, the property owner shall be required to execute and record in the county recorder's office a use restriction, in a form approved by county counsel, requiring building exteriors, and existing and proposed covering vegetation, as well as any equivalent level of replacement vegetation, to be maintained by the owner or the owner's successors so as to maintain conformance with subsection (C) of this section.
- E. The project as designed or modified is consistent with the requirements of chapter 18.108 (Conservation Regulations) of this code.

Section 8. Required public and private notification of zoning administrator and planning commission public hearings conducted pursuant to the Viewshed Protection Program for Fire-Damaged Properties.

At least 10 days prior to a decision by the zoning administrator or planning commission under [section 6 or 7](#) of this chapter, notice of a public hearing shall be provided to the applicant, the owner of the property, to city or town closest to where the project is proposed to be built and to all property owners located within 1,000 feet of the outer perimeter of the property on which the project would be

constructed as shown on the latest equalized assessment roll. Nothing in this section shall preclude the director of PBES from providing notice by any other means deemed to be appropriate for the project.

Section 9. Conservation Regulations for Fire-Damaged Properties.

- A. Chapter 18.108 (Conservation Regulations) of this code shall apply to fire-damaged properties, except that the zoning administrator shall be authorized to hear and decide on requests for exceptions to the conservation regulations pursuant to section 18.108.040 (Exceptions).

Section 10. Legal Nonconformities on Fire-Damaged Properties.

- A. Except as provided herein, chapter 18.132 (Legal Nonconformities) of this code shall apply to fire-damaged properties.
- B. In accordance with the provisions of chapter 18.132 (Legal Nonconformities), a legal nonconformity may be repaired, maintained, restored, rebuilt following destruction, regardless of the extent of the destruction, rehabilitated, remodeled, redesigned or rearranged as long as all of the conditions prescribed in section 18.132.030 (Conditions for continuance) are met. In addition to the allowances specified in subsection (A) of section 18.132.030, a legal nonconformity may be relocated if such relocation would enhance opportunities for use of renewable energy sources, decrease the area of impervious surfaces on the property, or would reduce the extent of nonconformity with the minimum setbacks from utilities contained in section 13.28.040 (Clearance from other facilities) of this code.
- C. "Voluntary abandonment" for fire-damaged properties shall mean cessation of the use or portion thereof for six consecutive months or twelve nonconsecutive months in any two-year period or, if the use is seasonal, for more than one season; except, that if the cessation is caused by the destruction in whole or in part of conforming or legal nonconforming facilities or structures that are essential to continuation of the use, and that destruction was caused by the 2017 Napa Fire Complex or related natural disaster, then the use shall be deemed voluntarily abandoned only if not recommenced before November 1, 2019, if no building permit is required to repair the structure or facility, within two years of final inspection if a building permit is required for repair of the facility or structure and such permit is obtained before May 1, 2019. Upon showing of good cause, the director of PBES may extend by six months the timelines within which a building permit must be obtained or a final inspection conducted.
- D. The director of PBES is authorized to waive the public hearing for residential and non-residential fire-damaged properties if, after providing notice in accordance with subsection (C) of section 18.132.050 (Certificate of present extent of legal nonconformity – Application – Procedure), the director finds that no member of the public has requested a hearing and no additional information is required to render a decision. When the sole question raised is the existence of a non-residential fire-damaged structure within required yards, road setbacks, or stream setbacks, the director of PBES is authorized to render an administrative decision without notice or public hearing if the director finds that no additional information is required to render a decision.

Section 11. Automatic Expiration of Use Permits.

In recognition of the limitation of resources for rebuilding in the wake of the 2017 Napa Fire Complex, any discretionary zoning permit approved after January 1, 2016, and before December 31, 2018, shall, without further action by any county officer or body, expire and become void three years after the date the approving officer or body order the use permit issued or, if any appeal is taken to the board of

supervisors, three years after the date the decision of the board on appeal becomes final; provided, however, that if a shorter or longer time period is included in the conditions of approval of the use permit, that time period shall control.

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