

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA, REPEALING CHAPTER 18.117 (SMALL WIND ENERGY SYSTEMS) IN ITS ENTIRETY AND REPLACING IT WITH A NEW CHAPTER 18.117 (RENEWABLE ENERGY SYSTEMS); AMENDING SECTIONS 18.24.030 (AV AIRPORT DISTRICT), 18.28.030 (CL COMMERCIAL LIMITED DISTRICT), 18.32.030 (CN COMMERCIAL NEIGHBORHOOD DISTRICT), 18.34.030 (MC MARINE COMMERCIAL DISTRICT), 18.36.030 (I INDUSTRIAL DISTRICT), 18.40.020 (IP INDUSTRIAL PARK DISTRICT, 18.44.020 (GI GENERAL INDUSTRIAL DISTRICT), AND 18.50.030 (PL PUBLIC LANDS DISTRICT) TO ALLOW COMMERCIAL RENEWABLE ENERGY FACILITIES UPON GRANT OF A USE PERMIT; AND AMENDING SECTION 18.120.010 (EXCEPTIONS TO USE LIMITATIONS) OF TITLE 18 OF THE NAPA COUNTY CODE**

**WHEREAS**, over the last decade, Napa County has taken several steps to begin addressing climate change and achieving reductions in Greenhouse Gas Emissions (GHGs) emissions, in the County's operations as well as broader community; and

**WHEREAS**, in 2014, Napa County joined with Marin Clean Energy (MCE), a California joint powers authority, to provide "Light Green" (60% renewable) and "Deep Green" (100% renewable) energy alternatives to County residents; and

**WHEREAS**, MCE offers "Power Purchase Agreements" to private developers of renewable energy to further bolster its supply of clean energy; and

**WHEREAS**, Napa County desires to recognize the efficient, quiet, safe, and cost-effective nature of the private development of certain renewable energy sources; and

**WHEREAS**, authorizing the development of such renewable energy supplies advances the County's goals to reduce emissions of local GHGs that contribute to climate change, and promote the economic and environmental health of Napa County by conserving energy, increasing the efficiency of energy use, and producing renewable energy locally (General Plan Conservation (CON) Goals CON-15 & 16 and related Policies CON-68 and 70); and

**WHEREAS**, Napa County has been working to develop a Climate Action Plan (CAP) for several years. The proposed CAP will provide a comprehensive roadmap to address the challenges of climate change including reducing GHG emissions from local sources and helping the community to

adapt to climate change; and

**WHEREAS**, this ordinance accomplishes County’s draft CAP Primary Measure BE-5: “Expand current renewable energy and green energy incentives and update local ordinances” and Supporting Measure BE-11: “Encourage solar panel installation on warehouse roof space” by clarifying the approval processes for accessory and commercial renewable energy projects; and

**WHEREAS**, the Napa County General Plan also states that agriculture and related activities are the primary land uses in Napa County, that the County will reserve agricultural lands for agricultural uses, and that no new non-agricultural uses or development of a parcel located in an agricultural area shall be permitted unless it is needed for the agricultural use of the parcel (General Plan Policies AG/LU-1, 4, and 12); and

**WHEREAS**, Strategic Action 9.C of the Napa County Strategic Plan 2019-2022 calls for updating County regulations in a sustainable manner to address various current issues and topics, including regulations specifically addressing solar facilities; and

**WHEREAS**, because current County zoning ordinances authorize public utility uses including “electric generating plants” in any zoning district upon grant of a use permit, and because much of the land within the County is designated primarily for agricultural uses, conflicts may arise should commercial-scale renewable energy facilities be proposed on agricultural lands and therefore these regulations are necessary to identify where such facilities are deemed suitable based on location, size, and potential impacts to agricultural lands; and

**WHEREAS**, these regulations establish development standards, procedures, and environmental resource protection measures for the construction and use of commercial renewable energy systems that minimize adverse impacts to the environment, residential areas, and productive agricultural lands; and

**WHEREAS**, in addition to regulations for commercial renewable energy development, this ordinance recognizes the benefits of accessory, on-site renewable energy systems and provides reasonable ministerial development standards for such systems; and

**WHEREAS**, all future commercial renewable energy systems will be reviewed for environmental effects and merits on a case-by-case basis in accordance with the standards hereby established and subject to the provisions of the California Environmental Quality Act (CEQA); and

**WHEREAS**, the purpose and intent of these regulations is to protect the public health, safety, and community welfare and otherwise protect the scenic beauty and environment of Napa County; and

**WHEREAS**, on November 20, 2019 and December 4, 2019, after considering all public and staff comment regarding this ordinance, the Planning Commission recommended that the Board of Supervisors adopt this ordinance; and

**WHEREAS**, on December 7th, 2019, notice of a public hearing on this ordinance including the recommendations of the Planning Commission was provided in accordance with the noticing requirements of County Code Chapter 18.136.040; and

**WHEREAS**, on December 6th, 2019, the Planning, Building and Environmental Services Department notified stakeholders, members of the public, industry groups and persons who had requested special notice of the hearing on this ordinance scheduled before the Board on December 17th, 2019; and

**WHEREAS**, prior to the consideration and adoption of this ordinance, the County complied with the noticing requirements of County Code Section 18.136.040; and

**WHEREAS**, Chapter 18.117 (Small Wind Energy Systems) expired by its own terms on January 1, 2017 but remained codified in the County Code; and

**WHEREAS**, Section 1 of this Renewable Energy Ordinance shall replace in its entirety the now-expired Chapter 18.117 (Small Wind Energy Systems).

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

**SECTION 1.** Chapter 18.117 (Small Wind Energy Systems) of the Napa County Code is repealed in its entirety and replaced in full to read as follows:

## Chapter 18.117 – RENEWABLE ENERGY SYSTEMS

### Sections:

- 18.117.010 Purpose**
- 18.117.020 Definitions**
- 18.117.030 Accessory renewable energy systems development standards**
- 18.117.040 Commercial renewable energy production facilities development standards**

### **18.117.010 - Purpose.**

A. The purpose and intent of these regulations is to provide a uniform and comprehensive set of standards for the entitlement and operation of renewable energy systems. The regulations contained herein are designed to promote the development of both accessory and commercial renewable energy systems, advance goals to reduce greenhouse gas emissions, and promote the economic and environmental health of Napa County. These regulations are intended to conserve energy, increase the efficiency of energy use, and produce renewable energy locally, while protecting public health, safety, and community welfare, including by assuring that systems are sited, designed and operated to avoid significant impacts on environmental resources and preserve the visual quality of the natural and built environment.

B. Pursuant to the requirements of Government Code section 65850.5, the provisions of section 18.117.030 establish the standards for administrative approval of accessory renewable energy systems. The permitting of accessory renewable energy systems which comply with these standards are ministerial acts and not subject to CEQA; except that the permitting of such systems are discretionary and subject to CEQA when the system requires an exception to the Conservation Regulations (Chapter 18.108) in the form of a use permit.

### **18.117.020 - Definitions.**

“Accessory renewable energy system” means an on-site renewable energy system where the energy generated offsets energy demands on the property, or on contiguous properties under common ownership, and provides no more than one hundred twenty-five percent (125%) of the estimated energy demand for all legally established uses. An accessory renewable energy system shall be limited to solar energy systems as defined by Civil Code section 801.5, including ground-mounted systems, roof-mounted systems, floating systems, and systems affixed to shade structures located over required parking areas. Accessory renewable energy systems do not include small residential rooftop solar energy systems subject to Chapter 15.14, Article III – Small Rooftop Solar Energy Systems. Accessory renewable energy systems shall not include energy production for a feed-in tariff or Community Choice Aggregation Program whether in full or in part.

“Bioenergy” means power or fuels produced from any biomass material derived from plants, animals and organic waste streams.

“Commercial renewable energy production facility” means an energy generation facility using renewable fuel sources where the energy generated is used to supply off-site energy needs for a feed-in tariff or Community Choice Aggregation Program, including but not limited to: (1) commercial bioenergy production facilities utilizing bioenergy, including but not limited to ethanol, biodiesel and biogas, and related power generation and cogeneration facilities; and (2) commercial solar energy production facilities utilizing solar photovoltaic cells, panels or arrays designed to collect and convert solar power into energy for off-site use. Commercial renewable energy production facilities do not qualify as a public utility, public use or quasi-public use pursuant to Napa County Code sections 18.120.010(A)(11) and 18.120.010(B)(8).

“Community Choice Aggregator (CCA)” or “Community Choice Aggregation Program” shall

have the same definition as California Public Utilities Code Section 331.1, as amended from time to time.

“Photovoltaic (PV)” means a technology that uses a semiconductor to convert sunlight directly into electricity.

**18.117.030 – Accessory renewable energy systems development standards.**

The following siting criteria and development standards shall apply to accessory renewable energy systems:

- A. Accessory renewable energy systems general development standards.
  - 1. Accessory renewable energy systems shall comply with all setbacks of the applicable zoning district.
  - 2. Land clearing activities for accessory renewable energy systems shall comply with and be subject to Chapter 18.108 (Conservation Regulations).
  - 3. The system shall comply with the latest edition of the Caltrans Highway Design Manual sight distance requirements for safe access to or from the property or other properties in the vicinity.
  - 4. The system shall not be located over a septic system, leachfield area or precluded area pursuant to Chapter 13.16.
  - 5. The system shall not be located in a floodway as defined in Chapter 16.04 and complies with floodplain management requirements pursuant to Chapter 16.04.
  - 6. The system shall not exceed noise standards pursuant to Chapter 8.16.
  - 7. Ground-mounted systems shall not exceed fifteen feet (15') in height.
  - 8. Ground-mounted systems shall not cover greater than 10% of the parcel or two (2) acres, whichever is less.
  - 9. The system shall not be located within Napa County Airport Land Use Compatibility Zones A or B.
  - 10. Concentrated reflections or glare shall not be directed at occupied structures, recreation areas, roads, highways or airport flight landing or takeoff areas.

**18.117.040 – Commercial renewable energy production facilities development standards.**

The following siting criteria and development standards shall apply to all commercial renewable energy production facilities:

- A. Commercial renewable energy production facilities general development standards.
  - 1. Commercial renewable energy production facilities are permissible upon grant of a use permit on undeveloped properties and/or in conjunction with existing developed land uses, including over parking areas.
  - 2. Facilities shall comply with required yard setbacks limitations of the applicable zoning district and include design features to reduce visibility from public roads, and fully screened from adjacent residential areas. Any lighting shall be fully shielded, downward casting, and not wash out onto structures, other properties, or the night sky. The permittee shall maintain the facility, including all required landscaping, in compliance with the approved use permit.
  - 3. Commercial renewable energy production facilities shall not be located within Napa County Airport Land Use Compatibility Zones A and B, and shall be sited and operated to avoid hazards to air navigation and comply with all applicable Federal Aviation Administration requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports, and the State Aeronautics Act (Part 1 (commencing with Section 21001) of Division 9 of the Public Utilities Code). Sites located within an Airport Influence Area (as defined in the Napa County Airport

Land Use Compatibility Plan) shall provide an analysis documenting compliance with noise, safety, airspace protection, and land use compatibility with airport operations. The owner or permittee of a facility approved within an Airport Influence Area shall record an avigation easement pursuant to Section 15.08.040.A.4 of this code.

4. Commercial renewable energy production facilities shall be sited to avoid or minimize impacts to sensitive biotic habitats including woodlands, wetlands, streams, and habitat connectivity corridors pursuant to the requirements of Chapter 18.108. Projects located within or adjacent to these areas will require all necessary environmental studies at the time of use permit application to demonstrate that the facility avoids sensitive species to the maximum extent feasible and provides adequate mitigation of potential impacts.

5. Commercial renewable energy production facilities shall be sited to avoid or minimize impacts to significant cultural and historic resources, and may require a cultural resources survey at the time of use permit application as determined by the Department.

6. For commercial renewable energy production facilities interconnected to transmission lines greater than 6kV, the location of new transmission lines, poles, and utility sub-stations shall be identified on the site plans. If high voltage (100kV) or private transmission lines are proposed, they shall be considered as part of the use permit process including potential for undergrounding, that the proposed interconnection to transmission lines is acceptable to the utility, and documentation is provided that any new utility-owned transmission lines comply with the requirements of the California Public Utilities Commission.

7. Commercial renewable energy production facilities shall be sited to maintain natural grades and use existing legally established roads for access to the extent feasible, and comply with the requirements of Chapter 18.108. Construction of new roads shall be avoided to the extent feasible. Areas used for temporary access roads, construction staging areas, or field office sites during construction shall be restored and revegetated to preconstruction conditions. The permittee shall maintain an all-weather access road for maintenance and emergency vehicles.

8. Commercial renewable energy production facilities shall comply with the stormwater management standards of Chapter 16.28, including but not limited to, implementation of best management practices to minimize dust and wind erosion during site preparation, grading, construction, and post construction operation.

9. Commercial renewable energy production facilities shall comply with all requirements of the County Fire Marshal including, but not limited to, emergency vehicle access and turn-around at the facility site(s), addressing, vegetation management, and firebreak zones and maintenance around all structures.

10. Commercial renewable energy production facilities shall be designed and operated in compliance with the noise standards of Chapter 8.16. Projects with the potential to generate noise shall submit a noise analysis at the time of use permit application to demonstrate that the facility will comply with noise standards.

11. The project site for a commercial renewable energy production facility shall be fenced and secured to prevent unauthorized access, including provision of signage addressing site security. Wildlife compatible fencing shall be utilized when warranted based on analysis of biotic resources.

12. The project complies with the latest edition of the Caltrans Highway Design Manual sight distance requirements for safe access to or from the property or other properties in the vicinity.

13. Facilities shall be located so as not to conflict with a septic system, leachfield area or precluded area pursuant to Chapter 13.16.

14. Facilities shall not be located within a floodway, as defined in Chapter 16.04, and

shall comply with floodplain management requirements pursuant Chapter 16.04.

15. A decommissioning plan shall be required as part of any use permit application and shall include the following:

- a. Removal of all aboveground and underground equipment, structures not identified for re-use, fencing and foundations.
- b. Removal of graveled areas and access roads.
- c. Restoration of the surface grade and replacement of topsoil after removal of all structures and equipment including grading, revegetation and an erosion control plan to return the site to an appropriate end use consistent with the zoning district.
- d. Revegetation of disturbed areas with native seed mixes and plant species suitable to the area. Documentation of a three (3) year maintenance agreement for all revegetated areas shall be submitted prior to the restoration being considered complete.
- e. The timeframe for completion of removal and restoration activities, which in no event shall take longer than six (6) months from cessation of use, unless an alternative period is provided for within the use permit.
- f. An engineer's certified cost estimate indexed for inflation to implement all aspects of the restoration plan, which will be the basis for financial assurance set forth in Section 18.117.040.A(16).
- g. An agreement, in a form approved by County Counsel, signed by the owner and permittee taking full responsibility for decommissioning and reclaiming the site in accordance with the decommissioning plan and use permit approval upon cessation of use.
- h. A plan to comply with all state and federal requirements for reuse, recycling or disposal of potentially hazardous waste.
- i. The facility permittee shall notify the Department immediately upon termination or cessation of use or abandonment of the operation. The permittee shall remove components of the facility when it becomes functionally obsolete or is no longer in use. The permittee shall begin restoration and removal of all equipment, structures, footings/foundations, signs, fencing, and access roads within ninety (90) days from the date the facility ceases operation, and complete restoration within one (1) year.

16. At the time of issuance of the permit for the construction of the facility, the permittee shall provide financial assurance in a form and amount acceptable to the Department, in compliance with Section 17.38.030, to secure the expense of decommissioning, dismantling and removing all equipment, structures, fencing, and reclaiming the site and associated access or distribution lines/pipes in compliance with the approved restoration plan.

B. In addition to the requirements of Section 18.117.040.A, the following standards shall apply to commercial bioenergy production facilities:

1. Bioenergy production facilities shall be limited to the Industrial and General Industrial zoning districts.
2. Buildings, facilities, and equipment used in the production and/or storage of bioenergy shall comply with all local, State, and Federal laws. The applicant of the commercial bioenergy production facility shall provide documentation acceptable to the Department prior to granting of a use permit that the project is designed to comply with all required State and Federal permits and approvals.
3. The applicant of a commercial bioenergy production facility shall provide documentation acceptable to the Department prior to granting of a use permit demonstrating that the proposed facility results in a net reduction in carbon output when compared to the carbon output resulting from traditional non-renewable energy production of equivalent size.

C. In addition to the requirements of Section 18.117.040.A, the following standards shall

apply to commercial solar energy production facilities:

1. Solar arrays mounted on a legally constructed building structure may exceed the height limit of the zoning district by up to two feet (2'). Ground-mounted facilities shall not exceed fifteen feet (15') in height unless otherwise allowed by use permit.
2. Electrical distribution lines on the project site shall be underground. This provision may be waived by the decision-making body if the undergrounding is determined to be an undue burden.
3. Concentrated reflections or glare shall not be directed at occupied structures, recreation areas, roads, highways or airport flight landing or takeoff areas. A detailed analysis of potential glare effects may be required at the time of application, and the applicant may be required to minimize glare effects by installing vegetative screens or berms, and/or by adjusting solar collector position or operation to minimize glare.

D. Notwithstanding any other processing requirements to the contrary, commercial renewable energy facilities may be collocated on a developed property within those zoning districts permitting such facilities without obtaining a new use permit, provided that either:

1. The facility is consistent with the terms of the use permit or site plan approval previously granted for the developed property; or
2. The use permit or site plan approval is being modified to incorporate the facility.

**SECTION 2.** Section 18.24.030 (Uses permitted upon grant of a use permit) of Chapter 18.24

(AV Airport District) of the Napa County Code is amended to read in full as follows:

**18.24.030 - Uses permitted upon grant of a use permit.**

The following uses shall be permitted in all AV districts upon grant of a use permit pursuant to Section 18.124.010:

- A. Airports;
- B. Aircraft manufacturing and painting;
- C. Aircraft fueling facilities;
- D. Commercial and service structures and uses at Napa County Airport, related to aviation or the functioning of that facility:
  1. Aviation schools, flight instruction and flying clubs;
  2. Aerial survey mapping and photography services,
  3. Retail sales (not to exceed five hundred square feet per shop or lease area) within passenger terminal building,
  4. Administration or business offices related to aviation,
  5. Aerial advertising services,
  6. Aerial agricultural chemical application services,
  7. Air patrol firefighting and suppression services,
  8. Scheduled air passenger and freight services,
  9. Car rental services;
- E. The following structures and uses at Parrett Field (Angwin Airport) related to a public use airport open for general aviation:
  1. Aviation schools, flight instruction, and flying clubs;
  2. Administrative or business offices related to general aviation activities or aircraft based at Parrett Field;
- F. Telecommunication facilities, other than satellite earth stations, that do not meet one or more of the performance standards specified in Section 18.119.200;



- G. Satellite earth stations that cannot, for demonstrated technical reasons acceptable to the director, be located in an Industrial (I), Industrial Park (IP), or General Industrial (GI) zoning district; and
- H. Commercial renewable energy facilities.

**SECTION 3.** Section 18.28.030 (Uses permitted upon grant of a use permit) of Chapter 18.28

(CL Commercial Limited District) of the Napa County Code is amended to read in full as follows:

**18.28.030 - Uses permitted upon grant of a use permit.**

The following uses may be permitted in all CL districts upon grant of a use permit pursuant to Section 18.124.010:

- A. Gasoline service stations, including minor auto repair facilities;
- B. Hotels, motels, inns and bed and breakfast establishments (defined in Section 18.08.080 and regulated by Section 18.104.050) with no more than fifty guest rooms;
- C. Restaurants, cafes, coffee shops, delicatessens, bars and taverns with no more than one hundred seats;
- D. Tourist information facility;
- E. Retail stores less than five thousand square feet in gross floor area selling groceries, candy, ice cream or alcoholic beverages; laundromat as an accessory use;
- F. Child day care centers;
- G. Wineries, located within an existing structure(s) upon an existing lot of record which is presently being commercially used for the production, processing or storage of wine and which is also located in one of those areas designated as urban on the general plan land use map;
- H. Private schools (institutional) subject to compliance with criteria specified in Section 18.104.160;
- I. Tourist and excursion transportation facilities as defined by Section 18.08.610;
- J. Telecommunication facilities, other than satellite earth stations, that do not meet one or more of the performance standards specified in Section 18.119.200;
- K. Satellite earth stations that cannot, for demonstrated technical reasons acceptable to the director, be located in an Industrial (I), Industrial Park (IP), or General Industrial (GI) zoning district;
- L. Art studios and galleries;
- M. Accessory dwelling units, provided that (i) prior to issuance of a building permit to commence construction of the dwelling units, the permittee shall record a deed restriction, in a form acceptable to county counsel, limiting in perpetuity the use of the dwelling units to occupancy by households with moderate incomes (as defined in Section 18.82.020) and below, (ii) the dwelling units are compatible with neighboring land uses, and, (iii) water, wastewater treatment, and parking is available to support the dwelling units; and
- N. Commercial renewable energy facilities.

**SECTION 4.** Section 18.32.030 (Uses permitted upon grant of a use permit) of Chapter 18.32

(CN Commercial Neighborhood District) of the Napa County Code is amended to read in full as follows:

**18.32.030 - Uses permitted upon grant of a use permit.**

A. The following uses may be permitted in all CN districts upon grant of a use permit pursuant to Section 18.124.010:

1. Retail business including: candy, ice cream shops and retail bakeries; health food stores; ice sales (not to include ice plants); dry goods and variety stores; gift and novelty shops; hardware stores; liquor stores; tobacco shops; newsstands and bookstores. Each of these uses are limited to a maximum floor area of two thousand five hundred square feet;
2. Food/meat markets, not including slaughtering (less than twenty-eight thousand square feet in floor area); buyback recycling centers as an accessory use;
3. Service businesses including barber and beauty shops; shoe repair; laundry or self-service laundromat; dry cleaning agency (no on-site processing), repair of personal or household items;
4. Child day care centers;
5. Medical, optical and dental offices, and related laboratory facilities as an accessory;
6. Branch post offices;
7. Swimming pool;
8. Gasoline service stations, including incidental repair;
9. Video rentals;
10. Private schools (institutional) subject to compliance with criteria specified in Section 18.104.160;
11. Nurseries and garden stores, including outdoor storage of plant materials;
12. Small financial services such as branch banks and automatic teller machines, but not including drive-through banking;
13. Professional, administrative, executive, financial, real estate, insurance and other general business offices; and
14. Commercial renewable energy facilities.

B. In the Lake Berryessa and Capell Valley areas, the following additional uses may also be permitted in the CN district upon grant of a use permit pursuant to Section 18.124.010:

1. Auto supply stores;
2. Small contractor's offices and equipment, boat and material storage yards where all outdoor storage areas shall be screened from public streets and adjacent properties;
3. Restaurants, coffee shops, pizza parlors and cafes, not including drive-through eating places, with no more than fifty seats on the parcel containing the use; and
4. Storage and sales yards associated with hardware stores, and building materials yards, including small ready-mix concrete batching operations, with concrete production that does not exceed three thousand five hundred cubic yards per year, that provide delivery service, and where all outdoor storage areas are screened from public streets and adjacent properties.

C. In the Angwin urban residential area, the following additional uses may be permitted in the CN district upon grant of a use permit pursuant to Section 18.124.010:

1. Auto supply, service, repair, and detail shops;
2. Awning, cover, upholstery, framing, custom cabinet, and other similar shops when less than two thousand five hundred square feet in size;
3. Service businesses such as house cleaners, exterminators, plumbing and floor covering installers, septic tank cleaners, and landscape maintenance businesses; and
4. Contractor's offices with incidental outdoor storage.

D. Outdoor display and storage of materials and equipment shall be allowed upon grant of a use permit when incidental to the commercial use of a lot in the CN zone provided that such storage is confined to an area not exceeding three thousand square feet and is situated on the rear half of the lot. The latter limitation shall not apply to the outdoor storage of plant materials at retail nurseries.

E. Telecommunication facilities, other than satellite earth stations, that do not meet one or more of the performance standards specified in Section 18.119.200.

F. Satellite earth stations that cannot, for demonstrated technical reasons acceptable to the director, be located in an Industrial (I), Industrial Park (IP), or General Industrial (GI) zoning district.

G. Accessory dwelling units, provided that (i) prior to the issuance of a building permit to commence construction of the dwelling units, the permittee shall record a deed restriction, in a form acceptable to county counsel, limiting in perpetuity the use of the dwelling units to occupancy by households with moderate income and below, (ii) the dwelling units are compatible with neighboring land uses, and (iii) water, wastewater treatment, and parking is available to support the dwelling units.

**SECTION 5.** Section 18.34.030 (Uses permitted upon grant of a use permit) of Chapter 18.34

(MC Marine Commercial District) of the Napa County Code is amended to read in full as follows:

**18.34.030 - Uses permitted upon grant of a use permit.**

In the MC district, the following uses are permitted upon grant of a use permit:

- A. Public or private marina;
- B. Boat launching ramp, launching hoist or other devices for launching boats;
- C. Private yacht club;
- D. Beach clubs, including pools, cabanas and lockers;
- E. Boat rentals, boat sales and boat repairs;
- F. Boat storage facilities and recreation vehicle storage areas;
- G. Marine supplies including, but not limited to, boating, fishing, surfing and sporting equipment;
- H. Restaurants, with a seating capacity not to exceed fifty seats, drive-in type or drive-through restaurants not included;
- I. Fishing pier;
- J. Fishing station, bait sales;
- K. One dwelling unit when it is an accessory use to an approved use, said dwelling unit to be used solely as living quarters for the owner or caretaker of the use approved on the site;
- L. Service facilities, such as for sales of ice, beverages, fishing, bathing supplies and equipment;
- M. Commercial charter, excursion and fishing boat docking;
- N. Dispensing of fuel and oil in conjunction with an approved use, refrigeration sales and service, and other similar services required to service boats and meet the needs of boat owners;
- O. Telecommunication facilities, other than satellite earth stations, that do not meet one or more of the performance standards specified in Section 18.119.200;
- P. Satellite earth stations that cannot, for demonstrated technical reasons acceptable to the director, be located in an Industrial (I), Industrial Park (IP), or General Industrial (GI) zoning district; and
- Q. Commercial renewable energy facilities.

**SECTION 6.** Section 18.36.030 (Uses permitted upon grant of a use permit) of Chapter 18.36 (I

Industrial District) of the Napa County Code is amended to read in full as follows:

**18.36.030 - Uses permitted upon grant of a use permit.**

The following uses may be permitted in all I districts, but only upon grant of a use permit pursuant to Section 18.124.010:

- A. Industry;
- B. Livestock feed lots;
- C. Commercial renewable energy facilities; and
- D. Telecommunication facilities that do not meet one or more of the performance standards specified in Section 18.119.200.

**SECTION 7.** Section 18.40.020 (Allowed Uses) of Chapter 18.40 (IP Industrial Park District)

of the Napa County Code is amended to read in full as follows:

**18.40.020 - Allowed uses.**

Uses allowed in the IP district are as follows:

A. Uses Permitted Without a Use Permit. The following uses shall be permitted in all IP districts without a use permit:

- 1. Agriculture;
- 2. Minor antennas meeting the requirements of Sections 18.119.240 through 18.119.260;
- 3. Telecommunication facilities that meet the performance standards specified in Section 18.119.200, provided that prior to issuance of any building permit, or the commencement of the use if no building permit is required, the director or designee has issued a site plan approval pursuant to Chapter 18.140.

B. Uses Permitted Upon Grant of a Use Permit by the Planning Commission. The following uses shall be permitted providing a use permit has been granted by the planning commission pursuant to Chapter 18.124 (commencing with Section 18.124.010):

- 1. Professional, financial, administrative or general business offices;
- 2. Research, development, design or testing laboratories and facilities providing such use does not produce undue odor, smoke, noise or other objectionable effects;
- 3. Manufacturing and assembling of devices, equipment, or systems of an electrical, electronic or electro-mechanical nature;
- 4. Manufacturing, assembly, fabrication, and/or warehousing and distribution of goods, wares, merchandise, articles, substances or compounds which are not flammable, explosive or otherwise offensive or dangerous to surrounding property;
- 5. Cooperage, bottling plants or wine warehousing and distributing facilities;
- 6. Machine shops or other light-metal working shops;
- 7. Ancillary daycare is allowed as follows:
  - a. As a secondary use to an otherwise allowed use (primary use), wherein the parent and/or guardian of every child present at the daycare is an employee of the primary use or the ancillary daycare center, and the daycare does not exceed fifteen children, or
  - b. As a standalone business or in association with another allowed use, wherein the parent and/or guardian is not employed at the business location, in which case the size and location of the facility shall be subject to a consistency determination by the Napa County Airport Land Use Commission prior to use permit approval;
- 8. Commercial renewable energy facilities;
- 9. Mini-storage;

10. Manufacturing, compounding, processing, packing, treating or storing of products such as food stuffs, wineries, pharmaceuticals, and toiletries;
11. Painting, lithography, cartography or bookbinding;
12. Snack bars/other food service as an ancillary use, to primarily serve the needs of customers, employees, or persons doing business with commercial or industrial facilities within the IP or GI zoning districts;
13. Totally enclosed rifle and pistol ranges designed and constructed consistent with design criteria set forth in the applicable specific plan;
14. Other uses which in the opinion of the approving officer or body are non-nuisance-causing and similar in character to the above listed uses;
15. Telecommunication facilities that do not meet one or more of the performance standards specified in Section 18.119.200.

C. Additional Uses Permitted Under Special Circumstances Upon Grant of a Use Permit by the Commission. The following supportive commercial uses shall be permitted providing a use permit has been granted by the commission pursuant to Chapter 18.124 and (i) the site is subject to a specific plan that allows the use; (ii) the proposed use meets the preconditions and standards for such use set forth in the applicable specific plan; and (iii) the proposed use supports needs generated by other uses permitted by the applicable specific plan:

1. Ancillary retail and professional or personal service commercial uses which are minor industrial park components, including, but not limited to, the following:
  - a. Small food and drugstores,
  - b. Facilities providing personal services such as dry cleaning stores, barbershops, beauty shops, repair shops, and small health spas,
  - c. Banking, including ATM outlets,
  - d. Opticians,
  - e. Ticket offices,
  - f. Specialty and miscellaneous retail shops such as florists, tobacco, newsstands, bookshops and convenience office supplies,
  - g. Restaurants and prepared food takeout establishments in addition to those described in subsection (B)(12) of this section;
2. Hotels, motels and conference centers serving as industrial park components.

D. Uses described in subsection (B) of this section shall require the approval of a use permit by the commission pursuant to Chapter 18.124 rather the zoning administrator if any of the following are true:

1. The use would be located on a parcel which has frontage on State Route 29, State Route 12 (Jameson Canyon Road), or Airport Boulevard, with the exception of additions to existing structures that received use permit approval after July 29, 1986, that have similar exterior design, materials, and colors;
2. The use would be located in environmentally sensitive areas as defined in Section 18.08.270 of this code;
3. The use would involve storage or use of more than fifty-five gallons, or five hundred pounds or two hundred cubic feet of hazardous materials or any amount of infectious wastes or any amount of extremely hazardous waste as defined in Health and Safety Code Sections 25115, 25117, and 25117.5, and Title 22, Division 4, Articles 9 and 11 of the California Code of Regulations or hazardous materials as defined in Health and Safety Code Section 25411(c);
4. The use would require more than fifty parking spaces pursuant to Chapter 18.110.

E. Other Regulations.

1. All commercial and industrial uses allowed shall be conducted entirely within enclosed buildings, except for outside storage which occurs on an irregular basis of periods of less than seven days, outside loading facilities, or overnight parking of business vehicles.

2. In the event a proposed use involves multiple uses, and at least one of the uses requires a use permit approved by the commission even though the others may require only approval of a use permit by the zoning administrator or approval of a site plan, the entire proposed use shall require a use permit approved by the commission.

**SECTION 8.** Section 18.44.020 (Allowed uses) of Chapter 18.44 (GI General Industrial

District) of the Napa County Code is amended to read in full as follows:

**18.44.020 - Allowed uses.**

In the GI district:

A. The following uses are permitted without a use permit provided that, prior to the issuance of any building permit or the commencement of such use, the director or the director's designee has issued a site plan approval pursuant to Chapter 18.140 (commencing with Section 18.140.010) and further providing that the use(s), other than agriculture, do not employ more than twenty-five full-time equivalent employees:

1. Agriculture;
2. Bakeries and creameries;
3. Cabinet shops and lumber storage yards, including wholesale and incidental retail sales;
4. Electrical, plumbing, heating, welding, sheet metal and machine parts and shops, if conducted within a completely enclosed building or screened outdoor yard area;
5. Equipment storage, rental or repair yards, including contractor storage yards or building materials yards if conducted within a completely enclosed building or screened outdoor yard area;
6. Truck terminals, including truck repair facilities;
7. Storage, warehousing and related wholesale and incidental retail sales of goods and non-vehicular equipment, whether conducted outdoors or within buildings, including facilities for the aging, and storage subsequent to aging, of alcoholic beverages, except that no more than ten percent of the gross floor area shall be devoted to incidental retail sales activities;
8. Assemblage or packaging of products from previously prepared materials such as aluminum, cloth, plastic, paper, leather, precious or semi-precious metals or stones;
9. Minor antennas meeting the requirements of Sections 18.119.240 through 18.119.260;
10. Telecommunication facilities that meet the performance standards specified in Section 18.119.200, provided that prior to issuance of any building permit, or the commencement of the use if no building permit is required, the director or the director's designee has issued a site plan approval pursuant to Chapter 18.140.

B. The following industrial uses are permitted, provided that a use permit has been granted pursuant to Chapter 18.124 (commencing with Section 18.124.010):

1. Laundries and cleaning and dyeing plants;
2. Wrecking, auto dismantling, salvage and recycling or junkyards;
3. Heavy manufacturing, which shall include the manufacture of automobiles, tractors, farm equipment, trucks, railway equipment, aircraft, cranes, electrical generating or transmission equipment; the processing of steel or other metals, scrap metal, chemicals, waste

products or pet food; any uses involving electroplating or electropainting; and any uses involving the compounding, heating, processing, refining, treating, incineration or generating of goods, materials or products which are defined by state law as hazardous or extremely hazardous, or which are caustic, toxic, highly combustible, noxious or poisonous;

4. Manufacturing or commercial processing of asphalt and asphalt products, building materials, cement, concrete, sand and rock, minerals, mineral ores or similar products or materials;

5. Agricultural processing plants and facilities, including bakeries and creameries employing more than twenty-five full-time equivalent employees, wineries or other alcoholic beverage plants; fruit and vegetable packing plants, dehydrators or canneries;

6. Limited professional and personal service commercial uses, such as contractor's showrooms, as an accessory use to other allowed uses listed within Section 18.44.020;

7. Educational and training facilities which support the above-identified types of uses;

8. Caretaker residences;

9. Other uses which, in the opinion of the approving officer or body, are consistent with the intent of this district and similar in their environmental effects to those of any of the above-listed uses;

10. Telecommunication facilities that do not meet one or more of the performance standards specified in Section 18.119.200;

11. Emergency shelters, providing that all the conditions set forth in Section 18.104.065 are met and that applicable conditions in the Airport Land Use Compatibility Plan and the Napa Valley Business Park\_Specific Plan are met; and

12. Commercial renewable energy facilities.

C. Uses described in subsection (A) of this section, other than agriculture, shall require the approval of a use permit pursuant to Chapter 18.124 (commencing with Section 18.124.010) if those uses would be constructed/established in environmentally sensitive areas as defined in Section 18.08.270; would involve storage or use of more than fifty-five gallons or five hundred pounds of hazardous, infectious wastes or any amount of extremely hazardous waste as defined in Health and Safety Code Sections 25117, 25115 and 25117.5, and Title 22, Division 4, Articles 9 and 11 of the California Administrative Code or hazardous materials as defined in Health and Safety Code Section 25411(c); or employ more than twenty-five full-time equivalent employees.

D. In the event a proposed use involves multiple uses, some of which require a use permit and some of which do not, the entire proposed use shall require a use permit.

E. In the event that a use allowed without a use permit pursuant to subsection (A) of this section is converted to a use permitted in subsection (B) of this section following site plan approval, a use permit shall be required pursuant to Chapter 18.124 (commencing with Section 18.124.010).

## **SECTION 9.** Section 18.50.030 (Uses permitted upon grant of a use permit) of Chapter 18.50

(PL Public Lands District) of the Napa County Code is amended to read in full as follows:

### **18.50.030 - Uses permitted upon grant of use permit.**

The following uses may be permitted in all PL districts upon grant of a use permit pursuant to Section 18.124.010:

A. Composting facilities;

B. Recycling facilities;

C. Sanitary landfills (including closure facilities, leachate extraction, etc.);

- D. Solid waste transfer stations;
- E. Utility service yards;
- F. Telecommunication facilities, other than satellite earth stations, that do not meet one or more of the performance standards specified in Section 18.119.200;
- G. Satellite earth stations that cannot, for demonstrated technical reasons acceptable to the director, be located in an Industrial (I), Industrial Park (IP), or General Industrial (GI) zoning district;
- H. Recreational or other uses requiring no on-site buildings and utilizing an average of not less than two hundred fifty acre-feet of recycled water annually; and
- I. Commercial renewable energy facilities.

**SECTION 10.** Section 18.120.010 (Exceptions to use limitations) of Chapter 18.120

(Exceptions) of the Napa County Code is amended to read in full as follows:

**18.120.010 Exceptions to use limitations.**

A. The following uses, in addition to those hereinbefore set forth, shall be allowed without a use permit in any zoning district:

- 1. Category 1 and 1A temporary events, as defined in Section 5.36.015;
- 2. Category 2A, 2B, 3, 4, and 5 and Subsequent Category 2A, 2B, 3, 4 and 5 temporary events as defined in Section 5.36.015 and conducted in accordance with Chapter 5.36; and special events as defined in Section 10.24.010 and conducted in accordance with a special events permit obtained in accordance with Chapter 10.24;
- 3. Surface mining as defined in Chapter 16.12 so long as a surface mining permit has been issued as prescribed by that chapter;
- 4. Distribution lines installed to convey gas and/or electricity locally to individual services or to another such line;
- 5. Cable television lines, and telephone lines other than long distance cables;
- 6. Cultivation of gardens;
- 7. Temporary sheds for the retail sale of agricultural products lawfully produced on the premises;
- 8. Hand-held, vehicular, or other portable transmitters or transceivers, including, but not limited to cellular phones, CB radios, emergency services radio, and other similar devices;
- 9. Helicopter emergency use facility landing sites; and
- 10. Helicopter takeoffs and landings at locations other than public airports, in support of direct agricultural activities, but only if the takeoffs and landings comply with all of the following conditions: (a) they are solely in support of direct aerial agricultural activities and applications such as aerial spraying, aerial frost protection, or aerial mapping; (b) they do not transport persons other than those essential to the conduct of such aerial activities; and (c) they are unavoidable.

Within forty-eight hours of any takeoff or landing in support of direct agricultural activities as described herein, the helicopter operator shall submit to the director of the department a written report containing the helicopter's registration number; date, time, duration and aerial activity of the operation; the persons engaged in the conduct of such activity; and the reason why the takeoff or landing was unavoidable.

11. Public utility facilities subject to the exclusive jurisdiction of the California Public Utilities Commission and public uses exempt from county zoning pursuant to Government Code 53090 and following, as those sections may be amended from time to time.



12. Accessory renewable energy systems which comply with the criteria set forth in Section 18.117.030.

13. Accessory emergency power generators supplying a total of not more than 125% of the calculated energy demand for all legally established onsite uses, and that comply with Chapter 8.16 (Noise), Chapter 18.108 (Conservation Regulations), and Chapter 18.104 (Additional Zoning District Regulations).

B. The following uses may be permitted in any zoning district (or where restricted to certain zoning districts, in accordance with such restrictions) upon the grant of a use permit in each case:

1. (Reserved);
2. Emergency medical services landing sites, provided, that such use permit is not effective unless and until any required permits, licenses, or other approvals from other federal, state, and local agencies (including the airport land use commission) have been obtained;
3. Commercial excavation or extraction of natural materials including, without limitation, geothermal, oil and gas resources;
4. Timber harvesting;
5. Sanitation treatment plants and oxidation ponds;
6. Electric transmission lines designed to carry large blocks of electric energy at a voltage of thirty-three kv or above from generating stations, between points of interchange, between transmission substations, to distribution stations or to large individual customers;
7. Gas transmission lines installed for the purpose of transmitting gas from a source or sources of supply to one or more distribution centers or to one or more large volume customers or to interconnect sources of supply;
8. (Reserved);
9. Quasi-public uses not included elsewhere in this section other than telecommunication facilities;
10. Other provisions of this section to the contrary notwithstanding, the undergrounding of any electric, gas or telephone line shall require a use permit except:
  - a. Where the entire length of the line to be underground is covered by an encroachment permit; or
  - b. The entire length of the line to be undergrounded lies between a distribution line on a street and an individual service connection;
11. Churches;
12. Cemeteries;
13. Child day care center in existing structures developed for public assembly (i.e., churches, meeting halls, public and private schools) and in existing nonconforming commercial buildings;
14. Temporary real estate offices for the sale of properties developed pursuant to a development plan for the site;
15. Provided that the property to be developed is located within a railroad right-of-way in existence as of January 1, 1988, and notwithstanding any other provision of this code, tourist and excursion transportation facilities may be permitted, subject to the issuance of a conditional use permit pursuant to Sections 18.124.010 through 18.124.080; and
16. Hot air balloon launching sites so long as the approving agency can make all of the findings contained in Section 18.104.400.

C. Minimum lot area regulations applicable to any zoning district may be waived by the commission in connection with issuance by it of a use permit for any use set forth in subsections (B)(7) of this section.

D. The following uses shall be allowed in any zoning district upon issuance of an administrative permit in accordance with Chapter 18.126:

1. A home occupation; provided, however, that notwithstanding Section 18.08.310, a bed and breakfast shall not be considered a home occupation;
2. Signs allowed without permits per Section 18.116.020 and signs allowed upon grant of an administrative permit per Section 18.116.030;
3. A temporary trailer;
4. An application for an extension of time for a previously issued administrative permit for a temporary trailer; and
5. Hot air balloon launching sites involving fifty or fewer days of launches or attempted launches at the same site per year and in accordance with the standards contained in subsection (O) of Section 18.126.060.

**SECTION 11.** The Board finds that pursuant to Chapter 4, Title 7, commencing with Section 65800, of the California Government Code, this ordinance is consistent with the following/or attached policies and goals of the Napa County General Plan (2008) as set forth in the staff report and materials accompanying this ordinance.

**SECTION 12.** This ordinance shall be interpreted so as to be consistent with all applicable Federal, State, and County laws, rules, and regulations. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion of this ordinance is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. If any provision of this ordinance is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this ordinance that can be given effect without the invalid application. Any singular term shall include the plural and any plural term shall include the singular. All references to County and State code sections shall mean those code sections, including any amendments, in effect at the time of their application. The title and captions of the various sections in this ordinance are for convenience and organization only, and are not intended to be referred to in construing the provisions of this ordinance. The provisions of this ordinance shall be liberally interpreted in order to give effect to its purposes.

**SECTION 13.** The provisions of this ordinance shall not be applicable to the extent, but only to the extent, that they would violate the constitution or laws of the United States or of the State of

California.

The provisions of this ordinance shall not be applicable to any person or entity that has obtained, as of the effective date of this ordinance, a vested right, pursuant to State law, to undertake any activities that would be prohibited by this ordinance.

**SECTION 14.** As further set forth in the staff report accompanying this ordinance, the Board of Supervisors finds that adoption of this ordinance is exempt from the provisions of the CEQA which may be found in the guidelines for the implementation of the CEQA at 14 CCR §15307; Categorical Exemption Class 8 (“Actions by Regulatory Agencies for Protection of the Environment”) which may be found in the guidelines for the implementation of the CEQA at 14 CCR §15308; Categorical Exemption Class 4 (“Minor Alterations to Land”) which may be found in the guidelines for the implementation of the CEQA at 14 CCR §15304; see also Napa County’s Local Procedures for Implementing the California Environmental Quality Act, Appendix B; Categorical Exemption Class 5 (“Minor Alterations in Land Use Limitations”) which may be found in the guidelines for the implementation of the CEQA at 14 CCR §15305; see also Napa County’s Local Procedures for Implementing the California Environmental Quality Act, Appendix B]; and the General Rule in that it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore the CEQA is not applicable. [See Guidelines For the Implementation of the CEQA 14 CCR 15061(b)(3)].

The Board further finds that this ordinance will not impact an environmental resource of hazardous or critical concern, has no cumulative impact, there is no reasonable possibility that the activity may have a significant effect on the environment due to unusual circumstances, will not result in damage to scenic resources, is not located on a list of hazardous waste sites, cause substantial adverse change in the significance of a historical resource or extract groundwater in excess of the Phase 1 groundwater extraction standards as set by the Department of Public Works.

**SECTION 15.** This ordinance shall be effective thirty (30) days from and after the date of its

passage.

**SECTION 16.** A summary of this ordinance shall be published at least once 5 days before adoption and at least once before the expiration of 15 days after its passage in the Napa Valley Register, a newspaper of general circulation published in Napa County, together with the names of members voting for and against the same.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

The foregoing ordinance was recommended for adoption and public hearing held thereon before the Napa County Planning Commission at a regular meeting of the Commission on the 4th day of December, 2019. The Planning Commission's recommendation was considered by the Board of Supervisors and this ordinance was introduced and read at a regular meeting of the Napa County Board of Supervisors (the Board), State of California, held on the 17<sup>th</sup> day of December, 2019, and passed at a regular meeting of the Board held on the \_\_\_\_ day of \_\_\_\_\_, 2020, by the following vote:

AYES: SUPERVISORS \_\_\_\_\_  
 \_\_\_\_\_  
 NOES: SUPERVISORS \_\_\_\_\_  
 ABSTAIN: SUPERVISORS \_\_\_\_\_  
 ABSENT: SUPERVISORS \_\_\_\_\_

NAPA COUNTY, a political subdivision of the State of California

\_\_\_\_\_  
 DIANE DILLON, Chair of the Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Jeffrey M. Brax</u> County Counsel</p> <p>By: <u>Meredith A. Trueblood</u> County Code Services</p> <p>Date: December 12, 2019</p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed By: _____ Deputy Clerk of the Board</p>	<p>ATTEST: JOSE LUIS VALDEZ Clerk of the Board of Supervisors</p> <p>By: _____</p>
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I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD STREET ROOM 310, NAPA, CALIFORNIA ON \_\_\_\_\_, 2019.

\_\_\_\_\_, DEPUTY  
 JOSE LUIS VALDEZ, CLERK OF THE BOARD