

RESOLUTION NO. 2020-115

**A RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS,
STATE OF CALIFORNIA, AMENDING RESOLUTION NO. 2017-182
REGARDING THE REBUILDING AFTER A DISASTER POLICY**

WHEREAS, Napa County property owners, residents and businesses have sustained property damage and displacement resulting from natural disasters including earthquakes, winter storm flood events and most recently wildfires of unprecedented destruction;

WHEREAS, because of the scope and magnitude of the property damage caused by recent fires, the Board of Supervisors adopted Resolution No. 2017-174 creating a County policy for providing responsive and effective post-disaster permitting services to assist property owners in rebuilding their homes and businesses immediately after a natural disaster;

WHEREAS, to fully assist property owners and residents in their rebuild efforts, the Board of Supervisors adopted Resolution No. 2017-182 to amend Part I: Section 12B, Rebuilding After a Disaster, to allow property owners to place mobile homes on their lots to occupy on a temporary basis if they or their immediate family members have a residence that was red-tagged as destroyed or yellow-tagged as significantly damaged;

WHEREAS, to respond to new challenges posed by recent disasters, the Planning, Building and Environmental Services Director recommends the Board of Supervisors amend Resolution No. 2017-182 and Part I: Section 12B, Rebuilding After a Disaster, to allow temporary off-site signage for fire-damaged businesses and institutions, update requirements for demolition and debris removal, allow alternative erosion control measures in high fire hazard areas, allow off-site temporary housing for families that have lost their home, prioritize the permitting of electrical generators, and allow wineries to replace smoke-tainted or damaged fruit with undamaged fruit, and delete existing sections of the policy that previously been implemented or addressed;

NOW, THEREFORE, BE IT RESOLVED, that the Napa County Board of Supervisors as follows:

1. The Board hereby modifies Part I: Section 12 of the County Policy Manual attached hereto and incorporated by reference herein;
2. The Board hereby directs the Clerk of the Napa County Board of Supervisors to integrate the attached changes into Part I, Section 12B of the Board Policy Manual;
3. This resolution shall take effect immediately upon its adoption.

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THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Napa County Board of Supervisors, State of California, at a regular meeting of the Board held on the 15th day of September, 2020, by the following vote:

AYES: SUPERVISORS GREGORY, WAGENKNECHT, PEDROZA,
RAMOS and DILLON

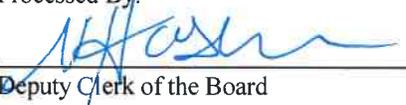
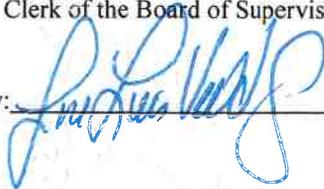
NOES: SUPERVISORS NONE

ABSTAIN: SUPERVISORS NONE

ABSENT: SUPERVISORS NONE

NAPA COUNTY, a political subdivision of
the State of California

By: 
DIANE DILLON, Chair of the
Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <u>Jason M. Dooley</u> (e-signature) Deputy County Counsel</p> <p>Date: <u>September 9, 2020</u></p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: September 15, 2020</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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**PLANNING, BUILDING AND ENVIRONMENTAL SERVICES
REBUILDING AFTER A DISASTER**

Policy

Napa County property owners, residents and businesses have sustained property damage and displacement resulting from natural disasters including earthquakes, winter storm flood events and most recently wildfires of unprecedented destruction. The damage sustained by property owners due to the magnitude and scope of these fires requires that additional measures be taken by the County to effectively provide responsive and effective post disaster permitting services. The following policies provide a framework for assisting property owners in rebuilding their homes and businesses immediately after a disaster. This policy serves as direction from the Board of Supervisors (Board) regarding additional County actions to further the goals stated herein.

Local Emergency Declaration

The Board may make a Local Emergency Declaration declaring a specific event as a disaster for the purpose of implementing the provisions of this policy.

Building Codes and Ordinances

All rebuilds, additions and expansions will be required to meet the current requirements of the California Building Code, California Fire Code, Napa County Code (County Code), and all applicable county ordinances. Rebuild permits affecting less than 50 percent of the damaged structure (please refer to Planning, Building, and Environmental Services (PBES) Burned Dwelling Replacement procedures document) will not require that the entire structure be treated as new construction under the Building Code. Additions and expansions to structures, beyond those which legally existed as of the date of the declaration of a local emergency, are not exempt from development related mitigation and other current regulatory requirements.

Structures that have approved building permits within the past seven years may rebuild using those approved plans, with applicable revisions to meet current Code requirements. For plans that were previously prepared by a licensed design professional (i.e. architect or engineer), a signed affidavit from the design professional is required allowing the owner to use the plans for the rebuild permit. If there has been no response from the design professional within 30 days after a written request from the PBES Department seeking permission to copy the plans, then the PBES Department can duplicate the plans and provide a copy to the owner.

Code Compliance

For the twelve months following the declaration of a local emergency, the Code Compliance Division will not take action on any property permitted for rebuilding in the area impacted by the declaration of local emergency, unless the damaged structure or debris poses a nuisance and/or threat to health and/or public safety, or if the violation is unrelated to the rebuilding effort. This exclusion does not apply to structures damaged or destroyed that cannot establish a legal or non-conforming status. Such forbearance of code enforcement shall apply to temporary off-site signs, provided such signs are limited to one off-site sign for a business, or public or quasi-public use.

Demolition and Debris Removal

A Debris and Ash Removal (DAR) Plan will be required before demolishing any partially damaged structures, unless Right of Entry has been granted to the County to allow clean-up by the designated State and/or Federal agency. Where a private clean-up is being conducted, a qualified consultant shall prepare an application for review and approval by the County. All debris must be removed from the property and disposed of in accordance with all applicable County, State and Federal requirements and deadlines, and shall be equivalent to any public clean-up programs being implemented. Properties where debris is not removed by the deadline may be deemed a nuisance and appropriate enforcement action may be taken by the County, regardless of the deferral of code compliance efforts for fire-damaged properties referred to above.

Erosion Control Permits (ECPs)

During times of a declared local emergency, vineyards and graded work sites may be closed due to mandatory or advisory evacuations. Disasters may also cause extensive damage to graded areas such as new or replanted vineyards, which can impair the implementation of requirements under approved ECPs. At the same time, County staff and resources may be diverted to more urgent watershed priorities. The Director of PBES shall temporarily suspend the requirement for winterization inspections during the duration of any declared local emergency within areas impacted by the disaster.

Due to the high flammability of straw mulch, which is required for erosion control on vineyards with slopes greater than five percent (5), vineyard owners may delay the application of straw mulch until November 15, subject to the following:

1. Continued adherence through the winter shut down period (October 15 – April 15) to all of the requirements of Section 18.108.135 of the County Code regarding erosion control measure operation and maintenance.
2. All applicable erosion control measures shall be installed over all affected and/or disturbed areas prior to the end of the day if there is a sixty percent (60%) or more chance of rain. Vineyard owners shall monitor the extended 10-day weather forecast for predictions of storm events so that erosion control measures can be properly applied in time, prior to a significant rainstorm.
3. Continued operation and maintenance of all required in-field runoff control structures, and a weatherproofed stockpile of straw mulch and wattles shall be provided on-site in anticipation of the full and proper installation and application of required erosion control measures

Any winterization extensions beyond the extended deadline may be provided on a case-by-case basis, subject to approval by the Director of PBES.

Permit Approvals

Where a declared local emergency affects the ability to implement adopted mitigation measures and/or conditions of approval associated with prior County permit approvals, owners are advised

to consult with PBES staff regarding options for ensuring future compliance including modification of the permit and/or California Environmental Quality Act (CEQA) document.

Property Tax Assessment

For property tax assessment purposes only, primary residences may be rebuilt anywhere on the same parcel and will maintain the Proposition 13 base year value, as long as the rebuilt home meets all other requirements in terms of size and quality. However, relocation of any rebuilt structure is subject to all other applicable requirements, including building and zoning codes.

Rebuild Permit Priority

Specifically identified staff from the Departments of PBES, Fire, and Public Works will be assigned as facilitators to assist in the issuance of rebuild permits. Staff will be available to meet one-on-one to discuss plan check questions and expedite rebuild permits, as well as provide pre-application meetings with impacted owners and their consultants. The processing of all rebuild permits will be given priority over other pending applications.

Status Report

The Director of PBES shall provide regular reports to the Board regarding the effectiveness of disaster recovery efforts, including, but not limited to, the number of rebuilding permits, processing time, and valuation of construction.

Temporary Housing

Property owners may place one mobile home without permanent foundation or recreational vehicle (motor home, trailer, 5th wheel, camper shell) on their lot to occupy on a temporary basis if they or their immediate family members have a residence that was red-tagged as destroyed or yellow-tagged as significantly damaged. A temporary mobile home or recreational vehicle may only be placed on a parcel containing a fire-damaged structure. Property owners will be required to obtain a building permit from the PBES Department to verify the adequacy of temporary connections to existing utilities, and to ensure that the temporary housing unit meets County requirements. No tents or freestanding generators will be allowed. The temporary use is valid for one year. The Director of PBES may grant extensions of time if the occupants of the trailers have an active building plan review application on file with the County to rebuild the destroyed or damaged structure. All temporary housing must be removed prior to the issuance of a Certificate of Final Occupancy of the rebuilt residence. Occupancy of temporary housing shall be limited to those persons displaced by the disaster. Temporary housing cannot be rented, leased, occupied or used by anyone other than the property owner or immediate family member whose primary residence was destroyed or damaged in the disaster. The Director may revoke the temporary housing building permit of any property owner who fails to comply with the requirements of this section.

If there is insufficient area on a fire-damage property to locate a mobile home or recreational vehicle while clean-up and rebuilding occurs, one may be placed temporarily at an off-site agricultural or residentially zoned property, subject to the same provisions required above. Only one mobile home or recreational vehicle may be located for each off-site property, which will not be counted towards the maximum number of dwellings otherwise allowed under the applicable

zoning. The total number of off-site mobile homes or recreational vehicles may not exceed the total number of legally entitled dwellings that were red-tagged on the fire-damaged property.

Temporary Utility Connections

Reconnections to municipal electrical, water, sewer and natural gas/propane systems are allowed with proper temporary fittings, with prior approval of the municipality or utility company. A special inspection permit from the PBES Department will be required to insure that health and safety requirements are being met. Temporary connections shall not exceed one year from the date of the declaration of a local emergency. Connections to existing well systems and private sewage systems are allowed subject to prior approval from the PBES Department. The Director of PBES may grant an extension of time if an active building plan review application is on file to rebuild the structure, so long as the request for extension is made in writing by the property owner to the Director of PBES prior to the expiration of the one-year deadline.

When areas are affected by natural disasters or when a Public Safety Power Shut-off (PSPS) event occurs, residents need access to temporary power for medical devices, lighting, cooking, heating and cooling, and other basic needs. Along with fire rebuild permits, the processing of building permits for generators will be given priority over other pending applications. Generators using engines with more than 50 horsepower (hp) also require approval by the Bay Area Air Quality Management District (BAAQMD). Staff is directed to work with the BAAQMD to also expedite their processing of generator permits.

Temporary Uses

The Director of PBES may allow alternative uses equivalent to existing, legally established uses that have damaged or destroyed structures located within the area impacted by the declared local emergency. Property owners will be required to file an application for an Emergency Permit on a form provided by the PBES Department. These activities may be allowed only so long as the declared disaster is in effect. Examples of alternative equivalent uses may include the following:

1. Temporary replacement of the winery's tasting room or other winery related accessory uses, through tents, portable buildings, or relocation to existing on-site structures, so long as all appropriate building code requirements are met, and the temporary facilities do not serve a greater number of visitors or marketing events than allowed under the winery's approved Use Permit or the Winery Definition Ordinance. Temporary commercial kitchens must meet all Environmental Health requirements.
2. The temporary replacement of processing equipment, through the use of mobile bottling facilities or other portable equipment necessary for processing grapes for harvest, provided that such portable equipment and operations do not result in storm water pollution or illicit discharges into the storm water conveyance system.
3. Existing wineries that own or have contracted for fruit reasonably determined to be damaged by wildfire and that have available crushing and processing capacity (defined as any amount that is allowed under the approved Use Permit or Winery Definition Ordinance minus the amount used by the undamaged on-site winery) may accept undamaged grapes

for crushing and processing from off-site undamaged sites. The production capacity used by any winery that operates under an Emergency Permit shall not be counted in the calculation of the three-year production average or the 75 percent rule for purposes of code enforcement. The County does not regulate custom crush activities. This paragraph is intended to only apply to wineries that have a use permit condition of approval that restricts or prohibits custom crush activities and is not intended to be construed as regulating custom crush activities.

Unpermitted Construction

County staff will make every practical effort to verify and recheck information related to preexisting permitted structures. Staff will rely primarily on information from the County Assessor, historical aerial photos and PBES permit files. Unpermitted construction and/or pre-existing land uses will not be recognized if there are no records to verify that Napa County acknowledged approval. Paying taxes on a structure does not in itself “legalize” the structure for rebuilding.

Water Supply

If a damaged or destroyed structure has an on-site water supply that was not damaged, the owner may disinfect the water system and reconnect. No County approvals are required. If the existing wellhead or pump was damaged or destroyed and requires replacement, permits shall be secured for such work and the new supply shall meet current Environmental Health standards. New construction will be required to meet current fire and building codes, which may require an increased water supply for required hydrants and sprinklers.

Wastewater

Structures damaged or destroyed due to disaster may be replaced without meeting current wastewater requirements if livable space within the rebuild will not increase by more than 25 percent and if no new bedrooms are added beyond what was legally established in the original structure. Please refer to the PBES Department’s Burned Dwelling Replacement procedures document for requirements.