

CITY OF SANTA ROSA  
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL

FROM: GABE OSBURN, DEPUTY DIRECTOR OF DEVELOPMENT  
SERVICES  
BILL ROSE, SUPERVISING PLANNER  
PLANNING AND ECONOMIC DEVELOPMENT

SUBJECT: AMEND URGENCY ORDINANCES RESILIENT CITY (-RC)  
COMBINING DISTRICT

AGENDA ACTION: ORDINANCE

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RECOMMENDATION

The Planning and Economic Development Department recommends that the Council amend Section 20-28.100 of the Santa Rosa City Code, -RC Combining District, to grant the City Engineer, Director of Planning and Economic Development, authority to approve the installation of any structure proposed to overhang onto an existing public or private service or access easement, when it can be shown that the encroachment existed before the October fires and no expansion of the structure is proposed.

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EXECUTIVE SUMMARY

Beginning on the evening of October 8, 2017, and continuing for days thereafter, a series of wildfire events damaged or destroyed thousands of residential and commercial structures within the City of Santa Rosa. On October 13, 2017, the City Council ratified a proclamation of local emergency in the City of Santa Rosa. To facilitate and expedite the reconstruction process, on October 24, 2017, the Council adopted an urgency ordinance that established the Resilient City (-RC) Combining Zoning District, to be applied to the base zoning of those properties most severely impacted by the Fires.

Proposed is an urgency ordinance to amend Section 20-28.100 of the Santa Rosa City Code, -RC Combining District, to grant the City Engineer, Director of Planning and Economic Development, authority to approve the installation of any structure proposed to project above the ground into an existing public or private service or access easement, when it can be shown that the encroachment existed before the fire and no expansion of the structure is proposed. The City Engineer will render a final determination regarding the encroachment, in consultation with the Director of the City

Department that is charged with the responsibility for any and all City activities that occur within the easement area. The final determination will be subject to the property owner's execution of a covenant releasing the City from any liability associated with damage or removal of the encroaching structure due to construction or maintenance operations within the boundaries of the easement.

### BACKGROUND

On October 8, 2017, and continuing for days thereafter, a series of wildfire events, identified as the Tubbs and Nuns Fires (Fires) burned over 90,000 acres in Sonoma County, and damaged or destroyed approximately 3,000 homes and 100 commercial structures within the City of Santa Rosa.

On October 24, 2017, the City Council adopted Ordinance No. ORD-2017-018 adding Section 20-28.100, Resilient City (-RC) Combining District, to the Zoning Code to facilitate rebuilding and implement resiliency initiatives in those parts of the City most severely impacted by the wildfires. The Council also adopted Ordinance No. ORD-2017-019, rezoning properties directly impacted by the wildfires to add the -RC Combining District to the base zoning district of each parcel.

On May 8, 2018, the City Council adopted an urgency ordinance reclassifying twenty-one additional properties, directly impacted by the Tubbs and Nuns Fires of October 2017, to the Resilient City (-RC) Combining District.

### PRIOR CITY COUNCIL REVIEW

See the background section of this report.

### ANALYSIS

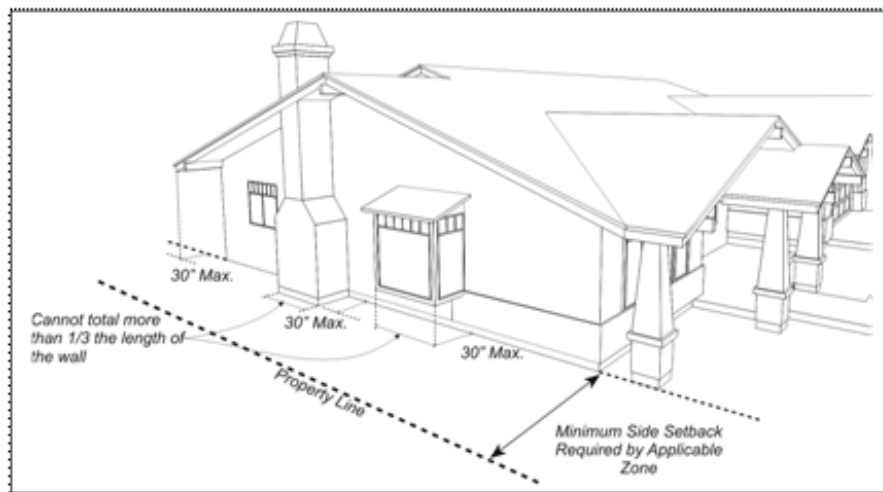
Government Code sections 36937(b) and 36934 allow the Council to adopt an ordinance to take effect immediately, if it is an ordinance for the immediate preservation of public peace, health or safety, and it contains a declaration of the facts constituting the urgency. Under the City Charter, five affirmative votes are necessary to adopt an urgency ordinance.

### **Resilient City (-RC) Combining District – Projections into Easements**

A significant portion of residential and non-residential structures in northeast and northwest Santa Rosa were either destroyed or damaged in the October 2017 wildfires. The -RC combining district was applied to the base zoning district for properties within the City of Santa Rosa limits that were most impacted by the Fires of October 2017. With the approval of the -RC Combining District, the City has modified the building permit and planning entitlement processes to ensure that repair and reconstruction of damaged and destroyed structures is both efficient and expeditious.

URGENCY ORDINANCES - RESILIENT CITY (-RC) COMBINING DISTRICT  
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Structures affected by the fire were originally built within the allowed building footprints at the time. The Zoning Code has been modified over time with more restrictive setback requirements, resulting in structures with legal nonconforming setbacks. Historically, the Zoning Code has also allowed architectural features to cantilever or project into front, side, and rear setbacks (20-30.110(E)). Architectural features can include: cornice, canopy, eave, sill, bay window, chimney, etc.



Since service and access easements typically exist within building setback areas, many of these architectural features, particularly eaves, project into these easements. Section 20-30.110(B) of the Zoning Code prohibits any structure, including eaves or roof overhangs to extend into a public or private service easement, or street right-of-way.

The current -RC Combining District allows damaged or destroyed structures to be reconstructed or repaired, in-kind, so long as the repaired or new building meets current Building and Fire codes. The proposed amendment to Section 20-28.100 of the Santa Rosa City Code, -RC Combining District, will grant the City Engineer, Director of Planning and Economic Development, authority to approve the installation of any structure proposed to overhang into an existing public or private service or access easement, when it can be shown that the encroachment existed before the fire, and no expansion of the structure is proposed.

Prior to rendering a final determination regarding the encroachment, the City Engineer will consult with the easement beneficiary in an attempt to address any potential maintenance or access issues created by the encroachment. For public service easements, the final approval will be performed in consultation with the Director of the City Department that is responsible for any and all City activities with the easement area. Private access and drainage easement encroachments will require written approval from the adjacent property owners benefitting from the easement corridor. The City Engineer will also coordinate with private utility companies such as PG&E, AT&T and Comcast when the encroachment is proposed in a corridor defined as a public utilities easement.

After approval of the easement encroachment, and prior to issuance of the building permit associated with the encroaching structure, the property owner will be required to execute and record a covenant in which the covenantors agree and acknowledge that City shall have no obligation, responsibility, or liability whatsoever for the repair, replacement, erection, installation, or reconstruction of any portion of the structure that may be damaged or removed by the City.

#### FISCAL IMPACT

No additional fiscal impact is anticipated from amending the -RC Combining District.

#### ENVIRONMENTAL IMPACT

Amending the Zoning Code to allow the installation of any structure proposed to overhang an existing public/private service or access easement, when it can be shown that the encroachment existed before the fire, and no expansion of the structure is proposed, through an urgency ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080(b)(3) regarding repairs and replacement work after a state-declared disaster and Section 21080(b)(4) regarding actions to mitigate or prevent an emergency, and CEQA Guidelines Section 15269(a) regarding maintaining, repairing, restoring, demolishing, or replacing property or facilities damaged or destroyed as a result of a disaster stricken area in which a state of emergency has been proclaimed by the Governor pursuant to the California Emergency Services Act, commencing with Section 8550 of the Government Code, and Section 15269(c) regarding specific actions necessary to prevent or mitigate an emergency.

#### BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

#### NOTIFICATION

Not applicable.

#### ATTACHMENTS

Not applicable.

CONTACT

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