

ORDINANCE NO. ORD-2018-015

URGENCY ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA
AMENDING TITLE 20 OF THE SANTA ROSA CITY CODE – AMENDING SECTION 20-
28.100, RESILIENT CITY (–RC) COMBINING DISTRICT, TO ALLOW PROJECTION(S)
INTO EASEMENT(S) TO FACILITATE REBUILDING AND IMPLEMENT RESILIENCY
INITIATIVES TO THOSE PARTS OF THE CITY OF SANTA ROSA MOST SEVERELY
IMPACTED BY THE TUBBS AND NUNS FIRES OF OCTOBER 2017

WHEREAS, beginning on the evening of 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 3000 homes and 100 commercial structures within the boundaries of the City of Santa Rosa; and

WHEREAS, on October 9, 2017, the City Manager, in his capacity as Director of Emergency Services, proclaimed the existence of local emergency in the City of Santa Rosa; and

WHEREAS, on October 9, 2017, the Governor of the State of California proclaimed a State of Emergency for Sonoma and other counties; and

WHEREAS, on October 10, 2017, President Donald J. Trump declared the existence of a major disaster in the State of California and ordered Federal aid to supplement State and local recovery efforts in the areas affected by wildfires, beginning on October 8, 2017; and

WHEREAS, on October 13, 2017 the City Council adopted Resolution No. RES-2017-201 ratifying the City Manager’s proclamation of the existence of a local emergency; and

WHEREAS, the Council recognizes the urgent need to rebuild and repopulate those areas affected by the Fires and has identified several measures by which the process could be expedited and facilitated; and

WHEREAS, Government Code Section 36937(b) allows 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; and

WHEREAS, Section 8 of the Santa Rosa City Charter authorizes the City Council to adopt an urgency measure to take effect immediately upon its adoption if necessary to preserve the public peace, health or safety if such ordinance contains the reasons for its urgency; and

WHEREAS, such an urgency measure requires a five-sevenths vote of the City Council for adoption; and

WHEREAS, as provided herein, the Ordinance shall be in effect immediately upon its adoption; and

WHEREAS, the proposed Zoning Code Amendment to add Section 20-28.100, Resilient City (–RC) Combining District, to Title 20 (Zoning) is consistent with the goals and policies of all elements of the General Plan, and any applicable specific plan in that adding Section 20-28.100 to the Santa Rosa City Code, as follows, exercises the land use powers of the City to protect the health, safety and welfare of the public which would be put at risk if fire-damaged neighborhoods were not quickly repaired and repopulated; and

WHEREAS, the proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City in that it will provide a means by which to restore portions of the City damaged by the Fires to their previous land uses and intensities, with modifications for compliance with current codes and added resiliency; and

WHEREAS, the proposed amendment is internally consistent with other applicable provisions of this Zoning Code, in that the amendment will implement the General Plan through standards for zoning districts already adopted into the Zoning Code; and

WHEREAS, adoption of this 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 in 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; and

WHEREAS, the City Council has been provided with information upon which the findings and actions set forth in this Ordinance are based, allowing the Council to adopt this urgency ordinance to be effective upon adoption; and

WHEREAS, for the reasons set forth above, this Ordinance is declared by the City Council to be necessary for preserving the public peace, welfare, health or safety and to avoid a current, immediate and direct threat to the peace, health, safety or welfare of the community and the recitals above taken together constitute the City Council’s statement of the reasons for adopting this Ordinance on an urgency basis.

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. The Council finds, based on evidence and records presented, that this Ordinance is necessary for the protection of the public peace, health and safety.

Section 2. The proposed amendment is internally consistent with other applicable provisions of this Zoning Code, in that the amendment will implement the General Plan through standards for zoning districts already adopted into the Zoning Code.

Section 3. Amend Section 20-28.100(D)(5), Resilient City (-RC) Combining District, to add a new subsection (D)(5)(b) to allow projections into existing public/private service or access easements, with the revised subsection (D)(5) to read and provide as follows:

D. Reconstruction and repair of damaged structures and allowed land uses.

5. Reconstruction of legal nonconforming structures. Notwithstanding Zoning Code Section 20-61.030(B), structures within the -RC combining district that were legally established, but do not conform to current City standards, and have been damaged or destroyed may be reconstructed or repaired in-kind, meeting current State and local building and fire code standards, provided that:
 - a. The building is reconstructed in the same configuration, square-footage, height, and use as originally permitted (including permitted additions); and,
 - b. Building overhangs in public and private easements.
 - (1) Public Easements. Any portions of the building overhanging into an existing public service or access easements are determined by the City Engineer, Director of Planning and Economic Development, to have existed prior to the October 2017 fires, and no expansion of the pre-existing encroachment is proposed. The City Engineer will render a final determination regarding the approval of the easement encroachment in consultation with the Director of the City Department that is charged with the responsibility for any and all City activities within the easement area; and,
 - (2) Private Easements. Any portions of the building overhanging into an existing private service or access easements are determined by the City Engineer, Director of Planning and Economic Development, to have existed prior to the October 2017 fires, and no expansion of the pre-existing encroachment is proposed. The City Engineer will render a final determination regarding the approval of the easement encroachment upon receiving written permission from the easement beneficiaries supporting the encroachment; and,
 - (3) Required Covenant. The property owner(s) shall execute and record a covenant acknowledging that the City shall have no obligation, responsibility, or liability for the repair, replacement, erection, installation, or reconstruction of any portions of the structure overhanging a public service easement that are damaged or removed by the City as part of the installation, repair or maintenance of public utilities within or around the easement corridor; and,
 - c. Repair or reconstruction shall commence within three years of the date of declaration of local emergency (October 9, 2017), by October 9, 2020, and be diligently pursued to completion.

Section 4. Environmental Determination. The Council finds that the adoption and implementation of this 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 disaster within 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.

Section 5. Severability. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 6. The Ordinance shall be in effect immediately upon its adoption.

IN COUNCIL DULY PASSED this 26th day of June, 2018.

AYES: (5) Vice Mayor Rogers, Council Members Olivares, Sawyer, Schwedhelm, Tibbetts

NOES: (0)

ABSENT: (2) Mayor Coursey, Council Member Combs

ABSTAIN: (0)

ATTEST: _____
City Clerk

APPROVED: _____
Mayor

APPROVED AS TO FORM:

City Attorney