City Council
Mayor Una Glass
Vice Mayor Patrick Slayter
Michael Carnacchi
Sarah Glade Gurney
Neysa Hinton

Planning Director
Kenyon Webster
Assistant Planner
Dana Morrison
Administrative Assistant
Rebecca Mansour

# City of Sebastopol
# Planning Commission

| | |
|---|---|
| Meeting Date: | November 14, 2017 |
| Agenda Item: | 8B |
| To: | Planning Commission |
| From: | Kenyon Webster, Planning Director |
| Subject: | Supplemental Report, Phase 2 Zoning Ordinance Amendments |
| Recommendation: | Consider Additional Recommendations |

**Introduction:**

This staff report supplements the prior staff report on the Zoning Ordinance amendments.

**Background:**

The Sonoma County fire disaster has highlighted the need for jurisdictions to be prepared for disasters. The City Council has appointed two subcommittees relating to emergency preparedness: one focused on Fire Department staffing; and the other on general emergency preparedness.

This memorandum focuses on potential planning-related measures that would reside in the Zoning Ordinance.

Thousands of housing units were lost in the fires, exacerbating housing availability and affordability issues. The draft Zoning Ordinance amendments already include a number of changes that are intended to promote housing, including reductions in parking requirements, streamlining of procedures, and other revisions. The additional provisions discussed in this memorandum are intended to address disaster situations that may occur directly in the City of Sebastopol.

**Potential Zoning Ordinance Provisions:**

De Novo Planning Group, the City's consultant, has provided a memorandum (attached) discussing several aspects of these issues, including three 'contingency' chapters that would reside in the Zoning Ordinance, but that would only be activated by Urgency Ordinance adopted by the City Council:

- Recovery combining zoning district
- Rental housing price gouging

- Disaster recovery housing

These chapters are similar to urgency ordinances recently adopted by the City of Santa Rosa and the County of Sonoma.

The Commission is also in receipt of a letter from KOWS Community Radio, regarding potential specific allowances for Low-Power FM antennae. As Commissioners are likely aware, radio stations played a critical community informational role in the recent fire emergency when many persons lacked access to the internet, television, telephones, and power. KOWS is interested in a Sebastopol-area Low-Power FM antenna. Such use may provide an important form of communication in a local emergency. This type of facility is limited under Federal regulations to low-power (100 watts maximum) and is considered non-commercial, so is distinct from other types of antennae. At present the antenna regulations do not specifically address Low-Power FM. KOWS is requesting that the City's Zoning Ordinance be modified to facilitate such antennae.

**Recommendation:**

It is recommended that the Planning Commission:

- Review the draft 'contingent' chapters and determine if they are appropriate for incorporation into the Zoning Ordinance update;
- Direct that appropriate provisions for Low-Power FM radio be drafted and return for Commission review.

**Attachment:**

De Novo memorandum with code revisions
KOWS letter

# FOCUSED ZONING CODE UPDATE

# MEMORANDUM

| | |
|---|---|
| TO: | Kenyon Webster |
| FROM: | Beth Thompson and Elise Carroll, De Novo Planning Group |
| SUBJECT: | Emergency Housing Provisions |
| DATE: | November 8, 2017 |

The attached Zoning Code chapters are intended to address temporary housing issues and recovery efforts during disaster or emergency situations. Each of these Chapters would in effect be in 'reserve' and would only apply if the City Council adopted an Urgency Ordinance implementing them.

## Chapter 17.48 - Recovery (-R) Combining District

Chapter 17.48 would create a Recovery Combining District (-R Combining District) that may be applied by the City to any area of the City affected by disaster or emergency. Chapter 17.48 is intended to be a temporarily-applied combining district to facilitate the rebuilding and reconstruction of residential and non-residential structures and to encourage the resumption of business and other activities that have been destroyed or damaged by a disaster or emergency. This –R Combining District establishes procedures for administrative approvals for the reconstruction and repair of buildings and uses that existed prior to the disaster. A similar ordinance was passed recently by the City of Santa Rosa to create a –Resilient City (-RC) Combining District to aid in the recovery of areas affected by the Tubbs and Nuns Fires.

## Chapter 17.290 – Prohibition on Rental Price Gouging

Chapter 17.290 prohibits persons, businesses, or other entities to increase the price of rental housing by more than 10 percent during times when the is under a declaration of emergency. Chapter 17.290 also prohibits the eviction of tenants or termination of leases in order to re-rent or re-lease a unit at higher rates during emergency conditions.

## Chapter 17.295 – Disaster Recovery Housing Provisions

Chapter 17.295 facilitates the provision of housing during local or emergency disaster situations. Temporary dwelling units would be permitted on appropriate parcels for two years, with one-year extensions during disaster conditions. Accessory dwelling units would be permitted to be constructed regardless of whether a primary dwelling unit is on a lot during disaster conditions, provided that a primary dwelling unit is constructed within four years of completion of the accessory dwelling unit.

## ATTACHMENTS

**Attachment A – Chapters 17.48, 17.290, and 17.295**

## Chapter 17.48

## RECOVERY (–R) COMBINING DISTRICT

**17.48.010 Purpose.**
The –R Combining District is intended to facilitate the reconstruction and resilience of areas impacted disaster or emergency situations.

17.48.015 **Implementation.**

The R Combining District may be applied by an Urgency Ordinance, following declaration of a local emergency.

**17.48.020 Applicability.**
The –R Combining District may be combined with any primary zoning district established by SMC 17.10.010.

**17.48.030 Reconstruction and Repair of Damaged Structures and Allowed Land Uses.**
A. Reconstruction and repair of damaged or destroyed structures within the –R Combining District shall be consistent with all applicable zoning regulations and General Plan land use designations in effect as of the date of declaration of local emergency, with the exception of nonconforming uses, addressed in SMC 17.160.

B All building permit applications within the –R Combining District shall be prioritized over building permits in other areas of the City.

C. Demolition of damaged structures. Building permit applications for the demolition of damaged structures within the –R Combining District shall receive expedited review.

D. Reconstruction of conforming structures. Conforming residential or non-residential structures within the –R Combining District may be reconstructed as originally permitted including permitted additions, but shall comply with all State and local building and fire codes, including all provisions of the California Building Standards Code as adopted by the City. All permit review for such structures shall be as follows:

1. Building permit applications for structures replicating the original footprint and building height, including permitted additions shall receive expedited review. No impact fees are applicable.

2. Building permit applications for replacement structures that vary from the originally permitted footprint or building height will be processed based on application submittal date. No impact fees are applicable for replacement of the originally-permitted structure.

E. Reconstruction of Legal Nonconforming Facilities. Notwithstanding SMC 17.160, facilities within the –R 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 provided that:

1. The facility complies with all State and local building and fire codes, including all provisions of the California Building Standards Code as adopted by the City;

2. The facility is reconstructed in the same configuration, square-footage, height, and use as the original structure; and

3. Repair or reconstruction shall commence within three years of the date of declaration of local emergency and be diligently pursued to completion.

Building permit applications will be processed based on application submittal date. No impact fees are applicable.

F. Continuance of Legal Nonconforming Activities or Uses. Notwithstanding SMC 17.160, structures within the –R Combining District that are occupied by legal or nonconforming activities or uses and have been damaged or destroyed may be reconstructed or repaired in- kind, and reoccupied with a similar or less intense activity or use provided that:

a. Enlargement or expansion of the activity or use is not allowed; and

b. Repair or reconstruction shall commence within three years of the date of declaration of local emergency and be diligently pursued to completion. If reoccupancy does not commence within six months of the issuance of a certificate of occupancy, the legal nonconforming status shall terminate and the property shall thereafter be subject to the current SMC.

G. Accessory dwelling units.

a. General Provisions. Notwithstanding other provisions of the SMC, an accessory dwelling unit within the –R Combining District may be constructed and occupied prior to the construction of a single-family dwelling on the same parcel.

b. Internal conversions. If a reconstructed residence is built to the previously permitted dimensions, without changing the footprint or square-footage of the original residence, an accessory dwelling unit may be incorporated into the interior or added to the previously permitted dimensions, consistent with SMC 17.220, and shall receive expedited review. The extent of the accessory dwelling unit shall be identified in the building permit submittal.

c. Detached Accessory Dwelling Unit. Construction of a new detached accessory dwelling unit shall be allowed with reconstruction of a single- family dwelling. Building permit applications for the new detached accessory dwelling unit will be processed based on application submittal date.

H. Temporary dwelling units. Temporary dwelling units within the –R Combining District are permitted on residential and non- residential parcels. Water, wastewater, and electrical service shall be available on the site proposed for the temporary dwelling unit unless an alternative source is approved by the Public Works Superintendent or City Engineer.

a. Water – To protect the public water system, the appropriate approved backflow device shall be required. Initial testing certification of backflow devices is required and shall be performed by an entity as determined by the Public Works Superintendent.

b. Wastewater – To protect public health, connection to the wastewater system is required. The Public Works Superintendent will determine the appropriate connection requirement.

A building permit application shall be issued administratively for temporary housing. All temporary structures shall be removed from the site prior to issuance of a certificate of occupancy for a permanent residence on site, or within three years of building permit issuance, whichever is sooner.

**17.48.040 Planned Community Districts.**

Properties within the –R Combining District that have a base zoning district of Planned Community shall comply with the development standards established for that property. Any required discretionary planning permits for the reconstruction or repair of previously existing structures in a Planned Community District, including, but not limited to, conditional use permit or design review, shall be reviewed and approved by the Planning Director.

**17.48.050 Land use and zoning Code provisions not addressed.**
The Planning Director shall have the authority to make determinations regarding the applicability of any land use, zoning or related City Code provision not addressed in this ordinance to the reconstruction or repair of previously existing structures or uses.

**17.48.055 Exceptions.**

By Use Permit, an applicant may apply for exceptions to the provisions of the R Combining District. In granting any such request, in addition to required Use Permit findings, the Commission must also find that the exceptions are merited based on special circumstances related to the declared emergency, and that the exceptions are the minimum necessary.

**17.48.060 Duration of –R Combining District.**
Notwithstanding any other provision of the SMC, the provisions of the –R Combining District shall control and prevail for a period of three years of the application of the –R Combining District to a parcel or parcels, unless otherwise amended by subsequent action of the Council.

## Chapter 17.290

## PROHIBITION ON RENTAL HOUSING PRICE GOUGING

**17.290.010 Applicability.**
This chapter may be applied by Urgency Ordinance following declaration of a local emergency.

**17.290.020 Prohibition on Price Gouging.**
A. It is unlawful for any person, business or other entity to rent or lease or offer to rent or lease any housing unit, of any kind, for a price of more than 10 percent above the price charged for that housing unit immediately prior to a City declaration of a state of emergency in the City of Sebastopol, unless that person, business or entity can prove that the increase in price is directly attributable to additional costs for labor or materials used to provide the rental unit, in which case, the price shall not be more than 10 percent above the total cost of providing that rental unit.

B. It is unlawful for any person, business or other entity to rent or lease a hotel or motel room, or other short term rental unit for more than the 10 percent above the hotel, motel, or other short-term rental's regular rates, as advertised immediately prior to a City proclamation of the existing of a state of emergency in the City of Sebastopol, unless that person, business or other entity can prove that the increase in price is directly attributable to additional costs imposed on it for goods or labor used in the business, to seasonal adjustments in rates that are regularly scheduled, or to previously contracted rates.

**17.290.030 Restrictions on Evictions.**
A. It shall be unlawful for any person to evict an existing tenant or terminate an existing lease or month-to-month rental agreement and subsequently rent or lease the same dwelling unit, for more than the average retail price, unless such person can prove that the excess is directly attributable to additional costs resulting from the labor or materials necessary to provide the rental. In such instances, only the actual cost increase may be added to the average retail price.

B. For purposes of this ordinance, the "average retail price" shall be the rental price for the dwelling unit during the thirty day period immediately preceding the declaration of emergency.

**17.290.040 Repair and Reconstruction Services.**
Nothing in this ordinance shall limit, shorten or otherwise affect the provisions of Penal Code Section 396 applicable to repair or reconstruction services.

## Chapter 17.295

## DISASTER RECOVERY HOUSING PROVISIONS

**17.295.010 Purpose and Applicability.**
This chapter is intended to facilitate the provision of housing during disaster or emergency situations and shall be effective and applied by Urgency Ordinance.

**17.295.020 Temporary Dwelling Units.**
A. A temporary dwelling unit may be allowed in any residential district, subject to the standards of the SMC, including applicable height, yard, and setback standards.

B. No additional parking is required for a temporary dwelling unit.

C. Temporary dwelling unit permit requirements.

1. A temporary dwelling unit requires a temporary use permit.

2. One temporary dwelling unit per parcel may be considered for approval by the Planning Director; more than one temporary dwelling unit per parcel shall be considered for approval by the Planning Commission.

3. A temporary dwelling unit permit will be valid for two years. One year extensions of the permit shall be allowed as long as authorized in an Urgency Ordinance.

D. Findings for approval of temporary dwelling units. Temporary dwelling units conforming to the provisions of the SMC shall only be approved if the following findings can be made in an affirmative manner:

1. The subject property is physically suitable for the type of development proposed.

2. The applicant has demonstrated a need for the temporary dwelling unit.

3. Appropriate utility connections will be provided.

4. Appropriate setbacks will be provided.

**17.295.030 Accessory Dwelling Units.**
A. An accessory dwelling unit may be built on parcels zoned for single-family, duplex, or multifamily use, or on non-residentially zoned properties which are currently used only for a sing-family residential use. Under this section, an accessory dwelling unit may be built in advance of the principal dwelling and shall not be required to meet the requirement of SMC 17.220.020(A) that the principal dwelling unit be constructed simultaneously with or prior to the accessory dwelling unit. The accessory dwelling unit shall comply with all other provisions of the SMC.

B. If a primary dwelling unit is not constructed within four years of completion of the accessory dwelling unit, the accessory dwelling unit will be determined to be the primary dwelling unit on the property and shall be subject to the fees applicable to a primary dwelling unit at the time the unit was permitted.

**17.295.040 Planning Director Approval – Small Residential Projects**
Use permits, variances, temporary use permits, and design review for residential projects of ten or fewer units may be approved by the Planning Director, rather than the decision-making authority identified in Tables 17.20-1, 17.25-1, and 17.400. This section does not reduce or waive approval requirements for tentative or final maps as established by Title 16.

KOWS 92.5 FM
Streaming at KOWS.FM

(707) 861-9873
kows@sonic.net

PO Box 1073
Occidental, CA 95465

Studio: 500 N. Main Street
Sebastopol, CA 95472

November 6, 2017
Sebastopol Planning Commission
via City of Sebastopol
7120 Bodega Avenue
Sebastopol, CA 95472

Sebastopol Planning Commissioners:

As fires raged and smoke filled the air, much of Sonoma County got news, information and updates from local radio. West County was fortunate this time, but there was widespread fear of what might happen next. Many people did not have Internet or phone connection for days, and radio was a dependable lifeline.

KOWS Community Radio was on the air throughout the fires and aftermath, providing real-time updates and information. Sebastopol Mayor Una Glass and Vice Mayor Patrick Slayter talked on-air about fire news, evacuation centers, and increased concerns about housing.

This was an unprecedented crisis, but it's important to consider the wider problem of people who have no Internet access or cell phone service due to a variety of reasons. How do many in our community get important news if not for a strong radio signal?

KOWS serves as west Sonoma County's mandated Emergency Broadcast System, however due to the currently weak broadcast signal, we are unable to reach many in the Sebastopol area. Although antenna placement is dependent on FCC engineering parameters, it is also determined by local zoning regulations. We need to make a strong radio signal for Sebastopol a high priority now, and not wait for the next catastrophe.

We ask that Sebastopol's zoning code be amended to establish rules to facilitate Low-Power FM (LPFM) antenna allowances, given the demonstrated need for public access radio as a key source of information in emergency situations. As a registered 501(c)3 non-profit, LPFM KOWS Community Radio is distinct from any commercial entity, and must conform to FCC rules including strict limits on power and antenna location.

Thank you for considering our request on behalf of an informed and connected community.

Sincerely,

Laura Goldman
on behalf of KOWS Community Radio

RECEIVED
NOV 07 2017
BY:

FREE SPEECH. NO BULL.