

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

**ORDINANCE OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS ADOPTING ADDITIONS AND AMENDMENTS TO CHAPTER 18.23, LIMITED DENSITY RURAL DWELLINGS, OF THE MENDOCINO COUNTY CODE**

The Mendocino County Board of Supervisors ordain as follows:

**Section 1.** Section 18.23.033 – Definition of Owner Built, is hereby amended to read as follows:

**Sec. 18.23.033 - Definition of Owner-Built.**

- (A) "Owner-Built" shall mean constructed by any person or family who acts as the general contractor for or the provider of, part or all of the labor necessary to build housing to be occupied as the principal residence of that person or family, and not intended for sale, lease, or rent or employee occupancy.
- (B) For the purposes of this article, the sale, lease, renting or employee occupancy of owner-built structures within three years of the issuance of a certificate of occupancy shall be presumptive evidence that the structure was erected for the purpose of sale, lease or renting.
- (C) "Owner-Built" shall also mean constructed by a licensed contractor for occupancy by the person or persons owning the property at the time construction is commenced.

**Section 2.** Section 18.23.060 – Recording, is hereby amended to read as follows:

**Sec. 18.23.060 - Recording.**

As a condition of being permitted to construct a dwelling under this Chapter, and prior to the issuance of a certificate of occupancy, a declaration of covenants, conditions and restrictions shall be recorded against the property on which the dwelling is being constructed, disclosing the nature of the dwelling and restrictions on its use, in a form acceptable to county counsel, which shall run with the land and be enforceable by the County as an equitable servitude. The declaration shall state that (A) the structure constructed on the property has been permitted pursuant to the provisions of Chapter 18.23 of the Mendocino County Code for limited density owner built rural dwellings, which was adopted under the authorization of California Health and Safety Code section 17958.2; (B) the structures may or may not be in full compliance with the California Building Standards Code; and that occupancy is limited to the owner and the owner's family for a period of three years.

**Section 3.** Section 18.23.140 – Permit Validity, is hereby amended to read as follows:

**Sec. 18.23.140 - Permit Validity.**

Permits shall be valid for a period of three years. The building official is authorized to grant extensions of time pursuant to the same standards as for extensions of a building permit pursuant to Chapter 18.04.

**Section 4.** Section 18.23.150 – Inspections, is hereby amended to read as follows:

**Sec. 18.23.150 - Inspections.**

All construction or work for which a permit is required shall be subject to inspection by the

designated enforcement agency.

**Section 5.** Section 18.23.160 – Issuance of Inspections, is hereby amended to read as follows:

**Sec. 18.23.160 - Issuance of Inspections.**

A minimum of three (3) inspections shall be required for all new buildings or structures at the following stages of construction:

- (1) Foundation (prior to placing concrete).
- (2) Rough in (prior to closing walls, in order to inspect electrical, mechanical, plumbing and framing).
- (3) Final inspection (after the structure(s) is completed and ready for occupancy, in order to determine compliance with the provisions of this Chapter).

**Section 6.** Section 18.23.200 – Certificate of Occupancy, is hereby amended to read as follows:

**Sec. 18.23.200 - Certificate of Occupancy.**

After the structure(s) is completed for occupancy and all inspections which have been required by the enforcing agency have been conducted, and work approved, the enforcement agency shall issue a Certificate of Occupancy for such dwelling(s) and appurtenant structure(s) which comply with the provisions of this Chapter.

**Section 7.** Section 18.23.250 – Limited Density Rural Dwelling, is hereby amended to read as follows:

**Sec. 18.23.250 - Limited Density Rural Dwelling.**

A "limited density rural dwelling" is any structure consisting of one or more habitable rooms, intended or designed to be occupied by one family with facilities for living and sleeping, with use restricted to rural areas that fulfills the requirements of this chapter, and is both of the following:

- (1) Not exceeding two and one half stories; and
- (2) Not exceeding two thousand (2,000) square feet of conditioned habitable space.

**Section 8.** Section 18.23.260 – Rural, is hereby amended to read as follows:

**Sec. 18.23.260 - Rural.**

For the purposes of this chapter only, "rural" shall mean those unincorporated areas of the County designated and zoned for one acre minimums or larger acre minimums. In addition, for a legal parcel to qualify as "rural," the parcel shall be no less than one acre in size.

**Section 9.** Section 18.23.280 – Substandard Building, is hereby amended to read as follows:

**Sec. 18.23.280 - Substandard Building.**

A substandard building is a structure or portion thereof in which there exists any condition to an extent that endangers the life, limb, health, or safety of the occupants. Except as amended by the provisions of this chapter, the California Building Code, Part 2, Title 24, California Code of Regulations, shall be the determining

criteria for compliance with the standards of this Chapter and the defining of a substandard building.

**Section 10.** Section 18.23.310 – Technical Codes to be a Basis of Approval, is hereby amended to read as follows:

**Sec. 18.23.310 - Technical Codes to be a Basis of Approval.**

Except as otherwise required by this chapter, dwellings and appurtenant structures constructed pursuant to this part need not conform with the construction requirements prescribed by the latest applicable editions of the codes that make up the California Building Standards Code, Title 24, California Code of Regulations, or other applicable technical codes; however, it is not the intent of this section to disregard nationally accepted technical and scientific principles relating to design, materials, methods of construction, and structural requirements for the erection and construction of dwelling and appurtenant structures as are contained in the uniform technical codes. Such codes shall be a basis for approval.

Notwithstanding the previous paragraph and any section of this Chapter to the contrary, if application is made for a permit pursuant to this Chapter for a building constructed prior to the application date without any building permits, the building may be reviewed pursuant to the building codes (as the basis for approval) applicable at the time of the construction of the building, if the applicant is able to substantiate the date of construction to the satisfaction of the Department of Planning and Building Services.

**Section 11.** Section 18.23.320 – Structural Requirements, is hereby amended to read as follows:

**Sec. 18.23.320 - Structural Requirements.**

Buildings or structures constructed pursuant to this chapter may be of any type of construction which will provide for a sound structural condition. Structural hazards which result in an unsound condition and which may constitute a substandard building are delineated by section 17920.3 of the Health and Safety Code.

**Section 12.** Section 18.23.345 – Fire Safety Requirements, is hereby added to read as follows:

**Sec. 18.23.345 – Fire Safety Requirements.**

All new structures shall comply with the “Materials and Construction Methods for Exterior Wildfire Exposure” requirements found in Chapter 7A of the California Building Code, or with such other successor chapter of the latest adopted version of the California Building Code.

Fire sprinklers shall be installed within all limited density rural dwellings located on legal parcels of one (1) acre in size, and within all limited density rural dwellings greater than one thousand two hundred fifty (1,250) square feet (manufactured homes are exempt from this requirement). Fire sprinklers shall be connected to, and installed in accordance with, an automatic residential fire sprinkler system that complies with Section R313 of the 2016 California Residential Code or with such other successor section of the latest adopted version of the California Residential Code.

**Section 13.** Section 18.23.350 – Mechanical Requirements, is hereby amended to read as follows:

**Sec. 18.23.350 - Mechanical Requirements.**

Fireplaces, heating and cooking appliances, and gas piping installed in buildings

constructed pursuant to this chapter shall be installed and vented in accordance with the requirements of the current applicable code of the California Building Standards Code, Title 24, California Code of Regulations. Alternate materials and methods of venting shall be permitted if substantially equivalent in safety and durability.

**Section 14.** Section 18.23.380 – Installation Requirements, is hereby amended to read as follows:

**Sec. 18.23.380 - Installation Requirements.**

Where electrical wiring or appliances are installed, the installation shall be in accordance with the applicable requirements contained in the California Electrical Code, Part 3, Title 24, California Code of Regulations for single family dwellings.

Exceptions to Installation Requirements. In structures where electrical usage is confined to one or more rooms of a structure, the remainder of the structure shall not be required to be wired or otherwise fitted for electrification unless the enforcement agency determines that electrical demands are expected to exceed the confinement and capacity of that room(s). In such instances, the enforcement agency may require further electrification of the structure.

It is the intent of this subsection to apply to buildings in which there exists a workshop, kitchen, or other single room which may require electrification, and where there is no expectation of further electrical demand. The enforcement agency shall, at the time of a permit application or other appropriate point, advise the applicant of the potential hazards of violating this section.

**Section 15.** Section 18.23.410 – Plumbing Specifications, is hereby amended to read as follows:

**Sec. 18.23.410 - Plumbing Specifications.**

Where conventional plumbing, in all or in part, is installed within the structure, it shall be installed in accordance with the California Plumbing Code, Part 5, Title 24, California Code of Regulations. Alternative materials and methods shall be permitted provided that the design complies with the intent of the Code, and that such alternatives shall perform to protect health and safety for the intended purpose.

**Section 16.** Section 18.23.440 is hereby amended so that the title reads as follows, and the remainder of the section remaining the same:

**Sec. 18.23.440 - Findings in Support of Adoption of Regulations for Limited Density Rural Dwellings (as adopted 1981).**

**Section 17.** Section 18.23.442 - Findings and Support of Adoption of Ordinance Amending Chapter 18.23 of the Mendocino County Code "Regulations for Limited Density Rural Dwellings" (2018), is hereby added to read as follows:

**Sec. 18.23.442 - Findings and Support of Adoption of Ordinance Amending Chapter 18.23 of the Mendocino County Code "Regulations for Limited Density Rural Dwellings" (2018).**

Pursuant to Health and Safety Code Section 17958.2, the Board of Supervisors hereby makes the express finding that the amendment of the regulations for limited density rural dwellings is reasonably necessary because of local conditions based upon the following:

- (1) The findings and local conditions stated in Section 18.23.440 are still relevant and applicable, specifically the County's mountainous terrain and lack of developed roads, and are incorporated herein by this reference. Mendocino County continues to suffer from a housing shortage and the ability to develop housing under the limited density rural dwellings chapter provides the County with flexibility in providing housing for its citizens.
- (2) The amendments proposed by the ordinance adopting this section of this Chapter 18.23 are reasonably necessary to place additional limits on the types of property and buildings to qualify for building permit processing under this Chapter 18.23, update certain building code requirements while still providing for the flexibility of allowing limited density rural dwellings a performance standard of evaluation, and require additional inspections to ensure conformance with plans submitted.
- (3) The amendments proposed by the ordinance adopting this section of Chapter 18.23 will help strike a balance between updating this Chapter to ensure that reasonable health and safety standards are being met, while not creating burdens that make the development of housing in the more rural and remote regions of the County prohibitively expensive.

**Section 18. Findings.** Pursuant to Health and Safety Code section 17958.2 and 25 California Code of Regulations section 80, the Board of Supervisors expressly finds that this ordinance and the changes or modifications made herein to the County's existing limited density rural dwellings ordinance, which is based on the State of California Regulations for Limited Density Owner-Built Rural Dwellings (25 Cal. Code Regs. section 74, *et seq.*) are reasonably necessary because of local climatic, geological and topographical conditions, as specified in Section 17 of this Ordinance and the findings made in the new Section 18.23.442. The Board finds that the adoption of the modifications as set forth herein will assist in mitigating the local climatic, geological and topographical conditions. These findings are intended to support each of the amendments made by this ordinance.

**Section 19. CEQA.** The Board of Supervisors hereby finds and determines that this ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the State CEQA Guidelines as it can be seen with certainty that there is no possibility that this ordinance may have a significant effect on the environment. This finding and determination is based on the environmental determination of the Department of Planning and Building Services for this ordinance. The Director of Planning and Building Services is directed to file a notice of exemption in accordance with CEQA and the State CEQA Guidelines.

**Section 20. Severability.** If any section, subsection, provision, phrase, word or clause of this ordinance or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared invalid or unconstitutional.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Mendocino, State of California, on this \_\_\_\_\_ day of March, 2018, by the following roll call vote:

AYES:  
 NOES:  
 ABSENT:

**WHEREUPON**, the Chair declared the Ordinance passed and adopted and **SO ORDERED**.

ATTEST: CARMEL J. ANGELO  
Clerk of the Board

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Deputy

*APPROVED AS TO FORM:*  
KATHARINE L. ELLIOTT, County Counsel

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DAN HAMBURG, Chair  
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

BY: CARMEL J. ANGELO  
Clerk of the Board

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Deputy