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

# AN URGENCY ORDINANCE OF THE COUNTY OF SISKIYOU

# AMENDING

# CHAPTER 4 OF TITLE 9

# OF THE SISKIYOU COUNTY CODE

# REGARDING LIMITED DENSITY OWNER-BUILT DWELLINGS

THE BOARD OF SUPERVISORS OF THE COUNTY OF SISKIYOU ORDAINS AS FOLLOWS:

SECTION I:

A. Based on the findings set forth below, the Board finds and declares that there is a current and immediate threat to the public health, safety and welfare arising from the lack of shelter and housing within Wildfire Impact Areas.

B. Based on the findings set forth below, the Board of Supervisors determines that this ordinance is urgently needed for the immediate preservation of the public peace, health, safety, and welfare of the victims of wildfires pursuant to Government Code sections 25121 and 25131.

SECTION II: Chapter 4, of Title 9 of the Siskiyou County Code is hereby amended as follows:

“CHAPTER 4 - REGULATIONS FOR LIMITED DENSITY OWNER-BUILT RURAL DWELLINGS

9-04.020 - Purpose and Findings

A. Purpose.

1. The purpose of this Chapter is to make Article 8 (commencing with Section 74) of Subchapter I of Chapter I of Division I of Title 25 of the California Code of Regulations, as modified herein, operative on Limited Density Owner-Built Rural Dwellings in Siskiyou County (as defined in Section 9-04.040, "Definitions" herein), and to provide minimum requirements for the protection of life, limb, health, property, safety, and welfare of the general public and the owners and occupants of such dwellings and Appurtenant Structures.

2. It is also the expressed purpose of this Chapter to conform the regulations regarding the construction and use of such dwellings and Appurtenant Structures to the requirements of Article 1, Section 1 of the California State Constitution, and the statutes of the State of California.

3. It is also the purpose of this Chapter to support the use of alternative construction design, materials and methods that protect the environment, improve economic viability of sustainable construction, aid affordability of construction improvements, increase participation and consumer protection through promoting lawful construction activity, enhance owner equity in the improvement of property, and provide minimum requirements for the protection of life, limb, health, property, safety, and welfare of the general public and the owners and occupants of Limited Density Owner-Built Rural Dwellings and Appurtenant Structures.

B. Findings.

It is necessary to modify said Article 8 and to make its provisions, as modified, operative because of the following local conditions:

1. Wildfires within Siskiyou County result in the loss of numerous dwellings and outbuildings in the Rural areas. Many of these structures are uninsured or underinsured. The replacement of homes and restoration of the communities impacted by wildfires places an unprecedented financial burden upon the populations of these rural areas. This ordinance will facilitate the availability of affordable, Owner-Built homes, which are essential to the continued health and welfare of the residents of these Rural communities.

2. Residents within the Wildfire Impact Areas are without homes, structures or buildings to provide them regular shelter and are without means of safe accommodation upon their property. The residents have an urgent need to start reconstruction of their homes in order to provide a safe and maintainable living space.

3. The ability to use owner-generated materials, such as lumber milled from harvested timber, creates an affordable option for building materials not available under current California Building Codes.

4. Citizens within the Rural areas of unincorporated Siskiyou County impacted by wildfires have expressed a desire to legalize the construction of Limited Density Owner-Built Rural Dwellings in compliance with this Chapter, and have emphasized the values of affordability, sustainability, self-sufficiency, creativity, and character of the Rural communities.

5. The vast majority of unincorporated Siskiyou County impacted by wildfires is very remote, and utility services are cost prohibitive and difficult, if not impossible, to obtain. The lack of readily available public water, sewer or utility power connections exclude participation in the normal permit process and create an unreasonable burden to the property owner to comply with the prescriptive building and development requirements of the current California Building Standards Code (Title 24 of the California Code of Regulations).

6.  The primary fire threat in Rural areas is from wildfires, which cut power and make passive fire control measures, such as sprinklers, that depend on electrical power to be of little use, though they add significant cost to construction that might better be spent on wildland-urban interface measures, which are herein required.  Further, the State Fire Marshall, in Information Bulletin 16-001 states that “the final decision to require the installation of fire sprinklers in one-and-two family dwellings rebuilt (after a disaster) is determined by the local building and fire officials.”

7. Most Rural areas receive minimal sunlight in the winter and are often surrounded by wooded and hilly terrain that makes photovoltaic energy generation difficult and not cost-efficient for re-construction of homes lost to disaster.

8. The requirements designed to bring about energy efficiencies required in the most recent Building Codes add significant expense to reconstruction, without increasing health or safety, and greatly increase the financial burden of those whose homes are lost in the Wildfire Impact Areas, especially those who are under-insured or non-insured.

9. Almost the entirety of Rural Areas is zoned “rural residential”, with a combined “B District” of 1-acre or greater sized parcels, resulting in a low-density, rural area.

9-04.030 - Intent and Application

The provisions of this Chapter shall apply to the reconstruction, enlargement, conversion, alteration, repair, use, maintenance, and occupancy of Limited Density Owner-Built Rural Dwellings, Assessor Dwelling Units (ADU), and Appurtenant Structures within Fire Impacted Areas lost to wildfires. It is the intent of this Chapter that the requirements contained herein shall apply to seasonally or permanently occupied dwellings, detached bedrooms, ADU’s, and guest houses, located in the rural areas designated herein and solely occupied as the principal residence of the owner or the owner's family. The requirements will also apply to barns, sheds, shops, or other Appurtenant Structures, not intended for human habitation, to be constructed and used solely by the owner of the property, or by the owner's family.

9-04.040 – Definitions

For the purposes of this Chapter only the following definitions shall apply:

A. Limited Density Owner-Built Rural Dwelling: Any structure consisting of one (l) or more habitable rooms intended or designed to be occupied by one (1) family with facilities for living and sleeping, with use restricted to Rural areas that fulfill the requirements of this Chapter.

B. Owner-Built: Construction that meets the following requirements:

1. Construction that is not intended for sale, lease, rent, or employee occupancy; and

2. Construction that is either:

a. By a general contractor, licensed to practice in the State of California who contracts directly with the person or persons owning the property at the time construction is commenced for occupancy as the principal residence of that person or persons owning the property, or

b. 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.

C. Rural: "Rural” refers to parcels in the County that meet all of the following criteria:

1. Located within unincorporated Siskiyou County.

2. Located within an area not zoned “commercial” , “industrial”, “Timber Production Zone” (TPZ), “open space”, or “floodplain combining district.”

3. A parcel with a sewer connection or of sufficient size and configuration to fulfill the sewage-disposal-system-setbacks to all property lines and all other setbacks established by law.

D. Appurtenant Structures: Structures directly related to the primary residential use, including but not limited to detached bedrooms or hobby rooms used as living space, garages, or pump houses. Appurtenant Structures also include, but are not limited to, shops, barns, or sheds, including those considered accessory to the zone.

E. Sub-Standard Building: A structure or portion of a structure in which there exists any condition that endangers the life, health, property, safety, or welfare of the public or the occupants thereof. Except as amended by the provisions of this Chapter and except as otherwise preempted by statute, the 2007 edition of the California Building Standards Code, Title 24, California Code of Regulations with the 2008 amendments, shall be the determining criteria for compliance with the standards of this Chapter and the defining of a substandard building.

F. Sound Structural Condition: A structure shall be considered to be in "sound structural condition" when all portions of the structure are adequately constructed to resist expected gravity and lateral forces from wind and seismic forces. Building plans must provide sufficient detail to determine how gravity and lateral forces are distributed vertically and horizontally from their points of origin to the load resisting elements. Portions of the structures that are irregular in shape, complex design, or incorporate unusual building materials or practices may require design by a California registered design professional at the discretion of the Building Official.

G. Unreasonable Hardship: Unreasonable hardship exists when the Building Official finds that compliance with the requirement for a minimum of three (3) years of owner occupancy is unfeasible, due to circumstances forcing the sale or rental of the property, including but not limited to the death, divorce, loss of employment or income, or disability of the owner, supported by sufficient information provided by the applicant.

H. Building Official: The person identified as the Building Official pursuant to Title 9 – Building Regulations, Siskiyou County Building Code.

I. Wildfire Impact Area: Those Rural areas of Siskiyou County included within an area about which a local declared emergency due to a wildfire has been declared and ratified by the Board of Supervisors within the past four (4) years.

**Sec. 9-04.050. - Regulation of use.**

1. Housing permitted pursuant to this Chapter shall be for occupancy as the principal residence of the owner or the owner's family and not for sale, lease, rent, or employee occupancy.

B. For the purposes of this Chapter the sale, lease, renting or employee occupancy of Owner-Built structures within three (3) years of the issuance of a certificate of occupancy shall be presumptive evidence that the structure was reconstructed following destruction by a wildfire for the purpose of sale, lease, renting, or employee housing and therefore does not qualify as Owner-Built. The three (3) year period of required owner occupancy may be waived by Siskiyou County Building Official in cases of Unreasonable Hardship, but in all instances Owner-Built structures are subject to a one (1) year owner occupancy requirement pursuant to 25 CCR 78.

C. Accessory dwelling units (ADU) in conformance with Siskiyou County Code and Section 65852.2 of the California Government Code using a Limited Density Owner-Built Rural Dwelling permit shall be allowed for a family member using the same criteria as the primary dwelling.

9-04.060 - Abatement of Substandard Buildings / Violations

A. Every violation of the regulatory or prohibitory provisions of this Chapter and all structures or portions thereof which are determined by the Building Official to constitute a Sub-Standard Building are hereby declared to be a public nuisance and may be abated in accordance with Title 1 of the Siskiyou County Code and by any other means available by law.

B. The critical concern in the promulgation of this Chapter is to provide for health and safety while maintaining respect for the law and voluntary compliance with the provisions of this Chapter, and therefore, in the event that an order to correct a substandard condition is ignored, it is the intent of this section that administrative or civil abatement procedures should be the first remedy pursued by the Building Official. Notwithstanding the foregoing, this section is cumulative to all other remedies now or hereafter available to abate or otherwise regulate or prevent public nuisances or to enforce the provisions of the Siskiyou County Code.

9-04.100 - Recording

A. No provision of this Chapter is intended to prohibit or limit the County from establishing and enforcing reasonable regulations for the recording of information regarding the materials, methods of construction, alternative facilities, or other factors that may be of value in the full disclosure of the nature of the dwelling and Appurtenant Structures. A deed restriction disclosing the nature of the dwellings and Appurtenant Structures shall be recorded.

B. The Community Development Department shall record a 'Notice of Limited Allowed Use" This notice shall disclose:

1. The nature of the dwelling and Appurtenant Structures, and that the structure(s) have been permitted under this Chapter, entitled "Regulations for Limited Density Owner-Built Rural Dwellings," of this title, entitled "Buildings and Construction," adopted under the authorization of Health and Safety Code section 17958.2, and not under Title 24, California Code of Regulations.

2. That the dwelling may not be sold, leased, rented, or employee-occupied for a period of three (3) years following issuance of a certificate of occupancy, except in cases of Unreasonable Hardship as determined by the Siskiyou County Building Official.

9-04.110 - Permits

Permits shall be required for the reconstruction of Limited Density Owner-Built Rural Dwellings and Appurtenant Structures. The application, plans, and other data filed by an applicant for such a permit shall clearly state that it is for a Title-25 Limited Density Owner-Built Rural Dwelling structure and shall be reviewed by the Planning Division of the Community Development Department, to verify compliance with the provisions of this Chapter. When the Building Official determines that the permit application and other data indicate that the structure(s) will comply with the provisions of this Chapter, the Building Official shall issue a permit therefor to the applicant.

9-04.140 – Application

To obtain a permit, the applicant shall first file an application therefor with the Building Department Division. Permit applications shall contain the following information:

1. Name and mailing address of the applicant.

2. Address, assessor's parcel number, and location of the proposed structure(s).

3. A general description of the structure(s) which shall include mechanical installations with all clearances and venting procedures detailed, electrical installations, plumbing fixtures, foundation, structural, and construction details.

4. A site plan indicating the location of the dwelling in relation to property lines, other structures, sanitation and bathing facilities, water resources and water ways, slope of site, and major land features.

5. Approval for the installation of a private sewage disposal system or alternate waste disposal means from the Environmental Health Division of the Community Development Department.

6. A stipulation by the applicant that the building or structure is to be Owner-Built.

7. The signature of the owner, contractor, or authorized agent.

8. The use or occupancy for which the work is intended; and

9. Any other data or information as may be required by statute or Siskiyou County regulation.

9-04.180 Permit issuance

Permits shall be issued in accordance with **Title 9 – Building Regulations, Siskiyou County Building Code,** Section 9-1.033.

9-04.250 Fees

With approval by the Board of Supervisors, Fees may be established and accounted for by the Building Official to provide for the cost of administering the provisions of this Chapter. It is the intent of this Chapter that permit, and inspection fee schedules be established to reflect the actual inspection and administrative costs resulting from the application of this Chapter. It shall be within the Building Official’s discretion to waive fees for underinsured or uninsured property owners if the property owners’ incomes qualify as “Low Income” or “Very Low Income,” as that income is determined under the Department of Housing and Urban Development’s calculations for Siskiyou County. .

9-04.260 General Requirements

A. Each structure shall be maintained in a Sound Structural Condition to be safe, sanitary, and to shelter the occupants from the elements.

B. Except as amended by the provisions of this Chapter and except as otherwise preempted by statute, the 2007 edition of the California Building Standards Code, Title 24, California Code of Regulations (with 2008 amendments), shall be used in determining compliance with the standards of this Chapter. Any property owner may optionally rebuild his property to more current building code standards.

C. In the alternative to Section 9-04.260B, and except as amended by the provisions of this Chapter and except as otherwise preempted by statute, the Building Official shall use the plans of a certified architect, civil engineer, or structural engineer to determine compliance with the standards of this Chapter as follows:

1. The plans were previously issued for a structure that was destroyed or damaged within a Wildfire Impact Area.

2. The plans were not issued before January l, 1998.

3. The applicant requests that this standard be used and provides the plans to the Building Official.

D. Generators shall be enclosed in a sound reduction enclosure approved by the Building Official to eliminate or greatly reduce noise. This structure shall consist of a fully enclosed masonry or wood frame structure with a minimum of two (2) inches by four (4) inches insulated wall and roof framing, with walls, ceiling, and roof covered in the manner required by the most recently adopted technical codes on both inside and outside surfaces. This structure shall reduce generator noise to a maximum of fifty-five (55) decibels twenty (20) feet from the structure.

9-04.280 Technical codes to be a basis of approval.

Except as otherwise required by this Chapter, dwellings and Appurtenant Structures constructed pursuant to this Chapter need not conform with the construction requirements prescribed by the latest adopted editions of the California Building, Plumbing, Mechanical, and Electrical Codes, 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 technical codes. Such codes shall be a basis for approval.

9-04.300 Construction requirements

A. 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 defined by reference to the 2007 edition of the California Building Standards Code, Title 24, California Code of Regulations (with 2008 amendments) and are further delineated in Health & Safety Code section 17920.3 and as may hereafter be amended.

B. Materials. Owner-produced materials and appliances may be utilized unless found not to be of sufficient strength or durability to perform the intended function; owner-produced or used lumber may be utilized unless found to contain dry rot, excessive splitting, or other defects obviously rendering the material unfit in strength or durability for the intended purpose. Wall and floor framing shall not be enclosed when the framing members exceed nineteen percent (19%) moisture content.

C. Heating capacity. A heating facility or appliance shall be installed in each dwelling subject to the provisions of this Chapter and shall comply, however there shall be no specified requirement for heating capacity or temperature maintenance. The use of a solid fuel or solar heating device shall be deemed as complying with the requirements of this section. If a non-renewable fuel is used in these dwellings, rooms so heated shall meet current installation standards.

D. Room requirements. There shall be no requirements for room dimensions provided that there is adequate light and ventilation and adequate means of egress.

9-04.320 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 applicable requirements contained in the most currently adopted version of the California Mechanical Code, Part 4, Title 24, California Code of Regulations.

9-04.340 Electrical installation requirements

Where electrical wiring or appliances are installed, the installation shall be in accordance with the applicable requirements contained in the most recently adopted version of the California Electrical Code, Part 3, Title 24, California Code of Regulations. Smoke and carbon monoxide alarms shall be installed per the most current adopted California Residential Code. If electrical wiring is not being installed, alarms may be battery operated and must contain ten-year batteries.

9-04.350.1 Plumbing requirements

Plumbing equipment and installation shall be in accordance with the applicable requirements contained in the most recently adopted version of the California Plumbing Code, Part 5, Title 24, California Code of Regulations.

PASSED AND ADOPTED this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_,2023 at a regular meeting of the Board of Supervisors by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Ed Valenzuela

Chair, Board of Supervisors

ATTEST:

LAURA BYNUM, CLERK,

Board of Supervisors

By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Deputy