

TO: Board of Supervisors

FROM: Planning and Building Services & County Counsel

MEETING DATE: August 29, 2023

DEPARTMENT CONTACT: Michael Oliphant
DEPARTMENT CONTACT: Matthew Kiedrowski

PHONE: 707-234-6650
PHONE: 707-234-6885

ITEM TYPE: Consent Agenda

TIME ALLOCATED FOR ITEM: N/A

AGENDA TITLE:

Introduction and Waive First Reading of an Ordinance Adopting Amendments to Chapter 18.23, Limited Density Rural Dwellings, of the Mendocino County Code

RECOMMENDED ACTION/MOTION:

Introduce and Waive First Reading of an Ordinance Adopting Amendments to Chapter 18,23, Limited Density Rural Dwellings, of the Mendocino County Code and authorize Chair to sign same.

PREVIOUS BOARD/BOARD COMMITTEE ACTIONS:

Chapter 18.23, Limited Density Rural Dwellings, was added to the County Code in 1981 by Ordinance No. 3343 and subsequently amended in 1984 by Ordinance No. 3491 and in 1992 by Ordinance No. 3828. On January 24, 2017, the Board of Supervisors referred the issue of possible amendments to the Public Health, Safety and Resources Committee. The Public Health, Safety and Resources Committee reviewed Chapter 18.23 in meetings on May 8, 2017, September 25, 2017, and December 11, 2017. The Board adopted Ordinance 4404 on March 13, 2018. On October 1, 2019, the Board provided direction to staff regarding an amendment to MCC Chapter 18.23 to remove the square foot maximum restriction for limited density rural dwellings with sprinklers. On July 11, 2023, the Board directed staff to revise the proposed ordinance to eliminate changes related to requiring sprinklers for larger homes and to simply remove the 2,000 square foot size restriction that had been established in 2018.

SUMMARY OF REQUEST:

To address the direction received from the Board on July 11, 2023, Planning and Building Services has drafted a proposed ordinance making amendments to MCC section 18.23.250 to remove the two thousand (2,000) square foot size restriction for limited density rural dwellings. Please see the attached memorandum for additional information.

ALTERNATIVE ACTION/MOTION:

Provide direction to staff.

DOES THIS ITEM SUPPORT THE GENERAL PLAN? Yes

STRATEGIC PLAN PRIORITY DESIGNATION: A Thriving Economy

SUPERVISORIAL DISTRICT: ALL

VOTE REQUIREMENT: Majority

SUPPLEMENTAL INFORMATION AVAILABLE ONLINE AT:

<https://www.mendocinocounty.org/government/planning-building-services/public-notice>

FISCAL DETAILS:

SOURCE OF FUNDING: N/A
CURRENT F/Y COST: N/A
ANNUAL RECURRING COST: N/A

BUDGETED IN CURRENT F/Y: N/A
IF NO, PLEASE DESCRIBE:
REVENUE AGREEMENT: N/A

BUDGET CLARIFICATION: N/A

AGREEMENT/RESOLUTION/ORDINANCE APPROVED BY COUNTY COUNSEL: Yes

CEO LIAISON: Steve Dunncliff, Deputy CEO

CEO REVIEW: Choose an item.

CEO COMMENTS:

FOR COB USE ONLY

Executed By: Deputy Clerk

Date: Date Executed

Final Status:Item Status

Executed Item Type: item Number:



COUNTY OF MENDOCINO
DEPARTMENT OF PLANNING AND BUILDING SERVICES

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MEMORANDUM

DATE: August 29, 2023
TO: Honorable Board of Supervisors
FROM: Michael Oliphant, Building Official
Matthew Kiedrowski, Deputy County Counsel
Subject: Proposed Amendments to Mendocino County Code Chapter 18.23 –
Regulations for Limited Density Rural Dwellings (Class K)

Background: Ordinance No. 3343 was adopted by the Board of Supervisors in 1981, establishing Chapter 18.23 of the Mendocino County Code, Regulations for Limited Density Rural Dwellings, commonly known as the Class K Ordinance. On March 13, 2018, the Board of Supervisors adopted Ordinance No. 4404 amending several sections of Chapter 18.23 of the Mendocino County Code (MCC). On October 1, 2019, the Board provided direction to staff regarding an amendment to MCC Chapter 18.23 to remove the square foot maximum restriction for limited density rural dwellings with sprinklers.

Proposed Amendments: On July 11, 2023, staff brought forward a proposed ordinance responding to direction previously given. At that meeting, the Board directed staff to revise the proposed ordinance to eliminate changes related to requiring sprinklers for larger homes and to simply remove the 2,000 square foot size restriction that had been established in 2018.

Staff has prepared a revised ordinance for a new first reading. A redline shows the deletions made from the version reviewed on July 11, 2023. Based on the updated Board direction, the only substantive change being made at this time is to MCC Section 18.23.250, removing the 2,000 square foot size limitation and changing the wording of the section to as it read prior to 2018. The ordinance includes making required findings supporting the amendment.

Environmental Review: An activity or proposal is exempt from the California Environmental Quality Act (Public Resources Code Section 21000 *et seq.*; "CEQA"; see also the CEQA Guidelines, 14, Cal. Code Regs. 15000 *et seq.*) if the proposal is covered by the common sense exemption that CEQA applies only to projects which may have the potential for causing a significant effect on the environment. Pursuant to Section 15061(b)(3) of the State CEQA Guidelines, where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

MCC Chapter 18.23 currently provides that a limited density rural dwelling may not exceed 2,000 square feet of conditioned habitable space and that residential fire sprinklers are not required. The proposed amendment to MCC Chapter 18.23 would allow limited density rural dwellings to exceed 2,000 square feet. There was no square foot size limitation in MCC Chapter 18.23 from its adoption in 1981 to 2018. Under CEQA Guidelines section 15303, construction of a single-family dwelling in a residential zone is already exempt from CEQA, and no maximum size is listed in the section. Single-family homes are already permitted as a matter of right in most zoning districts in rural areas of the County. Any increase in single-family home construction would be subject to existing General Plan and Zoning Code limitations and be considered exempt under CEQA. The change merely allows for construction of larger single-family homes pursuant to MCC Chapter 18.23, as was previously allowed. It can be seen with certainty that the proposed amendment will not have a significant effect on the environment within the meaning of CEQA.

Attachments:

- A. Redline Ordinance
- B. Clean Ordinance

ORDINANCE NO. _____

ORDINANCE OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS ADOPTING 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 18.23.250 – 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 (1) or more habitable rooms, and not exceeding two and one-half stories, intended or designed to be occupied by one (1) family with facilities for living and sleeping, with use restricted to rural areas that fulfills the requirements of this chapter.

Section 2. Section 18.23.443 - Findings and Support of Adoption of Ordinance Amending Chapter 18.23 of the Mendocino County Code "Regulations for Limited Density Rural Dwellings" (2023), is hereby added to read as follows:

Sec. 18.23.443 - Findings and Support of Adoption of Ordinance Amending Chapter 18.23 of the Mendocino County Code "Regulations for Limited Density Rural Dwellings" (2023).

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 allow for larger homes to be constructed while still providing for the flexibility of allowing limited density rural dwellings a performance standard of evaluation.
- (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 3. 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 2 of this Ordinance and the findings made in the new Section 18.23.443. 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 4. 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 5. 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 _____, 2023, by the following roll call vote:

AYES:
NOES:
ABSENT:

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

ATTEST: DARCIE ANTLE
 Clerk of the Board

GLENN MCGOURTY, 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.

Deputy

APPROVED AS TO FORM:
Christian M. Curtis
County Counsel

BY: DARCIE ANTLE
 Clerk of the Board

Deputy

ORDINANCE NO. _____

ORDINANCE OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS ADOPTING 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 18.23.250 – 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 (1) or more habitable rooms, and not exceeding two and one-half stories, intended or designed to be occupied by one (1) 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 (2 ½) stories; and~~

~~(2) — Not exceeding two thousand (2,000) square feet of conditioned habitable space, unless the dwelling includes fire sprinklers.~~

~~**Section 2.** Section 18.23.345 — Fire Safety Requirements, is hereby amended 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.~~

~~For purposes of this chapter, residential fire sprinklers shall not be required in limited density rural dwellings containing two thousand (2,000) or fewer square feet of conditioned habitable space. When fire sprinklers are required, fire sprinkler design plans shall adhere to current NFPA 13R requirements and be prepared by a fire protection engineer, a C-16 licensed fire protection contractor, a mechanical engineer, or a qualified homeowner.~~

~~**Section 3.** Section 18.23.430 — Water Supply, is hereby amended to read as follows:~~

~~**Sec. 18.23.430 — Water Supply.**~~

~~Potable water shall be available to the dwelling site, although such water need not be pressurized. Where water is not piped from a well, spring, cistern, or other source, there shall be a minimum reserve of 200 gallons of potable water available. Where water delivery is pressurized, piping shall be installed in accordance with the provisions of this article. When fire sprinklers are required pursuant to this Chapter, adequate water supply shall be confirmed by the fire sprinkler design plan.~~

Section 42. Section 18.23.443 - Findings and Support of Adoption of Ordinance Amending Chapter 18.23 of the Mendocino County Code "Regulations for Limited Density Rural Dwellings" (2023), is hereby added to read as follows:

Sec. 18.23.443 - Findings and Support of Adoption of Ordinance Amending Chapter 18.23 of the Mendocino County Code "Regulations for Limited Density Rural Dwellings" (2023).

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 allow for larger homes to be constructed ~~with additional safety requirements~~ while still providing for the flexibility of allowing limited density rural dwellings a performance standard of evaluation.
- (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 53. 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 42 of this Ordinance and the findings made in the new Section 18.23.443. 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 64. 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 75. 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 _____, 2023, by the following roll call vote:

AYES:
NOES:
ABSENT:

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

ATTEST: DARCIE ANTLE
 Clerk of the Board

Deputy

APPROVED AS TO FORM:
Christian M. Curtis
County Counsel

GLENN MCGOURTY, 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: DARCIE ANTLE
 Clerk of the Board

Deputy

SUMMARY

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

This Ordinance is amending Section 18.23.250 of the Mendocino County Code regarding limited density rural dwellings to allow for limited density rural dwellings to exceed 2,000 square feet of conditioned habitable space.