

**An Ordinance Amending the Regulations for Limited
Density Owner-Built Rural Dwellings with Findings**

The Board of Supervisors of the County of Butte ordains as follows:

Section 1. Section 26-61 is amended to read as follows:

Section 26-61. Purpose and Findings

a) Purpose. The purpose of this Article is to make Article 8 (commencing with Section 74) of Subchapter 1 of Chapter 1 of Division 1 of Title 25 of the California Code of Regulations, as modified herein, operative on Limited Density Owner-Built Rural Dwellings in Butte County (as defined in Section 26-63, "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/or appurtenant or non-habitable structures. It is also the expressed purpose of this Article to conform the regulations regarding the construction and use of such dwellings and/or appurtenant or non-habitable structures to the requirements of Article 1, Section 1 of the California State Constitution, and the statutes of the State of California.

It is also the purpose of this Article 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

1 improvement of property, and provide minimum requirements for the
2 protection of life, limb, health, property, safety, and welfare of
3 the general public and the owners and occupants of Limited Density
4 Owner-Built Rural Dwellings and/or appurtenant or non-habitable
5 structures.

6 b) Findings. It is necessary to modify said Article 8 and to
7 make its provisions, as modified, operative because of the
8 following local conditions:

9 1. The recent wildfires within Butte County (Wall fire in July
10 2017, Ponderosa fire in September 2017, the Wind complex fires in
11 October 2017) resulted in the loss of many dwellings and
12 outbuildings in the rural areas. The majority of these structures
13 were uninsured or underinsured. A number of other fires in recent
14 history have had an additional cumulative detrimental effect, and
15 replacement of homes and restoration of these communities has
16 placed an unprecedented financial burden upon the populations of
17 these rural areas. These regulations started as a pilot program in
18 2009 within the Concow/Yankee Hill and Big Bend area after the July
19 2008 Butte Lightning complex fires, were extended in 2012, and
20 readopted in 2016 as a permanent ordinance to facilitate the
21 availability of affordable, owner-built homes which are essential
22 to the continued health and welfare of the residents of these rural
23 communities.

24 2. The ability to use owner generated materials, such as lumber
25 milled from harvested timber, creates an affordable option for
26 building materials not available under current Butte County
27 building codes.

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1 3. Citizens within the Rural Zones of unincorporated Butte County
2 outside the Municipal Spheres of Influence as approved by the Butte
3 Local Agency Formation Commission have expressed a desire to
4 legalize the construction of Limited Density Owner-Built Rural
5 Dwellings in compliance with this Article, and have emphasized the
6 values of affordability, sustainability, self-sufficiency,
7 creativity and character of the rural communities.

8 4. A large portion of the unincorporated area of Butte County is
9 very remote, and utility services are cost prohibitive and
10 difficult if not impossible to obtain. The lack of readily
11 available public water, sewer or utility power connections would
12 exclude participation in the normal permit process and create an
13 unreasonable burden to the property owner to comply with the
14 prescriptive building and development requirements of the
15 California Building Standards Code (Title 24 of the California Code
16 of Regulations).

17 Section 2. Section 26-63 is amended to read as follows:

18 **Section 26-63. Definitions**

19 For the purposes of this Article the following definitions shall
20 apply:

21 a) LIMITED DENSITY OWNER-BUILT RURAL DWELLING: Any structure
22 consisting of one or more habitable rooms intended or designed to
23 be occupied by one family with facilities for living and sleeping,
24 with use restricted to rural areas that fulfill the requirements of
25 this Article.

26 b) OWNER-BUILT: Constructed by a general contractor licensed to
27 practice in the State of California for an owner, or constructed by
28 any person or family who acts as the owner builder or general

1 contractor, or the provider of, part or all of the labor necessary
2 to build housing to be occupied as the principal residence of that
3 person or family, and not intended for sale, lease, rent or
4 employee occupancy.

5 c) SALE, LEASE, OR RENT: For the purposes of this Article the
6 sale, lease, renting or employee occupancy of owner-built
7 structures within three (3) years of final inspection, issuance of
8 a final approval to allow occupancy/use, or completion of the
9 structure shall be presumptive evidence that the structure was
10 erected for the purpose of sale, lease, rent, or employee
11 occupancy. The three (3) year period of required owner occupancy
12 may be waived in cases of Unreasonable Hardship.

13 d) RURAL: For the purposes of this Article only, "rural" shall
14 mean legal parcels in unincorporated areas of the County that meet
15 each of the following criteria:

- 16 1. A minimum parcel size of 1 acre.
- 17 2. Rural zones of unincorporated Butte County include Agriculture
18 (AG), Timber Mountain (TM), Timber Production (TPZ), Rural
19 Residential (RR), Rural Country Residential (RCR), Foothill
20 Residential (FR), Foothill Country Residential (FCR), Resource
21 Conservation (RC), and Community Commercial (CC) zones, outside the
22 Municipal Spheres of Influence as approved by the Butte Local
23 Agency Formation Commission.
- 24 3. A parcel created in compliance with the Butte County Code.
- 25 4. A parcel of sufficient size and configuration to fulfill the
26 sewage disposal system setbacks to all property lines and all other
27 setbacks established by law.

28 e) APPURTENANT STRUCTURES: Structures directly related to the

1 primary residential use, including but not limited to detached
2 bedrooms or hobby rooms used as living space, garages, or pump
3 houses. Non-habitable structures include, but are not limited to,
4 shops, barns, or sheds, including those considered accessory to the
5 zone.

6 f) SUB-STANDARD BUILDING: A structure or portion of a structure
7 in which there exists any condition that endangers the life,
8 health, property, safety or welfare of the public or the occupants
9 thereof. Except as amended by the provisions of this Article,
10 Chapter 10 of the Uniform Housing Code, 1997 Edition, as published
11 by the International Conference of Building Officials, currently
12 called International Code Council or other code as adopted shall be
13 the determining criteria for compliance with the standards of this
14 Article and the defining of a substandard building.

15 g) SOUND STRUCTURAL CONDITION: A structure shall be considered
16 to be in "sound structural condition" when all portions of the
17 structure are adequately constructed to resist expected gravity and
18 lateral forces from wind and seismic forces. Building plans must
19 provide sufficient detail to determine how gravity and lateral
20 forces are distributed vertically and horizontally from their
21 points of origin to the load resisting elements. Portions of the
22 structures that are irregular in shape, complex design, or
23 incorporate unusual building materials or practices may require
24 design by a California registered design professional at the
25 discretion of the Building Official.

26 h) UNREASONABLE HARDSHIP: Unreasonable hardship exists when the
27 Building Official finds that compliance with the requirement for a
28 minimum of 3 years of owner occupancy is unfeasible, due to

1 circumstances forcing the sale or rental of the property, including
2 but not limited to the death, divorce, loss of employment or
3 income, or disability of the owner, supported by sufficient
4 information provided by the applicant.

5 Section 3. Section 26-64 is amended to read as follows:

6 **Section 26-64. Regulation of Use**

7 a) Housing permitted pursuant to this Article shall be for
8 occupancy as the principal residence of the owner or the owner's
9 family and not for sale, lease, rent, or employee occupancy.

10 b) For the purposes of this Article the sale, lease, renting or
11 employee occupancy of owner-built structures within three years of
12 the issuance of a final approval to occupy/use or completion of the
13 structure shall be presumptive evidence that the structure was
14 erected for the purpose of sale, lease, renting, or employee
15 housing.

16 c) Second dwellings and accessory dwelling units in conformance
17 with Butte County Code Section 24-172 and Section 65852.2 of the
18 California Government Code using a Limited Density Owner-Built
19 Rural Dwelling permit shall be allowed for a family member using
20 the same criteria as the primary dwelling. After/or during
21 original construction, additions may be permitted to be made to
22 such a dwelling, and non-habitable structures, whether appurtenant
23 thereto or otherwise, may be permitted after approval by the
24 Building Division.

25 d) The restrictions of this Article on the sale, lease, renting, or
26 employee occupancy of these dwellings may be reasonably amended to
27 be more restrictive if the governing body determines that such an
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1 amendment is necessary to ensure compliance with the intent of this
2 Article.

3 Section 4. Section 26-71 is amended to read as follows:

4 **Section 26-71. Permits**

5 Permits shall be required for the construction of Limited Density
6 Owner-Built Rural Dwellings and/or appurtenant or non-habitable
7 structures. The application, plans, and other data filed by an
8 applicant for such a permit shall clearly state that it is for a
9 Title-25 Limited Density Owner-Built Rural Dwelling structure and
10 shall be reviewed by the Department of Development Services,
11 Building Division, to verify compliance with the provisions of this
12 Article. When the Building Official determines that the permit
13 application and other data indicate that the structure(s) will
14 comply with the provisions of this Article, the agency shall issue
15 a permit therefor to the applicant.

16 Section 5. Section 26-72 is amended to read as follows:

17 **Section 26-72. Exemptions**

18 Permits shall not be required pursuant to Section 26-71 for small
19 or unimportant work, or alterations or repairs that do not present
20 a health or safety hazard, and which are in conformance with local
21 zoning requirements or property standards. The determination, if
22 any, of what work is properly classified as small or unimportant or
23 without relation to health and safety hazards is to be made by the
24 Building Official. Examples of work exempt from permits include,
25 but are not limited to, the exemptions listed in the current
26 adopted California Residential Code.

27 Section 6. Section 26-74 is amended to read as follows:

28 **Section 26-74. Application**

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

- 4 1. name and mailing address of the applicant;
- 5 2. address, assessors parcel number, and location of the proposed
6 structure(s);
- 7 3. a general description of the structure(s) which shall include
8 mechanical installations with all clearances and venting procedures
9 detailed, electrical installations, plumbing fixtures, foundation,
10 structural, and construction details;
- 11 4. a site plan indicating the location of the dwelling in relation
12 to property lines, other structures, sanitation and bathing
13 facilities, water resources, and water ways, slope of site, major
14 land features, and all required items on the Butte County Building
15 Division "Site Plan Requirements" handout;
- 16 5. approval for the installation of a private sewage disposal
17 system or alternate waste disposal means from the Butte County
18 Public Health Department, Environmental Health Division;
- 19 6. a stipulation by the applicant that the building or structure is
20 to be owner-built;
- 21 7. the signature of the owner, contractor, or authorized agent;
- 22 8. the use or occupancy for which the work is intended; and
- 23 9. any other data or information as may be required by statute or
24 Butte County regulation.

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26 Section 7. Section 26-75 is amended to read as follows:

27 **Section 26-75. Plans**

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1 Plans shall consist of a general description of the structure(s),
2 including all necessary information to facilitate a reasonable
3 judgment of conformance by the Building Division. This shall
4 include a diagram of the floor plan and site elevation in order to
5 determine the appropriate dimensions of structural members.

6 Architectural drawings and structural analyses shall not be
7 required. For structures of complex design or unusual conditions
8 for which the Building Division cannot make a reasonable judgment
9 of conformance to this Article based upon the general description
10 and simplified plan(s), the Building Official may require
11 additional supporting information sufficient to make a judgment as
12 to the integrity of the design.

13 Section 8. Section 26-80 is amended to read as follows:

14 **Section 26-80. Special Inspections**

15 Additional inspections may be conducted under the following
16 circumstances: An inspection shall be conducted where there is a
17 reasonable expectation that the foundation system will be subjected
18 to excessive vertical or lateral movement due to site topography,
19 expansive soils, or other unstable soil conditions; or the
20 application indicates that interior wall coverings or construction
21 elements will conceal underlying construction, electrical or
22 mechanical systems; or where an unconventional construction method
23 is indicated which would preclude examination at a single
24 inspection.

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27 Section 9. Section 26-82 is amended to read as follows:

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1 **Section 26-82. Supplemental/Additional Inspection Requests and**
2 **Notice**

3 It shall be the duty of the applicant to notify the Building
4 Official that the construction is ready for inspection and to cause
5 the work to remain accessible and exposed for inspection purposes,
6 and to provide access to the premises. Inspections shall be
7 requested by the applicant at least twenty-four (24) hours in
8 advance of the intended inspection. It shall be the duty of the
9 enforcement agency to notify or inform the applicant of the day
10 during which the inspection is to be conducted.

11 Section 10. Section 26-89 is amended to read as follows:

12 **Section 26-89. Fire Safety Regulations**

13 A Limited Density Owner-Built Rural Dwelling permit application
14 shall be reviewed by Cal Fire Butte County for compliance with
15 Public Resources Code sections 4290 and 4291, and Butte County
16 Code.

17 All Limited Density Owner-Built Rural Dwellings shall comply with
18 the "Materials and Construction Methods for Exterior Wildfire
19 Exposure" requirements found in the current adopted California
20 Residential Code or in the latest adopted version of the California
21 Building Code, Chapter 7A. Fire sprinklers shall be installed
22 within all residential structures greater than one thousand two
23 hundred (1200) square feet (Manufactured Homes are exempt from this
24 requirement). Residential fire sprinklers shall be connected to,
25 and installed in accordance with, an automatic residential fire
26 sprinkler system that complies with NFPA 13D or current adopted
27 California Residential Code.

28 Section 11. Section 26-90 is amended to read as follows:

1 **Section 26-90. Construction Requirements**

2 1. STRUCTURAL REQUIREMENTS. Buildings or structures constructed
3 pursuant to this Article may be of any type of construction which
4 will provide for a sound structural condition. Structural hazards
5 which result in an unsound condition, and which may constitute a
6 substandard building, are defined by the 1997 Uniform Housing Code,
7 section 1001.3.

8 2. FOUNDATIONS. Pier foundations, stone masonry footings and
9 foundation systems, pressure treated lumber, poles, or equivalent
10 foundation materials or designs may be used provided that the
11 bearing and lateral stability is sufficient for the purpose
12 intended.

13 3. MATERIALS. Owner-produced or used materials and appliances
14 may be utilized unless found not to be of sufficient strength or
15 durability to perform the intended function; owner-produced or used
16 lumber may be utilized unless found to contain dry rot, excessive
17 splitting, or other defects obviously rendering the material unfit
18 in strength or durability for the intended purpose. Wall and floor
19 framing shall not be enclosed when the framing members exceed 19-
20 percent moisture content as required by the most current adopted
21 California Green Building Standards Code.

22 4. HEATING CAPACITY. A heating facility or appliance shall be
23 installed in each dwelling subject to the provisions of this
24 Article; however, there shall be no specified requirement for
25 heating capacity or temperature maintenance. The use of a solid
26 fuel or solar heating device shall be deemed as complying with the
27 requirements of this section. If a non-renewable fuel is used in
28 these dwellings, rooms so heated shall meet current insulation

1 standards.

2 5. ROOM REQUIREMENTS. There shall be no requirements for room
3 dimensions provided that there is adequate light and ventilation
4 and adequate means of egress.

5 Section 12. Section 26-94 is amended to read as follows:

6 **Section 26-94. Electrical Installation Requirements**

7 Where electrical wiring or appliances are installed, the
8 installation shall be in accordance with the applicable
9 requirements contained in the most recently adopted version of the
10 California Electrical Code, Part 3, Title 24, California Code of
11 Regulations. Smoke and carbon monoxide alarms shall be installed
12 per the most current adopted California Residential Code. If
13 electrical wiring is not being installed, alarms may be battery
14 operated and must contain 10-year batteries.

15 Section 13. Severability. If any provision of this Ordinance or
16 the application thereof to any person or circumstances is for any
17 reason held to be invalid by a court of competent jurisdiction,
18 such provision shall be deemed severable, and the invalidity
19 thereof shall not affect the remaining provisions or other
20 applications of the Ordinance which can be given effect without the
21 invalid provision or application thereof.

22 Section 14. Effective Date and Publication. Prior to the effective
23 date, the Building official shall file a copy of this ordinance
24 with the Department of Housing and Community Development complete
25 with the local findings for each local change or modification to
26 the alternative regulations contained within State Housing Law or
27 California Building Standards Law pertaining to Limited Density
28 Owner-Built Rural Dwellings. This Ordinance shall take effect

1 thirty (30) days after the date of its passage. The Clerk of the
2 Board of Supervisors is authorized and directed to publish a
3 summary of this ordinance before the expiration of fifteen (15)
4 days after its passage. This ordinance shall be published once,
5 with the names of the members of the Board of Supervisors voting
6 for and against it, in a newspaper of general circulation published
7 in the County of Butte, State of California.

8 **PASSED AND ADOPTED** by the Board of Supervisors of the County of
9 Butte, State of California, on the 26th day of June, 2018, by the
10 following vote:

11 **AYES:** Supervisors Connelly, Wahl, Kirk, Teeter, and Chair Lambert

12 **NOES:** None

13 **ABSENT:** None

14 **NOT VOTING:** None

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17 **STEVE LAMBERT**, Chair
18 Butte County Board of Supervisors

19 **ATTEST:**
20 **SHARI MCCRACKEN**, Chief Administrative Officer
21 and Clerk of the Board

22 By: 
23 Deputy