



EL DORADO COUNTY PLANNING & BUILDING DEPARTMENT

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Date: September 8, 2021

To: Honorable Board of Supervisors

From: Rob Peters, Deputy Director of Planning

Subject: Minor Edits for Clarification to the Caldor Fire Resiliency and Rebuilding Ordinance (Urgency Ordinance 5150) - Legistar #21-1469

Based on initial feedback received regarding the draft Caldor Fire Resiliency and Rebuilding Ordinance, staff is providing redlined recommended minor edits for clarification purposes.

Attachments: Caldor Fire Resiliency and Rebuilding Ordinance (Redline Edits)



ORDINANCE NO. _____

**AN URGENCY ORDINANCE
ADDING CHAPTER 130.69 TO TITLE 130 OF THE EL DORADO COUNTY CODE
TO ADDRESS TEMPORARY EMERGENCY HOUSING,
RESILIENCY, AND REBUILDING AFTER THE 2021 CALDOR FIRE**

WHEREAS, Government Code Section 25131 allows urgency ordinances to be passed immediately upon introduction at either a regular or special meeting and Government Code Section 25123 states that ordinances adopted for the immediate preservation of the public peace, health, or safety shall contain a declaration of the facts constituting the urgency, must be passed by 4/5ths vote of the Board of Supervisors, and are effective immediately; and

WHEREAS, conditions of extreme peril to the safety of persons and property within the County of El Dorado were caused by fast-moving and widespread wildfires, referred to as the Caldor Fire, commencing on the 14th day of August 2021, at which time the Board of Supervisors was not in session; and

WHEREAS, pursuant to El Dorado County Ordinance Code Chapter 2.21, the Sheriff is designated as the Director of the Office of Emergency Services and, as such, is authorized to proclaim a local emergency; and

WHEREAS, on August 17, 2021, the Sheriff, as the Director of the Office of Emergency Services, proclaimed a local emergency based on conditions of extreme peril to the safety of persons and property within the territorial limits of the County of El Dorado as a result of the Caldor Fire; and

WHEREAS, in Resolution 104-2021 adopted on August 19, 2021, the Board of Supervisors found that conditions of extreme peril exist due to an imminent and proximate threat to the safety of persons and property within the territorial limits of the County of El Dorado as a result of the Caldor Fire for reasons set forth in the proclamation of local emergency by the County's Sheriff, acting as the Director of the Office of Emergency Services, dated August 17, 2021, and ratified the local emergency proclamation, which continues in effect until terminated by the Board of Supervisors and has not been terminated on the date this urgency ordinance is adopted; and

WHEREAS, on August 17, 2021, the Governor of the State of California proclaimed a State of Emergency for El Dorado County due to the Caldor Fire; and

WHEREAS, on September 1, 2021, the President of the United States declared the existence of an emergency in the State of California and ordered Federal aid to supplement state and local recovery efforts due to the emergency conditions resulting from the Caldor Fire beginning on August 14, 2021, and continuing; and

WHEREAS, as reported by the California Department of Forestry and Fire Protection (CalFIRE) on September 3, 2021, the Caldor Fire to date has consumed over 212,907 acres in El Dorado County and has led to the destruction of at least 661 residential structures, 184 other structures, and 12 commercial properties with only 29% containment; and

WHEREAS, pursuant to Government Code Section 65852.150, the California Legislature found and declared that, among other things, California faces a severe housing crisis and is falling far short of meeting current and future housing demand; and

WHEREAS, even prior to the Caldor Fire, the Board of Supervisors previously found when adopting Ordinance 5136 that there is insufficient availability of temporary shelter to adequately house more vulnerable populations; and

WHEREAS, the housing units destroyed by the Caldor Fire increased this housing shortage and increased the need for temporary housing units for families displaced by the Caldor Fire due to the destruction of their homes; and

WHEREAS, the Board of Supervisors finds that amendments to the County's Zoning Ordinance are necessary to allow the fastest possible transition of displaced residents to interim and long-term shelter, including the rebuilding of homes and communities destroyed by the Caldor Fire; and

WHEREAS, it is essential that the changes made by this ordinance to the El Dorado County Code and various County housing, permitting, and health and safety policies related to use and occupancy of dwellings and rebuilding of homes and communities be implemented immediately.

NOW, THEREFORE, BE IT RESOLVED THAT THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO ORDAINS AS FOLLOWS.

Section 1. The Board of Supervisors finds and declares that the above recitals are true and correct and are incorporated herein.

Section 2. Chapter 130.69 of Title 130, Article 6 of the El Dorado County Ordinance Code entitled "Caldor Fire Resiliency and Rebuilding" is hereby added to read as follows:

ARTICLE 6 – ZONING ORDINANCE ADMINISTRATION

CHAPTER 130.69 – CALDOR FIRE RESILIENCY AND REBUILDING

Section 130.69.100 – Title

This chapter shall be known as the Caldor Fire Resiliency and Rebuilding Ordinance.

Section 130.69.110 – Purpose

This chapter is enacted for the purposes of modifying and temporarily suspending various County housing-related, permitting, and health and safety provisions and policies to expedite recovery and rebuilding of homes and communities destroyed or damaged by the Caldor Fire and to ensure that persons displaced as a result of the Caldor Fire are housed in safe, healthy, and habitable housing during the recovery period and can repair or rebuild damaged homes and communities as efficiently as possible while protecting public health and safety.

Section 130.69.120 – Definitions and Specialized Terms and Phrases

The terms and phrases in this Chapter 130.69 shall have the meanings ascribed to them in Article 8 (Glossary) and, for terms and phrases not provided in Article 8 (Glossary), shall have the meanings ascribed to them in this Section 130.69.120, except where the context clearly indicates a different meaning:

Accessory Dwelling Unit. A residential unit for one or more persons, either attached or detached, that provides complete and permanent independent provisions for living, sleeping, eating, cooking, and sanitation facilities on the same parcel as the proposed or existing primary residence and is situated in all zones that permit single-family or multi-family dwelling residential uses. An accessory dwelling unit also includes an efficiency unit as defined in Section 17958.1 of the Health and Safety Code or a manufactured home as defined in Section 18007 of the Health and Safety Code. This use type is intended to be consistent with Government Code Section 65852.2 and all other state laws as those laws are amended from time to time. If there is any conflict between this use classification and state law, state law shall prevail. This term includes secondary dwelling as currently utilized in Section 130.40.300 until that section is amended consistent with state law and, upon amendment, this term includes the definition provided by amendment.

Burn Area. All of that land contained within the California Department of Forestry and Fire Protection (CalFIRE) 2021 Caldor Fire Perimeter at the time the Caldor Fire is at 100% containment.

Caldor Fire. The fire that swept El Dorado County beginning on August 14, 2021, as referenced in Board of Supervisors Resolution 104-2021, adopted August 19, 2021, and which was the subject of the Proclamation of a State of Emergency by Governor Gavin Newsom and declaration of emergency by President Joseph R. Biden.

Displaced Person(s). A county resident or residents, including owners and renters, whose dwelling or accessory dwelling unit has been destroyed or damaged by the Caldor Fire, such that the resident(s) cannot occupy the dwelling or accessory dwelling unit. Displaced person(s) may be required to provide verification to the County to substantiate their eligibility for uses, permits, and/or benefits described in this Chapter 130.69. Evidence, as determined acceptable by the Planning and Building Department Director or his or her designee, may include but is not limited to verification by Federal Emergency Management Agency (FEMA) registration or damage assessment, a driver's license or other government-issued identification card or utility bill with a physical address showing the resident resided on a legal, fire-damaged lot in the burn area, or a rental or lease agreement for a property on a fire-damaged lot in the burn area. ~~During the debris removal stage~~ ~~W~~-within or adjacent to the burn area, displaced person(s) may include residents whose dwellings were not damaged or destroyed but who require temporary emergency housing ~~because they are unable to access or reside in their home due to damage to roads or infrastructure as a result of the Caldor Fire or, during the debris removal stage, during~~ debris removal on surrounding fire-damaged lots ~~would expose those residents due~~ to potential health risks from debris removal.

Fire-Damaged Lot. A lot, as defined in Section 130.80.020 of this Code, that as of August 14, 2021, contained a legal permitted or legal nonconforming dwelling or structure that was damaged or destroyed as a result of the Caldor Fire.

Legal Nonconforming Structure. A structure that was lawfully established before the adoption of this Title 130, but which may be prohibited, regulated, or restricted differently under the terms of this Title 130, as amended. A legal nonconforming structure does not include any structure that was illegal when constructed or constructed without a permit, if a permit was required at the time of construction.

Legal Nonconforming Use. A use that was lawfully established before the adoption of this Title 130, but which may be prohibited, regulated, or restricted differently under the terms of this Title 130, as amended. A legal nonconforming use does not include any use that was illegal when commenced or commenced without a permit, if a permit was required at the time of commencement.

Reconstruction. Replacement of a conforming or legal nonconforming structure that was destroyed by the Caldor Fire on the same lot and with no change in use.

Repair. Repair of a conforming or legal nonconforming structure damaged as a result of the Caldor Fire on the same lot with no change in use.

Substantially Equivalent. Shall have the same meaning as the term in subdivision (c) of Section 70 of the Revenue and Taxation Code.

Temporary Recreational Vehicle. Motor home, travel trailer, truck camper, or camping trailer, with or without motive power, originally designed for human habitation that is: designed for recreational or emergency occupancy; contains less than 320 square feet of internal living room

area, excluding built-in equipment, including, but not limited to, wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms; contains 400 square feet or less of gross area measured at maximum horizontal projections; is built on a single chassis; is self-propelled or permanently towable or transportable on a vehicle on California roadways bearing the state or federal insignia of approval for recreational vehicles and maintains current registration with the Department of Motor Vehicles (DMV) for the motor home, travel trailer, vehicle utilized for the camper, or camping trailer.

Section 130.69.130 – Implementation

The Planning and Building Department Director or his or her designee may establish administrative standards for use in implementing this Chapter 130.69. Any administrative standards established pursuant to this Chapter 130.69 shall be in writing and made available to the public on the website of the Planning and Building Department with a copy provided upon request by a member of the public.

Section 130.69.140 – Term and Expiration

Except as may be otherwise specified herein, this Chapter 130.69 and all its provisions shall expire and be of no further force or effect after December 31, 2026, unless extended or modified by the Board of Supervisors.

Section 130.69.150 – Conflict with State Law and Regulations

- A. This Chapter 130.69 is not intended and shall not be interpreted to conflict with the laws or constitution of the State of California.
- B. Nothing in this Chapter 130.69 is intended to supersede or suspend regulatory requirements or authority of the State Department of Housing and Community Development to regulate residential use of recreational vehicles in special occupancy parks or otherwise, except as such provisions may be suspended or modified by state law, executive order, or emergency proclamation by the Governor.

Section 130.69.160 – Temporary Recreational Vehicles

- A. For fire-damaged lots in the burn area where the Caldor Fire destroyed or damaged a dwelling, two temporary recreational vehicles with an additional recreational vehicle for any legal accessory dwelling unit that was destroyed or damaged may be permitted in compliance with the permit requirements under Section 130.52.050.D.5 (Temporary Mobile Home Permit) unless otherwise stated herein. Notwithstanding Section 130.52.050.D.5, a temporary recreational vehicle on a fire-damaged lot in the burn area may be used as a rental unit for displaced persons only if a dwelling or accessory dwelling unit on that lot was made available for rent for a term more than 30 days within 6 months of the Caldor Fire.

- B. No temporary recreational vehicle may be permitted or located on a fire-damaged lot without the concurrence of the Environmental Management Department. Any Temporary Mobile Home Permit may be denied because the debris on the property or status of debris removal results in health or safety hazards.
- C. Within the burn area, temporary recreational vehicles may be located on fire-damaged lots within zoning ordinance setback areas, excluding riparian setback areas, if such location is necessary to allow for unobstructed reconstruction on the lot.
- D. During the first three years from the effective date of this Chapter 130.69, generators are an acceptable source of power for temporary recreational vehicles permitted under this Chapter 130.69 on fire-damaged lots in the burn area. After the first three years from the effective date of this Chapter 130.69, generators are not an acceptable source of power for temporary recreational vehicles.
- E. **Notwithstanding** ~~In addition to permit expiration provided for in~~ Section 130.52.050.E, a **Temporary Mobile Home Permit under this section shall automatically expire, on no later than** the expiration date of this ~~C~~chapter 130.69 or within 30 days of issuance of the certificate of occupancy, whichever is earlier. **Upon expiration**, every temporary recreational vehicle used as temporary emergency housing pursuant to this chapter shall be disconnected from sewer, septic, water, and/or power connections and residential occupancy of the temporary recreational vehicle shall no longer be a legal use unless authorized under state law or permitted under this Title 130 without the benefit of any exceptions under this Chapter 130.69.

Section 130.69.170 – Temporary Mobile Homes

- A. For fire-damaged lots in the burn area where the Caldor Fire destroyed or damaged a dwelling, one temporary mobile home may be allowed on a lot of any size in compliance with the permit requirements under Section 130.52.050.B.1 (Temporary Mobile Home Permit). A temporary mobile home under this Chapter 130.69 may be used as a rental unit on a fire-damaged lot in the burn area for displaced persons only if a dwelling or accessory dwelling unit on that lot was made available for rent for a term more than 30 days within 6 months of the Caldor Fire.
- B. No temporary mobile home may be permitted or located on a fire-damaged lot without the concurrence of the Environmental Management Department. Any Temporary Mobile Home Permit may be denied because the debris on the property or status of debris removal results in health or safety hazards.
- C. **Notwithstanding** ~~In addition to permit expiration provided for in~~ Section 130.52.050.E, a **Temporary Mobile Home Permit under this section shall automatically expire on no later than** the expiration date of this ~~C~~chapter 130.69 or within 30 days of issuance of the certificate of occupancy, whichever is earlier. **Upon expiration**, every temporary mobile home used as temporary emergency housing pursuant to this chapter shall be disconnected

from sewer, septic, water, and/or power connections and removed from the lot on which it is located, including any installed pad or foundation, or shall be permitted in compliance with Title 130 without the benefit of any exceptions under this Chapter 130.69.

Section 130.69.180 – Shipping Containers for Temporary Storage

Shipping containers for temporary storage of personal property may be permitted in the burn area with a building permit consistent with the “El Dorado County Building Services Policy for Residential Steel Shipping Containers Used as Storage.” Such shipping containers for temporary storage shall not be used for human habitation or have utility connections. A building permit for a shipping container under this section need not meet the one acre minimum and screening requirements under Section 130.40.320.D.4, but the permit shall expire and the shipping container shall be permitted in compliance with Section 130.40.320.D.4 or be removed from the parcel on which it is located no later than the expiration date of this Chapter 130.69 or within 30 days of issuance of the certificate of occupancy, whichever is earlier.

Section 130.69.190 – Temporary Emergency Housing in Accessory Structures

Notwithstanding the limitations in Section 130.40.030.D.6.c (Accessory Structures and Uses) or any other contrary provision of County Code and only during the term of this Chapter 130.69, existing legally permitted pool houses, workshops, artist studios, or other residential accessory structures within or outside of the burn area that do not satisfy the requirements of a guest house under Section 130.40.150 or an accessory dwelling unit may be used or rented as temporary emergency housing for displaced persons pursuant to an Administrative Permit under Section 130.52.010 and subject to all other existing regulations and limitations, including habitability standards and the Building Codes. Residential occupancy of such structures shall no longer be a legal use after the expiration of this Chapter 130.69 unless authorized as a legal use under state law or other section of this Title 130. A lot owner shall notify tenants in writing of the temporary nature of the emergency housing and shall require and retain for two years written documentation confirming that the individuals are displaced persons.

Section 130.69.200 – Lodging Facilities, Vacation Home Rentals, and Hotels and Motels

- A. Notwithstanding any contrary provision in County Code and pursuant to a Temporary Use Permit issued in accordance with Section 130.52.060, any rental for a displaced person may exceed 30 days during the term of this Chapter 130.69 in all lodging facilities under Section 130.40.170, including agricultural homestays, agricultural and timber resource lodging, bed and breakfast inns, guest ranches, and health resort and retreat centers, vacation home rentals under Chapter 5.56, and hotels and motels. For any rental in excess of 30 days under this section, the owner of the lodging facility, vacation home rental, hotel, or motel shall require and retain for two years written documentation confirming that the individuals are displaced persons.
- B. Fire-damaged lots in the burn area on which a fully approved and permitted vacation home rental was legally operating in August or July 2021 prior to the Caldor Fire may continue

to operate upon repair or reconstruction if lot ownership has not changed and the number of guestrooms within the vacation home rental does not change.

Section 130.69.210 – Agricultural Employee and Seasonal Worker Housing

Notwithstanding any contrary provision in County Code and pursuant to an Administrative Permit under Section 130.52.010, agricultural employee housing and seasonal worker housing under Section 130.40.120 may be rented to displaced persons during the term of this Chapter 130.69 throughout the year without any requirement that the displaced persons are agricultural employees or seasonal workers. For any rental under this section, the owner of the agricultural employee housing or seasonal worker housing shall require and retain for two years written documentation confirming that the individuals are displaced persons.

Section 130.69.220 – Campgrounds and Recreational Vehicle Parks

- A. For all campgrounds and recreational vehicle parks, the length of stay limit of 30 days in Section 130.40.100.D.9 (Campgrounds and Recreational Vehicle Parks) shall not apply to campsites occupied by displaced persons.
- B. For all campgrounds and recreational vehicle parks, a Temporary Use Permit may be issued in accordance with Section 130.52.060 to allow for an additional nine sites per developable acre in addition to the nine sites per developable acre provided for in Section 130.40.100.D.1 for a total maximum of eighteen sites per developable acre, provided that the additional density is limited to campsites made available only to displaced persons and there is adequate water supply and/or septic capability available to serve the additional campsites. The Temporary Use Permit allowing for increased density shall terminate upon expiration of this Chapter 130.69 and the allowable density after expiration of this Chapter 130.69 shall be governed by Section 130.40.100.D.1.
- C. A campground or recreational vehicle park utilizing an exception under this section shall require and retain for two years written documentation confirming that the individuals utilizing the campsite are displaced persons.

Section 130.69.230 – Caldor Fire Safe Parking Sites

- A. Safe parking sites allowing overnight parking for displaced persons on private property may be permitted pursuant to a Temporary Use Permit under Section 130.52.010. The Planning and Building Department Director or his or her designee shall not issue a Temporary Use Permit for a safe parking site without the concurrence of the Sheriff's Office and Environmental Management Department. A safe parking site shall include registration requirements to establish proof of displaced persons status, security protocols, and health and safety standards. A Temporary Use Permit for a safe parking site shall establish maximum capacity limits for the site and any other site-specific limitations deemed necessary or appropriate to protect public health and safety.

- B. Upon termination of a safe parking site permit or the expiration of this Chapter 130.69, whichever is earlier, the safe parking site shall no longer be a legal use and any facilities, equipment, alterations, or signage utilized for the safe parking site shall be removed.

Section 130.69.240 – Meyers Area Plan (MAP) Zones

Within the Meyers Area Plan (MAP) Zones provided for in Chapter 130.26, all temporary emergency housing options provided for in this Chapter 130.69 and flexibility in zoning for child care, ~~and~~ education, and church facilities provided for in Section 130.69.320 are intended to apply. Neither Chapter 130.26 nor the Meyers Area Plan shall be construed to prevent any of the permits provided for in this Chapter 130.69. Any exceptions made to Chapter 130.26, the Matrix of Allowed Uses (Table 130.26.050), development standards in Section 130.26.060, or the Meyers Area Plan to allow for any permit under this Chapter 130.69 shall expire and no longer be a legal use after expiration of this Chapter 130.69. Any permit issued under this Chapter 130.69 within the Meyers Area Plan Zones shall comply with all of the requirements and limitations provided in this Chapter 130.69 for the particular permit.

Section 130.69.250 – Permit Revocation

- A. The Planning and Building Department Director or his or her designee may revoke any permit issued under this Chapter 130.69, including but not limited to a Temporary Mobile Home Permit, an Administrative Permit, or a Temporary Use Permit, if the use, temporary emergency housing, structure, or condition violate this Chapter 130.69 or other County Code applicable to the permit, is unlawful under any state or federal law, appears to create a nuisance, such as by accumulation, proliferation, or dispersal of trash, debris, or personal possessions, or poses a threat to public health or safety.
- B. Prior to revocation of any permit under this Chapter 130.69, the Planning and Building Department shall serve the permit owner(s) via regular and certified mail a written notice that identifies the violations and provides 30 days to correct the violations. If the violations are not corrected within 30 days, the permit shall be revoked.
- C. The decision to revoke a permit under this section shall not be appealable, but a new permit under this Chapter 130.69 may be obtained after the violations are remedied and compliance with this Chapter 130.69 is demonstrated, provided that any outstanding citations or costs of abatement are paid in full.
- D. After permit revocation under this section or termination of a permit under the terms of the permit or the expiration of this Chapter 130.69, continued violations shall be deemed a public nuisance and shall be subject to enforcement under Chapter 9.02, including but not limited to administrative citations, abatement, summary abatement, and recovery of costs through liens.

Section 130.69.260 – Permit Fee Reductions and Waivers

- A. Upon written request of an applicant, the Planning and Building Department Director shall waive or reduce permit fees adopted and charged by the Planning and Building Department for:
1. Permits necessary for temporary emergency housing for displaced persons on fire-damaged lots in the burn area; or
 2. Permits necessary for demolition of a destroyed or damaged dwelling on fire-damaged lots in the burn area and for repair or reconstruction of a conforming or legal nonconforming dwelling on fire-damaged lots in the burn area, provided that the repair or reconstruction is substantially equivalent to the damaged or destroyed dwelling, the applicant owned the lot as of August 14, 2021, and the application is submitted prior to the expiration of this Chapter 130.69.
- B. No permit fee waiver or reduction may be granted for any permit fee that could otherwise be covered by insurance or could otherwise be covered through any other federal, state, local, private, or non-profit disaster relief program or grant. Before seeking a permit fee waiver or reduction, an applicant must provide written documentation to the satisfaction of the Planning and Building Department Director or his or her designee establishing that the applicant (1) does not have insurance; (2) the insurance company has denied payment of the permitting fee or the insurance coverage does not include the cost of permitting fees for repair or reconstruction; or (3) the insurance company has approved only partial payment of the permitting fee, in which case only the uncovered portion may be waived. If a permitting fee is initially denied by an insurance company and then recovered subsequent to any waiver or reduction of the permitting fee by the County, the applicant shall reimburse the County for the waived or reduced permitting fee up to the full amount covered by the insurance company within 30 days of receipt of the funds from the insurance company. Failure to reimburse the County shall be treated as a violation of the County Code and deemed a misdemeanor under Section 1.24.010.
- C. No permit fee waiver or reduction may be granted for any permit for an illegal use or structure.
- D. Permit fee waivers and reductions under this section are exempt from the Board of Supervisors Policy B-2.
- E. The County shall seek to fund or recover any waived or reduced permit fees through other disaster recovery grant programs or funding sources.

Section 130.69.270 – Development Impact Fees

Consistent with Government Code Section 66011, no development impact fee adopted pursuant to the Mitigation Fee Act may be applied to the repair or reconstruction of any conforming or legal nonconforming residential, commercial, or industrial development project on a fire-damaged lot in the burn area. Any repair or reconstruction of real property, or portion thereof, which is not

substantially equivalent to the damaged or destroyed dwelling or structure, shall be deemed to be new construction and only that portion which exceeds substantially equivalent construction may be assessed a fee.

Section 130.69.280 – Priority Permitting and Issuance Without Public Noticing

- A. All permits necessary for temporary emergency housing on fire-damaged lots in the burn area shall be prioritized over all other permits with the Planning and Building Department except for a permit that is subject to deadlines under state law and prioritizing that permit is necessary to meet the deadline in state law or the Planning and Building Department Director or his or her designee determines that prioritizing a permit is necessary to protect health or safety.
- B. All permits necessary for repair or reconstruction of a primary dwelling on a fire-damaged lot in the burn area submitted by the owner of the lot as of August 14, 2021 shall be prioritized over all other permits with the Planning and Building Department except for a permit that is subject to deadlines under state law and prioritizing that permit is necessary to meet the deadline in state law or the Planning and Building Department Director or his or her designee determines that prioritizing a permit is necessary to protect health or safety.
- C. **Notwithstanding Section 130.51.050 (Public Notice Requirements and Procedures) or any other provision in County Code, all permits under this Chapter 130.69 may be issued without any public noticing or public oversight.**

Section 130.69.290 – Mandatory Permit Language

The following statement shall be posted on the County website and provided to all applicants for building permits in the burn area: “Due to the large number of structures destroyed in the Caldor Fire, it is anticipated that there will be a large number of applications for building permits in the burn area after fire debris and hazardous materials have been cleaned up. Building permits in the Caldor Fire area will not be issued until after a property has been cleared of fire debris and hazardous materials as a result of the Caldor Fire. Even if a property has been cleared of fire debris and hazardous materials or never had any fire debris and hazardous materials, it does not mean that there are no other health hazards or dangers on the property, including dangers resulting from fire-damaged or hazard trees. Property owners and residents must do their own investigation to determine whether there are any other health hazards or dangers on the property. The issuance of a building permit for the property does not accomplish this task. A building permit is a ministerial action requiring only limited review by the County to ensure that the structure meets all applicable building standards. In most zones, an individual is allowed by right to construct a residence after receiving a building permit that only requires conformity to building standards. The building permit is issued based on information supplied by the applicant without independent investigation by the County of the property or potential health hazards or dangers. Given the limited scope of enforcement, it is not possible for the County to identify potential health hazards or dangers that are not directly associated with the permitted structure. The applicant is in a position to inspect the

property, identify potential health hazards or dangers, and tailor the application to avoid any potential health hazards or dangers.”

Section 130.69.300 – Legal Nonconforming Uses and Structures

- A. Consistent with Section 130.61.030, a legal nonconforming structure on a fire-damaged lot in the burn area may be repaired or reconstructed up to its pre-damage size and placement so long as the construction is completed within three years of the effective date of this Chapter 130.69 if located within a Community Region or five years of the effective date of this Chapter 130.69 if located in the remaining unincorporated area of the County. This section does not alter any requirements in the Building Codes and Fire Code to comply with the current provisions for any repair or reconstruction. The version of the Fire Safe Regulations in existence at the time of the application shall apply to any legal nonconforming structure. Under the version of the Fire Safe Regulations in effect when this Chapter 130.69 was adopted, and notwithstanding Section 1270.02 (Scope), reconstruction of a legal nonconforming structure shall comply with Section 1276.01 (Setback for Structure Defensible Space).
- B. Any legal nonconforming use prevented from continuation due to damage to a structure on a fire-damaged lot in the burn area may be restored if the structure necessary for the use is repaired or reconstructed consistent with subsection (A) above. Consistent with Section 130.61.040.I, any legal nonconforming use on a fire-damaged lot in the burn area where no structure was involved may be restored up to its pre-damaged size and intensity provided that it is reestablished within five years of the effective date of this Chapter 130.69. Any change or expansion in a legal nonconforming use shall be subject to Section 130.61.050. Nothing contained within this section shall be construed to allow a legal nonconforming use to be conducted in such a way as to constitute a public or private nuisance or a danger to the public health, safety, and welfare.

Section 130.69.310 – Lot Line Adjustments

Notwithstanding any contrary provision of County Code, a lot line adjustment approval that is valid and not expired as of August 14, 2021 is hereby extended one year beyond its current date of expiration.

Section 130.69.320 – Child Care, ~~and~~ Educational, ~~and~~ Church Facilities

Notwithstanding any contrary provision of County Code, relocation of any Child Day Care Home, Child Day Care Center, Employer-Sponsored Child Day Care Center, Specialized Education and Training, Community Care Facility, ~~and~~ Schools, including College and University and Elementary and Secondary, ~~and~~ Churches and Community Assembly on a fire-damaged lot in the burn area may be relocated to any existing buildings in any Commercial, Agricultural, Rural, and Resource, Industrial, or Research and Development Zone District subject only to an Administrative Permit in accordance with Section 130.52.010, and if required, a building permit for any renovations. Nothing in this title waives or affects any requirements under state law

applicable to such facilities. The Administrative Permit shall expire on or before the expiration of this Chapter 130.69 and any subsequent use covered in this section shall be subject to the requirements under Title 130, including but not limited to the Matrix of Allowed Uses for each zone district.

Section 130.69.330 – Approved Discretionary Permits

- A. Any time limit imposed consistent with Section 130.54.060 for a permit or authorization for which the permit or authorization was not exercised before the Caldor Fire on a fire-damaged lot in the burn area shall be automatically extended an additional two years.
- B. Consistent with Section 130.68.050.C, conforming structures occupied by conforming uses which are subject to a discretionary permit, to include but not be limited to a Conditional/Minor Use Permit, Variance, or Design Review Permit, may be reconstructed subject to previously approved site and building plans, with review by staff to ensure compliance with the discretionary permit. In the case where an approved site plan is not available for review, the property owner shall obtain issuance of an Administrative Permit in compliance with Section 130.52.010 (Administrative Permit, Relief, or Waiver) in Article 5 (Planning Permit Processing) of this Title, to ensure compliance with the previously approved discretionary permit and all applicable development standards for the zone.

Section 130.69.340 – CEQA Exemption

All applications and permits approved under the provisions of this Chapter 130.69 are exempt from the requirements of the California Environmental Quality Act (CEQA) in compliance with Public Resources Code Subsections 21080(b)(1) and (b)(3) and Section 15269 of the CEQA Guidelines.

Section 130.69.350 – Severability

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this chapter or any part thereof is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter or any part thereof. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase of this chapter irrespective of whether one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases is held invalid or ineffective.

Section 3. The Board of Supervisors hereby finds and determines that the adoption of this urgency ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080(b)(3) (projects to maintain, repair, restore, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor); Public Resources Code Section 21080(b)(4)

(actions necessary to mitigate an emergency); CEQA Guidelines Section 15269(a) (maintaining, repairing, restoring, demolishing, or replacing property or facilities damaged or destroyed as a result of a disaster-stricken area in which a state of emergency has been proclaimed by the Governor); CEQA Guidelines Section 15269(c) (specific actions necessary to prevent or mitigate an emergency); and CEQA Guidelines Section 15061(b)(3) (common sense exemption). The Caldor Fire Resiliency and Rebuilding Ordinance is necessary to implement future ministerial projects that will reduce threats to health and property caused by the Caldor Fire disaster and allow property owners to more efficiently repair or rebuild their damaged homes and communities.

Section 4. The Board of Supervisors hereby declares, based on the findings set forth above, that there is an immediate need to preserve the public health, safety, and welfare constituting the urgency for adoption of this ordinance pursuant to Government Code Sections 25131 and 25133. Accordingly, this ordinance is adopted as an urgency ordinance and shall take effect and be in force immediately upon adoption by the Board of Supervisors, and shall remain in effect from the date of its adoption through December 31, 2026, unless extended or modified by the Board of Supervisors.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the _____ day of _____, 2021, by the following vote of said Board:

Ayes:

Noes:

Absent:

ATTEST

KIM DAWSON

Clerk of the Board of Supervisors

Deputy Clerk

John Hidahl, Chair, Board of Supervisors

**APPROVED AS TO FORM
DAVID LIVINGSTON
COUNTY COUNSEL**

By: _____

Breann M. Moebius
Deputy County Counsel