



County of El Dorado

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Legislation Text

File #: 22-1365, **Version:** 1

HEARING - Planning and Building Department and Environmental Management Department recommending the Board:

- 1) Adopt and authorize the Chair to sign Urgency Ordinance **5163**, amending Title 130 (Zoning) of the El Dorado County Ordinance Code, Chapter 130.69 entitled "Caldor Fire Resiliency and Rebuilding Ordinance", Section 130.69.260, Permit Fee Reductions and Waivers, and adding Section 130.69.370, Environmental Management Department Permit Fees, to allow for the waiver of one hundred percent (100%) of all applicable Planning and Building Department and Environmental Management Department permit fees for eligible applicants, including those that are insured and uninsured in order to lessen the financial burden and provide an increased level of relief to residents displaced by the Caldor Fire; and
- 2) Find that Urgency Ordinance 5150, including any amendments thereto, is exempt from the California Environmental Quality Act (CEQA) pursuant to statutory exemption 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 declared disaster); Public Resources Code Section 21084(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); CEQA Guidelines Section 15269(c) (specific actions necessary to prevent or mitigate an emergency); and CEQA Guidelines Section 15061(b)(3) (Common Sense Exemption) (4/5 vote required).

FUNDING: General Fund.

DISCUSSION / BACKGROUND

On August 14, 2021, the Caldor Fire erupted in El Dorado County, quickly spread, and threatened the safety of residents and property. While the fire continued to burn, the Board acknowledged the need for 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.

On September 10, 2021 (File No. 21-1469, Item No. 3), the Board adopted Urgency Ordinance 5150 entitled Caldor Fire Resiliency and Rebuilding Ordinance," adding Chapter 130.69 of Title 130, Article 6 of the El Dorado Ordinance Code to provide for temporary emergency housing options for residents displaced by the Caldor Fire during the recovery and rebuilding process, and also included provisions to aid during repair and reconstruction of damaged and destroyed dwellings and other structures in the burn area.

On December 14, 2021 (File No. 21-1971, Item No. 53), the Board adopted Urgency Ordinance 5156, further modifying Chapter 130.69 of Title 130 to add Section 130.69.360, Community Services, to provide for the relocation of Community Services on a fire damaged lot in the Caldor burn area to an existing building in any Residential, Commercial, Agricultural, Rural, Resource, Industrial, or Research and Development Zone District under a Temporary Use Permit.

Additionally, in order to provide a level of financial relief to those impacted by the fire, Urgency

Ordinance 5150 also included criteria to allow for the reduction or waiver of applicable permit fees charged by the Planning and Building Department (Department) for eligible applicants.

The fees are levied on permits necessary for temporary emergency housing for displaced persons on fire-damaged lots in the burn area, or permits necessary for the demolition of a destroyed or damaged dwelling or structure, and for repair or reconstruction of a conforming or legal nonconforming dwelling or structure on fire-damaged lots in the burn area, provided that:

- The repair or reconstruction is substantially equivalent to the damaged or destroyed dwelling or structure(s);
- The applicant owned the lot(s) as of August 14, 2021; and
- The application is submitted prior to the expiration of Chapter 130.69.

Pursuant to Chapter 130.69, Section 130.69.260(B), fee waivers or fee reductions may be granted for applicants that:

- Do not have insurance;
- The insurance company has denied payment of the permitting fees;
- The insurance company does not include the cost of permitting fees for repair or reconstruction; or
- The insurance company has approved only partial payment of the permitting fee, in which case, only the uncovered portion may be waived.

Following the Board's adoption of Urgency Ordinance 5150 and in accordance with the implementation standards under Section 130.69.130, staff worked to develop a Caldor Fire permit fee reduction or waiver program based on the criteria noted above as well as a standardized permit fee waiver request and a streamlined review and approval process to confirm eligibility based on the adopted criteria and to expedite the fee waiver process for applicants.

During the fee waiver review and approval process, staff have worked closely with Caldor Fire survivors to bring fee waiver requests to resolution, but have encountered significant challenges related to applicants that are insured, but are unable to meet the established criteria and therefore not eligible for a fee waiver other than permit fees for Demolition permits, Temporary Mobile Home/Recreational Vehicle permits, and Temporary Electrical permits. Under the established criteria, insured applicants must provide written documentation that indicates their insurance company has denied payment of permitting fees, the cost of permitting fees is not included in their insurance policy, or the insurance company has approved only partial payment of permitting fees.

With the exception of two (2) out of 67 insurance policies and other associated insurance documents reviewed as of July 27, 2022, staff are unable to definitively determine whether or not the cost of regular building permitting fees are included in the coverage amount as insurance policies include a lump sum coverage amount for dwellings and other structures. Most policies do not specifically call out permit fees. Many of the insurance policies reviewed include a coverage often referred to as Law and Ordinance Updates; however, this coverage amount is intended to cover the costs associated with bringing damaged or destroyed dwellings and structures up to current code for items such as fire sprinklers and solar, and does not include standard building permits. While it can be reasonably inferred that the lump sum coverage amounts would include the cost of permitting fees as permits are

required to repair or rebuild in California, upon approval of the waiver of temporary permit fees, staff requested that applicants provide a written statement or confirmation from their insurance company in order to determine whether or not permitting fees are included in their coverage. This has proven to represent a significant and frustrating challenge as applicants are not able to get that confirmation from their insurance company. In these instances, staff have been unable to approve the waiver of any additional permitting fees.

Another significant challenge encountered has been related to applicants that do not have adequate insurance coverage (underinsured) necessary to replace their destroyed dwelling and/or structures. Provided permitting fees are included in the lump sum coverage amount, applicants with insurance would therefore be ineligible for a fee waiver under the current criteria. While it is unknown how many applicants will be considered underinsured until they submit their building permit applications and actual project costs are identified, it is estimated that a significant number of residents would not have coverage that covers 100% of the costs to rebuild their homes.

Given these challenges and the Department's interpretation of the Board's goals to provide financial relief to those affected by the Caldor Fire, staff are recommending that the Board consider amending Chapter 130.69 to extend a full fee waiver to those applicants that do have insurance regardless of their insurance coverage amount.

In addition to the permitting fees charged by the Planning and Building Department, the Environmental Management Department also has permitting requirements and fees for residential water wells and onsite wastewater treatment systems (septic systems) that are applicable to residents displaced by the Caldor Fire. Under the proposed amendments and with concurrence from the Environmental Management Department Director, staff are recommending that the Board approve the inclusion of fees charged by the Environmental Management Department pursuant to Chapter 8.39, Well Construction and Water Supply Standard, of Title 8, and Chapter 110.32, Onsite Wastewater Treatment Systems, of Title 110, for residential wells and septic systems as eligible permitting fees to be waived under Chapter 130.69 of Title 130, as amended.

The waiver of permitting fees charged by both the Planning and Building Department and Environmental Management Department provide for a significant and immediate public benefit and are necessary in order to provide an increased level of financial relief to residents displaced by the Caldor Fire as well as the continued preservation of public health and safety through addressing housing and shelter needs for those residents displaced by the Caldor Fire.

In addition to the challenges discussed above, the review and approval process of fee waiver requests represents a significant amount of staff time. Thus far, the total amount of staff time spent to review and approve fee waivers can vary, but staff estimate that the amount of time spent for simple fee waiver requests (uninsured applicants or minimal review) average 1.5 hours of staff time, and the amount of staff time spent for the more complex and majority received so far (insured and requiring in-depth review of coverage and correspondence with the applicant) average 3.25 hours of staff time. Should the Board choose to waive all permitting fees for those that do have insurance, the amount of staff time per fee waiver request would be closer to the 1.5 hour average, the majority of which includes correspondence with the applicant, verifying eligibility, and the approval process.

On April 12, 2022 (File No. 22-0604, Item No. 14), the Board approved the use of Caldor Fire Relief Designation funds (General Fund) to pay for Green Fees and California Strong Motion

Instrumentation Program (SMIP) Fees for applicants that are eligible for a fee waiver under Urgency Ordinance 5150, both of which are state mandated fees and are unable to be waived. Should the Department waive a significant amount of fees, the decline in revenues would also impact the General Fund and have the potential to increase the Department's net County cost. Though still early in the recovery and rebuilding process, and the number of residences that will ultimately be rebuilt is unknown, staff have prepared estimates of the financial impact for Options A and B to assist with the Board's decision. These estimates are provided in the Financial Impact section below.

ALTERNATIVES

Rather than extend a full fee waiver, the Board could also choose to allow for the waiver of a specific percentage of permitting fees for those applicants that do have insurance, regardless of their insurance coverage amount. Staff have prepared a second Urgency Ordinance, "Option B", which would allow for the waiver of one hundred percent (100%) of all applicable Planning and Building Department and Environmental Management Department permit fees for applicants that are uninsured, and fifty percent (50%) of all applicable Planning and Building Department and Environmental Management Department permit fees for eligible applicants that are insured unless they are able to provide a written statement from their insurance company confirming that the cost of permit fees are not included in their insurance coverage, in which case they would be eligible for a waiver of one hundred percent (100%) of all applicable permit fees. This option would allow for a greater amount of cost recovery (revenues) but would also result in less of a reduction in staff time spent reviewing eligibility due to insurance coverage. This option is also detailed, below, in the Financial Impact section.

The Board may choose not to adopt either Urgency Ordinance amendment (Option A or Option B), determine that no changes to Urgency Ordinance 5150 are necessary, or direct staff to explore other alternatives and return to the Board at a later date for further consideration.

PRIOR BOARD ACTION

- File No. 21-1469, Item No. 3 - Adoption of Urgency Ordinance 5150
- File No. 21-1971, Item No. 53 - Adoption of Urgency Ordinance 5156
- File No. 22-0604, Item No. 14 - Approval to use Caldor Relief Designation Funds for Green Fees and SMIP Fees

OTHER DEPARTMENT / AGENCY INVOLVEMENT

Chief Administrative Office
Sheriff's Office, Emergency Operations Center
Environmental Management Department

CAO RECOMMENDATION / COMMENTS

It is recommended that the Board approve amendments to the Urgency Ordinance to waive all applicable Planning and Building Department and Environmental Management Department permit fees for eligible applicants, including those that are insured and uninsured. At this time, there are no changes recommended to the Fiscal Year 2022-23 Budget as a result of the waiving of permit fees, and no changes recommended to the amount set aside in the Caldor Designation. Planning and Building overall revenues vary from season to season and year to year dependent on economic factors that determine permit activity levels. The amount and timing of fee waiver requests is unknown at this time, and any high demand would result in fewer revenues in the Department

budget. There would be no impact to expenditures because of the fee waivers. The Department will monitor fee waiver activity and discuss any potential impacts to the Department budget with the CAO should they arise.

FINANCIAL IMPACT

While it is still early in the rebuilding process for those affected by the Caldor Fire and the number of residents that will rebuild is unknown, there will be revenue impacts for both Options A and B through the loss of permit revenue for both the Planning and Building Department and Environmental Management Department.

Through coordination efforts with the Federal Emergency Management Agency (FEMA) regarding disaster recovery financial assistance and the County's damage claims and reimbursement requests, FEMA has determined that the costs of permitting fees, either waived by the County or paid by applicants, are ineligible for reimbursement. As such, the Planning and Building Department and Environmental Management Department are requesting the Board consider and approve the use of Caldor Fire Relief Designation funds to cover the costs of permitting fees that are proposed to be waived under either Option A or Option B.

Based on permit fee estimates prepared for applicants that have already submitted a Caldor Fire permit fee waiver request, the average total permit fee for the Planning and Building Department is approximately \$3,830. The majority of the building permit fees are calculated based on project valuation, which includes materials and construction costs; therefore this average could increase based on changes to materials and construction costs.

Additionally, based on information provided by the Environmental Management Department, the total estimated permit fee for both water wells and septic systems is \$343, which includes \$86 for well modification, repair, or reconstruction permit, and \$257 for septic system repair permit.

In order to assist the Board's decision, staff have prepared the following estimates for each option using the current Planning and Building Department average permit fee of \$3,830 as well as \$5,000 to account for the potential increased costs, and the current total permit fee estimate of \$343 for Environmental Management Department permit fees. Each option below also provides a range of estimated fees waived based on the percentage of destroyed homes that may be rebuilt and qualify for fee waivers (i.e., rebuild by owners of record prior to the fire). Though we know not all homes will be rebuilt, there is not yet enough data to conclusively estimate how many will. Staff continues to monitor several metrics including lots for sale, and the number of Temporary RV and rebuild permits submitted.

Recommended Option - 100% of all applicable permit fees for both insured and uninsured applicants

Planning and Building Department Permit Fees:

Estimated total permit fees waived based on an average permit fee of \$3,830:

- \$2,246,295 provided that 75% of homes are rebuilt
- \$1,497,530 provided that 50% of homes are rebuilt

Estimated total permit fees waived based on an average permit fee of \$5,000:

- \$2,932,500 provided that 75% of homes are rebuilt
- \$1,955,000 provided that 50% of homes are rebuilt

Environmental Management Department Permit Fees:

Estimated total permit fees waived based on an average permit fee of \$343:

- \$201,170 provided that 75% of homes are rebuilt
- \$134,113 provided that 50% of homes are rebuilt

Alternative - Option B - 100% of all applicable permit fees for uninsured applicants and 50% for insured applicants

Planning and Building Department Permit Fees:

Estimated total permit fees waived based on an average permit fee of \$3,830:

- \$1,123,148 provided that 75% of homes are rebuilt
- \$748,765 provided that 50% of homes are rebuilt

Estimated total permit fees waived based on an average permit fee of \$5,000:

- \$1,466,250 provided that 75% of homes are rebuilt
- \$977,500 provided that 50% of homes are rebuilt

Environmental Management Department Permit Fees:

Estimated total permit fees waived based on an average permit fee of \$343:

- \$100,585 provided that 75% of homes are rebuilt
- \$67,057 provided that 50% of homes are rebuilt

For both options above, the estimates provided reflect the total estimated cost associated with these fee waiver options. As previously noted, it is unknown how many affected residents will pursue rebuilding and the timeline in which they will do so. Under the provisions of Ordinance 5150 and unless extended by the Board, affected residents would be able to submit fee waiver requests and permit applications through December 31, 2026. While the County recognizes that the complete rebuilding and recovery effort will span multiple years, staff are not able to provide an accurate estimate of financial impacts on an annual basis at this time. Through staff's review of insurance policies to date, many policies include timelines for residents to complete their rebuild; however, they are able to request extensions as a result of the declared state of emergency for the Caldor Fire.

Lastly, it should be noted the fee waivers will only apply to those property owners who owned the property at the time of the Caldor Fire, not any new owners who purchased the property after the fire.

Considering there are already a significant number of properties listed for sale, this will likely further reduce the fiscal impact to the County.

CLERK OF THE BOARD FOLLOW UP ACTIONS

- 1) The Clerk of the Board will obtain the Chair's signature on the adopted Urgency Ordinance (either Option A or Option B);
- 2) The Clerk of the Board will publish the Urgency Ordinance to include the final Board vote within 15 days after Final Passage; and
- 3) The Clerk of the Board will send the full Urgency Ordinance to Municode for codification following Final Passage.

STRATEGIC PLAN COMPONENT

Good Governance, Healthy Communities, and Public Safety. The Board's adoption of Urgency Ordinance 5150 for Caldor Fire Resiliency and Rebuilding, including the previous amendment under Urgency Ordinance 5156 and the proposed amendments supports the County's Strategic Plan goals by establishing standards and procedures to help expedite the interim housing of those displaced by the Caldor Fire. The additional financial relief provided under this amendment will further the County's commitment to lessen the financial burden of those affected while also promoting the resiliency efforts in a goal to rebuild homes in the Caldor Fire burn area.

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