



## Legislation Text

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**File #:** 22-2231, **Version:** 1

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

- 1) Adopt and authorize the Chair to sign Urgency Ordinance **5172**, amending Title 130 (Zoning) of the El Dorado County Ordinance Code, adding Chapter 130.69.A entitled “Mosquito Fire Resiliency and Rebuilding Ordinance,” to provide temporary emergency housing for displaced residents, permit fee waivers for both Planning and Building Department and Environmental Management Department permit fees, and provisions to aid in the recovery process and rebuilding of homes and other structures damaged or destroyed during the Mosquito Fire;
- 2) Find that Urgency Ordinance **5172** 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);
- 3) Find that, consistent with the objectives of Urgency Ordinance **5172** and any subsequent amendments to the County’s Zoning Ordinance for the waiver of certain Planning and Building Department and Environmental Management Department permitting fees related to the Mosquito Fire rebuilding effort, a significant public benefit is derived from the County’s additional contribution of funding toward the payment of State mandated Green Fees and California Strong Motion Instrumentation Program (SMIP) Fees required for applicable building permits; and
- 4) Approve and authorize the use of the County’s General Fund to cover the cost of the Green Fees and SMIP Fees required for residents that are eligible for fee waivers as specified in Urgency Ordinance **5172**. (4/5 vote required).

**FUNDING:** General Fund.

### **DISCUSSION / BACKGROUND**

On September 6, 2022, the Mosquito Fire erupted and quickly spread, threatening the safety of residents and property. On September 8, 2022, a State of Emergency was declared by the Governor of the State of California for both El Dorado County and Placer County due to the Mosquito Fire. The following day, September 9, 2022, the Sheriff, as the Director of the Office of Emergency Services, proclaimed a local emergency based on the conditions of extreme peril to the safety of persons and property within the territorial limits of El Dorado County due to the fire.

On September 13, 2022 (File No.22-1675, Item No. 37), the Board adopted Resolution 142-2022, which ratified the Sheriff’s local emergency proclamation and continues in effect until terminated by the Board.

On October 27, 2022, as reported by the California Department of Forestry and Fire Protection (CalFIRE), upon full containment of the Mosquito Fire, the fire burned a total of 76,788 and destroyed

a total of 31 structures, including 12 single family residences and 19 accessory structures within El Dorado County.

As evidenced through previous State Legislative action and the Board's adoption of Ordinance 5136 prior to the Mosquito Fire, there is a severe housing crisis to meet growing housing demands as well as an insufficient availability of temporary shelter to adequately house more vulnerable populations.

The proposed Mosquito Fire Resiliency and Rebuilding Ordinance complies with Government Code Section 25131, which allows urgency ordinances to be passed immediately upon introduction at either a regular or special meeting of the Board. Subsequently, 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 four-fifths vote of the Board and are effective immediately upon adoption.

### **Temporary Housing Permits:**

While the number of houses destroyed is smaller in comparison to the Caldor Fire, the housing units destroyed during the Mosquito Fire amplified the County's existing lack of availability of temporary shelter to adequately house our most vulnerable populations and increases the need to provide additional temporary housing units for families displaced by the Mosquito Fire due to the destruction of their homes. This proposed Urgency Ordinance 5172 provides for temporary housing options including the use of recreational vehicles (RVs) and mobile homes as temporary emergency housing as well as the rental of accessory structures. These proposed temporary housing options will be allowed for the duration of this Urgency Ordinance, December 31, 2027, unless otherwise extended by the Board, and allow for the fastest possible transition of displaced residents to interim and long-term shelter, including the rebuilding of homes destroyed by the Mosquito Fire.

### **Mosquito Fire Permit Fee Waivers:**

In an effort to address temporary housing and provide financial relief to those impacted by the fire, staff are recommending the Board approve the proposed Urgency Ordinance 5172. Similar to previously approved amendments to the Zoning Ordinance under Urgency Ordinances 5150, 5156, and 5163 for the Caldor Fire, this proposed Ordinance includes criteria for the waiver of applicable permit fees charged by both the Planning and Building Department and Environmental Management Department for eligible applicants. Upon completion of Environmental Management's debris removal program and once residents are cleared to return to their properties, it's anticipated that residents will begin the initial rebuilding process, necessitating the need for a County rebuilding policy to be in place, including the temporary housing and fee waiver process.

These permit fees are levied on permit necessary for temporary emergency housing for displaced residents on fire-damaged lots in the burn area, permits for the demolition of damaged or destroyed dwellings or structures, and permits for the repair or reconstruction of conforming or legally non-conforming dwellings or structures damaged or destroyed by the Mosquito Fire and within 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 September 6, 2022; and
- The application is submitted prior to the expiration of Chapter 130.69.A.

Pursuant to Chapter 130.69.A, Section 130.69.A.250(B), the Planning and Building Department shall waive Mosquito Fire permit fees as follows:

1. Applicants that did not have insurance are eligible for a waiver of 100% of all applicable permit fees charged by the Planning and Building Department and Environmental Management Department; or
2. Applicants that did have insurance, regardless of the extent of dwelling and/or structure coverage or are determined to be underinsured, are eligible for a fee waiver of 100% of all applicable permit fees charged by the Planning and Building Department and Environmental Management Department.

Similar to the Planning and Building Department's efforts during the early and ongoing recovery and rebuilding process for the Caldor Fire, staff would be unable to definitively determine whether or not the cost of regular building permitting fees are included in each applicant's insurance policy and coverage amounts as insurance policies reviewed to date only include a lump sum coverage amount for dwellings and other structures. Though staff have not reviewed insurance policies for applicants specifically related to the Mosquito Fire, it's anticipated that some applicants may also be determined to be underinsured, in which case their insurance coverage would not cover the cost of permit fees and their rebuild even if identified in their insurance policy.

Additionally, and consistent with Urgency Ordinance 5163 adopted by the Board on August 23, 2023, the proposed Urgency Ordinance 5172 also includes the waiver of permit fees charged by the Environmental Management Department for permits such as residential water wells and onsite wastewater treatment systems (septic systems) that are or may be applicable to residents displaced by the Mosquito Fire. Upon concurrence from the Environmental Management Director, applicable Environmental Management Department permit fees pursuant to Chapter 8.39, Well Construction and Water Supply Standards, of Title 8, and Chapter 110.32, Onsite Wastewater Treatment Systems, of Title 110, will be waived in conjunction with the Planning and Building Department permit fees waiver for eligible applicants.

The waiver of permit 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 Mosquito Fire as well as the continued preservation of public health and safety through addressing housing and shelter needs for those residents.

#### **State Mandated Green Fees and SMIP Fees:**

Not included in Urgency Ordinance 5150, including subsequent amendments under Urgency Ordinances 5156 and 5163, nor in the proposed Urgency Ordinance 5172 is the waiver of Green Fees and SMIP Fees. As both fees are State mandated and apply to various building permit types, they are unable to be paid prior to permit issuance. These fees are typically paid by each applicant; however, and consistent with previous Board approval for Caldor Fire rebuilding permits, staff are recommending the Board approve the use of General Fund to cover the cost of these State mandated permit fees. These fees are applied to Temporary Mobile Home/RV permits, Residential Building permits, Non-Residential Building permits, Grading permits, Electrical permits, and Temporary Use permits. With the exception

of Building permits (both residential and non-residential) and Grading permits, the Green Fees collected are \$1 for each permit type. For Building permits and Grading permits, the Green Fees collected are based on project valuation and are set at \$4 for every \$100,000 in valuation. SMIP Fees are broken onto two (2) categories: Category 1 being one (1) to three (3) story residential; and Category 2 being residential over three (3) stories and all commercial. Similar to Green Fees, SMIP Fees are based on project valuation. Category 1 fees are equal to the project valuation multiplied by a rate of \$.00013, and Category 2 fees are equal to the project valuation multiplied by a rate of \$.00028.

Based on staff's estimates of anticipated rebuilding activity, including all permits listed above, the estimated total amount of Green Fees and SMIP Fees required is approximately \$1,000. As the Green Fees and SMIP Fees are State mandated and unable to be waived, the Planning and Building Department is proposing that the Board approve and authorize the use of General Fund to cover the payment of any Green Fees and SMIP Fees in lieu of requiring applicants to pay said fees for any permit fees that are waived pursuant to the criteria specified under Section 130.69.250.A of the Mosquito Fire Resiliency and Rebuilding Ordinance.

Further, the Planning and Building Department is recommending that the Board find that by approving the use General Fund to cover the cost of Green Fees and SMIP fees, a significant public benefit is derived through the expedited ability to process Mosquito Fire fee waiver request and permits as well as a reduction in the amount of both the applicant's time and effort, and staff time spent processing the requests and permits. If the applicants are required to pay the Green Fees and SMIP Fees, they would either be required to pay those fees upon multiple visits to the Planning and Building Department. As an example, Green Fees would be required to be collected on Demolition, Temporary Mobile Home/RV, and Temporary Power permits (a total of \$3), then again during the rebuild process once specific project details and valuations are determined and the remaining Green Fees and SMIP Fees could be calculated (valuation based for building and grading permits). Given the small monetary amounts per applicant, the time and effort for the applicant to submit these fees, and the staff time and cost to intake and process the Green Fees and SMIP Fees, staff are recommending the use of General Fund, thus furthering the objective of simplifying and expediting the overall rebuilding and recovery process.

## **ALTERNATIVES**

The Board may choose not to adopt the proposed Mosquito Fire Resiliency and Rebuilding Ordinance (Urgency Ordinance 5172), thereby restricting the use of temporary recreational vehicles, mobile homes, and other temporary permit options, except as currently allowed under limited instances as described in Section 130.68.050.D (Temporary Structures) and Section 130.52.050 (Temporary Mobile Home Permit) in Article 5 (Planning Permit Processing) of Title 130. Not adopting the proposed Mosquito Fire Resiliency and Rebuilding Ordinance would preclude and/or delay the processing of fee waivers for disaster survivors. The Board could also choose to provide direction to staff to make modifications to the proposed urgency ordinance, including alternative options for items such as temporary permits/uses and fee waivers, and return to the Board at the next meeting for adoption.

The Board may also choose to not approve the use of General Fund to cover the cost of the State mandated Green Fees and SMIP Fees. This would result in applicants who meet the fee waiver requirements paying such fees prior to any Mosquito Fire related permits being processed and would also increase the amount of staff time to process said permits.

## **PRIOR BOARD ACTION**

N/A

## **OTHER DEPARTMENT / AGENCY INVOLVEMENT**

Sheriff's Office, Emergency Operations Center  
Environmental Management Department

## **CAO RECOMMENDATION / COMMENTS**

Approve as recommended.

## **FINANCIAL IMPACT**

While it is still very early in the Mosquito Fire rebuilding and recovery process, it's estimated that the Board's adoption of Urgency Ordinance 5172 and the approval of permit fee waivers as well as the use of General Fund to cover the cost of the Green Fees and SMIP Fees will be fairly minimal. Based on estimates prepared for Caldor Fire fee waiver and related items, it's anticipated that the total estimated cost, including temporary permits, rebuilding permits for both the Planning and Building Department and Environmental Management Department, and Green Fees and SMIP Fees, is approximately \$90,000. It is likely that this cost will span multiple fiscal years; however, it is unknown at this time how many temporary permits and/or rebuilds will be initiated during Fiscal Year 2022-23.

## **CLERK OF THE BOARD FOLLOW UP ACTIONS**

- 1) The Clerk of the Board will obtain the Chair's signature on Urgency Ordinance 5172;
- 2) The Clerk of the Board will publish the Urgency Ordinance to include 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 5172 for Mosquito Fire Resiliency and Rebuilding supports the County's Strategic Plan goal of Good Governance by establishing standards and procedures to help expedite the interim housing of those displaced by the Mosquito 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 Mosquito Fire burn area. By expediting this process, this also supports the County's Strategic Plan goals of Healthy Communities and Public Safety by providing quicker access to safe and permitted temporary housing.

## **CONTACT**

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