

RESOLUTION NO. 07302012-R001

**THE BOARD OF COUNTY COMMISSIONERS
OF LARIMER COUNTY, COLORADO**

**A RESOLUTION ESTABLISHING A THREE YEAR
HIGH PARK FIRE REBUILDING PROGRAM**

WHEREAS, on July 30, 2012 the Board of County Commissioners and Planning Commission of the County of Larimer, Colorado conducted a public meeting to consider temporary measures to assist residents and businesses affected by the High Park Fire in rebuilding efforts; and

WHEREAS, the Board of County Commissioners wish to assist fire survivors in their rebuilding efforts by offering additional flexibility through amendments to adopted land use regulations, including modified permitting and approval procedures; and

WHEREAS, based on information presented to the Board of County Commissioners by County staff and members of the public, some residents and businesses may not have heretofore obtained the proper permits and approvals; and

WHEREAS, full imposition of current regulations may create additional distress and hardship for existing residents and businesses in Larimer County affected by the High Park Fire; and

WHEREAS, the Board of County Commissioners finds that owners of legally established buildings, uses and structures in existence prior to the High Park Fire may desire to rebuild and/or continue their uses in the same manner that such structures and uses have historically existed; and

WHEREAS, rebuilding is not anticipated to generate new traffic once construction is complete and, therefore, impact fees should not be assessed for such established historical structures and uses; and

WHEREAS, rebuilding or reestablishment of businesses that have been operating without all required approvals and permits will be addressed through the implementation of this temporary rebuilding program to allow such businesses to seek approval and become compliant in an expeditious and efficient manner; and

WHEREAS, the Board of County Commissioners have duly considered the recommendations of the Larimer County Planning Commission and the Development Services Review Team as contained in the agenda for the July 30, 2012, 6:30 p.m. hearing of the Board of County Commissioners and the Planning Commission; and

WHEREAS, the Board of County Commissioners has carefully considered the information, evidence and testimony presented to it, and has given the same such weight as it in its' discretion deems proper, and is now fully advised in the premises; and

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WHEREAS, Larimer County has the authority to adopt this Resolution pursuant to its authority granted by law, including without limitation those set forth in this Resolution; and

WHEREAS, the rebuilding program imposed by this Resolution is a reasonable and sufficient length in time to allow existing residents and businesses affected by the High Park Fire to apply for and obtain building permits or other approvals from the County.

NOW, THEREFORE, BE IT RESOLVED by the Board of Larimer County Commissioners of Larimer County, Colorado, that:

Section 1. Upon the adoption of this Resolution, a High Park Fire Rebuilding Program is hereby approved in accordance with the provisions set forth herein.

Section 2. The High Park Fire Rebuilding Program ("Program") shall be effective for structures that have burned or have been damaged beyond repair in the High Park Fire Area, as shown on the map attached as Exhibit A ("Area"). The Program shall commence on July 30, 2012 and conclude on July 30, 2015, unless this Resolution is sooner repealed or duly extended by action of the Board of County Commissioners.

Section 3. All buildings and structures located in the High Park Fire Area (Exhibit A), and legally constructed prior to June 9, 2012, are eligible for the High Park Fire Rebuilding Program. Structures constructed without prior approval or not legally constructed maybe eligible if they meet the requirements listed in Section 5 of this Resolution and are approved by the County. All required application materials for participation in the Program must be filed with Larimer County prior to the expiration of the Rebuilding Program.

Section 4. For the duration of the High Park Fire Rebuilding Program, Larimer County will apply the following review and approval processes in the Area in lieu of those set out in the Larimer County Land Use Code:

1. **Temporary emergency housing.** For the duration of the Program, a property owner may obtain a permit for temporary emergency housing when:
 - A. A building permit has been issued for repair or replacement of a permanent dwelling;
or
 - B. Prior to building permit issuance when the owner has provided an acceptable plan and timetable for rebuilding a permanent dwelling. Such plan and timetable shall become an enforceable agreement between the owner and County. A building permit for rebuilding a permanent dwelling must be applied for by July 30, 2015.
 - C. Temporary emergency housing may remain on the property for the duration of the Program, so long as a valid building permit is in effect for rebuilding the permanent residence pursuant to an acceptable plan, or longer if the Planning Director has granted an extension. Within sixty days after the issuance of a certificate of occupancy for the permanent dwelling or the expiration of an approved timeframe for removal of the dwelling, the emergency housing unit shall be removed from the property or converted to an approved accessory structure under a change of occupancy permit.

- D. Temporary emergency housing shall be occupied only by the property owner(s) or their designee(s).
- E. Only one temporary emergency housing unit is allowed per lot unless the owner demonstrates additional units are necessary and the additional unit has been approved by the Planning Director.
- F. Temporary emergency housing shall be connected to an approved sewage disposal system.
- G. A building permit is required for a temporary emergency housing unit. The structure must comply with all applicable building, fire, electrical, mechanical and related codes.
- H. Temporary housing units shall be located in a manner that provides safety from natural hazards, including flood, fire damage, unstable soils and geological hazards. Temporary emergency housing units within a floodplain overlay zone district shall meet the requirements of Larimer County Land Use Code Section 4.2.2.
- I. Temporary emergency housing shall not be located within a road right-of-way and shall be served by existing access ways.
- J. Temporary emergency housing shall comply with zoning setback requirements unless the Planning Director determines that existing site conditions make such location impractical or unnecessary. At a minimum, temporary emergency housing shall be located at least five feet from all property lines.

2. Temporary emergency accessory structures. For the duration of the Program, a property owner may obtain a permit for temporary emergency accessory structures when:

- A. A building permit has been issued for repair or replacement of the permanent dwelling or other accessory structure; or
- B. Prior to building permit issuance when the owner has provided an acceptable plan and timetable for rebuilding the permanent dwelling or accessory structure. A building permit for rebuilding the permanent dwelling or accessory structure must be applied for by July 30, 2015.
- C. Temporary emergency accessory structures may remain on the property for the duration of the Program, so long as a valid building permit is in effect for rebuilding the permanent dwelling or accessory structure pursuant to an acceptable plan, or longer if the Planning Director has granted an extension. Within two months after the issuance of a letter of completion for the permanent accessory structure or the expiration of an approved timeframe for removal of the temporary emergency accessory structure, the temporary emergency accessory structure shall be removed from the property.
- D. A building permit is required for temporary emergency accessory structures. The structure must be in compliance with all applicable building, fire, electrical, mechanical and related codes.
- E. Temporary emergency accessory structures shall be located in a manner providing safety from natural hazards, including flood, fire damage, unstable soils and geological hazards. Temporary emergency accessory structures within a floodplain

overlay zone district shall meet the requirements of Larimer County Land Use Code Section 4.2.2.

- F. Temporary emergency accessory structures shall not be located within a road right-of-way and shall be served by existing access ways.
- G. Temporary emergency accessory structures shall comply with zoning setback requirements unless the Planning Director determines that existing site conditions make such location impractical or unnecessary. At minimum, temporary emergency accessory structures shall be located at least five feet from all property lines.
3. **Documentation of a nonconforming structure or use.** Residents and businesses may request a determination from the Planning Department that a building, structure or use is or is not a legal nonconforming building structure or use. The property owner is responsible for providing sufficient evidence to establish the size and date on which the structure was constructed or the use was established. The Planning and Building Services Division will assist in researching County records and reviewing the information provided by the property owner, including but not limited to:
- Historical records and photos showing when a use/building was established.
 - Records of the County Assessor.
 - Records of the Building and Planning Departments.
 - Description of the use (type, size, volume, frequency, hours of operations, etc.).
 - Certification showing whether the use/building has been in continuous operation since established and up until the time of the fire.
 - Other records as deemed appropriate by the Planning Director.
4. **Rebuilding nonconforming buildings and structures.** The timeframe to rebuild legal nonconforming buildings and/or structures destroyed by the High Park Fire is hereby extended to July 30, 2015. The property owner shall submit a complete building permit application by July 30, 2015. The building or structure may only be rebuilt in the same location, size and character as the original building or structure unless the Planning Director determines that existing site conditions make such location, size or character impractical or unnecessary. Any substantially damaged building or structure located in a designated floodplain overlay zone shall meet the flood protection requirements of Section 4.2.2. of the Land Use Code.
5. **Reestablishing a nonconforming use.** The timeframe to reestablish a nonconforming use destroyed or affected by the High Park Fire is hereby extended to July 30, 2015.
6. **Setback requirements.** Replacement buildings and structures shall meet current setback requirements unless the Planning Director determines that the existing site conditions make such location impractical or unnecessary. The Planning Director shall be authorized to approve a variance of up to 50% of the current setback requirements upon finding the following criteria have been met or determined to be inapplicable:
- A. There are special circumstances or conditions, such as exceptional topographic conditions, narrowness, shallowness or the shape of property, or other extraordinary

and exceptional situation or condition of such piece of property, that are peculiar to the land or structure for which the variance is requested;

- B. The strict interpretation and enforcement of the provisions of the code would cause an unnecessary and undue hardship;
- C. Granting the variance will not result in a substantial adverse impact on other property in the vicinity of the subject land or structure;

Section 5. For the duration of the Program Larimer County may consider requests on a case by case basis to rebuild a building or structure(s) that may have not been legally permitted or constructed. As part of the Review process, County Staff will visit the site and complete a public safety overview. The destroyed building or structure may be allowed to be replaced upon approval of the Planning Director if the following conditions are met or are determined to be not applicable:

- A. Access roadway is useable and access location does not impact function and safety of public roadways.
- B. Adequate drainage is provided and approved by the Engineering Department.
- C. Adequate water and sewer provisions exist or can be provided and approved by the Health Department.
- D. Structures are located in a manner that mitigates to the maximum extent practicable the impacts from natural hazards, including but not limited to flood, fire damage, unstable soils and geological hazards. Any replacement building or structure within a floodplain overlay zone district must meet the requirements of Larimer County Land Use Code Section 4.2.2.
- E. The proposed building or structure will not result in a substantial adverse impact on other property in the vicinity of the subject property.
- F. Any areas of significant concern as identified by the Planning Director will be addressed at a public hearing before the Board of County Commissioners.

Section 6. The Board of County Commissioners hereby finds and determines that it has the power to adopt this Resolution pursuant to: 1) the Local Government Land Use Control Enabling Act, C.R.S. §29-20-101, *et seq.*; 2) C.R.S. §30-11-101(2) concerning the authority of counties to adopt and enforce ordinances and resolutions regarding health, safety and welfare issues as otherwise prescribed by law; 3) C.R.S. §30-11-107 concerning powers of the Boards of County Commissioners; 4) C.R.S. §30-28-113 concerning the regulation of the use of structures in various zone districts throughout Larimer County; and 5) C.R.S. §30-28-115 concerning the promotion of the health, safety, convenience, order and/or welfare of the citizenry through the use of land use regulations.

Section 7. Should any one or more sections or provisions of this Resolution be judicially determined to be invalid or unenforceable, such determination shall not affect, impair or invalidate the remaining sections or provisions of this Resolution, it being the intent of the Board that such invalid or unenforceable provisions are severable.

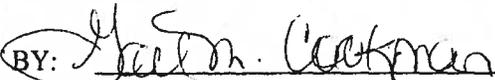
Section 8. For the duration of the Program, in the event of any inconsistency between this Resolution and any other Larimer County land use regulation, this Resolution shall control.

PASSED AND ADOPTED this 30th day of July, 2012, in Larimer
County, Colorado.

**THE BOARD OF COUNTY COMMISSIONERS
OF LARIMER COUNTY, COLORADO**

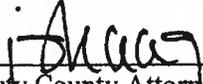
BY: 
Lew Gaiter III, Chair

ATTEST:

BY: 
Deputy Clerk to the Board



APPROVED AS TO FORM:


Deputy County Attorney

