

ARTICLE X. PUBLIC FACILITIES FEES**11-130 Findings**

- (a) Beginning in January 1990, the board of supervisors and county staff have continued to express concern that new residential, commercial and industrial development in the county was placing increasing demands on a variety of county facilities. This concern was evidenced by Resolution No. 90-16 of the Solano County board of supervisors, which was jointly adopted by all of the cities in the county.
- (b) Resolution No. 90-16 led to the hiring by the county of Recht Hausrath & Associates to identify the needs for new public facilities caused by additional residential, commercial and industrial development in the county, and to advise the county on appropriate means of recovering those costs.
- (c) In order to mitigate impacts caused by new development projects within the county and to implement the goals and objectives of the county general plan, public facilities fees are necessary to finance public facilities and to assure that new development projects pay their fair share for these facilities.
- (d) Title 7, Chapter 5, Section 66000 et seq. of the California Government Code provides that public facilities fees may be enacted and imposed on development projects. The board of supervisors finds and determines that:
- (1) New development projects both in cities and the unincorporated area of Solano County cause the need for construction, expansion or improvement of public facilities within Solano County.
 - (2) Without fees from a dedicated funding source, funds for construction, expansion or improvement of public facilities are not available to accommodate the needs caused by development projects; which will result in inadequate public facilities within Solano County.
- (e) The board of supervisors finds that the public health, safety, peace, morals, convenience, comfort, prosperity and general welfare will be promoted by the adoption of public facilities fees for the construction, expansion or improvement of public facilities, the need for which is caused by new development projects. In establishing public facilities fees, the board of supervisors finds the fees to be consistent with the county general plan and, pursuant to Government Code Section 65913.2, has considered the effects of the fees with respect to the county's housing needs as established in the housing element of the county's general plan.
- (f) Adoption of this article does not have the potential to cause a significant effect on the environment. This article does not authorize new development or require it. Rather it provides that if and when development is approved, under whatever laws and policies are otherwise in effect, it will be subject to a fee. This article does not approve or foreordain approval of any public facilities nor mandate or alter the level of facilities to be constructed. Therefore, further review of this article under the California Environmental Quality Act ("CEQA") is not required.

(g) This article is also exempt from review under CEQA pursuant to California Public Resources Code Section 21080(b)(8) and CEQA Guidelines Section 15273(a)(4). This article does not contemplate, identify, or approve expansion of the area for which county services are provided.

(Ord. No. 1446, §1; Ord. No. 1465, §1; Ord. No. 1737, §1)

11-131 Definitions

(a) **Construction** for which fees apply means all residential, multifamily, commercial, manufacturing, office, retail, wholesale buildings, and other land uses as defined in the applicable building and/or zoning ordinances of each city in Solano County, and in the building and zoning ordinances of the county itself.

(b) **Exempt construction** means (1) those projects for which a building permit was issued prior to October 26, 1992; or (2) projects which do not require the payment of city development fees. For purposes of this section, exempt construction does not include projects for which development fees have been waived by a local agency.

(Ord. No. 1446, §1; Ord. No. 1465, §1; Ord. No. 1737, §1)

11-132 Imposing public facilities fees

(a) All construction not otherwise exempt pursuant to provisions of Section 11-131(b) shall be subject to and pay the county public facilities fee. Such development fee shall be paid and collected as provided in Sections 11-133 and

11-134. Construction and development shall not be otherwise regulated under this article.

(b) The imposition of public facilities fees shall be accomplished, from time to time, by resolution of the board of supervisors after a noticed public hearing. Such fees, when imposed, shall be a condition of the issuance of permits for, or the approval of, development projects. In adopting each such resolution, the board of supervisors shall:

- (1) Identify the purpose of the fee;
- (2) Identify the use to which the fee is to be put;
- (3) Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed;
- (4) Determine that there is a reasonable relationship between the need for the public facilities and the impacts caused by the type of development project on which the fee is imposed;
- (5) Determine that there is a reasonable relationship between the amount of the fees and the cost of the public facilities, or portion of the public facilities, attributable to the development projects on which the fees are imposed; and
- (6) Establish, as a part of each such resolution, a schedule of fees.

(Ord. No. 1446, §1; Ord. No. 1465, §1; Ord. No. 1737, §1)

11-133 Payment of fee

(a) **Time for payment of fee.** Fees for applicable development shall be paid prior to the issuance of the certificate of occupancy, or at the time of final inspection, whichever comes first, or, if the provisions of Government Code Section 66007 are met, at the time of issuance of a building permit for any nonexempt construction under the provisions of this article. Section 66007 requires that to collect fees at the building permit stage, an account has to be established for the fees to be collected and funds appropriated, and the board has to adopt a proposed construction schedule or plan prior to final inspection of issuance of the certificate of occupancy.

(b) **Fee amounts.** Except to the extent reduced by an in-lieu contribution approved pursuant to subdivision (e) of this section, which in-lieu contribution will only apply to development within the unincorporated areas of the county, fees under this section shall be payable in those specific amounts designated by the board of supervisors, and amended from time to time by board resolution. The amount payable shall be reduced by the amount of any fee charged to the developer by any other jurisdiction to provide funding for the same county facilities. The board of supervisors may adjust by resolution the fee amounts one time annually based on the percentage increase in the Engineering News Record Construction Cost Index or a similar index which measures typical construction costs for facilities generally similar to those to be built by the county.

(c) **Appeal.** Any person may protest the imposition of any fee imposed under the provisions of this article by meeting the following requirements:

- (1) Tendering any required payment in full or providing satisfactory evidence of arrangements to ensure performance of the conditions necessary to meet the requirements imposed.
- (2) Serving written notice on the clerk to the board of supervisors, which notice shall contain all of the following information:
 - (A) A statement that the required payment is tendered, or that any conditions which have been imposed are provided for or satisfied, under protest.
 - (B) A statement informing the board of supervisors of the factual elements of the dispute and the legal theory forming the basis of the protest.
- (3) The protest must be filed no later than ninety (90) days after the date of the imposition of the fee hereunder.

Where a protest has been filed in compliance with these provisions, the protest resolution procedure shall be as set forth under the provisions of Government Code Section 66020 et seq.

(d) **Demolition or destruction offset.** Where a building permit is issued within two (2) years after demolition on the same lot, or where new construction replaces a structure on the same lot which was damaged or destroyed by fire, earthquake or other causes similarly beyond the owner's control, the amount of new construction taken into account under this article shall be reduced by the number of square feet which were demolished or destroyed.

(e) **In-lieu contribution**. The county may authorize for affected development within the unincorporated areas of the county, in connection with approval of a subdivision map or any other development approval subject to a required public hearing before any agency of the county, the substitution of completed facilities or another contribution of at least equivalent value to the public facilities fee in place of all or part of the fees required under this article. The facilities or other contribution must reduce the need for new county public facilities in one (1) or more of the areas specifically identified in this article as being supported by these fees. Where the facilities or other contribution exceed in value the fee amount in the category or categories in which a benefit is provided, the county may (but shall not be required to) credit the excess value against fees in other categories and may further provide for a compensating allocation to the other categories of future fee receipts from the category in which a benefit is provided.

(f) **Information required**. Where the county is to issue a building permit, the person liable for the fee shall submit to the department of resource management such information as the department may require to calculate the amount due, or, where a city certifies square footage and use, or number of dwelling units, pursuant to Section 11-134(b), the information necessary to calculate the fee shall be submitted to the city by the applicant.

(Ord. No. 1446, §1; Ord. No. 1465, §1; Ord. No. 1737, §1)