

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 15 OF THE SANTA BARBARA COUNTY CODE BY REPEALING ARTICLES IIIB (ORDINANCE NO. 4311) AND IIIC (ORDINANCE NO. 4353) AND AMENDING ARTICLE III (ORDINANCE NO. 4236)**

The Board of Supervisors of the County of Santa Barbara ordains as follows:

SECTION I: Article III of the Santa Barbara County Code is hereby amended to read as follows:

**Article III Fire Development Impact Mitigation Fees**

**Sec. 15-48. Findings.**

- (a) To mitigate impacts caused by new development projects within the Fire Department's Service area, a fire facility, apparatus and equipment development impact mitigation fee is necessary. The fee is needed to finance fire facilities, apparatus and equipment necessary to serve new development and to assure new development projects pay their fair share for these facilities.
- (b) Title 7, Chapter 5, Section 66000 et seq. of the California Government Code provides that development impact fees may be enacted and imposed on development projects. The Board of Supervisors finds and determines that:
  - (1) New development projects cause the need for construction, expansion and/or improvement of fire facilities within the Fire Department's Service area.
  - (2) Funds for construction, expansion and/or improvement of fire facilities are not available to accommodate the needs caused by new development projects, which will result in inadequate fire facilities, apparatus and equipment within the Fire Department's Service area.
- (c) The Board of Supervisors finds that the public health, safety, and general welfare will be promoted by the adoption of a fire facility, apparatus and equipment development impact fee for the construction, expansion, and/or purchase of fire facilities, apparatus and equipment to serve new development and maintain existing levels of service; the need for which is caused by new development projects. In establishing a development impact fee, the Board of Supervisors finds the fee consistent with the Santa Barbara County comprehensive plan/land use element.
- (d) Pursuant to Government Code Section 65913.2, the board of supervisors has considered the effects of the fees with respect to the county's housing need as established in the housing element of the general plan.
- (e) Pursuant to Title 14 California Code of Regulation, Sections 15061(b)(3) the Board of Supervisors finds that this ordinance is exempt from the California Environmental Quality Act.

## **Sec. 15-49. Definitions.**

Words when used in this ordinance, and in resolutions adopted under the authority of this ordinance, shall have the following meanings:

- (a) "Santa Barbara County fire protection district" ("Fire Department's Service area") means the unincorporated area within the county of Santa Barbara and private lands within the Los Padres National Forest and the incorporated city of Buellton, Solvang, Goleta, and the University of California, Santa Barbara but does not include the federal lands of Vandenberg Air Force Base, Bureau of Indian Affairs land, the Los Padres National Forest the Montecito fire protection district or the Carpinteria-Summerland fire protection district.
- (b) "New development" or "development project" means any change to unimproved or improved real property, including but not limited to, replacement, expansion, construction, or alteration of buildings or structures, which results in a net increase in square footage). Any expansion of outdoor areas in conjunction with existing or proposed structural development which would lead to an increase in intensity of use on a parcel shall be considered new development for the purposes of this ordinance.
- (c) "Building" means a structure having a roof supported by columns or walls and intended for shelter, housing, or enclosure of any person, animal, or chattel.
- (d) "Structure" means anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground, excluding mobilehomes located in a mobilehome park.
- (e) "Single Family Housing" means any detached living area which comprises an independent self-contained dwelling unit, including kitchen or cooking facilities, and is occupied or suitable for occupation as a residence for eating, living, and sleeping purposes. Commonly referred to as a single family dwelling.
- (f) "Other Residential Housing" means any detached or attached living area which is comprised of multiple (2 or more) self-contained dwelling units, including kitchen or cooking facilities, and is occupied or suitable for occupation as a residence for eating, living, and sleeping purposes. Commonly referred to as duplexes, tri-plexes, apartments, condominiums, or any other dwelling not considered a single family dwelling.
- (g) "Mixed-Use" means any urban, suburban, village development, or single building that blends a combination of residential, retail, commercial, cultural, institutional, or industrial uses. Fee calculations for mixed use development will be calculated based on the amount of gross square footage for each separate type of use.
- (h) "Retail/Commercial" is defined as non-manufacturing business establishments, including, but not limited to, hotels, restaurants, wholesale businesses, retail stores, and health, social and educational institutions.
- (i) "Office" means establishments providing direct services to customers, professional and medical office buildings. Including but not limited to Business/Service, Executive Headquarters, Processing such as information processing and computer-dependent and/or telecommunications-based activities, professional and Administrative services.

- (j) "Industrial" means manufacturing buildings, including but not limited to, food processing, manufacturing, metal processing, pulp and paper firms, voltage optimization, water and wastewater systems, transport processing or other activity involving farm products off-farm. In particular, it includes fixed pieces of equipment, buildings or complexes used to produce goods in connection with, or as part of, any process or system. .
- (k) "Warehouse/Distribution" means buildings devoted to the storage and/or distribution of non-agricultural products. A distribution center for a set of products is a warehouse or other specialized building, which is stocked with products (goods) to be redistributed to retailers, to wholesalers, or directly to consumers.
- (l) "Agricultural" means a structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products, including other agricultural structures located on agriculturally zoned land other than residential, retail or office space. This structure shall not be a place of human habitation.
- (m) "Greenhouses" are structures that are designed and used primarily for the cultivation, maintenance, or protection of plants. Greenhouses are constructed for agricultural production, educational purposes and research.
- (n) "Mobilehome" means a factory assembled structure, transportable in one or more sections, that is constructed according to the Mobile Home Construction and Safety Standards, Part 280 of the Code of Federal Regulations, Title 24, with or without a permanent foundation and not including recreational vehicles.
- (o) "Mobilehome park" means any area tract of land where two or more mobilehome spaces are rented, leased, or offered for rent or lease to accommodate mobilehomes used for human habitation. The rental paid for any such mobilehome shall be deemed to include rental for the lot it occupies.
- (p) "Apparatus" means and includes but is not limited to fire engines, brush engines, utility vehicles, staff vehicles, water tenders, bulldozers, rescue vehicles, and paramedic ambulances.
- (q) "Equipment" means and includes but is not limited to ladders, fittings, hoses, radios, cellular telephones, tools, safety clothing, breathing apparatus, hazardous materials equipment and medical and rescue equipment.
- (r) "Fee" means a monetary exaction, other than a tax or special assessment that is charged by the County of Santa Barbara in connection with approval of a development project for the purpose of defraying all, or a portion of, the cost of fire facilities, apparatus and equipment related to the development project or subdivision.
- (s) "Subdivision" means the division of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale or lease or financing, whether immediate or future. Property shall be considered as contiguous units, even if separated by roads, streets, utility easement or railroad rights-of-way. "Subdivision" includes a condominium project, as defined in subdivision (f) of Section 1351 in the California Civil Code, a community apartment project as defined in subdivision (d) of Section 1351 of the California Civil Code, or the conversion of five or more existing dwelling units to a stock cooperative, as defined in subdivision (m) of Section 1351 of the California Civil Code, as the same presently exists or may hereafter be amended.

- (t) "Fire facilities" means and includes public improvements, and community amenities identified in the county's five-year capital improvement plan including but not limited to the building of fire stations, permit approvals, land purchase and utility connection fees, etc. and related planning, engineering, and construction costs..
- (u) "Fire impacts" means any development project which generates an increased demand for fire protection services.
- (v) "AB 1600 mitigation fee justification study" means the Fire Impact Fee Nexus Study study prepared for the Santa Barbara County Fire Department Service area dated September 2014.
- (w) "Capital improvement plan" or "CIP" means the plan for fire facility capital improvements as identified in the county's five-year CIP or their successor, as adopted or updated annually by the board of supervisors. The capital improvement plan indicates the approximate location, size, time of availability and estimated cost of capital improvements to be financed with impact mitigation fees and appropriate money for capital improvement projects.
- (x) "Board of supervisors" means the board of supervisors of the county.
- (y) "County" means the County of Santa Barbara, a political subdivision of the State of California.

**Sec. 15-50. Adoption of fire facility development impact fee.**

- (a) Pursuant to this ordinance, fire Development Impact Mitigation fees shall be adopted from time to time by resolution of the board of supervisors after a noticed public hearing. Such fee, when adopted, shall be a condition of permit approval for new development projects within the Fire Department Service area.
- (b) In adopting the 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 a reasonable relationship between the fee's use and the type of development project on which the fee is imposed;
  - (4) Determine a reasonable relationship between the need for the fire facilities, apparatus and equipment and the impacts from the type of development project on which the fee is imposed;
  - (5) Determine a reasonable relationship between the amount of the fee and the cost of the fire facilities, apparatus and equipment or portion of the fire facilities, apparatus and equipment; and
  - (6) Establish a schedule of fire development impact mitigation fees.

**Sec. 15-51. Applicability of fees.**

- (a) A fire facility, apparatus and equipment development impact fee shall be charged upon the permit approval for any of the following new development within the Fire Department Service area:

- (1) The construction or installation of new single-family and other residential development (e.g., second units, condominiums, mobile homes, apartments, duplexes) residential units.
  - (2) Additions to existing residential units that add a new residential unit as defined by section 15-49(b).
  - (3) The construction or installation of any new retail/commercial, office, industrial, warehouse/distribution, or agricultural buildings, including any additions to such existing buildings which add more than five hundred square feet of floor area.
- (b) Fire development impact mitigation fees are applicable within each of the cities served by the Fire Department 60 days after adoption of the fees by each respective city.

### **Sec. 15-52. Exemptions.**

Imposition of fire development impact mitigation fees shall be as specified in section 15-51, except that the following types of development projects shall be exempt from such fees:

- (a) The replacement of an existing structure which was destroyed by fire or other calamity, demolished or removed by the owner, provided that the replacement structure is (1) rebuilt on the same parcel, (2) does not exceed the size of the structure being replaced, and (3) the application for a building permit to replace such structure is filed within six months after destruction of the structure. If the replacement structure is larger than the destroyed structure, the waiver of the fee shall apply only to the amount of floor area in the original structure. Any additional floor area of a replacement structure shall be considered an addition to an existing structure and shall be assessed fees as described in the resolution.
- (b) Any addition to an existing mobilehome as defined in section 15-49(n) that is placed on an existing mobilehome space that was previously assessed a fire facility development impact fee.
- (c) Any new nonresidential structure of less than one hundred twenty square feet, with a California Building Code classification of U-1.
- (d) New structures such as detached garages, sheds, etc. which are added to an existing residential structure but which do not add a dwelling unit.

### **Sec. 15-53. Timing of fee payment.**

- (a) Imposition of Fees.
  - (1) Fees shall be imposed at the time of approval of any discretionary permit for development or if the proposed development does not require any discretionary approvals, at the time of any other permit required for the development to proceed, including but not limited to building permits. The applicant pays according to the schedule of fees in place on the date the fees are paid.
  - (2) The schedule of fees in effect on the date the vesting tentative map or vesting tract map for a development project is deemed complete determines the applicable fee imposed on the subject map. If there is no vesting map, the applicant pays according to the schedule of fees in place on the date the fees are paid.

- (3) When the applicant applies for a new permit following the expiration of a previously issued permit for a development project for which fees were paid, another fee payment is not required unless (1) the project has been changed in a way that alters its fire facility development mitigation impact, or (2) the schedule of fees has been amended during the interim. In this event, the applicant pays the appropriate increase or decrease in the fees.
  - (4) When fees are paid for a development project and the development project is abandoned without any further action beyond the obtaining of a permit or an approval, the payor shall be entitled to a refund of the fees paid.
- (b) Payment of Fee.
- (1) Except as set forth in subsection (b)(2) and (3) of this section, fire development impact mitigation fees shall be paid on the date the final inspection is approved or the date the certificate of occupancy is issued, whichever occurs first.
  - (2) For residential development containing more than one dwelling unit, the developer may request that the fees be paid in installments based on the phasing of their development project. The decision whether to allow installment payments shall be determined by the county fire chief. Any fee installment shall be paid at the time when the first dwelling unit within each phase of development has received its final inspection.
  - (3) The county may require the payment of fees at an earlier time if the fees will be collected for public improvements of facilities for which an account has been established and funds appropriated and for which the county has adopted a proposed construction schedule or plan prior to final inspection, or the fees are to reimburse the local agency for expenditures previously made.
  - (4) If, for any reason, a permit or certificate of occupancy is issued without the payment of the fee required by this article or without written evidence establishing that the provisions of this article have otherwise been satisfied, the applicant shall remain liable for payment of the fee to county fire.

**Sec. 15-54. Fee adjustment.**

- (a) A developer of any project, or a subdivider of any land, subject to the payment of fees pursuant to this ordinance may appeal to the board of supervisors for a reduction, adjustment, or waiver of any fire development impact mitigation fee(s) based upon the absence of any reasonable relationship or nexus between the fire impacts of the project or subdivision and either the amount of the fee(s) charged or the type of fire facilities to be financed. The appeal shall be made in writing, shall state the factual basis for the claim of reduction, adjustment or waiver, and shall be submitted to the county fire chief within fifteen calendar days following imposition of the fire development impact mitigation fee.
- (b) The county fire chief shall review the appeal, develop recommended actions to be taken by the board of supervisors, and submit both the appeal and recommended actions to the board of supervisors for their consideration at a public hearing to be conducted within sixty days after the filing of the appeal. The decision of the board of supervisors shall be final. If a reduction adjustment or waiver is granted, any change in use from the project as approved shall invalidate the waiver, adjustment or reduction of the fee.

**Sec. 15-55. Fee account.**

- (a) Upon receipt of a fee subject to this ordinance, the county shall deposit, invest, account for and expend the fire development impact mitigation fees pursuant to California Government Code 66006.
- (b) Fire development impact mitigation fees paid shall be held by the county fire department in a separate fire development impact mitigation fee account to be expended for the purpose for which they were collected. The county fire department shall retain all interest earned on the fees in such accounts and shall allocate the interest to the accounts for which the original fee was imposed.

**Sec. 15-56. Use of funds.**

- (a) Funds collected from fire development impact mitigation fees shall be used to acquire, construct, and install fire facilities, equipment or apparatus or reimburse costs of previously constructed facilities, or previously purchased equipment or apparatus that serve the new development.
- (b) No funds collected pursuant to this ordinance shall be used for periodic or routine maintenance.
- (c) Funds may also be used to pay debt service on bonds or similar debt instruments to finance the acquisition, construction and installation of fire facilities, equipment or apparatus that serve the new development.
- (d) Any costs incurred by the County in conducting the hearing required pursuant to Government Code Section 66018(a) may be recovered as part of the fees which were the subject of the hearing.

**Sec. 15-57. Developer construction of facilities.**

In lieu fee credit for the construction or dedication of fire facilities, is allowable under the following conditions:

- (a) Only the costs of fire facilities listed on, or exempted from, the applicable fire facility capital improvement plan shall be eligible for in-lieu credit.
- (b) With prior approval of the county fire chief or his/her designee, an in-lieu credit of fees may be granted for actual construction costs (or a portion thereof) of fire facilities provided by the developer.
- (c) If the actual construction cost is greater than the required relevant fees, the county shall have no obligation to pay the excess amount.
- (d) An amount of in-lieu credit that is greater than the specific fee(s) required under this ordinance may be reserved and credited toward the fee of any subsequent phases of the same development or subdivision, if such credit is determined to be appropriate and timely, and approved in advance by the county fire chief.
- (e) If an applicant is required, as a condition of approval for a discretionary permit to construct any off site fire facilities, and the cost of the facilities is determined to exceed the fee due under this ordinance, a reimbursement agreement may be offered in writing by the county fire chief. The reimbursement agreement shall contain terms and conditions approved by the county fire chief, auditor-controller, county counsel and the

board of supervisors. This section shall not create any duty to offer a reimbursement agreement.

- (f) A developer or subdivider seeking credit and/or reimbursement for construction or improvements of facilities, or dedication of land or rights-of-way, shall submit documentation acceptable to the county fire chief to support the request for credit or reimbursement. The county fire chief shall determine whether the facilities or improvements are eligible for credit or reimbursement, and the amount of such credit or reimbursement due the developer or subdivider if so eligible.
- (g) Any claim for credit must be made at or before the time of application for a building permit. Any claim not so made shall be deemed waived.
- (h) Exemptions, credits, reductions, adjustments, or waiver of fees shall not be transferable from one project or subdivision to another without the board of supervisors' approval.
- (i) Determination made by the county fire chief pursuant to this section 15-57 may be appealed to the board of supervisors by filing a written request with the clerk of the board, together with a fee established by the board of supervisors, within ten working days of the determination of the county fire chief.

#### **Sec. 15-58. Condition for refunds.**

If a permit upon which a fee was based expires without commencement of construction, the taxpayer shall be entitled to a refund of the fire development impact fee(s) paid, with any interest accrued thereon, as a condition for the issuance of the permit. The fee payer shall submit a written request for a refund to the county fire chief within two years after the expiration date of the permit. Failure to timely submit a request for a refund may constitute a waiver of any right to a refund.

#### **Sec. 15-59. Annual report.**

- (a) At least once every year a proposed capital improvement plan detailing the specific fire facilities to be funded by fire facility development impact fees shall be reported to the board of supervisors. Notice of the plan shall be given pursuant to Government Code Section 65090 and Section 66002, as they now exist or may be amended. At a public hearing the Board of Supervisors shall review estimated costs of the fire facilities described in the report, the continued need for these facilities, and the reasonable relationship between the need and the impacts of development for which the fees are charged. The Board of Supervisors may revise the capital improvement program to include additional projects not previously foreseen as being needed.
- (b) No later than sixty days following the end of each fiscal year, the County Fire Chief shall submit a report to the Auditor-Controller identifying the balance of fees in the fire development impact fee mitigation program fund established pursuant to this ordinance, and the facilities proposed for construction during the next fiscal year. In preparing the report, the county fire chief shall adjust the estimated costs of the public improvements in accordance with the appropriate engineering construction cost index as published by Engineering News Record, or its successor publication, for the elapsed time period from the previous July 1st or the date that the cost estimate was developed.



- (c) Within 180 days after the last day of each fiscal year, the Auditor-Controller shall present a report to the Board of Supervisors including: (1) a brief description of the type of fee in the account; (2) the amount of the fee; (3) the beginning and ending balance of the account; (4) the amount of the fees collected and the interest accrued; (5) an identification of each public facility, apparatus, or equipment on which fees were expended and the amount of the expenditures; (6) an identification of the approximate date by which construction or purchase of any public facility, apparatus, or equipment will commence if it has been determined that sufficient funds have been collected to complete financing on incomplete public facilities, apparatus, or equipment; (7) a description of each interfund transfer or loan made; and (8) the amount of refunds made and any allocations.
- (d) The County Fire Chief or his/her designee shall report to the board of supervisors, once each fiscal year, any portion of fire facility development impact fees remaining unexpended or uncommitted in an account five or more years after deposit and identify the purpose for which the fee was collected. In accordance with Government Code Section 6061, the board of supervisors shall make findings once each fiscal year on any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee, to (1) identify the purpose to which the fee is to be put; (2) demonstrate a reasonable relationship between the fee and the purpose for which it is charged; (3) identify all sources and amounts of funding anticipated to complete financing; (4) designate the approximate dates on which the finding is expected to be deposited into the appropriate account or fund.
- (e) When sufficient finds have been collected to complete financing on identified incomplete public facilities, apparatus, or equipment and the public facilities, apparatus, or equipment remain incomplete, within 180 days of the determination that sufficient funds have been collected, an approximate date by which the construction or purchase of any public facility, apparatus, or equipment will commence shall be identified, or the County shall refund to the then current record owners or owners of the lots or units, as identified in the last equalized assessment roll, of the development project or projects on a prorated basis, the unexpended portion of the fee, and any interest accrued thereon.
- (f) If the administrative costs of refunding unexpected and uncommitted revenues collected pursuant to this ordinance exceeds the amount to be refunded, the Board of Supervisors, after a public hearing, for which notice has been published pursuant to Government Code Section 6061 and posted in three prominent places within the area of the development project, may determine that the revenues shall be allocated for some other purpose for which the fees are collected pursuant to Government Code Section 66001 et seq. and that serves the project on which the fee was originally imposed.

**Sec. 15-60. Fee revision by resolution.**

The amount of each fee established pursuant to this ordinance may be set and revised periodically by resolution of the board of supervisors. This ordinance shall be considered enabling and directive in this regard.

**Sec. 15-61. Superseding provisions.**

This ordinance and any resolution adopted pursuant hereto supersedes any previous county ordinance or resolution to the extent the same is in conflict with this ordinance.

**Sec. 15-62. Severability.**

If any section, phrase, sentence, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision; and such holding shall not affect the remaining portions of this ordinance.

**Sec. 15-63. Effective date.**

Pursuant to California Code Section 66017 (a), this ordinance shall be in full force and effect sixty days after the date of its adoption by the board of supervisors. Fire development impact mitigation fees applicable within each of the cities served by the Fire Department shall be effective 60 days after adoption by each respective city.

**Sec. 15-64. Publication.**

The clerk of the board is hereby authorized and directed to publish this ordinance by one insertion in the Santa Barbara News-Press, the Lompoc Record, the Santa Ynez Valley News, and the Santa Maria Times, and all other newspapers of general circulation within Santa Barbara County, within fifteen days of its adoption by the board of supervisors.

SECTION II: Article IIIB (Ordinance No. 4311) of the Santa Barbara County Code is hereby repealed.

SECTION III: Article IIIC (Ordinance No. 4353) of the Santa Barbara County Code is hereby repealed.

SECTION IV: This Ordinance shall take effect in the County 60 days after the date of adoption. Fire development impact mitigation fees applicable within each of the cities served by the Fire Department shall be effective 60 days after adoption by each respective city.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this 21st day of October, 2014, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Chair, Board of Supervisors

ATTEST:  
Mona Miyasato  
County Executive Officer  
Clerk of the Board  
By:

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Deputy Clerk

APPROVED AS TO FORM:  
Michael C. Ghizzoni  
County Counsel  
By:

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