

ORDINANCE NO. ()

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, TO ESTABLISH AND ADMINISTER DEVELOPMENT IMPACT FEES FOR FIRE PROTECTIVE SERVICE ON BEHALF OF THE SONOMA VALLEY FIRE PROTECTION DISTRICT AND THE SONOMA COUNTY FIRE PROTECTION DISTRICT

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

Section I. Purpose. This ordinance sets forth the requirements for the establishment and administration of development impact mitigation fees collected by the County of Sonoma on behalf of the Sonoma Valley Fire Protection District and the Sonoma County Fire Protection District (Fire Districts). Fire Districts request the establishment and administration of a development impact mitigation fee because Fire Districts lack statutory authority to independently impose development impact mitigation fees and Fire Districts have prepared all of the supporting documentation to support the findings required to establish the fee, collect the fee and comply with all necessary reporting and accounting procedures for the fee. Fire Districts have prepared the documentation necessary to comply with the California Mitigation Fee Act (Government Code §§66000-66025). The Fire Districts' Resolutions, Nexus Studies and Boundary Maps are attached as Exhibit A to this Ordinance.

Section II. Definitions. For purposes of this Ordinance, the words shall have the meaning ascribed to them in this section.

“Accessory Dwelling Unit” means a dwelling unit, or granny flat, either a detached or attached dwelling unit, which provides complete, independent living facilities for one or more persons with provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the primary residence.

“Development” or “development project” means any project for new residential, commercial or industrial construction in the boundaries of the Fire Districts which requires the issuance of a building permit.

“Fire Districts” means the Sonoma Valley Fire Protection District and Sonoma County Fire Protection District which are independent fire districts organized under the 1987 Fire Protection District Laws (Health and Safety Code §§13800 et seq.) within the County of Sonoma which have prepared the necessary documentation to comply with the Mitigation Fee Act and seek to benefit from these provisions.

“Fire impact fee” or “fee” means a monetary exaction in compliance with Government Code §§66000 et seq., other than a tax or a special assessment, that is charged by the County in connection with the 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 on behalf of Fire Districts.

“Apparatus” means and includes but is not limited to fire engines, brush engines, utility vehicles, staff vehicles, water tenders, bulldozers, and rescue vehicles.

“Equipment” means and includes but is not limited to ladders, fittings, hoses, radios, cellular telephones, tools, breathing apparatus, hazardous material equipment, and medical and rescue equipment.

“Fire facilities” means public improvements, including buildings and structures, not limited to fire stations, administrative buildings, training buildings, land purchase, and related planning, engineering and construction costs as identified by Fire Districts in their resolutions and nexus studies.

“Industrial” means manufacturing construction.

“Mobile home” means a development area for residential occupancy in vehicles which require a permit to be moved on a highway, other than motor vehicle designed or used for human habitation and for being drawn by another vehicle.

“Multi family housing” means buildings or structures designed for two or more families for living or sleeping purposes and having kitchen and bath facilities for each family.

“Office” means general, professional and medical office construction.

“Public facilities” means fire facilities, equipment and apparatus.

“Retail/Commercial” means retail, commercial, educational and hotel/motel construction.

“Single family housing” means detached or attached one-family dwelling unit with an assessor’s parcel number for each dwelling unit.

Section III. Establishment of fee. At the request of Fire Districts and in compliance with the Mitigation Fee Act (California Government Code §§66000-66025), the Board of Supervisors hereby establishes a development impact fee collected on behalf of Fire Districts upon the issuance of building permits for new single family home, multi family home, office, retail/commercial and industrial construction within the geographic boundaries of Fire Districts.

A. Sonoma County Fire Protection District Impact Fee

a. Fees:

<u>Residential Development</u>	<u>Per Living Area Sq. Ft.</u>
Single Family Housing	\$1.62
Multi-Family Housing	\$2.14
Mobile Home	\$1.19

Accessory Dwelling Unit	Less than 750 square feet are exempt pursuant to Government Code §65852.2(f)(3)(A)
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<u>Nonresidential Development</u>	<u>Per Building Square Feet</u>
Retail/Commercial	\$1.81
Office	\$2.96
Industrial	\$1.26

Findings: On February 16, 2021, pursuant to Government Code section 66001(a), the Sonoma County Fire Protection District approved its consultants’ nexus study and made the following findings:

- i. Identified the purpose of the fee;
- ii. Identified the use to which the fee is to be put. If the use is financing public facilities, the District has identified those public facilities;
- iii. Determined how there is a reasonable relationship between the fee’s use and the type of development imposed; and
- iv. Determined how there is a reasonable relationship between the need for the public facility and the fee imposed.

B. Sonoma Valley Fire Protection District Impact Fee

Fees:

<u>Residential Development</u>	<u>Per Living Area Sq. Ft.</u>
Single Family Housing	\$1.72
Multi-Family Housing	\$2.91
Mobile Home	\$1.90
Accessory Dwelling Unit	Less than 750 square feet are exempt pursuant to Government Code §65852.2(f)(3)(A)

<u>Nonresidential Development</u>	<u>Per Building Square Feet</u>
Retail/Commercial	\$1.95
Office	\$3.23
Industrial	\$1.36

Findings: On February 9, 2021, pursuant to Government Code section 66001(a), the Sonoma Valley Fire Protection District approved its consultants' nexus study and made the following findings:

- i. Identified the purpose of the fee;
- ii. Identified the use to which the fee is to be put. If the use is financing public facilities, the District has identified those public facilities;
- iii. Determined how there is a reasonable relationship between the fee's use and the type of development imposed; and
- iv. Determined how there is a reasonable relationship between the need for the public facility and the fee imposed.

Section IV. Findings and Determinations of the Board of Supervisors

- a. The purpose of the fees adopted by this Ordinance is to pay the costs of Public Facilities, including Fire Facilities, Equipment and Apparatus pursuant to the authority of Government Code section 66001, Article XIII C, Section 1 of the California Constitution, and Article XI, Section 7 of the California Constitution by imposing development fees to fund the costs of certain facilities the need for which is generated by the type and level of the proposed development in accordance with Fire Districts' nexus studies.
- b. The use to which the fees are to be put is to pay the costs of the Public Facilities, including Fire Facilities, Equipment and Apparatus as identified in Fire Districts' Resolutions and nexus studies attached to this Ordinance.
- c. There is a reasonable relationship between the fees used and the types of development projects on which the fee is imposed for the reasons set forth in the Fire Districts' Resolutions and nexus studies attached to this Ordinance.
- d. There is a reasonable relationship between the need for the Public Facilities, including Fire Facilities, Equipment and Apparatus and the development projects on which the fee is imposed for the reasons set forth in the Fire Districts' Resolutions and nexus studies attached to this Ordinance.

- e. Without the adoption of this Ordinance and the construction of the Public Facilities and purchase of the Fire Equipment and Apparatus, there will be decreased levels of service and decreased safety, inadequate fire protection deteriorating to the point where Fire Districts' Public Facilities cannot be safely maintained to meet to meet the needs of the new population and new development.

Section V. Collection Agreement. The County may only collect and disburse impact fees on behalf of Fire Districts pursuant to a written agreement between the County and Fire Districts that has been approved as to form by County Counsel. The Agreement shall clearly define the rights and duties of each party and shall provide for the Fire Districts to defend, indemnify and hold the County, its officers, agents and employees harmless from and against any and all liability, loss, damage, claims, judgments, costs, staff time, losses, expenses and any other costs of defense arising out of, resulting from, or related to the creation, establishment, modification, collection or disbursement of fees on behalf of Fire District or any other obligation of Fire District or County under the agreement to collect and distribute fees on behalf of Fire District in compliance with the Mitigation Fee Act. Fire Districts shall ensure that any fees collected on their behalf comply with the Mitigation Fee Act.

Section VI. Payment of Fee.

1. Fees established pursuant to this Ordinance shall be paid by the developer or their agent at the time of the building permit issuance.
2. Chargeable residential square footage shall include new habitable living space within the perimeter of the structure, not including any carport, walkway, garages, overhangs, patios, enclosed patios, detached accessory structure or detached storage space. Chargeable commercial or industrial structure square footage shall include new and covered enclosed space within the perimeter of the new structure, not including garage, parking structure, unenclosed walkways, or utility areas. Chargeable square footage shall be calculated in the standard practice of the County.

Section VII. Automatic Inflationary Adjustments

Fees established pursuant to this Ordinance shall be adjusted automatically without any further action by the Board of Supervisors on the first day of each fiscal year by the net percentage change during the preceding calendar in the Engineering News-Record Construction Cost Index, or its successor publication.

Section VIII. Refunds of Fees Paid.

If construction of a development project has not commenced before the expiration of the building permit that would have enabled the applicant to proceed with construction, then a fee payer shall be entitled to a refund, with interest, of the fees paid as a condition imposed pursuant to this Ordinance for the issuance of such permit. The fee payer must submit an application for such a refund within thirty calendar days of the expiration of the permit.

In the event any fee collected pursuant to this Ordinance remains unexpended in the fund established pursuant to this Ordinance, the Board of Supervisors, in cooperation with the Fire Districts, shall make the following findings for the fifth fiscal year following the first deposit into such account, and every five years thereafter, with respect to that portion of the fee remaining unexpended, whether committed or uncommitted; (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 was charged; (3) identify all sources and amounts of funding anticipated to complete financing of public facilities and (4) designate the approximate dates on which such funding is expected to be deposited into the fund. The unexpended portion of the fees, and any interest accrued thereon, for which need cannot be demonstrated pursuant to this section, shall be refunded to the then current record owner or owners of lots or units of the development project or projects on a prorated bases. The provisions of Government Code section 66001 may be amended from time to time and shall apply fully to the collection, disbursement, accounting and refund of any fees imposed pursuant to this Ordinance.

Section IX. Fee Credits

A fee credit shall be given for demolished existing square footage as part of a new development project. The fee credit shall be based on the effective fee for the land use category that was demolished.

Section X. In-Lieu Fees

In a developer dedicates land, constructs Fire Facilities or provides Fire Equipment or Apparatus for the Fire Districts, the fire impact fees imposed on that development project shall be adjusted to reflect a credit for the cost of the dedicated land, Fire Facilities, Equipment and Apparatus provided.

Section XI. Exemptions

The following shall be exempted from payment of the fee:

- A. A structure owned by a governmental agency.
- B. A structure which is being reconstructed following damage or destruction by fire or other casualty, or the voluntary demolition thereof, provided that the number of structures or the size of such reconstructed structure is no greater than the number of structures or size of the structure prior to such damage, destruction or demolition.
- C. A development project found to have no impact on the Districts' fire system.
- D. An Accessory Dwelling Unit that is less than 750 square feet.

Section XII. Accounting Requirements.

1. A fee collected pursuant to this Ordinance, together with any interest, shall be maintained and accounted for in a separate fund to avoid commingling of such funds with other revenue and disbursed to the Fire Districts in a timely

manner. The Fire Impact Fees shall be expended solely for the purpose for which they were collected. Any interest earned by such an account shall be deposited in that account and expended solely for the originally collected purpose.

2. Fire Districts shall fully compensate County to reimburse its costs for the services to administer, collect, account for and report on the fees in compliance with the Mitigation Fee Act and recover the full costs of providing these services (“Administrative Costs”). County shall automatically withhold two percent of the total fee owed for each development project to recover the reasonable administrative costs associated with the implementation of this Ordinance. If the County’s Administrative Costs exceed two percent, County shall give 60 days notice to Districts. County shall, in its sole discretion, withhold the full amount to recover its Administrative Costs before distributing the proceeds to Districts.

Section XIII. Annual review. For all fees established pursuant to this Ordinance shall, within one hundred eighty days after the last day of each fiscal year, Fire Districts and County shall make available to the public information required by Government Code section 66006(b). Fire Districts shall provide its annual report to the Sonoma County Administrator’s Office no later than ninety two days after the last day of each fiscal year so the County Administrator’s Office has sufficient time to submit the report to the Board of Supervisors for consideration in an open and public meeting pursuant to Government Code section 66006(b).

Section XIV. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section XV. This Ordinance shall be in full force and effect from and after one hundred twenty (120) days after the date of its passage and shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California.

In regular session of the Board of Supervisors of the County of Sonoma, introduced and finally passed on the 23 day of March, 2021 on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

Gorin: Rabbitt: Coursey: Gore: Hopkins:

Ayes: Noes: Absent: Abstain:

WHEREUPON, the Chair declared the above and foregoing Ordinance duly adopted and

SO ORDERED.

Chair, Board of Supervisors
County of Sonoma

ATTEST:

Sheryl Bratton,
Clerk of the Board of Supervisors