

Attachment A
Draft Resolution
Exhibit 1
Board Resolution 2000-342

Fee Waiver Resolution
REF120049

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Resolution No. _____
Resolution amending the Monterey County)
Fee Resolution to Augment and Clarify Fee)
Waiver Procedures)
(REF120049/Fee Waiver Process))

WHEREAS, state law authorizes the County to establish fees for the cost of processing land use entitlements, so long as such fees do not exceed the estimated reasonable cost of providing the service for which the service is charged;

WHEREAS, pursuant to state law, the Board of Supervisors has periodically established fees for the processing of land use entitlements (“land use application fees”), including fees for filing administrative appeals of land use decisions (“land use appeal fees”), and the current land use fee schedule includes fees for filing appeals of land use entitlements in the inland unincorporated area of the County, appeals of administrative determinations, and appeals of fee determinations;

WHEREAS, the land use appeal fees are imposed to cover a portion of the costs of processing the appeal, and in enacting the fees, the Board of Supervisors found that the land use application fees and land use appeal fees do not exceed the estimated reasonable cost of processing the land use applications and appeals;

WHEREAS, the Board of Supervisors may, through the exercise of its police powers, waive land use application fees, including land use appeal fees, when policy or other reasons dictate that a waiver of fees is appropriate;

WHEREAS, on August 29, 2000, the Board of Supervisors adopted Resolution No. 2000-342 authorizing the County’s Director of Planning to grant requests for waivers of discretionary land use permit and building permit fees if the fee waiver request meets certain criteria and authorizing the Monterey County Planning Commission to consider all land use fee waiver requests not meeting the specific criteria, a copy of said resolution being attached hereto as Exhibit 1 and incorporated herein by reference;

WHEREAS, the existing land use fee waiver process allows appellants to request a fee waiver due to inability to pay, but the Board of Supervisors desires to make explicit that those who are genuinely unable to afford the fee are not barred from filing a land use appeal due to their financial condition;

WHEREAS, the Board of Supervisors desires to augment the criteria under which the Director of Planning has authority to grant a fee waiver to include grant of a waiver of land use appeal fees when the appellant provides evidence that the appellant is unable to afford the appeal fee due to appellant’s financial condition, provided that the appellant provides evidence in support of the fee waiver request such as evidence demonstrating that appellant would qualify for a waiver of court fees and costs pursuant to California Government Code section 68632 because of his or her financial condition;

WHEREAS, questions have arisen in the implementation of Resolution No. 2000-342 as to which County hearing body may hear appeals from the Director’s fee waiver decisions, and

therefore, the Board of Supervisors desires to clarify that the "Appropriate Authority" who is designated by the Monterey County Code to hear an appeal of a land use decision is also authorized to hear and decide appeals from the Director's decisions on fee waiver requests.

WHEREAS, Section 1.40.010 of Chapter 1.40 of the Monterey County Code provides that all fees, penalties, refunds, reimbursements, and charges of any kind by the County may be adopted by resolution or may be designated in the Monterey County Fee Resolution;

WHEREAS, the Board intends that this resolution shall augment Resolution No. 2000-342 and that the Monterey County Fee Resolution shall incorporate the procedures specified by this resolution.

DECISION

NOW, THEREFORE, based on all of the above facts and circumstances, the Board of Supervisors does hereby resolve as follows:

1. The Board of Supervisors hereby authorizes the Director of Planning to consider and decide upon requests from appellants for a waiver of land use appeal fees when the appellant provides evidence that appellant is unable to afford the appeal fee due to appellant's financial condition, provided that the appellant provides evidence in support of the fee waiver request such as evidence demonstrating that appellant would qualify for a waiver of court fees and costs pursuant to California Government Code section 68632 because of his or her financial condition.
2. The hearing body designated by the Monterey County Code as the Appropriate Authority to hear an appeal of a land use decision is also hereby authorized to hear and decide appeals from the Director of Planning's decisions on land use fee waiver requests.
3. This resolution augments Resolution No. No. 2000-342, and the Monterey County Fee Resolution shall incorporate the procedures specified by this resolution.

PASSED AND ADOPTED this 10th day of July, 2012, by the following vote:

AYES:

NOES:

ABSENT:

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book ___ for the meeting on _____.

Dated:

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
Deputy

Exhibit 1
Board Resolution 2000-342

Before the Board of Supervisors in and for the
County of Monterey, State of California

Resolution 2000- 342

Resolution Amending the Monterey)
County Master Fee Resolution to)
Clarify the Fee for Appeals on)
Land Use Issues and Establish)
Criteria for the Waiver of Fees in)
Specific Circumstances.)

Whereas: Chapter 1.40 of the Monterey County Code establishes the Monterey County Master Fee Resolution (the Resolution) as the vehicle for setting and amending fees; and,

Whereas: The Board wishes to clarify the appeal fee for land use issues and to establish criteria and authority for the Director of Planning and Building Inspection to waive fees in specific cases; and,

Whereas: The Board has received a report and recommendations from the County Administrative Office and Planning and Building Inspection; and,

Whereas: The Board has held a public hearing as required by law and heard from all interested parties;

NOW, therefore, be it resolved that the Board clarifies that the appeal fee for appeals to the Planning Commission or Board of Supervisors on land use issues is \$671.00.

Be it further resolved that the Director of Planning and Building Inspection may waive application and appeal fees for discretionary permit and building permit applications for:

1. Small day care centers (less than twelve children).
2. Inclusionary portions of proposed residential developments.
 - a. Special Handling affordable housing projects, as detailed in the adopted Special Handling criteria (25% affordable housing). Amount of fees waived is based on the percentage of affordable housing provided, and may include additional fees beyond the original application fees.
 - b. Persons age 62 or over on a fixed, very low income as defined by Housing and Urban Development.

- c. Reclassification applications to bring property into consistency with existing General Plan land use designations.
 - d. County or other government agencies.
 - e. Permit fees for the repair or reconstruction of property and structures damaged or destroyed by an act or event that has been declared a disaster by the Board of Supervisors where insurance is inadequate to pay the applicable fees.
8. Development, enhancement, expansion or modification of needed community facilities by non-profit organizations and community groups meeting the following criteria:
- a. The proposed project is available for use by the general public; and
 - b. Provides a scope of benefit beyond the residents of the immediate vicinity; and,
 - c. Is of obvious public benefit. Evidence of public benefit includes, but is not limited to, projects that:
 - i. Meet a public need previously identified or recognized by the Board of Supervisors;
 - ii. Provide a public facility not presently available in the community;
 - iii. Have generated obvious, substantial community support; or,
 - iv. Would either reduce County costs or increase County revenue.
9. General Plan amendments for parcels with inappropriate or inaccurate land use designations provided the property has been field checked and verified that it is inaccurately or inappropriately designated.

Requests Not Conforming to Policy:

The Planning Commission shall consider all requests for fee waivers not meeting the above criteria.

Appeal of Director's Decision:

The Planning Commission shall consider all appeals of decisions of the Director on fee waiver requests.

Payment of Fees:

All fees shall be paid at the time of the filing an application or an appeal. Should the fees subsequently be waived, the fees shall be refunded.

On motion of Supervisor PENNYCOOK, seconded by Supervisor SALINAS, and carried by those members present, the Board hereby adopts this resolution amending the Monterey County Master Fee Resolution to clarify the fee for appeals on land use issues and establish criteria for the waiver of fees in specific circumstances.

PASSED AND ADOPTED this 29th day of August,, 2000, by the following vote, to-wit:

AYES: Supervisors Safinas, Pennycook and Calcagno.

NOES: None.

ABSENT: Supervisors Johnsen and Potter.

I, SALLY R. REED, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page -- of Minute Book 70, on August 29, 2000.

DATED: August 29, 2000

SALLY R. REED, Clerk of the Board
of Supervisors, County of Monterey, State of
California

By: 

Deputy

Fee Waiver Policy

(adopted by Board of Supervisors August 29, 2000)

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2. Inclusionary portions of proposed residential developments.
3. Special Handling affordable housing projects, as detailed in the adopted Special Handling criteria (25% affordable housing). Amount of fees waived is based on the percentage of affordable housing provided, and may include additional fees beyond the original application fees.
4. Persons age 62 or over on a fixed, very low income as defined by Housing and Urban Development.
5. Reclassification applications to bring property into consistency with existing General Plan land use designations.
6. County or other government agencies.
7. Permit fees for the repair or reconstruction of property and structures damaged or destroyed by an act or event that has been declared a disaster by the Board of Supervisors where insurance is inadequate to pay the applicable fees.
8. Development, enhancement, expansion or modification of needed community facilities by non-profit organizations and community groups meeting the following criteria:
 - a. The proposed project is available for use by the general public; and
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The Planning Commission shall consider all appeals of decisions of the Director on fee waiver requests.