

Attachment A

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

Resolution No. 19-

Resolution of the Monterey County Board of Supervisors)
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To amend Article 14.D of the Monterey County Fee Resolution to Update the Land Use Fee Waiver Policy for Land Use Application Fees and Land Use Appeal Fees)
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WHEREAS, State law authorizes the County to establish fees for the cost of processing land use entitlements ("Land Use Application Fees") and filing administrative appeals of land use decisions ("Land Use Appeal Fees"), so long as such fees do not exceed the estimated reasonable cost of providing the service for which the fee is charged;

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 Master Fee Resolution;

WHEREAS, pursuant to State law, the Board of Supervisors has periodically established fees for the processing of land use application fees and 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, pursuant to State law and Section 1.40.010 of Chapter 1.40 of the Monterey County Code, the Board of Supervisors may establish criteria and authority to waive land use application and appeal fees;

WHEREAS, on August 29, 2000, the Board of Supervisors adopted Resolution No. 2000-342 establishing criteria and authority for the Monterey County Director of Planning and Building Inspection to waive application and appeal fees for discretionary land use permits and building permits;

WHEREAS, on July 10, 2012, the Board adopted Resolution No. 12-384 to augment Resolution No. 2000-342 and clarify the land use fee waiver policy and established Article 14.D of the Monterey County Fee Resolution to incorporate the land use fee waiver policy;

WHEREAS, the Monterey County Resource Management Agency is the lead department for issuance of permits for land use, including planning, building, environmental and development services, and floodplain management and administration of the land use application fees associated with such permits;

WHEREAS, under the existing land use fee waiver policy, eligible fee waivers were granted in the amount of \$367,000 for Fiscal Year (FY) 2016/17, \$314,000 for FY 2017/18, \$60,000 for FY 2018/19;

WHEREAS, the Board of Supervisors desires to update the land use fee waiver policy to reduce reliance on the General Fund as a critical funding source for staff providing land use services and to continue to assist individuals who are genuinely unable to afford land use application and appeal fees and would not otherwise have access to services due to their financial condition;

WHEREAS, the fees to which these waivers apply are not a tax and are exempt from voter approval pursuant to subparagraphs (1) through (3) and subparagraph (6) of section 1 of Article 13C of the California Constitution (Proposition 26), and this fee waiver does not result in increased charges and fees to other land use permit applicants, as the loss of revenue will be borne by the County General Fund; and

WHEREAS, this action related to fee waivers is statutorily exempt from the California Environmental Quality Act pursuant to section 21080(b)(8) of the Public Resources Code because the fees are charges to cover operating expenses.

NOW THEREFORE BE IT RESOLVED, by the Monterey County Board of Supervisors that said Board does hereby:

- I. Amend Article 14.D of the Monterey County Fee Resolution to establish the Land Use Fee Waiver Policy as shown in Exhibit A, attached hereto and incorporated by reference.
- II. This Land Use Fee Waiver Policy supersedes all prior County resolutions establishing policies for waiving land use application fees and land use appeal fees, including criteria and authority to waive application and appeal fees for discretionary land use permits and building permits.
- III. This resolution shall take effect on the thirty-first day following adoption.

PASSED AND ADOPTED upon motion of Supervisor _____, seconded by Supervisor _____ and carried this 5th day November of 2019, by the following vote, to wit:

AYES:

NOES:

ABSENT:

I, Valerie Ralph, 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 resolution of said Board of Supervisors duly made and entered in the minutes thereof Minute Book ___ for the meeting on November 5, 2019.

Dated: _____

File Number: _____

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
Deputy

Article 14.D of the Monterey County Fee Resolution
“Land Use Fee Waiver Policy”

A. AUTHORITY

The Board of Supervisors is the appropriate authority to consider all requests for waiver of Land Use Application Fees and Land Use Appeal Fees, unless otherwise required by the Monterey County Code or unless authority has been delegated to the Director of the County Resource Management Agency as provided herein. The County Resource Management Agency (RMA) Director or designee (hereafter “Director”) is authorized to consider fee waiver requests and to approve eligible requests for fee waivers in accordance with the provisions of this policy.

B. APPLICABILITY

1. "Land Use Application Fees" means fees for processing applications for land use entitlements.
2. "Land Use Appeal Fees" means fees for filing administrative appeals of decisions on applications for land use entitlements.
3. Unless otherwise specified, this policy applies to Land Use Application Fees and Land Use Appeal Fees for discretionary permits. The following are not eligible for a fee waiver under this policy:
 - a. Fees for applications for Ministerial Permits
 - b. Mandated Fees (e.g., State Buildings Standards Surcharge, California Department of Fish and Wildlife fee for review of environmental documents, etc.).
 - c. Fees imposed as a condition of approval of a development project (e.g., TAMC Regional Development Impact Fee, County Traffic Impact Fees, etc.)

C. ELIGIBILITY

To be eligible for a fee waiver to be granted by the Director, the applicant seeking the fee waiver must demonstrate to the satisfaction of the Director that one of the following conditions apply:

1. The applicant demonstrates that all of the following criteria are met:
 - a. the permit is for residential project(s),
 - b. the applicant is the property owner with a very low income, defined as a household whose income does not exceed 50 percent of the median area

- income for the area, as determined by the U.S. Department of Housing and Urban Development, and
- c. the project is not on behalf or for the benefit of another entity (non-profit, commercial, etc.); and
 - d. The applicant provides proof of eligibility using commonly accepted verification documents.
2. The permit is 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. In such cases, fees for discretionary and ministerial permits may be waived in accordance with the disaster recovery guidelines adopted by the Board of Supervisors. In the event of a conflict between this policy and the adopted disaster recovery guidelines, the disaster recovery guidelines shall prevail.
 3. The applicant is a government agency and has a written reciprocal services agreement or memorandum of understanding with the County.
 4. Land Use Appeal Fees are eligible for consideration of a fee waiver when the appellant provides evidence that appellant is unable to afford the appeal fees due to appellant's financial condition, provided that the appellant signs an affidavit on a form provided by the County attesting to inability to pay the fee and also 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 their financial condition.

D. SUBMITTAL AND REVIEW

1. The application for a fee waiver can be obtained at the Resource Management Agency (RMA) Permit Counter located at 1441 Schilling Place, 2nd Floor, Salinas, CA 93901, or on the County website (follow links to County Resource Management Agency) .
2. Applicants seeking a fee waiver must submit a fee waiver application to the Resource Management Agency for review by the Director.
3. A fee waiver application must be submitted concurrently with or prior to the associated permit application, in one of the following manners:
 - a. Application Fee with Waiver Request. If all fees are paid in full with the application, the application will be processed concurrent with the waiver request. Fees will be refunded if, or to the extent, a fee waiver is approved; or
 - b. Waiver Request, No Fee. The permit application shall be held incomplete until action is taken on the fee waiver and, if required, the fees are paid.

4. Requests shall include an explanation for why fees should be waived and whether and how it meets the criteria in this policy and shall include any supporting documentation as required by this policy.
5. All requests shall be reviewed by staff, and their input included in a final recommendation to the Director. Fee waiver applications that include fees from other departments shall be routed to the respective department for recommendation as to those department fees.
6. Notwithstanding anything to the contrary in this policy, the Director may follow applicable special fee waiver processes, including such disaster recovery guidelines as have been adopted by the Board of Supervisors.
7. If the fee waiver application meets the eligibility criteria in this policy, the Director shall approve the fee waiver.
8. If the fee waiver application does not meet the eligibility criteria for fee waiver within the authority granted to the Director, the Director shall refer the fee waiver application to the Board of Supervisors (or other appropriate authority if required by the Monterey County Code) for review.

E. CONFLICT OF INTEREST

In accordance with the California Political Reform Act, public officials – including County officials, employees, and consultants in a position to influence or make a fee waiver decision-- shall not make, participate in making, or in any way use or attempt to use their official position to influence a decision regarding a fee waiver when they know or have reason to know that they have a disqualifying financial interest. (See California Code of Regulations, Title 2, section 18700 et seq for criteria for “disqualifying financial interest.”)

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