

**Before The Board of Supervisors In and For The
County of Monterey, State of California**

Resolution No. _____
Adopt a Resolution amending Section 5)
(Land Use) of Article I.E. of the Monterey)
County Master Fee Resolution effective)
November 17, 2019, to adjust fees for the)
Monterey County Health Department’s)
Environmental Health Bureau’s review and)
processing of applications for land use and)
construction permits and entitlements.)

This resolution is made with reference to the following facts:

- A. State law allows the County, after noticed public hearing, to adopt a resolution to adopt new fees or increase existing fees for processing permits and entitlements, provided the fees do not exceed the estimated reasonable cost of providing the service for which the fee is charged.
- B. 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 collected by the County may be specified in the Monterey County Fee Resolution.
- C. Federal, state, and local laws and regulations mandate that the County provide certain services. Periodically, fees for reviewing and processing applications for land use entitlements and construction permits and related inspection services are amended to recover some of these costs to provide these services.
- D. The Environmental Health Bureau of the Health Department has fees for services provided for the review of planning and construction permit applications for land use and construction permits and entitlements which are appropriate to specify in the Monterey County Fee Resolution.
- E. Environmental Health Bureau’s fees for these land use services are set forth in Section 5 of Article I.E of the Monterey County Fee Resolution. The proposed adjustments to these fees are set forth in Exhibit 1, attached hereto and incorporated herein by reference.
- F. The fee adjustments made by this resolution cover a portion of the staff cost of processing applications for construction permits and associated activities. The fees do not exceed the reasonable or actual costs of performing the services. Any and all of the adjustments to the fees reflect no more than the actual cost of the service or benefit received by the payor. To the extent that the fees do not result in full cost recovery, the discount does not result in increased charges to other payors; the increased cost will be covered by an increased subsidy from the County General Fund.

G. Land use entitlements, construction permits, and inspection fees are authorized by state law (Government Code section 66014). These fees are not a “tax” and are exempt from voter approval under section 1(e)(1)-(3), (5) and (6) of Article XIII C of the California Constitution (Proposition 26, excepting from the definition of “tax” charges imposed for specific benefit conferred/privilege/service or product, and/or reasonable regulatory costs to a local government for issuing permits and the administrative enforcement thereof, fines and penalties and charges for violation of law, and property development charges.)

These fees are imposed for a specific government service provided directly to the applicant that is not provided to those not charged, are imposed for the reasonable regulatory costs to the County for issuing permits for property development and the administrative enforcement thereof, and do not exceed the reasonable costs to the County of providing these services.

H. This action to modify construction permitting and inspection services fees is not a project under the California Environmental Quality Act because it is a governmental funding mechanism which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. (CEQA Guidelines section 15378(b)(4).)

I. Said amendments to the Environmental Health Bureau’s Land Use fees are intended to take effect 60 days after adoption of the amendments.

J. The Board of Supervisors held a duly noticed public hearing on September 17, 2019 to consider these fee adjustments. Notice of this matter was provided by publication of notice in newspaper of local circulation in the County and distribution of notice to interested persons, and all testimony from staff and the public has been heard and considered.

NOW, THEREFORE, BE IT RESOLVED by the Monterey County Board of Supervisors as follows:

1. Section 5 (Land Use) of Article I.E. of the Monterey County Fee Resolution is hereby amended as shown in Exhibit 1, attached hereto and incorporated herein by reference.
2. Unless otherwise specifically amended, all prior resolutions regarding such fees remain as previously approved and are unaffected by this action.
3. Said amendment to Article I.E. shall take effect on the sixty-first day following adoption.

PASSED AND ADOPTED on this _____ day 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 order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book___ for the meeting on _____.

Dated:

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

By _____
, Deputy

EXHIBIT 1

ARTICLE I.E.			
HEALTH DEPARTMENT FEES			
Article I.E - Environmental Health, Effective November 17, 2019			
PE Number	Section #	Description	FY 2019-20 Adopted Fee - Article IE
	SECTION 5: LAND USE	(1,4,7,8,11) <i>Please reference the correlating foot note section for details.</i>	
2701	A.	Type 1 - Compliance Review	157
		1 Appeal of project reviewed by Environmental Health Bureau (2) <i>Please reference the correlating foot note section for details.</i>	
		2 Change of Commercial or Industrial Use: Served by Public Sewer & Water	
		3 Commercial/Industrial Construction Permit - Modification to Existing or Tenant Improvement: Served by Public Sewer & Water	
		4 Commercial/Industrial Construction Permit - Tenant Improvement: Served by OWTS but no additional wastewater generation (i.e. hood exhaust, walk-in refrigerator, etc.)	
		5 Discretionary Permit for Residential Development: Served by Public Sewer & Water	
		6 Residential Demolition: Served by OWTS	
		7 Special Event at Established Venue: Served by Public Sewer & Water	
2702	B.	Type 2 - Minor Plan Check or Report Review	313
		1 Change of Commercial or Industrial Use: Served by OWTS and/or Private Well or EHB-regulated Water System	
		2 Commercial/Industrial Construction Permit - New: Served by Public Sewer and Water	
		3 Commercial/Industrial Construction Permit - Additions/Modifications to Existing or Tenant Improvements: Served by OWTS and/or Private Well or EHB-regulated Water System	
		4 Construction Permit for Ground Mounted Solar or Swimming Pool: Served by OWTS	
		5 Design Approval: Served by OWTS and/or Private Well or EHB-regulated Water System	
		6 Discretionary Permit - Extension: Served by OWTS and/or Private Well or EHB-regulated Water System	
		7 Environmental Review: Non-Deposit Project	
		8 Grading Permits (not in conjunction with construction permit): Served by OWTS	
		9 Residential Construction Permit - Additions/Modifications of 500 s.f or less to Existing Development: Served by OWTS and/or Private Well or EHB-Regulated Water System	
		10 Residential Construction Permit - Accessory Structure without Plumbing: Served by OWTS and/or Private Well or EHB-Regulated Water System	
		11 Special Event in Open Space: Public Sewer and/or Public Water Unavailable	
2703	C.	Type 3 - Major Plan Check or Minor Discretionary Permit Review	783

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		1 Certificate of Compliance with Conditions (per Lot): Served by OWTS and/or Private Well or EHB-regulated Water System	
		2 Development Review Conference (5) <i>Please reference the correlating foot note section for details.</i>	
		3 Discretionary Permit for Commercial/Industrial Development: Served by Public Sewer & Water	
		4 Lot Line Adjustments: Served by OWTS and/or Private Well or EHB-Regulated Water System	
		5 Discretionary Permit - Minor Amendment; Permit Amendment, Renewal or Revision: Served by OWTS and/or Private Well or EHB-regulated Water System	
		6 Residential / Commercial / Industrial Construction Permit - New Development or Additions/Modifications of 500 s.f or more to Existing Development: Served by OWTS and/or Private Well or EHB-Regulated Water System	
		7 Subdivision - Minor or Standard - Tentative Map Extension	
2704	D.	Type 4 - Major Discretionary Permit Review	1,566
		1 Discretionary Permit for Residential or Commercial/Industrial Development served by OWTS and/or Private Well or EHB-Regulated Water System	
	E.	Deposit Projects	
2705		1 Type 5a - Minor Deposit Project (Time & Material) (9,10) <i>Please reference the correlating foot note section for details.</i>	500
		a. Deed Restriction Processing (per hour)	
		b. Hydrogeologic Report Technical Review & Advice of General Manager	
2706		2 Type 5b - Major Deposit Project (Time & Material) (9,10) <i>Please reference the correlating foot note section for details.</i>	1,500
		a. Condition Compliance and Mitigation Monitoring (6) <i>Please reference the correlating foot note section for details.</i>	
		b. Hydrogeologic Report Preparation - Contract Administration	
		c. Use Permit - Oil and Gas	
2707		3 Type 5c - Extraordinary Deposit Project (Time & Material) (3,9,10) <i>Please reference the correlating foot note section for details.</i>	2,500
		a. Environmental Review - EIR: Consultation and/or Review	
		b. Extraordinary Development Applications	
		c. General / Area Plan Amendment	
		d. Subdivision - Minor or Standard - Final Map Review	

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		e. Subdivision - Minor or Standard - Tentative Map / Vesting Tentative Map Application	
		f. Subdivision - Minor or Standard - Amendment of Final or Tentative Map	
	4	Miscellaneous Permits and Fees	
2708		Commercial Cannabis Permit - Initial Permit	2,050
2709		Commercial Cannabis Permit - Renewal	138
	SECTION 5: LAND USE FOOT NOTES		
	1.	Environmental Health fees are based on an hourly rate approved by the Board of Supervisors flat fee based on the estimated reasonable through Health Department Fees, Article I.E. Unless a “deposit” is indicated, the fee is a flat fee based on the estimated reasonable cost, averaged across all applications, of processing the permit/entitlement/activity for which the fee is charged. For certain matters, a “deposit” is indicated because the cost of processing varies widely depending on the particular application. Where a “deposit” is indicated, the fee will be based on actual cost, measured by actual time spent on a particular application in quarter hour (.25) increments. Applicant is required to pay the deposit, which is based on an estimate of minimum cost, and to increase the deposit if, in the course of processing the application, County determines that the deposit is insufficient to cover actual processing time. The fee will be calculated at full cost recovery when the project is complete. Where there are conflicting deposit amounts, the lower deposit shall apply. On deposit matters, applicant and the Director of Health, or designee, may elect, on a case-by-case basis, to agree to a different deposit amount based on the estimated actual cost of processing a specific application.	
	2.	In the coastal zone, the appeal fee applies only to appeals of permits that are not appealable to the California Coastal Commission such as Administrative Permits, Design Approvals, Variances and Tree Removal Permits in certain coastal areas. The appeal fee does not apply to appeals of Coastal Development Permits that are appealable to the Coastal Commission. The Appeal fee is based upon the fee adopted by the Board of Supervisors on May 7, 2013, which sets the fee substantially lower than the actual cost. The Appeal Fee is subsidized by the County General Fund.	

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	3.	“Extraordinary development applications” are those applications which will require staff time well beyond the typical application, as determined by the Director of Planning. These applications may include, by way of example and without limitation, applications for large scale development involving multiple discretionary entitlements, significant technical review by other land use agencies, and/or an anticipated lengthy time frame for processing because of their scope and complexity. Consistent with these criteria, any project requiring the preparation of an EIR shall qualify as an extraordinary development application. The amount paid to the County is for staff costs. The County may utilize a consultant, whose expenses shall be fully funded by the project applicant.	
	4.	Fees assessed on behalf of the EHB for Combined Development Permits under Chapter 21.76 of Title 21 and Chapter 20.70 of Title 20 are not subject to any discount or cost reduction because only one (1) EHB review fee is assessed per permit application. Fees for environmental review are separate from the permit review fee and will be assessed separately.	
	5.	Fees collected for Development Review Conferences shall be credited against any subsequent discretionary permit, except design approval, provided the discretionary permit application is made within 12 months of the application appointment.	
	6.	Projects approved after the effective date of this Article, with conditions of approval and mitigation measures that require monitoring by the EHB, shall be subject to the Condition Compliance / Mitigation Monitoring fee set forth in this Article. Projects approved prior to the effective date of this Article with mitigation measures shall be subject to the mitigation monitoring fees set forth in the County Fee Resolution that was in effect on the project approval date.	
	7.	An Onsite Wastewater Treatment System, referred to throughout Article I.E. as “OWTS”, is a system used to collect and treat wastewater from a single family dwelling or buildings that dispose of the treated wastewater below ground on the same parcel as the structure(s) that the OWTS serves. A Package Treatment Plant means a non-regional wastewater treatment facility that treats two-thousand and five hundred gallons or more per day of wastewater and does not include OWTS. A Wastewater Treatment Facility means a facility designed to receive wastewater from a regional area, e.g. Monterey One Water (MW1) or the Carmel Area Wastewater District (CAWD). Definitions of the terms referenced herein are consistent with the 2010 Monterey County General Plan.	

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	8.	The applicant for a discretionary land use development permit, use permit, construction permit, Williamson Act agreement, Mills Act contract, lot line adjustment, and/or any procedure that requires processing through the Health Department and includes recording/filing of a document with the Monterey County Recorder shall, in addition to the payment of any and all other County and/or Health Department fees, be required to pay any and all applicable standard recording/filing fees no later than the time of the recording/filing of that document. The payment of the applicable recording/filing fee shall be required whether or not the document is processed on behalf of the applicant by an employee of the County of Monterey (e.g., Health Department staff or Clerk of the Board) or is processed by the applicant. Failure to ensure full payment of such recording/filing fee by the time of the recording/filing shall be grounds for rejection of the recording/filing of that document with no liability to the County.	
	9.	When a hydrogeologic report is required to be prepared for a subdivision or other application subject to Title 19 of Monterey County Code, the report shall be based on a comprehensive hydrological investigation prepared by a certified hydrogeologist, selected by the County and under contract with the County, at the applicant's expense. A deposit for staff costs associated with preparation and administration of the contract, and review of the hydrogeologic report shall be in addition to the deposit for the development application. When an application is not subject to Title 19, the applicant shall consult with the Water Resources Agency (WRA) to develop the scope of work for the hydrological investigation; however, selection, contract and preparation of the hydrogeologic report shall occur independent of the County. EHB will review the hydrogeologic report in consultation with WRA. A deposit for staff costs associated with technical review of the hydrogeologic report shall be in addition to the deposit for the development application.	
	10.	The deposit paid to the County for staff costs as identified in the Funding or Reimbursement Agreement between the County and the Applicant. Staff costs shall be reimbursed as part of an Extraordinary Development Application as noted in #3 above.	
	11.	For the purposes of assessing fees, the term "Commercial or Industrial" include agriculture-related and/or non-residential permit applications. Examples include, but are not limited to, applications for cannabis cultivation, manufacturing or dispensaries, and employee housing facilities.	