



Legislation Details (With Board Report)

File #: RES 19-099 **Name:** Public Hearing to Amend Land Use Fees
Type: BoS Resolution **Status:** Scheduled PM
File created: 7/7/2019 **In control:** Board of Supervisors
On agenda: 7/16/2019 **Final action:**

Title: Public hearing to consider the following amendments to the Monterey County Fee Resolution relating to fees for processing applications for land use permits and entitlements:
a. Amend and update Article XIX (RMA-Building Services) to revise building fees to reflect updates to inspection rates based on valuation;
b. Amend and update Article IX - (RMA- Planning) to update and consolidate land use application fees for Planning, Public Works and Environmental Services;
c. Rescind and Reserve Article X (RMA-Public Works);
d. Rescind and Reserve Article XX - (RMA -Environmental Services); and
e. Amend and update Article XVII (County Counsel) to align with revisions to Article IX.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Board Report, 2. Attachment A - 2019 RMA Comprehensive Fee Study, 3. Attachment B - Current Fee Articles, 4. Attachment C - Resolution, 5. Item No. 11 Completed Board Order

Date	Ver.	Action By	Action	Result
7/16/2019	1	Board of Supervisors	continued	Pass

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RECOMMENDATION:

Amend the Monterey County Fee Resolution as follows:

- a. Amend and update Article XIX (RMA-Building Services) to revise building fees to reflect updates to inspection rates based on valuation;
- b. Amend and update Article IX - (RMA- Planning) to update and consolidate land use application fees for Planning, Public Works and Environmental Services;
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SUMMARY:

The Resource Management Agency (RMA) is the lead for establishing land use fees for Monterey County, subject to approval by the Board of Supervisors. Land use fees as proposed would significantly change the format creating a simplified tier format grouped by tasks that require a similar level of resources rather than a list of each task (sometimes broken down into multiple sub-tasks). Following RMA establishing the fee structure, County Counsel is proposing revisions to its land use application fees to align with the

simplified categories and structure of fees proposed by RMA, since RMA functions as the single collection point for applicants' payment of these fees. Other departments (Environmental Health, Water Resources Agency) also intend to propose revision of fees to align with the schedule created by RMA.

Section 1.40.010 of the Monterey County Code provides that all fees and charges collected by the County may be specified in the Monterey County Fee Resolution. The Monterey County Fee Resolution consists of several articles, which correspond to departments and functions of the County. Proposed changes include:

Combine Fee Articles for Public Works (Development Services) (currently Article X), Environmental Services (currently Article XX), and Planning (currently Article IX) into a single Fee Article, called Article IX - Resource Management Agency. The proposed Fee Article retains separate hourly rates for each service area to reflect the current budget structure that is comprised of four (4) appropriation units for land use activities within the RMA.

Article XIX - Building Services has been revised, transitioning to a more simplified fee schedule that uses the International Code Council standard valuation table to develop permit fees for proposed projects with no Regional Modifier as was previously done.

Monterey County Water Resources Agency (WRA) land use tasks have been transferred to RMA and are reflected in the proposed Article IX; however, if WRA is asked to consult on land use matters, then WRA hourly rates would apply. The Board of Supervisors sitting as the Board of the WRA would separately adopt and revise the applicable fees for WRA.

Alternate Energy Credits was intended to incentivize the public when implemented in 2010, which was a Board decision not driven by building code. Staff is recommending this credit be rescinded, as implementation of energy efficient home products have become common place under current construction practices.

The proposed increase in the Technology Fee offsets the annual costs of information technology and related support. In FY 2017/18 the costs for information technology totaled \$520,938 where the existing technology fee only recovered \$247,346. An increase in the technology rate of 6.2% is expected to fully recover the FY 2019/20 costs of \$576,962. The technology fee is required to maintain status quo and distribute the costs proportional to each permit processed, relieving the burden placed on the general fund to support these functions.

The General Plan Update & Implementation (GPU&I) Fee increase from 3% to 10% is proposed to address the increasing costs to implement the existing General Plan and prepare for the next updates to the General Plan and Local Coastal Program. The work includes completing 45 tasks to implement the current General Plan. Additionally, RMA anticipates that the work will include updating the Housing Element, updating the Local Coastal Program and updating the General Plan, as needed. The funds are expected to fund four (4) Associate Planners within the RMA long range planning section, as well as consultant services. Revenue estimated from the GPU&I fees is based on the average permit revenue from FY 2014/15 through FY 2017/18 or \$9,288,523. The estimated cost for completing the work required, over the next the next 10 years including four (4) Associate Planners, escalated 2.2% and \$3,000,000 in consultant costs, is \$9,442,933 offset by the revenue from the proposed GPU&I fees of \$9,288,523. Given these assumptions the General Fund would not be impacted by the costs of the future Long-Range planning program.

DISCUSSION:

RMA-Planning is a lead agency for the County to review projects and perform activities for land use, based on customer driven requests (applications) as well as providing services or performing activities as the regulatory agency. Ideally, the costs for providing fee-based services are directly proportional to the amount of the fee, referred to as "full cost recovery." However, "full cost recovery" does not mean that the cost for every person or action is included in developing the fee or recouped from the fee. A comprehensive fee study has been conducted throughout each land use unit within the RMA to analyze the cost recovery for fee-based services and determine appropriate fees, as summarized in **Attachment A**. The RMA is proposing a Tiered Fee Structure that is transparent, straight-forward and based on the estimated reasonable cost for providing those fee-based services. Proposed fees are rounded to the nearest whole dollar amount. The General Plan Update and Implementation fee is included in the tiered fee schedule except for items where noted in the Fee Article.

The current fee articles IX (RMA Planning), X (RMA-Public Works), XVII (County Counsel), XIX (RMA-Building Services), and XX (RMA-Environmental Services) have been in place since July 1, 2015, provided in **Attachment B**, and have remained unchanged except for the addition in 2016 of fees for the Commercial Cannabis Permit application. The updates to the proposed fee article(s) reflect increased costs and changes in services, provided in **Attachment C**. The objective of this comprehensive fee study is designed to simplify and streamline the permitting processes and land use activities workflows, as well as recover the current cost of operations. The average cost recovery for land use units within the RMA involved in permit and service-related activities is well below full cost recovery, allowing for this revision to achieve a higher percentage of cost recovery, without exceeding the actual of doing business.

RMA will be bringing to the Board an update that would refine the types of fee waivers the Director of RMA is authorized to grant and to clarify how fee waivers apply to other land use tasks.

The land use fee adjustments made by this resolution cover a portion of the staff cost of processing applications for land use permits and entitlements and associated planning, monitoring, and enforcement activities. The fees do not exceed the reasonable or actual costs of performing the services, processing land use applications and associated permitting, monitoring, and enforcement activities. Any 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.

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.

This action to modify land use 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)).

OTHER AGENCY INVOLVEMENT:

RMA has worked closely with the Permit Streamlining Task Force and other County departments with land use responsibilities such as Environmental Health Bureau, Water Resources Agency, County Counsel and the CAO’s office. Members of the Permit Streamlining Task Force have submitted letters of support for the proposed amendments and updates to the Land Use Fee Article(s). County Counsel is proposing revisions to its fee article, Article XVII, to align with changes proposed by RMA, including simplifying some fee categories and converting the condition compliance fee to a by-the-hour charge for all types of land use permits. This alignment assists in implementation and efficiency, since RMA is the single connection point for collection of land use application fees. Additionally, County Counsel has updated its hourly rate to reflect the increase in the fully burdened labor rate since 2015, when the comprehensive fee schedule was last adopted. (See proposed Art. XVII, fn. 1.) The Environmental Health Bureau and Water Resources Agency also have fees related to land use applications which are in separate fee articles to the Monterey County Fee Resolution. Proposed revisions to their fees will be brought separately to their appropriate Boards for consideration. RMA will continue to work closely with other agencies to implement their fee articles.

FINANCING:

The overarching objective of the proposed changes to existing fee articles is to streamline and simplify the permitting process and reduce the reliance on the General Fund to subsidize permit processing activity. In FY 2017/18 the cost recovery rate of land use fees was sixty-six percent (66%) of the total of \$15,001,446 in expenditures and revenue of \$9,933,133 resulting in a General Fund contribution of \$5,068,312, of which \$645,623 was attributed to credits for alternate energy (\$331,500) and fee waivers(\$314,123). Staff is proposing rescinding the alternate energy credit and modifying the fee waiver policy as discussed above in the Summary of this report, as well in **Attachment A**.

The standardization of the building fee schedule is based on the FY 2019/20 Adopted Budget and total valuation from FY 2017/18, which allows RMA to appropriately apply standard values to the permitting of construction throughout unincorporated Monterey County.

Assuming the same level of permit activity in FY 2019/20 as in the prior year and rescission of the credit for alternate energy, staff anticipates an increase in permit revenues (excluding the GPU&I). The current FY 2019/20 RMA adopted budget does not include an increase in permit revenues for its four (4) Land Use appropriation units. Any revenue increases realized over the Board approved budget would go to the general fund at the end FY 2019/20.

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Approved by: Carl P. Holm, AICP, RMA Director

Attachments:
Attachment A - 2019 RMA Comprehensive Fee Study

Attachment B - Current Fee Articles

Attachment C - Resolution to update and amend the Monterey County Fee Resolution
(Attachments on file with the Clerk of the Board)