



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: RES 23-145, **Version:** 1

2023 Land Use Fee Update

Public hearing to consider:

- a. Finding that modification of permit fees is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15273 of the CEQA Guidelines;
- b. Adopting a resolution amending the Monterey County Fee Resolution to:
 - i. Fee Article IX - Land Use to make minor adjustments to fees including replacing the condition compliance deposit with flat fees and increasing the technology surcharge fee from 7.04% to 7.49%; and
 - ii. Fee Article XIX -Building Services to clarify permit fees for special events and encroachments and increasing the technology surcharge fee from 7.04% to 7.49%.

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution (Attachment A) amending Monterey County Fee Resolution, effective October 23, 2023, to:

- a. Find that modification of permit fees is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15273 of the CEQA Guidelines
- b. Amend Fee Article IX - Land Use to make minor adjustments to fees including replacing the condition compliance deposit with flat fees and increasing the technology surcharge fee from 7.04 percent to 7.49 percent; and
- c. Amend Fee Article XIX -Building Services to clarify permit fees for special events and encroachments and increasing the technology surcharge fee from 7.04 percent to 7.49 percent

SUMMARY:

Housing and Community Development (HCD) fees were last updated by Board of Supervisors adoption of Resolution No. 21-169 on June 22, 2021. HCD has identified adjustments to Fee Articles IX (Land Use) and XIX (Building Services) that will clarify and simplify permit fees. Additionally, HCD proposes to adjust the Technology fee in both Article IX and Article XIX to fully recover technology costs associated with permitting for FY24.

HCD proposes to adjust the Land Use Fee Article to replace the condition compliance deposit with flat fees designated for each permit tier. Currently, HCD charges a \$2,000 deposit for condition compliance on a project with 1-10 conditions, \$4,000 for condition compliance on a project with 11-20 conditions, and \$6,000 for a project with more than 20 conditions. HCD staff charges an hourly rate when reviewing conditions and once conditions are completed, unused funds are refunded to the applicant or additional funds are required to be deposited if the initial amount collected is not sufficient to cover costs. This fee structure is cumbersome to track and implement and makes costs unpredictable for applicants. Based on an average amount of time spent on various land use entitlements (fee tiers) over the last year, staff is suggesting a flat fee rather than a deposit fee amount.

Updates to the Building Services fee article are proposed that clarify fees associated with the Special Events and Encroachments. Some of the clarifications include adding language regarding additional permit requirements related to building fences, adding utility cabinets or removing trees within the right-of-way as well as adding fees that were missing such as inspection fees on encroachment permits.

The updates also include moving a group of existing fee items so that they fall under the appropriate heading in the article.

Additionally, HCD proposes to increase the Technology fee found in both Article IX and Article XIX by .45% (from 7.04% to 7.49%) for one year to offset the costs associated with improvements to the County's permit database (Accela). This is onetime system improvement cost and after the one year period, staff will return to the Board for consideration of reducing the technology fee back to 7.04% or an amount appropriate based on costs at that time.

DISCUSSION:

On June 22, 2021, the Board adopted Resolution No. 21-169 updating fee Articles IX and XIX. Since that time HCD has identified additional adjustments that need to be incorporated into the fee Articles.

Article IX - Land Use

The fees included in Article IX - Land Use relate to HCD-Planning Services. The main update to Article IX consists of changing the Condition Compliance/Mitigation Monitoring fees from deposits to flat fees. The current deposit structure consists of three levels, a \$2,000 deposit for projects with up to ten conditions, a \$4,000 deposit for projects with 11-20 conditions, and a \$6,000 deposit for larger scope projects that have more than 20 conditions. Deposits require additional oversight and management by planning, clerical and finance staff. Currently, HCD Finance staff reconciles deposit projects with the amount of time tracked by planning staff in order to transfer funds from the deposit account to the HCD revenue account. Any unused deposit balance is then refunded to the applicant. By adopting flat fees for condition compliance HCD will realize a significant reduction in time spent managing deposit accounts and eliminate the need to refund unused deposit balances.

HCD's current land use fee article has 7 tiers corresponding to land use entitlements requiring varying levels of costs and resources for processing. To determine the amount of the Condition Compliance/Mitigation Monitoring fees for each tier, staff utilized approximately one year of time tracking data and determined the average number of conditions and average number of hours spent on the condition compliance tasks for the various tiers of entitlements as shown in Table 1, Attachment E.

The data revealed that the length of time required to clear a condition was dependent on the type of condition; for example, minor conditions (like Negative Archeological Report Note on Plans) can be cleared quickly, while others (Conservation and Scenic Easements) require coordination with registered professionals and other agencies and may take many hours to clear. Staff also found that although certain entitlements are in a higher tier than others, they may require fewer conditions. For example, the types of projects and entitlements in Tier 5 generally do not require as many conditions, and the type of condition was relatively minor, therefore less time was spent on condition compliance tasks overall for Tier 5, whereas Tiers 4 and 6 required a greater number of conditions that were also more complex requiring more staff time to resolve.

HCD has determined Condition Compliance/Mitigation Monitoring flat fees for each Tier based on the average amount of time spent on the task at the existing approved hourly rate for planning, as shown in Table 2, Attachment E. All Tier 7 projects require a deposit at the time of application because they are very complex and billed hourly. Staff proposes the Condition Compliance/Mitigation Monitoring time continue to be tracked and billed against the existing deposit rather than charging any additional fee.

Article XIX - Building Services

The fees in Article XIX for Building Services are based on a standardized method of calculating fees using the International Code Council (ICC) Building Valuation Data (BVD) Table and local multiplier that was approved in June 2021. The multiplier adjusts the amount charged for permit fees based on HCD's cost to process permits and the total value of construction being permitted. The ICC BVD table is updated annually in the Accela permit database to adequately calculate building permit fees.

Since the last update of the fee Articles, staff has identified the following proposed corrections and clarifications for fees for Article XIX:

- Include the ability to charge for inspections on encroachment permits.
- Add clarifying language to Special Events and Encroachment Permits sections to advise that submittal must be more than 60 days prior to event to avoid incurring additional late submittal fees and to advise of potential additional permit requirements on encroachment permits when adding structures (fences, utility cabinets, statuary, etc.) or removing trees in the right-of-way.
- Add a new fee for Encroachment Maintenance Agreements to allow property owners under certain circumstances to construct and maintain fixed objects in the public right-of-way such as landscaping, retaining walls, masonry mailboxes, driveway culverts, etc., and requiring the permittee to assume any and all liabilities and responsibilities resulting from the installation and maintenance of the object.
- Include fees for Transportation Permits in Article XIX that were previously adopted per Resolution 96-395.
- Move "Plan Review for Projects not Otherwise Specified" and "Additional Technical Review or Specialty Review" to the correct section, "Fees not otherwise specified."
- Remove "Express Plan Review" fees for after hours and holidays as they require employees to work overtime and/or holidays. These fees are misleading as the resources are unavailable to supply the service.

Percentage-Based Fees in Article IX and Article XIX

Technology fees, file storage fees and credit card convenience fees are added as a percentage of the permit fee for permits in both Article IX and XIX. The technology fee offsets actual costs of information technology and related support including the Accela permit database maintenance and support. FY 2023/24 cost for technology and related support is \$759,167 and includes an additional \$250,000 for the cost of Amendment 4 to the Accela Agreement, to augment the current service level for a 12 month period allowing Accela to optimize HCD's permitting system. Amendment 4 to the Accela Agreement is scheduled to be on the Board's consent agenda for August 29, 2023.

To maintain 100% cost recovery on technology costs, staff proposes increasing the technology fee from 7.04% to 7.49% to address the increased cost of Accela and other programs used in the permit process. As an example, to illustrate the effect of this increase, for a \$5,000 permit fee the technology fee would increase from \$352 to \$375.50.

The Technology fee (7.49%) is derived from HCD's cost for technology (\$759,167) divided by the previous fiscal year's HCD revenue (\$10,140,610). See attachment D for a breakdown of HCD technology costs. As the primary increase to the technology fee is related to a onetime system improvement cost, staff will return to the Board for consideration of reducing the technology fee back to 7.04%, or an amount appropriate based on technology costs at that time, after the 12 month period. No rate adjustments are proposed for the GPU Fee, the document storage fee or the credit card convenience fee.

All above mentioned amendments are provided in strikethrough and clean format respectively in Attachment B and C.

All amendments to the fee Articles will take effect 60 days following Board approval on October 23, 2023.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

The proposed amendments to the fee schedules represent a modification to fees charged by Monterey County for recovery of operating expenses associated with processing land use and building permits. Modification of fees is statutorily exempt from CEQA pursuant to Section 15273 of the CEQA Guidelines.

OTHER AGENCY INVOLVEMENT:

The Office of the County Counsel and the Auditor-Controller's Office have reviewed and approved Articles IX and XIX as to form and legality and fiscal provisions, respectively.

FINANCES:

Staff time to develop and process the amended fee articles is included in the FY2023-24 Adopted Budget, Fund 001, Appropriation Unit HCD002, Unit 8543. The objective of the proposed changes to existing fee articles is to achieve as close to full cost recovery as possible for all permit categories. Staff anticipates HCD will realize additional revenue from the increase in the technology fee that will be offset by the associated cost of Amendment 4 to the Accela Agreement. The start date of the Accela Amendment 4 will mirror the effective date of the fee amendments with a 12 month term with \$167,000 in FY2023-24. The remaining \$83,000 will be included in the FY2024-25 recommended budget. Staff will return to the Board for consideration of reducing the technology fee back to 7.04%, or an amount appropriate based on technology costs at that time, after the 12 month period. The actions to increase appropriations and revenue in the FY2023-24 budget are included in the resolution for the Accela Amendment 4 item, scheduled for consideration on the Board's consent agenda August 29, 2023.

BOARD OF SUPERVISORS' STRATEGIC INITIATIVES:

The requested actions support the Board of Supervisors' Administration Strategic Initiative by promoting fiscal responsibility and efficient, effective County operations while offering excellent customer service to the public.

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Karen Riley-Olms, HCD Management Analyst II (831)755-5132

Reviewed by: Elizabeth Gonzalez, HCD Permit Center Manager

Reviewed by: Lori Woodle, HCD Finance Manager

Approved by: Craig W. Spencer, Interim HCD Director

The following attachments are on file with the Clerk of the Board:

- Attachment A - Draft Resolution
- Attachment B - Proposed Fee Articles Red Line
- Attachment C - Proposed Fee Articles Clean
- Attachment D - HCD Technology Costs

Attachment E - Data Summery Tables

cc: HCD Permit Center: Liz Gonzalez; Environmental Health Bureau: Ric Encarnacion and Nicole Fowler; Office of the County Counsel: Kelly Donlon; HCD Planning: Craig Spencer and Anna Quenga; HCD Building Services: Joshua Bowling and Evan Nuckles; and Permit Streamlining Task Force