



Board Report

File #: RES 19-120, **Version:** 1

Public hearing to consider amendments to certain Monterey County Fee Articles relating to fees for processing applications for land-use permits and entitlements, as follows:

- a. Amend Article IX - (RMA-Planning) to re-title to RMA-Land Use and to update and consolidate land-use application fees for RMA-Planning, RMA-Public Works, and RMA-Environmental Services;
- b. Rescind and Reserve Article X (RMA-Public Works);
- c. Amend Article XIX (RMA-Building Services) to update plan check and inspection fees;
- d. Amend Article XVII (County Counsel) to align with revisions to Article IX and update rates;
- e. Rescind and Reserve Article XX (RMA-Environmental Services);

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution amending Monterey County Fee Articles (Attachment A), effective November 17, 2019, as follows:

- a. Amend Article IX - (RMA-Planning) to re-title to RMA-Land Use and to update and consolidate land-use application fees for RMA-Planning, RMA-Public Works, and RMA-Environmental Services;
- b. Rescind and Reserve Article X (RMA-Public Works);
- c. Amend Article XIX (RMA-Building Services) to revise plan check and inspection fees to reflect updates to rates based on valuation;
- d. Amend Article XVII (County Counsel) to align with revisions to Article IX and update rates;
- e. Rescind and Reserve Article XX (RMA-Environmental Services).

SUMMARY:

The Resource Management Agency is proposing amendments to three of its land-use Fee Articles, Article IX - (RMA-Planning), Article X (RMA-Public Works), , and XX (RMA-Environmental Services), by combining them into a single Fee Article, entitled Article IX (RMA-Land Use). Fee Article IX (RMA Land Use) will utilize a simplified, tiered format, grouped by tasks requiring similar levels of resources. The proposed revisions reflect increased costs and changes in services and optimize recovery of RMA's actual cost of operations. Similar revisions are proposed for Article XIX (RMA-Building Services) that also pertains to RMA fees. The Article remains separate as it utilizes the International Code Council standard valuation table, but incorporates a consolidated, tiered grouping of permit types. Amendment to Article XVII (County Counsel) is also proposed to align it with RMA's proposed revisions and to update hourly rates.

The Board of Supervisors continued the hearing on this item from July 16, 2019 to September 17, 2019, so that the Resource Management Agency (RMA) could address public comments received. RMA has reviewed the public comments and worked further with other departments with similar fee articles to ensure consistent terminology across all land-use fee articles. This effort includes additional changes to simplify, standardize, and streamline the permitting process including: 1) Adding Request for Director's Interpretation to Tier 1; 2) Revising terminology to refine the list of uses and provide consistent application within all land-use articles; and 3) Incidental organizational and formatting changes to improve readability.

A public comment received challenges the full-cost recovery objective and suggests that all projects should be *deposit projects* like Santa Cruz County's system. RMA's cost-recovery rate in Fiscal Year 2018-19 was sixty-six percent (66%) largely because many services cannot be included in the cost to process a permit (e.g.,

records/Public Act Record Act Requests (PRAR), coastal appeals, call center operations). Also, the Board of Supervisors has established fee waivers for certain applications where costs are not recovered. RMA is proposing to improve cost recovery for the service of processing permits/applications. Cost recovery can be achieved two ways: 1) by collecting a deposit to cover the actual cost of every application; or 2) by setting a flat rate to cover the average cost per application. Either way, RMA does not charge for inefficiencies (i.e., billable hours). It should be noted that *deposit projects* involve administrative time which increases the permit cost.

DISCUSSION:

RMA takes the lead in establishing the fees for land-use applications and entitlements for Monterey County, subject to approval by the Board of Supervisors. Establishing these fees includes coordination with other land-use agencies involved in processing land-use applications, including the Monterey County Health Department-Environmental Health Bureau (EHB), Monterey County Water Resources Agency (MCWRA), County Counsel, and the County Administrative Office (CAO). Each department has a separate fee article to establish its fees for processing applications for land-use permits and entitlements as part of the Monterey County Fee Resolution. RMA also functions as the collection point for payments of the fees and distributes the revenue to the respective service providers. The overarching objective of the proposed amendments to the fee articles is to consolidate the RMA land-use fees under Fee Article IX (RMA Land Use), simplify and streamline the permitting process, and maximize recovery of costs incurred by the RMA.

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 (Attachment B). These fee articles have not changed except for the RMA-Building Services' update and the addition of Commercial Cannabis Permit application fees, in 2016, and EHB land-use fee update in 2017. On July 23, 2019, the Board of Supervisors amended Articles I.E (Environmental Health), Article IX-Planning, and Article XVII (County Counsel) and created Article XXI (County Administrative Office) to reallocate land-use fees collected for commercial cannabis permit applications and renewal. That prior revision is carried forward as applicable in the Fee Articles presented to the Board in this action. Concurrently today in a separate report, the EHB is proposing updates to their Fee Article I.E. MCWRA is proposing similar revisions and updates to its Fee Article XX to reflect a recent shift of its land-use responsibilities to the RMA. MCWRA is proposing to charge hourly rates, when consulted. MCWRA presented the proposed amendment to its fee articles to their Board of Directors, who recommended approval.

Amendments to the RMA land-use fee articles, as proposed, will utilize a simplified, tiered format, grouped by tasks requiring similar levels of resources, and replace the existing individual task list. The Fee Articles for RMA-Planning, RMA-Public Works (Development Services), and Environmental Services, respectively Articles IX, X, XX, will be combined into a single Fee Article, entitled Article IX-RMA-Land Use. Article XIX-RMA Building Services, while also pertaining to RMA fees, remains separate. Proposed revisions standardize the schedule using the International Code Council standard valuation table, update the local multiplier using the ICC calculation, remove the Regional Modifier and switches from using an extensive listing of permit types/subtypes to a consolidated, tiered grouping of permit types. The proposed fees will allow RMA to achieve a higher percentage of cost recovery without exceeding the actual costs of doing business. County Counsel is proposing revisions to its fee article, Article XVII (County Counsel), to align it with changes proposed by RMA, including simplifying some fee categories and converting the condition compliance fee to an hourly charge. County Counsel has also updated its hourly rate to reflect the increase in the fully burdened labor rate (last updated in 2015), when the comprehensive fee schedule was last adopted.

Attachment B and C provide current and proposed Fee Articles. Attachment D provides a detailed discussion

explaining the basis of the changes and all proposed fees. Staff has prepared a matrix of the current land-use fees and a matrix of the proposed land-use fees for comparison (Attachments E and F).

This action to modify land-use fees is not a project under the California Environmental Quality Act (CEQA) 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)).

Staff requests that the Board of Supervisors adopt a resolution amending the Monterey County Fee Resolution Fee Articles as outlined (Attachment A). Per State law, said amendments to the land-use fees shall take effect no sooner than 60 days following adoption of the amendment.

Section 1.40.010 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. The Monterey County Fee Resolution consists of several Articles, that correspond to departments and functions. Currently, RMA has five fee articles, Fee Article V-Parks, Fee Article IX-RMA-Planning, Fee Article X-RMA-Public Works, , Fee Article XIX-RMA-Building Services, and Fee Article XX-RMA-Environmental Services. RMA is proposing amendments to all but Fee Article V-Parks.

OTHER AGENCY INVOLVEMENT:

RMA worked closely with stakeholders from the development industry and other County departments with land-use responsibilities such as EHB, MCWRA, County Counsel, and County Administrative Office. RMA generally received support for the proposed amendments and updates to the land-use fee-related articles. RMA conferred with the individual who provided comments on July 17, 2019. 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 reliance on the General Fund. In FY 2017/18, RMA's 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).

The standardization of the building fee schedule per Article XIX- RMA Building Services 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, 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.

The proposed Article IX- RMA Land Use combines RMA Planning, Environmental Services, and Development Services. Staff conducted a time motion study to determine the amount of time staff spent processing each fee item. Staff also reviewed, by fee item, the life cycle (those that needed to go to hearing, Board of Supervisors, Notices, etc.) to determine the tier groupings. As a result, a "No Fee" Tier was developed to continue efforts to streamline the permit process for projects that take very little time. The intent is to reduce and remove obstacles that might keep the individuals from engaging in the permitting process and reduce pressure for enforcement. Fees grouped in Tiers 1 - 6 are flat fees based on RMA's estimated reasonable cost of providing that service/task or performing that activity. Deposit projects are identified in Tier 7 and noted in the fee

article. Additional activities/services that could not be grouped with other fee items are provided with individual flat fees in the "Each" Tier. The proposed fees and hourly rates were based on the FY 2019/20 Adopted Budget.

Where a "deposit" is indicated, the fee will be based on actual hours, measured by actual time spent on an application in quarter-hour (.25) increments. Applicant is required to pay the deposit, which is initially established based on an estimated minimum set of hours multiplied by the applicable billable rates. If during the processing of the application, County staff determines that the deposit is insufficient to cover actual processing time, the applicant will be asked to increase the deposit amount based on a revised estimate provided by the County. The revised estimate will be calculated based on the established billable rate(s) multiplied by actual hours expended. Should the situation arise where the deposit is insufficient to cover the actual cost of the actual processing time, the applicant will be billed to cover the outstanding amount. All outstanding amounts must be paid prior to the County finalizing the application. On deposit applications, the applicant and Deputy Director of Land Use and Community Development may elect, on a case-by-case basis, to agree to a different deposit amount based on the estimated cost of processing a specific application. Invoices shall be provided to the applicant on a frequency dependent upon the application's progress. The fee will be calculated based on the number of hours expended by County staff multiplied by the applicable billable rate noted in the fee article. Consultant and other expenses shall be reimbursed based on actual costs incurred.

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

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Attachments:
Attachment A-Draft Resolution
Attachment B-Current Fee Articles
Attachment C-Proposed Fee Articles
Attachment D-Detailed Discussion
Attachment E-Current Land-use Fee Matrix
Attachment F-Proposed Land-use Fee Matrix
Attachment G-Public Hearing Notice
(Attachments on file with the Clerk of the Board)