

BEFORE THE BOARD OF SUPERVISORS, COUNTY OF SAN BENITO

**AN ORDINANCE ADDING ARTICLE XIV
TO CHAPTER 5.01 OF TITLE 5 OF THE
SAN BENITO COUNTY CODE PERTAINING TO
LIBRARY FACILITY IMPACT FEES**

Ordinance No. _____

The Board of Supervisors ordains as follows:

Section 1. A new Article XIV, "Library Facility Impact Fees" is hereby added to the Chapter 5.01 of Title 5 of the San Benito County Code to read as follows:

5.01.450 TITLE.

This Article shall be known as the "Library Facility Impact Fee."

5.01.451 PURPOSE.

The Public Facilities and Services Element of the County General Plan includes goal to provide for new libraries, commensurate with population growth, that are accessible and provide opportunities for life-long learning, enabling residents to obtain skills to meet the needs of evolving business sectors.

The County General Plan includes a requirement of new development to pay its fair share of public facility and service costs

New Development within the unincorporated area of the County will generate the need for the construction of new facilities and/or renovation of existing ones to meet the demands of the new development.

The purpose of this Article is to impose development impact fees to fund the cost of certain library facilities, the need for which is directly or indirectly generated by the type and level of development proposed within the unincorporated area, consistent with Article XI, Section 7 of the California Constitution and the Mitigation Fee Act (Government Code Section 66000 et. Seq.).

5.01.452 DEFINITIONS

A. "Administrative Charge" means the component of the Development Impact Fee for amounts spent, or authorized to be spent, in connection with the collection, calculation, processing, program development and other management of the Development Impact Fees and Development Impact Fee Program.

B. "Board" means the Board of Supervisors of the County.

C. "Building Permit(s)" means the permit(s) issued or required for the construction, improvement, or remodeling of any structure pursuant to and as defined by the County Building Code.

D. "Costs" means amounts spent, or authorized to be spent, in connection with the planning, financing, acquisition and development of library facilities consistent with the Library Facilities Impact Fee Study including, without limitation, the costs of site acquisition, site improvements, construction, engineering, design, consulting fees, permit fees, furnishing, materials collection, and administration.

E. "County" means the County of San Benito.

F. "Development Impact Fees" means the fees levied by this Article upon the approval of a Building Permit within the unincorporated area of the County.

G. "Development Impact Fee Program" means the plan entitled "Library Facilities Impact Fee Study", adopted by resolution by the Board on April 26, 2016, for financing of designated library facilities within the unincorporated area of the County, including any amendments thereto.

H. "Facilities" means those library facilities specified in the Library Facilities Impact Fee Study.

I. "Fee Category(ies)" means the categories of fees applicable to the types of Residential Development.

J. "Residential Development" means the original construction or installation of single-family residential dwelling units or multi-family residential dwelling units. These may include residential buildings typically called single-family attached homes, duplexes, triplexes, quadplexes, townhomes, condominiums, apartments, manufactured homes, mobile homes, and residential accessory dwellings.

5.01.453 ADOPTION AND COMPLIANCE WITH THE LIBRARY FACILITIES DEVELOPMENT IMPACT FEE PROGRAM.

A. The Board has by resolution approved the Library Facilities Impact Fee Study (the "Development Impact Fee Program") and adopted the Development Impact Fee rates.

B. All library facilities shall be funded pursuant to the approved Development Impact Fee Program.

5.01.454 ESTABLISHMENT OF LIBRARY DEVELOPMENT IMPACT FEES.

A separate development impact fee is hereby established and shall apply to all Residential Development within the unincorporated area of the County for (1) Facilities and

(2) Administrative Charge. The amount of this fee has been adopted by resolution on April 26, 2016, and may change by ordinance or resolution adopted by the Board.

5.01.455 ESTABLISHMENT AND ADMINISTRATION OF COUNTYWIDE LIBRARY FACILITIES FUND.

A. There is hereby established by the County a special interest-bearing trust fund entitled the Countywide Library Facilities Fund. All Development Impact Fees collected pursuant to this Article, with the exception of the Administrative Charge, shall be placed in said fund and shall be expended by the County, solely to pay the costs identified in the Development Impact Fee Program.

B. The Countywide Library Facilities Fund shall be administered by the County.

5.01.456 ESTABLISHMENT AND ADMINISTRATION OF COUNTYWIDE LIBRARY ADMINISTRATION FUND.

A. There is hereby established by the County a special interest-bearing trust fund entitled the Countywide Library Administration Fund. All Development Impact Fees collected pursuant to this Article for Administrative Charge(s) shall be placed in said fund and shall be expended by the County solely to pay the costs associated with the administration of the Development Impact Fee Program.

B. The Countywide Library Administration Fund shall be administered by the County.

5.01.457 IMPOSITION OF DEVELOPMENT IMPACT FEES.

No residential Building Permit shall be approved or issued for property within the unincorporated area unless the Development Impact Fees for that property are paid as required by this Article.

5.01.458 PAYMENT OF DEVELOPMENT IMPACT FEES.

A. The Development Impact Fees imposed pursuant to this Article shall be paid by the Building Permit applicants for Residential Development within the unincorporated area of the County, at the rates designated for single-family detached dwelling units, or multi-family dwelling units (including but not limited to, two to four unit attached dwellings, five or more unit attached dwellings, mobile homes or residential accessory dwellings).

B. For the purpose of applying the Development Impact Fees pursuant to subdivision (A) of this section for residential Building Permits that do not match the Fee Categories summarized in this Article, the Resource Management Agency Director or his/her designee, in conjunction with the County Engineer will review the permit application and designate the appropriate Fee Category based on the impact to the library facilities from the development.

5.01.459 EXEMPTION FROM DEVELOPMENT IMPACT FEES.

The following shall be exempt from the Development Impact Fees:

A. Any replacement or reconstruction (no change in use) of any residential unit. However, if the residential unit(s) replaced or reconstructed exceeds the documented total number of units of the original residential structure, the excess units are subject to the Development Impact Fees. If a residential structure has been vacant for more than five years, the exemption will not apply.

B. Additions of single-family residential structures provided no change in use occurs and a second full kitchen is not added.

C. Additions to multifamily residential structures that are not part of a mixed use type project provided no change in use occurs and no additional units result.

D. Non-habitable residential structures such as decks, pools, pool cabanas, sheds, garages, and similar structures.

5.01.460 Annual Program Fee Adjustment.

Beginning June 1, 2017, and thereafter each year by June 1st (or as soon thereafter as administratively may be processed), the County Resource Management Agency Director shall authorize the adjustment of the Development Impact Fees for each Fee Category as follows:

A. A "mean" index will be computed by averaging the index for 20 U.S. cities with the index for San Francisco by resorting to the January issue of the Engineering News Record magazine Building Cost Index of the year in which the calculation is being made.

B. An adjustment factor shall be computed by dividing the "mean" index as calculated in subsection (A) of this section by the "mean" index for the previous January; however, the June 2017 adjustment factor shall be computed by dividing the "mean" index as calculated in subsection (A) of this section by the "mean" index for June 1, 2016, and, if a new Development Impact Fee has been adopted after January of the previous year, the adjustment factor shall use the "mean" index from the month that the fee was adopted.

C. The new Development Impact Fee per Fee Category shall be calculated by multiplying the adjustment factor, as calculated in subsection (B) of this section, by the Development Impact Fees per Fee Category in place prior to the annual adjustment.

D. The Costs of the Facilities used in the Development Impact Fee Program shall be adjusted annually using the same adjustment factor pursuant to subsections (A), (B) and (C) of this section.

5.01.461 Alternative Method and Compliance with Other Laws.

This Article is intended to establish a supplemental method for funding the cost of certain library facilities, the need for which will be generated by the level and type of development

proposed within the unincorporated area of the County. The provisions of this Article shall not be construed to limit the power of the Board to impose any other fees or exactions or to continue to impose existing fees or exactions on development within the affected unincorporated area of the County, but shall be in addition to any other requirements which the Board is authorized to impose, or has previously imposed, as a condition of approving plans, rezones or other entitlements within the affected unincorporated area of the County pursuant to state and local laws. Individual property owners shall remain obligated to fund, construct, and/or dedicate the improvements, public facilities and other exactions required for the development.

Section 2. General Provisions

A. Severability: If any sentence, subsection, sentence, clause, or phrase of this ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the ordinance. The Board of Supervisors hereby declares that it would have enacted this ordinance and each section, subsection, sentences, clauses or phrases thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

B. Effective Date and Codification: Section one of this ordinance shall be codified. This ordinance shall be in effect 30 days after adoption.

C. Publication: Within ten (10) days after its adoption, this ordinance shall be published pursuant to California Government Code 6061 in its entirety in a newspaper of general circulation which is printed, published and circulated within San Benito County, or a summary may be published as allowed by law.

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Introduced at a regular meeting of the Board of Supervisors held on the 26th day of April, 2016.
Final passage and adoption by the Board of Supervisors of the County of San Benito was at a
regular meeting of said Board held on the 10th day of May, 2016, by the following vote:

AYES: Supervisors:
NOES: Supervisors
ABSENT: Supervisors
ABSTAIN: Supervisors

By: _____
Robert Rivas, Chair

ATTEST:
Louis Valdez, Clerk

APPROVED AS TO LEGAL FORM

By: _____

By: _____
Barbara J. Thompson
Assistant County Counsel

Date: _____

Date: _____