

CHAPTER 3. FIRE MITIGATION FEES*

*Note--Chapter 3, Fire Mitigation Fees, Sections 810.301--810.315, added by Ord. No. 7066 (N.S.), effective 1-10-86.

Cross reference(s)--County fire code, § 96.1.001 et seq.

SEC. 810.301. TITLE.

This Chapter shall be known and may be cited as the "Fire Mitigation Fee Ordinance."

SEC. 810.302. PURPOSE OF CHAPTER.

The purpose of this Chapter is to make provision for assessing and collecting fees at the time of issuance of a building permit, to finance the actual or estimated costs of additional fire protection facilities and equipment necessitated by new development.

SEC. 810.303. FINDINGS.

The Board of Supervisors of the County of San Diego finds and declares as follows:

- (a) Adequate fire protection facilities must be available to serve new development.
- (b) Public and private development requires the construction or expansion of fire protection facilities and the acquisition of equipment.
- (c) In many areas of the County, the funds for expansion or construction of fire facilities and purchase of equipment necessitated by new development are not available when the development occurs, resulting in the potential for inadequate fire protection coverage for the new development and the community.
- (d) The above conditions place the residents of the development and the community in a condition perilous to their health and safety.
- (e) The impacts of development on the existing fire protection facilities and equipment cannot be alleviated in a reasonable period of time without County involvement.
- (f) For the above reasons, new methods for financing fire protection facilities and equipment necessitated by development are needed in San Diego County.

(Renumbered, from 81.303 to 810.303, by Ord. No. 7276 (N.S.), effective 3-20-87)

SEC. 810.304. PRIOR AGREEMENTS.

Any agreement existing prior to the operative date of this Chapter between an applicant for development and a fire agency pertaining to the dedication of land or payment of fees for fire facilities and equipment to serve the property which is the subject of the application, or any portion thereof, shall satisfy the requirements of this Chapter.

SEC. 810.305. CREDIT OF THE DEDICATION OF LAND, OR THE DONATION OF FACILITIES OR EQUIPMENT.

If land is dedicated to, or fire protection facilities or equipment are donated to, and accepted by, a fire agency, the fire agency shall apply a credit for such land, facilities or equipment against the payment of the required fire mitigation fees. The amount of such credit shall be specified in a written agreement between the development permit applicant and the affected fire agency.

(Amended by Ord. No. 7276 (N.S.), effective 3-20-87; amended by Ord. No. 7885 (N.S.), effective 5-3-91)

SEC. 810.306. DEFINITIONS.

Whenever the following words are used in this chapter, they shall have the meaning ascribed to them in this section.

(a) "Development" means all construction for which a building permit or other permit is required.

(b) "Director" means the Director of the Department of Planning and Development Services of the County of San Diego.

(c) "Other permits" means major and minor use permits.

(d) "Clerk" means the Clerk of the Board of Supervisors of the County of San Diego.

(e) "Fire Agency" and "Agency" means any special district providing fire protection services within the unincorporated area of the County. "Fire Agency" also includes the County when providing fire protection services through a County Service Area.

(f) "Facilities and Equipment" means any long-term capital facilities and equipment used by a fire agency for fire suppression or emergency medical services including station construction, station expansion and fire or emergency medical apparatus.

(g) "Administrator" means the Director of the County Department designated by the Chief Administrative Officer to facilitate Annual Report review.

(Amended by Ord. No. 7276 (N.S.), effective 3-20-87; amended by Ord. No. 8229 (N.S.), effective 5-21-93; amended by Ord. No. 10224 (N.S.), effective 10-25-12)

Cross reference(s)--Definitions, § 12.101 et seq.

SEC. 810.307. EXEMPTIONS.

(a) The Director shall exempt building permits for certain types of development from the requirements of this chapter when he or she determines that the development does not significantly add to the need for additional fire protection facilities. The Director shall establish a list of those building permit types which are exempt from the requirements of this chapter. The list shall include, but not be limited to the building permits for pools, fences and additions or alterations with a value of \$5,000 or less.

(b) The requirements of this chapter shall not apply to buildings constructed for governmental uses.

(c) The requirements of this chapter shall not apply to the replacement on the same parcel by the owner of a dwelling or dwellings destroyed by fire or other calamity, provided that the application for a building permit to replace such dwelling is filed with the Director within one (1) year after destruction of the dwelling.

(Renumbered and amended by Ord. No. 7276 (N.S.), effective 3-20-87)

SEC. 810.308. FIRE AGENCY FINDINGS AND CONTENT OF RESOLUTION.

This chapter shall become applicable to development within the boundaries of a fire agency when the following events occur:

(a) The governing body of a fire agency adopts a resolution making the following findings:

(1) The agency does not have existing fire protection facilities and equipment which could be used to provide an adequate level of services to new development within the district's boundaries;

(2) The agency does not have sufficient funds available to construct additional facilities from fund balances, capital facility funds, property tax sources, or any other appropriate sources;

(3) The lack of fire protection facilities and equipment to serve new development would create a situation perilous to the public

health and safety if fire mitigation fees are not levied within the district;

(4) The annexation fees and plan check fees charged by the agency do not include a payment toward the costs of the capital facility and equipment expansion as a component of the fee.

(b) The fire agency resolves as follows:

(1) The agency requests the County to collect a specified percentage of the fire mitigation fee ceiling on the agency's behalf from applicants for building permits or other permits for development;

(2) Mitigation fees paid under this program shall be used to expand the availability of capital facilities and equipment to serve new developments;

(3) The agency shall place all funds received by the County under this program, and all interest subsequently accrued by the agency on these funds, in a separate budget accounting category to be known as the "San Diego County Fire Mitigation Fee";

(4) The agency shall expend funds from said "San Diego County Fire Mitigation Fee" budget accounting category only for those purposes of providing capital facilities and equipment to serve new development;

(5) The agency shall submit a Fire Mitigation Fee Annual Report, no later than August 29 of each year, to the Administrator. Said report shall include, but not be limited to, the balance in the account at the end of the previous fiscal year, the fee revenue received, the amount and type of expenditures made, and the ending balance in the fund. In addition, the report shall specify the actions the agency plans to take to alleviate the facility and equipment needs caused by new development in a Multi-year Facilities and Equipment Plan adopted at a noticed public hearing. The agency shall make available, upon request by the Administrator, a copy of its annual audit report.

(6) The agency shall make its records available to the public on request which justify the basis for the fee amount;

(7) The agency shall hold the County harmless for any errors made by the County in collecting or transmitting the fees to the agency.

(8) The agency shall make findings, with respect to any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee, to identify the purpose to which the fee is to be put and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged. The agency shall refund to the then current record owner or owners of the development project or projects on a prorated basis the unexpended or uncommitted portion of the fee, and any interest accrued thereon, for which need cannot be demonstrated.

(c) The governing body of the fire agency shall send a certified copy of the resolution to the Clerk. The Clerk shall immediately transmit a copy of the resolution to the Director and Administrator. Within thirty days from the date of receipt of the resolution by the Clerk, the provisions of this chapter shall be applicable to all building permits and other permits issued for new construction.

(d) By April 16 of each year following the year of original adoption of a resolution pursuant to this section, the agency shall submit a copy of a new resolution adopted by the governing body of the agency making the required findings and setting the percentage of the fire mitigation fee ceiling requested by the agency. This percentage may be revised in the resolution, up to the ceiling amount. This revision shall be effective the following July 1.

(Amended by Ord. No. 7276 (N.S.), effective 3-20-87; amended by Ord. No. 7604 (N.S.), effective 4-26-89; amended by Ord. No. 7885 (N.S.), effective 5-3-91; amended by Ord. No. 8229 (N.S.), effective 5-21-93)

SEC. 810.309. FIRE MITIGATION FEE CEILING ESTABLISHED.

(a) The Fire Mitigation Fee ceiling for non-rated construction was determined by dividing the average cost of constructing a fully equipped fire station within the unincorporated portion of the County of San Diego by the average square footage of structures served by this average fire station. In order to account for those types of construction that do not require as high a level of fire protection facilities, separate reduced fee ceilings were determined for buildings constructed of heavy timber, fire-resistive and one hour type construction as defined in the Uniform Building Code; buildings that install fire sprinkler systems; agricultural buildings, except greenhouses and poultry houses; and greenhouses and poultry houses.

(b) The Fire Mitigation Fee amount requested by the agency shall be equal to or less than the current fee ceiling amount set by this chapter. The current fee ceiling is 58¢ per square foot of floor area for buildings. The ceiling fee for agricultural buildings, as defined in the Uniform Building Code, is 16¢ per square foot of floor area, except as follows: (1) for agricultural buildings that install a

fire sprinkler system, the ceiling fee is 2¢ per square foot of floor area, (2) the ceiling fee for poultry houses and greenhouses is 1¢ per square foot.

(Amended by Ord. No. 7185 (N.S.), effective 9-12-86; amended by Ord. No. 7215 (N.S.), effective 11-7-86; amended by Ord. No. 7451 (N.S.), effective 4-7-88; amended by Ord. No. 7604 (N.S.), effective 4-26-89; amended by Ord. No. 7738 (N.S.), effective 4-27-90; amended by Ord. No. 7885 (N.S.), effective 5-3-91; amended by Ord. No. 8048 (N.S.), effective 5-7-92; amended by Ord. No. 8996 (N.S.), effective 3-4-99; amended by Ord. No. 9442 (N.S.), effective 7-1-02; amended by Ord. No. 9529 (N.S.), effective 3-13-03, operative 7-1-03; amended by Ord. No. 9636 (N.S.), effective 5-20-04, operative 7-1-04; amended by Ord. No. 9709 (N.S.), effective 5-22-05, operative 7-1-05; amended by Ord. No. 9769 (N.S.), effective 5-26-06, operative 7-1-06; amended by Ord. No. 9846 (N.S.), effective 6-17-07, operative 7-1-07; amended by Ord. No. 10260 (N.S.), effective 6-13-13, operative 7-1-13; amended by Ord. No. 10334 (N.S.), effective 5-29-14, operative 7-1-14; amended by Ord. No. 10539 (N.S.), effective 6-14-18)

SEC. 810.310. ADJUSTMENT OF FEES.

(a) The current fee ceilings established in Section 810.309(b) have been based in part on the costs of construction of fire stations. The fee ceiling may be increased or decreased in proportion to the increase or decrease in the costs of construction as determined by the Engineering News Record, Cost of Construction Index published by McGraw-Hill Publishing Company, or a successor thereof. The index for the first week in October shall be used for the adjustment. The fee to be levied each year will be rounded to the nearest penny. For purposes of computing each subsequent year's adjustment, the prior year's factor, prior to rounding off, shall be utilized. Any such adjustment shall be adopted by amendment to Section 810.309(b) of this Ordinance by the Board of Supervisors. The ceiling adjustment shall be effective on July 1 of each year.

(b) A comprehensive evaluation of the Fire Mitigation Fee Program shall be performed every five years, with the first of these evaluations scheduled to occur in Fiscal Year 1995-96. This five year cycle of evaluations will be used to ensure that the fee ceiling formula is the most appropriate formula for the unincorporated area, and to ensure that all of the factors used in the fee ceiling formula are reasonable. If a comprehensive evaluation of the fee ceilings results in a fee ceiling adjustment, the adjustment factor referred to in Section 810.310(a) will be reset to 1.00.

(Amended by Ord. No. 7276 (N.S.), effective 3-20-87; amended by Ord. No. 7604 (N.S.), effective 4-26-89; amended by Ord. No. 7885 (N.S.), effective 5-3-91; amended by Ord. No. 8229 (N.S.), effective 5-21-93)

SEC. 810.311. FEE PAYMENT.

(a) Prior to the issuance of any building permit or other permit for development the applicant shall pay to the Director the fees prescribed by fire agency resolution, or shall present written evidence that the provisions of this chapter have otherwise been satisfied with respect to the development for which permits are sought;

(b) The amount of such fees shall be determined by the fee standard in effect on the date of the payment of fees for an unexpired plan check.

(c) When application is made for a new building permit following the expiration of a previously issued building permit for which fees were paid, the fee payment shall not be required;

(d) In the event the subsequent development occurs with respect to property for which fees have been paid, additional fees shall be required only for additional square footage of development which was not included in computing the prior fee.

SEC. 810.312. FEES HELD IN TRUST.

Fees paid under this chapter shall be held in trust by the County. Such fees shall be transferred quarterly to the fire agency serving the area from which the fees were collected. The County shall retain any interest accrued during this period as reimbursement for its service and handling costs.

SEC. 810.313. USE OF FEES.

All fees collected pursuant to this chapter and transferred to a fire agency, including any interest accrued, shall be used by the

agency for the purpose of providing for capital facilities and equipment.

(Amended by Ord. No. 7276 (N.S.), effective 3-20-87)

SEC. 810.314. FEE FUND RECORDS AND REPORT.

Any fire agency receiving funds pursuant to this chapter shall maintain a separate budget accounting category for any fees paid. Such category shall be known as the "San Diego County Fire Mitigation Fee" account. By August 29 of each year, each agency receiving funds pursuant to this chapter shall file a report with the Administrator on the balance in the account at the end of the previous fiscal year, the fee revenue received, the amount and type of expenditures made, and the ending balance in the fund. In addition, the report shall specify the actions the agency plans to take to alleviate the facility and equipment needs caused by new development.

(Amended by Ord. No. 8229 (N.S.), effective 5-21-93)

SEC. 810.315. TERMINATION OF FEE COLLECTION.

Fee collection as to any fire agency shall terminate as follows:

(a) If by April 16 of any year following the year of original adoption of a resolution pursuant to Section 810.308, the fire agency has not submitted a copy of a new resolution pursuant to Section 810.308(d), fee collection shall terminate July 1.

(b) If, at any time, the governing body of a fire agency submits a copy of a resolution to the Clerk requesting termination of fee collection, fee collection shall terminate thirty (30) days from the date of receipt by the Clerk.

(Amended by Ord. No. 7276 (N.S.), effective 3-20-87; amended by Ord. No. 7885 (N.S.), effective 5-3-91)