

## CHAPTER 13.50

### COUNTYWIDE DEVELOPMENT IMPACT FEES

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#### **13.50.010 General Provisions.**

- a) *Authority.* This Chapter is adopted under and pursuant to the provisions of, but not necessarily limited to, Chapter 5 (commencing with Section 66000) of Division 1 of Title 7 of the California Government Code.
- b) *Findings.* The Board of Supervisors of Yuba County, after review of the record and consideration of testimony and evidence presented at a public hearing, hereby finds and declares:
  1. The Yuba County General Plan envisions future residential and non-residential development in the unincorporated areas of the County as well as recognizes future residential and non-residential development in the incorporated areas of Wheatland and Marysville.
  2. New residential and non-residential development will generate additional residents and employees who will require additional public facilities provided by Yuba County.
  3. A reasonable relationship exists between the need for County public facilities and the type of development projects on which the Development Impact Fees are imposed as indicated by the Development Impact Fee Justification Study. Development Impact Fees collected from each new development will generate revenue, which is necessary to offset development's impacts to the County's facilities.
  4. A reasonable relationship exists between the use of Development Impact Fees and the type of development project on which the Fee is imposed as indicated by the Development Impact Fee Justification Study. Development Impact Fees collected will be used for the acquisition, installation, and construction of the public

facilities identified on the Needs list contained in the Development Impact Fee Justification Study.

5. A reasonable relationship exists between the amount of the Development Impact Fee and the cost of the public facilities attributable to the development on which the Fee is imposed as indicated by the Development Impact Fee Justification Study. The method of allocation of the respective Fees to a particular development project bears a fair relationship, and is roughly proportional to, the development project's burden on, and benefits from, public facilities to be funded by the Development Impact Fees.
6. The adoption of the ordinance from which this Chapter is derived is statutorily exempt from the California Environmental Quality Act (CEQA) and the CEQA Guidelines under Section 15273(a), including Section 15273(a)(4).
7. The Development Impact Fees collected will be placed in an individual interest bearing account established for the purpose of tracking the Fee revenue and expenses separately.
8. The unspent Development Impact Fees collected under the previous impact fee nexus study and held in various trust funds at the time this Chapter takes effect, continue to be needed for the intended purposes for which they were originally collected and shall be incorporated into the applicable categories and trust funds associated with the Development Impact Fee Justification Study and be available for use to meet the needs identified in the Development Impact Fee Justification Study.

**13.50.020 Adoption of Studies.**

After review and consideration and having conducted a public hearing herein, the Board of Supervisors of Yuba County hereby adopts the March 17, 2014 Development Impact Fee Justification Study.

**13.50.030 Establishment of Fees.**

- a) Development Impact Fees established beginning July 1, 2014 are escalated by 2.48% on July 1, 2015 and are as more particularly set forth below:

### Development Impact Fee - Unincorporated Areas

<b>Land Use Type</b>	<b>Amount</b>
Single Family Residential	\$3.66 per sq. ft.
Multi-Family Residential	\$3.66 per sq. ft.
Commercial	\$3.79 per sq. ft.
Office/Institutional	\$3.59 per sq. ft.
Industrial	\$1.33 per sq. ft.
Agricultural	\$0.73 per sq. ft.

### Development Impact Fee - Incorporated Areas

<b>Land Use Type</b>	<b>Amount</b>
Single Family Residential	\$0.87 per sq. ft.
Multi-Family Residential	\$0.87 per sq. ft.
Commercial	\$0.58 per sq. ft.
Office/Institutional	\$0.46 per sq. ft.
Industrial	\$0.23 per sq. ft.
Agricultural	\$0.15 per sq. ft.

### Drainage Fees - South Yuba Master Plan

<b>Land Use Type</b>	<b>Amount</b>
Single Family Residential	\$1,464 per unit
Multi-Family Residential	\$733 per unit
Commercial	\$1.32 per sq. ft.
Office/Institutional	\$1.32 per sq. ft.

1. Development Impact Fees shall be charged on all new buildings allowing occupancy or expanded square footage of existing buildings allowing occupancy, on the applicable portion of all new uses or expansion of existing uses that require a conditional use permit or administrative permit, and on the applicable portion of a building's or parcel's change in use that is a different Land Use Type category than what was in existence on July 1, 2014, unless directed otherwise pursuant to this Chapter.
2. Drainage Fees shall be charged on all new buildings or expanded square footage of existing buildings and on the applicable portion of all new uses or expansion of existing uses that increases surface water discharge off the parcel, unless directed otherwise pursuant to this Chapter, within the South Yuba Drainage

Master Plan area of benefit as depicted in Attachment “B,” attached hereto and incorporated herein.

3. Development Impact Fees and Drainage Fees shall be calculated at the time of issuance of the building permit of a building that triggers collection of the fee and shall be collected prior to the final inspection of said building permit. For shell buildings wherein occupancy is not allowed until tenant improvements are completed, the Development Impact Fees shall be calculated at the time of issuance of the tenant improvement permit and collected prior to final inspection. In instances where a new use or expansion of an existing use is triggering collection and no building permit is required, as outlined in Section 13.50.030(a)(11), then the Fees shall be calculated and collected prior to effectuating the applicable permit from the Community Development and Services Agency.
4. Development Impact Fees and Drainage Fees shall be calculated based on use, with a best fit into one of the applicable Land Use Type fee categories. In instances where a determination on use category is needed, the Community Development and Services Agency Director will determine which Land Use Type category is most appropriate and the applicable amount of square footage.
5. Development Impact Fees shall be collected on all new single family residences and additional square footage to existing residences, and is based on the Single Family Residential Land Use Type per square foot fee multiplied by the conditioned square footage up to a maximum of 2,000 square feet.
6. Development Impact Fees shall be collected on each new multi-family unit and additional square footage to each existing multi-family unit, and is based on the Multi Family Residential Land Use Type fee per square foot multiplied by the conditioned square footage up to a maximum of 1,200 square feet.
7. Development Impact Fees shall be collected on all new buildings, and additional square footage to existing buildings, determined to fall within the Commercial Land Use Type described in this Chapter and is based on the Commercial fee per square foot multiplied by the new enclosed square footage of building.
8. Development Impact Fees shall be collected on all new buildings, and additional square footage to existing buildings, determined to fall within the Office/Institutional Land Use Type described in this Chapter and is based on the Office/Institutional fee per square foot multiplied by the new enclosed square footage of building.
9. Development Impact Fees shall be collected on all new buildings, and additional square footage to existing buildings, determined to fall within the Industrial Land Use Type described in this Chapter and is based on the Industrial fee per square foot multiplied by the new enclosed square footage of building.
10. Development Impact Fees shall be collected on all new buildings, and additional square footage to existing buildings, determined to fall within the Agricultural

Land Use Type described in this Chapter and is based on the Agricultural fee per square foot multiplied by the new enclosed square footage of building.

11. Development Impact Fees and Drainage Fees shall be collected on new or expansion of existing non-residential uses wherein the use occurs within an unenclosed structure and/or outdoors. An equivalent intensity of use based on trip generation and/or service population, and drainage runoff for Drainage Fees, shall be determined by the Community Development and Services Agency Director to determine which Land Use Type category is most appropriate and the applicable amount of equivalent square footage. Examples include but are not limited to, lumber yards, nurseries, salvage yards, towing facilities, and truss manufacturing.
12. Development Impact Fees may not be collected on buildings accessory to a legally established residence, as determined by the Community Development and Services Agency's Planning Director.
13. Development Impact Fees and Drainage Fees shall not be collected on governmental facilities.

#### **13.50.040 Deposit of Fees in Trust.**

Each component of the Development Impact Fees and the Drainage Fees received by the County shall be deposited into separate trust funds in a manner to avoid any co-mingling of the Fees with other revenues and funds of the County, except for temporary investments, and expended solely for the purposes for which the Fees were collected. Any interest income earned by monies in any such trust fund shall also be deposited into such trust fund and shall be expended only for the purpose for which the Fee was originally collected. Establishment of trust funds shall be for the following categories identified in Development Impact Fee Justification Study: Transportation, Law Enforcement, General Government, Quality of Life (combines the previously separate Library trust fund with Parks and Recreation), Health and Social Services, Criminal Justice, and Drainage.

#### **13.50.050 Protests and Appeals.**

- a) Any party may protest the imposition of Fees covered by this Chapter by meeting both of the following requirements:
  1. Tendering the Development Impact Fee and/or Drainage Fee payment, as determined by the Community Development and Services Agency Director, in full and pay any applicable appeal fees in effect pursuant to Title 13 of this Code.
  2. Serving written notice to the Clerk of the Board of Supervisors, which notice shall contain all the following information:
    - a. A statement that the required payment is tendered under protest.
    - b. A statement informing the Board of Supervisors of the factual elements of dispute and the legal theory or theories forming the basis for the protest.

- b) A protest filed in accordance with this Section shall be filed within 10 days after the date the permit was issued that resulted in the imposition of the fee. The hearing before the Board of Supervisors shall be set by the Clerk of the Board of Supervisors within 30 days after submission of the notice of appeal or protest and the hearing shall occur within 90 days of such submission. At the hearing, oral and written evidence may be presented. The Board of Supervisors shall issue a written decision on the appeal or protest no later than 30 days after making its decision. The written decision shall be final.

**13.50.060 Administration.**

- a) *Administrative Fee.* The Community Development and Services Agency shall be responsible for administration of the Development Impact Fee and Drainage Fee, including the calculation and collection of the fees, tracking of deposits, and preparation of required reports. As such, the Community Development and Services Agency will retain the 3% administrative cost portion of the Fee described in the Development Impact Fee Justification Study for these purposes.
- b) *Annual Adjustment.* An annual adjustment to account for cost escalations shall be applied to all Development Impact Fees in this Chapter in the manner and time specified herein:
1. Prior to the end of each fiscal year, the Community Development and Services Agency's Public Works Director shall report to the Board of Supervisors his or her finding on the annual escalation of construction costs for the prior twelve (12) months through May and the Development Impact Fees shall be adjusted accordingly.
  2. The basis for this annual adjustment shall be the percentage increase in the average of the San Francisco and 20-Cities Construction Cost Index (CCI) as published by Engineering News Record, for the period ending May of the previous fiscal year. The base month for application of this adjustment shall be May 2014 and the application shall be applied to the amounts shown in Section 13.50.030 and applicable on July 1<sup>st</sup> of each fiscal year.
  3. The Community Development & Services Agency shall post the annual adjustment in fees as specified in this section.
- c) *Credits and Reimbursements – Dedicated Facilities.* Upon satisfactory completion of a public facility or improvement upon which the Development Impact Fees and/or Drainage Fees are based (intended to pay the cost of construction and completion), and dedication of said facility or improvement to the County, and acceptance by the County, owner of said improvement shall receive credit against applicable Development Impact Fees and/or Drainage Fees. Such credit shall be administered as follows:
1. The credit shall be calculated by the percentage such owner completes of the total public facility or improvement for which such fee is intended to pay multiplied by the lesser of the projected cost of the improvement identified in the Development Impact Fee

Justification Study with any applicable adjustments pursuant to Section 13.50.060(b) or the actual and reasonable construction costs submitted by the owner and verified by the Community Development and Services Agency's Public Works Director.

2. Notwithstanding anything to the contrary herein, a credit may be applied only against the fee related to such credit.
  3. When the owner has exhausted all credit, as determined by the Community Development and Services Agency Director, then the owner may elect to receive cash reimbursement from the County for the remaining credit. Such cash reimbursement shall only be made from the County trust fund containing that component of the Development Impact Fee that is related to such remaining credit to the extent such funds are available in such trust fund. Any such elected cash reimbursement remaining unpaid 180 days after a written request has been made by the owner shall earn interest at the County's current pooled interest rate.
- d) *Demolition or Destruction Offset.* Where a permit to construct a project is issued within two years after the final inspection of a demolition permit on the same parcel, or where new construction replaces within two years a structure on the same parcel which was damaged or destroyed by fire, earthquake or other causes similarly beyond the owner's control, the amount of new construction taken into account under this Chapter shall be reduced by the square footage of development which was demolished or destroyed, as determined by the Community Development and Services Agency Director. For purposes of determining square footage credit when use category of the new building differs from that of the demolished or destroyed building, the ratio of the existing to new use fee categories shall be applied to the square footage. Under circumstances wherein the credited square footage exceeds the replacement square footage, no reimbursement shall be paid to owner. In this instance, however, the owner has the option to pursue a Development Agreement with the County to preserve the remaining credit.
- e) *Annual Findings.* The Community Development and Services Agency Director shall prepare once each fiscal year for the Board of Supervisors, a report of any portion of the Development Impact Fee remaining unexpended or uncommitted five or more years after deposit of the Fee, identifying the purpose to which the Fee is to be put, and demonstrating a reasonable relationship between the Fee and the purpose for which it was charged.
- f) *Refund of unexpended revenues.* Except as provided by Section 13.50.060(g), the County shall refund to the then current record owner or owners of each unit of development on a prorated basis the unexpended or uncommitted portion of the Development Impact Fees, and any interest accrued thereon, for which need cannot be demonstrated under Section 13.50.060(e). Such refund of unexpended or uncommitted revenues may be made by direct payment from the applicable trust fund, by providing a temporary suspension of fees, or by any other means consistent with the intent of Government Code Section 66001.

- g) *Reallocation of remaining revenues.* If the administrative costs of refunding unexpended or uncommitted revenues under Section 13.50.060(f) exceed the amount to be refunded, the County, after a public hearing, notice of which has been published under Government Code Section 6061 and posted in three prominent places within the area of the development project, may determine that the revenues shall be allocated for some other purpose for which fees are collected subject to Section 66000 of the Government Code.

**13.50.070 Enforcement.**

- a) *Misdemeanor.* Violation of this Chapter shall be a misdemeanor. The District Attorney may institute criminal proceedings hereunder. Any violator, upon conviction, shall be fined not more than \$1,000.00, imprisoned for a period not exceeding six months, or both fined and imprisoned.
- b) *Civil Proceedings.* The County Counsel may institute civil proceedings to enforce this Chapter, including without limitation, actions for injunction and civil penalties. Construction without the authorization required by this Chapter may be suspended by a court of competent jurisdiction. Violation of this Chapter interferes with provision of public services, and shall be a public nuisance.
- c) *Civil Penalties.* Any violator of this Chapter shall be liable, in addition to payment of the amount of any fees due, for civil penalties not to exceed: \$500.00 for each day during which construction proceeds in violation of this Chapter plus 15 percent of the amount of any fees not paid when due.
- d) *Lien.* In the event of failure of the owner of a development project to pay in full a fee or fees payable under this Chapter, County may place and record a lien upon the property on which the development is constructed in the amount of the unpaid fee. The Board of Supervisors shall adopt rules concerning imposition of such liens, including notice of the imposition of such lien and an opportunity for hearing.
- e) *Costs of Securing Compliance.* Any person or entity not in compliance with this Chapter shall be liable, in addition to other amounts provided herein, for attorneys' fees, and all other reasonable costs of securing compliance, including the cost of collection.
- f) *Interest.* Interest shall accrue on all fees not paid when due pursuant to this Chapter at the rate prescribed by law for interest on judgments, from the date when payment was due until the date payment is received in full.