

Morgan, Greg

From: Rattigan, Molly
Sent: Monday, September 11, 2017 4:58 PM
To: - Board of Supervisors
Cc: Tran, Minh; Coil, Gladys; Prescott, Karita; Morgan, Greg; Franchi, Helene; Hughey, Alice
Subject: Agenda Item 9E-Affordable Housing Discussion
Attachments: Housing Element Programs Policies Related to Affordable Housing Fund.pdf; Correction Memo Housing Report.pdf; Ordinance 1026 Housing Trust Fund.pdf; 2010 Affordable Housing Update.pdf; 2010-Residential Impact Fee Resolution.doc; 2014 Non Residential Fees Staff Report.pdf; 2014 Resolution-Non-Residential Impact Fees.doc

PLEASE DO NOT REPLY ALL

Good Afternoon,

Attached please find a Correction Memo for item 9E and a list of additional documents that may be useful for tomorrow's discussion.

The document titled "Housing Element Programs-Policies Related to Affordable Housing Fund" includes a list of the Housing Element policies and a brief update on the status/progress of each. The remaining documents are the County's previous actions related to establishing affordable housing impact fees.

Thanks,

Molly Rattigan
Deputy County Executive Officer
County of Napa
1195 Third Street, Suite 310
Napa, CA 94559
(707)253-4112

CONFIDENTIALITY NOTICE: This email message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential, and/or exempt from disclosure under applicable law. If you are not the intended recipient of the message, please contact the sender immediately and delete this message and any attachments. Thank you.



A Tradition of Stewardship
A Commitment to Service

County Executive Office

1195 Third Street
Suite 310
Napa, CA 94559
www.co.napa.ca.us

Main: (707) 253-4421
Fax: (707) 253-4176

Minh C. Tran
Interim County Executive Officer

MEMORANDUM

To: Board of Supervisors	From: Molly Rattigan, Deputy CEO
Date: September 11, 2017	Re: BOS Agenda of September 12, 2017 Item 9E

The last paragraph on the third page of the staff report should read:

*"At the conclusion of **Fiscal Year 2016-2017**, housing staff worked with the Auditor-Controller's Office to complete a reconciliation of the fund....."*

Additional Documents that may be of interest to the Board:

Affordable Housing Guidelines:

<http://www.countyofnapa.org/Pages/DepartmentContent.aspx?id=4294982540>

Attachments:

- Ordinance No. 1026 establishing the Housing Trust Fund (1992)
- Staff Report and Resolution last amending Residential Impact Fees (2010)
- Staff Report and Resolution last amending Non-Residential Impact Fees (2014)
- 2014-2022 Housing Element Policies with status/progress updates

ORDINANCE NO. 1026

AN ORDINANCE OF THE COUNTY OF NAPA, STATE OF CALIFORNIA,
AMENDING SECTION 11101 OF THE NAPA COUNTY CODE AND
ADDING ARTICLE 3.5 TO TITLE XI OF THE NAPA COUNTY CODE,
CREATING A HOUSING TRUST FUND AND ESTABLISHING HOUSING
FEE REQUIREMENTS FOR NON-RESIDENTIAL DEVELOPMENT
PROJECTS AND INCLUSIONARY REQUIREMENTS FOR RESIDENTIAL
DEVELOPMENT PROJECTS

The Board of Supervisors of the County of Napa ordains as follows:

SECTION 1.

With respect to non-residential development,
the Board finds as follows:

(a) New office, retail, industrial, hotel, warehouse, wine production and other non-residential uses (hereinafter referred to as "non-residential uses" or "non-residential development projects") in the unincorporated portions of the County of Napa ("County") have been, and continue to be, a major factor in attracting new employees to the region. A number of these employees and their families reside, or will reside, in Napa County. These new employees and their families create a need for additional housing in Napa County.

(b) Traditionally these non-residential uses have benefitted from a supply of housing for their employees available at competitive prices and locations close to the place of employment. However, in recent years, the supply of housing has not kept pace with the demand for housing created by these new employees and their families. If this shortage were to grow or continue, employers would have increasing difficulty in locating in or near the County due to problems associated with attracting a labor force. Employees would be unable to find appropriate housing in the area, and accordingly would be forced to commute long distances. This situation would adversely affect their quality of life, consume limited energy resources, increase congestion on already overcrowded highways and have a negative impact on air quality.

(c) The competition for housing is especially acute with respect to households of low income (those households with incomes of 80% or below median income for Napa County). An identifiable portion of the new employees attracted to the County by new non-residential development will live in low and very low income households and will therefore compete with present residents for scarce affordable housing units in the County. Increasing the production and availability of low income housing is especially problematic. Prices and rents for housing affordable to households of low and very low income remain below the level needed to attract new construction. This is even more true for households of very low income (those with incomes 50% or below median income for Napa County). Federal and State housing finance and subsidy programs are not sufficient by themselves to satisfy the low income housing requirements associated with this employment.

(d) On May 28, 1991, the Board adopted the Housing Element of the Napa County General Plan. The Housing Element calls for the provision of additional housing for all sectors of the population, to accommodate the demands of both existing and new residents attracted to the region by increased employment. The Housing Element also provides that the County should make special efforts to encourage an increased supply of housing affordable to low and very low income households. More specifically, the County, within its Housing Element, committed itself to the establishment of an Inclusionary Housing Program and an Industry-Housing Linkage Program as key elements of its plan to help ensure that housing will be available for all economic segments, as required by State law.

(e) The County, with assistance from the NCCDC Affordable Housing Task Force and the Jobs-Housing Nexus Study Advisory Committee, has been studying housing needs, and the financial mechanisms available to address those needs, in Napa County. The resultant Napa County Jobs-Housing Nexus Study (collectively with any addendums thereto, the "Nexus Report"), which is hereby incorporated by reference, examined the connection between non-residential development projects and the housing needs of moderate, low and very low income households. The Nexus Report concluded that a clear nexus can be established between the employees of various commercial and industrial buildings or land use types and the number of moderate, low and very low income employee households that are directly associated with such buildings and that will accordingly impact the housing market in and around Napa County. The Nexus Report further quantified the share of this need represented by low and very low income households.

(f) Based on the Nexus Report, each additional square foot of office development creates a need for low income housing assistance in an amount of \$17.65; retail development creates a need of \$17.10 per square foot; industrial development creates a need of \$6.52 per square foot; hotel development creates a need of \$10.23 per square foot; warehouse development creates a need of \$2.49 per square foot; and the development of wine production facilities creates a need of \$6.52 per square foot.

While these numbers may be approximate, it is clear that such non-residential development brings in new employees, that a significant percentage of those employees will live in the County, and that this number yields a certain number of households from which a definable number will be of low or very low income. Adjustments may be made to this number of households to take into account household size, multiple earner households, previously housed employees, etc., to yield the approximate per square foot contribution each employment activity contributes to the net new need for a housing subsidy.

(g) Accordingly, it is appropriate to impose some of the cost of the increased burden of providing housing for low and very low income households necessitated by such non-residential development directly upon the sponsors of the development, and indirectly upon the occupiers. The imposition of a housing impact fee is an appropriate means to accomplish this purpose. However, the Board recognizes that establishing a fee at the upper range of the identified need could have a negative effect on the County's ability to compete in the regional market for non-residential development projects. Thus, in calculating the amount of the housing impact fee, the Board has carefully weighed other factors in addition to the simple calculation of contribution. These include impact of the fee on construction costs, the need to foster the County's competitive position, special factors and hardships associated with certain types of development, and legal issues. Any increases in such fees in the future should consider these same criteria.

Based on these factors and the conclusions reached in the Nexus Report, the Board has concluded that each additional square foot of office development in the County shall be charged a housing impact fee in the amount of \$1.00. Similar conclusions for other uses are as follows: retail, \$.80; industrial, \$.50; hotel, \$1.40; warehouse (30,000 to 100,000 sq. feet), \$.30; warehouse (over 100,000 sq. feet), \$.20; and wine production, \$.50. Further, in order to reduce the initial impact of these fees on the development community, the Board has determined to phase the fee program in over time.

(h) Most non-residential land uses in the County clearly fall within one of the six basic use types studied in the Nexus Report, and are charged a fee accordingly in this ordinance. In a limited number of situations, the fee must be based on a project-by-project determination due to insufficient information as to the general characteristics as to that type of use or special attributes which make building size an inappropriate indicator of employee density.

(i) It is recognized that it is inappropriate to impose this housing fee requirement on certain types of non-residential uses because the fee would violate previous development agreements or other quasi-contractual agreements, or is preempted by state law; or because special characteristics of the use otherwise directly serve the needs of the same low-income population to which this ordinance is addressed, and such contributions would be adversely affected by the fee; or because it can be determined that the use categorically will have few or no employees.

(j) One of the purposes of this ordinance is to establish a feasible means by which developers of non-residential development projects assist in increasing the supply of low and very low income housing. The housing fee requirements contained in this ordinance are designed to create a rational relationship between the amount of housing need created by the employment use and the size of the fee, taking into account the impact of such fee on housing construction costs and economic feasibility.

The County housing fee is based upon the Napa County General Plan, including the Housing Element and related environmental documents, the Napa County General Plan Environmental Impact Report, the Napa Airport Industrial Area Specific Plan and Environmental Impact Report, the NCCDC Affordable Housing Finance Task Force report and recommendations and the Nexus Report, together with the reports appended thereto or referenced therein quantifying the nexus between development and low income housing need. In view of the numerous assumptions which must attend any such studies and recommendations, the Board has determined that the fee requirements will be set well below the calculated cost of providing market rate low income housing to persons attracted to the County by corresponding employment opportunities.

(k) The need to provide safe and sanitary dwelling accommodations to persons of low and moderate income is a matter of countywide concern and represents a responsibility that should be borne by all sectors of the community. The enactment of a housing fee for non-residential development is intended as one part of the County's multi-faceted approach to the County's housing problems. The adoption of the inclusionary requirements discussed below for residential development is another aspect of the solution, as is the availability of specially targeted affordable housing building permits. Further, the County is committed to continued exploration with the agricultural sector of ways in which that industry is best suited to help address the need for low income housing, especially in the area of housing for seasonal farmworkers. Further regulatory changes to encourage the production of low income housing are also being considered.

(l) It is recognized that many of the assumptions underlying this fee program may be subject to change over time. Thus, periodic review of such assumptions, as, for instance, the employment projections for the agricultural sector, is appropriate.

(m) Finally, although the low-income housing availability issue may be addressed at the County level, the housing market is a regional market. While evidence presented to the Board indicates that imposition of a fee in the County alone will not cause substantial commercial development to leave the County, the Board notes that the relationship between increased commercial development and the need for low income housing is a regional relationship, including both the County and its incorporated cities. Commercial development in one jurisdiction will generate the demand for low income housing in the other jurisdictions. Conversely, the absence of available low income housing in one jurisdiction puts undue pressure on the others. Adverse environmental effects associated with long commutes impact the citizens of both the County and its incorporated cities. Therefore, the Board strongly encourages the imposition of a similar fee on commercial development dedicated to similar purposes in the County's incorporated cities.

SECTION 2.

With respect to residential development, the

Board finds as follows:

- (a) Rental and owner-occupied housing in the County has become more and more expensive over time. Housing costs have gone up faster than incomes for many groups in the community.
- (b) Many persons cannot afford housing in the County who work in the County, who have grown up or have family ties in the County, who already live and work in the County but must move because housing is no longer affordable, or who wish to live in the County for other reasons.
- (c) Federal and State government programs do not provide nearly enough affordable housing or subsidies to satisfy the housing needs of low or moderate income households who want or need housing in the County. Newly constructed housing is available in the County, with rare exceptions, only at prices which low and moderate income households cannot afford to pay. This problem has been exacerbated in the past by the fact that local government has at times failed to take a sufficiently active role in the affordable housing effort.
- (d) Rising land prices have been a key factor in preventing development of new affordable housing. New housing construction in the County aggravates the existing shortage of affordable housing by absorbing the supply of available residential land. This not only reduces the supply of land for affordable housing but further increases the price of remaining residential land. At the same time, new housing contributes to the demand for goods and services in the County, increasing local employment at wage levels which often do not permit employees to afford housing in the County.
- (e) Rising land prices and the resultant lack of affordability of housing for local residents and working people in the County are further exacerbated by the high demand for second homes, luxury homes and housing for new residents who commute to the greater Bay Area to work. The use of limited residential land for these purposes further increases the price of remaining residential land.
- (f) The desirability of the County as a place for second homes, luxury homes and as a bedroom community for workers in the greater Bay Area labor market results from strong agricultural protection and open space policies resulting in a desirable living environment which in turn makes housing affordability for local residents who work in local industries even more difficult to achieve. The County's General Plan contains policy statements favoring the protection of agriculture and open space in the County and directing housing and other urban uses to the urban areas, principles which, in themselves, do little to encourage the creation of affordable housing at the County level. Three strong policies reflected in the General Plan -- limited subdivision of agricultural land, management of growth through allocation of building permits ("Measure A") and direction of urban growth to cities and urbanized areas -- have combined to severely limit new affordable housing opportunities in the unincorporated areas. These factors and an observed pattern of substantial remodels and demolition/replacement in agricultural areas are probably related; remodelled and replacement dwellings are not limited in number, but gradually erode and eliminate older residential units that can economically provide more affordable housing. High percentages of newly constructed or remodelled homes in the upper end of the housing market further exacerbate the affordable housing problem by creating greater needs for many services typically provided by low income employees.
- (g) Because neither the private market nor the public sector has as yet provided the levels of housing affordability necessary for the maintenance of a balanced community, local government must take an active lead to insure an adequate supply of housing for residents and working people of all income levels.

(h) The citizens of the County wish to retain a balanced community, with housing available to low and moderate income households. The County agrees with the established policy of the State of California that each community should make available an adequate supply of housing to persons at all economic levels. The County's use of its police power and statutory zoning authority to regulate housing production in ways designed to achieve such a mix of units in the community is appropriate. As stated above, the Board has adopted the Housing Element of the Napa County General Plan which supports the provision of additional housing for all sectors of the population, with an emphasis on the increased supply of housing affordable to low and very low income households, and calls for the establishment of an Inclusionary Housing program.

(i) A balanced community is only possible if part of the new housing built in the County is affordable to low and moderate income households. Amending the land use regulations of the County to require builders of new housing to include some housing affordable to low or moderate income households, or to otherwise contribute to the effort to increase the supply of affordable housing in the County, is fair, not only because new development contributes to the shortage of affordable housing, but also because the land use regulations of the County in regard to new housing in the County should be consistent with the community's goal of providing an adequate supply of housing for residents and working people of all income levels.

(j) The Board shall encourage the building and availability of affordable housing in the County by providing incentives and reducing the constraints on such development in the community. In this regard, the Board intends to consider such things as the establishment of public/private partnerships and the provision of incentives to the building community as provided by law and in the Housing Element of the Napa County General Plan.

(k) Maintaining the affordability of units constructed under this ordinance best serves the goal of assuring a continuing supply of affordable housing for local residents and people who work in the County but cannot afford to live here. If affordable units are not restricted so as to continue to be affordable at the time of resale, then such units will become market rate units within a relatively short period of time and, with the limited supply of residential land combined with increasing local land and building costs, the units will not be replaceable.

(l) The requirements of this ordinance are minimum requirements. The County reserves the right to require additional measures to further affordable housing to the extent it has authority to do so without respect to this ordinance. As mentioned above, the efforts contained in this ordinance are simply one aspect of the County's developing strategy to address affordable housing needs on a variety of fronts.

SECTION 3. A new Article 3.5 is added to Title XI of the Napa County Code to read in full as follows:

Article 3.5

AFFORDABLE HOUSING

Chapter

Section

- | | |
|---|-------|
| 1. Definitions | 11500 |
| 2. County of Napa Affordable Housing Trust Fund | 11502 |
| 3. Non-residential Development Fee | 11510 |
| 4. Residential Development Inclusionary Requirement | 11520 |

CHAPTER 1. DEFINITIONS

Sec. 11500. Definitions

Sec. 11500. Definitions.

Unless the context clearly requires otherwise, the definitions in this Chapter shall govern the provisions of this Article.

- (a) "Addition" shall mean, for purposes of Chapter 3 of this Article, adding gross square feet to an existing non-residential development project.
- (b) "Affordable Rent" shall mean monthly rent, including utilities and all fees for housing services, equal to or less than one-twelfth of 30% of income for the specified target income household. Affordable Rent shall be based on presumed occupancy levels of one person in a studio unit, two persons in a one bedroom unit, three persons in a two bedroom unit, and one additional person for each additional bedroom thereafter.
- (c) "Affordable Sales Price" shall mean the maximum purchase price that will be affordable to the specified target income household. A maximum purchase price shall be considered affordable only if each Monthly Owner-occupied Housing Payment is equal to or less than one-twelfth of 30% of income for the specified target income household. In setting the Affordable Sales Price, realistic assumptions regarding down payment, mortgage interest rate and term will be required and those assumptions must demonstrate that targeted income families can reasonably qualify. If evidence is presented which shows to the satisfaction of the County that targeted income buyers can qualify for financing even though the percentage of their income allocated to housing is higher than 30%, then a corresponding increase may be approved in the Affordable Sales Price. Affordable Sales Price shall be based upon presumed occupancy levels of one person in a studio unit, two persons in a one bedroom unit, three persons in a two bedroom unit, and one additional person for each additional bedroom thereafter.
- (d) "Affordable Units" shall mean and be limited to those Dwelling Units which are required to be rented at Affordable Rents or purchased at an Affordable Sales Price to specified households as described in this Chapter 4 of this Article.
- (e) "Annual Household Income" shall mean the combined gross income for all adult persons living in a Dwelling Unit as calculated for the purpose of the Section 8 program under the United States Housing Act of 1937, as amended, or its successor.
- (f) "Board" shall mean the Napa County Board of Supervisors.
- (g) "Building Division" shall mean the Building Division of the Napa County Conservation, Development and Planning Department.
- (h) "Building Permit" shall mean a permit issued pursuant to Article 2 of Title XI of the Napa County Code.
- (i) "Construction" is, for purposes of Chapter 3 of this Article, a new non-residential development project.
- (j) "Construction Costs" shall mean the estimated cost per square foot of construction, as established by the Building Division for use in the setting of regulatory fees, multiplied by the total square footage to be constructed.

- (k) "County" shall mean the unincorporated portions of Napa County.
- (l) "Discretionary Permit" shall include use permits issued pursuant to Chapter 1 of Article 9 of Title XII of the Napa County Code, including minor modification approvals as set forth in Section 12809; and the approval of tentative, final or parcel maps pursuant to Article 4 of Title XI of the Napa County Code.
- (m) "Dwelling Unit" shall have the meaning set forth in Section 12017.
- (n) "Gross square feet" is the area included within the surrounding walls of a non-residential development project as calculated by the Building Division in accordance with its standard practice in calculating structural perimeters. This area does not include garages or carports. For purposes of the requirements of Chapter 3 of this Article, the square footage of any tank or wine crush pad or similar non-walled wine related structure shall be included in the gross square feet of a non-residential development project.
- (o) "Housing Board" shall mean the Housing Trust Fund Board established pursuant to Section 11503(b).
- (p) "Housing Director" shall mean the Community Partnership Manager for the County or the designee of such individual.
- (q) "Housing Fund" shall mean the County of Napa Affordable Housing Trust Fund established pursuant to Section 11502.
- (r) "Interior remodel" is, for purposes of Chapter 3 of this Article, an improvement which results in a change in the type of use of a previously occupied non-residential development project that increases the employee density of the project as determined by the Planning Director.
- (s) "Low income households" are those households with incomes of up to 80% of Median Income.
- (t) "Market Rate Units" shall mean Dwelling Units in a Residential Project which are not Affordable Units.
- (u) "Median Income" shall mean the median income, adjusted for family size, applicable to Napa County as published annually pursuant to Title 25 of the California Code of Regulations, Section 6932 (or its successor provision) by the United States Department of Housing and Urban Development.
- (v) "Moderate income households" are those households with incomes of up to 120% of Median Income.
- (w) "Monthly Owner-occupied Housing Payment" shall be that sum equal to the principal, interest, property taxes, homeowner's insurance and homeowner's association dues paid on an annual basis divided by 12.
- (x) "Non-residential development project" shall mean any development or use for which a Discretionary Permit or Building Permit is required, other than those developments or uses involving solely the construction or remodeling of Dwelling Units.
- (y) "Planning Commission" shall mean the Napa County Conservation, Development and Planning Commission.
- (z) "Planning Director" shall mean the Director of the Napa County Conservation, Development and Planning Department or the designee of said Director.

- (aa) "Residential Project" shall mean the construction or remodeling of any Dwelling Unit located within the boundaries of the County for which a Building Permit or Discretionary Permit is issued by the County; provided, however, that Residential Project shall not include (1) the construction of any Dwelling Unit for which the Construction Costs do not exceed \$55,000, (2) the remodeling of any Dwelling Unit for which the Construction Costs do not exceed \$15,000 or (3) the construction or remodeling of any Dwelling Unit within the area of any subdivision for which the final or parcel map was recorded within the five-year period prior to the issuance of the Building Permit with respect to such construction or remodeling, unless approval or conditional approval of the tentative map, or recordation of the parcel map (if no tentative map was required), for such subdivision was expressly conditioned upon participation in an inclusionary system such as that established by Chapter 4 or such participation was expressly required as an environmental mitigation measure for the subdivision.
- (bb) "Section," unless otherwise indicated, shall mean a section of the Napa County Code.
- (cc) "Very low income households" are those households with incomes of up to 50% of Median Income.

CHAPTER 2. COUNTY OF NAPA AFFORDABLE HOUSING TRUST FUND

- Sec. 11502. Establishment of Housing Fund
- Sec. 11503. Administration
- Sec. 11504. Purposes and use of funds
- Sec. 11505. Location of housing units and housing services to be assisted with Housing Fund monies
- Sec. 11506. Annual evaluation

Sec. 11502. Establishment of Housing Fund.

There is hereby established the County of Napa Affordable Housing Trust Fund (the "Housing Fund"). Separate accounts within such Housing Fund may be created from time to time as deemed appropriate to further the purposes of the Fund.

Sec. 11503. Administration.

(a) The Housing Fund shall be administered by the Housing Director who shall have the authority to govern the Housing Fund consistent with this Article, and to prescribe procedures for said purpose, subject to approval by the Board.

(b) In addition, a Housing Trust Fund Board (the "Housing Board") shall be established by the Board. The Housing Board shall bi-annually develop a Housing Assistance Plan Program and Financing Strategy, subject to approval by the Board, to further define and prioritize the uses of the monies in the Housing Fund. The composition, size, term, decision-making authority and other organizational features of the Housing Board shall be as determined by resolution of the Board.

Sec. 11504. Purposes and use of funds.

(a) Monies deposited in the Housing Fund shall be used to increase and improve the supply of housing affordable to households of moderate, low and very low income households. Monies may also be used to cover reasonable

administrative expenses not reimbursed through processing fees, including reasonable consultant and legal expenses related to the establishment and/or administration of the Housing Fund. No portion of the Housing Fund may be diverted to other purposes by way of loan or otherwise.

(b) Monies in the Housing Fund shall be used in accordance with the priorities identified by the Housing Assistance Plan Program and Financing Strategy described in Section 11503(b) to construct, rehabilitate or subsidize very low, low and moderate income housing and/or to assist other governmental entities, private organizations or individuals in the construction, rehabilitation, location or subsidy of very low, low and moderate income housing. Monies in the Housing Fund may be disbursed, hypothecated, collateralized or otherwise employed for these purposes from time to time as the Housing Director determines is appropriate to accomplish the purposes of the Housing Fund. These uses include, but are not limited to, assistance to housing development corporations, equity participation loans, grants, pre-home ownership co-investment, pre-development loan funds, participation leases, or other public/private partnership arrangements. The Housing Fund monies may be extended for the benefit of rental or owner occupied housing or housing services.

(c) Expenditures by the Housing Director from the Housing Fund shall be controlled, authorized and paid in accordance with general County budgetary policies. Execution of contracts related to the use or administration of Housing Fund monies shall be in accordance with standard Board policy.

Sec. 11505. Location of housing units and housing services to be assisted with Housing Fund monies.

(a) Subject to Board approval, the Housing Board shall develop criteria for the location of the housing units to be assisted with Housing Fund monies. One of the purposes of these criteria shall be to help ensure that Housing Fund monies are used to assist the County in meeting its fair share housing goals as set forth in the Housing Element of the Napa County General Plan.

(b) With respect to monies generated by the housing impact fee established by Chapter 3 of this Article, these criteria shall also ensure a reasonable geographical linkage between the non-residential development projects subject to such fee and the housing assistance provided with the Housing Fund monies collected in connection with such projects, such that those receiving the housing assistance could reasonably commute to the commercial locations. The Housing Board may elect to utilize a zone system which provides that funds from non-residential projects within a specified zone be spent for housing assistance within the same zone. The boundaries of any such zones shall take into account the transportation network of Napa County such that the geographic linkage mentioned above is retained. The zone system may be developed jointly between the County and the incorporated cities within Napa County to designate specific geographic areas within the city limits and unincorporated areas for the expenditure of funds. If due to regional growth, increased traffic congestion, or other factors, the Housing Board determines that at any time in the ensuing year sites which meet the geographic linkage requirement mentioned above will not be available for assistance, the Housing Board may develop and present to the Board a proposal for ensuring a continued linkage between non-residential development projects subject to Chapter 3 of this Article and the location of assisted housing. Such a proposal may be presented in connection with the annual evaluation described in Section 11506 below.

Sec. 11506. Annual evaluation.

Commencing after the end of the 1992-1993 fiscal year and annually thereafter, the Housing Board shall report to the Board and the Planning Commission, within 60 days of the end of such fiscal year, on the status of activities undertaken with the Housing Fund. The report shall include a statement of income, expenses, disbursements and other uses of the Housing Fund. The report shall also detail the number of individuals assisted and the number of housing units constructed or assisted during that year, stating the amount of such assistance. The report shall evaluate the efficiency of this Article in mitigating the shortage of low income housing available in the County generally and to employees of the non-residential projects subject to Chapter 3 of this Article in particular. In this report, the Housing Board shall also recommend any changes to this Article, the Housing Element of the Napa County General Plan, other ordinances, Housing Board objectives or other actions necessary to carry out its purposes, including any adjustments necessary to the fees or number of housing units required. Any report that contains a recommendation from the Housing Board that the housing impact fees established pursuant to Chapter 3 of this Article be increased shall discuss the impact of such an increase on the County's ability to compete in the regional market for commercial and industrial projects. The report shall also contain the findings required by Government Code sections 66001(d) and 66006(b) (or their successor provisions).

CHAPTER 3. NON-RESIDENTIAL DEVELOPMENT FEE

- Sec. 11510. General provisions
- Sec. 11511. Application of chapter
- Sec. 11512. Housing fee requirement
- Sec. 11513. [reserved]
- Sec. 11514. Administration
- Sec. 11515. Enforcement
- Sec. 11516. Phase in requirements.

Sec. 11510. General provisions.

Unless otherwise expressly provided in this Article, the provisions of this Chapter are the exclusive procedures and rules relating to non-residential development housing impact fees. In the event of conflict, these provisions shall prevail over any other provisions of this Article.

Sec. 11511. Application of chapter.

This Chapter shall apply to non-residential development projects that are proposing the construction, addition or interior remodeling of any non-residential development project. This Chapter shall apply to mixed or combined use projects if such projects propose the construction, addition or interior remodeling of non-residential uses. Notwithstanding the foregoing, this Chapter shall not apply to projects which fall within one or more of the following categories:

- (a) The precise portion of a non-residential development project for which a Discretionary Permit was issued on or before January 1, 1993, unless such Discretionary Permit has, as a condition of approval or environmental mitigation measure, compliance with a housing fee program such as that found in this Chapter; or
- (b) Projects that are the subject of Development Agreements currently in effect with the County, approved prior to January 1, 1993, where such agreements expressly preclude the County from requiring compliance with a housing fee program such as that found in this Chapter; or

- (c) The non-residential uses set forth in a Building Permit application accepted as complete by the County prior to January 1, 1993; or
- (d) That portion of any non-residential development project located on property owned by the State of California, the United States of America or any of its agencies, with the exception of such property not used exclusively for governmental or educational purposes; or
- (e) Any non-residential development project to the extent it has received a vested right to proceed without housing fees pursuant to State law; or
- (f) Uses operated by nonprofit organizations which provide food storage, meal service and/or temporary shelter to the homeless; or
- (g) All uses labelled "E" in Table 514 to this Chapter.

Sec. 11512. Housing fee requirement.

(a) Except as provided elsewhere in this Chapter, no Building Permit shall be issued for any non-residential development project subject to this Chapter, as set forth in Section 11511, unless and until payment of a housing fee is either made to the County (who shall deposit such fee in the Housing Fund established pursuant to Chapter 2 of this Article) or secured pursuant to subparagraph (d). The amount of the fee shall be computed as follows:

Gross Square Feet Non-Residential Space X Applicable Fee by type of use as listed in Table 512 to this Chapter = Housing Fee.

For purposes of this Chapter, the fees for an interior remodel shall be the fees for the new use as defined in Table 512, less any fees that either were paid or would have been paid based on the original use of the building. If the non-residential development project is in whole or part a replacement for space previously on the site, but demolished within one year prior to the filing of the application for the new construction or remodel, credit shall be given for the space demolished or to be demolished at the rate applicable to the prior use of that space.

(b) As an alternative to payment of the housing fee set forth in subparagraph (a) above, an applicant for a non-residential development project subject to the requirements of this Chapter may submit a request for compliance through the construction of residential units or the dedication of land or other resources. Such requests shall be considered on a case-by-case basis by the Planning Commission and shall be approved, at the Planning Commission's sole discretion, if the Planning Commission determines that such alternative compliance will further affordable housing opportunities in the County to an equal or greater extent than payment of the housing fee.

(c) Where participation in a housing fee system as established by this Chapter was expressly required for a non-residential development project pursuant to a Development Agreement or as an environmental mitigation measure or condition of approval for issuance of a Discretionary Permit, but a Building Permit with respect to such project has been issued prior to the effective date of this Chapter, any fee to be paid pursuant to this Section shall either be paid within 60 days of the effective date of this Chapter or, if the certificate of occupancy with respect to such project has not yet been issued, secured within that same time period as provided by subparagraph (d).

(d) For all fees not paid upon issuance of Building Permits pursuant to subparagraph (a), the Planning Director may require the applicant, prior to issuance of the Building Permit, to execute a contract to pay the fee prior to issuance of the certificate of occupancy for the non-residential development

project. The obligation to pay the fee shall inure to the benefit of, and be enforceable by, the County. The contract shall contain a legal description of the property affected, shall be recorded in the Office of the County Recorder of Napa County and, from the date of recordation, shall constitute a lien for the payment of the fee, which shall be enforceable against successors in interest to the property holder or lessee at the time of the issuance of the Building Permit. The contract shall be recorded in the grantor-grantee index in the name of the County as grantee and in the name of the property holder or lessee at Building Permit issuance as grantor. The contract may require appropriate notification of the opening of any escrow for the sale of the property for which the Building Permit was issued and that the fee be paid to the County from the sale proceeds in escrow prior to disbursing proceeds to the seller.

(e) No temporary or permanent certificate of occupancy for any non-residential development project shall be issued until the permittee has paid the housing fee described in subparagraph (a) or otherwise satisfactorily complied with the requirements of this Chapter. Release of utilities shall not be authorized for any non-residential development project until notification is received from the Planning Director that all requirements of this Chapter have been met.

Sec. 11513. [reserved]

Sec. 11514. Administration.

(a) Compliance with this Chapter will be made a condition of approval of each Discretionary Permit approved for a non-residential development project subject to this Chapter. The application procedures defined in subparagraph (b) below shall apply to all Discretionary Permit applications.

(b) Applications for Building Permits for any project subject to the provisions of this Chapter shall not be deemed complete unless the application contains (1) a statement of the number of gross square feet in a non-residential development project to be constructed, added or remodeled that are subject to the requirements of this Chapter, together with documentation sufficient to support the application; (2) the intended use or uses for the non-residential development project by gross square feet; and (3) if payment of the housing fee is to be deferred pursuant to Section 11512(d) and if required by the Planning Director, a contract executed by applicant meeting the requirements of that Section.

(c) The Planning Director, with the concurrence of the Housing Director, shall determine the amount of fee and shall so inform the appropriate County official who shall collect the required fee and deposit it in the Housing Fund in accordance with the provisions of this Chapter. Except as provided in subparagraph (d) below, the Planning Director shall use the matrix in Table 514 to this Chapter to relate the anticipated use of the non-residential development project to a type of use in Table 512 to this Chapter and a resulting fee per square foot, or to identify the use as exempt or requiring a special fee. In calculating the fee, the Planning Director shall use those versions of Table 512 and Table 514 in effect at the time of the issuance of the Building Permit. In the case of large, mixed-use development projects involving the simultaneous construction of different structures and/or different uses, the Planning Director may utilize the categories in Table 514 and the types of uses in Table 512 to create a mixed fee to be collected for all Building Permits in the project. In that case, the mixed fee shall be designed to approximate the revenue which would have been collected had the appropriate type of use category in Table 512 been applied to each individual portion of the project. The creation of a mixed use fee shall be subject to the requirements of subparagraph (f). The applicant may appeal the Planning Director's fee determination pursuant to this subparagraph according to the provisions of Title XIII of the Napa County Code.

(d) The Planning Director shall determine the housing fee based on a case-by-case calculation of employee density in the following situations:

- (1) In the case of uses listed as "S" in Table 514.
- (2) In the case of a use which does not fall into one of the uses listed in Table 514 and the Planning Director determines that (i) the building size is an inappropriate indicator of employee density, or (ii) insufficient generalized information is available to permit a determination that the use falls within one of the use categories listed in Table 514.
- (3) In the case of uses involving one or fewer employees, which uses shall be exempt from the fee requirement. Upon the conversion of the building to another use or upon the remodeling of the building to permit additional employees, the appropriate fee shall be paid.

(e) The Planning Director's determination of employee density pursuant to subparagraph (d) shall be based on: data concerning anticipated employee density for the project submitted by the applicant; employment surveys or other research on similar uses submitted by the applicant or independently researched by the Planning Director; or any other data or information the Planning Director determines relevant. The applicant may appeal the Planning Director's fee determination pursuant to subparagraph (d) according to the provisions of Title XIII of the Napa County Code. Any application for a Building Permit for any project where a special fee determination is requested shall be accompanied by information sufficient to enable the Planning Director to make a determination of employee density pursuant to this subparagraph.

(f) The Planning Director shall make a determination of a mixed fee representing the proportion of the different types of uses listed in Table 512 only for non-residential development projects that do not have a use listed in Table 512 comprising a minimum of 85% of total gross square feet.

(g) The fees set forth in Table 512 and 514 shall be reviewed and, if appropriate, revised, effective January 1 of each year. The Housing Board shall prepare a recommendation to the Board for such revision on an annual basis in accordance with the requirements of Section 11506.

Sec. 11515. Enforcement.

(a) The Napa County Office of County Counsel or the Napa County District Attorney, as appropriate, shall be authorized to enforce the provisions of this Chapter, and all regulatory agreements executed in connection with the requirements of this Chapter, by civil action or any other proceeding or method permitted by law.

(b) Failure of any official to fulfill the requirements of a provision of this Chapter shall not excuse any applicant from fulfilling the remaining requirements of this Chapter.

Sec. 11516. Phase in requirements.

Notwithstanding any other provision of this Chapter, any fee imposed pursuant to this Chapter in connection with a Building Permit issued prior to January 1, 1994, shall be reduced by 50% of the amount calculated pursuant to Section 11512 or 11514, as appropriate, and payment of this reduced fee shall constitute compliance with the requirements of this Chapter.

CHAPTER 4. RESIDENTIAL DEVELOPMENT INCLUSIONARY REQUIREMENT.

- Sec. 11520. Basic requirement
- Sec. 11521. Affordable housing incentives
- Sec. 11522. Time performance required
- Sec. 11523. Requirements for rental Affordable Units
- Sec. 11524. Requirements for owner-occupied Affordable Units
- Sec. 11525. Basic requirements for owner-occupied and rental Affordable Units
- Sec. 11526. Equivalency proposals permitted
- Sec. 11527. Continued affordability
- Sec. 11528. Alternatives to construction - Payment of fees
- Sec. 11529. In-lieu fees
- Sec. 11530. Annual fees
- Sec. 11531. Use and expenditure of fees
- Sec. 11532. Enforcement
- Sec. 11533. Discretionary Permit requirements

Sec. 11520. Basic requirement.

At least 10% of all new Dwelling Units in a Residential Project constructed in the County shall be affordable as prescribed in Section 11523 or Section 11524, as applicable, and shall be constructed not later than the related Market Rate Units, unless one of the alternative actions set forth in Section 11526 or Section 11528 is performed. For fractions of Affordable Units, including fractions resulting from construction of less than ten Dwelling Units, the owner of the property must either construct the next higher whole number of Affordable Units, perform an alternative action pursuant to Section 11526 or Section 11529(c) or pay the fee specified in Section 11528 for the fraction; provided, however, that this Chapter shall not apply to construction of a single Dwelling Unit which is the whole of a Residential Project and which is built and owned, and after completion occupied for two years, by a moderate income household. For purposes of this Section, a Dwelling Unit shall be deemed "built" by its owner if it is built by or for a permit holder who intends to reside in the Dwelling Unit.

Sec. 11521. Affordable housing incentives.

In the case of Residential Projects which meet the affordability requirements specified in Section 11520 through the actual construction of Affordable Units rather than the payment of fees as permitted by Section 11528, application fees for Building Permits shall be waived for Affordable Units constructed in connection with such Residential Project. In addition, the Planning Commission may consider, on a case-by-case basis, the provision of additional incentives as provided by law or in the Housing Element of the Napa County General Plan.

Sec. 11522. Time performance required.

(a) No temporary or permanent certificate of occupancy for any new Dwelling Unit in a Residential Project shall be issued until the permittee has met the on-site construction requirement of Section 11520 or has satisfactorily performed one of the alternative actions set forth in Section 11526 or 11528.

(b) Release of utilities shall not be authorized for any Residential Project until notification is received from the Planning Director that all requirements of this Chapter have been met.

(c) For Residential Projects consisting of single Dwelling Units that claim exemption from the affordability requirements specified in Section 11520 on the basis of the proviso contained in the last sentence of that Section, no temporary or permanent certificate of occupancy shall be issued until the permittee has made a showing acceptable to the Planning Director that such an exemption is appropriate. The Planning Director shall develop and implement regulations designed to ensure that such initially exempt Dwelling Units remain in compliance with the terms of the exemption throughout the first two years of occupancy. A Dwelling Unit found to be out of compliance at any time during such two-year period shall be required to pay 125% of the then current in-lieu fee for that Dwelling Unit, as specified by Sections 11528 and 11529. Such payment, however, shall not limit the County's ability to proceed against any party pursuant to Section 11532 or other applicable law.

Sec 11523. Requirements for rental Affordable Units.

(a) One-half of the Affordable Units which are required to be constructed in connection with construction of rental Market Rate Units shall be available at Affordable Rents to very low income households. The remaining one-half of the required Affordable Units shall be available at Affordable Rents to low income households. Where the number of required Affordable Units is an odd number, the number of Affordable Units constructed for very low income households may be one less than the number of Affordable Units constructed for low income households.

(b) With respect to any particular rental Residential Project, the Planning Commission may, upon the recommendation of the Housing Director, forgive all or a portion of the affordability requirement set forth in subparagraph (a) above upon a showing by the applicant that imposition of such requirement on the Residential Project will cause undue hardship and that such Residential Project will contribute significantly to affordable housing opportunities in the County.

Sec. 11524. Requirements for owner-occupied Affordable Units.

One-half of the Affordable Units which are required to be constructed in connection with the construction of Market Rate Units intended for owner-occupancy shall be available at Affordable Sales Prices to households whose Annual Household Income does not exceed 100% of Median Income. The remaining one-half of the required Affordable Units shall be available at Affordable Sales Prices to moderate income households. Where the number of required Affordable Units is an odd number, the number of units affordable to moderate income households may be one greater than the number affordable at or below 100% of Median Income.

Sec. 11525. Basic requirements for owner-occupied and rental Affordable Units.

Affordable Units shall be comparable in number of bedrooms, exterior appearance and overall quality of construction to Market Rate Units in the same Residential Project. Subject to the approval of the Planning Director, square footage of Affordable Units and interior features in Affordable Units need not be the same as or equivalent to those in Market Rate Units in the same Residential Project, so long as they are of good quality and are consistent with contemporary standards for new housing. Affordable Units shall be dispersed throughout the Residential Project, or, subject to the approval of the Planning Director, may be clustered within the Residential Project when this furthers affordable housing opportunities.

Sec. 11526. Equivalency proposals permitted.

Projects proposing to meet the minimum requirement for affordability through equivalency shall submit an equivalency proposal to the Planning Commission for approval. Such proposals shall show how the alternative proposed will further affordable housing opportunities in the County to an equal or greater extent than compliance with the express requirements of this Chapter. Applicants proposing to construct rental Affordable Units in lieu of owner-occupied Affordable Units as permitted by section 65589.8 of the Government Code (or its successor provision) shall submit an equivalency proposal pursuant to this Section.

Sec. 11527. Continued affordability.

(a) Prior to the issuance of certificates of occupancy for Affordable Units, regulatory agreements and, if the Affordable Units are owner-occupied, resale restrictions, deeds of trust and/or other documents, all of which must be acceptable to the Planning Director and consistent with the requirements of this Chapter, shall be recorded against parcels having such Affordable Units and shall be effective for a minimum of 40 years with respect to each Affordable Unit.

(b) Notwithstanding any other provision in this Chapter:

(1) The maximum sales price permitted on resale of an Affordable Unit intended for owner-occupancy shall not exceed the seller's purchase price, adjusted for the percentage increase in Median Income since the seller's purchase, plus the value of substantial structural or permanent fixed improvements to the property as determined by the Planning Director. For purposes of this subparagraph, Median Income shall be calculated based upon the presumed occupancy levels used to determine Affordable Sales Price.

(2) The resale restrictions shall provide that in the event of the sale of an Affordable Unit intended for owner-occupancy, the County shall have the right to purchase such Affordable Unit at the maximum price which could be charged to an eligible household.

(c) No household shall be permitted to occupy an Affordable Unit, or purchase an Affordable Unit for owner-occupancy, unless the County or its designee has approved the household's eligibility, or has failed to make a determination of eligibility within the time or other limits provided by a regulatory agreement or resale restrictions. If the County or its designee maintains a list of eligible households, households selected to occupy Affordable Units shall be selected first from that list to the extent provided in the regulatory agreement or resale restrictions.

Sec. 11528. Alternatives to construction - Payment of fees.

(a) Whenever construction of Affordable Units is required by Section 11523 or 11524, an applicant may instead pay the in-lieu fee calculated in accordance with Section 11529.

(b) An applicant must pay the in-lieu fee calculated in accordance with Section 11529 to satisfy any requirement that a fraction of an Affordable Unit be built unless the applicant constructs the next higher whole number of Affordable Units as permitted by Section 11520 or submits an acceptable equivalency proposal as permitted by Section 11526.

Sec. 11529. In lieu fees.

(a) If fees are paid in lieu of providing Affordable Units, the fees shall be paid upon issuance of Building Permits for the Market Rate Units in a Residential Project, or, if requested by the applicant, deferred until issuance of the certificate of occupancy pursuant to subparagraph (g). If Building Permits are issued for only part of a Residential Project, the fee amount shall be based only on the number of permitted Market Rate Units. Notwithstanding the foregoing, where participation in an inclusionary system such as that established by this Chapter was expressly required for a Residential Project pursuant to a Development Agreement or as an environmental mitigation measure or condition of approval for issuance of a Discretionary Permit, but a Building Permit with respect to such project has been issued prior to the effective date of this Chapter, any fee to be paid pursuant to this Section shall either be paid within 60 days of the effective date of this Chapter or, if the certificate of occupancy with respect to such project has not yet been issued, secured within that same time period as provided by subparagraph (g).

(b) The initial fee schedule shall be:

- (1) For Market Rate Units for which the projected Construction Costs are less than or equal to \$55,000.00, no fee shall be charged.
- (2) For Market Rate Units for which the projected Construction Costs are greater than \$55,000.00 but less than \$77,000.00, 1% of such Construction Costs.
- (3) For Market Rate Units for which the projected Construction Costs are equal to or greater than \$77,000.00, 2% of such Construction Costs.

(c) The fee required by this Section may be satisfied either by cash payment or, upon approval of the Planning Director, by the dedication to the County of land of a value equal to or greater than the amount of the fee.

(d) With respect to rental Residential Projects, Construction Costs shall be separately calculated and fees paid for each Dwelling Unit within a Residential Project.

(e) The amount of the in-lieu fee payable under this Section shall be based upon the fee schedule in effect at the time of issuance of the Building Permit with respect to the Residential Project.

(f) Any unpaid fees required pursuant to this Chapter shall be paid in full to the County before any temporary or permanent certificate of occupancy may be issued for any Dwelling Unit in the Residential Project.

(g) For all fees not paid upon issuance of Building Permits pursuant to subparagraph (a), the Planning Director may require the applicant, prior to issuance of the Building Permit, to execute a contract to pay the fee prior to issuance of the certificate of occupancy for the Residential Project. The obligation to pay the fee shall inure to the benefit of, and be enforceable by, the County. The contract shall contain a legal description of the property affected, shall be recorded in the Office of the County Recorder of Napa County and, from the date of recordation, shall constitute a lien for the payment of the fee, which shall be enforceable against successors in interest to the property holder or lessee at the time of the issuance of the Building Permit. The contract shall be recorded in the grantor-grantee index in the name of the County as grantee and in the name of the property holder or lessee at Building Permit issuance as grantor. The contract may require appropriate notification of the opening of any escrow for the sale of the property for which the Building Permit was issued and that the fee be paid to the County from the sale proceeds in escrow prior to disbursing proceeds to the seller.

Sec. 11530. Annual fees.

(a) For each rental Affordable Unit provided under this Chapter, the current owner may be required to pay an annual monitoring fee for the term of required affordability. Such fee shall be specified in the regulatory agreement(s) required by Section 11527.

(b) For each owner-occupied Affordable Unit provided under this Chapter, the current owner may be required to pay a transfer fee for any change of ownership during the term of required affordability. Such fee shall be specified in the resale restrictions required by Section 11527.

Sec. 11531. Use and expenditure of fees.

All fees collected under this Chapter shall be deposited into the Housing Fund established pursuant to Chapter 2.

Sec. 11532. Enforcement.

(a) It shall be a misdemeanor for any person to sell or rent an Affordable Unit under this Chapter at a price or rent exceeding the maximum allowed under this Chapter or to a household not qualified under this Chapter.

(b) The Napa County Office of County Counsel or the Napa County District Attorney, as appropriate, shall be authorized to enforce the provisions of this Chapter and all regulatory agreements and resale controls placed on Affordable Units by civil action and any other proceeding or method permitted by law.

(c) Failure of any official to fulfill the requirements of a provision of this Chapter shall not excuse any applicant from fulfilling the remaining requirements of this Chapter.

Sec. 11533. Discretionary Permit requirements.

Every Discretionary Permit approved after the effective date of this Chapter for a Residential Project shall contain as an express condition of approval a requirement of compliance with this Chapter.

SECTION 4. A new subparagraph (j) is added to Section 11101 of the Napa County Code to read as follows:

(j) No Certificate of Occupancy shall be issued unless and until the Building Official finds, in regard to the proposed development, that any applicable housing fee requirements and/or inclusionary requirements as set forth in Article 3.5 of Title XI of the Napa County Code have been met.

SECTION 5. The Planning Director or other appropriate public official is directed to prepare such supplementary land use regulations as may be required to ensure that the purposes of this ordinance will be fully implemented.

SECTION 6. If any clause, sentence, section, or part of this ordinance, or any fee imposed upon any person or entity, is found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part, or such person or entity, and shall not affect or impair any of the remaining provisions, clauses, sentences, sections, or parts or the effect of this ordinance on other persons or entities. It is hereby declared to be the intention of the Board that this ordinance would have been adopted had such unconstitutional, illegal, or invalid clause, sentence, section, or part not been included herein, or had such person or entity been expressly exempted from the application of this ordinance.

SECTION 7. This ordinance shall take effect sixty (60) days after its passage.

SECTION 8. A summary of this ordinance shall be published at least once no less than five (5) days prior to adoption and at least once before the expiration of fifteen (15) days after its passage in NAPA SENTINEL, a newspaper of general circulation, printed and published in the County of Napa, together with the names of the members voting for and against the same.

The foregoing ordinance was introduced and read at a regular meeting of the Board of Supervisors of the County of Napa, State of California, held on the 17 day of NOVEMBER, 1992, and passed at a regular meeting of the Board of Supervisors of the County of Napa, State of California, held on

the 24 day of NOVEMBER, 1992, by the following vote:

AYES: SUPERVISORS FERRIOLE, BATTISTI, MIKOLAJCIK
AND NEGRI

NOES: SUPERVISORS NONE

ABSTAIN: SUPERVISORS VARRELMAN

ABSENT: SUPERVISORS NONE


MEL VARRELMAN, Chairman
Board of Supervisors

ATTEST:

MARY JEAN McLAUGHLIN
Clerk of the Board

By:  Deputy

APPROVED AS TO FORM

County Counsel

By: 

Date: 11/19/92

APPROVED **NOV 24 1992**
BOARD OF SUPERVISORS
COUNTY OF NAPA

MARY JEAN McLAUGHLIN
CLERK OF THE BOARD

BY  Deputy



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 1/19/2010
Agenda Placement: 9C
Set Time: 10:00 AM PUBLIC HEARING
Estimated Report Time: 1 Hour

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Florin, Lawrance - Director
Community and Intergovernmental Affairs Division
REPORT BY: Lawrance Florin, COM AND INTERGOV AFFAIRS MGR - 253-4621
SUBJECT: Amendments to Affordable Housing Ordinance and Establishing new Housing Impact Fees

RECOMMENDATION

Community and Intergovernmental Affairs Manager recommends the following actions to implement some of the programs in the 2009 Housing Element Update:

1. First and final reading and adoption of an ordinance Repealing Chapter 15.60 (Affordable Housing) and Chapter 18.107 (Residential Density Bonus and Incentives) of the Napa County Code, Amending Section 15.08.040 and Adding a New Chapter 18.107 (Affordable Housing and Incentives) to Implement the 2009 Housing Element of the Napa County General Plan and Making Various Additional Technical Changes; and
2. Adoption of a Resolution of the Board of Supervisors Establishing, Increasing, and/or Decreasing Housing Fees for Residential Development Projects; Continuing To Impose Housing Fees for Nonresidential Development Projects; and Modifying a Standardized List of Categorical Uses and Exemptions With Respect to the Payment of Nonresidential Housing Fees.

ENVIRONMENTAL DETERMINATION: The project is intended to implement some of the programs in the 2009 Housing Element Update and falls within the scope of the 2009 Housing Element Update adopted June 23, 2009. The program-level Environmental Impact Report (EIR) prepared for the 2009 Housing Element Update certified on June 23, 2009 adequately describes the activities for the purposes of the California Environmental Quality Act (CEQA). [See CEQA Guidelines 15168(c)] Further, under the General Rule, it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See CEQA Guidelines 15061(b)(3)]

EXECUTIVE SUMMARY

The Housing Element of the General Plan, adopted in June 2009, commits the County to update the Affordable Housing Ordinance not less than every time the Housing Element is updated (usually every 5-7 years). It also

commits the County to change its regulations so as to increase "inclusionary" housing requirements, and to require developers to construct affordable units rather than pay in lieu fees when developments involve five or more units. The attached Affordable Housing Ordinance would implement these and other programs within the County's adopted housing element. The companion resolution would amend the fee structure for residential projects and continue existing housing fees for nonresidential projects.

Both the ordinance and the fee resolution were developed following preparation of a residential nexus study and a review of requirements imposed by other agencies in the area. The Ordinance would increase inclusionary housing requirements from 10% to 17% for condominium development and to 20% for single family detached housing. To be consistent with a recent court decision, rental housing would pay an impact fee or, if the developer chooses, provide 12% affordable housing if the developer signs an agreement with the County consistent with the Costa Hawkins Act (regarding rent controls). The new fees would be phased-in, and would increase fees for "for sale" housing from \$2.50 per square foot to \$12.25 per square foot over five years. Fees for rental housing would increase from \$2.50 per square foot to \$5.50 per square foot over four years.

The proposed ordinance would also implement the State's density bonus requirements by providing a bonus for projects of five or more units where affordable units are constructed and contains a number of administrative provisions intended to clarify the operation of the affordable housing fund. On December 16, 2009, the County Planning Commission recommended that the Board adopt the proposed ordinance.

PROCEDURAL REQUIREMENTS

1. Staff report;
2. Open public hearing and receive public comments on both the Ordinance and Resolution;
3. Close Public Hearing;
4. Clerk reads the Ordinance Title;
5. Motion, second, discussion and vote to waive the balance of the reading of the Ordinance;
6. Motion, second, discussion and vote to adopt the Ordinance; and
7. Motion, second, discussion and vote to adopt the Resolution.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

The project is intended to implement some of the programs in the 2009 Housing Element Update and falls within the scope of the 2009 Housing Element Update adopted June 23, 2009. The program-level Environmental Impact Report (EIR) prepared for the 2009 Housing Element Update certified on June 23, 2009 adequately describes the activities for the purposes of the California Environmental Quality Act (CEQA). [See CEQA Guidelines Section 15168(c)] Further, under the General Rule, it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See CEQA Guidelines 15061(b)(3)]

BACKGROUND AND DISCUSSION

The Housing Element of the General Plan adopted in June 2009, commits the County to updating the Affordable Housing Ordinance and make a number of immediate changes to the ordinance. Below is a summary of the Ordinance:

Affordable Housing Fund

The County maintains an Affordable Housing Fund where all affordable housing fees required by the Affordable Housing Ordinance are to be deposited. The Affordable Housing Fund monies are to be administered by the Housing Director under the direction of the Board of Supervisors. The Board, if it chooses, may establish an Affordable Housing Advisory Board. Affordable Housing Fund monies must be used to increase, improve, or preserve affordable housing in the County. On an annual basis, the Housing Director is required to prepare a report for the Board of Supervisors that lists all monies in the fund, describes the source of such monies, and details any activities undertaken with the Affordable Housing Fund during the reporting period.

Nonresidential Development

Housing fees for commercial development are assessed per gross square foot of new nonresidential space and are charged to help mitigate the need for affordable housing in the County caused by new jobs created from the development. Fees are set by resolution of the Board of Supervisors based on the following land use categories: office, retail, warehouse, industrial and hotel. Fees for affordable housing related to nonresidential development were last amended in 2004 with the previous Housing Element adoption. The current proposal does not contain any changes to the nonresidential fees. Keyser-Marston has prepared an update to the 2004 study showing that the fees are still justified (see Study on file with the Clerk of the Board).

Ownership Residential Development

The proposed amendment requires that 20 percent of all single family detached dwelling units and 17 percent of all single family attached and common interest dwelling units in an ownership project must be affordable to moderate income households. (The County retains the ability to negotiate for units affordable to low and very-low income households in the context of a development agreement.) Projects of four units or less may pay housing fees, but projects of five units or more must provide affordable housing on site. Housing fees, paid in lieu of this requirement, with respect to residential projects will be set by resolution of the Board of Supervisors based on a nexus study showing the impact of new housing development on the need for affordable housing (see Keyser Marston study on file with the Clerk of the Board). These fees will be based on gross square footage of residential floor area.

Rental Residential Projects:

Must pay housing fees based on the floor area of each rental dwelling unit. Alternatively, and only if proposed by the developer, a residential project may:

- Be subject to an approved equivalency proposal to mitigate the impact of the rental project on the county's affordable housing needs.
- Make 12 percent of all rental units in the project affordable to low income households by entering into a rental regulatory agreement with the county as required by the Costa Hawkins Act.

However if a developer receives financial or regulatory incentives from the County, the County may require the developer to provide affordable rental housing. Affordable rental housing could also be negotiated as part of a development agreement. These changes are intended to comply with a recent court decision regarding the ability of local agencies to require affordable rental housing.

Projects exempt from the residential inclusionary requirement include: farmworker housing units totaling 1200 square feet or less; deed-restricted affordable housing units; residential projects located on a Specified Priority Housing Development Site as set forth in the Housing Element; and state density bonus units. The Fee Resolution

also exempts all homes of less than 1200 square feet from housing fees. Residential projects of four or fewer development units may either build one or more affordable units or pay housing fees based on the floor area of each market rate unit in the project. As an alternative to on-site construction of affordable units or payment of housing fees, an applicant for a residential project may suggest an alternative means of compliance so long as such alternative will supply as much or more affordable housing. Residential projects that include the actual construction of affordable units are entitled to submit a request for the waiver of application fees, expedited permit processing and certain other incentives.

Density Bonus and Other Incentives

Pursuant to state law, a density bonus is granted for residential projects of five or more units where affordable units are constructed in addition to those already required by the affordable housing ordinance. Target units are affordable units constructed in addition to those already required by the affordable housing Ordinance. Projects containing target units affordable to very low income households are granted a bonus of from 20% (for 5% target units) to 35% (for 11% target units). Projects containing target units affordable to low income households are granted a bonus of from 20% (for 10% target units) to 35% (for 20% target units). Projects containing for sale moderate income units in a common interest development are granted a bonus of from 5% (for 10% affordable units) to 35% (for 40% affordable units).

If a density bonus is requested for a qualified residential project, that project may also be eligible for certain state authorized incentives such as a reduction in applicable development standards or the allowance of mixed use development. Under certain circumstances, an applicant may seek a waiver of any development standard that will physically preclude the construction of the residential project. Specified donations of land, senior citizen residential projects, projects containing a child care facility, and condominium conversion, may also qualify for state density bonuses and incentives. A residential project eligible for a density bonus may also qualify for a decrease in the onsite parking requirement that would otherwise be required by the project. If the project is located on Specified Priority Housing Development site as identified in the Housing Element, the applicant may apply for a density bonus and incentives either under this Ordinance or under the Affordable Housing Combination District ordinance, but not both.

Impact Fee Resolution

Consistent with a residential nexus study that was completed by Keyser Marston (a copy of which is on file with the Clerk of the Board), the attached fee resolution replaces the current in-lieu fees with impact fees associated with the construction of market rate residential projects. These fees can be paid instead of constructing affordable units for developments of four units or less. A detailed explanation of the fee structure is attached to this memo.

SUPPORTING DOCUMENTS

- A . Affordable Housing Ordinance
- B . Matrix of Proposed Changes
- C . Fee Resolution
- D . Impact Fee Explanation

CEO Recommendation: Approve

Reviewed By: Helene Franchi

RESOLUTION NO. 2010-08

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF
NAPA, STATE OF CALIFORNIA, ESTABLISHING, INCREASING, AND/OR
DECREASING HOUSING FEES FOR RESIDENTIAL DEVELOPMENT
PROJECTS; CONTINUING TO IMPOSE HOUSING FEES FOR
NONRESIDENTIAL DEVELOPMENT PROJECTS; AND MODIFYING A
STANDARDIZED LIST OF CATEGORICAL USES AND EXEMPTIONS WITH
RESPECT TO THE PAYMENT OF NONRESIDENTIAL HOUSING FEES.**

WHEREAS, to mitigate the impact of nonresidential development on the need for affordable housing within its boundaries, the County has, since 1993, imposed commercial housing impact fees on nonresidential development projects, which fees were increased in 2004; and

WHEREAS, during that same period of time, the County has also imposed an inclusionary requirement on residential development projects, requiring either the construction of affordable units in connection with the project or the payment of an in lieu fee, which fee has not been increased since 1994; and

WHEREAS, on June 23, 2009, the Napa County Board of Supervisors adopted its 2009 Housing Element Update which contemplates, among other things, revisions to the County's existing affordable housing ordinance, including modification of the County's inclusionary requirements for residential projects and review of the commercial housing impact fees; and

WHEREAS, to implement the affordable housing goals, objectives, policies and programs of the County's 2009 Housing Element Update, the Board has considered and adopted on this same date an updated affordable housing ordinance that, among other things, authorizes the imposition of housing fees for certain residential development projects to mitigate the impact of such projects on the need for affordable housing in the County and continues to authorize the imposition of housing impact fees for nonresidential development to mitigate the impact of such projects on the need for affordable housing in the County (the "Affordable Housing Ordinance"); and

WHEREAS, to further implement the affordable housing goals, objectives, policies and programs of the County's 2009 Housing Element Update and to ensure that the housing fees adopted hereunder do not exceed the actual affordable housing impacts attributable to the development projects to which the fees relate, the County has received and considered two reports from Keyser Marston Associates dated November 2009 entitled "Napa County Affordable Housing Ordinance Revisions Update and Economic Analysis: Nonresidential Component" and "Napa County Affordable Housing Ordinance Revisions Update and Economic Analysis: Residential Component" (collectively, the "KMA Reports"); and

WHEREAS, the Board now desires to adopt housing fees for certain residential development projects as authorized by section 18.107.090(A) of the Affordable Housing Ordinance, which fees do not exceed the justified fees needed to mitigate the actual affordable housing impacts attributable to the development projects to which the fees relate, as determined by the KMA Reports; and

WHEREAS, after review of the commercial housing impact fees in the KMA Reports pursuant to Housing Element Program H-2d, the Board further desires to maintain its existing housing impact fees for nonresidential development projects, which fees do not exceed the justified fees needed to mitigate the actual affordable housing impacts attributable to the development projects to which the fees relate, as determined by the KMA Reports; and

WHEREAS, section 18.107.050(A) of the Affordable Housing Ordinance allows the Board, from time to time, to adopt by resolution housing impact fees for nonresidential development and a standardized list of specific uses within each nonresidential land use category as well as uses exempt from the payment of nonresidential housing fees, and the Board desires to do so; and

WHEREAS, notice of the hearing on the proposed fees was published twice in the manner set forth in section 6062a of the Government Code and was otherwise given in the manner required by law.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Napa as follows:

1. The Board hereby adopts those housing fees for residential development projects shown on Exhibit "A", attached hereto and incorporated by reference herein.
2. The Board hereby continues to impose those housing fees for nonresidential development projects shown on Exhibit "B", attached hereto and incorporated by reference herein.
3. The Board hereby adopts the "Nonresidential Land Use Matrix with Special Categorical Fee Determinations and Exemptions" set forth in Exhibit "C", attached hereto and incorporated by reference herein.
4. The Board hereby finds that the fee increases set forth in this Resolution implement programs within the 2009 Housing Element Update. An Environmental Impact Report, which contemplated the amendments set forth herein, was prepared as part of the 2009 Housing Element Update process that was certified by the Board of Supervisors on June 23, 2009. No substantial evidence, as required by the CEQA Guidelines, section 15162, has been submitted that would require preparation of a subsequent or supplemental EIR, based on the following:
 - a. No substantial changes have been proposed in the Project.
 - b. No evidence of changed circumstances, or new information of substantial importance to the Project, has been submitted into the record, nor has any substantial evidence been introduced into the record showing that changed circumstances or new information would result in new environmental impacts, or substantially increase the severity of those already identified, nor is there substantial evidence in the record of new feasible mitigation measures or alternatives.

5. The Board further finds that all of the housing fees adopted or continued pursuant to this Resolution do not exceed the actual affordable housing impacts of the development projects to which those housing fees relate, as further set forth in the KMA Reports.
6. The fees and land use matrix changes authorized by this Resolution are adopted in conjunction with the Affordable Housing Ordinance and shall become effective 60 days from and after the date of adoption of this Resolution.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Board of Supervisors of the County of Napa, State of California, at a regular meeting of said Board held on the 19th of January, 2010, by the following vote:

AYES:	SUPERVISORS	LUCE, WAGENKNECHT, DODD, CALDWELL and DILLON
NOES:	SUPERVISORS	NONE
ABSENT:	SUPERVISORS	NONE

DIANE DILLON, Chair of the Board of Supervisors

ATTEST: GLADYS I. COIL
Clerk of the Board of Supervisors

By: _____

<p>APPROVED AS TO FORM Office of County Counsel By: Jayne F. Herman, Deputy (by e-signature) Date: December 31, 2009</p>

<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: January 19, 2010</p> <p>Processed by: _____</p> <p>Deputy Clerk of the Board</p>
--

EXHIBIT "A"

Housing Fees for Residential Development Projects

(Napa County Code Section 18.107.090)

Housing Fees for single-family detached dwelling units and attached single-family and common interest units in residential ownership projects shall be phased in over a period of five years as follows:

<u>Housing Fee Per Square Foot*</u>			<u>Calendar Year</u>
<u>1200-2000</u>	<u>2001-3000</u>	<u>>3000</u>	
\$2.50	\$2.50	\$2.50	2010
\$2.50	\$2.50	\$2.50	2011
\$4.75	\$5.25	\$5.75	2012
\$7.00	\$8.00	\$9.00	2013
\$9.00	\$10.75	\$12.25	2014 and thereafter

Residential ownership projects of less than 1200 square feet are exempt from the payment of Housing Fees.

Housing Fees for dwelling units in a residential rental project shall be phased in over a period of four years as follows:

<u>Housing Fee Per Square Foot*</u>	<u>Calendar Year</u>
\$2.50	2010
\$3.50	2011
\$4.50	2012
\$5.50	2013 and thereafter

*All housing fees for residential projects shall be calculated using the gross square footage of residential floor area for the dwelling unit to which the housing fee relates (see Napa County Code Sections 18.107.090 and 18.107.230), subject to those exceptions included in Napa County Code Section 18.107.120. Those fees shall be paid that are in effect at the time of issuance of the building permit for the residential development.

EXHIBIT “B”

Housing Fees for Nonresidential Development Projects (Napa County Code Sections 18.107.050 and 18.107.060)

<u>Type of Use</u>	<u>Housing Fee Per Square Foot*</u>
Office	\$2.00
Hotel	\$3.00
Retail	\$2.00
Industrial	\$1.00
Warehouse**	\$0.80

*All housing fees for nonresidential projects shall be calculated using the gross square footage of nonresidential space (see Napa County Code Section 18.107.230), subject to the exceptions in Napa County Code Section 18.107.050 and pursuant to the procedures for calculation included in Napa County Code Section 18.107.060.

**Warehouse uses of under 30,000 square feet shall be treated as industrial uses.

EXHIBIT "C"

NONRESIDENTIAL LAND USE MATRIX WITH SPECIAL CATEGORICAL FEE DETERMINATIONS AND EXEMPTIONS*

(Napa County Code Section 18.107.050)

*Marked to show changes from previous version of the matrix

<u>NONRESIDENTIAL USE</u>	<u>OFF</u>	<u>RETAIL</u>	<u>WH</u>	<u>IND</u>	<u>HOTEL</u>	<u>OTHER FEE</u>
Agricultural uses						E
Amusement centers--Indoor only						S
Amusement enterprise—Outdoor						S
Animal or poultry slaughter				X		
Appliance repair shop		X				
Assembly plants				X		
Auto sales, service, rental storage						
Repair/body shop				X		
Sales/service		X				
Bakery or bakery goods store		X				
Bank--Savings and loan	X					
Barber shop, beauty shop		X				
Bed and breakfast inn					X	
Beverage bottling plant (non-wine)				X		
Boat manufacturing				X		
Bus and other transit terminals, depots, and passenger stations, public and private						S
Bus and other transit vehicle maintenance				X		
Cabinet shop				X		
Cement or clay products manufacturing				X		
Child care center						E
Christmas tree sales lots						E
Church						E
Cleaning, laundry agency		X				
Cleaning plant commercial				X		
Concrete batch plant				X		
Convenience market		X				
Dairy products processing				X		
Dance, music, voice studio		X				
Delivery service				X		
Drive-in restaurant/food stand		X				
Equipment rental		X				
Florist		X				
Food processing plant				X		
Food store/delicatessen		X				
Fuel yard						S
Furniture refinishing				X		
Furniture store		X				
Garment manufacturing shop				X		
Golf course						S
Health club and fitness facilities						
<u>Hospital</u>	X					

<u>NONRESIDENTIAL USE</u>	<u>OFF</u>	<u>RETAIL</u>	<u>WH</u>	<u>IND</u>	<u>HOTEL</u>	<u>OTHER FEE</u>
Hotel					X	
Janitorial service company				X		
Junkyard				X		
Laboratory--Medical, dental, optical	X					
Laboratory--Research and experimental				X		
Laundromat--Self service center		X				
Lumber—Retail		X				
Machine shop				X		
Major medical care facility/hospital						S
Marinas						S
Medical clinic or office	X					
Metal fabrication				X		
Monument works, stone				X		
Mortuary/crematorium						S
Motel					X	
Nonprofit organization--Food preparation for off-site consumption						E
Nonprofit organization--Food storage and distribution						E
Nonprofit organization--Meal service facility						E
Nursery for flowers and plants		X				
Offices	X					
Parking lot, garage of facility						E
Pest control company				X		
Photographic studio		X				
Prescription pharmacy/optician		X				
Printing--Non-retail				X		
Printing and copying—Retail		X				
Private club--Social center						S
Private trade schools		X				
Public utility yard						E
Railroad yard or shops						S
Recycling center--Public access				X		
Recycling plant				X		
Residential care facility--Nonprofit						E
Residential care facility—Private						
<u>Resort</u>					<u>X</u>	
Restaurant/bar		X				
Retail stores and services		X				
School—Nonprofit						E
Service station		X				
Shop for building contractor				X		
Sign shop		X				
Sports complex						S
Tire shop, including recapping		X				
Towing service				X		
Trucking terminal				X		
Truck and tractor repair				X		
Veterinary office/animal hospital or dog kennel	X					
Wholesale stores and distribution			<u>X</u>			S

<u>NONRESIDENTIAL USE</u>	<u>OFF</u>	<u>RETAIL</u>	<u>WH</u>	<u>IND</u>	<u>HOTEL</u>	<u>OTHER FEE</u>
Wine offices	X					
Wine production, including bottling				X		
Wine storage			X			
Wine tank and crush pads			X			
Wine visitor center/conference room		X				

X Project is subject to fee for nonresidential use category.

S Fee amount determined by planning director on a project-by-project basis.

E Nonresidential project is exempt from the requirement for payment of the housing fee.



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 12/2/2014
Agenda Placement: 9G
Set Time: 11:45 AM PUBLIC HEARING
Estimated Report Time: 15 min

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Lawrance Florin - Director
Housing and Intergovernmental Affairs
REPORT BY: Nancy Johnson, Housing and Community Development Program Manager - 707-299-1352
SUBJECT: Adoption of a resolution updating Non-Residential Impact Fees

RECOMMENDATION

Director of Housing and Intergovernmental Affairs requests adoption of a resolution updating the nonresidential (commercial) impact fees per Housing Element Program H-2d and the Nexus Study prepared by Keyser Marston at the level recommended by the Planning Commission.

EXECUTIVE SUMMARY

The current Housing Element was adopted in 2009 and contains program H-2d that states that the County will update the Affordable Housing Ordinance to adjust the commercial housing impact fee not less frequently than every time the Housing Element is updated.

To determine whether these fees should be increased or modified, the County contracted with Keyser Marston Associates (KMA) to prepare a nexus study to review the jobs/housing balance in the County. The study analyzes the impact commercial development has on the housing market and more specifically on affordable housing. By using a model that incorporates job types, pay rates, household income limits, building types and occupational distribution of employees, the report presents affordability gaps, which illustrates the total cost of assistance required to make housing affordable.

Housing Fees for commercial development are set by resolution of the Board of Supervisors based on the following land use categories: office, retail, warehouse, industrial and hotel. Fees for affordable housing related to nonresidential development were last amended in 2004 with the previous Housing Element adoption. The current proposal does not contain any changes to the residential fees, which were amended in 2010.

This item was heard before the Planning Commission on October 15, 2014 and again, with a representative from Keyser Marston on November 5, 2014. The Planning Commission voted unanimously to increase the fee further

than the recommendation from Keyser Marston across all types of commercial development.

PROCEDURAL REQUIREMENTS

1. Staff reports.
2. Public comments.
3. Motion, second, discussion and vote on the item.

FISCAL IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	Commercial Impact Fees are collected with each building permit issued for nonresidential construction and deposited in the Affordable Housing Fund.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	The Board of Supervisors can choose to not increase fees as suggested in the Nexus Study and Commercial Impact Fees would stay at their current rate.
Is the general fund affected?	No
Future fiscal impact:	Each year the Housing and Intergovernmental Affairs Division budgets for use of Affordable Housing Funds and uses those monies for affordable housing projects.
Consequences if not approved:	Commercial Impact Fees would continue to be collected on building permits for nonresidential construction at the current rates.
Additional Information:	

ENVIRONMENTAL IMPACT

The project is intended to implement some of the programs in the 2009 Housing Element Update and falls within the scope of the 2009 Housing Element Update EIR adopted June 23, 2009. The program-level Environmental Impact Report (EIR) prepared for the 2009 Housing Element Update certified on June 23, 2009 adequately describes the activities for the purposes of the California Environmental Quality Act (CEQA). [See CEQA Guidelines 15168(c)]. Further, under the General Rule, it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. (See CEQA Guidelines 15061(b)(3)). Additionally, the proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

In 1992, the Board of Supervisors adopted Ordinance 1026 creating a housing trust fund and establishing housing fee requirements for both residential and nonresidential development. The County maintains an Affordable Housing Fund where all the affordable housing fees required by the Affordable Housing Ordinance are to be

deposited. The Affordable Housing Fund monies are to be administered by the Housing Director under the direction of the Board of Supervisors. The Board, if it chooses, may establish an Affordable Housing Advisory Board. Affordable Housing Fund monies must be used to increase, improve, or preserve affordable housing in the County. On an annual basis, the Housing Director is required to prepare a report for the Board of Supervisors that lists all monies in the fund, describes the source of such monies, and details any activities undertaken with the Affordable Housing Fund during the reporting period. Since the Ordinance was adopted, Napa County has loaned over \$21 million dollars to construct or rehabilitate almost 1,000 units of affordable housing.

The current Housing Element of the General Plan was adopted in 2009 and contains Program H-2d, which states that "The County will update the Affordable Housing Ordinance to adjust the commercial housing impact fee not less frequently than every time the Housing Element is updated." The Residential Impact Fees were updated in 2010 and the fees were gradually increased over the course of three years.

Commercial development creates low-income jobs and so increases demand of affordable housing. A nexus analysis is able to quantify and document the linkage between construction of new work place buildings (office, retail, etc.), the employees that work in them and the demand for affordable housing.

While the residential fee was updated in 2010, it was determined, due to the state of the economy, that waiting to update the commercial fees would ensure that any fee increase would not hinder economic recovery. Last year, the County contracted with Keyser Marston Associates (KMA) to create a nexus analysis for commercial development and in addition, per a request from the Affordable Housing Task Force, an analysis of the effect of new vineyard planting and replanting and their impact on the need for affordable housing for agricultural workers.

Once the draft reports were prepared, outreach was started, which included the Napa-Solano Builder's Exchange, the Architect's Exchange, the Napa Chamber of Commerce and all four wine industry groups. After input from the industry groups, it was decided that while the nexus analysis determined a connection between agricultural workers and vineyard planting, the amount of remaining vineyard land and the minimal amount of fees anticipated to be collected are not enough to require a new program.

The last time the commercial impact fees were updated was in 2004. The fee is based on square footage of projects that fit into the following categories: Office, Retail/Restaurant, Industrial/Manufacturing and Warehousing/Storage.

The Planning Commission met twice to discuss the proposed increase in commercial fees and after a presentation and discussion with Kate Funk from Keyser Marston Associates ("KMA"), decided to recommend a fee schedule higher than recommended by staff and the KMA nexus study. The Planning Commission's recommended increase is still within the scope supported by the nexus study, (in the lower range of 3% of building costs per square foot), and below what is considered an amount that would cause a decrease in development. The Planning Commission was confident that the businesses who chose to locate in the County would do so because of the name recognition and desire to be part of the Napa Valley.

Existing Fees		Proposed Fees Per KM report		Proposed Fee recommended by Planning Commission
Office	\$2.00 per square foot	Office	\$5.00 per square foot	\$5.25 per square foot
Retail	\$2.00	Retail/Restaurant	\$5.00	\$7.50
Hotel	\$3.00	Hotel	\$6.00	\$9.00

Industrial	\$1.00	Industrial/Manufacturing	\$3.00	\$4.50
Warehouse	\$0.80	Warehousing/Storage	\$2.00	\$3.60

Warehouse is \$1.00 if under
30,000 sq.ft.

With the demise of redevelopment agencies, it has become more important than ever to have local funding for affordable housing projects. Many believed competition for 9% Tax Credit financing would decline as projects that had a commitment of redevelopment funding made their way through the first few funding cycles, but that has not been the case. To continue to compete for tax credits, a project still requires a substantial commitment of local funding to be successful. The last two projects the County has committed funding for are the Oak Creek Terrace development of 41 units and the Napa Creekside proposal of 57 units. The County has reserved \$1,863,537 and \$2,903,862 respectively for these projects. Historically, the commercial impact fees generated 85% of the funds collected, but since the residential fees were increased in 2010, the fund now is split roughly 50/50. With more commercial development in the pipeline, an update of the fees is appropriate.

This item is specifically exempt from the voting requirements of Article XIIC of the California Constitution because it is a charge imposed as a condition of property development

SUPPORTING DOCUMENTS

- A . Commercial Impact Fee Study
- B . Vineyard Study
- C . Support letter
- D . Resolution
- E . Resolution-Revised (Added after initial agenda posting)

CEO Recommendation: Approve

Reviewed By: Molly Rattigan

RESOLUTION NO. _____

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF NAPA, STATE OF CALIFORNIA, MODIFYING AND
ADOPTING HOUSING FEES FOR CERTAIN NONRESIDENTIAL
DEVELOPMENT PROJECTS**

WHEREAS, to mitigate the impact of nonresidential development on the need for affordable housing within its boundaries, the County has, since 1993, imposed commercial housing impact fees on nonresidential development projects, which fees were increased in 2004; and

WHEREAS, during that same period of time, the County has also imposed an inclusionary requirement on residential development projects, requiring either the construction of affordable units in connection with the project or the payment of an in lieu fees; and

WHEREAS, on June 23, 2009, the Napa County Board of Supervisors adopted its 2009 Housing Element Update which contemplates, among other things, revisions to the County's existing affordable housing ordinance, including modification of the County's inclusionary requirements for residential projects and review of the commercial housing impact fee; and

WHEREAS, to implement the affordable housing goals, objectives, policies and programs of the County's 2009 Housing Element Update, the Board considered and adopted an updated affordable housing ordinance in January 2010 that, among other things, authorized the imposition of housing fees for certain residential development projects to mitigate the impact of such projects on the need for affordable housing in the County and continued to authorize the imposition of housing impact fees for nonresidential development to mitigate the impact of such projects on the need for affordable housing in the County; and

WHEREAS, to further implement the affordable housing goals, objectives, policies and programs of the County's 2009 Housing Element Update and to ensure that the housing fees adopted hereunder do not exceed the actual affordable housing impacts attributable to the development projects to which the fees relate, the County received and considered reports from Keyser Marston Associates dated November 2009 entitled "Napa County Affordable Housing Ordinance Revisions Update and Economic Analysis: Nonresidential Component" and "Napa County Affordable Housing Ordinance Revisions Update and Economic Analysis: Residential Component;" and

WHEREAS, in January 2010, the Board adopted Resolution No. 2010-08, modifying and adopting housing fees for residential development projects and continuing to impose housing fees for nonresidential development projects; and

WHEREAS, although housing fees for residential development projects were updated in 2010, it was determined that housing fees for nonresidential development projects should be updated at a later time; and

WHEREAS, to further implement the affordable housing goals, objectives, policies and programs of the County's 2009 Housing Element Update and to ensure that the housing fees adopted hereunder do not exceed the actual affordable housing impacts attributable to the development projects to which the fees

relate, Keyser Marston Associates has prepared a supplemental report dated April 2014 entitled "Non-Residential Jobs-Housing Nexus Study Update" (the "Nexus Update"); and

WHEREAS, the Board now desires to adopt housing fees for certain nonresidential development projects as authorized by section 18.107.050(B) of the Napa County Code, which fees do not exceed the justified fees needed to mitigate the actual affordable housing impacts attributable to the development projects to which the fees relate, as determined by the Nexus Update; and

WHEREAS, at least ten days prior to the date this resolution is to be considered, fees and data associated with the need for affordable housing related to nonresidential development projects was made available to the public for review; and

WHEREAS, at least fourteen days prior to the date this resolution is to be considered, notice was mailed to those persons who had requested same; and

WHEREAS, notice of the hearing on the proposed fees was published twice in the manner set forth in section 6062a as required by section 66018, subdivision (a), of the Government Code.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Napa as follows:

1. The Board hereby adopts those housing fees for nonresidential development projects shown on Exhibit "B-1," attached hereto and incorporated by reference herein. Exhibit "B-1" of this Resolution shall replace and supersede Exhibit B of Resolution No. 2010-08.
2. The Board hereby finds that the fee increase set forth in this Resolution implement programs within the 2009 Housing Element Update. An Environmental Impact Report, which contemplated the amendments set forth herein, was prepared as part of the 2009 Housing Element Update process that was certified by the Board of Supervisors on June 23, 2009. No substantial evidence, as required by the CEQA Guidelines, section 15162, has been submitted that would require preparation of a subsequent or supplemental EIR, based on the following:
 - a. No substantial changes have been proposed in the Project.
 - b. No evidence of changed circumstances, or new information of substantial importance to the Project, has been submitted into the record, nor has any substantial evidence been introduced into the record showing that changed circumstances or new information would result in new environmental impacts, or substantially increase the severity of those already identified, nor is there substantial evidence in the record of new feasible mitigation measures or alternatives.
3. The Board further finds that all of the housing fees adopted pursuant to this resolution do not exceed the actual affordable housing impacts of the development projects to which those housing fees relate, as further set forth in the Nexus Update.
4. The establishment, increase or decrease of fees authorized by this Resolution shall become effective on the sixty-first day following the date of adoption of this Resolution.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Board of Supervisors of the County of Napa, State of California, at a regular meeting of said Board held on the ____ day of _____, 2014, by the following vote:

AYES: SUPERVISORS _____

NOES: SUPERVISORS _____

ABSENT: SUPERVISORS _____

MARK LUCE, Chair of the Board of Supervisors

ATTEST: GLADYS I. COIL
Clerk of the Board of Supervisors

By: _____

<p>APPROVED AS TO FORM Office of County Counsel By: Silva Darbinian Date: December 1, 2014</p>

<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: _____</p> <p>Processed by: _____</p> <p>Deputy Clerk of the Board</p>

EXHIBIT “B-1”

Housing Fees for Nonresidential Development Projects

(Napa County Code 18.107.050 & 18.107.060)

<u>Type of Use</u>	<u>Housing Fee Per Square Foot*</u>
Office	\$5.25
Hotel	\$9.00
Retail	\$7.50
Industrial	\$4.50
Warehouse**	\$3.60

*All housing fees for nonresidential projects shall be calculated using the gross square footage of nonresidential space (see Napa County Code 18.107.230), subject to the exceptions in Napa County Code 18.107.050 and pursuant to the procedures for calculation included in Napa County Code 18.107.060.

**Warehouse uses of under 30,000 square feet shall be treated as industrial uses.

NAPA COUNTY HOUSING ELEMENT PROGRAMS & POLICIES RELATING TO AFFORDABLE HOUSING FUND & DEVELOPMENT OF AFFORDABLE HOUSING IN THE UNINCORPORATED AREA

2014-2022

Policies

Policy H-2f: Continue to cooperate with the incorporated municipalities in Napa County by using the Affordable Housing Fund to assist with the construction or rehabilitation of affordable housing units in suitable locations and at suitable densities consistent with the Affordable Housing Ordinance and criteria when funds are available.

Status: Napa County has lent funds to construction projects since 2014 including: Oak Creek Terrace (41 Units-Napa City), Valley View (70 Units-American Canyon), Turley Flats (8 units-St. Helena), Brenkle Court (8 units-St. Helena) and Valle Verde (\$1.3 million to the Bridge Housing project on Valle Verde, which is now owned by Gasser—Units TBA) The County has also committed funds to Stoddard West (50 units), Habitat (1 unit), Redwood Road (34 units), and Napa Courtyards/Coombsville Road (20 Units), all in the City of Napa.

Policy H-3d: Give priority to providing assistance for housing targeted to those groups with demonstrated special needs such as the elderly, disabled (including developmentally disabled), farmworkers (including increased emphasis on housing for farmworker families located near schools, retail, services, and transportation), and homeless, consistent with adopted funding criteria.

Status: The Valley View project (70 units-American Canyon) will serve senior citizens and veterans and includes three supportive housing coordinated entry units. The County now attempts to include some coordinated entry units in all projects. The Affordable Housing Fund annually contributes to farmworker housing center and homeless services operations.

Objectives and Programs

Rehabilitation:

Objective H-1a: Through code enforcement efforts and funding assistance, the County will seek to facilitate the rehabilitation of 19 housing units in fair or dilapidated condition in the County or in the Cities that are occupied by low- (7 units), very low- (8 units), or extremely low-income (4 units) households during the planning period.

Status: County staff will include in the future work plan.

Objective H-1b: The County will seek to make available up to 10 percent of new Affordable Housing Fund money annually to leverage federal, state, and other public and private housing

rehabilitation funds.

Status: County staff will include in the future work plan.

Program H-1b: To the extent permitted by law, implement a program to enable non-profit organizations to apply for the use of up to 10 percent of new funds annually to fund projects and programs designed to correct health and safety hazards in owner-occupied and renter-occupied housing that is reserved for low-, very low-, or extremely low-income households. (December 31, 2016)

Status: The County offered a small grant program in 2014 that lent \$200,000 from the Housing Rehab Fund to nonprofits to upgrade existing affordable housing units/sites.

Affordability:

Objective H-2a: The County will seek to facilitate the development of lower income units by prioritizing its Affordable Housing Fund monies to assist affordable housing development on Affordable Housing (AH) Combination District sites and supporting affordable housing on the Napa Pipe site, with the objective of permitting and assisting development of at least 113 affordable units during the planning period (32 moderate, 30 low-, and 51 very low-income units, with a goal of half of the very low-income units serving the extremely low-income level)

Status: County staff continues preliminary discussions with Mid-Peninsula, the identified developer for affordable units at Napa Pipe. Discussions with AH site owners have occurred but have not resulted in plans for affordable housing.

Program H-2a: Prioritize the use of funds for development of Affordable Housing Combination District (AHCD) sites and Napa Pipe, and continue to work with interested parties to encourage their development of the sites under the AHCD provisions. The County will seek to work with a developer to process a development application on at least one AHCD site during the planning period. (Ongoing)

Status: County staff continues preliminary discussions with Mid-Peninsula, the identified developer for affordable units at Napa Pipe. Discussions with AH site owners have occurred but have not resulted in plans for affordable housing.

Program H-2f: Continue to require new affordable housing development projects receiving Affordable Housing Fund monies or any other type of County assistance, as well as those units built as part of the County's inclusionary housing requirement, to apply deed restrictions that will require affordability of assisted low- and very low-income units for a minimum of 40 years. (Ongoing)

Status: In progress. All funds loaned to projects by Napa County require a deed restriction guaranteeing the unit(s) will remain affordable for at least 40 years. Fifty-five year affordability is usually required for larger affordable projects.

Program H-2h: Continue to implement the County's worker proximity housing program that encourages low- and moderate-income homebuyers, to purchase a home within 15 miles of their

place of employment, by providing local down payment assistance. (Ongoing)

Status: The County has issued 114 worker proximity loans. The program's guidelines were updated to allow for home purchase within 20 miles of place of employment due to the rural nature of the county.

Program H-2i: Continue to offer financial assistance to property owners who are interested in building second units that would be deed restricted for use by very low- or low-income residents.

Status: In progress. County housing staff continues discussions with the City of Napa and staff at Napa County Health and Human Services regarding a loan program for accessory dwelling units or second units.

Program H-2k: Continue to allow infrastructure improvements as an eligible cost under the Affordable Housing Ordinance, and work with affected agencies to pursue grant money to improve water and sewer infrastructure on the Angwin, Moskowite Corner, and Spanish Flat sites to facilitate affordable housing development. (Ongoing)

Status: In progress. The County is eligible to apply for Community Development Block Grant Funding and has received funding for sewer improvements at the Lake Berryessa Resort Improvement District. The next application is due December 1, 2017 and staff will have relevant discussions with water purveyors regarding eligibility.

Program H-2l: Analyze the County's inventory of vacant and/or underutilized County-owned properties and identify those that would be suitable to support affordable housing development. If at least one appropriate site is identified, select one site and issue an RFP to solicit proposals from affordable housing developers to develop the site in partnership with the County. (Issue RFP by December 2017)

Status: In progress. The County is currently reviewing options for the county-owned property located at 2344 Old Sonoma Road. The County has also looked at other County owned property, but no other sites were deemed feasible for affordable housing.

Special Needs

Objective H-3b: Provide Affordable Housing Fund resources for the development and operation of emergency shelter and transitional housing facilities for eight homeless families in a partnership between the County Department of Health and Human Services and a non-profit. (December 31, 2014)

Status: In progress. The Affordable Housing Fund provides annual support towards homeless services. County staff identifies potential units at new developments for use by Napa County Health and Human Services as Coordinated Entry System (CES) units to address populations vulnerable to homelessness. The CES program will have three units at the Valley View project. Staff will continue discussions with other developers. The County has used Affordable Housing Funds for the transitional housing project next to the homeless shelter and funded the remodel of three houses on the State Hospital grounds that house 13 people who were homeless with mental illness.

Objective H-3c: Encourage and facilitate development of six new farm labor dwellings on agriculturally-zoned properties and encourage and facilitate development of one new multifamily housing complex targeted to families within the County.

Status: In progress. The Planning Department has deeded restricted numerous single-family units reserved for farmworkers and monitors those through the Code Compliance division.

Program H-3c: Continue to contribute towards the annual operating costs of local emergency shelters and transitional housing where such funds are available and their use legally permissible. (Ongoing)

Status: The Affordable Housing Fund contributes approximately \$100,000 annually to homeless services operations and staff support. The county also contributed \$1.3 million to the transitional housing development in Napa.

Program H-3d: To the extent permitted by law, continue to require a preference for local workers, including farmworker households, in affordable housing developments assisted with Affordable Housing Fund monies, with a goal of including farmworker households in at least 10 percent of the units assisted with Affordable Housing Fund money. The County will monitor the percentage of farmworker households occupying h assisted with Affordable Housing Fund money in conjunction with income eligibility monitoring for affordable housing units. (Ongoing)

Status: The County requires local worker preference as a condition to affordable housing loans to the extent permitted by law.

Program H-3e: Facilitate public/private partnerships and, when appropriate and available, use Affordable Housing Fund monies to help prevent the loss of privately owned farmworker housing facilities serving six or more individuals when private owners are no longer able or willing to do so. The County will approach farmworker housing owners at the time it becomes aware of a potential closure of a private farmworker housing facility. The County's Division of Environmental Services monitors the status of private farmworker housing facilities serving six or more individuals on an annual basis and will evaluate the efficacy of the program in helping to preserve existing units, and propose modifications to the program if units are lost. (Ongoing)

Status: In progress. Staff has not yet identified units that meet this objective.

Program H-3g: Work to identify a site and funding for a new farmworker family housing development and prioritize use of resources available to support new farmworker housing accordingly. (December 31, 2020)

Status: In progress. Staff has not yet identified a parcel to complete this objective.

Program H-3h: Conduct an analysis to identify sites within the unincorporated area where up to 12 units of onsite farmworker housing could be developed, which are near cities and in locations where schools, transit, services, and shopping are relatively easily accessible. The County will provide owners of identified properties with information about

opportunities to build farmworker housing on their sites, including potential County assistance. (Conduct study and outreach to owners by January 31, 2016).

Status: Staff has participated in preliminary discussions and will incorporate further discussions into a work plan.

Program H-3i: In soliciting developer requests for Affordable Housing Fund monies, encourage developers to propose projects that can address unmet needs for housing with supportive services for the disabled (including the developmentally disabled). (Ongoing)

Status: In progress. Valley View has included three permanent supportive housing units, SAHA has indicated they are willing to include units at Manzanita and is going to seek unit(s) at Coombsville Road. One unit may also be included in the Stoddard West project.

Housing Development

Program H-4b: Continue to allocate Affordable Housing Fund monies to affordable housing developments in the cities when funds are available and such allocation is consistent with the Affordable Housing Ordinance and criteria. The County will continue to work with the cities to establish and update a list of criteria that will be used to evaluate proposals for use of Affordable Housing Fund monies, with priority for projects that serve extremely low-income households. The County will use a NOFA process to solicit applications on an annual basis. (Annually)

Status: In progress. A NOFA was issued and the guidelines are under review by staff.

Program H-4e: When requested by Mid-Peninsula Housing, the designated developer for affordable housing at Napa Pipe, Napa County will assist in identifying and securing funding for the 140 low- and very low-income housing units that are contemplated as part of the Napa Pipe Development Agreement. This will include providing information and other assistance in the preparation of applications to third parties for funding assistance. The County also anticipates that the development agreement for the Napa Pipe property will specify that a significant portion of affordable housing impact fees paid by development at Napa Pipe will be dedicated to assisting affordable housing onsite. Finally, consistent with Program H-2a, the County's Affordable Housing Ordinance gives funding priority for all available housing trust fund monies to projects located in the unincorporated area. (Ongoing)

Status: In progress.

