

ORDINANCE NO. 3404
AN ORDINANCE AMENDING TITLE 13 OF THE SAN LUIS OBISPO
COUNTY CODE ADDING PROVISIONS RELATING TO
IMPROVEMENT REIMBURSEMENT AGREEMENTS

The Board of Supervisors of the County of San Luis Obispo, State of California, ordains as follows:

SECTION 1: That Title 13 of the San Luis Obispo County Code is hereby amended by adding thereto the following new chapters:

- 13.01.055 – Fee adjustments by the County
- 13.01.056 – Exemptions

Chapter 13.01 - ROAD IMPROVEMENT FEE

13.01.010 - Purpose.

In order to implement the goals and objectives of the county general plan and to mitigate the additional traffic generated by new development in the county, certain public road facilities and improvements must be or had to be constructed. The board of supervisors has determined that a road improvement fee is needed in order to finance these public road facilities and improvements and to pay for the new development's fair share of the construction costs of these facilities and improvements. In establishing the fee described in the following sections, the board of supervisors has found the fee to be consistent with the county general plan/land use ordinance and, pursuant to Government Code Section 65913.2, has considered the effects of the fee with respect to the county's housing needs as established in the housing element of the said general plan/land use ordinance.

(Ord. 2379 § 1 (part), 1988)

13.01.020 - County road improvement fee.

- (a) A road improvement fee is established as a condition of any new development for which any of the following approvals or permits is required:
- (1) Approvals of land divisions pursuant to Title 21 of this code, including the approval of lot line adjustments, certificates of compliance, parcel maps, tract maps and condominium conversions;
 - (2) Land use approvals pursuant to Title 22 of this code, including the approval of development plans, site plans, minor use permits, and variances, but excepting approval of county general plan/land use ordinance amendments;
 - (3) Approvals of any application filed pursuant to the county coastal zone land use ordinance, Title 23, and portions of Title 8 and Title 19 of this code, including the

approval of coastal development permits, development plans, site plans, minor use permits, and variances, but excepting local coastal plan/coastal zone land use ordinance amendments;

- (4) For the issuance of any building permit; and
 - (5) All other approvals of real property development, which approvals are subject to the jurisdiction of the county and which approvals are subject to the exercise of the discretion of the board of supervisors, the county planning commission, the planning director of the county, or the chief building official of the county.
- (b) The said road improvement fee is established in order to pay for road facilities and improvements the need for which is reasonably related to new development within the county. From time to time, the board of supervisors shall, by resolutions, set forth the specific amount of the fee for various areas of the county, describe the benefit and the benefit area for which the road improvement fee is imposed, list the specific road facilities and improvements to be financed, describe the estimated costs of these facilities and improvements, describe the reasonable relationship between this road improvement fee and the various types of new developments and set forth the time for payment of this road improvement fee.

Each said fee resolution shall set forth the time that developers shall pay this road improvement fee as follows:

- (1) For new development other than solely residential, such as commercial, commercial/residential, industrial or agricultural, the resolution shall provide for payment of the road improvement fee at one of the following times:
 - a. Prior to issuance of any permit or approval required for the new development;
 - b. Prior to issuance of any building permit required for the new development; or
 - c. Prior to issuance of any certificate of occupancy required for the new development.
- (2) For new development that is solely residential, the resolution shall provide for payment of the road improvement fee at one or more of the times required or permitted by Section 66007 of California Government Code, enacted by Chapter 912, Statutes of 1988, or as section may hereafter be amended from time to time or, if said Section 66007 is not applicable, then at one of the following times:
 - a. Prior to issuance of any permit or approval required for the new residential development;
 - b. Prior to issuance of any building permit required for the new residential development; or
 - c. Prior to issuance of any certificate of occupancy required for the new residential development.

On an annual basis, the board of supervisors shall review this road improvement fee to determine the fee amounts and whether said fee is reasonably related to the impacts

of developments and whether the described road facilities and improvements are still needed.

(Ord. 2379 § 1 (part), 1988)

13.01.030 - Limited use of fees.

The revenues raised by payment of this road improvement fee shall be placed in a separate and special account or fund and such revenues, along with any interest earnings on that account or fund, shall be used solely to:

- (1) Pay for the county's future construction of road facilities and improvements described in the resolutions enacted pursuant to Section 13.01.020, or to reimburse the county for those described road facilities or improvements constructed by the county with funds advanced by the county from other sources; or
- (2) Reimburse developers who have been required or permitted by Section 13.01.040 hereof, to install road facilities and improvements which are oversized with supplemental size, length, or capacity.

(Ord. 2379 § 1 (part), 1988)

13.01.040 - Developer construction of facilities.

A reimbursement agreement shall be offered to the developer of a new development whenever the developer is required, as a condition of receiving an approval or a permit for a proposed new development, to construct a road facility or improvement described in a resolution adopted pursuant to Section 13.01.020 which facility or improvement is determined by the county to have supplemental size, length, or capacity over that needed for impacts of that new development, and when such construction is necessary to ensure efficient and timely construction or improvement of the road network. Said reimbursement agreement shall provide for a credit against the road improvement fee which would otherwise be imposed pursuant to this chapter as a condition of the new development approval or permit. Neither the reimbursement amount nor the credit amount shall include the cost of any portion of the road facility or improvement needed to provide services to the new development or to mitigate the need for the road facility or improvements created by the new development.

(Ord. 2379 § 1 (part), 1988)

13.01.050 - Fee adjustments.

Any person whose new development is subject to the road improvement fee described in Section 13.01.020 may appeal to the board of supervisors for a reduction or adjustment to that fee, or a waiver of that fee, based on the absence of any reasonable relationship or nexus between the traffic-generating impacts of that new development and either the amount of the fee imposed or the type of road facilities or improvement to be

financed by the fee. The appeal shall be made in writing and filed with the clerk of the board of supervisors, together with any required appeal fee: (1) not later than ten days prior to the public hearing on the permit application for the new development project; or (2) in the case of applications for plot plans, site plans or building permits, at the time of making application. The appeal shall state in detail the factual basis for the claim of waiver, reduction, or adjustment. The board of supervisors shall consider the appeal at the public hearing on the application for the new development permit approval, or if the hearing of said application is before a public body or person other than the board of supervisors, the said appeal shall be considered at a separate appeal hearing before the board of supervisors which shall be held within sixty days after the filing of the appeal. The decision of the board of supervisors on the appeal shall be final. If a reduction, adjustment or waiver of the fee is granted, any change in permitted type or intensity of land use within the approved new development project shall invalidate the waiver, adjustment, or reduction of the fee.

(Ord. 2379 § 1 (part), 1988)

13.01.055 – Fee adjustments by the County

- (a) The road improvement fee shall be automatically adjusted each year following the first year after the effective date of this Section. The adjustment shall be calculated by the Public Works Department, based on the increase or decrease in the Engineering News Record Construction Cost Index for the 20-city average for the three (3) year period ending June 30 of the preceding calendar year.
- (b) In addition, adjustments to the road improvement fee may be approved by the Board of Supervisors to reflect more accurate cost estimates of providing the specified public improvements based upon a more detailed analysis or design of the previously identified public improvements.
- (c) Fee adjustments shall take effect as of March 1st of each year after adjustments have been approved, after the effective date of this section. Adjusted fee amounts will be posted to the public within a reasonable time of their effective date.

13.01.056 – Exemptions

Affordable housing units meeting the definition of extremely low-income, very low-income, and lower-income, as set forth in Land Use Ordinance Section 22.12.070 and Coastal Zone Land Use Ordinance Section 23.04.094.

SECTION 2: If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that

any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 3: This ordinance shall take effect and be in full force and effect thirty (30) days after its passage, and before the expiration of fifteen (15) days after passage of this ordinance, it shall be published once with the names of the members of the Board of Supervisors voting for and against the ordinance in a newspaper of general circulation published in the County of San Luis Obispo, State of California.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California on this seventeenth day of December, 2019, by the following roll call vote, to wit:

AYES: Supervisors Bruce S. Gibson, Adam Hill, John Peschong, Lynn Compton and
Chairperson Debbie Arnold

NOES: None

ABSENT: None

ABSTAINING: None

the foregoing resolution is hereby adopted.



Debbie Arnold
Chairperson of the Board of Supervisors
County of San Luis Obispo, State of California

ATTEST:

WADE HORTON
Ex-Officio Clerk of the Board of Supervisors
County of San Luis Obispo, State of California

By: T'Ana Christensen
Deputy Clerk