

**DIVISION 12: INFRASTRUCTURE AND
SERVICES FINANCING**

CHAPTER 9-1200

**INFRASTRUCTURE AND SERVICES
FINANCING: INTENT AND ORGANIZATION**

Sections:

9-1200.1	Title and Intent.
9-1200.2	Organization.

9-1200.1 TITLE AND INTENT.

Division 12 constitutes the Infrastructure and Services Financing Regulations. The intent of this Division is to prescribe regulation to finance the infrastructure and services needed to sustain development.
(Ord. 3675)

9-1200.2 ORGANIZATION.

Division 12 consists of the following chapters.

- (a) 9-1200 Infrastructure and Services Financing: Intent and Organization;
- (b) 9-1203 Infrastructure Financing For Traffic Impact Mitigation;
- (c) 9-1205 Street and Road Financing (Reserved);
- (d) 9-1210 Drainage Facilities Financing (Reserved);
- (e) 9-1215 Water Facilities Financing;
- (f) 9-1220 Wastewater Disposal Facilities Financing (Reserved);
- (g) 9-1225 Fire Protection Facilities Financing;
- (h) 9-1230 Local Parks & Recreation Facilities Financing;
- (i) 9-1235 School Facilities Financing for New Development; and
- (j) 9-1240 Land Reservation for Regional Facilities.
(Ord. 3675)

CHAPTER 9-1203

**INFRASTRUCTURE FINANCING FOR TRAFFIC
IMPACT MITIGATION**

Sections:

9-1203.1	Intent.
9-1203.2	Public Facilities Fees.
9-1203.3	Use of Fees.
9-1203.4	Developer Construction of Facilities.
9-1203.5	Individual Adjustments.
9-1203.6	Protest.

9-1203.1 INTENT.

In order to implement the goals and objectives of the General Plan of San Joaquin County regarding adequate public facilities, and to mitigate the impact of new development on public services in the unincorporated area of San Joaquin County, certain public facilities must be designed, constructed, and equipped. The Board of Supervisors has determined that a development impact fee is needed in order to finance these public improvements and to pay for the development's fair share of the costs of the improvements. In establishing the fee described in the following sections, the Board of Supervisors has found the fee to be consistent with its General Plan 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 portion of the General Plan.
(Ord. 3675)

9-1203.2 PUBLIC FACILITIES FEES.

(a) **Establishment of Fees.** A Public Facilities Fee for Traffic Impact Mitigation is hereby established for new development in the unincorporated area of San Joaquin County to pay for public facilities to mitigate the impact related to the new developments, including but not limited to traffic signalization, roadway improvements, and bridge construction or reconstruction. The fee shall not be collected until the Board of Supervisors, in a Board Resolution:

- (1) Sets forth the purpose of the fee;
- (2) Identifies the specific use(s) or facilities to be financed;
- (3) Describes how there is a reasonable relationship between the fee's use and the type of development project;
- (4) Determines how there is a reasonable relationship between the need for the use(s) or public facilities and type(s) of development project(s);

(5) Determines the amount of the fee and how there is a reasonable relationship between the amount of the fee and the cost of the public facilities or portion thereof attributable to the development; and

(6) Establishes a separate capital facilities account into which the fees shall be placed, provides for appropriation of the fees, and references the proposed construction schedule or plan adopted by Public Works for the public facilities.

(b) **Annual Increase.** Any fee established pursuant to a resolution under this Chapter shall be automatically increased each year by an amount equal to the Engineering Construction Cost Index as published by the Engineering News Record for the prior time period.

(c) **Interest.** All fees collected pursuant to this Chapter shall be credited with interest on such fees while in the possession of the County. The interest earned shall be credited to the account in which the fee was deposited and shall be used solely to pay for the public facilities authorized under Section 9-1203.3 and the Resolution.

(d) **Payment of Fees.** The fees to be collected under this Chapter shall be collected prior to the issuance of a building permit or approval of any discretionary permit if no building permit is required. The amount of fee to be paid will be the amount indicated in the Resolution, as augmented pursuant to Section 9-1203.2(c), at the time of actual tender of the fee.

(e) **Use of Fee or Refund.** The Director of Public Works shall make findings once each fiscal year with respect to any portion of any moneys, excluding letters of credit or other security instruments remaining unexpended or uncommitted in its various facilities accounts five (5) or more years after deposit of the fee, to identify the purpose to which the fee is to be put, and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged. There shall be refunded to the then current record owner or owners of the lots or units of the development project or projects on a prorated basis the unexpended or uncommitted portion of the fee, and any interest accrued thereon, for which need cannot be demonstrated pursuant to this subdivision. The refund shall be made from the unexpended or uncommitted revenues by direct payment, by providing a temporary suspension of fees, or by any other means consistent with the intent of this Section. If the administrative costs of refunding unexpended or uncommitted revenues pursuant to this subdivision exceed the amount to be refunded, the Board of Supervisors, after a public hearing, may determine that the revenues shall be allocated for some other purpose for which the fees are collected subject to this Ordinance and which serves the project on which the fee was originally imposed.

(f) **Deferral Fee Payment Program.** A Deferred Fee Payment Program is established for Public Facilities Fees for Traffic Impact Mitigation for new development in the unincorporated area of the County. The Deferred Fee Payment Program shall be initiated after the Board of Supervisors, in a Board Resolution, sets forth all of the following:

- (1) The purpose of the Program;
 - (2) The conditions of eligibility for participation in the Program;
 - (3) The securities of applicants to the Program that will be required;
 - (4) The penalty assessment for noncompliance with provisions of the Program.
- (Ord. 3675, 3788)

9-1203.3 USE OF FEES.

The fees paid pursuant to this Chapter shall be placed in separate capital facilities accounts to avoid commingling of the fees with other funds of the County. The fees may be temporarily invested. Such fees, along with any interest earnings, shall be used solely to pay for those use(s) and public facilities described in the Resolution enacted pursuant to Section 9-1203.2 which shall include the following:

- (a) To pay for the design and construction of designated public facilities and reasonable costs of outside consultant studies related thereto;
 - (b) To reimburse the County for designated public facilities constructed by the County with funds, other than grants or gifts, from other sources;
 - (c) To reimburse developers who have been required or permitted by Section 9-1203.4 to design and construct designated public roadway facilities which are oversized with supplemental size, length, or capacity;
 - (d) To pay for and/or reimburse costs of program development and ongoing administration of the Public Facilities Fees program.
- (Ord. 3675)

9-1203.4 DEVELOPER CONSTRUCTION OF FACILITIES.

Whenever a developer is required, as a condition of approval of a development permit, to design and/or construct a public facility described in a Resolution adopted pursuant to Section 9-1203.2, which facility is determined by the County to have supplemental size, length, or capacity over that needed for the impacts of that development, and when such construction or equipment is necessary to ensure efficient and timely construction of the facilities network, a reimbursement agreement with the developer and a credit against the fee, which would

otherwise be charged pursuant to this ordinance on the development project, may be offered. The reimbursement amount shall not include the portion of the improvement needed to provide services or mitigate the need for the facility or the burden created by the development.
(Ord. 3675)

CHAPTER 9-1205
STREET AND ROAD FINANCING
(Reserved)

(Ord. 3675)

9-1203.5 INDIVIDUAL ADJUSTMENT.

A developer of any project subject to the fee described in this Chapter may apply to the Director of Public Works for a modification to that fee based upon the absence of any reasonable relationship between the traffic impact of the development and either the amount of fee charged or the type of facility to be financed. Application for adjustment under this section shall be in accordance with the procedures set out in a resolution adopted by the Board of Supervisors which sets out the fee pursuant to Section 9-1203.2 of this Chapter.
(Ord. 3675)

9-1203.6 PROTEST.

Any protest as to the imposition of a fee, dedication, reservation, or exaction may be filed with the Board of Supervisors, in accordance with law.
(Ord. 3675)

Chapter 9-1207

**INFRASTRUCTURE FINANCING FOR
STORM DRAINAGE, WATER SUPPLY AND
SANITARY SEWER FACILITIES**

Sections:

- 9-1207.1 Intent.**
- 9-1207.2 Infrastructure Reimbursement Charge.**
- 9-1207.3 Use of Collected Funds.**
- 9-1207.4 Facilities Funds.**

9-1207.1 INTENT.

In order to implement the goals and objectives of the General Plan of San Joaquin County regarding adequate infrastructure facilities in the unincorporated area of San Joaquin County, certain storm drainage, water supply and sanitary sewer infrastructure facilities must be planned, designed, constructed and equipped. The Board of Supervisors has determined that an Infrastructure Reimbursement Charge will establish an equitable cost sharing apportionment of construction costs to those benefiting from the necessary improvements and will provide reimbursement funding for construction of the facilities. In establishing the charge described in the following Sections, the Board of Supervisors has found the charge to be consistent with its General Plan and, pursuant to Government Code Section 65913.2, has considered the effect of the charge with respect to the County's housing needs as established in the housing portion of the General Plan.

(Ord. 3937 § 3 (part), 1997)

9-1207.2 INFRASTRUCTURE REIMBURSEMENT CHARGE.

(a) **Establishment of Charge.** An Infrastructure Reimbursement Charge for facilities identified in an Area Facilities Plan is hereby established in the unincorporated area of San Joaquin County to provide reimbursement for construction of storm drainage, water supply or sanitary sewer facilities. The charge will be determined by Resolution of the Board of Supervisors setting the Infrastructure Reimbursement Charges. No charges shall be set until there is County approval of a developer commitment to build infrastructure of a proposed Area Facilities Plan. The Infrastructure Reimbursement Charges shall be based on the Area Facilities Plan as provided below:

(1) The Infrastructure Reimbursement Charge shall be based on the written estimate of the Director of Public Works of the total cost of constructing the work

shown on the Area Facilities Plan and on a reasonable apportionment of such estimated cost to the properties which will benefit from the construction of the work.

(2) The Infrastructure Reimbursement Charges collected shall be placed in an interest bearing Designated Fund determined by the type of facilities and area.

(b) **Credit.** Whenever an Area Facilities Plan facility, or a portion of an Area Facilities Plan facility, is required to be built by a developer, the developer will be credited the cost of those improvements built to reduce his Infrastructure Reimbursement Charge. In the event the credit exceeds the developer's obligation, a reimbursement may be made to the developer as provided in Section 9-1207.4.

(c) **Payment of Charge.** The Infrastructure Reimbursement Charge shall be paid by all projects with the Area Facilities Plan service area, prior, to issuance of a building permit, approval of a discretionary permit or when the Director of Public Works determines that a direct benefit has been received.

(d) **Deferred Charge Payment.** Whenever there is no direct benefit to a property for which an Infrastructure Reimbursement Charge has been set, the payment of the Infrastructure Reimbursement Charge will be deferred until a direct benefit has been established (determined by the Director of Public Works) by execution of a Deferred Infrastructure Charge Agreement. At the option of the developer, a deposit in the amount of the Infrastructure Reimbursement Charge can be placed into a trust account to avoid placing an encumbrance on the property.

(e) **Annual Charge Adjustment.** The Infrastructure Reimbursement Charge established pursuant to a Resolution approved under provisions of this Ordinance shall be automatically adjusted once annually, on a date established by the Resolution establishing the Infrastructure Reimbursement Charge, by an amount equal to the change in the published Engineering News Record Construction Cost Index for the prior time period.

(Ord. 3937 § 3 (part), 1997)

9-1207.3 USE OF COLLECTED FUNDS.

Ninety percent (90%) of the money collected under provisions of this Chapter is to be used solely for reimbursement in conformance with Section 9-1207.4(a) or refund in conformance with Section 9-1207.4(b). Ten percent (10%) of the Infrastructure Reimbursement Charge money collected shall be used for administration of the Infrastructure Reimbursement Charge program.

(Ord. 3937 § 3 (part), 1997)

9-1207.4 FACILITIES FUNDS.

(a) **Reimbursement.** As collected Infrastructure Reimbursement Charge money is available within a Designated Fund, the County may reimburse reasonable developers' costs of the built facilities as provided below:

(1) The Director of Public Works shall annually determine the availability of such funds and may authorize their disbursement.

(2) The Director of Public Works shall determine the amount and reasonableness of developers' costs including planning, designing and constructing facilities identified in an Area Facilities Plan that may be reimbursed.

(3) All reimbursement authorized by the Director of Public Works will be processed such that the developer who constructed the first improvements will be fully reimbursed prior to reimbursement to other developers who will be subsequently reimbursed in the order of priority in which the Area Facilities Plan facilities within each Area Facilities Plan area are constructed and accepted as complete by the County.

(4) Reimbursement for costs of improvements constructed after December 8, 1991, may be approved if accepted as completed by the County.

(b) **Refund.** The Director of Public Works shall refund Infrastructure Reimbursement Charge money paid upon cancellation or withdrawal of a building permit or discretionary permit by the applicant as provided below:

(1) A refund processing fee, set by Resolution, will be withheld from the amount refunded.

(2) In the event a Designated Fund within a specific service area has been used for construction or reimbursement for construction of facilities for which it was collected, refunds will be approved only when adequate funds are available in the Designated Fund.

(Ord. 3937 § 3 (part), 1997)

Chapter 9-1210**DRAINAGE FACILITIES FINANCING**

(Reserved)

(Ord. 3675)

CHAPTER 9-1215

WATER FACILITIES FINANCING

Sections:

- 9-1215.1 Intent.**
- 9-1215.2 Water Facilities Fees.**
- 9-1215.3 Use of Fees.**
- 9-1215.4 Developer Construction of Facilities.**
- 9-1215.5 Individual Adjustments.**
- 9-1215.6 Protest.**

9-1215.1 INTENT.

In order to implement the goals and objectives of the General Plan of San Joaquin County regarding adequate water facilities, and to mitigate the impact of new development on the supply of water available in the unincorporated area of San Joaquin County based upon a total basin concept, certain public facilities must be designed, constructed, and equipped. The Board of Supervisors has determined that a development impact fee is needed in order to finance these public improvements and to pay for the development's fair share of the costs of the improvements. In establishing the fee described in the following sections, the Board of Supervisors has found the fee to be consistent with its General Plan 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 portion of the General Plan.

(Ord. 3675)

9-1215.2 WATER FACILITIES FEES.

(a) **Establishment of Fees.** Water facilities fees are hereby authorized for new development in the unincorporated area of San Joaquin County to pay for water facilities to mitigate the impact related to the new developments, including but not limited to projects to convey and treat an additional supply of, and to allow for the conjunctive use of, the groundwater and surface waters. The fee shall not be collected until the Board of Supervisors, in a Board Resolution:

- (1) Sets forth the purpose of the fee;
- (2) Identifies the specific use(s) or facilities to be financed;
- (3) Describes how there is a reasonable relationship between the fee's use and the type of development project;
- (4) Determines how there is a reasonable relationship between the need for the use(s) or public facilities and type(s) of development project(s);

(5) Determines the amount of the fee and how there is a reasonable relationship between the amount of the fee and the cost of the public facilities or portion thereof attributable to the development; and

(6) Establishes a separate capital facilities account into which the fees shall be placed, provides for appropriation of the fees, and references the proposed construction schedule or plan adopted by Public Works for the public facilities.

(b) **Annual Increase.** Any fee established pursuant to a resolution under this Chapter shall be automatically increased in accordance with subsequent, duly adopted Resolutions.

(c) **Interest.** All fees collected pursuant to this Chapter shall be credited with interest on such fees while in the possession of the County. The interest earned shall be credited to the account in which the fee was deposited and shall be used solely to pay for the public facilities authorized under Section 9-1215.3 and the Resolution.

(d) **Payment of Fees.** The fees to be collected under this Chapter shall be collected prior to the issuance of a building permit. The amount of fee to be paid will be the amount indicated in the Resolution, as augmented pursuant to Section 9-1215.2 (c), at the time of actual tender of the fee.

(e) **Use of Funds or Refunds.** The Director of Public Works shall make findings once each fiscal year with respect to any portion of any monies, excluding letters of credit or other security instruments remaining unexpended or uncommitted in its various facilities accounts five (5) or more years after deposit of the fee, to identify the purpose to which the fee is to be put, and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged. There shall be refunded to the then current record owner or owners of the lots or units of the development project or projects on a prorated basis the unexpended or uncommitted portion of the fee, and any interest accrued thereon, for which need cannot be demonstrated pursuant to this subdivision. The refund shall be made from the unexpended or uncommitted revenues by direct payment, by providing a temporary suspension of fees, or by any other means consistent with the intent of this Section. If the administrative costs of refunding unexpended or uncommitted revenues pursuant to this subdivision exceed the amount to be refunded, the Board of Supervisors, after a public hearing, may determine that the revenues shall be allocated for some other purpose for which the fees are collected subject to this Title and which service the project on which the fee was originally imposed.

(Ord. 3675)

9-1215.3 USE OF FEES.

The fees paid pursuant to this Chapter shall be placed in separate capital facilities accounts to avoid commingling of the fees with other funds of the County. The fees may be temporarily invested. Such fees, along with any interest earnings, shall be used solely to pay for those use(s) and public facilities described in the Resolution enacted pursuant to Section 9-1215.2 which shall include the following:

- (a) To pay for the design and construction of designated public facilities and reasonable costs of outside consultant studies related thereto;
 - (b) To reimburse the County for designated public facilities constructed by the County with funds, other than grants or gifts, from other sources;
 - (c) To reimburse developers who have been required or permitted by Section 9-1215.4 to design and construct designated public facilities which are oversized with supplemental size, length, or capacity; and
 - (d) To pay for and/or reimburse costs of program development and ongoing administration of the Public Facilities Fees Programs.
- (Ord. 3675)

9-1215.4 DEVELOPER CONSTRUCTION OF FACILITIES.

Whenever a developer is required, as a condition of approval of a development permit, to design and/or construct a public facility described in a Resolution adopted pursuant to Section 9-1215.2, which facility is determined by the County to have supplemental size, length, or capacity over that needed for the impacts of that development, and when such construction or equipment is necessary to ensure efficient and timely construction of the facilities network, a reimbursement agreement with the developer and a credit against the fee, which would otherwise be charged pursuant to this ordinance on the development project, may be offered. The reimbursement amount shall not include the portion of the improvement needed to provide services or mitigate the need for the facility or the burden created by the development.

(Ord. 3675)

9-1215.5 INDIVIDUAL ADJUSTMENTS.

A developer of any project subject to the fee described in this Chapter may apply to the Director of Public Works for a modification to that fee based upon the absence of any reasonable relationship between the impact of the development on the water system and either the amount of fee charged or the type of facility to be financed. Application for adjustment under this Section shall be in accordance with the procedures set out in a

Resolution adopted by the Board of Supervisors which sets out the fee pursuant to Section 9-1215.2 of this Chapter.

(Ord. 3675)

9-1215.6 PROTEST.

Any protest as to the imposition of a fee, dedication, reservation, or exaction may be filed with the Board of Supervisors, in accordance with law.

(Ord. 3675)

CHAPTER 9-1220

WASTEWATER DISPOSAL FACILITIES FINANCING

(Reserved)

(Ord. 3675)

CHAPTER 9-1225

FIRE PROTECTION FACILITIES FINANCING

Sections:

- 9-1225.1 Intent.**
- 9-1225.2 Fire Protection Facilities Improvement Fee.**
- 9-1225.3 Limited Use of Fees.**
- 9-1225.4 Developer Construction of Facilities.**
- 9-1225.5 Protest.**

9-1225.1 INTENT.

In order to implement the goals and objectives of the General Plan of San Joaquin County regarding adequate fire protection, and to mitigate the impact of new development on fire protection services in the unincorporated area of San Joaquin County, certain Fire Protection Facilities must be constructed and equipped. The Board of Supervisors has determined that a development impact fee is needed in order to finance these public improvements and to pay for the development's fair share of the costs of the improvements. In establishing the fee under Government Code Section 66000 et. seq. and described in the following sections, the Board of Supervisors has found the fee to be consistent with its General Plan and, pursuant to Government Code Section 65913.3, has considered the effects of the fee with respect to the County's housing needs as established in the General Plan.

(Ord. 3675)

9-1225.2 FIRE PROTECTION FACILITIES IMPROVEMENT FEE.

(a) **Establishment of Fees.** A Fire Protection Facilities Improvement Fee is hereby established for development in the unincorporated area of San Joaquin County to pay for the improvement of fire protection facilities. The fee shall not be collected until the Board of Supervisors, in a Board resolution, sets forth the specific amount of the fee, describes the benefit and impact area on which the development fee is imposed, lists the specific public improvements to be financed, describes the estimated costs of these facilities, describes the reasonable relationship between this fee and the various types of new developments, and sets forth the time of payment of the fee. Fire districts requesting that this fee be imposed shall submit information to the County upon which the Board of Supervisors may make the findings required by this subsection. The fire districts shall adhere to guidelines developed by the County regarding the sufficiency of the

materials submitted and the procedures to be followed for the submission.

(b) **Use of Fees.** The Board of Supervisors shall make findings once each fiscal year with respect to any portion of the fee remaining unexpended or uncommitted in its account five (5) or more years after deposit of the fee to identify the purpose to which the fee is to be put and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged. The findings required by this subsection need only be made for moneys in possession of the County. It need not be made with respect to letters of credit, bonds, or other instruments taken to secure payment of the fee at a future date;

(c) **Staff.** The County Fire Warden shall act as staff to the Board of Supervisors. The Community Development Department shall assist the County Fire Warden. (Ord. 3675)

9-1225.3 LIMITED USE OF FEES.

The revenues raised by payment of this fee shall be placed in a separate and special account, and such revenues, along with any interest earnings on that account, shall be used solely to pay for the fire district's future construction of facilities described in the resolution enacted pursuant to this chapter, or to reimburse the fire district for those described or listed facilities constructed by the fire district with funds advanced by the fire district from other sources.

(Ord. 3675)

9-1225.4 DEVELOPER CONSTRUCTION OF FACILITIES.

Whenever a developer is required, as a condition of approval of a development permit, to construct a public facility described in a resolution adopted pursuant to this Chapter, which facility is determined by the County to have supplemental size, length or capacity over that needed for the impacts of that development, and when such construction is necessary to ensure efficient and timely construction of the facilities network, a reimbursement agreement with the developer and a credit against the fee, which would otherwise be charged pursuant to this ordinance on the development project, may be offered. The reimbursement amount shall not include the portion of the improvement needed to provide services or mitigate the need for the facility or the burden created by the developer.

(Ord. 3675)

9-1225.5 PROTEST.

A protest as to the imposition of a fee, dedication,

reservation, or exaction may be filed with the Board of Supervisors. Such protest must be in writing and accompanied by payment in full or satisfactory evidence of arrangements to ensure performance of the conditions necessary to meet the requirements of the development approval. The protest shall include a statement that payment is tendered or that all conditions have been provided for and a statement setting forth the factual elements and legal theories on which the protest is based.

A protest must be filed at the time of approval or upon conditional approval of the development or within ninety (90) days after the date of imposition of fees, dedication, reservation, or exaction on the development. A legal action may be filed within one hundred and eighty (180) days of filing a protest under this section to attack, review, set aside, void, or annul the imposition of fees, dedications, reservations, or exactions, pursuant to Government Code Section 66008. Approval or conditional approval occurs when a tentative map or a parcel map is approved or when a parcel map is recorded if a tentative map or parcel map is not required.

A protest may also be filed as a writ of administrative mandate pursuant to Government Code Sections 66009, 66475.4, and 66499.37, within ninety (90) days of a final decision by the Board of Supervisors to impose the fee, dedication, reservation, or exaction.

(Ord. 3675)

CHAPTER 9-1230

LOCAL PARK AND RECREATION FACILITIES FINANCING

Sections:

- 9-1230.1 Intent.**
- 9-1230.2 Requirements.**
- 9-1230.3 General Standard.**
- 9-1230.4 Dedication of Land.**
- 9-1230.5 Fee in Lieu of Land Dedication.**
- 9-1230.6 Determination of Acquisition Costs.**
- 9-1230.7 Disposition of Land and Fees.**
- 9-1230.8 Choice and Method of Dedication of Land and/or Payment of Fees.**
- 9-1230.9 Time of Dedication or Payment of Fees.**
- 9-1230.10 Credit for Private Open Space.**
- 9-1230.11 Exemptions.**
- 9-1230.12 Subdivision Development Agreements.**

9-1230.1 INTENT.

This chapter is enacted pursuant to the authority granted by Section 66477 of the Government Code of the State of California. The local park and recreation facilities for which dedication of land and/or payment of a fee is required by this chapter are in accordance with the recreation portion of the San Joaquin County General Plan.

(Ord. 3675)

9-1230.2 REQUIREMENTS.

As a condition of approval of a tentative map, the subdivider must dedicate land, pay a fee in lieu thereof, or a combination, at the option of the County, for park and recreational purposes according to the standards and formulas contained in this Chapter.

(Ord. 3675)

9-1230.3 GENERAL STANDARD.

In consideration of the public interest, convenience, health, welfare, and safety, the County standard for local park and recreational purposes shall be three (3) acres of property for each one thousand (1,000) persons, in accordance with the recreation portion of the San Joaquin County General Plan.

(Ord. 3675)

9-1230.4 DEDICATION OF LAND.

The minimum amount of land to be dedicated shall be determined using the general standard in the following formula:

$$U \times P \times S = \text{Minimum acreage dedication}$$

where:

U = Number of potential dwelling units within the subdivision;

P = Average number of persons in the dwelling unit type (e.g., single family, mobile home, multi-family units) based on the latest U.S. Census.

S = Parkland standard of three acres per 1,000 people (3/1000).

For the purposes of this Section, the number of potential new dwelling units shall be based upon the number of parcels indicated on the tentative map that are in an area zoned for one dwelling unit per parcel. When all or part of the subdivision is located in an area zoned for more than one (1) dwelling unit per parcel, the number of potential new dwelling units in the area so zoned shall equal the maximum allowed under that zone. In the case of a condominium project, the number of potential new dwelling units shall be the number of condominium units. The term "potential new dwelling unit" does not include dwelling units lawfully in place prior to the date on which the parcel or final map is filed.

Population per dwelling unit shall be the average household size for the proposed type of development as indicated in the latest census.

The subdivider may be required to:

- (1) Provide full street improvements and utility connections to dedicated land which is dedicated pursuant to this section;
- (2) Provide for fencing along the property line of that portion of the subdivision contiguous to the dedicated land; and
- (3) Provide other minimal improvements which the Board of Supervisors determines to be essential to the acceptance of the land for recreational purposes.

The value of the above improvements shall be a credit against the dedication of land or the payment of fees required by this Chapter.

The land to be dedicated, pursuant to this Chapter, shall be approved by the County Director of General

Services and the public agency accepting the dedication or accepting the improvements, if other than the County. (Ord. 3675)

9-1230.5 FEE IN LIEU OF LAND DEDICATION.

When a fee is to be paid in lieu of land dedication, the amount of such fee shall be based upon the following formula:

$$P \times S \times AC = \text{Park fee per unit}$$

where:

P = Population per dwelling unit;

S = Parkland standard of three acres per 1,000 persons (3/1000);

AC = Acquisition Costs as determined by Section 9-1230.6;

Fees to be collected pursuant to this section shall be approved by the County Director of General Services and the public agency accepting the fees, if other than the County.

(Ord. 3675)

9-1230.6 DETERMINATION OF ACQUISITION COSTS.

Acquisition Costs shall be determined by the County as provided in this section.

Acquisition costs shall be set by a written appraisal report prepared and signed by an appraiser designated by the County, which evaluates the probable per acre Acquisition Cost of park land taking into consideration the Acquisition Costs of real property which has an approved tentative map, which is within urban centers or communities, and which is within the Planning Area.

Appraisals for Acquisition Costs shall be updated based upon cut-off dates for valuation of January 1 of each year. The Acquisition Costs which shall be applied to a particular subdivision shall be that based upon the appraisal report of the latest update immediately preceding the date of application is considered complete by the Community Development Department.

The Acquisition Costs for purposes of computation in Section 9-1230.5, will consist of the estimated per acre value set out in the appraisal report.

(Ord. 3675)

9-1230.7 DISPOSITION OF LAND AND FEES.

(a) **Agency Receiving Land or Fees.** Land or fees required by this Chapter shall be conveyed or paid directly to the public agency that provides or will provide park and recreational services to the community in which the subdivision is located.

(b) **Appropriation of Fees.** Collected fees shall be appropriated for a specific project in a budgetary year within five (5) years after payment or within five (5) years after the issuance of building permits on one-half (1/2) of the lots created by the subdivision, whichever occurs later.

(c) **Uncommitted Fees.** Fees not committed, as provided for by this Section, shall be distributed and paid to the then record owners of the subdivision in the same proportion that the size of their lot bears to the total area of all lots within the subdivision.

(Ord. 3675)

9-1230.8 CHOICE AND METHOD OF DEDICATION OF LAND AND/OR PAYMENT OF FEES.

(a) **Determination of Land and/or Fees.** When a tentative map is approved, the Review Authority shall determine whether to require dedication of land, the payment of a fee in lieu thereof, or a combination.

(b) **Basis for Determination.** The above determination shall be consistent with the standards in this Chapter and shall be made upon consideration of the following factors:

- (1) The San Joaquin County General Plan;
- (2) The natural features, access, and location of the land available for dedication;
- (3) The size and shape of the subdivision and land available for dedication;
- (4) The location of existing or proposed recreation sites; and

(5) For a subdivision of less than fifty (50) parcels, only the payment of fees is required except as otherwise provided by the State Subdivision Map Act for projects exceeding fifty (50) dwelling units. Subdivisions containing less than five (5) parcels and not used for residential purposes are exempt from the fees of this Chapter unless a building permit is requested for construction of a residential structure(s) on one or more of the parcels within four (4) years, in which case the owner of the parcel shall pay the fee required of this Chapter as a condition to issuance of a building permit for such parcel.

(Ord. 3675)

9-1230.9 TIME OF DEDICATION OR PAYMENT OF FEES.

(a) **Dedication of Land.** Where the dedication of land is required, the transfer of land, or provisions thereof, shall be accomplished at the time of recording of the final map or parcel map.

(b) **Payment of Fee In-Lieu.** Where the payment of a fee is required in lieu of land dedication, the fee shall be paid at the time of recording of the final map or parcel map, provided that:

(1) The fees will be used to reimburse the public agency for expenditures previously made that will serve the subdivision; or

(2) The fees will be collected for public improvements or facilities for which an account has been established.

(Ord. 3675)

9-1230.10 CREDIT FOR PRIVATE OPEN SPACE.

(a) **Amount of Credit.** The land or fees required under Section 9-1230.4 and Section 9-1230.5 may be reduced, at the discretion of the Review Authority, by an amount equivalent to fifty percent (50%) of the area of land in the subdivision which is to be used for private park and recreation facilities.

(b) **Standards for Grant of Credit.** To grant up to fifty percent (50%) credit for private open space, the Review Authority shall determine that it is in the public interest to do so and that all of the following standards are met:

(1) The project shall be processed as a Planned Development;

(2) Yards, court areas, setbacks, and other open areas required to be maintained by the zoning and building ordinances and regulations shall not be included in the computation of such private open space;

(3) The private park and recreation facilities shall be owned by a homeowner's association. If the homeowner's association is dissolved or no longer maintains the facilities, the County shall access the then property owner's records for fees in the amount that would be established at the time under the provisions of this Chapter. The County may accept land of equivalent value;

(4) The use of the private open space shall be restricted for park and recreational purposes by recorded covenant which runs with the land in favor of the future owners of property and which cannot be defeated or eliminated without the consent of the County or its successor, i.e., a city after annexation;

(5) The proposed private open space shall be reasonably adaptable for use for park and recreational purposes, taking into consideration such factors as size, shape, topography, geology, access, and location; and

(6) Facilities proposed for the open space shall be in substantial accordance with the provisions of the recreation portion of the General Plan.

(Ord. 3675)

9-1230.11 EXEMPTIONS.

The provisions of this Division shall not apply to:

(a) Agricultural, commercial, and industrial subdivisions; and

(b) Condominium projects which consist of the subdivision of airspace in an existing apartment building which is more than five (5) years old, when no new dwelling units are added.

(Ord. 3675)

9-1230.12 SUBDIVISION DEVELOPMENT AGREEMENTS.

Nothing contained within this Chapter shall be construed to prohibit the entering into of a development agreement as authorized by the Government Code and this ordinance Code which addresses the issue of acquisition or dedication of park land provided, however, the dedication and acquisition as set out in this Title shall be considered the minimum standard and no development agreement shall provide for less than the standards and the amounts provided for in this Chapter.

(Ord. 3675)

CHAPTER 9-1235

SCHOOL FACILITIES FINANCING FOR NEW DEVELOPMENT

Sections:

- 9-1235.1 Intent.**
- 9-1235.2 Requirements for Approval.**

9-1235.1 INTENT.

The intent of this Chapter is to ensure that new development which is to be approved is served by adequate school facilities.

(Ord. 3675)

9-1235.2 REQUIREMENTS FOR APPROVAL.

In addition to meeting any other requirements specified by this Title for the approval of projects, the proposed residential development(s) or Zone Reclassification(s) for residential development shall not be approved unless the school district provides documentation to the Planning Commission or Board of Supervisors showing that adequate school facilities can be made available concurrently with the need for such facilities and including the following:

- (a) The school district has imposed all school mitigation fees pursuant to Government Code Section 53080 or equivalent mitigation measures not otherwise prohibited by statute;
- (b) The school district has filed a current copy of its School Facilities Plan with the Community Development Department;
- (c) Each school district's School Facilities Plan shall accurately document its existing facilities, provide future school facilities projections, both short and long term, and demonstrate the use of the current and projected revenues which are anticipated to meet those needs;
- (d) The School Facilities Plan shall also document the district's reasonable good faith efforts to seek all available funding, without substantial prejudice to the district's reasonable historical education standards, and a current presentation regarding the prospects for seeking and/or obtaining funds in the reasonably foreseeable future; and
- (e) The school district shall file any and all Amended School Facilities Plans with the Community Development Department within thirty (30) days after their adoption.

(Ord. 3675)

CHAPTER 9-1240

LAND RESERVATION FOR PUBLIC FACILITIES

Sections:

- 9-1240.1 Intent.**
- 9-1240.2 Land Reservation.**

9-1240.1 INTENT.

The intent of this Chapter is to prescribe regulations for land reservation for parks, school sites, and other public uses that are required within a proposed subdivision, as provided in Section 66479 of the Government Code.

(Ord. 3675)

9-1240.2 LAND RESERVATION.

Land required for public facilities shall be reserved for a period of at least two (2) years after the Board of Supervisors' approval of the last final map included within the approved tentative map.

- (a) **Acquisition by Public Agency.** During said two (2) year period, the public agency concerned shall have the option of acquiring the property upon payment of just compensation at the time of the exercise of the option.
- (b) **Conformance with Plans.** Land reservations shall conform to the General Plan and any applicable Master Plan, Specific Plan or Special Purpose Plan or any other relevant plan adopted by the County.
- (c) **Release of Obligation.** The Board of Supervisors may, after consideration by the Planning Commission, upon request of the subdivider, and after a public hearing by the Board of Supervisors, release the subdivider from the obligation of such reservation upon finding that to do otherwise would impose an undue hardship upon the subdivider.

(Ord. 3675; Ord. 3832 § 41, 1995)

CHAPTER 9-1245

COUNTY FACILITIES FEE PROGRAM

Sections:

- 9-1245.1 Purpose, Findings, and Declaration of Intent.**
- 9-1245.2 Collection of Capital Facility Fee.**
- 9-1245.3 Authority for Adoption.**
- 9-1245.4 Definitions.**
- 9-1245.5 Conditions for Collection.**
- 9-1245.6 Conditions for Reimbursement.**
- 9-1245.7 Fee Payment.**
- 9-1245.8 County Facilities Fee Accounts.**
- 9-1245.9 Exemptions.**
- 9-1245.10 County Facilities Fee Program.**
- 9-1245.11 Ordinance; Public Hearing.**
- 9-1245.12 Construction.**
- 9-1245.13 Severability Clause.**
- 9-1245.14 Fee Adjustments or Waiver.**

9-1245.1 PURPOSE, FINDINGS, AND DECLARATION OF INTENT.

(a) In order to implement the goals and objectives of the General Plan and to mitigate impacts caused by new development within the County of San Joaquin, a County Facilities Fee Program is necessary. The program is needed to finance region- serving Capital Facilities located throughout the County that are used by the residents and businesses within each city as well as the unincorporated area and to assure that new development pays its proportional share for these improvements.

(b) Fee revenue collected pursuant to this ordinance shall be retained by the County of San Joaquin who shall be responsible for administering the fee funds and constructing the Capital Facilities.

(c) Title 7, Division 1, Chapter 5, Section 66000 et seq. of the California Government Code provides that Capital Facilities Fees may be enacted and imposed on Development Projects. The Board of Supervisors finds and determines that:

(1) New Development Projects cause the need for construction, expansion, or improvement of Capital Facilities within the County of San Joaquin.

(2) Funds for construction, expansion, or improvement of Capital Facilities are not available to accommodate demand for service caused by Development Projects; which results in inadequate Capital Facilities within San Joaquin County.

(d) The Board of Supervisors finds that the health, safety, peace, morals, convenience, comfort, prosperity, and general welfare of the residents and businesses within the County will be promoted by the adoption of County Facilities Fees for construction, expansion, or improvement of region-serving Capital Facilities.
(Ord. 4252 § 1, 2005)

9-1245.2 COLLECTION OF CAPITAL FACILITY FEE.

The Capital Facility Fee enacted pursuant to this Chapter are to be collected by the County before the issuance of building permits, or at approval of any discretionary permit if no building permit is required.
(Ord. 4252 § 2, 2005)

9-1245.3 AUTHORITY FOR ADOPTION.

This Chapter is adopted under the authority of Title 7, Division 1, Chapter 5 of the California Government Code Sections 66000 et seq.
(Ord. 4252 § 3, 2005)

9-1245.4 DEFINITIONS.

Words when used in this Chapter, and in resolutions adopted thereto, shall have the following meanings:

(a) "Board of Supervisors" means the Board of Supervisors of the County of San Joaquin.

(b) "Capital Facility" includes region-serving public improvements and community amenities normally provided by the County of San Joaquin.

(c) "County" means the County of San Joaquin, a political subdivision of the State of California.

(d) "Development Project" means any project undertaken for the purpose of development. "Development Project" includes a project involving the issuance of a permit for construction or reconstruction, but not a permit to operate.

(e) "Fee" means a monetary exaction, other than a tax or special assessment, which is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of Capital Facilities related to the development project.

(f) "Nexus Report" means the San Joaquin County Facility Fee Nexus Report originally prepared in September 2003, as may be amended from time-to-time.
(Ord. 4252 § 4, 2005)

9-1245.5 CONDITIONS FOR COLLECTION.

(a) In establishing and imposing a Fee as a condition of approval of a Development Project, the following shall be done:

- (1) Identify the purpose of the Fee;
- (2) Identify the use to which the Fee is to be put;
- (3) Determine how there is a reasonable relationship between the Fee's use and the type of Development Project on which the Fee is imposed; and
- (4) Determine that there is a reasonable relationship between the need for the Capital Facility and the impacts caused by the type of Development Project on which the Fee is imposed.

(b) The County, before establishing a Capital Facility Fee as a condition of approval of Development Projects, shall determine that there is a reasonable relationship between the amount of the Fee and the cost of the Capital Facility or portion of the Capital Facility attributable to the development on which the Fee is imposed as documented in the Nexus Report.

(c) Upon receipt of funds, derived through this Chapter, the County shall deposit, invest, account for, and expend the funds pursuant to California Government Code Section 66006.

(Ord. 4252 § 5, 2005)

9-1245.6 CONDITIONS FOR REIMBURSEMENT.

(a) County staff shall report to the Board of Supervisors once each fiscal year concerning the Fees and accounts, including any portions of Fees remaining unexpended or uncommitted five (5) or more years after deposit. The Board of Supervisors shall make findings once each fiscal year with respect to any portion of the Fee remaining unexpended or uncommitted in its account five (5) or more years after deposit of the Fee, to identify the purpose to which the Fee is put, and to demonstrate a reasonable relationship between the Fee and the purpose for which it was charged.

(b) A refund of unexpended or uncommitted Fee revenue for which a need cannot be demonstrated, along with accrued interest may be made to the current owner(s) of the development project(s) on a prorated basis. The County may refund unexpended and uncommitted Fee revenue that have been found by the Board of Supervisors to be no longer needed, by direct payment or by off-setting other obligations owed to the County by the current owner(s) of the Development Projects(s).

(c) If the administrative costs of refunding unexpended and uncommitted revenues collected pursuant to this Section exceed the amount to be refunded, County, after a public hearing, for which notice has been published pursuant to Government Code Section 6061 and posted in three prominent places within the area of the Development Project, may determine that the revenues shall be allocated for some other purpose for which the Fee is collected subject to this Title that serves the project on which the Fee was originally imposed.

(Ord. 4252 § 6, 2005)

9-1245.7 FEE PAYMENT.

(a) Prior to the issuance of any building permit, the applicant shall pay to the County the Fee as established by resolution of the Board of Supervisors.

(b) The Fee shall be determined by the Fee schedule in effect on the date the vesting tentative map or vesting parcel map is approved, or the date a permit is issued.

(c) If a development has multiple types of uses, the Fee will be collected proportionately on each use.

(d) When application is made for a new building permit following the expiration of a previously issued building permit for which the Fee was paid, the Fee payment shall not be required, unless the Fee schedule has been amended during the interim, in this event, the appropriate increase or decrease shall be imposed.

(e) In the event that subsequent development occurs with respect to property for which the Fee has been paid, an additional Fee shall be required only for additional square footage of development that was not included in computing the prior Fee.

(f) When a Fee is paid for a Development Project and that project is subsequently reduced so that it is entitled to a lower Fee, the County shall issue a partial refund of the Fee.

(g) When a Fee is paid for a Development Project and the project is subsequently abandoned without any further action beyond the obtaining of a building permit the payor shall be entitled to a refund of the Fee paid, less the administrative portion of the Fee.

(h) If a development is converted to a more intense use, a Fee shall be required which shall be the difference between the current Fee for the original use and the current Fee for the more intense use.

(Ord. 4252 § 7, 2005)

9-1245.8 COUNTY FACILITIES FEE ACCOUNTS.

(a) The County shall hold Fee revenues collected under this ordinance in a separate County Facility Fee ac-

count. Fee revenues accruing in this account shall be expended for the purpose for which they were collected.

(b) The County shall account for all Fee revenues, including interest accrued, and allocate them for the purposes for which the original Fee was imposed. (Ord. 4252 § 8, 2005)

9-1245.9 EXEMPTIONS.

(a) No Fee may be applied by a local agency to the reconstruction of any residential, commercial, or industrial development project that is damaged or destroyed as a result of a natural disaster as declared by the Governor.

(b) No Fee may be applied to the construction of any agricultural building as defined by the California Building Code. (Ord. 4252 § 9, 2005)

9-1245.10 COUNTY FACILITIES FEE PROGRAM.

(a) The County has adopted a County Facilities Fee Nexus Report that indicates the approximate location, size, time of availability, and estimates of costs for region-serving Capital Facilities or improvements to be financed with County Facilities Fee funds.

(b) County staff shall annually submit a report to the Board of Supervisors regarding the proposed uses of County Facilities Fee funding.

(c) The County Facilities Fee schedule established by Resolution of the Board of Supervisors shall annually be automatically adjusted by an amount determined by the increase in the Engineering Construction Cost Index for the previous year, as published by the Engineering News Record.

(d) The County Facilities Fee schedule adopted by the Board of Supervisors shall be annually reviewed by the County for consistency with the County Facilities Fee Nexus Report, as it may be updated from time-to-time. (Ord. 4252 § 10, 2005)

9-1245.11 ORDINANCE; PUBLIC HEARING.

The adoption of County Facilities Fees is a legislative act and shall be enacted by resolution after a noticed public hearing before the Board of Supervisors. (Ord. 4252 § 11, 2005)

9-1245.12 CONSTRUCTION.

The Chapter and any subsequent amendment to the County Facilities Fee Program shall be read together. With respect to any County Facilities Fee enacted by resolution under this Chapter, any provision of such a County Facili-

ties Fee which is in conflict with this Chapter shall be void. (Ord. 4252 § 12, 2005)

9-1245.13 SEVERABILITY CLAUSE.

Should any provision of this Chapter or a subsequent amendment to the County Facilities Fee Program be held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Chapter and the County Facilities Fee Program shall remain in full force and effect. (Ord. 4252 § 13, 2005)

9-1245.14 FEE ADJUSTMENTS OR WAIVER.

A developer of any project subject to the Fee described in this Chapter may apply to the Board of Supervisors for reduction or adjustment to that Fee, or a waiver of that Fee, based upon the absence of any reasonable relationship or nexus between the impacts of the development and either the amount of the Fee charged or the type of facilities to be financed. The application shall be made in writing and filed with the Clerk of the Board of Supervisors (1) ten (10) days prior to the public hearing on the development permit application for the project, or (2) if no development permit is required, at the time of the filing of the request for a building permit. The application shall state in detail the factual basis for the claim of waiver, reduction, or adjustment. The Board of Supervisors shall consider the application at a public hearing held within sixty (60) days after the filing of the Fee adjustment application. County staff shall prepare a report and recommendation for Board of Supervisors consideration. The decision of the Board of Supervisors shall be final. If a reduction, adjustment, or waiver is granted, any change in use within the project shall invalidate the waiver, adjustment, or reduction of the Fee. (Ord. 4252 § 14, 2005)